NRG Exhibit 1.0

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

COMMONWEALTH EDISON COMPANY	)	
	)	
Proposal for changes to new service requests for large demand project applicants or customers.	)	**Docket No. 25-0677**
	)	
_____	)	**(cons.)**
	)	
Proposal for revisions to Rider Distributed System Extensions.	)	**Docket No. 25-0679**

Direct Testimony and Exhibits of

James R. Dauphinais

On behalf of

NRG Energy, Inc.

September 26, 2025

BRUBAKER & ASSOCIATES, INC.

STATE OF ILLINOIS
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Direct Testimony of James R. Dauphinais

Introduction and Summary

Q. Please state your name and business address.

A. James R. Dauphinais. My business address is 16690 Swingley Ridge Road, Suite 140, Chesterfield, MO 63017.

Q. Please state your occupation.

A. I am a public utility regulation consultant and serve as a Managing Principal with the firm of Brubaker & Associates, Inc. ("BAI"), a firm that specializes in energy, economic and regulatory consulting. My qualifications are included in Appendix A, detailing over forty years of experience with a broad range of issues impacting the electric utility industry.

Q. Have you previously filed testimony in other matters before the Illinois Commerce Commission ("Commission" or "ICC") and other similar regulatory bodies?

A. Yes. As detailed in Appendix A, I have previously filed testimony with the Commission, the Federal Energy Regulatory Commission ("FERC") and the utility regulatory commissions of many other states. Before the Commission, this includes testimony I have filed in nearly twenty separate proceedings.

Q. On whose behalf are you appearing in this proceeding?

A. I am testifying on behalf of NRG Energy, Inc. ("NRG"). NRG owns real property within the Commonwealth Edison Company ("ComEd" or "Company") service territory that NRG is developing for the purposes of accommodating one or more large load customers with anticipated demand in excess of 50 MW.

Q. What issues are you addressing in your direct testimony?

A. My direct testimony responds directly to the proposed tariff language amendments ComEd has advanced in this proceeding, including changes to its General Terms and Conditions ("GT&C") and its Rider DE – Distribution System Extensions ("Rider DE"), which include references to a Transmission Security Agreement ("TSA"), which as of the filing date of this direct testimony has not yet been filed with FERC, much less tested within a litigated proceeding or accepted by FERC.

My testimony starts by explaining the stranded cost risk for ComEd's existing customers associated with incremental fixed costs incurred by ComEd to serve new large loads. It next addresses the TSA proposal that ComEd included in its proposed tariff language amendments to its GT&C. It then addresses ComEd's proposed tariff language amendments to its Rider DE. Finally, it addresses certain posting of collateral and grandfathering issues associated with ComEd's proposed tariff language amendments to its GT&C and its Rider DE.

My silence with regard to any issue should not be construed as an endorsement of ComEd's position on that issue.

Q. Are you sponsoring any exhibits with your direct testimony?

A. Yes. NRG Exhibit 1.1 provides my analysis comparing ComEd's "Load Ramp x Standard Rates" large load addition revenue guarantee method to the incremental revenue requirement to serve large load additions. NRG Exhibit 1.2 provides a copy of various large load addition-related transmission presentations that were made by ComEd in the PJM Stakeholder Process that are inputs for the analysis presented in NRG-Exhibit 1.1. NRG Exhibit 1.5 includes the data request responses provided by ComEd in this proceeding that are referenced in this testimony.

Q. Please summarize your conclusions and recommendations.

A. The Commission should take reasonable steps to protect existing customers from unrecovered incremental costs, consistent with cost-causation and just-and-reasonable ratemaking principles. My conclusions and recommendations can be summarized as follows:

- **ComEd identifies a legitimate risk related to potential large load additions.** The risk is that the actual transmission and distribution revenues recovered from the large load addition customers might be less than the revenue requirement of the transmission and distribution investments that would not have been made but for those large load additions due to the large load additions not fully materializing or failing to remain fully materialized. This could leave ComEd with stranded costs it would recover from its existing customers under its FERC-jurisdictional transmission rates and Commission-jurisdictional distribution service rates.

- **There also are benefits associated with large load additions.** It is important that the Commission consider the competition that exists between ComEd and utilities in other states with respect to attracting large load additions. While the stranded cost risk to ComEd's existing customers needs to be reasonably addressed, it must also be remembered that, to the extent the large load additions are fully realized, it will benefit ComEd's existing

customers through lower transmission and distribution rates than they would have otherwise paid as fixed costs are spread across a larger customer base. Imposing requirements on large load addition customers that exceed what is necessary to prevent cost subsidies would only act to drive away the rate benefit that large load additions can provide to ComEd's existing customers to the customers of other utility systems in jurisdictions that have more competitive large load addition requirements.

- **ComEd's "Load Ramp x Standard Rates" proposal does not properly address the risk.** Requiring large load addition customers to guarantee transmission and distribution revenues based on their submitted load ramp applied to ComEd's standard transmission and distribution service rates would not reasonably address the risk of ComEd's existing customers potentially paying for the transmission and distribution investments that would not have been necessary but for the large load additions. This is because the level of ComEd's proposed "revenue guarantee" could be significantly higher or lower than the actual *revenue requirement* of the transmission and distribution investments that would not have been made but for the large load additions. ComEd's proposal has two undesirable results on rates:

    - When the revenue guarantee is lower than the revenue requirement, ComEd's existing customers would subsidize the large load addition customer in question because it would not require the large load addition customer to guarantee revenues sufficient to cover the revenue requirement of the investments that would not have been incurred for that large load addition.

    - When the revenue guarantee is higher than the revenue requirement, it would cause the large load addition customer to subsidize ComEd's existing customers because it would require it to guarantee revenues in excess of the revenue requirement of the investments that would not have been incurred for that large load addition.

    - My analysis of recent ComEd data on expected required transmission system reinforcements associated with large load additions estimates that in some cases existing customers could subsidize specific large load addition customers by as much as $161 million individually and in other cases specific large load addition customers could individually subsidize existing customers by as much as $192 million. Either outcome is inconsistent with fair and balanced ratemaking.[1]

[1] *See* Table JRD-1, which can be found later in in this testimony.

- **A better solution is to require an "Incremental Revenue Requirement" guarantee.** The stranded cost risk that ComEd has identified can be better addressed by requiring large load addition customers to reasonably guarantee transmission and distribution revenues that are sufficient to cover the revenue requirement of the transmission and distribution investment that would not have been made but for those large load additions. This approach avoids the risk of either ComEd's existing customers subsidizing large load addition customers or large load addition customers subsidizing ComEd's existing customers since the revenue guarantee is based on the revenue requirement incurred to serve the large load additions. This approach also provides appropriate locational price signals. Large load additions would be incentivized to locate in locations where the required transmission and distribution investments for the large load addition would be lower. This is unlike ComEd's "Load Ramp x Standard Rates" approach where the revenue guarantee required for a given large load addition would be the same regardless of the amount of investment necessary to serve that large load addition at one location versus at another.

- **There are problems with ComEd's proposed tariff language referencing the TSA**. ComEd's proposed GT&C tariff language for its proposed TSA is unjust and unreasonable because:

  - **It includes FERC-jurisdictional terms.** There is no need for the Commission to address in this proceeding transmission-related issues that fall squarely within FERC's jurisdiction. As ComEd itself recognizes, the terms and conditions of the proposed TSA will ultimately be subject to FERC approval since it involves the terms and conditions for unbundled retail transmission service regulated by FERC, not terms and conditions for distribution service regulated by the Commission. Therefore, the proposed GT&C tariff language is unnecessary since ComEd's tariffs already include language that requires customers to abide by all FERC-approved tariffs.

  - **The TSA terms identified by ComEd lack justification and would impose unnecessary burdens.** The terms and conditions of the TSA, as included at a high level in ComEd's proposed tariff language amendment to its GT&C, may not be those ultimately filed by ComEd, much less accepted by FERC, especially since they would:

    - Impose an unprecedented, multi-year upfront collateral requirement to guarantee annual revenues are collected from the customer based on the customer fully materializing and remaining so rather than guaranteeing annual revenues are collected from the customer to cover the annual revenue

requirement of the transmission investments that would not have been made but for the customer;

- Prohibit forms of collateral other than a Line of Credit; and

- Require the customer to execute the TSA prior to the customer having a reasonably binding, complete estimate from ComEd of the customer's Rider DE deposits, long-lead time deposits, and non-standard service payment amounts.

- **If the Commission addresses the TSA, it should include more reasonable terms.** As an alternative to outright rejecting the TSA-related portion of ComEd's proposed tariff language, to the extent the Commission believes it has some level of jurisdiction over the terms and conditions of the TSA, the Commission should condition approval of ComEd's proposed GT&C tariff language amendment related to ComEd's proposed TSA on the following:

  - The Transmission Revenue Security ("TRS") should be based on the annual revenue requirement of the transmission investments that would not have been made but for the addition of the customer's load or, in the alternative, the TRS should be conceptually structured like ComEd's Rider DE with respect to facility deposits;

  - The customer should be permitted to utilize all forms of credit assurance that are currently permitted under Attachment Q of the PJM OATT to meet the collateral requirements of the TRS; and

  - The customer should not be required to execute a TSA until 30 days after ComEd has provided the customer with both:

    - The total dollar amount of the TRS the customer will have to provide under the TSA; and

    - A reasonably binding, complete dollar estimate of the customer's Rider DE deposits, long-lead time deposits and non-standard service payments.

- **ComEd properly proposes an "incremental revenue requirement" guarantee for Rider DE.** ComEd's proposed tariff language amendments for distribution under its GT&C and Rider DE appropriately only requires collateral based on the cost of the investments made by ComEd that would not have been made but for the customer's load addition, not based on guaranteeing the annual revenues ComEd based on the customers' submitted

load ramp applied to ComEd's standard Distribution Facilities Charge ("DFC") and Transformation Charge ("TC").

- **There are problems with ComEd's proposed Rider DE tariff language**. While Rider DE properly requires collateral based on the cost of investment, ComEd has not justified several provisions in its proposed Rider DE for large load customers.

    - ComEd has not provided evidence to support its proposed expansion to include on-premises facility costs in determining Rider DE deposits.

    - ComEd has unreasonably and anti-competitively limited the allowed forms of collateral under its GT&C and Rider DE to cash deposits and letters of credit. This limitation imposes unnecessary additional costs on large load addition applicants which would place Illinois at a disadvantage compared to other states that are seeking to attract large load customers. Utilities such as Dominion Virginia, Evergy and Indiana Michigan Power Company, either allow large load addition customers to use alternative forms collateral such as surety bonds or have provisions for the partial excusal of collateral requirements.

- **The Commission should clarify certain portions of ComEd's proposal.** In discovery, ComEd has provided certain clarifications regarding the grandfathering of initial large load addition applicant deposits under its GT&C for applicants already in an active cluster study and not requiring a restudy of a cluster study if a participant in that cluster study proposes to accelerate its load ramp or increase its load. The Commission should condition any approval of ComEd's proposed tariff language amendments for its GT&C and Rider DE on ComEd committing to the Commission that it will provide the indicated grandfathering and restudy protection.

I. RISK TO COMED'S EXISTING CUSTOMERS ASSOCIATED WITH THE INVESTMENTS NECESSARY TO SERVE LARGE LOAD ADDITIONS

Q. What reason has ComEd provided for its proposed tariff language amendments for its GT&C and Rider DE?

A. ComEd has experienced an unprecedented number of applications for service from new customers with relatively large forecasted demand. ComEd's proposed changes are intended to update its rates and practices to better accommodate the growing size, volume and complexity of application by large demand project applicants and customers to provide greater transparency around the requirements for such customers to receive service from ComEd and to improve protections for other customers from potential cost and risks associated with those applications. ComEd asserts the changes are necessary to address the aforementioned challenges and facilitate the economic growth these large demand projects represent in a manner that supports the safety, reliability, fairness in cost responsibility, and affordability of service for all of ComEd's customers.[2]

ComEd also asserts that it remains focused on providing large demand project customers with the speed-to-market that they are seeking, while protecting ComEd's other customers from costs associated with facilities designed to serve demand that does not materialize. It then concludes by asserting the revisions it is proposing in this proceeding will help minimize speculative behavior by large demand project applicants and customers and provide important financial protections for the rest of ComEd's customer base.[3]

[2] ComEd Ex. 1.0 at 3-4.
[3] ComEd Ex. 2.0 at 3.

Q. How do you respond?

A. ComEd has experienced an unprecedented number of applications for service from new customers with relatively large forecasted demand. ComEd reports it has over 28,000 MW of large demand projects in its current pipeline versus its all-time peak system demand of just shy of 24,000 MW and that the average size for new applicants within the last twelve months has been approximately 700 MW in size.[4] It is appropriate that ComEd is seeking to address this potential load growth consistent with the goals it has identified. However, as detailed herein, many of ComEd's proposed tariff language changes for its GT&C and its Rider DE are inconsistent with those objectives.

As the Commission evaluates ComEd's proposal, it should be mindful that new large load additions in ComEd's service territory benefit ComEd's existing customers provided sufficient reasonable provisions are in place to ensure ComEd's existing customers are not at significant risk of being left with paying for ComEd's incremental cost to serve these customers. This is because the large load customers would provide a new additional contribution toward covering ComEd's existing fixed transmission and distribution costs that would act to lower ComEd's transmission and distribution rates.

[4] ComEd Ex. 1.0 at 5-6.

Q. Please explain why it is necessary to protect ComEd's existing customers from subsidizing new large load additions with respect to transmission and distribution costs?

A. The Public Utilities Act requires that rates be just and reasonable, and that no customer or class subsidizes another without lawful justification. The Commission has consistently interpreted this standard to mean that rates should be designed in a way that is both cost-based and consistent with cost-causation principles. Any framework that departs from cost-based ratemaking should be presumed to be unjust, unreasonable, unfair, and harmful to Illinois ratepayers. New large load additions can require large new transmission and/or distribution investments that would not otherwise be needed. Once those investments are made, their cost becomes sunk; the revenue requirement for them becomes unavoidable regardless of whether the new large load additions ultimately materialize or not.

Q. Can you provide an example that illustrates how those costs could become stranded?

A. As an extreme example, if after ComEd makes a substantial investment to connect a particular new large load addition the customer then decides to locate elsewhere before ever connecting to the grid, that customer would provide no new revenues to ComEd. However, ComEd would still be stuck with the cost of the investments that it made, but which it would not have made but for the large load addition. ComEd would seek recovery of those stranded costs from ComEd's existing customers through ComEd's

standard transmission and distribution rates even though ComEd might not have otherwise made that investment to serve other customers until many years into the future, if at all.

Q. Why is this an inappropriate result?

A. This would be inconsistent with cost-based ratemaking and well-established cost-causation principles as it would have ComEd's existing customers to pay for a cost that they did not cause as that cost would not have been incurred but for the large load addition. The risk of this scenario partially or fully occurring needs to be protected against to ensure ComEd's existing customers are not subsidizing the cost of new large load additions, which would be inconsistent with cost-based rates and cost-causation principles.

Q. What steps need to be taken to protect ComEd's existing customers from subsidizing new large load additions?

A. The Commission should direct ComEd to require an "incremental revenue requirement" guarantee. That is, a large load customer should guarantee a level of annual minimum revenues equal to the annual revenue requirement of the transmission and distribution investments that would not have been necessary but for that new large load addition. As long as revenues from the new large load addition customer in this amount are reasonably guaranteed, it will hold existing customers harmless. It will do so because that guaranteed amount of new revenue from the new large load addition customer will

completely offset the increase in ComEd's revenue requirement caused by that new large load addition.

Q. Under your "Incremental Revenue Requirement" guarantee approach, what would happen if ComEd ultimately recovers more transmission and distribution revenues from the new large load addition customer because the customer facility is constructed and operates as expected?

A. To the extent the new large load addition customer ultimately fully materializes and provides transmission and distribution revenues greater than the minimum required by the guarantee necessary to cover the revenue requirement for the investments that would not have been made but for the new large load addition, existing customers will receive a benefit because those surplus revenues will provide new additional contribution toward ComEd's existing fixed transmission and distribution costs. This would act to lower ComEd's transmission and distribution rates from the level they would have otherwise been at absent the new large load addition customer.

Q. Would customers be better protected if the Commission were to require the large load addition customer to provide a "Load Ramp x Standard Rates" revenue guarantee as ComEd proposes?

A. No. It is not necessary or appropriate for the Commission to require large load addition customers to guarantee a certain revenue stream based on their forecasted load applied to ComEd's transmission and distribution service rates. All customers would be better

served if the Commission were to require large load addition customers to reasonably guarantee revenues equal to the revenue requirement of the investments that were made that would not have been made but for the large load addition.

Q. How does ComEd's "Load Ramp x Standard Rates" proposal compare to the "Incremental Revenue Requirement" approach?

A. Under ComEd's "Load Ramp x Standard Rates" proposal, the transmission and distribution revenues guaranteed by a large load addition customer could be substantially more or substantially less the revenue requirement of the transmission and distribution investments that would not have been need but for that customers' large load addition. If the guaranteed revenues are significantly higher than the revenue requirement, it would cause the large load addition customer to subsidize ComEd's existing customers because it would require the large load addition customer to guarantee revenues in excess of the costs incurred for that large load addition. If the guaranteed revenues are significantly lower than the revenue requirement, it would cause the ComEd's existing customers to subsidize the large load addition customer because it would not require the large load addition customer to guarantee revenues sufficient to cover the costs that were incurred for that large load addition.

In addition, ComEd's "Load Ramp x Standard Rates" proposal would fail to send a price signal for large load additions to locate in locations where the required transmission and distribution investments for the large load addition would be lower. This is because the revenue guarantee required for a given large load addition would be

the same regardless of the amount of investment necessary to serve that large load addition.

Both of the foregoing issues are avoided entirely if, consistent with cost-based rates and well-established cost-causation principles, the revenue guarantee for the large load addition customer is instead based on the revenue requirement of the investments that would not have been made but for the large load addition customer.

In short, the Incremental Revenue Requirement approach ensures that the costs of new transmission and distribution investments are borne by the customer whose project necessitates them, thereby aligning rates with cost-causation. Existing customers are held harmless, as they are not compelled to pay for facilities that would not have been needed "but for" the large load addition. The Incremental Revenue Requirement approach ensures that there are no subsidies, no over-collections, and rates that are just, reasonable, and firmly grounded in cost-causation principles. This approach also steers big projects to places where they cost less to serve, instead of areas that would force expensive upgrades.

Q. Is there analysis that demonstrates that ComEd's "Load Ramp x Standard Rates" proposal would produce revenues significantly more or significantly less than the revenue requirement of the investments required to serve that customer?

A. Yes. ComEd has publicly disclosed proposed load ramp and estimated required transmission system improvements costs for seven proposed large load additions that were documented in public presentations that ComEd provided to the PJM Transmission

Expansion Advisory Committee within the last two years. Those presentations are included in NRG Exhibit 1.2. Taking this publicly available information, for each large load addition, for the first ten years following its commence of service, the following were compared: (i) the minimum transmission revenues that would be provided under ComEd's "Load Ramp x Standard Rates" proposal that would calculate the minimum guaranteed transmission revenues the customer would provide by multiplying the submitted load ramp of the large load addition customer to ComEd's standard transmission rate under the PJM OATT and (ii) the revenue requirement of the transmission system improvements necessary to serve the large load addition of the customer, which is to say the incremental costs to the system that ComEd told PJM it would not incur but for the new large load. The results of that analysis are summarized in Table JRD-1 below and provided in more detail in NRG Exhibit 1.1.

Table JRD-1

Comparison of
Guaranteed Revenues Based on Load Ramp
Applied to Standard Transmission Rate
to
Revenue Requirement of Required Incremental Transmission
System Reinforcement Investment for First Ten Years of Service

Large Load Addition	Guaranteed Revenues Based on Load Map Applied to Standard ComEd Transmission Rate	Incremental Transmission Investment Revenue Requirement	Excess / (Deficit) Revenues	Percent Excess / (Deficit) Revenues
ComEd 2023-008	$145.8	$222.4	($76.6)	(34.4%)
ComEd 2024-001	$84.8	$246.3	($161.5)	(65.6%)
ComEd 2024-004	$92.9	$40.3	$52.7	130.8%
ComEd 2024-007	$37.5	$90.1	($52.6)	(58.4%)
ComEd 2024-014	$179.8	$49.7	$130.1	261.8%
ComEd 2024-015	$248.5	$56.3	$192.2	341.4%
ComEd 2024-016	$235.7	$119.4	$116.3	97.5%
Total	$1,025.0	$824.5	$200.6	24.3%

For these seven large load additions, the guaranteed revenues would be as much as 341.1% in excess of that necessary to protect existing ComEd customers from paying for the required investments and as much as 65.6% short of that necessary to protect existing ComEd customers from paying for the investments. Furthermore, when the seven load additions are taken together, the assumed guaranteed revenues would be 24.3% above what is necessary to protect ComEd's existing customers from the standard cost risks associated with these customers as a whole.

Q. What conclusions can the Commission make based upon this analysis?

A. This is clear evidence that a revenue guarantee based on applying the submitted load ramp of a large load addition customer to ComEd's standard rates can produce minimum revenues from the large load addition customer that are significantly more or significantly less than the revenue requirement of the investments that would not have been made but for that large load addition. It also demonstrates that ComEd's proposal would not even on average necessarily produce minimum revenues that are very close the revenue requirement of the investments that are required to serve large load additions.

Q. What is your recommendation to the Commission with respect to the revenue guarantee issue?

A. Any large load customer requirement related to guaranteeing the transmission and distribution revenues to be collected from that customer should be based on the revenue requirement of the transmission and distribution investments that would not have been necessary but for that customer, not the transmission and distribution revenues that would be collected from the customer by applying the customer' submitted load ramp to ComEd's standard transmission and distribution rates. While the former would, consistent with well-established cost-causation principles, reasonably act to prevent cost subsidies from existing customers to large load addition customers and vice-versa, as well as send an appropriate price signal with respect to locating large load additions, the latter would do neither.

II. COMED'S TSA-RELATED TARIFF LANGUAGE AMENDMENTS

Q. Please briefly summarize ComEd's proposed tariff language amendments related to its proposed TSA.

A. ComEd's proposes to add new section to Sheet 150.1 of its GT&C tariff language that would be entitled "Transmission Revenue Security". The provision indicates that ComEd may require a large demand project applicant or customer[5] enter into a TSA with ComEd. It goes on to outline the proposed TSA, which would be subject to the jurisdiction of FERC. Specifically, it indicates the TSA will *inter alia* require the applicant or customer to guarantee that its annual payments for transmission service calculated pursuant to ComEd's transmission rate under the PJM OATT for a period 10 years from the commencement of service fall below the annual payment that would be made by the customer meeting the load ramp it has submitted to ComEd. ComEd further indicates in this proposed tariff language for its GT&C that if there is a revenue shortfall by the customer in a particular year, it would be recovered under the TSA and credits to the ComEd transmission revenue requirement borne by transmission customers in the ComEd zone. Finally, ComEd in the proposed tariff language indicates that a TSA on file with, or otherwise approved by, FERC, and effective is a condition of ComEd's commencement of retail service to the large demand project applicant's load.[6]

[5] Under ComEd's proposed tariff language amendments to its GT&C, a large demand project would be a project that has a projected load ramp that includes a maximum kilowatts delivered equal to or greater than 50 MW (50,000 kW) at any time before December of the tenth calendar year after the requested date of service (ComEd Ex. 1.02 at 4).

[6] ComEd Ex. 1.02 at 8.

Q. Has ComEd filed any TSAs with FERC?

A. No. As of the filing date of this direct testimony, ComEd has not filed any TSAs with FERC, much less received FERC approval of the terms of any TSA.[7]

Q. Did ComEd provide any additional information with respect to its proposed TSA in direct testimony?

A. Yes. ComEd witness Perkins indicated in his direct testimony that the TSA will require the applicant to post collateral security for its TSA obligations in an amount calculated based on the submitted load ramp of the applicant or customer and the FERC-jurisdictional ComEd transmission rate at the time of posting, taking into account the credit rating of the applicant or customer.[8] This would require the applicant or customer to post collateral security for the entire 10 years. ComEd witness Perkins asserts that this not only furthers the objective of minimizing speculative customer behavior but also provides important revenue protection in the event a large load project realizes less than its promised load.[9]

Q. Does ComEd explain in its direct testimony why it has proposed tariff language additions to its GT&C given ComEd indicates the TSA is jurisdictional to FERC?

A. Yes. ComEd claims that nothing in ComEd's filing asks the Commission to review or approve the terms of a FERC-jurisdictional TSA between ComEd and a large demand

[7] ComEd Response to Data Request NRG-ComEd 4.04a and 4.04b. A copy of all data request responses referenced by Mr. Dauphinais in this testimony is provided in NRG Exhibit 1.5.
[8] ComEd Ex. 2.0 at 12.
[9] ComEd Ex. 2.0 at 12.

project applicant.[10] ComEd indicates the purpose of including the proposed TSA-related GT&C tariff language is to align the requirements applicable to retail and transmission service and make clear there is no conflict with respect to the protection the TSA provides.[11] However, ComEd also indicates the proposed TSA-related GT&C tariff language makes it clear that ComEd's proposed FERC-jurisdictional TSA is also a prerequisite for retail service under ComEd's Commission-jurisdictional tariff.[12]

Q. Has ComEd provided any additional information in discovery with respect to its proposed TSA?

A. Yes. The following additional information was provided:

- ComEd indicated the TSA is not intended to recover any "directly allocatable incremental cost of service" related to the customer.[13]
- ComEd indicated it intends to have the TSA ensure that transmission revenues collected form a large load customer are aligned with the customer's forecasted, not actual, Network Service Peak Load Contribution ("NSPLC") value.[14]
- ComEd indicated it intends the TSA to recover the revenue requirement responsibility the large demand project would have been responsible for if the project was billed for demand levels near their load ramp request.[15]
- ComEd indicated that for loads of between 250 MW and 1,000 MW, it anticipates that the required letter of credit under the TSA could range between $50 million and $400 million and that projects larger than 1,000 MW could have even larger security requirements.[16]

[10] ComEd Ex. 2.0 at 13.
[11] *Id.*
[12] *Id.*
[13] ComEd Response to Data Request NRG-ComEd 1.12a.
[14] ComEd Response to Data Request NRG-ComEd 1.12c.
[15] ComEd Response to Data Request NRG-ComEd 2.08.
[16] ComEd Response to Data Request NRG-ComEd 2.09.

- ComEd indicated that as of the filing date of this testimony it has not filed any TSAs, nor a pro forma TSA, at FERC and neither has PJM done so at FERC on ComEd's behalf.[17]

- ComEd indicated it expects at least one TSA filing will be with an individual agreement with a large demand project customer.[18]

- ComEd, on a confidential basis pursuant to the protective agreement in this proceeding, provided a copy of non-binding term sheet for its proposed TSA that ComEd indicated defines and explains each component of the TSA.[19]

- ComEd indicated that large demand project applicants and customers will be presented with a TSA upon the completion of their Cluster Study and will have 30 days to review and sign the TSA or withdraw their project from ComEd's project pipeline.[20]

- ComEd indicated that after a customer signs a TSA, ComEd or PJM will file it with FERC. Customers will be required to post their required letter of credit security within 30 days of FERC approval.[21]

- ComEd indicated customers will not have a complete estimate of their Rider DE deposits when they are required to execute a TSA as preliminary Rider DE costs are not provided until several months after the Cluster Study is completed.[22]

Q. How do you respond to ComEd's proposed tariff language amendment to its GT&C that is related to ComEd's proposed TSA?

A. ComEd's proposal is highly problematic on several levels. First, while readily admitting the TSA is jurisdictional to FERC rather than the Commission, ComEd has put the Commission in the position of being the entity that would require that all large demand project applicants and customers execute a TSA on file with, or otherwise approved by,

[17] ComEd Response to Data Request NRG-ComEd 4.04a and 4.04b.
[18] ComEd Response to Data Request NRG-ComEd 4.04c.
[19] ComEd Response to Data Request NRG-ComEd 4.04d. and IIEC-ComEd 1.09.
[20] ComEd Response to Data Request NRG-ComEd 4.05a.
[21] ComEd Response to Data Request NRG-ComEd 4.05b.
[22] ComEd Response to Data Request NRG-ComEd 4.05c.

FERC and effective as a condition of ComEd commencing retail service to that customer. This suggests ComEd incorrectly believes the Commission has some level of jurisdiction with respect to the TSA, or at least with respect to requiring a TSA be executed despite ComEd acknowledging the TSA is purely FERC-jurisdictional.

Second, it is inappropriate for the proposed TSA-related tariff language amendment to the GT&C to provide even high levels details with respect to the TSA given ComEd has of the filing date of this direct testimony not filed a TSA with FERC, much less had specific terms and conditions accepted by FERC. The proposed terms and conditions of the TSA, as included at a high level in ComEd's proposed TSA-related tariff language amendment to its GT&C and further expanded upon in ComEd's public responses to discovery in this proceeding, may not be those ultimately filed by ComEd or accepted by FERC especially since as proposed they would:

- Impose an unprecedented, multi-year upfront collateral requirement to guarantee annual minimum transmission revenues are collected from the customer based on the customer's submitted load ramp applied to ComEd's standard transmission rate under the PJM OATT rather than guaranteeing annual minimum transmission revenues are collected from the customer to cover the annual revenue requirement of the transmission investments that would not have been made but for the customer;

- Not allow for forms of collateral other than a Line of Credit to meet the collateral requirement of the TSA; and

- Require the customer to execute the TSA prior to the customer having a complete estimate from ComEd of the customer's Rider DE deposits, long-lead time deposits and non-standard service payment amounts.

Third, ComEd's proposed tariff language amendment to its GT&C related to its proposed TSA is unnecessary as Rate RDS – Retail Delivery Service ("Rate RDS") of ComEd's Commission-jurisdictional tariff already includes language that provides for:

- The delivery of electric power and energy on the transmission facilities located in the Company's service territory, at the same rates and subject to the same terms, conditions, and limitations specified in applicable tariffs on file with the FERC governing transactions over the transmission facilities located in the Company's service territory; and

- Those other transmission, ancillary transmission, and/or related services that the FERC determines should be offered by the Company or other providers of transmission services on transmission facilities located in the Company's service territory, under applicable tariffs on file with the FERC governing the provision of such services, at the same rates and subject to the same terms, conditions, and limitations specified in such tariffs.[23]

Q. What do you recommend to the Commission with respect to ComEd's proposed tariff language amendment to its GT&C that is related to ComEd's TSA?

A. If the Commission concludes it does not have any jurisdiction over the TSA or the imposition of a TSA on large demand project applicants and customers, the Commission should reject the TSA-related portion of ComEd's proposed tariff language amendments to its GT&C in its entirety. The Commission should recognize that the TSA provisions as described in ComEd's proposed tariff language amendment related to the TSA are not necessarily the same as those that will be filed by ComEd much less ultimately accepted by FERC and the TSA-related proposed tariff language amendment is unnecessary given the current tariff language in ComEd Rate RDS. In addition, the Commission should indicate that ComEd may not condition a large load addition applicant or customer access to, or advancement under, ComEd's GT&C and Rider DE on the large load addition applicant executing any TSA, or any letter of intent with

[23] ComEd ILL. C. C. No. 10, Original Sheet No. 49, filed with the Illinois Commerce Commission on November 18, 2019, pursuant to P.A. 101-0590; effective January 2, 2020.

respect to a TSA, that has not been accepted for filing by FERC under the PJM Open Access Transmission Tariff ("OATT"). Finally, the Commission should require ComEd to provide the large load applicant with a reasonably binding, complete estimate of the customer's Rider DE deposits, long-lead time deposits and non-standard service payments no later than 30 days prior to the applicant being required to execute a TSA, given the magnitude of the collateral and revenue guarantee that would be required under the TSA.

Q. What do you recommend if the Commission concludes it does have any jurisdiction over the TSA?

A. As an alternative to rejecting the TSA-related portions of ComEd's proposed tariff language amendments to its GT&C in their entirety, to the extent the Commission believes it has some level of jurisdiction over the TSA, the Commission should condition approval of ComEd's proposed GT&C tariff language amendments on the following:

- The Transmission Revenue Security ("TRS") under the TSA should be based upon the incremental revenue requirement of the transmission investments that would not have been made but for the addition of the customer's load (rather than the submitted load ramp of the customer applied to ComEd's standard transmission rate under the PJM OATT), or, in the alternative, the TRS should be conceptually structured like ComEd's Rider DE with respect to facility deposits;

- The customer should be permitted to utilize all forms of credit assurance that are currently permitted under the PJM OATT to meet the TRS; and

- The customer should not be required to execute a TSA until 30 days after ComEd has provided the customer with both:

- The total amount of the TRS the customer will have to provide under the TSA; and
- A reasonably binding, complete estimate of the customer's Rider DE deposits, long-lead time deposits and non-standard service payments.

Q. Please explain why the TRS required under the TSA should be based on the incremental revenue requirement rather than the large demand project applicant or customer's submitted load ramp applied to ComEd's standard transmission rate under the PJM OATT.

A. As explained above, requiring a minimum revenue guarantee based on a large load addition's submitted load ramp applied to ComEd's standard transmission and distribution rates, which is what ComEd has proposed for transmission under its proposed TSA, is inconsistent with cost-based rates and well-established coast-causation principles. A minimum revenue guarantee based on a large load addition customer's submitted load ramp applied to ComEd's standard transmission and distribution can produce minimum revenues that are either significantly more or significantly less than the revenue requirement of the transmission and distribution investments that would not have been pursued by ComEd but for the large load addition in question – something that was clearly shown to be the case for transmission in the analysis summarized in Table JRD-1 above. These large mismatches would: (i) cause a large load addition customer to subsidize ComEd's existing customers when the guaranteed minimum transmission revenues exceed the revenue requirement of the transmission investments that would not be needed but for the large load addition and (ii) cause ComEd's existing customers to subsidize a large load customer when the

guaranteed minimum transmission revenues fall short of the revenue requirement of the transmission investments that would not be needed but for the large load addition. In addition to the foregoing problem, as also explained above, requiring a "Load Ramp x Standard Rates" revenue guarantee also fails to provide a price signal to large load addition customers to propose their proposed large load additions in locations that have lower transmission and distribution investment costs associated with them since the same minimum revenue guarantee would apply regardless of the level of investment required to make that large load addition at a particular location versus at another location.

These issues can be better addressed by instead basing the minimum transmission revenue guarantee upon the revenue requirement of the transmission investments that would not have been needed but for the addition of the large demand project in question. This "Incremental Revenue Requirement" approach is consistent with cost-based rates and cost-causation principles because it inherently ensures the minimum transmission revenues guarantee will produce revenues that are neither significantly more than nor significantly less than the transmission investments that needed to be made to serve the large demand project applicant or customer. This also efficiently would send a price signal to large demand project applicants and customers to propose locations for their large demand projects that require a lower level of transmission investment to be served than other locations.

Q. As part of PJM transmission review process, does ComEd identify the specific transmission system reinforcements that are required to serve each large load addition?

A. Yes. For example, for each of the large load additions summarized in Table JRD-1 above, ComEd made public presentations in the PJM transmission stakeholder process that identified the specific transmission system reinforcements required and the estimated cost of those transmission system reinforcements. As noted earlier, copies of those presentations are provided in NRG Exhibit 1.2, which is attached to my testimony.

Q. Under the "Incremental Revenue Requirement" approach could the ten-year minimum guaranteed revenue exceed the ten-years of transmission revenue that would be collected by applying the applicant or customer's load ramp to ComEd's standard transmission rate under the PJM OATT?

A. Yes, that is possible. Note that this would only occur when ComEd needs to make an extraordinary amount of transmission investment to serve a particular large demand project relative to the size and speed of the submitted load ramp for that large demand project such as is the case with load additions ComEd 2023-008, 2024-001 and 2024-007 in my Table JRD-1.

Q. How do you recommend ComEd address this situation?

A. ComEd should carry each annual deficit in transmission revenues related to capping out at the ComEd standard transmission rate under the PJM OATT forward, and beyond ten

years as necessary, until the accumulated deficit balance is extinguished with additional transmission revenues from the large demand project customer. As a hypothetical example, assume based on the applying the higher of the customer's actual demand or the customer's load ramp demand to ComEd's standard transmission rate under the PJM OATT, the customer was short of its minimum revenue guarantee by $10 million each in Years 1 through 4 and $5 million each in Year 5 and 6. At the end of Year 6, the customer would have an accumulated a minimum revenue guarantee deficit balance of $50 million. In Years 7 through 10, any transmission revenue collected in excess of the customer's minimum revenue guarantee for that year would be applied to reduce the accumulated minimum revenue deficit balance. In the event of shortfalls in these years instead, those shortfalls would be added to the balance like in previous years. If there was still a remaining accumulated minimum revenue deficit balance at the end of Year 10, then that would be carried forward beyond Year 10 until it is finally extinguished. Note that in each year after Year 10 all of the transmission revenues collected from the customer would count toward extinguishing the accumulated minimum revenue deficit balance since there would be no minimum transmission guarantee requirement for those years other than to extinguish the accumulated minimum revenue deficit balance from the initial ten years of service.

Q. Would this alternative require FERC approval?

A. Yes, but all aspects of ComEd's TSA need FERC approval, not just pursuit of this alternative.

Q. Please explain why conceptually structuring the TSA like ComEd's Rider DE works with respect to distribution facility deposits would be a reasonable alternative to requiring a large project demand applicant or customer to provide ten-year minimum transmission revenue guarantee based on the revenue requirement of the transmission investments that would not have been needed but for the applicant or customer's large demand project.

A. While there are some concerning aspects with ComEd's Rider DE that are discussed later in my testimony, Rider DE does not suffer the same problems with distribution as ComEd's proposed TSA does with respect to transmission. Rider DE does not require large demand project applicant or customer to guarantee for ten years minimum distribution revenues based on the load ramp of the applicant or customer applied to ComEd's standard Distribution Facility Charge ("DFC") and Transformation Charge ("TC"). Instead, ComEd collects a deposit, or collateral in lieu of a cash deposit, from the customer based on the cost of the distribution investment costs ComEd incurred to serve the customer that are in excess of a defined threshold and then returns the deposit to the customer with refunds for up to 10 years based on the actual DFC and TC revenues that are provided by the customer.[24]

The required deposit is tied to the cost of the distribution investments that would not have been made but for the applicant or customer's large demand project. As a result, it avoids the cost-causation and locational price signal problems associated with a ten-year minimum revenue guarantee that is based on applying the submitted load

[24] ComEd Ex. 2.0 at 15.

ramp of the applicant or customer to ComEd's standard Rider DE DFC and TC charges. Thus, if something similar to this Rider DE provision was reasonably implemented for transmission under ComEd's TSA, it would be a reasonable alternative to my primary recommendation of a ten-year minimum transmission revenue guarantee based on the revenue requirement of the transmission investment that would not have been made but for the applicant or customer's large demand project.

Q. Please explain why a large demand project applicant or customer should be permitted to use all forms of credit assurance that are permitted under the PJM OATT?

A. As explained below, a letter of credit can carry a significant premium associated with it compared to other forms of payment assurance, especially when, as ComEd itself identified in discovery, the total amount of required collateral for ten years under the TSA is likely to be $400 million or more.[25] As a result, all payment assurance options available to a transmission customer under Attachment Q (Credit Risk Management Policy) of the PJM OATT should also be available to meet an large demand project applicant or customer's collateral requirement under ComEd's TSA.

[25] ComEd Response to Data Request NRG-ComEd 2.09.

Q. Please explain why a large demand project applicant or customer should be furnished with their total TRS amount and a reasonably binding, complete estimate of the customer's Rider DE deposits, long-lead time deposits and non-standard service payments at least 30 days before they are required to execute a TSA.

A. Execution of the TSA will bind the customer to providing collateral that could total $400 million or more. To make such a non-revocable commitment, it is critical that the customer have a reasonably binding, complete estimate of all of the transmission and distribution cost and deposit obligations they will be subject to by ComEd. It is not sufficient to just know the transmission cost exposure under the TSA; the customer needs to know both its transmission and distribution cost exposure. It would be commercially unreasonable to expect any customer to commit to posting collateral on the TSA, without knowing the full extent of the financial obligation they will ultimately be expected to make, including the Rider DE costs.

Q. Please explain what you mean by "a reasonably binding, complete cost estimate"?

A. The estimate should be no worse in accuracy than an AACE International ("AACE") Class 3 cost estimate. This is the class of cost estimate that is typically required before substantial financial commitments are made. Specifically, AACE Class 3 estimates are generally prepared to form the basis for budget authorization, appropriation and/or funding.[26] In my experience, its expected accuracy typically ranges from -20% to

[26] AACE Recommended Practice 10S-90, Engineering Terminology, July 23, 2025, at page 37 of 41.

+30%. The magnitude of financial commitment that is being made by executing a TSA is consistent with providing this class of estimate.

III. COMED'S DISTRIBUTION-RELATED TARIFF LANGUAGE AMENDMENTS

Q. What problems have been identified related to ComEd's proposed tariff language amendments to its Rider DE?

A. I have identified two issues related to ComEd's proposed amendments to its Rider DE. First, ComEd's proposal improperly seeks to expand its Rider DE distribution facilities deposit to on-premise facilities. Second, ComEd improperly suggests that there should be a limit on the commercially reasonable forms of collateral that can be used for Rider DE.

Q. Please explain ComEd's proposal with respect to on-premise facilities under Rider DE.

A. Currently under Rider DE, on-premise facility costs are not included in the determination of the applicant or customer's Rider DE deposit for distribution facilities, only off-premise facilities. For large demand projects, ComEd is proposing to now also include on--premise facility costs in determining the Rider DE deposit amount for facilities.[27]

[27] ComEd Ex. 1.03 at 6, ComEd Ex. 1.04 at 4, ComEd Ex. 2.0 at 15-16, and ComEd Response to Data Request JNGO-ComEd 4.08.

Q. What do you recommend with respect to ComEd's proposal to start including on--premise facility costs in the determination of Rider DE deposit amounts?

A. The Commission should reject this aspect of ComEd's proposal and condition any approval of ComEd's Rider DE tariff language amendments on ComEd eliminating the proposal. ComEd has failed to provide any analysis or other substantive support for the change. ComEd should not be permitted to expand the scope of Rider DE facility deposits without providing substantive evidence that supports such a change being necessary and reasonable. Without such analysis, ComEd's proposal is unjust, unreasonable and unduly discriminatory against customers with projected or actual demand exceeding 50 megawatts.

Q. Would your recommendation result in ComEd failing to recover its costs for on-premise distribution facility costs?

A. No. ComEd still would be able to ratebase all just and reasonable on-premise distribution facilities costs and recover those costs in its rates; it just would not recover the costs under its Rider DE.

IV. COMED'S PROPOSED LIMIT ON ALLOWED FORMS OF COLLATERAL

Q. Please explain the concerns you have with the limitations ComEd has proposed for the forms of collateral allowed to meet collateral requirements under Rider DE and its proposed TSA.

A. ComEd's proposal to limit forms of allowed collateral for deposits to the use of a line of credit outside of a limited allowance for cash is unreasonable, not substantively supported as being necessary, and fails to consider the premium it imposes on large demand project applicants and customers to meet ComEd's collateral requirement for deposits and the competitive implications with respect to the locating of new large demand projects in ComEd's service territory in Illinois versus elsewhere.

Beyond the limited use of cash, ComEd proposes to only allow the use of a line of credit to meet collateral requirements. When asked about potentially entertaining other forms of collateral to meet deposit requirements, such as parental guarantees and surety bonds, ComEd indicated it would not consider such alternative forms of security.[28] In the case of surety bonds, ComEd claimed they were not the equivalent in material respect to either cash deposits or letter of credit.[29] ComEd also indicated that it was also unwilling to consider a tiered credit framework or phased letter of credit posting requirements -- instead insisting that all collateral should be provided up-front via letter of credit.[30]

[28] ComEd Responses to Data Requests NRG-ComEd 1.10d and 2.02.
[29] ComEd Response to Data Request NRG-ComEd 2.02.
[30] ComEd Response to Data Requests NRG-ComEd 2.06 and 2.07.

ComEd could not produce any policies or tariffs of other utilities that it reviewed when it developed its proposed collateral policy.[31] Nor did ComEd perform, conduct, or review any benchmarking analyses, studies, or comparisons related to the deposit requirements and transmission security requirements of other utilities.[32] Finally, ComEd could produce no sensitivity analyses or scenario modeling that it has conducted or reviewed assisting how its proposed deposit and transmission security requirements might affect project development decisions in Illinois versus alternative locations.[33]

Q. Please explain the cost implications to large demand project applicants and customers of not being able to use other forms of collateral besides a line of credit to meet ComEd's Rider DE deposit requirements, long-lead time deposits, and ComEd's TRS under its TSA.

A. The cost for large demand project applicant or customer of using a line of credit to meet a large collateral requirement can be substantially higher than meeting that requirement with a surety bond or other form of guarantee such as a parent guarantee. This is an unnecessary additional cost particularly since surety bond holders can be required to have a minimum credit rating and surety bonds can have similar provisions, timelines, and draw statements as a line of credit; thus, providing the same protections as a line of credit.

[31] ComEd Response to Data Request NRG-ComEd 2.03.
[32] ComEd Response to Data Request NRG-ComEd 2.04.
[33] ComEd Response to Data request NRG-ComEd 2.05.

Q. What are the competitive implications of this?

A. To the extent other utilities elsewhere are more accommodating than ComEd with respect to forms of allowed collateral for distribution facility deposits and transmission security requirements, they will be more attractive for locating new large demand projects than the ComEd service territory. While the collateral requirements of ComEd need to be sufficient to ensure it and its existing customers are reasonably protected, going beyond what is truly necessary will cause the loss of large data center additions to service territories in other jurisdictions. This would be harmful to ComEd's existing customers because the large load additions to the ComEd service territory are good for ComEd's existing customers in that any transmission and distribution revenues they provide that exceed the incremental cost to provide such service will be new additional contribution to the existing fixed transmission and distribution costs of ComEd that will act to lower the transmission and distribution rates of ComEd's existing customers.

Q. Can you offer examples of more accommodating provisions offered by other utilities?

A. Yes. Dominion Virginia (Virginian Electric and Power Company), one of the largest electricity suppliers to large data center load in the U.S., is also proposing a new rate schedule related to high load customers, Schedule GS-5; that tariff proposal provides

for the use of surety bonds.[34] In addition, other utilities have provisions that provide partial excusal from collateral requirements.

For example, Evergy Kansas has agreed to a unanimous, comprehensive settlement in its Large Load Power Service Rate Plan that would provide exceptions and flexibility to its collateral requirements.[35]

In addition, Indiana Michigan Power Company, under its recently approved Large Load Customer provisions under Rate I.P. (Industrial Power) of its retail electric service tariff in Indiana, has the following provision:

> The collateral requirements include provisions that a large load customer is required to provide collateral equivalent to twenty-four months of the customer's non-fuel bill, which is recomputed annually. Large load customers with a credit rating of at least A- from S&P and A3 from Moody's, and liquidity greater than ten times the collateral requirement, are exempt from providing collateral. *Customers without these credit ratings but with sufficient liquidity are exempt from 50% of the collateral requirement, capped at $250 million*[36]

Finally, pursuant to a recently approved October 23, 2024 Joint Stipulation in Ohio Public Utilities Commission Case No. 24-508-EL-ATA, Ohio Power Company under its new Data Center Load tariff provides for the following:

> Collateral and other tariff requirements will remain the same, as requested in the Company's application (which would require data center customers who have credit rating less than A- from S&P, A3 from

[34] Virginia State Corporation Commission Case No. PUR-2025-00058, Direct Testimony of Timothy P. Stuller on behalf of the Virginia Electric and Power Company, Schedule 2 at pages 2-3. A copy of this document is provided in NRG Exhibit 1.3.

[35] Kansas State Corporation Commission Docket No. 25-EKME-315-TAR, Joint Motion for Approval of Unanimous Settlement Agreement and Amendment of the Procedure Schedule, August 18, 2025, Attachment 1 at pages 12-16. A copy of this document is provided in NRG Exhibit 1.4.

[36] Indiana Michigan Power Company, I.U.R.C. No. 20, Issued under the authority of the Indiana Utility Regulatory Commission Date February 19, 2025, in Cause No. 46097 at Original Sheet No. 21.7.

> Moody's to provide a parent guarantee or collateral in the form of 50 percent of the customer's minimum charges under the ESA.[37]

Q. What do you recommend to the Commission on this issue?

A. The Commission should recognize that overly rigid collateral requirements or unjustified TSA obligations will drive projects to other states depriving Illinois of tax base, jobs, and customer benefits. ComEd should be required to allow use of all forms of collateral that are allowed under Attachment Q of the PJM OATT. With respect to Rider DE, the Commission should require ComEd to at least allow the use of surety bonds as an alternative to the use of a line of credit, or, in the alternative, ComEd be required to offer tiered approach to meeting collateral requirements under Rider DE similar in nature to what is offered by Evergy, Indiana Michigan Power Company and Ohio Power Company.

V. GRANDFATHERING AND RESTUDY PROTECTIONS

Q. Please explain what you recommend to the Commission with respect to grandfathering and restudy protections.

A. In discovery, ComEd provided two important clarifications:

> First, ComEd stated that engineering analyses that are complete or are underway would not be affected by ComEd's proposed amendments to terms governing the commencement of such studies. Specifically, ComEd stated:

> The application of such studies will be governed by the tariffs in force at the time the application [of the applicant or customer] is first submitted to ComEd.[38]

[37] Ohio Public Utilities Commission Case No. 24-508-EL-ATA, Opinion and Order, Entered on Journal on July 9, 2025, at page 16.

[38] ComEd Response to Data Request NRG-ComEd 1.04a.

ComEd intends that the Cluster Study that will be completed in November 2025 will remain valid after the conclusion of this proceeding[39]

All projects in the cluster study process as of the date of this response have paid their initial deposits, so the revised initial deposit policy will not apply to those projects.[40]

With respect to Cluster Studies, ComEd will not require customers in a Cluster Study to be restudied because another customer seeks to change its load ramp. A customer seeking to increase its load ramp may be required to submit a new application or to submit a separate application for the incremental increase in load in the next open cluster window if that incremental load is separable. This would allow ComEd to maintain the load profile modeled in the existing cluster study and subsequently study the added request for load in the next cluster study. ComEd will exercise its discretion, as it does now, to determine if a requested change.[41]

While these clarifications from ComEd are appreciated, it is important that they be memorialized and for the Commission to condition any approval of the proposed tariff language amendment to ComEd's GT&C and Rider DE in this proceeding on ComEd committing to honor these clarifications. Therefore, the Commission should condition any approval of ComEd's proposed tariff language amendments to its GT&C and Rider DE upon ComEd committing to honor the clarifications that are more fully detailed in the data request responses that are attached hereto as NRG Exhibit 1.5.

[39] ComEd Response to Data Request NRG-ComEd 2.01a.
[40] ComEd Response to Data Request NRG-ComEd 2.01b.
[41] ComEd Response to Data Request NRG-ComEd 1.04c.

VI. SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

Q. Please summarize your conclusions and recommendations.

A. ComEd has identified a real risk, and it would be appropriate for the Commission to take steps to address that risk. However, ComEd's proposed solution misses the mark and would result in unintended consequences. The Commission has a better alternative that lets Illinois safely capture the upside of large loads (lower rates for all) while removing downside risks of stranded costs and improper cross-subsidization.

Specifically, the Commission should:

- **Adopt the Incremental Revenue Requirement Guarantee**
  The Commission should require that any revenue guarantees from large demand project applicants be tied to the *incremental revenue requirement* of transmission and distribution investments that would not have been made but for the project, rather than ComEd's "Load Ramp × Standard Rates" approach.

- **Refuse to Engage Regarding TSA Tariff Language**
  The Commission should decline to approve ComEd's proposed GT&C provisions referencing a TSA, recognizing that the TSA is subject to FERC jurisdiction and has not been filed with or accepted by FERC.

- **Alternatively, Make Any TSA References Conditional**
  To the extent the Commission believes it has authority, it should condition any approval of TSA-related tariff language on:

  - Transmission Revenue Security being based on the incremental revenue requirement (or structured like Rider DE deposits).

  - Customers being permitted to use all collateral forms allowed under Attachment Q of the PJM OATT (e.g., surety bonds, parental guarantees).

  - TSA execution not being required until 30 days after ComEd provides binding estimates of all Rider DE deposits, long-lead time deposits, and non-standard service costs.

- **Reject Expansion of Rider DE to On-Premise Facilities**
  The Commission should direct ComEd to remove its proposed Rider DE amendment that would include on-premise facility costs in deposit calculations, absent substantive evidence that such expansion is necessary and reasonable.

- **Allow Flexible Collateral Options**
  The Commission should require ComEd to accept alternative, commercially reasonable collateral forms (e.g., surety bonds, parental guarantees, tiered collateral frameworks) for both Rider DE and any TSA requirements, consistent with practices in other jurisdictions.

- **Require Grandfathering and Restudy Protections**
  The Commission should condition approval of ComEd's tariff amendments on ComEd honoring its commitments to:

  - Apply current tariff terms to projects already in active cluster studies;
  - Preserve existing initial deposits for current applicants; and
  - Prevent unnecessary restudies of cluster studies based solely on other participants accelerating or increasing their load ramps.

Q. Does this conclude your direct testimony?

A. Yes, it does.

Qualifications of James R. Dauphinais

Q. Please summarize your educational background and experience.

A. I graduated from Hartford State Technical College in 1983 with an Associate's Degree in Electrical Engineering Technology. Subsequent to graduation, I was employed by the Transmission Planning Department of the Northeast Utilities Service Company[42] as an Engineering Technician.

While employed as an Engineering Technician, I completed undergraduate studies at the University of Hartford. I graduated in 1990 with a Bachelor's Degree in Electrical Engineering. Subsequent to graduation, I was promoted to the position of Associate Engineer. Between 1993 and 1994, I completed graduate level courses in the study of power system analysis, power system transients and power system protection through the Engineering Outreach Program of the University of Idaho. By 1996 I had been promoted to the position of Senior Engineer.

In the employment of the Northeast Utilities Service Company, I was responsible for conducting thermal, voltage and stability analyses of the Northeast Utilities' transmission system to support planning and operating decisions. This involved the use of load flow, power system stability and production cost computer simulations. It also involved examination of potential solutions to operational and planning problems including, but not limited to, transmission line solutions and the routes that might be utilized by such transmission line solutions. Among the most notable achievements I had in this area include the solution of a transient stability

[42]In 2015, Northeast Utilities changed its name to Eversource Energy.

problem near Millstone Nuclear Power Station, and the solution of a small signal (or dynamic) stability problem near Seabrook Nuclear Power Station. In 1993 I was awarded the Chairman's Award, Northeast Utilities' highest employee award, for my work involving stability analysis in the vicinity of Millstone Nuclear Power Station.

From 1990 to 1996, I represented Northeast Utilities on the New England Power Pool Stability Task Force. I also represented Northeast Utilities on several other technical working groups within the New England Power Pool ("NEPOOL") and the Northeast Power Coordinating Council ("NPCC"), including the 1992-1996 New York-New England Transmission Working Group, the Southeastern Massachusetts/Rhode Island Transmission Working Group, the NPCC CPSS-2 Working Group on Extreme Disturbances and the NPCC SS-38 Working Group on Interarea Dynamic Analysis. This latter working group also included participation from a number of ECAR, PJM and VACAR utilities.

From 1990 to 1995, I also acted as an internal consultant to the Nuclear Electrical Engineering Department of Northeast Utilities. This included interactions with the electrical engineering personnel of the Connecticut Yankee, Millstone and Seabrook nuclear generation stations and inspectors from the Nuclear Regulatory Commission ("NRC").

In addition to my technical responsibilities, from 1995 to 1997, I was also responsible for oversight of the day-to-day administration of Northeast Utilities' Open Access Transmission Tariff. This included the creation of Northeast Utilities' pre-FERC Order No. 889 transmission electronic bulletin board and the coordination of Northeast

Utilities' transmission tariff filings prior to and after the issuance of Federal Energy Regulatory Commission ("FERC" or "Commission") FERC Order No. 888. I was also responsible for spearheading the implementation of Northeast Utilities' Open Access Same-Time Information System and Northeast Utilities' Standard of Conduct under FERC Order No. 889. During this time, I represented Northeast Utilities on the Federal Energy Regulatory Commission's "What" Working Group on Real-Time Information Networks. Later I served as Vice Chairman of the NEPOOL OASIS Working Group and Co-Chair of the Joint Transmission Services Information Network Functional Process Committee. I also served for a brief time on the Electric Power Research Institute facilitated "How" Working Group on OASIS and the North American Electric Reliability Council facilitated Commercial Practices Working Group.

In 1997 I joined the firm Brubaker & Associates, Inc. The firm includes consultants with backgrounds in accounting, engineering, economics, mathematics, computer science and business. Since my employment with the firm, I have filed or presented testimony before the Federal Energy Regulatory Commission in Consumers Energy Company, Docket No. OA96-77-000; Midwest Independent Transmission System Operator, Inc., Docket No. ER98-1438-000; Montana Power Company, Docket No. ER98-2382-000; Inquiry Concerning the Commission's Policy on Independent System Operators, Docket No. PL98-5-003; SkyGen Energy LLC v. Southern Company Services, Inc., Docket No. EL00-77-000; Alliance Companies, et al., Docket No. EL02-65-000, et al.; Entergy Services, Inc., Docket No. ER01-2201-000; Remedying Undue Discrimination through Open Access Transmission Service, Standard Electricity

Market Design, Docket No. RM01-12-000; Midwest Independent Transmission System Operator, Inc., Docket No. ER10-1791-000; NorthWestern Corporation, Docket No. ER10-1138-001, et al.; Illinois Industrial Energy Consumers v. Midcontinent Independent System Operator, Inc., Docket No. EL15-82-000; Midcontinent Independent System Operator, Inc., Docket No. ER16-833-000; Midcontinent Independent System Operator, Inc., Docket No. ER17-284-000; and Midcontinent Independent System Operator, Inc. and Ameren Services Company Docket No. ER18-463-000. I have also filed or presented testimony before the Alberta Utilities Commission, the California Public Utilities Commission, the Colorado Public Utilities Commission, the Connecticut Department of Public Utility Control, the Florida Public Service Commission, the Idaho Public Service Commission, the Illinois Commerce Commission, the Indiana Utility Regulatory Commission, the Iowa Utilities Board, the Kentucky Public Service Commission, the Louisiana Public Service Commission, the Michigan Public Service Commission, the Missouri Public Service Commission, the Montana Public Service Commission, the Nevada Public Utilities Commission, the New Mexico Public Regulation Commission, the Council of the City of New Orleans, the Oklahoma Corporation Commission, the Public Utility Commission of Texas, the Public Service Commission of Utah, the Virginia State Corporation Commission, the Wisconsin Public Service Commission, the Wyoming Public Service Commission, Federal District Court and various committees of the Illinois, Missouri and South Carolina state legislatures. In Illinois, I have testified in ICC Docket Nos. 98-094, 99-0468, 00-0579, 99-048, 02-0428, 02-0468, 02-0479, 02-0742, 02-0743, 02-0754, 05-

0159, 05-0160, 05-0161, 05-0162, 08-0532, 12-0598 and 13-0657. This testimony has been given regarding a wide variety of issues including, but not limited to, ancillary service rates, avoided cost calculations, certification of public convenience and necessity, class cost of service, cost allocation, fuel adjustment clauses, fuel costs, generation interconnection, interruptible rates, market power, market structure, off-system sales, prudency, purchased power costs, resource adequacy, resource planning, rate design, retail open access, standby rates, transmission losses, transmission planning, transmission rates and transmission line routing.

I have also participated on behalf of clients in the Southwest Power Pool Congestion Management System Working Group, the Alliance Market Development Advisory Group and several committees and working groups of the Midcontinent Independent System Operator, Inc. ("MISO"), including the Congestion Management Working Group; Economic Planning Users Group; Loss of Load Expectation Working Group; Market Subcommittee; Michigan Transmission Studies Task Force; Planning Subcommittee; Regional Expansion, Criteria and Benefits Working Group; Resource Adequacy Subcommittee (formerly the Supply Adequacy Working Group); and Reliability Subcommittee. I am currently a member of the MISO Advisory Committee in the end-use customer sector on behalf of industrial customer groups in Illinois, Louisiana, Michigan and Texas. I am also the past Chairman of the Issues/Solutions Subgroup of the MISO Revenue Sufficiency Guarantee ("RSG") Task Force.

In 2009, I completed the University of Wisconsin-Madison High Voltage Direct Current ("HVDC") Transmission course for Planners that was sponsored by MISO. I

am a member of the Power and Energy Society ("PES") of the Institute of Electrical and Electronics Engineers ("IEEE").

In addition to our main office in St. Louis, the firm also has branch offices in Corpus Christi, Texas; Louisville, Kentucky; and Phoenix, Arizona.

Q. Have you previously filed testimony regarding the issues of large load additions and open access transmission service?

A. Yes, for example, with respect to large load additions, within the last year I have filed testimony on behalf of large industrial customer groups in: (i) Louisiana Public Service Commission Docket No. U-37425 regarding the proposed Entergy Louisiana, LLC generation and transmission system additions necessary to support a proposed 2,000 MW+ data center load addition in Northeastern Louisiana and (ii) Michigan Public Service Commission Case No. U-21859 regarding Consumers Energy Company's proposed data center amendments to its tariff for its Rate GPD. Relatively recent examples of testimony I have filed with respect open access transmission service issues include testimony I have filed in Public Utility Commission of Texas Docket No. 51802 and Wyoming Public Service Commission Docket No. 2000-588-EN-20.