

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

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

INITIAL BRIEF ON REHEARING
OF COMMONWEALTH EDISON COMPANY

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Commonwealth Edison Company (“ComEd”) submits this Initial Brief on Rehearing of the Illinois Commerce Commission’s (“Commission” or “ICC”) September 27, 2022, final Order as amended on October 13, 2022 (together, the “final Order”) in this first ComEd Performance and Tracking Metrics docket. ComEd submits this Brief under 83 Ill. Adm. Code § 200.800 and the Administrative Law Judges’ (“ALJ”) scheduling order of December 7, 2022.

The Commission’s December 1, 2022, Amended Notice of Commission Action granted Rehearing on three subjects: (1) the definition of Major Event Days (“MED”) in Performance Metrics 1 and 2 on reliability and resilience, (2) the target structure in Performance Metric 3 on Peak Load Reduction (“PLR”),¹ and (3) clarifying certain approved Intervenor-proposed Tracking Metrics. Just as it was contemplated to do, the Rehearing has given ComEd, Staff, and Intervenor the opportunity to present significantly expanded evidence on how the treatment of those three subjects as presented in the final Order can be improved to comply with Section 16-108.18 of the Public Utilities Act (“PUA”), 220 ILCS 5/16-108.18, and be in the interests of customers and the utility. In particular, (1) ComEd has submitted compelling evidence demonstrating that the Institute of Electrical and Electronic Engineers (“IEEE”) MED definition is practical, while the

¹ The numbering of the performance and tracking metrics align with the Commonwealth Edison Company Multi-Year Performance and Tracking Metrics Plan (November 22, 2022) (the “Plan” or the “final Plan”).

current modified definition in the final Order is fatally flawed; (2) ComEd and Staff have provided ample evidence in support of Staff's pragmatic compromise PLR Performance Metric proposal; and (3) ComEd and certain Intervenors have clarified or agreed to remove several Intervenor-proposed Tracking Metrics from the final Metrics Plan. ComEd respectfully requests that the Commission, on Rehearing, make the practical changes urged by ComEd – including adoption of Staff's compromise PLR Performance Metric proposal – all of which are supported by the record evidence.

I. INTRODUCTION AND SUMMARY

At a high level, the three subjects of this Rehearing have a central commonality: Certain details of the metrics should be changed for important practical and legal reasons. Three Performance Metrics must be revised both for them to be reasonably within the control of the utility to achieve and to avoid imposing excessive costs or risks that will ultimately fall on customers and the utility. Furthermore, certain Tracking Metrics should be removed or refined to avoid requirements that are too vague or burdensome to fulfill or because they require information that is not practically available to ComEd.

Performance Metrics 1 (Overall Reliability Based on SAIDI) and 2 (EJ and R3 Communities Reliability and Resiliency)

Performance Metric 1 is Overall Reliability Based on SAIDI (System Average Interruption Duration Index). This Performance Metric is designed to measure continuous reliability improvement across ComEd's distribution system in terms of both outage frequency and duration for the ten-year period from 2024 through 2033. SAIDI is the average outage duration for each customer served during a reporting period – in the case of this performance metric, a calendar year. SAIDI utilizes reliability and resiliency measures addressing frequency of outages (SAIFI or System Average Interruption Frequency Index) and duration of outages (CAIDI or Customer

Average Interruption Duration Index) and is calculated as the total Customer Minutes of Interruption divided by the Total Number of Customers Served. Plan at 2.

Using the definition of Major Event Days provided under the IEEE Standard 1366-2012 (also referred to as the “IEEE Standard 1366”), as modified by the Commission in the final Order, Performance Metric 1 excludes up to five (5) MEDs per year in the SAIDI calculation. Final Order at 103. As required by the final Order, an event must also meet the following criteria to qualify as an MED:

(1) MEDs must result from outages that result from an event outside of the Company’s control, such as an extreme weather event or terrorist or cyber-attack on the system.

(2) In the case of MEDs resulting from extreme weather, conditions must exceed National Electrical Safety Code requirements as specified in 83 Ill. Admin. Code 305 (“Part 305”) and other provisions within the Code.

(3) MEDs may not result from a planned event within the Company’s control, such as maintenance on a non-storm day.

Final Order at 103.

Performance Metric 2 is EJ and R3 Communities Reliability and Resiliency (composed of four indices: SAIDI, SAIFI, CEMI-4 and CELID).² Performance Metric 2 is designed to measure more precise reliability and resiliency performance for vulnerable customers. Specifically, it will measure improvements in SAIDI, SAIFI, CEMI-4 and CELID for customers located in Equity Investment Eligible Communities (“EIECs”), which is comprised of 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 - 2033). Plan at 4.

² SAIFI is System Average Interruption Frequency Index. CEMI-4 is Customers Experiencing More than Four Outages of one minute or more in the past year. CELID is Customers Experiencing Longest Interruption Duration.

With respect to the definition of MEDs used to calculate performance in Performance Metrics 1 and 2, the Commission, on Rehearing, should: (1) retain the final Order's definition of MED that is based on the IEEE Standard 1366 definition, subject to the 1 minute or less interruption exclusion previously agreed to by ComEd and Staff and adopted by the final Order; but (2) should *not* include one of the final Order's three additional criteria in the MED definition (specifically Criterion 2 concerning National Electrical Safety Code ("NESC") requirements) that would make ComEd responsible for outages that it cannot practically avoid. Arns Dir. On Reh'g, ComEd Ex. 36.0 at 2:27-36; Arns Reb. On Reh'g, ComEd Ex. 38.0 at 7:136-141.

Criterion 2 is not only contrary to industry standards, and too vague and impractical to implement, but it also reflects a misconception that it is needed to distinguish uncontrollable from controllable events. In reality, Criterion 2 would actually have the opposite effect. As ComEd has shown through substantial evidence, no weather-related event qualifies as an MED under Criterion 2. Therefore, no weather event will ever be considered "uncontrollable." This is an illogical result – ComEd cannot control the weather. Criterion 2 also renders the final Order's exclusion of up to five MEDs moot because no weather event will qualify as an MED. Thus, no MEDs will be excluded from the reliability performance metrics' calculations. The inclusion of each and every weather events in the metrics' calculation will result in Performance Metrics 1 and 2 not being reasonably within ComEd's control to achieve, which is antithetical to the nature and objectives of a performance metrics system and the statute's specific requirements. The Commission can rectify these problems and strengthen the ability of the two Performance Metrics to meet their statutory function by adopting the changes ComEd proposes on Rehearing, namely forgoing Criterion 2.

Performance Metric 3 (Peak Load Reduction)

The Peak Load Reduction (“PLR”) Performance Metric is a composite of ComEd’s applicable load reduction programs, including its Demand Side Management (“DSM”) portfolio, and certain potential additional programs authorized by the final Order, and is designed to increase the overall capability of ComEd to reduce load, including at peak.

The Commission, on Rehearing, should establish Peak Load Reduction Performance Metric targets set at annual increases of 60 megawatts (“MW”) of peak load reduction over the prior year’s actual results in the applicable four-year period (2024-2027) and establish maximum penalties or rewards of 2 basis points (“bps”). The final Order sets the targets at 150 MW of annual increases in PLR coupled with 6 basis points. The Rehearing evidence provided by ComEd and Staff (and certain ComEd evidence from the original proceedings) shows that the 150 MW targets are not reasonably within the control of ComEd to achieve; and, moreover, that the 60 MW targets should be tied to 2 bps, not 6 bps, in order to avoid placing on customers and ComEd undue risks of excessive incentives or unwarranted penalties, respectively. The arguments of Intervenor Citizens Utility Board / Environmental Defense Fund (“CUB/EDF”) in favor of the final Order’s 150 MW targets / 6 bps version of the PLR mistake the substance of ComEd’s position, make a conceptual error about how a performance metric baseline should be determined, are unrealistic, rely upon unreasonable assumptions that lack factual support, and ultimately urge a structure that is detrimental for customers and ComEd.

Tracking Metrics

Certain Intervenor-proposed Tracking Metrics discussed on Rehearing should be revised to correct their vagueness and design flaws, or, alternatively, they should be removed from ComEd’s Performance and Tracking Metrics Plan for 2024-2027. The Rehearing evidence on this

subject is clear and there is considerable agreement on the substance of the reforms between ComEd and certain Intervenors.

ComEd respectfully urges the Commission in its Order on Rehearing to revise the three Performance Metrics and to remove or revise certain Tracking Metrics as urged by ComEd and as is supported by the evidence on Rehearing.

II. BACKGROUND AND CONTEXT

The original proceedings in this Docket are described by ComEd's prior Briefs and the final Order. ComEd believes that general reiteration or elaboration is not required in this Initial Brief and instead discusses the history and context below as needed with respect to the specific issues on Rehearing.

Regarding the Rehearing, on October 27, 2022, ComEd filed its Verified Application for Rehearing of four topics. On November 14, 2022, the Commission issued its Notice of Commission Action, which granted Rehearing on three topics, with certain modifications: (1) "Definition of Major Event Day (MED) in Metric 1"; (2) "Specifying peak load reduction incentive targets in Metric 4"; and (3) the "Clarif[cation of] the construct of intervenor-proposed tracking metrics". In response to ComEd's November 17, 2022, Verified Motion for Clarification, the Commission clarified through its December 1, 2022, Amended Notice of Commission Action that the first Rehearing topic applied to both Performance Metrics 1 and 2.

III. LEGAL STANDARDS

The new performance metrics approach to utility regulation established by Section 16-108.18(e) of the PUA as added by the Climate and Equitable Jobs Act ("CEJA"), Public Act No. 102-0662, is intended to "[p]rovid[e] targeted incentives to support change ... to enable alignment of utility, customer, community, and environmental goals." 220 ILCS 5/16-108.18(a)(3).

The legal standards applicable to this Docket were discussed by ComEd's prior Briefs and the final Order. In short, the following legal standards are most relevant in this Rehearing.

First, the Commission's determinations in this Docket, including on Rehearing, must be supported by substantial evidence, 220 ILCS 5/16-108.18(e)(2), and they cannot be against the preponderance of the evidence. *See also, e.g.,* ComEd Initial Brief ("Init. Br.") at 12-14 (citing, among other things, 5 ILCS 100/10-15; *Citizens Util. Bd. v. Ill. Commerce Comm'n*, 2015 IL App (2d) 130817, ¶ 42).³ Commission orders are subject to remand or reversal on appeal if they are not supported by substantial evidence or are contrary to state or federal law. 220 ILCS 5/10-201(e)(iv)(A), (C).

Second, the performance metrics, among other things, must be reasonably within ComEd's control to achieve. "The Commission shall approve performance metrics that are reasonably within control of the utility to achieve." 220 ILCS 5/16-108.18(e)(2)(D).

Finally, the "Commission shall approve reasonable and appropriate tracking metrics to collect and monitor data for the purpose of measuring and reporting utility performance and for establishing future performance metrics." 220 ILCS 5/16-108.18(e)(3).

IV. ISSUES ON REHEARING

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

On Rehearing, based on the ample evidentiary record provided by ComEd in both the original case and during the Rehearing phase, the Commission should adopt a clear, straightforward definition of MEDs for purposes of calculating SAIDI (and SAIFI) for

³ The final Order noted but found it unnecessary to resolve fully how the substantial evidence requirement of Section 16-108.18(e)(2) fits in with other applicable law. Final Order at 25. The Commission need not do so on Rehearing, either, because substantial evidence and the preponderance of the evidence support ComEd's positions on Rehearing, as discussed throughout this Initial Brief.

Performance Metrics 1 and 2. Specifically, the Commission should (1) retain the IEEE Standard 1366 definition of MEDs; and (2) eliminate Criterion 2 adopted in the final Order, which modifies the baseline IEEE definition to incorporate NESC requirements in the determination of MEDs; and (3) retain Criteria 1 (with modifications) and 3. Not only is the final Order's adoption of Criterion 2 not supported by the substantial evidence presented in Rehearing, but it also results in two performance metrics that are not reasonably within the utility's control to achieve, or cost-effective. *See* 220 ILCS 5/16-108.18(e)(2)(A), (D). ComEd previously agreed to not consider controllable outages as MEDs. *See* Arns Dir. On Reh'g, ComEd Ex. 36.0 at 25:492-496. To further assuage the Commission's concerns about controllable events, the Commission should retain Criteria 1 (with modifications) and 3, to reiterate that MEDs should not include controllable events. By taking these pragmatic steps, the Commission will ensure that Performance Metrics 1 and 2 will reflect ComEd's performance in reliability improvements, rather than luck (or misfortune) based on weather. Further, the resulting objective MED methodology will ensure that ComEd will not be required to over-invest in its system for low probability extreme weather events, and will avoid the need for protracted, costly litigation to determine whether every weather event qualifies as an MED.

In the original proceedings in this Docket, the Commission acknowledged that MEDs are outside of ComEd's control and including all of them in the two performance metrics calculations would result in metrics in conflict with the statute. Specifically, the Commission "recognize[d] ComEd's concerns that including all MEDs may result in a metric that is not reasonably within ComEd's control." Final Order at 102 (emphasis added). However, the Commission also wanted to balance ensuring that the metric was "challenging but attainable" with "ComEd's concerns regarding weather-driven volatility in reliability statistics. *Id.* at 102-103. As such, the final Order

allowed ComEd to only exclude up to five MEDs when calculating SAIDI (and SAIFI) for purposes of calculating Performance Metrics 1 and 2. *Id.*

The final Order referenced the IEEE definition of MEDs, with two modifications to the IEEE definition of MEDs, for purposes of the reliability performance metrics. First, it adopted the 1 minute or less interruption exclusion previously agreed to by ComEd and Staff. *Id.* at 103. Second, the final Order adopted three additional criteria for what qualifies as an MED:

- (1) MEDs must result from outages that result from an event outside of the Company's control, such as an extreme weather event or terrorist or cyberattack on the system.
- (2) In the case of MEDs resulting from extreme weather, conditions must exceed National Electrical Safety Code requirements as specified in 83 Ill. Admin. Code 305 ("Part 305") and other provisions within the Code.
- (3) MEDs may not result from a planned event within the Company's control, such as maintenance activities on a non-storm day.

Final Order at 103. Criterion 2 was unsupported by the record evidence, because it was put forth for the first time in the ALJPO, after the record had closed. But as shown by the comprehensive evidentiary record submitted by ComEd on Rehearing, Criterion 2 places Performance Metrics 1 and 2 outside ComEd's reasonable control to achieve, contrary both to the statutory requirement and the Commission's findings.

On Rehearing, ComEd presented substantial evidence in support of the industry-standard IEEE definition of MEDs, including the testimony of Dr. Richard Brown, an engineer and industry expert on reliability statistics, with extensive professional experience with both the IEEE Standard 1366 and the NESC. Neither Staff nor any other Intervenor in this proceeding offered an alternative definition of MED. On Rehearing, ComEd also presented substantial evidence against Criterion 2 from ComEd witnesses Mr. Patrick Arns and Dr. Brown. In particular, Mr. Arns and Dr. Brown presented substantial evidence refuting Staff witness Mr. Balogun's (1) dislike and

misunderstanding of the IEEE 1366 method of determining MEDs; and (2) his flawed recommendation to use Criterion 2 to identify MEDs.

1. ComEd Proposals

On Rehearing, the Commission should (1) retain the IEEE Standard 1366 definition of MEDs and the exclusion of interruptions lasting one minute or less, for purposes of calculating SAIDI and SAIFI to measure Performance Metrics 1 and 2; (2) reject Criterion 2; and (3) retain Criteria 1 (with modification) and 3. Arns Dir. On Reh’g, ComEd Ex. 36.0 at 2:27-36; Arns Reb. On Reh’g, ComEd Ex. 38.0 at 7:136-141.

Retention of IEEE Definition of MEDs

ComEd witnesses Patrick Arns and Dr. Richard Brown provided extensive testimony in support of the Commission’s continued use of the IEEE 1366 methodology to determine and define MEDs. Dr. Brown explained in his Rebuttal Testimony on Rehearing that IEEE 1366 is an objective methodology, widely utilized the country to measure reliability, including whether an event qualifies as an MED. Brown Reb. On Reh’g, ComEd Ex. 40.0 at 5:87-90; 8:152-160. Dr. Brown explained that the IEEE 1366 methodology is a reasonable and appropriate methodology to use for reliability performance metrics because its “2.5 Beta Method” is an objective and content-neutral methodology that can be executed quickly. It is also grounded in pure statistics and thus content-neutral, which avoids protracted and litigious proceedings. *Id.* at 5:101-104.

Mr. Arns explained in his Rebuttal Testimony on Rehearing that the IEEE Standard 1366 definition is the foundational basis for the reliability performance metrics’ design. The final Order’s exclusion of up to five MEDs (which is not a topic on Rehearing), was decided in part on the number of MEDs that ComEd has historically experienced. That historical data was determined using the IEEE Standard 1366 definition. Arns Sur., ComEd Ex. 19.0 at 12:224-226. Similarly, ComEd’s targets for Performance Metrics 1 and 2 (which are not topics on rehearing),

were also developed under the assumption that SAIDI would be calculated in accordance with IEEE Standard 1366. Thus, as Mr. Arns explained, the IEEE definition of MEDs must be retained. If the Commission were to eliminate the IEEE 1366 as the MED definition, “The Commission would have to revisit every element of the two reliability performance metrics design, including how SAIDI and SAIFI should be calculated, whether any exclusions were appropriate (and if so, how many), and the appropriate goals and baseline. Throughout the metrics redesign process, the Commission would also have to determine if the redesigned metric is reasonably achievable and has the potential to provide customer benefits.” Arns Reb. On Reh’g, ComEd Ex. 38.0 at 10:190-198. In other words, without IEEE 1366, Performance Metrics 1 and 2 would have to be completely redesigned in a new proceeding.

Rejection of Criterion 2

Both Mr. Arns and Dr. Brown provided extensive testimony explaining why the Commission must eliminate Criterion 2. Without restating their Direct and Rebuttal Testimonies on Rehearing in full (ComEd Exs. 36.0, 38.0, and 40.0), Criterion 2 must be eliminated from the definition of MED for purposes of the reliability performance metrics for three main reasons: (1) it cannot be practicably implemented; (2) it would place the reliability performance metrics outside ComEd’s control to achieve; and (3) the resulting costs to customers would likely be immense.

First, ComEd provided extensive evidence on Rehearing to illustrate that Criterion 2 cannot be practicably implemented because of its ambiguous and perplexing wording. Criterion 2 invokes NESC provisions, as adopted by Part 305 of the Commission’s regulations, which concern safeguarding of employees and utility facilities. Brown Reb. On Reh’g, ComEd Ex. 40.0 at 12:249-250; *see also* ComEd Ex. 36.01 CONF at 27; 83 Ill. Admin. Code 305.10. As explained by Dr. Brown, the NESC and Part 305 concern safety; neither have ever been used in Illinois or

any other state, or by any other state Commission, to determine what qualifies as an MED. *See* Brown Reb. On Reh’g, ComEd Ex. 40.0 at 12:240-247; 13:261-263. In addition to several undefined terms (e.g., “extreme weather” and “the Code”), Mr. Arns noted that it is unclear how to apply Criterion 2 to evaluate weather events that do not have corresponding NESC provisions. Arns Dir. On Reh’g, ComEd Ex. 36.0 at 9:171-173; 13:271-14:277; 15:292-295. The very few objectively measurable NESC rules that concern extreme weather relate to wind speed and ice loading. However, ComEd’s service territory often experiences other weather conditions – such as flooding, extreme heat, and cold weather (polar vortex) – that are not necessarily accompanied by high-speed wind or ice. Under Criterion 2, if such extreme weather conditions were to cause an outage, the outage would not qualify as an MED under Criterion 2 because no NESC design criteria would be implicated. Brown Reb. On Reh’g, ComEd 40.0 at 13:255-260; *see also* ComEd BOE at 23. Therefore, there is no (and likely cannot be any) established guidance on how Criterion 2 would be incorporated into an MED calculation, and the final Order does not offer any direction. As Mr. Arns noted, even Mr. Balogun was unable to provide guidance (in fact, he says that the Commission should *not* have to provide guidance) on how Criterion 2 should or could be implemented to determine if an event was an MED. Arns Reb. On Reh’g, ComEd Ex. 38.0 at 16:327-332; Balogun Dir. On Reh’g, Staff Ex. 26.0 at 25:541-546. Because Criterion 2 and its NESC requirements cannot be reasonably implemented for the purpose of defining MEDs, it must be removed.

Second, Mr. Arns provided extensive testimony on Rehearing based on historical data that demonstrated Criterion 2 will likely result in performance metrics that are outside ComEd’s reasonable control to achieve. Mr. Arns demonstrated that in its strictest interpretation, Criterion 2 will disqualify *all* weather events from being categorized as MEDs. In his Direct Testimony on

Rehearing, Mr. Arns bolstered his conclusion by applying Criterion 2 to all of ComEd's major events that previously qualified as MEDs (and extreme weather event days ("EWEDs") under the Commission's Part 411 Rules) in calendar year 2021 in ComEd's service territory,⁴ as well as the more recent example of the November 5, 2022, event.⁵ In both situations, all of the historical events would have been disqualified as MEDs when Criterion 2 is applied. *See* Arns Dir. On Reh'g, ComEd Ex. 36.0 at 14:287 at Table 1; 21:418-24:480. Mr. Balogun agreed with Mr. Arns' analyses and findings in both cases. *See* Balogun Dir. On Reh'g, Staff Ex. 26.0 at 21:465-466; 22:476-485; *see also* Staff Response to ComEd-Staff 8.01, provided as ComEd Ex. 38.01. Mr. Arns also presented testimony that suggested that none of the extreme weather events over the last ten years in ComEd's service territory that qualified as MEDs under IEEE Standard 1366 would qualify as MEDs under Criterion 2.⁶ Arns Dir. On Reh'g, ComEd Ex. 36.0 at 23:454-456. Based on his professional experience and these thorough analyses, Dr. Brown concluded that "[i]f

⁴ For each day in 2021, ComEd looked at the weather conditions, top causes of outages, and the maximum wind gusts and speeds in the service territory and the airport where the wind was recorded. None of the weather conditions experienced during those days corresponded to any NESC rules. Further, none of the days experienced 90 mph winds for periods of three seconds or longer (or at least no weather station reported such winds). Therefore, none of the extreme weather events in 2021 would qualify as an MED under Criterion 2. Arns Dir. On Reh'g, ComEd Ex. 36.0 at 16:301-307.

⁵ Using a windstorm experienced on November 5, 2022, Mr. Arns explained that parts of ComEd's service territory experienced wind gusts as strong as 80 miles per hour, impacting over 131,000 customers for such reasons as wind/tornado-caused interruptions, tree-related/broken-limb interruptions, and intentional outages for emergency repairs. Arns Dir. On Reh'g, ComEd Ex. 36.0 at 21:418-22:427. Mr. Arns noted that the November 5 event would qualify as an MED under IEEE Standard 1366, as well as under the "Extreme Weather Event Day" standard under EIMA. Even though the events on November 5 were clearly beyond ComEd's control (as ComEd cannot control the weather), Mr. Arns explained that the NESC requires overhead poles to withstand winds of 90 miles per hour in three second gusts at 33 feet above ground, and those conditions were never reached on November 5. Because the threshold condition of 90 mile-per-hour winds never occurred, the November 5 windstorm would not be considered an MED under Criterion 2. *Id.* at 22:433-23:446.

⁶ Using publicly available data for the last 10 years from 22 National Weather Service stations within or near ComEd's service territory, Mr. Arns described how Criterion 2 would have disqualified all events that otherwise qualified as an MED under IEEE 1366. In addition, with respect to wind speed, the highest measured wind gust for the Chicagoland area was 87 mph in 1894 – meaning that in over a hundred years, there has not been a recorded wind gust of 90 mph or greater for three seconds or longer. Arns Dir. On Reh'g, ComEd Ex. 36.0 at 24:462-465. In other words, ComEd is not aware of any historical weather event that would have qualified under Criterion 2 as an MED during the last 100 years.

Criterion 2 were applied, then most, if not all, events that qualify as an MED under IEEE Standard 1366 would be disqualified as MEDs for purposes of the reliability performance metrics.” Brown Reb. On Reh’g, ComEd Ex. 40.0 at 13:273-275. This would not only moot the final Order’s ruling that ComEd can exclude up to five MEDs from its reliability performance metrics calculations each year, but also result in performance metrics that are outside ComEd’s reasonable control to achieve. In other words, “Criterion 2 would result in ComEd being penalized or rewarded based on whether the weather over a given year is mild or severe.” *Id.* at 14:276-277.

Third, Mr. Arns explained in Rehearing that the costs resulting from Criterion 2 would be exorbitant. Because of the NESC’s focus on individual facilities and equipment, assessing compliance with Criterion 2 would necessarily have to be hyperlocal – meaning ComEd would need to identify every single facility or piece of equipment that experienced an outage during the event. Arns Dir. On Reh’g, ComEd Ex. 36.0 at 16:316-17:329. It would also require identifying the date of design, installation, and modification of each facility or piece of equipment in question because ComEd would need to determine which version of the NESC applied. *Id.* at 17:332-337. Such an undertaking would be practically impossible, if not extremely time-consuming and costly. To even attempt to record the localized weather conditions at each possible outage location, ComEd would have to install weather sensors on all of its equipment throughout its 11,400 square mile service territory. Arns Reb. On Reh’g, ComEd Ex. 38 at 18:360-363. ComEd would also likely engage in time-consuming and expensive litigation before the Commission every time a storm occurred to determine if and how Criterion 2 applied. But the most important (and expensive) outcome is that, forced to be at the mercy of luck and the weather, ComEd would have to design its entire system to withstand even the most extreme weather at each and every location on its system. *Id.* at 18:363-367. Then, Performance Metrics 1 and 2 will likely no longer be

“cost-effective”, and any benefits from incremental improvement in reliability will be overshadowed by the significant costs imposed on ComEd and its customers. *See* 220 ILCS 5/16-108.18(e)(2), (2)(F) (requiring that the Commission adopt performance metrics that encourage cost-effective achievement of outcomes, and that the associated incentive levels ensure benefits exceed costs for customers). This would also conflict with ComEd’s obligations under the Commission’s Part 411 Rules to “design its system according to generally accepted engineering practices, including consideration of *normally expected weather*, animal activity and other conditions.” 83 Ill. Admin. Code Sec. 411.100(e) (emphasis added).

Retention of Criteria 1 (with modification) and 3

There is no disagreement among the parties that MEDs should only account for events outside of ComEd’s control. In fact, the IEEE Standard 1366 definition of MEDs already addresses this concern. As such, Criteria 1 and 3 are superfluous. *See* Arns Reb. On Reh’g, ComEd Ex. 38.0 at 26:533-536; Arns Dir. On Reh’g, ComEd Ex. 36.0 at 25:484-491; ComEd BOE at 20. That being said, in the interest of providing additional assurance that ComEd will exclude controllable interruptions from MEDs (meaning controllable interruptions will factor into SAIDI/SAIFI calculations), ComEd does not oppose retaining Criteria 1 and 3. Arns Reb. On Reh’g, ComEd Ex. 38.0 at 26:537-539.

ComEd suggests two clarifying edits to Criterion 1, however. First, the Commission should eliminate the illustrative examples of uncontrollable events that appear in the final Order, so as to avoid the wrong impression that they comprise an exhaustive list, or that all uncontrollable events must be equally extreme. *Id.* at 26:541-27:545. Second, the Commission should clarify that controllable events are those that directly result from a material mistake or oversight that was fully within ComEd’s control, but for which the MED would not have occurred. *Id.* at 27:546-

550. This modification is necessary to clarify what types of events are truly within ComEd's ability to control (i.e., events directly resulting from ComEd's actions or inactions) and which ones are not (i.e., events that are tangentially related to ComEd's actions or inactions). *See* ComEd BOE at 20-24.

The proposed language for Criterion 1, reflecting the two recommended modifications, is as follows:

MEDs must not be a direct result from ~~an event outside of~~ outages that result from a material mistake or oversight that was fully within the Company's control, ~~such as an extreme weather event or terrorist or cyber attack on the system~~ but for which the outage would not have occurred.

ComEd does not have any modifications to Criterion 3 as it appears in the final Order.

2. Other Proposals

Staff witness Mr. Balogun in his Direct Testimony on Rehearing (Staff Ex. 26.0) urged the Commission to (1) reject entirely the IEEE 1366 Standard methodology for MEDs and (2) retain Criterion 2 to determine MEDs for purposes of the two reliability performance metrics.⁷

Mr. Balogun's position is mistaken, and it is not practical, reasonably achievable, or beneficial for customers and ComEd. His arguments reflect a misunderstanding of both the IEEE 1366 Standard and the NESC. Mr. Balogun did not provide an alternative definition of MEDs that can be used (if the Commission removes the IEEE 1366 Standard), and he failed to explain how Criterion 2 could be implemented in practice.

⁷ While not explicitly stated in Mr. Balogun's Direct Testimony on Rebuttal, ComEd understands Mr. Balogun's testimony to recommend that the Commission should reject altogether the definition of MEDs under IEEE Standard 1366 based on the lengthy discussion throughout Mr. Balogun's Direct Testimony on Rehearing (Staff Ex. 26.0) concerning his strong opposition to IEEE Standard 1366-2012 and criticism of the IEEE Standard 1366 definition of MEDs (in particular, *see* Staff Ex. 26.0, 4-12). *See also*, Staff Ex. 26.0, 9:196-197 (recommending that "the Commission reject ComEd's request to retain the IEEE Standard 1366 definition of MED.").

Mr. Arns' and Dr. Brown's Rebuttal Testimonies on Rehearing presented dozens of pages of detailed, fact-driven refutations of Mr. Balogun's position and arguments, too much to summarize in detail in this Initial Brief. The following is a high-level summary of the record evidence showing that Mr. Balogun's proposal to remove the IEEE 1366 Standard and only use Criterion 2 to define MEDs is wrong and must be rejected.

First, Mr. Balogun demonstrated a lack of understanding of the IEEE 1366 Standard methodology. Dr. Brown, who participated in the original working group that developed the IEEE Standard 1366 in 1996 and has been involved with its periodic updates ever since (Brown Reb. On Reh'g, ComEd Ex. 40.0 at 4:78-80), corrected Mr. Balogun's numerous misconceptions regarding the methodology and statistics underlying the IEEE 1366 Standard. Brown Reb. On Reh'g, ComEd 40.0 at 6:126-10:212. Dr. Brown also explained that contrary to Mr. Balogun's opinion, the IEEE working group that developed the IEEE Standard 1366 specifically designed the methodology for benchmarking purposes so it could be used to identify meaningful industry-wide trends in underlying reliability concerns. *Id.* at 6:122-125; 10:210-212. Mr. Arns also provided extensive testimony on Rehearing refuting Mr. Balogun's misplaced critiques about the IEEE 1366 definitions of MEDs. *See* Arns Reb. On Reh'g, ComEd Ex. 38.0 at 10:199-15:311. In addition, Mr. Balogun was unable to provide support for his sweeping criticisms of the IEEE Standard 1366 when asked to do so in data requests. For example, concerning his assertion in Direct Testimony on Rehearing that IEEE Standard 1366 definition should be rejected because it would allow "even [] minor storm[s] [to] cause a[n] MED if it causes high outages", (Balogun Dir. On Reh'g, Staff Ex. 26.0 at 6:126-127), Mr. Balogun was unable to identify a single instance of a "minor storm" causing an MED. ComEd Ex. 38.01 at 3 (Staff's response to ComEd-Staff 8.02).

Second, Mr. Balogun urged the Commission to reject the IEEE 1366 Standard methodology entirely (Balogun Dir. On Reh’g, Staff Ex. 26.0 at 9:194-197) but failed to propose an alternative MED definition. Considering that one of the three issues on Rehearing is the “definition of MEDs” that should be used for Performance Metrics 1 and 2, it is essential to conclude this Rehearing phase with a useable definition. Mr. Balogun appeared to believe that the three additional criteria could, in and of themselves, define an MED. However, Mr. Arns testified that the three criteria merely add additional qualifications to the IEEE definition, and they cannot sufficiently define an MED on their own. Arns Reb. On Reh’g, ComEd Ex. 38.0 at 8:164-9:171. Indeed, Mr. Balogun was unable to demonstrate with any level of specificity how the three criteria would evaluate (without using the IEEE definition) a historical weather event to determine if it qualifies as an MED for purposes of the performance metric. *See* ComEd Ex. 38.01 at 1-2 (Staff’s response to ComEd-Staff 8.01). Furthermore, as Mr. Arns explained, it is seemingly not possible to wholeheartedly reject the IEEE 1366 definition of MEDs since that is the only definition of MEDs in existence; the term does not exist in the PUA or in other Illinois codes. Arns Reb. On Reh’g, ComEd Ex. 38.0 at 9:172-176.

Third, Mr. Balogun’s testimony in support of Criterion 2 contains numerous misconceptions of the NESC, especially about the purpose of the NESC (safety, not reliability) and its (lack of appropriateness for) use for the reliability performance metrics. Mr. Arns and Dr. Brown, both engineers, provided extensive testimony on Rehearing that explained the NESC, its purpose, and its general construct, and refuted Mr. Balogun’s erroneous beliefs about the NESC. For example, Dr. Brown explained that the areas that the NESC addresses – e.g., material strength – are typically not the key factor during major outages. Rather, he explained, system damage is typically dominated by broken conductors and leaning poles, and no NESC criteria address these

issues. Brown Reb. On Reh’g, ComEd Ex. 40.0 at 19:400-20:406. Dr. Brown also categorized Mr. Balogun’s credo – that if a system is designed to NESC criteria, then outages should not occur (see Balogun Dir. On Reh’g, Staff Ex. 26.0 at 14:309-312) – as “profoundly incorrect.” Brown Reb. On Reh’g, ComEd Ex. 40.0 at 17:353. As Dr. Brown explained, just because structures are designed to NESC criteria, they are not impervious to failure even when conditions are less extreme. *Id.* at 18:360-362; 20:415-422.

Fourth, as explained earlier, Mr. Balogun failed to demonstrate how Criterion 2 and its NESC reference should or could be implemented to determine if an event was an MED. Arns Reb. On Reh’g, ComEd Ex. 38.0 at 16:328-330; Balogun Dir. On Reh’g, Staff Ex. 26.0 at 25:541-546. In fact, Mr. Balogun stated that the Commission should *not* have to provide guidance. *Id.* Mr. Balogun’s only concrete recommendation – to use the Commission’s storm liability waiver petition provision to determine if weather conditions during a specific period were beyond ComEd’s control, and thus qualify as an MED for purposes of the reliability performance metrics (Balogun Dir. On Reh’g, Staff Ex. 26.0 at 23:509-25:536) - would create unnecessary litigation and costs for Illinois customers. As Mr. Arns explained, ComEd experiences multiple MEDs every year. Under Mr. Balogun’s recommendation, each one would require a waiver petition proceeding to determine their MED status. Storm waiver petitions take months, if not years, to resolve. During each petition proceeding, ComEd would introduce evidence about the particular equipment at issue and localized weather conditions, which would likely involve the installation of weather sensing equipment throughout ComEd’s system, as well as the retention of outside meteorological experts. Arns Reb. On Reh’g, ComEd Ex. 38.0 at 24:490-25:505. All of this – the multiple proceedings, expert witnesses, equipment purchase and maintenance – would come at ratepayers’ expense. And even then, it is unlikely that the storm waiver petition process could be used to

implement Criterion 2. As Mr. Arns explained, the storm waiver process does not invoke the NESC, so it is unclear how it could be used to apply Criterion 2. Mr. Balogun's own example of a recent (Ameren) storm waiver petition (ICC Docket No. 20-0676) drove this point home. In that case, while the storm waiver petition was granted, the weather conditions described would not have satisfied Criterion 2 to be considered an MED for purposes of these performance metrics. Arns Reb. On Reh'g, ComEd Ex. 38.0 at 25:510-26:529.

Accordingly, Staff witness Mr. Balogun's Direct Testimony on Rehearing does not constitute convincing, or even substantial, evidence against the Commission's continued use of the IEEE 1366 Standard methodology when determining MEDs, or provide any evidence in support for retaining Criterion 2 and its NESC requirements. On Rehearing, based on the substantial evidence provided by ComEd, the Commission should (1) retain the IEEE Standard 1366 definition of MEDs; and (2) eliminate Criterion 2 adopted in the final Order; and (3) retain Criteria 1 (with ComEd's recommended modifications) and 3.

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

On Rehearing, the Commission, based on the significantly expanded evidentiary record regarding what Peak Load Reduction performance metric targets are practical and reasonably achievable for the utility, should set the targets based on 60 MW annual increases over the prior year's applicable PLR programs' actual results and should tie the targets to maximum penalties and incentives of 2 basis points. 220 ILCS 5/16-108.18(e)(2)(D) (providing in part that performance metrics must be reasonably within the control of the utility to achieve). *See also* Section III of this Initial Brief on Legal Standards.

In the original proceedings in this Docket, thanks to the good faith efforts of ComEd, Staff, and many Intervenors, many of ComEd's proposals evolved significantly at each stage of the

evidence. That is true of the PLR Performance Metric. ComEd believes that it is useful to summarize very briefly the final Staff and ComEd positions regarding the PLR Performance Metric in the original proceedings to provide background for discussion of the evidence on Rehearing.

- At the end of the original evidence stage, ComEd's compromise position had evolved to accepting a much-reduced PLR program "stack" (portfolio) for purposes of this Performance Metric, based on Staff and intervenor recommendations. As a result, and in light of the associated quantified customer benefits (capacity cost reductions), ComEd proposed targets based on 58 MW annual increases from the prior year's applicable PLR programs' actual results with maximum penalties and incentives of 2 bps. Kirchman Sur., ComEd Ex. 20.0 at 10:198, Table 3; *see also* Kirchman Sur., ComEd Ex. 20.0 at 3:45-59, 4:72-9:185, 10:192-12:241; Kirchman Reb., ComEd Ex. 6.0 at 3:52-4:63, 4:68-9:177, 11:221-12:233, 12:242-14:280.
- At the Reply Brief on Exceptions ("RBOE") stage, Staff proposed a relatively similar structure of targets based on 60 MW annual increases from the prior year's applicable PLR programs' actual results with maximum penalties and incentives of 2 bps. Staff RBOE at 16-21. In brief, Staff explained that it had moved to that final position, and away from its earlier recommendations of higher target levels, because "Staff no longer believes it is feasible to achieve 150 MWs annually", but 60 MW target annual increases coupled with 2 bps were "meaningful and achievable while minimizing the risk to both the Company and to ratepayers." Staff RBOE at 16-18.

- At the RBOE stage, ComEd's primary position supported Staff's RBOE's final revised proposal of 60 MW target annual increases from the prior year's applicable PLR programs' actual results with maximum penalties and incentives of 2 bps. ComEd RBOE at 33-34, 35-36.

While the final Order made certain favorable findings regarding Staff's RBOE's final revised proposal of 60 MW target annual increases coupled with 2 bps, the final Order ultimately adopted Staff's prior (and no longer recommended) proposal of 150 MW target annual increases and 6 bps. *See* Final Order at 134.

ComEd respectfully submits that the comprehensive evidentiary record on Rehearing supports approval of 60 MW target annual increases coupled with 2 bps for the PLR Performance Metric. Unlike the 150 MW targets / 6 bps version, 60 MW target annual increases coupled with 2 bps are meaningful, practically achievable by ComEd, and beneficial for customers, as shown by the evidence of ComEd and Staff. The Rehearing testimony of CUB/EDF in favor of the 150 MW targets / 6 bps version mistakes the substance of ComEd's position, makes a conceptual error about how a Performance Metric baseline should be determined, is unrealistic, relies upon unreasonable assumptions that lack factual support, and ultimately is detrimental for customers and the utility.

In the alternative, if the Commission, on Rehearing, decides to retain the 150 MW target annual increase with 6 bps, then the Commission should adopt Staff's alternative proposal to revise the "deadband" of the metric to avoid the possibility of incentives that exceed quantified customer benefits and to avoid likely penalizing ComEd for not achieving unrealistic targets.

1. ComEd Proposals

ComEd recommends that, on Rehearing, the Commission adopt 60 MW target annual increases based on the prior year's applicable results tied with maximum penalties and incentives

of 2 bps. That proposal, in more detail, as made by ComEd and Staff, is depicted in Table 1 as follows:

Table 1

Year	-2 to 0 bps	0 bps	0 to +2 bps
2024	B ₂₃ to B ₂₃ + 10 MW	B ₂₃ + 10 MW to B ₂₃ + 50 MW	B ₂₃ + 50 MW to B ₂₃ + 60 MW
2025	B ₂₄ to B ₂₄ + 10 MW	B ₂₄ + 10 MW to B ₂₄ + 50 MW	B ₂₄ + 50 MW to B ₂₄ + 60 MW
2026	B ₂₅ to B ₂₅ + 10 MW	B ₂₅ + 10 MW to B ₂₃ + 50 MW	B ₂₅ + 50 MW to B ₂₆ + 60 MW
2027	B ₂₆ to B ₂₆ + 10 MW	B ₂₆ + 10 MW to B ₂₆ + 50 MW	B ₂₆ + 50 MW to B ₂₆ + 60 MW

*B₂₃ = baseline from 2023 reductions.

*B₂₄ = minimum (2024 achieved reduction, B₂₃ + 60 MW)

*B₂₅ = minimum (2025 achieved reduction, B₂₄ + 60 MW)

*B₂₆ = minimum (2024 achieved reduction, B₂₅ + 60 MW)

Kirchman Dir. On Reh’g, ComEd Ex. 37.0 REV at 4:82-86, Table 1; *see also* Staff RBOE at 19.

The facts supporting ComEd’s recommendation are detailed, but they can be summarized as follows: (1) the 60 MW target annual increases coupled with 2 bps are practical and challenging but reasonably achievable by ComEd in a cost-effective manner, provide quantified customer benefits of reduced capacity costs (along with other possible benefits),⁸ and minimize the risks to customers and the utility of excessive incentives or penalties, respectively; while, in contrast, (2) the 150 MW target annual increases coupled with 6 bps are not practical and reasonably achievable by ComEd, and they pose undue risks for customers and the utility of excessive incentives or penalties, respectively. *See* Kirchman Rev. Dir. On Reh’g, ComEd Exs. 37.0 REV, 37.01, 37.02; Brightwell Dir. On Reh’g, Staff Ex. 27.0; Kirchman Reb. On Reh’g, ComEd Ex. 39.0.

60 MW Targets / 2 Bps Proposal

⁸ In brief, the evidence in the original proceedings in this Docket includes quantification (estimates) of the capacity cost reduction customer benefits, and that evidence also identifies other unquantified benefits or potential benefits. *See, e.g.*, ComEd Init. Br. at 54-55 (citing evidence).

To begin with, Staff's RBOE's 60 MW targets / 2 bps proposal is relatively similar to the 58 MW targets / 2 bps proposal that ComEd presented and supported in its Surrebuttal in the original proceedings. Kirchman Sur., ComEd Ex. 20.0, 10:198, Table 3; *see also* Kirchman Sur., ComEd Ex. 20.0 at 3:45-59, 4:72-9:185, 10:192-12:241; Kirchman Reb., ComEd Ex. 6.0 at 3:52-4:63, 4:68-9:177, 11:221-12:233, 12:242-14:280. Both ComEd and Staff have pointed out that the evidence supporting the 58 MW targets / 2 bps proposal also supports the 60 MW targets / 2 bps proposal. *E.g.*, Kirchman Dir. On Reh'g, ComEd Ex. 37.0 REV at 5:95-98; Kirchman Reb. On Reh'g, ComEd Ex. 39.0 at 3:66-4:68; Staff RBOE at 19.

The evidence on Rehearing presents significant additional detailed information supporting the 60 MW targets / 2 bps proposal. Mr. Brian Kirchman, ComEd's Senior Manager of Innovation and New Programs, in his Revised Direct Testimony on Rehearing, explained why the 60 MW proposal "is practical and achievable by the utility, encourages cost-effective and equitable achievement of customer benefits (reduced capacity costs and other possible benefits, and is designed to achieve appropriate levels of incremental increases year over year". Kirchman Dir. On Reh'g, ComEd Ex. 37.0 REV at 2:32-36. As he explained:

My statements are based on data, and related forecasts, for those existing ComEd load reduction programs comprising the PLR PM program stack, specifically ComEd's existing demand response program portfolio, specifically ComEd's existing demand response program portfolio with its Central AC Cycling – Direct Load Control ("AC Cycling – DLC"), Peak Time Savings ("PTS"), and Dynamic Pricing ("Rider RRTP" or "Hourly Pricing") programs. All performance metrics should be grounded in existing data, which is used to establish the baseline. The data should then be used to forecast growth over the metric period (in this case 2024-2027) to establish the goals and the annual targets. The use of existing data in this manner ensures that the final performance metrics design is realistic and achievable by the utility.

Id. at 6:124-7:138.

Mr. Kirchman's detailed analysis of data regarding existing programs in the final approved program stack showed that the 60 MW (or 58 MW) targeted annual increases are supported by

forecasts of how much the existing programs can be expected to grow in 2024-2027. For example, the largest year-over-year reduction ever achieved by the programs to-date is 61.2 MW in 2018, with the programs losing customers and MWs since then for various reasons not attributable to ComEd. Kirchman Dir. On Reh'g, ComEd Ex. 37.0 REV at 7:139-8:157; ComEd Ex. 37.02 (data for the existing programs in the approved stack). Therefore, based on historic data, the 60 MW target annual increases level "is a challenging, but achievable, target for the PLR metric" (Kirchman Rev. Dir. On Rehg, ComEd Ex. 37.0 REV, 8:154-156), and that 60 MW figure "likely represents sustainable growth if ComEd were to expand our portfolio to reflect the full potential of the approved stack" (*id.* at 8:156-157).

150 MW Target / 6 bps

Mr. Kirchman also demonstrated that the data showed that 150 MW target annual increases level is likely unrealistic and unachievable for several reasons. First, in brief, the historic data and past enrollment campaigns showed that achieving 150 MW annual increase over each of four years (2024-2027), which equates to increasing the existing program results by almost 600% at the end of the four years, would be extremely difficult, even with significant investment in marketing and other enrollment mechanisms. Second, the existing stack programs already are close to saturation levels in terms of interested customers, and they will generate little to no additional growth. Third, while ComEd will be able to add certain new programs to the stack for purposes of the metric under the Commission's final Order, the Order constrains which programs may be added. ComEd already offers a residential demand response portfolio that includes most opportunities for load reduction recognized and used by other utilities. Thus, it is unclear how many new stack programs can or will be developed, and how much load reduction they will contribute. Finally, new PLR programs will have to be approved by the Commission and they likely will have long ramp-up

times before they contribute substantial peak load reduction. Kirchman Dir. On Reh’g, ComEd Ex. 37.0 REV at 8:158-10:204.

Mr. Kirchman also explained in detail why the energy battery and solar power plus storages programs added to the program stack by the final Order cannot be relied upon to make up the 90 MW shortfalls between the 60 MW and 150 MW target annual increase levels. New programs in this category have the same constraints as do other new programs in general, as discussed above. In addition, energy battery and solar power plus storage programs will take time to develop, and it is unlikely they will be available to assist with the first few years’ PLR targets. In addition, practical factors make it unclear how much PLR potential will be attributed to ComEd’s efforts for purposes of the PLR metric. Kirchman Dir. On Reh’g, ComEd Ex. 37.0 REV at 10:205-11:232.

Mr. Kirchman also pointed to Staff’s views in the original proceedings and on Rehearing. He noted that Staff’s RBOE in the original proceedings ultimately concluded and explained why 150 MW target annual increases were not achievable. Kirchman Rev. Dir. On Reh’g, ComEd Ex. 37.0 REV at 10:205-11:232. He also presented as ComEd Ex. 37.01 a copy of Rehearing discovery, *i.e.*, Staff’s November 29, 2022, Response to ComEd Data Request ComEd-Staff 7.01, in which, in brief, Staff witness Dr. Brightwell confirmed that on Rehearing, continued to support Staff’s proposal of 60 MWs at the 2 bps, as set forth on pages 16-21 of the Staff RBOE.

Dr. Brightwell’s own Direct Testimony on Rehearing (Staff Ex. 27.0) speaks for itself. In brief, Dr. Brightwell agrees that, on rehearing, the Commission should adopt 60 MW target annual increases and 2 bps. Among other things, Dr. Brightwell stated that he has no reason to doubt Mr. Kirchman’s testimony that the 60 MW target annual increase level is achievable but challenging, and Dr. Brightwell agreed that it provides benefits to both customers and ComEd. Brightwell Dir. On Reh’g, Staff Ex. 27.0 at 3:55-59. Moreover, Dr. Brightwell agreed that “150 MWs [as annual

target increases] would be extraordinarily difficult for the Company to attain.” Brightwell Dir. On Reh’g, Staff Ex. 27.0 at 3:44-53.

Dr. Brightwell also provided important detailed Direct Testimony on Rehearing, in addition to that presented by Mr. Kirchman and Dr. Brightwell in the original proceedings in this docket, regarding why the target annual increase levels and the assigned maximum basis points are linked and why the 60 MW target annual increase should be coupled with 2 bps. Brightwell, Dir. On Reh’g, Staff Ex. 27.0 at 3:61-6:114. ComEd agrees. Kirchman Reb. On Reh’g, ComEd Ex. 39.0 at 3:60-5:94 (also noting potential additional but unquantified customer benefits).

Finally, Dr. Brightwell also presented additional important facts about why 150 MW target annual increases coupled with 6 bps present undue risk of penalties to ComEd and a risk of excessive incentives in relation to customer benefits. He also presented the alternative proposal that, if the Commission, despite the additional evidence on Rehearing, were to conclude that the PLR Performance Metric should retain 150 MW target annual increases with 6 bps, then the Commission should mitigate the risks to customers and utilities by increasing the “deadband” in the metric’s structure. The penalty band would be up to 12 MWs of applicable load reductions, the “deadband” would be 12.1 to 137.9 MWs, and the incentive band would be 138 to 150 MWs. Brightwell Dir. On Reh’g, Staff Ex. 27.0 at 6:116-9:179. As Mr. Kirchman expressed in his Rebuttal Testimony on Rehearing, ComEd supports this proposal if the Commission declines to adopt the 60 MW / 2 bps proposal on Rehearing. Kirchman Reb. On Reh’g, ComEd Ex. 39.0 at 3:60-5:94.

The only Intervenors to submit Rehearing testimony supporting the final Order’s 150 MW targets / 6 bps PLR PM are CUB/EDF. The Rehearing testimony of CUB/EDF, however, mistook the substance of ComEd’s position, was unrealistic, relied upon unreasonable assumptions that

lack essential and relevant factual support, and posed unnecessary risks to customers and ComEd as discussed in the next subsection of this Initial Brief on Rehearing.

ComEd strongly supports 60 MW target annual increases based on the prior year's applicable results tied with maximum penalties and incentives of 2 bps (or, alternatively, ComEd's similar proposal of 58 MWs and 2 bps from ComEd's Surrebuttal in the original proceedings in this Docket). *See also* Kirchman Reb. On Reh'g, ComEd Ex. 39.0 at 2:27-36. However, ComEd also agrees with the Dr. Brightwell that, if the Commission, despite the Rehearing evidence, nonetheless wishes to retain the 150 MW target annual increases with 6 bps, then the Commission should mitigate the risks to customers and ComEd by increasing the "deadband" in the metric using the numbers proposed for that scenario by Dr. Brightwell. Kirchman Reb. On Reh'g, ComEd Ex. 39.0 at 2:37-41, 5:95-104.

2. Other Proposals

CUB/EDF witness Mr. Barbeau in his Direct Testimony on Rehearing (CUB/EDF Ex. 8.0) urged the Commission to retain the PLR PM 150 MW target annual increases and 6 bps structure as set by the final Order.

Mr. Barbeau's position is mistaken, and it is not practical, reasonably achievable, or beneficial for customers and ComEd. His arguments do not reflect ComEd's actual position (he mistakenly believes that ComEd is proposing 60 MW target annual increases with 6 bps), and misconceive how a performance metric baseline should be set. Mr. Barbeau's testimony, moreover, relied on unreliable estimates of the results attainable by hypothetical new PLR programs, and it did not present, much less support, any estimates of the costs to start up and maintain those programs and to achieve his estimated results. Kirchman Reb. On Reh'g, ComEd Ex. 39.0 at 2:42-3:51, 5:95-104.

Mr. Kirchman's Rebuttal on Rehearing presented 11 pages of detailed, fact-driven refutation of Mr. Barbeau's position and arguments, too much to summarize in detail in this Initial Brief. The following is a high-level summary of why Mr. Barbeau and his support for the 150 MW target annual increases and 6 bps structure is mistaken.

First, Mr. Barbeau incorrectly asserted that ComEd and Mr. Kirchman's direct testimony on rehearing advocates a PLR PM with 60 MW target annual increase levels and 6 bps. Barbeau Dir. On Reh'g, CUB/EDF Ex. 8.0 at 4:27-35. Mr. Barbeau appears not to have reviewed Mr. Kirchman's Revised Direct Testimony on Rehearing, which made it clear that ComEd supports 60 MW target annual increase levels tied to maximum penalties and incentives of 2 bps. Kirchman Reb. On Reh'g, ComEd Ex. 39.0 at 6:107-118.

Second, Mr. Barbeau made the related incorrect assertion that Mr. Kirchman did not provide "any evidence" that the 60 MW target annual increase level is practical and achievable, and inconsistently also asserted that the evidence provided by Mr. Kirchman is "not new". Barbeau Dir. On Reh'g, CUB/EDF Ex. 8.0 at 5:43-46, 55. Both of his claims are untrue, which is apparent from Mr. Kirchman's Revised Direct Testimony on Rehearing, discussed in the prior subsection of this Initial Brief, and it is further emphasized by his Rebuttal on Rehearing. Kirchman Reb. On Reh'g, ComEd Ex. 39.0 at 6:119-7:147.

Third, Mr. Barbeau has a mistaken conception of the baseline for a performance metric. His concept fails to reflect that a baseline must and should be set based upon existing data in order to assure that the performance metric is practical and reasonably achievable by the utility. *See* 220 ILCS 5/16-108.18(e)(2). *See also* Kirchman Reb. On Reh'g, ComEd Ex. 39.0 at 8:149-168; and Section III of this Initial Brief.

Fourth, Mr. Barbeau relied incorrectly on the implication or inference that a Brattle Group study he cited supports the idea that ComEd can practically achieve 150 MW target annual increases in a cost-effective manner.⁹ The Brattle study contains many types of load programs in its analysis, some of which are not in the program stack approved by the final Order. Moreover, Mr. Barbeau did not note, much less address, the fact that the Brattle study is about the entire United States electricity sector in the aggregate, and the study does not contain data or analysis indicating that its findings apply to ComEd's service territory or even to the Illinois electric sector. Further, Mr. Barbeau's testimony did not provide the components underlying Brattle's calculations of cost-effectiveness to allow Staff and parties to this proceeding or the Commission to "pressure test" those assertions, nor does his testimony provide his own cost estimates or cost-benefit calculations in support of the 150 MW target annual increase levels at 6 bps. Kirchman Reb. On Reh'g, ComEd Ex. 39.0 at 9:175-10:201, 16:335-338.

Fifth, Mr. Barbeau conjectured, but did not actually show, that ComEd could meet the 150 MW target annual increase levels mainly through a combination of four categories of new programs. *See* Barbeau Dir. On Reh'g, CUB/EDF Ex. 8.0 at 12:198-205, *et seq.* Mr. Kirchman's Rebuttal Testimony on Rehearing showed that Mr. Barbeau relies on unsupported and unsupportable assumptions that make his projections of load reduction results from these new programs and his analysis and conclusions hypothetical and unrealistic. Kirchman Reb. On Reh'g, ComEd Ex. 39.0 at 11:209-16:334. In brief, Mr. Barbeau's Direct Testimony on Rehearing:

⁹ *See* Barbeau Dir. On Reh'g., CUB/EDF Ex. 8.0 at 8:123-125. While Mr. Barbeau's Direct Testimony on Rehearing does not dwell on the Brattle study, it appears to be the only thing in his testimony that ostensibly supports his assumption that the various programs he espouses are or may be cost-effective. On a related note, Mr. Barbeau appears not to recognize that the 150 MW target annual increases in the final Order essentially are based on reasoning backwards from the assignment of 6 basis points, not on evidence that supports 150 MW target levels as such. Kirchman Reb. On Reh'g, ComEd Ex. 39.0 at 9:169-174.

- Makes a series of unrealistic assumptions about the timing and ramp-up of new programs, including: assuming all of the new programs will be established by 2024 despite the need for, and timing of, Commission approvals and program design and ramp up (which is years, in some cases); and assuming that the programs will be fully enrolled by 2024. Kirchman Reb. On Reh’g, ComEd Ex. 39.0 at 11:221-12:253.
- Fails to provide any evidence in support of his estimates of the average load reduction potential for his espoused programs if they were to be conducted in ComEd’s service territory, and refers vaguely to “potential assessments from other similar utilities” that are not named or provided. Kirchman Reb. On Reh’g, ComEd Ex. 39.0 at 13:254-262.
- As to HVAC Direct Load Control and Bring-Your-Own-Device (thermostat) programs, misses the fact that these programs are duplicative and customers therefore can only enroll in one of them; relies on projected enrollment numbers that are greatly outsized (by orders of magnitude) relative to the current programs’ enrollment numbers; ignores ComEd’s evidence that these programs may already be reaching saturation; and ignores that the ComEd customers who are already enrolled in these programs are part of the existing baseline for the PLR PM and are not available to count as incremental increases for purposes of achieving the future PLR performance metric’s targets. Kirchman Reb. On Reh’g, ComEd Ex. 39.0 at 13:263-15:305.
- Hypothesizes that large commercial and industrial (“C&I”) customers that previously enrolled in and provided demand response would do so again if “barriers

and obstacles” to participation, specifically third-party curtailment service providers, and “external factors” are overcome. *See* Barbeau Dir. On Reh’g, CUB/EDF Ex. 8.0 at 13:226-16:274. Yet, his testimony provides no evidence in support of that hypothesis. Moreover, there are reasons to believe that load reductions from large C&I programs might continue to decrease over time. Mr. Barbeau himself notes some of those reasons, but his position does not reflect those facts. Kirchman Reb. On Reh’g, ComEd Ex. 39.0 at 15:306-319.

- Finally, makes estimates for the amount of demand response available through energy storage that are not based on any baseline information about storage now, and that instead rely on unsupported forecasts combined with assumed likelihoods of adoption and unverifiable availability of the storage during peak capacity hours. At this time, estimates about future adoption of storage in Illinois are guesses at best. Kirchman Reb. On Reh’g, ComEd Ex. 39.0 at 16:320-331; Kirchman Dir. On Reh’g, ComEd Ex. 37.0 REV at 11:229-232. The Commission itself recently recognized that uncertainty in its May 25, 2022, Energy Storage Program Report to the General Assembly and the Governor. Kirchman Reb. On Reh’g, ComEd Ex. 39.0 at 16:331-334. A link to the Commission’s Report may be found on this page of its web site: <https://www.icc.illinois.gov/informal-processes/energy-storage-program> (reviewed January 31, 2023).

Sixth and finally, Mr. Barbeau’s testimony did not present any reliable or realistic basis for estimating or assuming higher PLR result levels than those that Mr. Kirchman’s testimony has carefully estimated for ComEd’s existing programs that are in the final approved program stack.

Accordingly, the CUB/EDF Direct Testimony on Rehearing does not constitute convincing, or even substantial, evidence against setting the PLR PM with 60 MW target annual increase levels and 2 bps, or in support of setting 150 MW target annual increase levels and 6 bps. 220 ILCS 5/16-108.18(e)(2) (requiring that performance metrics be supported by substantial evidence). *See also* Section III of this Initial Brief.

On Rehearing, the Commission should adopt 60 MW target annual increase level tied to 2 bps, or alternatively, ComEd's prior 58 MW targets / 2 bps proposal, or, as the final alternative, Staff's alternative proposal of 150 MW targets and 6 bps but only with the expanded deadband presented by Staff. The 60 MW (or 58 MW) targets / 2 bps proposal meets the statutory requirements, is in the interests of customers and the utility, and avoids unnecessary risks for customers and the utility. Staff's fallback 150 MW / 6 bps alternative proposal with an expanded deadband is less beneficial for customers, but it better manages risks for customers and ComEd than the final Order 150 MW targets / 6 bps structure advocated by CUB/EDF. The 150 MW targets / 6 bps as provided in the final Order is not consistent with the statute, but Staff's fallback proposal would be an improvement for customers and ComEd.

C. Intervenor Proposed Tracking Metrics

The Commission's granting of ComEd's request for rehearing of Intervenor-proposed tracking metrics provided ComEd and several Intervenors with the opportunity to discuss and clarify their respective tracking metrics. As a result, ComEd and several Intervenors, specifically NRDC and CUB/EDF, were able to achieve resolution of several tracking metrics, either in the form of clarification to the tracking metric (or component of a tracking metric) or the removal of the tracking metric (or component of a tracking metric). On Rehearing, the Commission should adopt the resolution of these tracking metrics.

Resolution for other tracking metrics could not be reached, however. Because those tracking metrics that remain are still vague, ill-defined, overbroad and/or burdensome, they do not meet the statutory requirements for tracking metrics. Specifically, tracking metrics must be “reasonable and appropriate” as well as “specific, measurable, and achievable.” 220 ILCS 5/16-108.18(e)(3) and (e)(2)(A). As further discussed below, the Commission should remove those tracking metrics (or their components) in the revised Plan.

For simplicity, ComEd has reprinted Table 1 from Mr. Arns’ Rebuttal Testimony on Rehearing, which captures the various tracking metrics’ status as of ComEd’s Rebuttal Testimony on Rehearing:

Table 2

Category	Tracking Metric	Proposing Party (if not ComEd)	Issue (if any) Identified in ComEd Ex. 36.0	Status
Emissions Reductions	1. Emissions Reductions Supported by ComEd Programs			
	2. ComEd Net GHG Emissions			
	3. Marginal Greenhouse Gas Emissions Reduction Index	CUB/EDF		
	4. Emissions Reductions from Electrification Index	CUB/EDF		
	5. Report Tracking Metrics for Any Demand Response-related Tariff or	NRDC	<ul style="list-style-type: none"> Publicly Available Information: Components 3, 9, 17, 18 	Resolved: ComEd and NRDC agree to remove Components 8, 14, and 16.

	Program (19 components)		<ul style="list-style-type: none"> • Duplicative: Components 8, 14 • Vague/Not Clearly Defined: Component 16 	(NRDC Ex. 4.0; ComEd Ex. 38.0); Not Resolved: ComEd proposes to remove Components 3, 9, 15, 17, and 18. (ComEd Ex. 38.0)
	6. Managed EV Charging (4 components)	NRDC	Information not available to ComEd	Resolved: ComEd agrees to keep in Plan. (ComEd Ex. 38.0)
	7. V2G Export Compensation (3 components)	NRDC		
	8. EV EMS Cost Savings (3 components)	NRDC	Information not available to ComEd	Not Resolved: ComEd proposes to remove from Plan (ComEd Ex. 38.0)
	9. Direct Current Fast Charging Load	NRDC	Information not available to ComEd	Resolved: ComEd agrees to modify Data Collection Method in Plan. (ComEd Ex. 38.0)
Grid Flexibility	10. DERMS and Managed Charging Network Availability			
	11. DERMS Participation			
	12. Cumulative DER Interconnected to ComEd Distribution System			
	13. Annual DER Interconnected to			

	ComEd Distribution System			
	14. EV Load and Participation			
	15. Grid Flexibility Tracking Metrics (16 components)	CUB/EDF	Vague/incompletely defined components	Resolved: ComEd will modify Plan language. (CUB/EDF Ex. 8.0; ComEd Ex. 38.0)
Cost Savings	16. Avoided Outage Cost Due to Grid Modernization Investments			
	17. Number of NWA Opportunities			
	18. DER projects pending capacity-constrained interconnection	JSP		
	19. Number of pending interconnection requests with cost estimate and current status	JSP		
	20. Interconnection upgrade cost estimates as compared to actual interconnection cost	JSP		
	21. Total costs of interconnection upgrade by project and feeder	JSP		
	22. Total time measured in days	JSP		

	to complete key milestones of interconnection process			
	23. Hosting capacity for DERs	JSP	Unreasonable/ burdensome	Not Resolved: Not defended by JSP; ComEd proposes to remove from Plan. (ComEd Ex. 38.0)
Diversity in Jobs and Opportunities	24. % Tier 1 Spend with Illinois Businesses			
	25. % Diverse Professional Services Spend			
	26. Number of Diverse Contractors Completing ComEd Development Programs			
Equity in Allocation of Grid Planning Benefits	27. IEEE and All-In Regional SAIDI			
	28. DSM Program Equitable Participation			
	29. Financial Assistance Outreach & Education			
	30. Customers Exceeding Minimum Service Levels			
	31. Equitable Grid Planning Metric (3 components)	CUB/EDF	Information not available to ComEd	Not Resolved: ComEd proposes to remove from Plan. (ComEd Ex. 38.0)

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

In its final Order, the Commission adopted a total of nine tracking metrics under the Minimize Emissions tracking metric category: two ComEd proposed metrics (Tracking Metrics 1 and 2); two CUB/EDF metrics (Tracking Metrics 3 and 4); and five NRDC-proposed metrics (Tracking Metrics 5 through 9). Among these, Mr. Arns (ComEd Ex. 36.0) identified the following tracking metrics/components as requiring further modification/clarification or removal from the Plan:

- **Tracking Metric 5 (Any Demand Response-related Tariff or Program)**
 - Component 3 (Total MW participating in regional transmission operation capacity market). Mr. Arns recommended removing this component because it seeks information available only to PJM, and thus not within ComEd's control. Arns Dir. On Reh'g, ComEd Ex. 36.0 at 32:596-600; 33:621-34:627; 35:654-657; 37:701-707.
 - Component 8 (Number of events called). Mr. Arns recommended removing this component because it is duplicative of Component 5 (Number of times a contingency or other event is called). *Id.* at 33:610-611; 33:621-34:627.
 - Component 9 (Percentage of event hours called in top 100 ComEd and PJM system hours). Mr. Arns recommended removing this component because it seeks information available from other sources (i.e., PJM). *Id.* at 32:601-602; 33:621-34:627.
 - Component 14 (Energy shift by hour). Mr. Arns recommended removing this component because it is duplicative of Component 11 (Average and hourly peak times). *Id.* at 33:612-613; 33:621-34:627.

- Component 16 (Peak impact persistence). Mr. Arns recommended removing or clarifying this component because it is not clearly defined. *Id.* at 29:534-539.
- Component 17 (Generation resource mix in ComEd's PJM zone during top 100 system hours). Mr. Arns recommended removing this component because it seeks information available from other sources (*i.e.*, PJM Interconnection, LLC). *Id.* at 33:603-604; 33:621-34:627.
- Component 18 (Generation resource mix in ComEd's PJM zone during hours when DR was called). Mr. Arns recommended removing this component because it seeks information available from other sources (*i.e.*, PJM). *Id.* at 33:605-606; 33:621-34:627.
- **Tracking Metric 6 (Managed EV Charging).** Mr. Arns recommended removing this metric because it requires information that is out of ComEd's control to gather and report. *Id.* at 35:658-666; 37:701-707.
- **Tracking Metric 8 (EV EMS Cost Savings).** Mr. Arns recommended removing this metric because it requires information that is out of ComEd's control to gather and report. *Id.* at 36:667-671; 37:701-707.
- **Tracking Metric 9 (Direct Current Fast Charging Load).** Mr. Arns recommended removing this metric because it requires information that is out of ComEd's control to gather and report. *Id.* at 36:672-679; 37:701-707.

a. Agreement

Of the tracking metrics/components identified above, ComEd and the NRDC (the Intervenor that proposed all of the Tracking Metrics at issue) reached agreement as described

below. The Commission should accept these agreements and ComEd will update the Plan accordingly. Arns Reb. On Reh’g, ComEd Ex. 38.0 at 37:674-676.

- **Tracking Metric 5 (Any Demand Response-related Tariff or Program)**
 - Components 8, 14, and 16. ComEd and NRDC agreed to remove the components because they are duplicative to other components. *See* Nelson Dir. On Reh’g, NRDC Ex. 4.0 at 4:48-49, 4:55-56, 5:68-69; Arns Reb. On Reh’g, ComEd Ex. 38.0 at 33:585-588.
 - Components 2, 6, and 7. ComEd and NRDC agree that these components should be modified to clarify that they will track information about current as well as applicable future tariffs and programs. Arns Reb. On Reh’g, ComEd Ex. 38 at 33:596-34:614.
 - Components 10, 11, 12 and 13. ComEd and NRDC agree that these components should be modified to clarify that they concern “programs included in the PLR metric.” *Id.* at 34:605-614.
- **Tracking Metric 6 (Managed EV Charging).** ComEd and NRDC agreed that Tracking Metric 6 should remain in the Plan, as current presented, without modification. *Id.* at 35:641-642.
- **Tracking Metric 9 (Direct Current Fast Charging Load).** ComEd and NRDC agree that the tracking metric will be updated to indicate that ComEd will provide a narrative of its related efforts to collect the requested information as part of the reporting for Tracking Metric 9. *Id.* at 36:662-37:669.

b. Disagreement

There were several NRDC-proposed tracking metrics and components of tracking metrics for which ComEd and NRDC did not reach agreement. As Mr. Arns explained in his Rebuttal Testimony on Rehearing, they continue conflict with the statutory requirements of tracking metrics because they seek information outside of ComEd's control. 220 ILCS 5/16-108.18(e)(2)(A) (providing that the Commission may approve the use of "specific, measurable, and achievable" tracking metrics). As such, the Commission should remove these Tracking Metrics and components from the Plan.

- **Tracking Metric 5 (Any Demand Response-related Tariff or Program)**
 - Component 3 (total MW participating in regional transmission operation capacity market).
 - Component 9 (Percentage of event hours called in top 100 ComEd and PJM system hours).
 - Component 17 (Generation resource mix in ComEd's PJM zone during top 100 system hours).
 - Component 18 (Generation resource mix in ComEd's PJM zone during hours when DR was called).

Components 3, 9, 17, and 18 of Tracking Metric 5 should be removed from the Plan. All four components seek information that is publicly available and created by sources other than ComEd (i.e., PJM). NRDC witness Mr. Nelson acknowledges that information may be publicly available, but nevertheless recommends that ComEd serve as a "single data repository" for such data. Nelson Dir. On Reh'g, NRDC Ex. 4.0 at 10:185-11:192. ComEd should not be required to serve as a "data repository" and expend additional resources at its customers' expense to collect

and report publicly-available data. NRDC is perfectly capable of collecting such information itself. Arns Reb. On Reh’g, ComEd Ex. 38.0 at 618-621.

- **Tracking Metric 5 (Any Demand Response-related Tariff or Program)**
 - Component 15 (total annual energy impacts).

Component 15 of Tracking Metric 5 should be removed from the Plan because it is redundant. Arns Reb. On Reh’g, ComEd Ex. 38.0 at 33:589-590. In his Direct Testimony on Rehearing Mr. Nelson did not discuss Component 15 or respond to ComEd’s recommendation to remove the component from the Plan. As Mr. Arns explained in his Rebuttal Testimony on Rehearing, removal of this component based on redundancy would be consistent with the agreed outcome of other redundant components (i.e., Components 8 and 14). *Id.* at 590-593.

- **Tracking Metric 8 (EV EMS Cost Savings)**

Tracking Metric 8 should be removed from the Plan. Tracking Metric 8 seeks information about customers who have an Electric Vehicle Energy Management System (EV EMS) but do not participate in a ComEd EV EMS-related program. ComEd does not have a practical method of capturing the universe of all such customers, as each customer would have to inform ComEd that they own an EV EMS. *See* Arns Dir. On Reh’g, ComEd Ex. 36.0 at 36:667-671; Arns Reb. On Reh’g, ComEd Ex. 38.0 at 36:647-651. Mr. Nelson’s suggestion that ComEd can obtain information during the line extension process does not solve the issue. Nelson Dir. On Reh’g, NRDC Ex. 4.0 at 6:104-7:110. Not all customers participating in the make-ready or line extension process have an EMS, and ComEd would not know if the customer obtained an EV EMS later. Thus, ComEd would still be reliant on voluntary disclosure from customers, which will create incomplete information. Arns Reb. On Reh’g, ComEd Ex. 38.0 at 36:651-656. Further, in referencing “the reduction in make-ready infrastructure costs made possible by the customer

installing EV EMS,” Mr. Nelson incorrectly assumes that the line extension process would provide ComEd with visibility to customer-owned EV EMS or the specific impacts, if any, it may have on make-ready costs. Nelson Dir. On Reh’g, NRDC Ex. 4.0 at 7:111-121.

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

In the Grid Flexibility tracking metric category, Mr. Arns recommended that two components of the CUB/EDF-proposed Tracking Metric 15 (Grid Flexibility Tracking Metric), specifically Component 12 (number of circuits that enable back-feed) and Component 13 (number of circuits that have reached hosting capacity) either be further clarified or be removed from the Plan. Arns Dir. On Reh’g, ComEd Ex. 36.0 at 29:532-539; 31:566-32:589. Mr. Arns explained that Component 12 requires data on “the number of circuits that enabled back-feed” but does not explain that “enabled back-feed” means. In its Plan, ComEd incorporated its educated guess as to its meaning, but the Commission should either clarify what is required by Component 12 or eliminate it from the Plan. *Id.* Mr. Arns noted that Component 13 requires information on “the number of circuits that have reached hosting capacity” but does not explain what it means to have “reached hosting capacity.” *Id.*

a. Agreement

ComEd and CUB/EDF reached agreement for both Components 12 and 13. For Component 12, CUB/EDF confirmed that ComEd’s current proposed implementation in the Plan is acceptable, and no further clarification is required. Barbeau Dir. On Reh’g, CUB/EDF Ex. 8.0 at 28:489-492. For Component 13, ComEd accepts CUB/EDF proposed modification such that the Component’s definition will read “the number of circuits for which the company’s current hosting capacity analysis lists the estimated hosting capacity as 0 kW.” *Id.* at 29:493-508. ComEd will update the Plan accordingly. Arns Reb. On Reh’g, ComEd Ex. 38.0 at 37:674-676.

b. Disagreement

There is no remaining disagreement on this topic.

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

For the Grid Modernization Cost Savings And Use Of DERs To Forego Investments tracking metric category, ComEd recommended that JSP-proposed Tracking Metric 23 (Hosting Capacity for DERs) be either further clarified by JSP or removed from the Plan. As Mr. Arns explained, the JSP-proposed Tracking Metric 23 is unreasonable and burdensome because ComEd already provides similar information through its hosting capacity map, and the Tracking Metric will require ratepayer-funded investments in IT modifications and other resources merely to duplicate the same information at greater frequency. Arns Dir. On Reh'g, ComEd Ex. 36.0 at 34:629-639.

JSP did not provide any testimony on rehearing on this topic, and neither Staff nor another party provided support for Tracking Metric 23 on Rehearing. Therefore, ComEd considers this tracking metric abandoned by JSP and recommends that Tracking Metric be removed from the Plan. Arns Reb. On Reh'g, ComEd Ex. 38.0 at 39:727-40:735.

a. Agreement

See above.

b. Disagreement

See above.

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

ComEd did not recommend the removal or refinement of any Intervenor-proposed Jobs and Opportunities tracking metrics.

5. 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)

Under the Allocation Of Grid Planning Benefits To Environmental Justice And Economically Disadvantaged Customers And Communities category of tracking metrics, ComEd recommended that two of the three components of the CUB/EDF Tracking Metrics 31 (Equitable Grid Planning) be removed from the plan. Specifically, ComEd opposed the inclusion of Component 2 (Total amount of distribution system investment that have a direct, locational impact on the reliability, safety, affordability, environmental objectives, and economic objectives of EIECs) and Component 3 (Total amount of distribution system investments that have a systemwide impact on the reliability, safety, affordability, environmental objectives, and economic objectives of EIECs, multiplied by the share of customer electricity load by customers in EIECs) in the Plan because they require ComEd to track distribution system investments by community. ComEd is not capable of tracking data in such a manner and no other party has proposed a methodology to track and collect this information. *See* Arns Reb. On Reh’g, ComEd Ex. 38.0 at 38:701-39:709.

In its Plan, ComEd explains that Component 2 will only provide an *estimated* percentage of investments identified in Component 1 (Total amount of distribution system investment, by investment category) because it is not possible to track distribution system investments by community impact. Plan at 37; *see also* Arns Reb. On Reh’g, ComEd Ex. 38.0 at 38:701-705. Mr. Arns also explained that Component 2 requires information that is out of ComEd’s control to gather and report. Arns Dir. On Reh’g, ComEd Ex. 36.0 at 36:686-37:694. Further, the Plan indicates that ComEd cannot track or report data requested for Component 3 because part of the required information is impossible to determine. *See* Plan at 38.

a. Agreement

No agreement have been reached on this topic.

b. Disagreement

Simply put, Tracking Metric 31 cannot be executed and it must be removed. CUB/EDF witness Mr. Barbeau appears to acknowledge that there is no known methodology to track and fulfill this metric when he recommended deferring the resolution of Component 2 to ComEd's pending Multi-Year Integrated Grid Plan proceeding (Docket 22-0486). Barbeau Dir. On Reh'g, CUB/EDF Ex. 8.0 at 31:547-552. ComEd disagrees with deferral because the PUA requires that the tracking metrics be adopted as part of the performance and tracking metrics proceeding, not under the multi-year grid plan review and approval. Further, Mr. Barbeau did not provide any reasoning why the parties Docket 22-0486, which are the same parties in this proceeding, would be able to develop a methodology specific for this tracking metric in the next 10 months, when they have been unable to do so in this proceeding during the last year. Arns Reb. On Reh'g, ComEd Ex. 38.0 at 39:713-715. Mr. Barbeau also never commented on, or expressed any opposition to, ComEd's Plan with respect to Component 3 of Tracking Metric 31, and he does not discuss Component 3 in his Direct Testimony on Rehearing. As such, ComEd recommends that Tracking Metric 31, Components 2 and 3 be removed from the Plan.

V. PROPOSED PERFORMANCE METRICS PLAN AND RIDER PIM COMPLIANCE FILING

In the event that the final Order in this rehearing proceeding requires ComEd to file an updated Plan and Rider PIM, ComEd proposes a timeline similar to that provided in the final Order for the original proceedings' compliance filings. Specifically, ComEd proposes that it have approximately two months from the date of the order on rehearing to submit a revised Final Metrics Plan and revised Rider PIM. Also, as it did with the initial compliance filing, ComEd will share a draft copy of the revised Final Metrics Plan and revised Rider PIM with Staff and Intervenors for comment approximately three weeks before the compliance filing due date, with parties to provide

any comments or suggested corrections no later than 12 days before the filing due date. This approach is consistent with the uncontested agreement previously reached between ComEd and Staff regarding complication filings resulting from Rehearing, as described in the Surrebuttal Testimony of ComEd witness Mr. Chad Newhouse. Newhouse Sur., ComEd Ex. 18.0 at 18:279-290; *see also* ComEd Ex. 18.03, which provides the Staff Response to ComEd – Staff 5.01 (“Staff also recommends that 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 be repeated under similar timeframes relative to service of the Final Order on Rehearing.”).

VI. OTHER

Staff witness Mr. Balogun makes several unsubstantiated, inaccurate, and accusatory claims in his Direct Testimony on Rehearing (Staff Ex. 26.0) against ComEd’s compliance and operational performance of its system. Mr. Balogun’s statements are unwarranted. A review of Mr. Arns’ Direct Testimony on Rehearing (ComEd Ex. 36.0) proves that there was simply no basis for these highly accusatory statements that are entirely unsupported by any evidence. Mr. Arns has explained in the original proceedings and on Rehearing that ComEd standards have always been based on satisfying all NESC and other relevant standards, and that ComEd’s internal requirements often exceed minimum NESC requirements. Arns Reb. On Reh’g, ComEd Ex. 38.0 at 4:66-70; *see also* Arns Dir. On Reh’g, ComEd Ex. 36.0 at 19:362-20:385; Arns Sur., ComEd Ex. 19.0 at 21:415-419. “ComEd takes its responsibility for the safe design and operation of its facilities for the public, its workforce, the environment, surrounding property and infrastructure and other considerations extremely seriously.” Arns Reb. On Reh’g, ComEd Ex. 38.0 at 4:71-74. Mr. Balogun’s claims are particularly out of bounds and irrelevant to the rehearing topic of the definition of MEDs for purposes of the reliability performance metrics.

VII. CONCLUSION

WHEREFORE, Commonwealth Edison Company respectfully requests that the Illinois Commerce Commission enter an Order on Rehearing consistent with the positions supported by this Initial Brief and the underlying record, and enter such other relief as is warranted.

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Respectfully submitted,

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