

**STATE OF ILLINOIS**  
**ILLINOIS COMMERCE COMMISSION**

COMMONWEALTH EDISON COMPANY	:	
	:	
Petition for Establishment of Performance	:	Docket No. 22-0067
Metrics Under Section 16-108.18(e) of the	:	
Public Utilities Act.	:	

Surrebuttal Testimony of

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**I. INTRODUCTION**

**A. Witness Identification**

**Q. What is your name, position, and prior participation in this docket?**

A. My name is Chad A. Newhouse. I am the Vice President, Regulatory Policy and Strategy at Commonwealth Edison Company (“ComEd”). I previously submitted pre-filed Direct Testimony (ComEd Exhibit (“Ex.”) 1.0 and its attachments, ComEd Exs. 1.01 and 1.02) and Rebuttal Testimony (ComEd Ex. 4.0 and its attachments, ComEd Exs. 4.01, 4.02, and 4.03) in this docket. My position, duties, and responsibilities as well as my background and professional qualifications are unchanged.

**B. Purpose of Surrebuttal Testimony**

**Q. What is the purpose of your Surrebuttal Testimony?**

A. My Surrebuttal Testimony responds to certain Rebuttal testimonies submitted by witnesses testifying for Illinois Commerce Commission (“Commission”) Staff (“Staff”) and Intervenor in this proceeding on topics related to my Direct Testimony and Rebuttal Testimony.<sup>1</sup> More specifically, my Surrebuttal Testimony responds to portions of the Rebuttal Testimony of Staff witnesses: Scott Tolsdorf (Staff Ex. 9.0) Janis Freetly (Staff Ex. 10.0); Sunday Balogun (Staff Ex. 11.0); Jeanine Robinson (Staff Ex. 13.0 REV); and

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<sup>1</sup> On June 3, 2022, Staff and intervenors Illinois Attorney General’s Office (“AG”), Community Organizing and Family Issue (“COFI”), Illinois Industrial Energy Consumers (“IIEC”), Citizens Utility Board (“CUB”) / Environmental Defense Fund (“EDF”), Natural Resources Defense Council (“NRDC”), Joint Solar Parties (“JSP”), Advanced Energy Economy (“AEE”), Environmental Law & Policy Center (“ELPC”) and Vote Solar (“VS”) (collectively, the “Intervenors”) submitted Rebuttal Testimony on a wide range of topics. Given the breadth and volume of Staff’s and Intervenor’s Rebuttal Testimony in this proceeding and the limited time available to ComEd to prepare its surrebuttal filing, my silence towards any Rebuttal Testimony of Staff and Intervenor should not be understood to mean that I agree or disagree with that testimony.

Jennifer Morris (Staff Ex. 16.0). I also respond to portions of the Direct Testimony of the Illinois Attorney General’s Office (“AG”) witnesses Melissa Whited and Ben Havumaki (AG Ex. 2.0); Environmental Law & Policy Center (“ELPC”) and Vote Solar (“VS”) witness William D. Kenworthy (ELPC/VS Ex. 2.0); Illinois Industrial Energy Consumers (“IIEC”) witness Robert Stephens (IIEC Ex. 2.0); Citizens Utility Board (“CUB”) / Environmental Defense Fund (“EDF”) witness Andrew Barbeau (CUB/EDF Ex. 4.0); Advanced Energy Economy (“AEE”) witness Daniel Waggoner (AEE Ex. 2.0); and Community Organizing and Family Issues (“COFI”) witness John Howat (COFI Ex. 2.0).

**C. Summary of Conclusions**

**Q. Can you summarize the conclusions in your Surrebuttal Testimony?**

A. The Commission should adopt ComEd’s proposed performance and tracking metrics as modified in ComEd’s Rebuttal Testimony with additional limited revisions set forth in ComEd’s Surrebuttal Testimony. See ComEd’s Second Revised Performance and Tracking Metrics Plan, provided as ComEd Ex. 18.01, which reflects ComEd’s Plan complete with all Rebuttal and Surrebuttal revisions. ComEd’s final revised proposed metrics framework is appropriate, fair, can be expected to result in rates that are just and reasonable for both customers and ComEd, and, from my perspective as a non-lawyer, meets the criteria identified in Section 16-108.18 of the Public Utilities Act (the “Act”).<sup>2</sup> The proposed performance metrics are reasonably within the control of the utility to achieve and, if approved, will provide incentives, positive and negative, to continue to improve system performance and service to customers, including in environmental justice

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<sup>2</sup> As will be further discussed in ComEd’s legal brief.

39 (“EJ”) and restore, reinvest, renew (“R3”) communities in the event that ComEd files for  
40 a multi-year rate plan.<sup>3</sup>

41 Throughout the duration of this proceeding, ComEd has listened to Staff and  
42 intervenors’ feedback, engaged in constructive conversations and considered all  
43 suggestions carefully. In response to Staff and Intervenors’ Rebuttal perspectives, and to  
44 narrow the issues in this case, ComEd’s Surrebuttal Testimony includes additional  
45 modifications to four (4) of its eight (8) proposed performance metrics and one (1) of its  
46 proposed tracking metrics and adds three (3) new tracking metrics. *See* the attached ComEd  
47 Ex. 18.01 (Second Revised Performance Metrics Plan) and the following ComEd  
48 Surrebuttal Testimony: Arns Sur., ComEd Ex. 19.0; Kirchman Sur., ComEd Ex. 20.0;  
49 White Sur., ComEd Ex. 21.0; Chu Sur., ComEd Ex. 22.0; Gabel Sur., ComEd Ex. 23.0;  
50 Menard Sur., ComEd Ex. 24.0. Over the course of the testimonial phase of this proceeding,  
51 ComEd has modified all of its eight (8) performance metrics, modified two (2) of its  
52 original tracking metrics, and adopted five (5) new tracking metrics (increasing its total  
53 number of tracking metrics from eleven (11) to sixteen (16)).

54 Additionally, ComEd is agreeing to revise how the basis points and penalty and  
55 incentives should be structured. In particular, having considered Staff and AEE feedback  
56 in Rebuttal Testimony, and discussing the issue with Staff and Intervenors in various  
57 interactive meetings, ComEd is replacing its originally proposed “stair-step” design for  
58 penalties and incentives with a linear approach. Under the Second Revised Performance  
59 Metrics Plan (ComEd Ex. 18.01), the amount of incentive/penalty earned for each

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<sup>3</sup> We note that the statute defines Equity Investment Eligible Communities (“EIECs”) as EJ and R3 communities (220 ILCS 5/16-108.18(b)). In several places, the statute refers to EJC’s and EIECs.

60 performance metric will be determined with a straight-line interpolation from the deadband  
61 (performance within the deadband results in neither an incentive nor a penalty) to the  
62 maximum incentive/penalty amount. Incentive/penalty amounts will be rounded to the  
63 nearest hundredth of a basis point (“bps”).

64 Despite having reached some level of agreement between ComEd and other parties  
65 on every performance metric, significant remaining issues pertain to the total number of  
66 basis points for incentives/penalties for performance metrics and how the  
67 incentives/penalties should be allocated across the final individual performance metrics.  
68 ComEd continues to believe that the Commission should approve the maximum of 60 total  
69 possible basis points for the Plan, for reasons I have discussed previously in testimony and  
70 will reiterate in detail here. However, if the Commission decides to approve fewer than 60  
71 total possible basis points, ComEd provides recommendations for the ensuing basis point  
72 allocations and discusses if modifications to the individual performance metric’s designs  
73 are required.

74 In general, Staff and Intervenor arguments on the remaining contested issues suffer  
75 from four common flaws.

- 76 • First, many of these parties are focused on achieving a high level of precision in  
77 estimating incremental costs to achieve the metric targets even though that level of  
78 information regarding costs is not reasonably expected to be known for all  
79 performance metrics within the duration of this proceeding. This docket involves  
80 a new structure, efforts to form stretch goals, and utility plans and programs that do  
81 not yet exist or are not yet fully developed for a future multi-year period. Moreover,  
82 this docket occurs in advance of the distributed energy resource rebate

83 investigation, grid planning proceeding, Staff's investigation of cost/benefit  
84 analyses, and a possible multi-year rate plan proceeding where the Commission  
85 would order what costs are reasonable and prudent to be incurred and recovered.

- 86 • Second, many parties seemingly disregard the ample evidence in the record  
87 regarding customer benefits associated with each of the proposed performance  
88 metrics. Here again, these parties tend to be focused on quantification of benefits  
89 when there should be no doubt that the benefits exist. It is not possible to accurately  
90 quantify some of those benefits until the ComEd's performance under the  
91 performance metrics is evaluated.

- 92 • Third, while I am not a lawyer, I do understand that ComEd has the burden of proof  
93 as to its proposals in this case and "[t]he Commission shall approve, based on the  
94 substantial evidence proffered in the proceeding ... performance metrics...." 220  
95 ILCS 5/16-108.18(e)(2). Many parties' positions on this issue are overly cautious  
96 and do not place any weight on the fact that the Commission must apply judgement  
97 based on the best reasonably available information at hand in a situation when  
98 information about future costs and benefits has inherent limits, but the Commission  
99 must still make a decision. The testimony arguing or implying that more cost and  
100 benefit information is needed is neither realistic nor an accurate representation of  
101 what the Commission must consider when it decides this case. While I am not a  
102 lawyer, I believe as a matter of policy that the Commission should focus on whether  
103 the metrics and attendant incentives/penalties are *reasonably likely* to align the  
104 utilities and the State's energy goals with respect to the categories of benefits in  
105 Section 16-108.18(e)(2)(A)(i) - (vi). The performance metrics framework does not

106 require that the Commission should act with 100% assurance of a known outcome  
107 (in fact, the opposite – incentives are helpful in driving alignment to where  
108 outcomes are more likely to be unknown without them). As a non-lawyer, I believe  
109 the record ComEd has generated on the customer benefits associated with the  
110 metrics along with the available cost information warrants the higher end of the  
111 potential incentives/penalties for the performance metrics range stated in the law.

- 112 • Finally, those parties in effect ignore that the law appears to seek alignment  
113 between utility initiatives and State goals along the lines of the benefit categories  
114 set forth in Section 16-108.18(e)(2)(A). While I am not a lawyer, it seems that  
115 limiting the magnitude of incentives/penalties by restricting the total possible basis  
116 points will limit the degree to which the performance under those important  
117 categories are incentivized. The lost opportunity is significant, especially given that  
118 these are the performance metrics that will apply during the initial implementation  
119 of the law commonly known as the Clean Energy Jobs Act (“CEJA”) and will be  
120 in place for four years.

121 In sum, ComEd’s Surrebuttal Testimony provides a robust proposed performance  
122 and tracking metrics plan, as acknowledged by much of the feedback in Staff and  
123 intervenor Rebuttal Testimony. While challenging, ComEd’s final proposal is reasonably  
124 within ComEd’s ability to achieve and would result in material improvements to  
125 performance and customer experience, as well as provide customers with significant value  
126 and additional societal benefits. The Commission should reject efforts to make perfect the  
127 enemy of good and move forward with ComEd’s Plan, rather than waiting for or requiring  
128 perfection or complete information which could impede both the amount and timeliness of



performance value being realized by customers. The reasonableness of ComEd's proposed metrics is supported by sufficient evidence, and the Plan, as modified in ComEd's Surrebuttal Testimony, should be approved.

**Q. How is your Surrebuttal Testimony organized?**

A. In Section II, I discuss the Surrebuttal modifications that ComEd has voluntarily made to its Rebuttal proposed performance and tracking metrics, which further demonstrate certain areas of common ground among ComEd, Staff, and certain Intervenors, much of which was the result of ComEd's outreach to the parties resulting in numerous conversations, including during the All Party Issues Resolution meeting on June 8, 2022. I also discuss our proposed process for revising the Rider PIM and the ComEd Performance and Tracking Metrics Plan, in compliance with the Final Order. In Section III, I discuss ComEd's final proposal and its grounds on the total bps, their allocation, the cost-benefits analysis, and other issues raised by Intervenors.

**D. Attachments to Surrebuttal Testimony**

**Q. Are there any attachments to your Surrebuttal Testimony?**

A. Yes, attached to my Surrebuttal Testimony are:

- ComEd Ex. 18.01: ComEd's Second Revised Performance Metrics Plan; and
- ComEd Ex. 18.02: Blackline comparison of the January 20, 2022 Original Performance Metrics Plan (ComEd Ex. 1.01 CORR) and the Second Revised Performance Metrics Plan (ComEd Ex. 18.01); and
- ComEd Ex. 18.03: Staff Response to ComEd Data Request 5.01.

**II. AREAS OF COMMON GROUND AND ADDITIONAL MODIFICATIONS TO COMED'S PROPOSED METRICS IN RESPONSE TO STAFF AND INTERVENOR REBUTTAL TESTIMONIES**

**A. Current Status of all Performance and Tracking Metrics**

**Q. Can you provide an overall summary of the proposed performance metrics as they currently stand in ComEd's Surrebuttal Testimony?**

**A.** Yes. The following table provides a summary of the performance metrics, and ComEd's proposed revisions to each, as presented in ComEd's Surrebuttal Testimony. As discussed further below, all performance metrics have been modified to use a linear, rather than a "stair-step" design.

**Table 1: Performance Metrics**

Performance Metric Name	Metric Description	Rebuttal Revisions	Surrebuttal Revisions
1. Overall Reliability Based on SAIDI	Measures continuous reliability improvement across ComEd's system in terms of both outage frequency (SAIFI) and duration (CAIDI).	No Modifications	Based on feedback from Staff witness Morris, ComEd has modified its Rebuttal proposal to: (i) reduce the exclusion threshold of interruptions to one minute or less (changed from interruptions lasting five minutes or less) and (ii) limit the number of Major Event Days (MEDs) excluded from the calculated SAIDI to a maximum of nine (9) MEDs per year.
2. EJ and R3 Communities Reliability and Resiliency Based on SAIDI	As revised, this metric measures continuous improvement in the aggregate reliability for those customers in EJ and R3 areas. The intent of the metric is to ensure that when combined, the EJ and R3 communities' aggregate reliability will have the same level, if not	In rebuttal testimony, ComEd replaced its original Performance Metric 2 (Customers Exceeding Minimum Service Levels of Reliability or Resiliency) with a new performance metric that is very similar to what Staff proposed in direct testimony	Based on feedback from Staff witness Morris, ComEd has modified its Rebuttal proposal to: (i) reduce the exclusion threshold of interruptions to one minute or less (changed from interruptions lasting five minutes or less) and (ii)

Performance Metric Name	Metric Description	Rebuttal Revisions	Surrebuttal Revisions
	better, as overall system reliability.	addressing reliability in environmental justice (“EJ”) and restore, reinvest, renew (“R3”) communities. The Rebuttal metric is designed to measure continuous improvement in the aggregate reliability for those customers in EJ and R3 areas.	limit the number of Major Event Days (MEDs) excluded from the calculated SAIDI to a maximum of nine (9) MEDs per year.
3. System Visibility Index	Measures the increase in the percent of the ComEd system with visible, continuous communications, telemetry, and control.	ComEd proposed modifications to Performance Metric 3 (System Visibility Index) in Rebuttal Testimony to reflect recommendations from Staff that make more of the distribution system’s reclosers, smart switches, circuit breakers, and control/protective devices visible and adjust the weighted impact assigned to “percent of system visible” component of the metric.	No modifications; ComEd and Staff have reached agreement on this metric.
4. Load Reduction Capability	Measures the increase in load reduction capacity across ComEd’s Demand Side Management portfolio.	In response to feedback received from Staff, AEE, AG/COFI, CUB/EDF, and NRDC, ComEd modified this metric in rebuttal testimony to remove energy efficiency and voluntary load reduction from the program measures that fall within the metric.	ComEd has modified its Rebuttal position by: (i) removing private and community solar from the program baseline, (ii) including a modified set of targets, (iii) expanding the deadband and (iv) reducing the basis points allocated to this metric to 2 bps to align with the PJM capacity market.
5. Supplier Diversity	Measures the increase in diverse supplier spend as a percentage of overall spend.	Based on feedback from Staff and AG/COFI, ComEd amended its proposal in Rebuttal Testimony to increase its Supplier Diversity performance target from 1% increase over the baseline of 42% over the 2024-2028 period, to a 3% increase over the 2024-2028 period, for a goal of 45% of total supplier	No modifications; ComEd and Staff have reached agreement on this metric.

Performance Metric Name	Metric Description	Rebuttal Revisions	Surrebuttal Revisions
		spending on diverse suppliers by 2028.	
6. Affordability	Measures the annual reductions in residential disconnections for nonpayment in the 20 zip codes with highest disconnection ratios.	In rebuttal, ComEd proposed to implement, with particular modifications, COFI's recommended approach to utilize a metric based on a 10% decrease in disconnections for nonpayment over a 4-year period in aggregated total of the top 20 zip codes with the highest rates of disconnection in 2017-2019.	ComEd has agreed with COFI to two further revisions: (i) a limited modification of the list of the 20 zip codes included in the metric, and (ii) modified the baseline to use 2019 data (rather than 2017-2019 data). It is ComEd's understanding that Staff supports the two revisions. ComEd also increased the basis points allocated to this metric to 13 bps (out of 60 total bps).
7. Interconnection Timeliness	Measures the increase in business days saved when interconnection tasks are completed more quickly than required under the Part 466 rules.	ComEd's rebuttal testimony modified this metric, based on Staff and Intervenor input, to equally weigh each level of interconnection, increase annual targets to reflect improvement over historical performance, and revise the symmetrical incentives and penalties.	No Modifications
8. Customer Service	Measures the improvement in the percentage of incoming customer contacts to ComEd that are resolved on the first contact.	Based on feedback from IIEC, ComEd's Rebuttal Testimony shortened the metric period from ten years to four years in rebuttal.	No modifications; ComEd and Staff have reached agreement on this metric.

**Q. Can you provide an overall summary of ComEd's proposed tracking metrics as they currently stand in ComEd's Surrebuttal Testimony?**

**A.** Yes. The following table sets forth a summary of the tracking metrics as they currently stand. ComEd notes that it opposes the adoption of any tracking metrics that it has not explicitly adopted in the Second Revised Performance Metrics Plan, as previously discussed in my Rebuttal Testimony.

**Table 2: Tracking Metrics**

Statutory Category	Tracking Metric Name	Staff/Intervenor Positions	ComEd Response
Minimize Emissions	1. Emissions Reductions Supported by ComEd Programs	- Staff recommends: (i) also including R3 communities and (ii) tracking data both with and without net emissions saved from Section 8-103B energy efficiency programs. - JSP supports	ComEd agreed to Staff's recommended changes in Surrebuttal, as discussed by ComEd witness Arns (ComEd Ex. 19).
	2. ComEd Net GHG Emissions	- No opposition - Staff supports - JSP supports	No Modifications (supported without opposition)
Grid Flexibility	3. DERMS and Managed Charging Network Availability	- JSP supports - NRDC opposes and proposes alternative tracking metrics	ComEd modified this tracking metric in its Rebuttal Testimony in response to JSP's recommendation and adopted new Tracking Metric 13 in its Rebuttal Testimony in response to NRDC's recommendations.
	13. DERMS Participation (added in Rebuttal)	- NRDC opposes and proposes alternative tracking metrics.	No Modifications
	14. Cumulative DER Interconnected to ComEd Distribution System (added in Surrebuttal)	JSP proposed several tracking metrics based on Distributed Energy Resources (DERs).	ComEd has agreed in Surrebuttal to adopt this as a new tracking metric for annual reporting of <i>cumulative</i> quantity and capacity (kW/MW) of DER facilities interconnected to the ComEd distribution system; broken out by interconnection level, based on JSP's recommendations, as discussed by ComEd witness Gabel (ComEd Ex. 23.0).
	15. Annual DER Interconnected to ComEd Distribution System (added in Surrebuttal)	JSP proposed several tracking metrics based on Distributed Energy Resources (DERs).	ComEd has agreed to adopt this in Surrebuttal as a new tracking metric for annual reporting of quantity and capacity (kW/MW) of DER facilities interconnected to the ComEd distribution system in the prior calendar year, broken out by interconnection level, based on JSP's recommendations, as discussed by ComEd witness Gabel (ComEd Ex. 23.0).
	16. EV Load and Participation (added in Surrebuttal)	NRDC proposed two alternative tracking metrics based on EV peak load reduction.	ComEd has agreed to adopt this tracking metric in Surrebuttal based, in part, on NRDC's suggestions. This tracking metric provides for annual reporting of the: (i) cumulative number of self-identified EV customers on time-

Statutory Category	Tracking Metric Name	Staff/Intervenor Positions	ComEd Response
			varying rates and (ii) average EV specific load profile and related customer counts by customer class, as discussed by ComEd witness Kirchman (ComEd Ex. 20.0).
Rates Reflect Cost Savings	4. Avoided Outage Cost Due to Grid Modernization Investments	- No opposition - JSP supports - CUB/EDF supports	No Modifications (supported without opposition)
	5. Number of NWA Opportunities	- No opposition - Staff supports - JSP supports - CUB/EDF supports	No Modifications (supported without opposition)
Diversity in Jobs and Opportunities	6. % Tier 1 Spend with Illinois Businesses	Neither Staff nor any intervenors opposed or offered comments.	No Modifications
	7. % Diverse Professional Services Spend	Neither Staff nor any intervenors opposed or offered comments.	No Modifications
	8. Number of Diverse Contractors Completing ComEd Development Programs	Neither Staff nor any intervenors opposed or offered comments.	No Modifications
Equity in Allocation of Grid Planning Benefits	9. IEEE and All-In Regional SAIDI	- No opposition - Staff supports	No Modifications (supported without opposition)
	10. DSM Program Equitable Participation	- No opposition - Staff supports - CUB/EDF supports	No Modifications (supported without opposition)
	11. Financial Assistance Outreach & Education	- Staff supports - CUB/EDF supports	No Modifications (supported without opposition)
	12. Customers Exceeding Minimum Service Levels (added in Rebuttal testimony)	- No opposition	ComEd converted this from a performance metric to a tracking metric in Rebuttal Testimony based on Staff's recommendation, as discussed by ComEd witness Arns in his Rebuttal Testimony (ComEd Ex. 5.0).

**B. Surrebuttal Modifications to Proposed Performance Metrics based on Staff and Intervenor Rebuttal Testimonies**

**Q. Please describe ComEd's process for incorporating feedback from Staff and Intervenor following ComEd's Rebuttal Testimony.**

A. Just as it did in response to Staff and Intervenor Direct, ComEd carefully considered the parties' Rebuttal testimony to ComEd's Rebuttal Testimony. ComEd also voluntarily and individually reached out to Staff and Intervenor to discuss their remaining concerns and comments regarding ComEd's Revised Performance Metrics Plan (ComEd Ex. 4.01). In addition, on June 8, 2022 ComEd organized an all-day All-Party Issues Resolution Meeting, which provided a forum for interested parties to openly discuss each metric and major topics to strive for understanding and, where possible, consensus. ComEd's Surrebuttal testimony and the Revised Performance Metrics Plan reflects the understandings and agreements reached by ComEd with Staff and Intervenor.

**Q. What modifications to the proposed performance metric are proposed by ComEd in Surrebuttal Testimony?**

A. Based on feedback from Staff and certain intervenors, ComEd is modifying four of the eight metrics in Surrebuttal Testimony.

- **Performance Metric 1 (Overall Reliability Based on SAIDI)** - ComEd has modified its Rebuttal position to: (i) revise the exclusion threshold of interruptions to one minute or less (changed from interruptions lasting five minutes or less) and (ii) limit the number of Major Event Days (MEDs) excluded from the calculated SAIDI to a maximum of nine (9) per year. These modifications are discussed in detail by ComEd witness Arns (ComEd Ex. 19.0).

- 191       •     **Performance Metric 2 (EJ and R3 Communities Reliability and Resiliency**  
192       **Based on SAIDI)** - As with Performance Metric 1, ComEd has modified its  
193       Rebuttal position to: (i) revise the exclusion threshold of interruptions to one minute  
194       or less (changed from interruptions lasting five minutes or less) and (ii) limit the  
195       number of Major Event Days (MEDs) excluded from the calculated SAIDI to a  
196       maximum of nine (9) per year. These modifications are discussed in detail by  
197       ComEd witness Arns (ComEd Ex. 19.0).
- 198       •     **Performance Metric 4 (Load Reduction Capability)** - ComEd has modified its  
199       Rebuttal position with the following changes: to remove private and community  
200       solar from the program baseline, and to include a modified set of targets, an  
201       expanded deadband, and new proposed methodologies for linear incentives. In  
202       addition, ComEd proposes that it be given the option in the future to incorporate  
203       new programs to be included in the “stack” of programs when calculating total  
204       MWs reduced pursuant to the peak load reduction metric, including (i) new solar  
205       programs and projects that are verified by third-party analysis as being a direct  
206       result of ComEd metric activities and (ii) Energy Efficiency programs designed for  
207       this metric that are not incentivized through the Energy Efficiency Plans pursuant  
208       to Rider Energy Efficiency Pricing and Performance and Rider Energy Efficiency  
209       Performance Adjustment. These modifications are discussed in detail by ComEd  
210       witness Kirchman (ComEd Ex. 20.0).
- 211       •     **Performance Metric 6 (Affordability)** - ComEd and COFI have continued to  
212       refine the details behind the Rebuttal proposed Affordability performance metric.  
213       ComEd and COFI have agreed to (i) a limited modification of the list of the 20 zip



codes included in the metric and (ii) a limited revision of the proposed baseline for the metric, by using 2019 data rather than 2017-2019 data. It is ComEd's understanding that Staff agrees with these two modifications. These modifications are discussed in detail by ComEd witness Chu (ComEd Ex. 22.0).

**C. Proposed Modifications to Proposed Tracking Metrics**

**Q. Please summarize all the modifications that ComEd proposes to its proposed tracking metrics after considering feedback from Staff and Intervenors.**

A. After considering feedback from Staff and Intervenors, ComEd has modified an existing tracking metric and added three new tracking metrics in Surrebuttal:

- Tracking Metric Modifications: ComEd has adopted Staff's recommendations to include R3 communities, and report results with and without net emissions saved from ComEd's Section 8-103B energy efficiency programs in Tracking Metric 1 (Emissions Reductions Supported by ComEd Programs), as described in more detail by ComEd witness Arns (ComEd Ex. 19.0).
- New Tracking Metrics:
  - Based, in part, on tracking metrics proposed by JSP, ComEd is adding two new tracking metrics – Tracking Metric 14 (Cumulative DER Interconnected to ComEd Distribution System) and Tracking Metric 15 (Annual DER Interconnected to ComEd Distribution System), as described in more detail by ComEd witness Gabel (ComEd Ex. 23.0).

- Based, in part, on recommendations made by NRDC, ComEd is adding Tracking Metric 16 (EV Load and Participation), as described in more detail by ComEd witness Kirchman (ComEd Ex. 20).

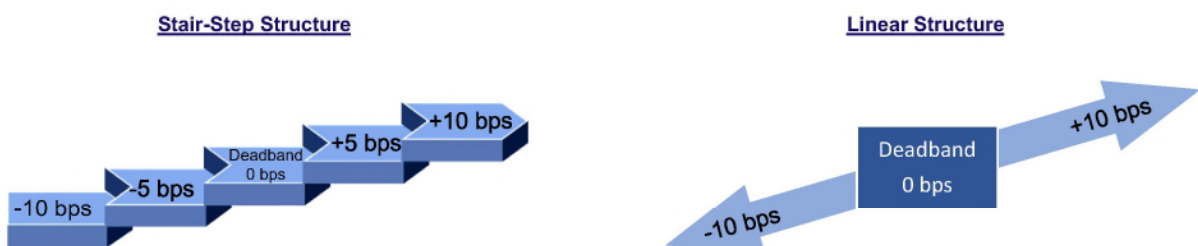
**D. Other Areas of Common Ground**

**1. Penalty and Incentive Structure**

**Q. AEE witness Waggoner has suggested using a linear, rather than a “stair-step” design for incentives and penalty amounts (Waggoner Reb., AEE Ex. 2.0, 2:37-41), does ComEd agree with AEE’s suggestion?**

**A.** Yes, ComEd has agreed with AEE witness Waggoner to replace the stair-step design with a linear approach, provided that it is understood that the metrics still have suitable “deadbands” around their baselines in which neither penalties nor incentives will be applicable. In addition, Staff witness Freetly has indicated that she is amenable to either the stair step or linear design, as long as the implementation of the design is symmetrical (Freetly Reb., Staff Ex. 10.0, 9:170-173).

In Surrebuttal testimony, ComEd has modified the performance metrics from a stair-step to a linear design. The two designs are illustrated by the diagram below with a hypothetical metric allocated 10 bps.



Under the Second Revised Performance Metrics Plan (ComEd Ex. 18.01), the amount of incentive/penalty earned for each performance metric will be determined by multiplying (i) the percentage of the maximum target achieved by (ii) the maximum incentive/penalty amount. In other words, there will be straight-line interpolation from deadband performance (resulting in neither an incentive nor a penalty) to the maximum incentive/penalty amount. Incentive/penalty amounts will be rounded to the nearest hundredth of a basis point. This change is illustrated by tables included in the Second Revised Performance Metrics Plan (ComEd Ex. 18.01).

**Q. Do any of the Intervenor's oppose the change to a linear penalty and incentive design?**

A. I am not aware of any party that opposes the change in design.

## **2. Performance Metrics Plan and Rider PIM Compliance Filing**

**Q. ComEd is providing the Second Revised Performance Plan (ComEd Ex. 18.01) as part of its Surrebuttal. Is ComEd also presenting an updated version of the proposed Rider PIM (ComEd Ex. 1.02) at this time?**

A. No. ComEd intends to update the proposed Rider PIM as a compliance filing following the final Commission Order. While the metric-specific details contained in the final Rider PIM will reflect the Commission's final order and likely differ from the metrics details presented in the original January 20, 2022 proposed Rider PIM (ComEd Ex. 1.02), the concepts and structure presented in the original Rider PIM (ComEd Ex. 1.02) remain the same. ComEd proposes that the Commission adopt the performance metrics and the associated incentives and penalties as presented in this Surrebuttal Testimony and the Second Revised Plan (ComEd Ex. 18.01), and direct ComEd to submit a compliance filing

to update its Rider PIM following the final order in this proceeding. This would allow the final Rider PIM to be implemented concurrently with any future multi-year rate plan. If ComEd ultimately does not file a multi-year rate plan, ComEd will eliminate the tariff with a housekeeping filing.

**Q. Have ComEd and Staff agreed on a compliance filing schedule for the final Rider PIM and Final Metric Plan?**

**A.** Yes. ComEd and Staff have agreed to the following compliance filing schedule:

- ComEd will provide a draft copy of Rider PIM and the Final Metrics Plan to the service list for ICC Docket No. 22-0067 by October 31, 2022;
- Comments and suggested corrections from Staff and Parties to the proceeding will be provided to ComEd by November 10, 2022; and
- ComEd will incorporate corrections and comments, as appropriate, and work to resolve any disagreements, and file the compliance Rider PIM and Plan no later than November 22, 2022.

In addition, if a Final Order on Rehearing necessitates an update to either the compliance Rider PIM and/or the Plan, the compliance filing schedule outlined above should be repeated under similar timeframes relative to service of the Final Order on Rehearing. *See* ComEd Ex. 18.03.

### **III. RESPONSE TO STAFF AND INTERVENOR REBUTTAL TESTIMONIES**

#### **A. Total Basis Points**

**Q. Does ComEd continue to propose a total of 60 possible basis points for penalties and incentives?**

295 A. Yes. ComEd believes that the Commission should approve a plan that provides a total of  
296 60 possible bps of penalties and incentives – the maximum allowed under the law. ComEd  
297 has made a compelling case for this result, and neither Staff nor any of the intervenors have  
298 provided compelling justifications for their proposed total basis points or for their approach  
299 to setting basis points for metrics. Staff and Intervenor arguments generally suffer from  
300 one or more of the same four basic flaws, which I discussed earlier and which I elaborate  
301 upon below.

302 In sum, limiting the range of incentives will, in turn, limit the opportunity to most  
303 materially tie ComEd's goals and CEJA goals together. This lost opportunity is especially  
304 significant given that, should ComEd file for a multi-year rate plan, these metrics will apply  
305 during the initial implementation of CEJA and will be in place for at least four years.

306 **Q. When you said that Staff and some Intervenor are expecting an unreasonably high**  
307 **level of precision and are letting the perfect be the enemy of the good, what do you**  
308 **mean?**

309 A. Staff and some Intervenor continue to recommend a variety of maximum total basis  
310 points, from 20 (IIEC; AG) to 36 (Staff) to 40 (JSP) to 42 (CUB/EDF, with respect to their  
311 alternative metrics plan), and these proposals continue to lack any unifying rationale.  
312 While I am not a lawyer, it appears that Staff and those Intervenor, by recommending  
313 smaller incentives/penalties, miss the mark as to the reason for a performance metric  
314 structure, which is designed to encourage utilities to focus their efforts on areas that help  
315 the State meets its overarching goals. Said another way, metrics and performance  
316 ratemaking are important components of much larger State goals that address climate

change, emissions, environmental justice, system reliability and resiliency, affordability, peak load reductions, supplier diversity, customer service, and interconnection of resources. By offering reduced incentives, Staff and those Intervenor do not seem to fully value the alignment between the utility's performance and the State's agenda to achieve a clean energy future. I submit that in this key respect, the metrics are very strong and warrant the higher end of the range of incentives/penalties that the legislature designated for the Commission to consider in establishing these metrics so as to maximize alignment and hold accountable the performance of the utility towards achievement of the state's goals.

**Q. You indicated that Staff and Intervenor's arguments disregard the urgency expressed in the law, can you elaborate?**

A. Yes. Minimizing the range of incentives allowed by the statute will miss a significant opportunity and does not reflect the sense of urgency reflected in CEJA from my perspective as a non-lawyer. Parties such as the IIEC go as far as to boldly suggest that the law does not reflect this "urgency." (Stephens Reb., IIEC Ex. 2.0, 19:350-353). This statement, perhaps more than any other, explains the disconnect between many of the parties on the total basis points to be achieved. Mr. Stephens and IIEC (and several other parties) ignore the significance of the greater mission expressly stated in the first two legislative findings of Section 16-108.18(a):

- (1) That improving the alignment of utility customer and company interests is critical to ensuring equity, rapid growth of distributed energy resources, electric vehicles, and other new technologies that 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.

(2) **There is urgency** around addressing increasing threats from climate change and assisting communities that have borne disproportionate impacts from climate change, including air pollution, greenhouse gas emissions, and energy burdens. Addressing this problem requires changes to the business model under which utilities in Illinois have traditionally functioned.

(220 ILCS 5/16-108.18(a)(1) and (2), (emphasis added)). While I am not a lawyer, I can read that the first two legislative findings relating to performance ratemaking in Section 16-108.18 demonstrate that the General Assembly indeed views these issues as critical and very urgent. **The matter is indeed urgent**, and the “wait and see” response of Staff and Intervenors to the General Assembly's charge misses the mark.

**Q. When you say that Staff and some Intervenors’ arguments in effect ignore strong evidence in support of ComEd’s proposed metrics, what do you mean?**

A. Staff and those Intervenors in effect ignore how strong the evidence in the case is in support of ComEd’s proposed metrics, especially the evidence of customer and societal benefits. Additionally, no party has provided strong evidence to contradict adoption of ComEd’s proposed metrics. While the evidence is not *perfect*, given certain unknowns, I posit that such is the nature when setting challenging metrics for the first time and ahead of other related efforts, like the DER rebate investigation and, the grid planning proceeding. However, no party can credibly dispute that the metrics address the areas we are tasked with addressing. ComEd has worked with each of the parties in this proceeding to try and build consensus around the approach and design of the metrics. While no party supports all proposed metrics, there is an encouraging amount of collaboration and consensus on many aspects of various metrics in this docket (for which we emphatically thank the parties).

366 **Q. When you say that Staff and Intervenor’s arguments attempt to impose a higher**  
367 **burden on ComEd than the statute does, what do you mean?**

368 A. While I am not a lawyer, I understand that ComEd has the burden of proof as to its  
369 proposals in this case and “[t]he Commission shall approve, based on the substantial  
370 evidence proffered in the proceeding” performance metrics that meet the statutory goals.  
371 (220 ILCS 5/16-108.18 (e)(2)). To me, as a non-lawyer, this means that the testimony of  
372 any party that requires all the answers upfront is neither a realistic approach nor an accurate  
373 representation of what the Commission must consider when it decides this case. The  
374 Commission’s focus should be on whether the metrics and attendant incentives/penalties  
375 are likely to create improved alignment between utility performance and the State’s energy  
376 goals. I do not believe that any party can credibly dispute that this suite of metrics will be  
377 successful in meeting the goals of the statute. As a non-lawyer, I believe this warrants the  
378 higher end of the metrics incentives/penalties range expressly laid out in the law.

379 **Q. Staff witness Ms. Freetly continues to advocate for a total of 36 possible basis points**  
380 **for penalties and incentives (Freetly Reb., Staff Ex. 10.0, 4:71-73). IIEC witness**  
381 **Stephens recommends the Commission limit the basis point incentive total to 20 bps.**  
382 **(Stephens Reb., IIEC Ex. 2.0, 2:41-49). How do you react to these positions?**

383 A. As discussed above and in my Rebuttal Testimony (ComEd Ex. 4.0), the State’s intent of  
384 the performance metrics plan is to tie together customer, societal, and utility benefits, such  
385 that utility incentives drive enhanced customer value (*i.e.*, when customers “win”, the  
386 utility “wins”). While I am not a lawyer, both Staff and IIEC positions are significantly  
387 below the 40 bps the utility must propose under the law, and even though the law gives the



Commission discretion to move that total up or down (by up to 20 bps), these witnesses appear to treat the 20 bps as a starting point. While the starting point is, ostensibly, a small issue, the issue is significant because moving up or down from that starting point requires justification. Neither party has provided a good reason for moving down and the resulting loss of benefits of such a move (while in contrast, ComEd has provided significant support to the record in this proceeding for moving to the higher end of the incentive/penalty bps).

For example, IIEC witness Mr. Stephens focuses almost exclusively on the unavailability of the cost impact associated with its metrics. (Stephens Reb., IIEC Ex. 2.0, 9:174-10:187). This is a red herring for two reasons. First, these costs inherently cannot be expected to be fully known in this docket, as discussed earlier. Second, ComEd provided the expert Rebuttal Testimony of outside experts James Shields and Ralph Zarumba (ComEd Ex. 11.0), experts in the area of cost-benefit analyses, that focuses on what is known versus what is not known (or cannot be known at this time). After reviewing the potential benefits (and costs for many of the metrics), these witnesses conclude that, based on their experience and analysis, the metrics are likely to be cost beneficial and produce significant customer and societal benefits. While Mr. Shields and Mr. Zarumba acknowledge that their analysis is directional, the degree of data that certain parties like IIEC witness Mr. Stephens call for is unrealistic and inconsistent with the standards that the Commission must consider at this time.

Additionally, contrary to Staff witness Ms. Freetly's assertions (Freetly Reb., Staff Ex. 10.0, 2:30-3:46), a higher maximum incentive/penalty does not shift risk to customers – the risk of a non-performance penalty remains with ComEd. ComEd will only receive an increased return when it has achieved sufficient performance, which in turn only occurs

when customers benefit. As discussed in ComEd witnesses Mr. Shields and Mr. Zarumba's cost-benefit analysis testimony (ComEd Exs. 11.0, 25.0), the performance metrics proposed by ComEd will provide significant customer and societal benefits, and ComEd's proposal provides a strong incentive for the company to take action to achieve those customer benefits, along with a strong disincentive to permit degradation in customer benefits.

**Q. Does Mr. Stephens dispute your statement that a smaller incentive/penalty lessens the utility's motivation to expend additional effort to reach those stretch goals?**

A. No. In fact, Mr. Stephens agrees that "a rational utility like ComEd, acting in its financial interests, will strive mightily to achieve the basis point rewards and avoid the basis point penalties.... I have no doubt that ComEd will do everything it can to make sure it maximizes its award...." (Stephens Reb., IIEC Ex. 2.0, 19:341-348). I believe that Mr. Stephens appropriately captures why the Commission should choose the higher end of the range of allowable total basis points. He is 100% correct that, given a strong incentive to do so, our engineering-driven approach will turn over every rock to meet a goal put before them. This supports a more aggressive approach to aligning incentives to goals within this docket versus the more passive "wait and see" stance included in the testimonies of IIEC, Staff, and other Intervenors.

**Q. Mr. Stephens states that ComEd has an incentive to propose metrics that it is relatively certain to meet, going so far as to say that "the fact that ComEd proposes the maximum financial impact, 60 basis points tacitly suggests that ComEd assumes**

432 **that even its rebuttal testimony metrics have a high certainty of being achieved.”**  
433 **(Stephens Reb., IIEC Ex. 2.0, 21:399-402). How do you respond?**

434 A. The key here is that the Commission must review the evidence and make determinations  
435 based on the law and the evidence provided regarding the challenging nature of the  
436 proposed metrics. ComEd’s approach has been to develop challenging performance  
437 metrics that achieve the policy goals of the State, and to tie those goals to the maximum  
438 amount of basis points allowable under the statute to provide the strongest possible  
439 incentive for achievement of performance metrics. Again – with the urgency that the State  
440 has in effectuating a clean energy future, utility performance must be strong to achieve  
441 significant results and customer benefits, and therefore the incentive/penalty should also  
442 be strong to drive home the urgency of achieving those results.

443 The Commission should be cognizant that 1) the proposed metrics are challenging  
444 and ComEd has modified most of them to make them even more challenging based on  
445 evidence and feedback from the parties; and 2) ComEd has credibility in this area given  
446 that it already is a high performer (compared to peer utilities) in many of the metric areas.  
447 Mr. Stephens, on the other hand, has not produced any credible evidence as his testimony  
448 only focuses on critiquing ComEd’s proposal based on an unrealistic and unreasonable  
449 reading of what ComEd is required to demonstrate.

450 Q. **Mr. Stephens also disputes your claim that “[i]ncreasing the maximum incentive (and**  
451 **potential penalty) beyond 40 basis points will drive improvements in reliability,**  
452 **resiliency, system efficiency, customer service, and diversity within ComEd’s**  
453 **spending – all of which ultimately benefit customers.” (Stephens Reb., IIEC Ex. 2.0,**

454 **18:325-332, quoting Newhouse Dir., ComEd Ex. 1.0, 9:182-184). How do you**  
455 **respond?**

456 A. Mr. Stephens' statement is simply a conclusion that goes against the bulk of the evidence  
457 in this case. He provides no credible evidence for this conclusion.

458 **Q. IIEC witness Mr. Stephens claims that you mischaracterized his Direct Testimony**  
459 **when you stated "IIEC recommends 20 basis points only for the first year" (Stephens**  
460 **Reb., IIEC Ex. 2.0, 18:316-324, quoting Newhouse Reb., ComEd Ex. 4.0, 18:373-374).**  
461 **How do you respond?**

462 A. The language I was referring to from Mr. Stephens' Direct Testimony was his  
463 recommendation that the "total basis point incentive be minimized during the *first multi-*  
464 *year rate plan*" (Stephens Dir., IIEC Ex. 1.0, 4:81-82, emphasis added). After further  
465 review, my Rebuttal Testimony should have said "IIEC recommends 20 bps only for the  
466 first multi-year rate plan."

467 **Q. IIEC witness Mr. Stephens continues to argue that that the novelty of these incentive**  
468 **programs would suggest that a lower maximum incentive/penalty would be better**  
469 **suited for at least the first multi-year rate plan (Stephens Reb., IIEC Ex. 2.0, 20:368-**  
470 **21:392) and states that ComEd has "yet to identify with any specificity how the**  
471 **metrics will be accomplished." (Stephens Reb., IIEC Ex. 2.0, 23:422-425). How do**  
472 **you respond?**

473 A. As I state above, Mr. Stephens attempts to create a standard that, to the best of my  
474 knowledge as a non-lawyer, does not exist in the law, and, even more importantly, is not  
475 realistic or productive. It is clear to me that Mr. Stephens' demand for specificity as to

“how the metrics will be accomplished” is misplaced given this information falls squarely within Section 16.108.18(f) filing requirements for the potential upcoming Multi-Year Integrated Grid Plan proceeding, which requires:

- (iii) A plan for achieving the applicable metrics that were approved by the Commission for the utility pursuant to subsection (e) of Section 16-108.18 of this Act.

(220 ILCS 5/16-105.17(f)(2)(H)(iii)). Again, while I am not a lawyer, I do not read the statute to create such a requirement in Section 16.108.18(e) which controls the instant proceeding.

**Q. Mr. Stephens states that that if the Commission does not adopt his recommendation of a total incentive/penalty of 20 bps, it should adopt 24 bps, as Ameren Illinois proposed in rebuttal in its case (Stephens Reb., IIEC Ex. 2.0, 22:409-419, citing Rebuttal Testimony of Ameren Illinois Witness Kristol W. Simms, Ameren Ex. 6.0, Docket No. 22-0063, at pages 3 and 29). How do you respond?**

**A.** While I am not a lawyer, it appears to me that the Commission has a solid record in this docket that justifies the basis point incentives/penalties that ComEd proposed. I am not familiar enough with the Ameren docket to make a similar judgement on their proposal, and I am troubled by the notion that an Ameren proposal made in rebuttal can be transported to and relied upon in this case with little information, no record, and no opportunity for ComEd to seek discovery regarding the proposal. I think a one-size-fits-all approach also ignores all the hard work that ComEd, Staff, and Intervenors have done in this case and the uniqueness of the applicable metrics subject to our discussions.

498 **Q. Several Intervenors propose allocations of basis points to alternative performance**  
499 **metrics (*e.g.* ELPC/VS witness Kenworthy proposes allocating 7 bps to his proposed**  
500 **DER Interconnection and Utilization for Value (DERIUV) performance metric**  
501 **(Kenworthy Reb., ELPC/VS Ex. 2.0, 30:1-3), and CUB/EDF witness Barbeau's**  
502 **Revised Alternate Performance Metrics Plan includes a total of 42 bps allocated**  
503 **among several alternative performance metrics (*See* CUB/EDF Ex. 4.1)). How do you**  
504 **respond?**

505 A. For the reasons set forth in the Rebuttal Testimony and Surrebuttal Testimony of various  
506 ComEd witnesses, ComEd opposes the alternate performance metrics (other than those that  
507 we have specifically incorporated into our proposed Performance Metrics Plan), and, as a  
508 result, we also oppose the allocation of basis points to those alternate performance metrics.  
509 ComEd also strongly oppose the adoption of alternative proposed metrics that we do not  
510 support, especially in light of the fact that we will be responsible for implementing  
511 activities in support of the metric, and risk financial penalties if we fail.

512 **Q. In the event that the Commission reduces the maximum incentive/penalty from 60**  
513 **bps to the midpoint of what was included in the statute, 40 bps, how would ComEd**  
514 **propose modifying the structure of the performance metrics?**

515 A. ComEd continues to believe that the Commission should approve a total of 60 bps for the  
516 various reasons I discuss above. However, if the Commission were to approve a total of  
517 40 bps, ComEd proposes adjustments to the basis points allocated to each performance  
518 metric, as shown in Table 3 below. In addition, in the Second Revised Performance Metrics  
519 Plan (ComEd Ex. 18.01), ComEd has included an alternate version of the

incentives/penalties for each performance metric under a hypothetical, 40 total basis points scenario.

**Q. If the Commission orders the maximum incentive/penalty to be reduced to 36 bps, as recommended by Staff witness Freetly (Freetly Reb., Staff Ex. 10.0, 4:71-73), how does ComEd recommend modifying the structure of the performance metrics?**

A. If the maximum incentive/penalty is reduced below 40 bps, the Commission should order a further reduction in the performance target for each performance metric (below what is shown in the 40-bps scenario laid out in the Second Revised Performance Metrics Plan (ComEd Ex. 18.01)).

**B. Allocation of Basis Points**

**Q. Is ComEd proposing any changes to the allocation of basis points among the performance metrics?**

A. Yes. After considering Staff and Intervenor Rebuttal Testimony, and meeting both individually and collectively with Staff and Intervenor to resolve outstanding issues, ComEd has decided to reduce the basis points allocated to Performance Metric 4 (Peak Load Reduction) from 5 bps to 2 bps and re-allocate the extra 3 bps to Performance Metric 6 (Affordability). The Second Revised Performance Metrics Plan (ComEd Ex. 18.01) reflects this adjustment, as does Table 3 below.

**Q. Is there consensus among Staff and Intervenor on how the basis points should be allocated across the performance metrics?**

540 A. No. Staff and Intervenors continue to offer a variety of opinions on the weighting of  
541 performance metrics. Some parties provide recommendations for allocating basis points  
542 evenly among the metric categories (e.g., Freetly Reb., Staff Ex. 10.0, 4:71-73), while  
543 others focus on a narrower group of metrics (e.g., Howat Reb., COFI Ex. 2.0, 10:183-189).  
544 CUB/EDF proposed an allocation based on an entirely different set of alternate metrics  
545 (*see* CUB/EDF Ex. 4.1).

546 **Q. Why has ComEd not adopted Staff witness Ms. Freetly's recommendation for basis**  
547 **points to be distributed evenly among six metric categories (Freetly Reb., Staff Ex.**  
548 **10.0, 4:71-73)?**

549 A. As discussed in my Rebuttal Testimony, my understanding as a non-lawyer is that the  
550 statute does not require equal weighting, and such equal weighting would ignore the fact  
551 that some metrics are both more difficult to achieve, more clearly within ComEd's control  
552 to achieve, and more beneficial to customers. Ms. Freetly's assertion that the difficulty in  
553 quantifying all costs and benefits of the proposed performance metrics supports equal  
554 weighting (Freetly Reb., Staff Ex. 10.0, 6:105-113) is erroneous. Some uncertainty around  
555 the precise value of costs and benefits for some performance metrics does not alter the fact  
556 that reliability and resiliency are more impactful on all customers than other metrics  
557 categories. In addition, ComEd has a reasonable amount of control over the achievement  
558 of reliability and resiliency metrics when compared with other proposed performance  
559 metrics.



560 **Q. Staff witness Ms. Freetly specifically takes issue with ComEd's proposed allocation**  
561 **of basis points to the reliability and resiliency performance metrics (Performance**  
562 **Metrics 1 through 3) (Freetly Reb., Staff Ex. 10.0, 5:100-102). How do you respond?**

563 A. Staff witness Ms. Freetly's argument that the likelihood of a particular metric category  
564 being included in utility base rate investment misses the point of the incentive/penalty  
565 structure. While I am not a lawyer, my understanding is that the purpose of the statute is  
566 to provide incentives/penalties in addition to the normal rate base investment mechanism  
567 to further encourage utilities to improve and/or redirect performance. The fact that ComEd  
568 might already realize a return on an investment does not prevent it from being incentivized  
569 to further improve performance to realize an even greater return (otherwise, I believe the  
570 General Assembly would not have passed a statute that specifically calls for performance  
571 metrics to do so). I note that, to my knowledge, no party has identified a performance  
572 metric structure in another jurisdiction that precludes incentives for metrics that might be  
573 achieved in whole or part by capital investments.

574 **Q. What is ComEd's response to Staff witness Ms. Freetly's alternative allocation of**  
575 **basis points in the event that the Commission does not agree to weigh each metric**  
576 **category equally (Freetly Reb., Staff Ex. 10.0, 7:124-133)?**

577 A. While ComEd maintains that the Commission should approve the allocation of 60 bps  
578 allocated as outlined in the Second Revised Performance Metrics Plan, we acknowledge  
579 that Staff witness Ms. Freetly's alternative proposal to allocate basis points equally among  
580 the eight performance metrics (except for Supplier Diversity, which should remain at 0  
581 bps), is preferable to her primary recommendation of allocating basis points equally among

the six metrics categories. While this would result in an insufficient incentive/penalty level given the impact of the reliability and resiliency metrics, the problems would not be as pronounced under Staff witness Ms. Freetly's alternative proposal.

**Q. Have any Intervenor adopted Staff's position on the allocation of basis points?**

A. No, none of the Intervenor have adopted Staff's position regarding the equal allocation of basis points. In fact, AEE witness Mr. Waggoner specifically supports ComEd's arguments regarding the relative weighting of performance metrics. He notes that his "plain understanding of the statutory language in CEJA indicates that there was an intent for utilities to allocate the basis points with forethought and purpose. If the intent was for all basis points to be allocated evenly to each metric, the law would have likely said so." (Waggoner Reb., AEE Ex. 2.0, 11:238-241). Mr. Waggoner also points out that if the allocation of basis points does not take into account the relative value to customers, difficulty in achieving a performance target, and the potential for the metric to reduce earnings from a utility's other activities "the plan will not be tailored to maximize benefits to customers and it may fail to sufficiently motivate a utility to take actions to support achievement of the desired outcomes" (Waggoner Reb., AEE Ex. 2.0, 12:248-250).

**Q. CUB/EDF witness Mr. Barbeau suggests a narrower rationale for determining the allocation of basis points (Barbeau Reb., CUB/EDF Ex. 4.0, 46:906-924). Does ComEd agree with this approach?**

A. No. CUB/EDF witness Mr. Barbeau simply selects one particular subsection from a series of eight subsections in the statute listing the General Assembly's reasons for enacting the statute (*See* 220 ILCS 5/16-108.18(a)(1) through (8)). While I am not a lawyer, it seems

that the plain language of the statute does not give extra weight to the particular subsection selected by Mr. Barbeau (220 ILCS 5/16-108.18(a)(4)) for the purpose of allocating basis points between metrics. ComEd's approach to allocating basis points, as described in my Rebuttal Testimony (ComEd Ex. 4.0), is a more holistic approach.

**Q. CUB/EDF witness Mr. Barbeau suggests reducing the basis points allocated to Performance Metric 8 (Customer Service) to 1 bps or less (Barbeau Reb., CUB/EDF Ex. 4.0, 17:383-386). How do you respond?**

A. I disagree with Mr. Barbeau's conclusion. He cites very little evidence in support of his position here, including the lack of "interest and enthusiasm for this metric category as a whole" and a difficulty to gather data for a benefit assessment. CUB/EDF Ex. 4.0, 17:378-379. While I am not a lawyer, I do not believe the statute requires "interest and enthusiasm" from intervenors to be weighed and considered when allocating basis points. Rather, I would posit that the "lack of interest and enthusiasm" in this proceeding for this metric category should be seen as a positive in terms of consensus-making - no party had significant disagreement of this metric as ComEd initially proposed.

**Q. Staff witness Ms. Robinson continues to support allocating basis points to Performance Metric 5 (Supplier Diversity) (Robinson Reb., Staff Ex. 13.0 REV, 8:150-156). Why does ComEd continue to allocate zero (0) bps to the Supplier Diversity performance metric?**

A. While I am not a lawyer, it is my understanding that ComEd continues to have legal concerns and believes that it is not appropriate to assign any basis points to the Supplier

Diversity metric for legal reasons, specifically related to the Equal Protection Clause and Section 1981. This topic will be briefed.

**Q. If the Commission decides that basis points should be allocated to Performance Metric 5 (Supplier Diversity), how many points does ComEd recommend allocating to this metric?**

A. If the Commission decides that basis points must be allocated to this metric, which we recommend that it does not, ComEd recommends that basis points be taken from the Affordability metric and applied to the Supplier Diversity metric. Specifically, with a 60 bps total, ComEd recommends that 3 bps be removed from Affordability (decreasing from 13 bps to 10 bps) and added to Supplier Diversity (increasing from 0 bps to 3 bps).

**Q. Hypothetically, if the Commission were to approve fewer total basis points than 60, does ComEd have a recommendation on how basis points should be allocated?**

A. Yes. Table 3 below shows ComEd's alternative proposal for allocating basis points in the far right column. The alternative allocation recommendation reflects a proportionate (1/3<sup>rd</sup>) reduction in the basis points for each performance metric rounded to the nearest whole basis point (except the Peak Load Metric, which remains at 2 bps for the reasons provided by Mr. Kirchman, (ComEd Ex. 20.0), and the Supplier Diversity Metric, which remains at 0 bps).

**Table 3: Allocation of Basis Points**

Proposed Performance Metric	Original/Direct Bps (60 total)	Revised/Rebuttal Bps (60 total)	2 <sup>nd</sup> Revised/Surrebuttal Bps (60 total)	Illustrative Reduced Bps (40 total)
1. Overall Reliability Based on SAIDI	+/-15 bps	+/-15 bps	+/-15 bps	+/-10 bps

2. EJ and R3 Communities Reliability and Resiliency Based on SAIDI	+/-10 bps	+/-10 bps	+/-10 bps	+/-7 bps
3. System Visibility Index	+/-5 bps	+/-5 bps	+/-5 bps	+/-3 bps
4. Load Reduction Capability	+/-5 bps	+/-5 bps	+/-2 bps	+/-2bps
5. Supplier Diversity	0 bps	0 bps	0 bps	0 bps
6. Affordability	+/-5 bps	+/-10 bps	+/-13 bps	+/-8 bps
7. Interconnection Timeliness	+/-10 bps	+/-10 bps	+/-10 bps	+/-7 bps
8. Customer Service	+/-10 bps	+/-5 bps	+/-5 bps	+/-3 bps

**Q. If the Commission orders the maximum incentive/penalty to be reduced to 36 bps, as recommended by Staff witness Freetly (Freetly Reb., Staff Ex. 10.0, 4:71-73) how does ComEd recommend allocating the basis points?**

A. If the Commission approves a maximum incentive/penalty of only 36 bps, ComEd recommends making a proportionate reduction in the basis points allocated to each performance metric, rounded to the nearest whole basis point, the same method used to prepare the alternative.

**C. Cost-Benefits Analysis and the Availability of Data**

**Q. AG witnesses Ms. Whited and Mr. Havumaki claim that there is no relationship between the cost-benefits analysis and the basis point allocation recommended by ComEd (Whited and Havumaki Reb., AG Ex. 2.0, 15:283-284). Is this correct?**

A. No. While this comment by AG witnesses Whited and Havumaki seems to suggest that there should be some mathematical relationship between the results of the cost-benefits analysis and the number of basis points assigned to a particular performance metric, that is not required by the statute as far as I know (although I am not a lawyer), nor is it practical to apply such a rule. As explained in Black & Veatch's Rebuttal Testimony (ComEd Ex. 11.0), the various performance metrics have a number of quantitative and qualitative benefits, the latter being difficult to put an exact dollar value on.

662 **Q. AG witnesses Ms. Whited and Mr. Havumaki suggest that the cost-benefits analysis**  
663 **prepared by Black & Veatch was not rigorous enough to determine whether ComEd’s**  
664 **proposed reliability and resiliency metrics are net beneficial to customers (Whited**  
665 **and Havumaki Reb., AG Ex. 2.0, 9:165-169). How do you respond?**

666 A. I disagree – the Rebuttal Testimony of witnesses Shields and Zarumba (ComEd Ex. 11.0)  
667 included the details for the Interruption Cost Estimate (“ICE”) calculator (also called the  
668 “ICE tool”), which provided an estimate of the value of avoided interruptions, and  
669 identified other potential benefits, depending on which programs/projects ComEd chooses  
670 to achieve the metrics. While no specific costs were provided in witnesses Shields and  
671 Zarumba’s Rebuttal Testimony, they did indicate that their analysis was conservative and  
672 that it was reasonable to conclude that ComEd could manage costs prudently and  
673 reasonably against the benefits to achieve net benefits, and their testimony did propose a  
674 cost-benefit methodology for the Commission to consider. As witnesses Shields and  
675 Zarumba will describe in their Surrebuttal Testimony (ComEd Ex. 25.0), based on their  
676 experience helping utilities develop investment plans, reliability programs generally  
677 produce benefits that exceed the costs. While the AG seems to suggest that the Commission  
678 is being asked to make a decision without adequate information, in reality, that is not the  
679 case. ComEd is simply asking for approval of performance metrics based on the best  
680 available information and for the Commission to “develop a methodology to calculate net  
681 benefits” (220 ILCS 5/16-108.18 (e)(2)(F)).

682 **Q. AG witnesses Ms. Whited and Mr. Havumaki also suggest that “the costs associated**  
683 **with the Company’s reliability investments, as well as the benefits of those**

investments, should be reviewed and determined though the Company's Multi Year Integrated Grid Plan filing and associated stakeholder process." (Whited and Havumaki Reb., AG Ex. 2.0, 10:171-174). Do you agree?

A. ComEd agrees. ComEd will need time to develop an investment plan that details both cost and benefits at the program/project level. We anticipate that the Commission will review this information during the Multi-Year Integrated Grid Plan proceeding and associated process and determine whether there are net benefits.

**Q. Do you believe that, to a reasonable and practical degree, incremental costs to achieve must or should be considered?**

A. Yes, as I indicated earlier, I believe the most reasonable approach is to move forward with the best information available, including cost and benefit information, and to use judgement to fill the gaps.

Also, I note that, as a non-lawyer, my reading of the statutory language (Section 16-108.18(e)(2)(F)) is that it directs the Commission, not the utility, to develop a methodology to calculate benefits. While the language calls for the development of a methodology, it does not provide a timeframe for such development, nor does it require a model that mechanically approves or rejects a metric based on cost data. The most reasonable approach going forward is for the Commission to apply its best judgement based on the available information. The alternative, which is to do nothing (or pick alternatives supported by less evidence) for the next four years while waiting for more information to materialize, is neither reasonable nor consistent with Commission standards.

705 **Q. Is the analysis provided by the expert Rebuttal Testimony of witnesses Shields and**  
706 **Zarumba (ComEd Ex. 11.0) helpful in light of the decisions that must be made in this**  
707 **case and the requirement in Section 16-108.18(e)(2)(F)?**

708 A. Yes, for two reasons. First, witnesses Shields and Zarumba provide an analysis that  
709 conservatively categorizes benefits associated with the metrics, quantifies them to the  
710 extent possible, considers costs to the extent they are available, and then provides a result  
711 that is either indicative of net benefits or at least directional in nature such that it provides  
712 a guidepost against which costs can be managed. They testify that, in their expert opinion,  
713 this is the most that we can do at this time. Second, they recommend and illustrate an  
714 overall methodology, and its application to individual metrics. I believe their initial  
715 methodology, even though in some respects it is directional in nature, is helpful in  
716 informing the Commission's judgement in this docket.

717 **Q. IIEC witness Mr. Stephens states that there is no merit to ComEd's claim that it will**  
718 **not know the costs until it undertakes the metrics (Stephens Reb., IIEC Ex. 2.0, 6:112-**  
719 **7:118). Why is it reasonable to have incomplete cost information at this stage?**

720 A. As Mr. Stephens highlights in his own Rebuttal Testimony, there is significant uncertainty  
721 about what it will take to achieve performance metrics in this novel statutory scheme  
722 (Stephens Reb., IIEC Ex. 2.0, 20:368-21:392). It would be highly unusual for ComEd to  
723 have complete cost information before embarking on an ambitious set of performance  
724 metrics under a new statutory scheme, much less metrics that ComEd has revised numerous  
725 times due to the feedback received as part of consensus-building with parties. While I am  
726 not an attorney, it also seems that Mr. Stephens does not appreciate the fact that the statute



has arranged this process such that the performance metrics proceeding comes first, and the grid planning proceeding and the multi-year rate plans come second. More importantly, my understanding, as a non-lawyer, is that the statute does not require complete, detailed cost information before the Commission can approve performance metrics. As ComEd witnesses Shields and Zarumba will discuss in more detail in their Surrebuttal Testimony (ComEd Ex. 25.0), ComEd has compiled the relevant cost information that is reasonably available at this time, which varies between metrics. Finally, we note that Mr. Stephens is the only Intervenor to insist that ComEd have all cost information before establishing a performance metrics plan – Staff has not expressed a similar emphasis on detailed cost information.

**D. Other Issues Raised by Intervenors**

**Q. Do AG witnesses Ms. Whited and Mr. Havumaki address the fact that their “penalty-only” structure for reliability and resiliency performance metrics is inconsistent with the symmetry requirement of the statute (220 ILCS 5/16-108.18(e)(2))?**

A. No. AG witnesses Ms. Whited and Mr. Havumaki continue to advocate for a penalty-only metric (Whited and Havumaki Reb., AG Ex. 2.0, 13:232-235). Rather than addressing our concerns that such a penalty-only metric would violate the symmetry requirement of Section 16-108.18(e)(2)(B), they simply note that they are not lawyers and “will not speak to the specific requirements of the statute” (Whited and Havumaki Reb., AG Ex. 2.0, 9:155-156). While I am also not a lawyer, it is obvious to me that the AG’s proposed penalty-only metric violates the symmetry requirement of the statute and must be rejected by the Commission, regardless of any policy arguments the AG makes to support it. Policy

arguments in favor of a penalty-only metric are out-of-place in this proceeding given that the General Assembly created the statute that specifically calls for symmetrical incentives/penalties.

**Q. IIEC witness Mr. Stephens states that “...the ability to spend more money, whether invested capital or operation and maintenance expense is not in itself performance deserving of basis point rewards.” (Stephens Reb., IIEC Ex. 2.0, 2:26-28). How do you respond?**

A. I agree. And there is nothing in my testimony that would suggest the pure outlay of money is, by itself, achievement of performance. In addition, the "ability to spend more money" is not at issue in this proceeding. The issue is what performance should be achieved, how should it be measured, and how should it be incentivized or penalized. The outlay of money is simply a by-product (unquantified because unknown at this point) of working to achieve the performance that will be ordered as a result of this proceeding.

**Q. IIEC witness Mr. Stephens further states that “[u]tilities do not need additional incentives to make investments on which they will already earn a return, and further rewards are not conducive to the provision of service in a least cost manner.” (Stephens Reb., IIEC Ex. 2.0, 2:28-30). How do you respond?**

A. Mr. Stephens seems to miss the point – it is not about what utilities “need”, but rather what utilities “must” do under the PUA. While I am not a lawyer, it is my understanding that ComEd is required to propose metrics in certain categories, like grid reliability, resiliency and power quality. Utility activities in the pursuit of grid reliability, resiliency and power

quality are by their nature, heavily focused on capital investments. The PUA also provides that utilities earn an incentive if they meet their metric goals.

**Q. IIEC witness Mr. Stephens insists that all performance metrics should be limited to four years to better align with the multi-year rate plan (Stephens Reb., IIEC Ex. 2.0, 32:584-585). How does ComEd respond to this recommendation?**

A. ComEd's agreement with Mr. Stephens on this point is limited to Performance Metric 8 (Customer Service), where we agreed in Rebuttal to reduce the performance period from ten years to four years. For the other performance metrics with ten-year performance periods (like the Reliability metrics), ComEd maintains its current recommendation, as shown in the Second Revised Performance Metrics Plan (ComEd Ex. 18.01). For these metrics, ComEd is proposing longer, ten-year performance periods because of the long-term nature of the investments needed to achieve each metric.

**Q. CUB/EDF has reiterated its recommendation that ComEd's proposed performance metrics be rejected in their entirety and replaced with CUB/EDF's alternate plan (Barbeau Reb., CUB/EDF Ex. 4.0, 2:35-36, 3:43-44). Is their recommendation workable and beneficial?**

A. No. ComEd recommends that the Commission adopts ComEd's proposed performance metrics, which ComEd has revised based on Staff and Intervenor feedback and good faith discussions with the parties, rather than CUB/EDF's alternative performance metric plan, which was not developed in consultation with ComEd (and has not been discussed collectively, to my knowledge, by parties, unlike ComEd's proposal). ComEd witnesses will respond to CUB/EDF's critiques of ComEd's proposed performance metrics and

792 explain why CUB/EDF's alternate performance metrics plan is unworkable. ComEd  
793 witness Mr. Arns will address CUB/EDF's alternate reliability and resiliency metric  
794 (ComEd Ex. 19.0), ComEd witness Mr. Kirchman will address CUB/EDF's alternate peak  
795 load reduction metric (ComEd Ex. 20.0), ComEd witness Ms. White will address  
796 CUB/EDF's alternate supplier diversity metric (ComEd Ex. 21.0), ComEd witness Chu  
797 will address CUB/EDF's alternate affordability metric (ComEd Ex. 22.0) (although in that  
798 instance, CUB-EDF's proposal is very similar to ComEd's), ComEd witness Mr. Gabel  
799 will address CUB/EDF's alternate distributed energy resource interconnection and  
800 utilization metric (ComEd Ex. 23.0), and finally ComEd witness Mr. Menard will address  
801 CUB/EDF's alternate customer service metric (ComEd Ex. 24.0).

802 **Q. NRDC witness Mr. Nelson recommends that the Commission require a process in the**  
803 **Company's annual performance review to determine appropriate performance and**  
804 **tracking metrics for new demand response tariffs and programs (Nelson Ex. 1.0,**  
805 **17:305-309), do you agree with this recommendation?**

806 A. No. The statute provides a sufficient process for establishing and evaluating performance  
807 metrics and tracking metrics. Mr. Nelson's suggestion to create additional processes seems  
808 redundant and premature.

809 **IV. CONCLUSION**

810 **Q. Does this complete your Surrebuttal Testimony?**

811 A. Yes.