

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION14

Commonwealth Edison Company :
: :
Approval of the Energy Efficiency and : **13-0495**
Demand Response Plan Pursuant to :
Section 8-103(f) of the Public Utilities Act. :

ORDER ON REHEARING

By the Commission:

On January 28, 2014, the Illinois Commerce Commission (“Commission”) entered a Final Order in this proceeding approving, with modification, Commonwealth Edison Company’s (“ComEd”) 2014-2016 Energy Efficiency and Demand Response Plan.

On February 27, 2014, the People of the State of Illinois (“AG”), the Citizens Utility Board (“CUB”) and the Environmental Law & Policy Center (“ELPC”) (collectively “Applicants”) filed a joint Application for Rehearing (“Application”), which proposed to modify the Final Order’s Analysis and Conclusions regarding ComEd’s Net-to-Gross (“NTG”) framework. Specifically, the Application noted that the Commission had approved two different procedures regarding the independent evaluator and Stakeholder Advisory Group (“SAG”) process for determining NTG values – one for ComEd in the present docket and another for Ameren in Docket 13-0498. Applicants contended that the procedure adopted for Ameren is preferable, which requires that “the independent evaluator’s report should be first presented to SAG, receive input from stakeholders, attempt to reach consensus on a value, and if no consensus is reached, permit the evaluator to select a value that incorporates the prior study and SAG input.” Application at 4. According to the Application, the procedure adopted for ComEd is problematic because, if no consensus is reached, the evaluator’s last evaluation result becomes the default NTG value, which could incent a stakeholder who prefers the last evaluation result to force a lack of consensus and thus application of the last result. Id. at 4-5. The Application urged the Commission to grant rehearing on the NTG Framework “in order to ensure that future NTG discussion incorporate[s] SAG input, and ensure that [the] evaluator’s selected NTG values incorporate the best, most up-to-date information and reflect their best judgment of likely future actual NTG outcomes, and are consistent with the framework established in the Ameren Docket 13-0498 Order.” Id. at 6.

On March 19, 2014, the Commission granted the Application in part and denied it in part, and clarified that rehearing would only address whether it is appropriate for the Commission to adopt the procedure adopted in the Ameren proceeding (Docket 13-0498) regarding the independent evaluator and SAG process for determining NTG values instead of the procedure adopted in the ComEd proceeding (Docket 13-0495). Rehearing would not address any other proposed procedure or NTG issues.

During the initial status on rehearing held on April 3, 2014, counsel for the AG and ComEd indicated that they had entered into discussions regarding the issue on rehearing, and had reached an agreement concerning a proposed change to ComEd's NTG framework that would incorporate the independent evaluator and SAG process for determining NTG values that was approved for Ameren in Docket 13-0498. Counsel for Commission Staff indicated that Staff did not object to the proposed change.

Pursuant to the schedule set by the Administrative Law Judge ("ALJ"), ComEd filed a Motion to Admit the agreed-to language regarding the proposed change to its NTG framework, which was set forth in Joint Rehearing Ex. 1.0 to the Motion as follows:

Prior to March 1st of each year, the independent evaluator will present its proposed NTG values for each program to the SAG, intended to represent their best estimates of future actual NTG values likely to occur. The purpose of this meeting will be for the independent evaluator to present its rationale for each value and provide the SAG, in their advisory role, with an opportunity to question, challenge and suggest modifications to the independent evaluator's values.

If the SAG reaches consensus regarding an NTG value prior to March 1, then SAG's decision shall be adopted – even if it is different from the evaluator's original proposal. If consensus is not reached, the independent evaluator will then review this feedback and make the final determination of values to be used for the upcoming year taking into account all comments and discussions, with the intent of making their best estimate of likely future actual NTG values. All NTG values shall only be applied prospectively beginning June 1 of each year.

Joint Rehearing Ex. 1.0. While the ALJ's schedule provided parties with an opportunity to respond to the Motion by April 9, 2014, no party filed a response, and on April 16, 2014, the ALJ issued a ruling admitting the proposed language into the record as Joint Rehearing Exhibit 1.0. A Joint Draft Proposed Order on Rehearing was filed on April 18, 2014 by Commission Staff, ComEd, AG, CUB and ELPC.

Commission Analysis and Conclusion

The Commission has considered the proposed language set forth in Joint Rehearing Ex. 1.0, and finds that it is primarily consistent with the procedure we approved for Ameren in Docket 13-0498 regarding the independent evaluator and SAG process for determining NTG values. Adoption of the NTG Framework set out in Joint Rehearing Ex. 1.0 should help ensure that ComEd's deemed NTG values reflect the best estimates of likely future actual NTG values by taking into consideration SAG input, the evaluator's expertise, and the best and most up-to-date information, as requested in the Application. The Commission notes that consistency regarding this particular procedure should increase efficiencies within the SAG by encouraging all parties to negotiate in good faith to reach consensus, and will also avoid the scenario identified in the Application where a stakeholder could force nonconsensus to ensure that a known

default NTG value would be applied. Instead, if the SAG cannot reach consensus, this modified procedure will require that the independent evaluator determine the final value based on SAG input, the evaluator's expertise, and the best and most up-to-date information. The Commission appreciates the balanced approach the proposed language provides by retaining the Final Order's risk mitigation policy of prospective-only application of NTG values for ComEd, and further appreciates that the proposed language retains the Final Order's clarity regarding the addition of specific dates. Adoption of the NTG framework set forth in Joint Rehearing Ex. 1.0 is also supported by the record in this docket. See ComEd Ex. 2.0 at 67; AG Ex. 1.0C at 31-32; Staff Ex. 1.1 at 1-2.

Accordingly, the Commission directs ComEd, its evaluator, and SAG to comply with the following NTG framework for deeming NTG ratio values:

Prior to March 1st of each year, the independent evaluator will present its proposed NTG values for each program to the SAG, intended to represent their best estimates of future actual NTG values likely to occur. The purpose of this meeting will be for the independent evaluator to present its rationale for each value and provide the SAG, in their advisory role, with an opportunity to question, challenge and suggest modifications to the independent evaluator's values.

If the SAG reaches consensus regarding an NTG value prior to March 1, then SAG's decision shall be adopted – even if it is different from the evaluator's original proposal. If consensus is not reached, the independent evaluator will then review this feedback and make the final determination of values to be used for the upcoming year taking into account all comments and discussions, with the intent of making their best estimate of likely future actual NTG values. All NTG values shall only be applied prospectively beginning June 1 of each year.

Findings and Ordering Paragraphs

The Commission, having given due consideration to the entire record and being fully advised in the premises, is of the opinion and finds that:

- (1) Commonwealth Edison Company is an Illinois corporation engaged in the transmission, sale and distribution of electricity to the public in Illinois, and is a public utility as defined in Section 3-105 of the Public Utilities Act;
- (2) the Commission has jurisdiction over Commonwealth Edison Company and the subject matter of this proceeding;
- (3) the statements of fact set forth in the prefatory portion of this Order are supported by the evidence and the record and are hereby adopted as findings of fact; and
- (4) the Final Order in this docket is amended to incorporate the change set forth in Joint Rehearing Ex. 1.0.

IT IS THEREFORE ORDERED by the Commission that the Order entered by the Commission on January 28, 2014, and as amended by the Amendatory Order entered on March 19, 2014, is amended as noted herein. In all other respects, the Order, as amended, remains the same and in full force and effect.

IT IS FURTHER ORDERED that all motions, petitions, objections and other matters in this proceeding that remain unresolved are hereby disposed of in a manner consistent with the conclusions herein.

IT IS FURTHER ORDERED that, subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Illinois Administrative Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By Order of the Commission this 7th day of May, 2014.

(SIGNED) DOUGLAS P. SCOTT

Chairman