STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission	)	
On Its Own Motion	)	
v.	)	Docket No. 11-0434
Commonwealth Edison Company ,	)	
Respondent	)	
	)	
Investigation of Rate GAP pursuant	)	
to Section 9-250 of the Public Utilities Act	)	

INITIAL VERIFIED COMMENTS OF
THE ILLINOIS COMPETITIVE ENERGY ASSOCIATION

Pursuant to the schedule established for this proceeding, the Illinois Competitive Energy Association ("ICEA") respectfully submits these Initial Verified Comments.

Introduction

ICEA is an Illinois not-for-profit corporation established as an Illinois-based trade association to represent the interests of competitive energy suppliers, including licensed Alternative Retail Electric Suppliers ("ARES") and others interested in preserving and enhancing opportunities for customer choice and competition in the electric and natural gas industries in Illinois. ICEA's members are some of the most active and largest competitive energy suppliers both in the state and nationally, and include ARES that serve residential, commercial, industrial and public sector customers.[1]

I. Overview: Statutory Framework of Section 1-92 of the IPA Act

Section 1-92 of the Illinois Power Agency Act ("IPA Act") authorizes the corporate authorities of a municipality or county board (collectively, "Governmental Authority" or "GA") to adopt an ordinance under which it may aggregate the retail electrical loads of the residential and small commercial customers within its respective jurisdiction, to solicit bids, select a retail electric supplier ("RES") and enter into a service agreement for the purchase of electricity and related services and equipment. 20 ILCS 3855/1-92 (a). This relatively new law continues the state's ongoing efforts to allow customers access to competitive retail electric markets.

Overall, Section 1-92 provides for two different types of governmental aggregation programs: "opt-out" or "opt-in." An "opt-out" program requires referendum

[1] Each member of ICEA expressly reserves the right to present its own individual position during the course of this proceeding.

approval as it will apply to all customers who fail to make an affirmative choice to not participate. An "opt-in" program, in contrast, only applies to those customers that actively choose to participate. The statutory scheme in Section 1-92 sets out a number of requirements for opt-out aggregation programs, to wit:

1. The GA must submit a referendum to residents at a regular election on ballot in form prescribed by the IPA Act. 220 ILCS 3855/1-92(a). *(The general format for the referendum question is specified by law)*

2. If the opt-out aggregation referendum passes, the GA must adopt an ordinance by majority vote. *(Neither the form nor the contents of the ordinance are specified under the law).*

3. The GA is required to create a "plan of operation and governance" with assistance of the IPA. 220 ILCS 3855/1-92 (b). Before adoption of the plan, the GA must publish notice and hold hearings. Id. *(The IPA Act gives no guidance as to the contents or extent of details for the plan)*.

4. The GA will solicit bids for electricity and other related services. 220 ILCS 3855/1-92 (c). *(The GA may engage consultants to assist and the IPA is required to help complete the bidding process).*

5. For the bid solicitation process, subsection (c) (2) of Section 1-92 states that notwithstanding certain customer privacy laws, the electric utility that provides residential and small commercial retail electric service in the aggregate area must, upon request of the Governmental Authority in the aggregate area, submit in electronic format, those names, addresses and account numbers of residential and small commercial retail customers in the aggregate area that are reflected in the electric utility's records at the time of the request. *Id. (This provision, concerning the electric utility's obligations, fails to define terms necessary to its application as per tariff).*

6. The GA receiving customer information is subject to limitations on the disclosure of such information as described in Section 16-122 of the Public Utilities Act and Section 2HH of the Consumer Fraud and Deceptive Business Practices Act. *Id. (The laws here specified are highly protective of customer information related to electric service).*

7. The GA will select a bid and enter into a contract with chosen RES within a reasonable time to meet the law's other requirements. *(Here, the GA will be aided by its counsel to structure and review all service terms and conditions)*

8. Under subsection(e), it is the duty of the "aggregated entity" to fully inform residential and small commercial retail customers in advance that they have the right to "opt-out" of the aggregation program. 220 ILCS 3855/1-92 (e). The

> disclosure shall prominently state all charges to be made and shall include full disclosure of the cost to obtain utility bundled service pursuant to Section 16-103 of the Public Utilities Act, how to access it, and the fact that it is available to them "without penalty, if they are currently receiving service under that section. *Id.* Subsection (e) also obligates the Illinois Power Agency ("IPA") to furnish, without charge, to any citizen a list of all supply options available to them in a format that allows comparison of prices and products. *(These notice and education provisions are for the benefit of eligible customers*).

As evidenced by the above requirements, Section 1-92 of the IPA Act sets out a comprehensive framework for what is more commonly referred to as "municipal aggregation." In many respects, however, the law is lacking in clarity, definiteness and orderliness. Like many statutes, Section 1-92 is set out in broad terms leaving the details to be worked out under "a reasonable discretion in the administrative officials charged with its enforcement." *Sangamon County Fair, Etc. v. Stanard*, 9 Ill. 2d 267, 137 N. E. 2d 487 (1956). Thus, without further legislative guidance and in the absence of administrative rules which could offer further clarity, many of the specific details pertaining to these programs are left to the GA's Plan of Operation and Governance as developed with the assistance of the IPA, and to the utility tariff that is to be approved by the Illinois Commerce Commission, e.g., Rate GAP.

II. The Rate GAP Tariff.

Due to certain obligations imposed on the electric utility as outlined in Section 1-92(c), ComEd filed Rate GAP-Government Aggregation Protocols ("Rate GAP") on March 3, 2011. The tariff became effective April 17, 2011. Rate GAP explains that:

> The purpose of the instant tariff is to define the circumstances when and the terms and conditions under which the Company provides retail customer data to a Government Authority in order for such Government Authority to aggregate retail customer electric power and energy requirements in accordance with Section 1-92 of the Illinois Power Agency Act (IPA Act).

Commonwealth Edison Company, ILL.C.C. No. 10, Original Sheet No. 406.

III. The Instant Investigation

The instant proceeding began on May 18, 2011, when the Illinois Commerce Commission entered an *Order Initiating Investigation*. A Staff report, which was the basis for the Commission's action and made a part of record for this proceeding, outlined several issue for consideration with respect to Rate GAP. These issues included the construction to be given the term "small commercial retail customer" (undefined by the IPA Act); the appropriate universe of customers whose

information will be provided to the GA (also undefined in the law); and, questions regarding the sufficiency of protections and safeguards in terms of persons who may gain access to customer information during the course of the aggregation process. Staff Report dated May, 2011, filed May 20, 2011.

Through a series of workshops led by Staff, ICEA, ComEd and a number of parties met to discuss and refine the issues. While progress was made resolving certain issues, it became apparent in due course that many of the difficulties in resolving the remaining open issues were due to the ambiguities and certain vagueness in the provisions of Section 1-92 of the IPA Act itself. Such matters, and the complications they inspire, will become evident as ICEA proceeds to address the issues below.

IV. The Issues

In enacting Section 1-92 of the IPA Act, the General Assembly left several critical terms undefined. To give meaning to these terms, as in construing other language, the Commission will need to consider the purposes of the statute, the subject matter, its effect and the consequences of interpreting these terms one way or another.

1. Interpretation of the term "small commercial retail customers"

Section 1-92 of the IPA Act provides that the aggregation program is available for residential and "small commercial retail customers." 220 ILCS 3855/1-92(a). This statute, however, does not define the term "small commercial retail customers." It is only logical to presume, however, that the General Assembly had something specific and uniform in mind when it included that term in Section 1-92 of the IPA Act.

It is true that the governing statute at hand, Section 1-92, appears in the IPA Act. On its face, that law only assigns duties and rights to the GA, the electric utility, customers and the IPA. But, pursuant to the statute, the IPA is limited to the role of assisting with the development of the GA's plan (of operation and governance) and its bidding process.

As such, it falls on the Commission to define the term which is a pre-requisite to ComEd's fulfilling its obligations under Section 1-92 of the IPA Act in the manner proposed under Rate GAP. ICEA observes that Section 16-102 of the PUA already contains a definition of the very term "small commercial customer." The PUA defines "small commercial customer" as a "non-residential customer who consumes 15,000 kilowatt-hours ("kWh") or less annually." 220 ILCS 5/16-102. Notably too, this same definition was adopted in the Commission's Second Notice Order for the recent Part 412 rulemaking. See Docket 09-0592, Second Notice Order, Appendix A at Section 412.10 Nov. 22, 2011). As such, the term in question has acquired meaning. It is to be presumed that the General Assembly has knowledge of the PUA's definition of the term and intends consistency between the statutes. Just as well, it is reasonable to believe that the General Assembly intended that the Commission would supply a definition of

the term, consistent with the PUA (and the *in pari materia* rule), to cure any vagueness in the law.

The Staff Report, of record in this proceeding, observes that different from the Section 16-102 definition of small commercial retail customers, Rate GAP has an entity qualify under the term if it is included either within ComEd's Watt-Hour Delivery Class, or within its Small Load Delivery Class. (Staff Report at 2). Staff explains that ComEd's Watt-Hour Delivery Class includes nonresidential customers that either have no meter, or have only a watt-hour meter. According to Staff, a significant percentage of such customers would experience annual usage between 15,000-24,000 kilowatt hours. (*Id.*) Further, Staff notes ComEd's Small Load Delivery Class to include customers the peak demand of which did not exceed 100 kilowatts in the twelve most recent months and yet a significant portion of such customers are likely to use more than 15,000 kilowatt hours annually. (*Id.*). Staff believes a substantial question exists as to whether Rate GAP applies to the appropriate subset of ComEd's commercial customers. (*Id*. at 3).

ComEd makes claim of the law's ambiguity as well as the need for a settled definition to determine the appropriate group of non-residential customers to be included in opt-out aggregation programs. (ComEd Initial Comments at 6). Early on, ComEd explains, it had attempted to establish a definition that would: (a) be readily implemented to address the imminent needs of GA's that pass aggregation referenda; and (b) further help to promote competition in this under-served area of the retail market. (*Id.* at 7*)* At the time of the Rate GAP filing in March 2011, ComEd says that it settled upon the Watt-Hour Delivery Class and the Small Load Delivery Class (which includes non-residential customers whose peak demand does not exceed 100 kilowatts in the twelve most recent months). According to ComEd, at that time these were the only non-residential segments for which supply service had not been declared competitive and the level of switching was stagnant. (Id. at 7-8) In the time since Rate GAP has been implemented, however, ComEd states that it conducted another analysis of the degree of switching in the Watt-Hour Delivery Class and Small Load Delivery Class and found significant switching (*Id. at 8)*

ICEA notes that the position ComEd takes today arises from two prominent factors. First, ComEd points out that there is a notable change in switching. Second, ComEd explains that it has been afforded the time to develop an efficient means of identifying customers in preparation for the next round of referenda. (Id. at 9) On this basis, ComEd now does not oppose limiting the provision of aggregated load and usage data along with name, address and account information for non-residential customers to those with usage of 15,000 kWh per year or less.

For the reasons set out above, ICEA respectfully asks the Commission to have Rate GAP be modified in its language and/or application to have the term "small commercial retail customer" comport with the definition of "non-residential customer who consumes 15,000 kilowatt-hours ("kWh") or less annually." This end is both consistent with Section 16-102 and the IPA Act, and is not opposed by ComEd.

2. Retail customer information

Section 1-92 of the IPA Act provides, in part, that:

> an electric utility *that provides residential and small commercial retail electric service* in the aggregate area must, upon request of the corporate authorities or the county board in the aggregate area, submit to the requesting party, in an electronic format, those account numbers, names, and addresses of *residential and small commercial retail customers in the aggregate area that are reflected in the electric utility's records at the time of the request.* 20 ILCS 3855/1-92 (c). (Emphasis added).

The term "retail customers" is <u>not</u> defined in Section 1-92 of the IPA Act. For its part, ComEd believes that under a plain meaning of the term, it would be obligated to provide the names and addresses of all customers within the GA's jurisdiction, regardless of their source of energy supply. (ComEd Initial Comments at 11). ICEA disagrees.

ICEA asserts that within the context of Section 1-92 of the IPA Act, the most reasonable and logical interpretation of the term "retail customers" is customers of ComEd's commodity service, i.e., the utility's bundled customers. The construction that ComEd urges is broader than necessary to implement governmental aggregation and, as such, is not consistent with the subject matter, purposes or intents of Section 1-92 of the IPA Act. Where as here, different interpretations are urged, a court must look to reasons for the enactment of the statute and the purposes to be gained by it and construe the statute in the manner which is consistent with such purpose. *Sutherland, Statutory Construction* (7th Ed.) 46:7.

At a high level, Section 1-92 of the IPA Act is yet another way by which the state is attempting to bring the benefits of retail electric supply competition to residential and small commercial customers. In all likelihood, however, there will be consumers in an aggregating area that have already availed themselves of existing retail choice opportunities and have entered into contracts with an ARES for energy supply. Nothing in Section 1-92 of the IP Act shows the General Assembly to have intended to interfere with any existing contracts between those customers and theRESs they have chosen. Thus, there is no reason for the GA to contact those customers with either opt-in or opt-out information.

In ComEd's view, all electricity customers take delivery service from ComEd under Rate RDS and for this reason are retail customers of ComEd. (ComEd Initial Comments at 11). This simplistic argument overlooks the subject matter of the statute at hand. There is no "choice" when it comes to delivery service. It is abundantly clear that both the opt-out and the out-in programs that Section 1-92 of the IPA Act authorizes are solely concerned with electric supply. In other words, there is no opting out or

opting into delivery service. Hence, “delivery service only” retail customers of ComEd are outside the scope of the law.

The effect and consequences of interpreting a statute one way or another are also a valid consideration. Without question, RES customer information is highly confidential and competitively sensitive. As the statute is currently written, and as even ComEd recognizes, there are substantial and fatal gaps in the protections and safeguards afforded this information. (ComEd Initial Comments at 10.) The potential for mischief, i.e., an absurd result, is always a concern in statutory interpretation. Authority cautions that, if the literal import of the text of an act is inconsistent with the legislative meaning or intent or would lead to absurd results, the words of the statute will be construed to agree with the intent of the legislature. *Sutherland Statutory Interpretation,* (7th Ed.) Section 46:7. Given that providing the names of customers already with a RES is simply unnecessary for the law’s purposes, there is no reason to put this confidential and competitively-sensitive information at risk.

On the whole, and to preclude inadvertent or intentional misuse of highly sensitive information, Section 1-92(c) of the IPA Act should be read in a reasonable and meaningful way consistent with the law’s subject matter, purposes and intent. In this instance, it is most reasonable to construe the utility’s retail customers as its bundled customers, i.e., those not yet under contract with a retail electric supplier. Only the names, addresses and account numbers of these bundled customers need be provided to the Governmental Authority. ICEA respectfully asks that the Commission so find and direct appropriate revisions to be made to Rate GAP.

3. Confidentiality Concerns and Expression

In the alternative, if the Commission determines that the term "retail customers" includes customers currently taking their electric supply service from retail electric suppliers, ICEA might be more amenable in having ComEd release RES customer data to the GA, if there were adequate, effective and enforceable restrictions on the exposure, dissemination and use of the data. In its application, this is just what Section 1-92 of the IPA Act reasonably requires.

Illinois law is very protective of customer-specific information related to electric service. Section 16-122 of the PUA provides that no customer specific billing, usage, or load shape data shall be provided under this subsection unless authorization to provide that information is provided by the customer. 220 ILCS 5/16-122. In a similar vein, Section 2HH of the Consumer Fraud and Deceptive Business Practices Act states that all personal information relating to the subscriber of generation, transmission, distribution, metering, or billing of electric service shall be maintained by the service providers solely for the purpose of generating the bill for such services, and shall not be divulged to any other persons with the exception of credit bureaus, collection agencies, and persons licensed to market electric service in the State of Illinois, without the written consent of the subscriber. 815 ILCS 505/2HH.

With regard to municipal aggregation, Section 1-92 of the IPA Act plainly states that a Government Authority receiving customer information from an electric utility shall be:

> subject to the limitations on the disclosure of the information described in Section 16-122 of the Public Utilities Act and Section 2HH of the Consumer Fraud and Deceptive Business Practices Act." 20 ILCS 3855/1-92 (c) (2).

ICEA respectfully submits that what is implicit in the statutory language above needs to be made explicit in the Rate Gap tariff, i.e., that entities other than the local governments gaining access to this confidential and competitively sensitive information will be held to appropriate and enforceable restrictions. As a practical matter, there are many tasks required to implement an aggregation program. While the GA may execute these tasks on its own, it is far more likely that a third party—perhaps an ICC licensed agent, broker or consultant and/or the "winning" RES selected by the municipality—will be involved to a large degree. ICEA's concern is ensuring that these third parties are not given unrestricted access to competitively sensitive information that could be misused by the third party to further their commercial interests outside of implementing the aggregation. In short, ICEA is legitimately concerned with the lack of adequate restrictions being afforded competitively-sensitive customer information.

As proposed by ComEd, the Rate GAP language would state that:

> The Government Authority warrants that any customer-specific information provided by the Company in accordance with the provisions of this tariff is treated as confidential information. Such Government Authority also warrants that any such information is used only to effectuate the provisions of Section 1-92 of the IPA Act. Such Governmental Authority is responsible for ensuring the confidentiality of such customer-specific information and the limitation of the use of such customer-specific information to only effectuate the provisions of Section 1-92 of the IPA Act.

While this is a good start, ICEA maintains that it is not enough to address its very real and legitimate concerns. ComEd claims that Section 1-92 of the IPA Act itself lacks appropriate restrictions on the use of data acquired from electric utilities (ComEd Initial Comments at 10). Thus, the Company maintains that it has no authority to impose further restrictions and no ability to monitor or enforce the restrictions. (*Id*.). ICEA does not altogether agree with ComEd.

ICEA respectfully submits that when it is properly construed and applied, the statute is sufficient to bring about certain necessary additions to Rate Gap. It has been observed that before the true meaning of a statute can be determined, when there is genuine uncertainty concerning its application, consideration must be given to the problem in society to which the legislature addressed itself. *Sutherland, Statutory*

Interpretation, (7th Edition) Section 45:2. In the instant situation, the General Assembly being a "reasonable legislative body," both understood and expected that confidential and competitively-sensitive customer information being tendered by the electric utility to the GA, would have necessary protection at each link in the chain of disclosure. Indeed, having similarly delegated the burden of this protective role, traditionally held by the utility, the General Assembly has effectively put the GA into the utility's shoes. As such, but lacking essential guidance, the GA must now deal with legal responsibilities that are new and unfamiliar.

Given Section 1-92 of the IPA Act's many gaps in standards and ambiguities, it can only be presumed that the General Assembly intended a reasonable discretion be afforded to those construing and applying its provisions to put into effect, with particularity, what the statute intends. In this instance, and with regard to Rate Gap tariff, it is the Commission who holds that authority. Here, it is faced with a situation and a showing that more needs to be done to protect and safeguard private, confidential and competitively-sensitive information. Notwithstanding ComEd's far too literal interpretation, the legislative intent for these safeguards is already expressed - it is simply not fully detailed. See generally, *Sangamon County Fair, Etc. v. Stanard*, 9 Ill. 2d 267, 137 N. E. 2d 487 (1956) (words in a statute spell out the framework of the legislative intent and leave the details to the reasonable discretion of the administrative officer who administers the law).

The Commission has solid experience and sensitivity in construing confidentiality laws and addressing confidentiality concerns. It frequently addresses such matters when approving protective agreements and petitions seeking confidential treatment of information. And, the "limitations on disclosure described in Section 16-122 of the Public Utilities Act (which the IPA Act now imposes on the GA) is a law with which the Commission is most familiar. In other words, the Commission well understands that private and confidential customer information must be protected and in a meaningful way. As a practical matter, some GA's will have experience with confidentiality protection laws, and thus put into their Plans and/or contracts (with both consultants and the winning supplier), appropriate provisions to both safeguard and enforce the strict confidentiality of customer information.[2] Other GA's, however, perhaps being overwhelmed by the depth and breadth of the aggregation implementation process, may either inadvertently omit including such provisions or believe such confidentiality to be simply understood and not in need of a binding restrictions. In either case, ICEA

[2] For example, and taking no position as to sufficiency, a publicly-available posting of the Village of Oak Park Electric Aggregation Plan of Operation and Governance - Dated September 26, 2011, Amended October 18, 2011 ("Oak Park Plan") shows the GA to specify that the Aggregation Consultant shall not have access to any confidential customer account information. In the event the Consultant becomes privy to such, it agrees not to use that information for any purposes outside the scope of the services provided by this Agreement [presumably Consultant Agreement], and,specifically agrees "not to use for itself, or to sell, trade, disseminate or otherwise transfer that information to any party for any purpose" other than this Aggregation Program. (Oak Park Plan at Page 6 of 15). This Plan provides for similar confidentiality protection, and in a number of ways (at pages 9-11,14-15) with respect to the winning RES.

believes that GA's would welcome guidance from the Commission on ways to effectuate their confidential obligations under Section 1-92 (c)(2) of the IPA Act.

Accordingly, ICEA proposes that the following bolded language be added to what ComEd has included in Rate GAP:

> To ensure compliance with the law, and particularly with regard to protecting customer-specific information described in Items 18 through 23 of the Company Obligations Section of this Rate GAP, the Government Authority will require, ***as*** a material condition to a contract or other written agreement with both the RES selected to procure the aggregated electric power and energy supply service to eligible customers within the boundaries of the Government Authority and with any third party it has engaged to assist in any aspect of the aggregation process, that there be established and followed appropriate protocols to preserve the confidentiality of customer-specific information and limit the use of such customer-specific information strictly and only to effectuate the provisions of Section 1-92 of the IPA Act. The GA will ensure that these protocols, at the minimum, reasonably limit the number of authorized representatives of the selected RES and any other third party who need access to the customer-specific information; provide that the RES or any third party will not disclose, use, sell, or provide customer-specific information to any person, firm or entity for any purpose outside of the aggregation program; and, acknowledge that the customer-specific information remains the property of the GA and that breaches of confidentiality will have certain, specified, and sufficient consequences.

In conclusion, ICEA maintains that the language of Section 1-92 (c)(2) is certainly amenable to this more specific articulation that is consistent with the General Assembly's intent.

4. New Proposed Tariff Modification

The Initiating Order for this proceeding, does not limit the issues to be raised either in support of, or in opposition to, Rate Gap. Hence, ICEA asks for consideration of the following proposal.

ICEA observes that Revised Sheet of No. 411 of Rate GAP explains the use of "Generic Load Profiles" that are used in Company Obligations section of the tariff. ICEA proposes that ComEd be required to provide customer specific Peak Load Contribution/Network Service Peak Load (PLC/NSPL) information be provided in lieu of Generic Load Profiles. In ICEA's view, the provision of such customer-specific information will better allow suppliers to prepare bids for the governmental authorities for the ultimate benefit of the aggregated customers of the Municipal Authorities.

5. Data Request Fees

ICEA reserves the right to respond on the issue of rate costs in the next round of comments.

6. Final Remarks

While the ICEA is not in agreement with ComEd on all the issues in this proceeding, it expresses strong support for many of the observations and urgings set out in the "Concluding Remarks" section of ComEd's Initial Comments.

It is prudent for a statewide program like governmental aggregation to proceed on the basis of a uniform and transparent model. ICEA believes all participants would benefit from having state-wide standards and rules governing governmental aggregations. Whether such a rulemaking proceeds under the auspices of the Commission or the IPA or both is an open question. ICEA believes a rulemaking would be helpful in order to bring greater definition, clarity, competitive-sensitivity, and an discussion of best practices to the aggregation process. Administrative rules would be of invaluable assistance to the governmental authorities, to the utilities, to RES and, as importantly, to the residential and small commercial customers.

To the extent that the Commission believes it has the authority to address these and other issues, ICEA encourages the exercise of such authority by the initiation of a rulemaking proceeding that would bring a structure and clarity to the operation of these programs.

Notably, at a recent bench session, and in discussion on certain rate cases, Chairman Scott and other Commissioners recognized a need for coordination and/or exchange of information between different agencies. This would appear to be an excellent opportunity for the Commission and the IPA (given its assigned role in municipal aggregation) to share concerns and work together toward the goal of establishing rules and standards pertaining to municipal aggregation. ICEA stands ready to serve as resource for both the Commission and the IPA in moving such a process forward.

ICEA would like to thank the Commission for this opportunity to provide comments. ICEA believes that our members' experiences in other states will assist this Commission in this investigation. The Illinois retail electric market is proving itself to be extremely successful for customers of all sizes and it is the ICEA's goal to continue to foster a market where educated consumers can shop with confidence among a wide variety of retail electric suppliers. The ongoing development of Municipal Aggregation is yet another way for the competitive market to continue to develop in Illinois. ICEA looks forward to working with the Commission, ComEd, and all stakeholders as this investigation proceeds.

7. Conclusion

ICEA respectfully requests the Illinois Commerce Commission to have ComEd modify Rate Gap language and/or application in the reasonable ways ICEA has recommended above.

Respectfully submitted,

THE ILLINOIS COMPETITIVE ENERGY ASSOCIATION

/s/ Kevin Wright
Kevin Wright
President. ICEA

/s/ Eve Moran
Eve Moran
Attorney for ICEA

Dated: December 29, 2011

NOTICE OF FILING

Please take note that on December 29, 2011, I am causing to be filed via e-docket with the Chief Clerk of Illinois Commerce Commission, the attached **Initial Verified Comments of the Illinois Competitive Energy Association** in Docket 11-0434.

Dated: December 29, 2011

/s/ Eve Moran
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CERTIFICATE OF SERVICE

I, Eve Moran, attorney for the Illinois Competitive Energy Association, certify that I caused to be served copies of the **Initial Verified Comments of the Illinois Competitive Energy Association** upon the parties identified on the service list maintained on the Illinois Commerce Commission's e-Docket system for Docket 11-0434 (consolidated) via electronic delivery, on December 29, 2011.

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