STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Commonwealth Edison Company	:	
	:	
Filing proposing changes to new service requests for large demand project applicants or customers.	:	**25-0677**
	:	
(tariffs filed June 23, 2025)	:	
	:	
Commonwealth Edison Company	:	**25-0679**
	:	
Filing proposing revisions to Rider Distributed System Extensions.	:	**(Consol.)**
	:	
(tariffs filed June 23, 2025)	:	
	:	

ORDER

Dated: March 19, 2026

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ORDER

By the Commission:

I. PROCEDURAL HISTORY

On June 23, 2025, Commonwealth Edison Company ("ComEd" or the "Company") filed with the Illinois Commerce Commission ("Commission"), pursuant to Section 9-201 of the Public Utilities Act ("Act"), 220 ILCS 5/9-201, the following revisions to its ILL. C. C. No. 10 tariff sheets: 7th Revised Sheet No. 125, 6th Revised Sheet No. 127, Original Sheet No. 127.1, 7th Revised Sheet No. 129, 1st Revised Sheet No. 149.2, Original Sheet No. 149.3, 2nd Revised Sheet No. 150, Original Sheet No. 150.1, 4th Revised Sheet No. 151, and 1st Revised Sheet No. 151.3, in which the Company proposed changes to new service requests for large demand project applicants or customers ("LDPAC") under its General Terms and Conditions ("GT&C"). Also on June 23, 2025, ComEd filed with the Commission the following revisions to its Rider DE – Distribution System Extensions ("Rider DE") ILL. C. C. No. 10 tariff sheets: 3rd Revised Sheet No. 269, 3rd Revised Sheet No. 270, 3rd Revised Sheet No. 272, 1st Revised Sheet No. 272.1.

On July 17, 2025, the Commission entered Orders suspending the tariff filings to and including November 19, 2025, and initiated two proceedings assigned Docket No. 25-0677 and Docket No. 25-0679, respectively. On August 11, 2025, ComEd filed a Motion to Consolidate Docket Nos. 25-0677 and 25-0679 and Adopt a Procedural Schedule ("Motion to Consolidate").

In Docket No. 25-0677, pursuant to due notice, a prehearing conference was held on August 14, 2025, before duly authorized Administrative Law Judges ("ALJs") of the Commission. In Docket No. 25-0679, pursuant to due notice, a prehearing conference

was held on August 21, 2025, before duly authorized ALJs of the Commission. An additional hearing was held in both dockets on August 25, 2025.

On August 26, 2025, the ALJs issued a Notice of Continuance, Notice of Administrative Law Judges' Ruling, and Notice of Schedule, which granted ComEd's Motion to Consolidate in part with respect to ComEd's request to consolidate Docket Nos. 25-0677 and 25-0679, and provided a detailed schedule for the submission of pre-filed testimony, exhibits, and briefs.

Staff of the Commission ("Staff"), the City of Chicago ("City" or "COC"), and the Office of the Attorney General of the State of Illinois ("AG") participated in this proceeding. The ALJs granted the following Petitions to Intervene: Illinois Industrial Energy Consumers ("IIEC"); Microsoft Corporation ("Microsoft" or "MS"); the Environmental Law and Policy Center ("ELPC"), Natural Resource Defense Council ("NRDC"), Vote Solar, and Union of Concerned Scientists ("UCS") (collectively, the Joint Non-Governmental Organizations ("JNGO")); Constellation Energy Generation, LLC ("Constellation"); NRG Energy, Inc. ("NRG"); and Monarch Power Inc. and Monarch Rock Air LLC (collectively, "Monarch").

An evidentiary hearing was held on October 28, 2025, and October 29, 2025. At the evidentiary hearing, the testimony of the following witnesses was admitted into the record on behalf of ComEd: Max Leichtman, Director of Economic and Workforce Development at ComEd, and Bradley Perkins, Director of Rates and Revenue Policy at ComEd. The testimony of James Dauphinais, Managing Principal at Brubaker & Associates, Inc., was admitted into the record on behalf of NRG. For the AG, the testimony of John Seryak, a professional engineer and the Managing Partner of Go Sustainable Energy, LLC, was admitted into the record.

On behalf of JNGO, the testimony of the following witnesses was admitted into the record: Sadd Siddique, Economist and Energy Analyst at ELPC, Kyle Thomas, Vice President of Engineering and Compliance Services at Elevate Energy Consulting, Inc., and Mike Jacobs, Senior Manager, Energy, at UCS. For the City, the testimony of Joseph McHugh, Assistant Commissioner of the Department of Aviation, was admitted into the record.

The testimony of Gregory Campbell, Jr., Founder of Pinnacle Energy Risk & Regulatory Consulting LLC, was admitted into the record on behalf of Microsoft. For Constellation, the testimony of the following witnesses was admitted: Dwayne Pickett, Vice President for Regulatory Advocacy at Constellation, and Aaron Patterson, Partner at The NorthBridge Group.

On behalf of Staff, the testimony of the following witnesses was admitted into the record: Curtis Sanders, Rate Analyst, Integrated Distributed Planning Division; Janis Freetly, Senior Financial Analyst, Finance Department; Nicholas Kierbach, Electrical Engineer, Safety and Reliability Division; and David Rearden, Senior Economist, Policy Division. The testimony of Robert R. Stephens, Senior Principal at Brubaker and Associates, Inc. was admitted into the record on behalf of IIEC.

On October 29, 2025, the Commission entered Orders resuspending the tariff filings to and including May 19, 2026.

Initial Briefs ("IB") were filed on November 10, 2025, by Microsoft, NRG, Staff, JNGO, ComEd, the City, the AG, Constellation, IIEC, and Monarch. On November 18, 2025, Microsoft, NRG, Staff, ComEd, the AG, Monarch, JNGO, IIEC, and Constellation filed Reply Briefs ("RB"). On November 19, 2025, Draft Orders/Position Statements were filed by Microsoft, Monarch, NRG, ComEd, the AG, the City, Constellation, Staff, JNGO, and IIEC.

A Proposed Order was issued on December 3, 2025. On December 15, 2025, Staff, Constellation, the City, the Company, the AG, JNGO, and NRG filed Briefs on Exceptions ("BOE"). The AG, JNGO, and NRG each requested oral argument. On December 22, 2025, IIEC, Staff, the AG, JNGO, Constellation, ComEd, and NRG filed Reply BOEs ("RBOE"). The Commission subsequently approved the requests for oral argument, and oral argument was held on February 17, 2026.

On December 23, 2025, Constellation filed a Motion to Reopen the Evidentiary Record for Supplemental Discovery, Testimony, and Briefing ("Motion to Reopen"). Constellation's request was fully briefed and the ALJs issued a ruling denying Constellation's Motion to Reopen on January 20, 2026.

II. BACKGROUND

ComEd explains that the changes it proposed in this proceeding are necessary to address a dynamic and ongoing transformation in the energy industry landscape. ComEd notes that in recent years it has experienced an unprecedented surge in service applications from new customers with exceptionally large service requests. ComEd Ex. 1.0 at 3, 5. ComEd further notes that this trend, which began in 2019, has accelerated at an exponential pace. *Id*. at 5-6. Today, ComEd's pipeline includes more than 75 large load projects totaling over 28,000 megawatts ("MW") of maximum demand - surpassing ComEd's all-time system peak demand of just under 24,000 MW in its 118-year history as a distribution utility. *Id*. at 6. In other words, the cumulative maximum demand of requests to serve new large load projects that are already in the application process is nearly 1.2 times greater than the highest demand ComEd has ever needed to serve. *Id*. at 6. ComEd notes that while some of those applications may not materialize, they remain service applications that ComEd must address and that will inevitably affect other customers.

ComEd states that the nature of these projects is also evolving. Over the past twelve months, the size of individual large load applications has grown dramatically, averaging approximately 700 MWs per project - roughly equivalent to the demand of 1,400 big box retail stores. *Id*. ComEd further explains that these customers typically interconnect at voltages of 138 kilovolt ("kV") or higher, and based on current data, ComEd anticipates adding another 50 such customers, more than doubling the number it presently serves. *See id*.

ComEd explains that this extraordinary influx of large load requests presents unique challenges for ComEd's system planning and operations that current tariffs do not adequately address. *See id*. at 3. ComEd notes that the work required to provide service to these projects is inherently complex from both a planning and engineering standpoint. *Id*. at 7. Large load applications demand extensive, detailed, and costly study, engineering, and design processes far beyond those involved in typical new business

projects. *Id*. ComEd argues that because of their scale, these studies frequently extend beyond the distribution system to include transmission-level analyses. *Id*. at 7. Moreover, ComEd states that changes in one customer's anticipated load or project timeline can necessitate re-studies for multiple other projects, adding time, effort, and cost. *Id*. ComEd further states that the sheer size of these loads can also directly affect ComEd's ability to serve other customers efficiently and reliably. *Id*.

ComEd explains that Cluster 1 – the first group of large load applicants that would be subject to the revised terms proposed here – includes more than 8 gigawatts ("GW") of load, meaning, over a ten-year period, that group of customers could be allocated transmission costs in the billions. ComEd maintains that without protection, other ComEd customers are at risk of being asked to bear those costs. ComEd further notes that other customers, large and otherwise, standing behind them may be delayed or driven out by requests that never materialize and that never contribute to system costs. ComEd asserts that its proposed tariff revisions put protections in place that will prevent the most significant cost-shifting risks and better ensure that commercially viable projects move forward expeditiously.

ComEd maintains that the proposed amendments to its GT&C and Rider DE achieve two primary objectives. First, ComEd notes that they will strengthen the protections ComEd's tariffs afford to other customers when a new large load applicant requires additional distribution facilities and does not materialize or is canceled before service begins, by ensuring that costs of the serving that proposed load are not unjustly borne by ComEd's broader customer base. *See* ComEd Ex. 1.0 at 8. Second, ComEd points out that the amendments formalize its current practice of conducting coordinated analyses of clusters of large load applications through joint studies of transmission and high-voltage distribution system impacts - an approach that reduces costs and improves both speed and efficiency. *Id*. at 8.

ComEd asserts that its amendments address those issues. Taken together, the changes establish a clear and consistent framework for processing large load applications - specifically those of 50 MW or greater - while improving cost recovery, transparency, and coordination between ComEd and applicants. *Id*. at 2. ComEd notes that the proposal will enable it to more effectively manage the growing number, size, and complexity of large load requests, while ensuring that other customers are protected from potential costs and risks associated with those projects. *Id*. at 3-4. In particular, ComEd states that its proposals mitigate the possibility that costs associated with evaluating and initiating service to new large load customers shift to other types of customers.

ComEd further explains the first tariff filing, proposed revisions to ComEd's GT&C tariff, is related to new service requests by large demand project applicants and customers. More specifically, the proposed revisions to the GT&C tariff require large load applicants to (i) provide deposits or financial security that will ensure recovery of ComEd's engineering costs and facilitate the procurement of long-lead materials without imposing acquisition costs and risk on other customers; and (ii) memorialize in ComEd's retail tariffs its practice of ensuring, through Federal Energy Regulatory Commission ("FERC") jurisdictional rates, that large load customers in fact make a contribution to the transmission revenue requirement commensurate with their requests for service. ComEd further states that these modifications memorialize ComEd's practice of conducting

coordinated analyses of transmission and distribution system impacts of "clusters" to applicants through joint studies, reducing costs and increasing the speed and efficiency of the process. The proposed tariff revisions also memorialize and improve ComEd's existing definitions and define the types of large load customers to which deposit and security processes apply.

ComEd notes that its second tariff filing, proposed revisions to Rider DE, require large load applicants to provide deposits or security to ensure recovery of on-property distribution costs, in addition to off-property extension costs, and to define the circumstances in which a letter of credit ("LOC") may be used to satisfy the deposit or security requirement.

III. LEGAL STANDARD

This matter concerns proposed tariff provisions filed pursuant to Section 9-201 of the Act, which states that:

> No change shall be made by any public utility in any rate or other charge or classification, or in any rule, regulation, practice or contract relating to or affecting any rate or other charge, classification or service . . . except after 45 days' notice to the Commission or public . . . . When any change is proposed in any rate or other charge, or classification, or in any rule, regulation, practice or contract relating to or affecting any rate or other classification or service, or in any privilege or facility, such proposed change shall be plainly indicated on the new schedule filed with the Commission.

220 ILCS 5/9-201(a). Moreover, the utility has the burden of proof to show that the proposed tariffs are just and reasonable. Section 9-201(c) provides:

> If the Commission enters upon a hearing concerning the propriety of any proposed rate or other charge, classification, contract, practice, rule or regulation, the Commission shall establish the rates or other charges, classifications, contracts, practices, rules or regulations proposed, in whole or in part, or others in lieu thereof, which it shall find to be just and reasonable. In such hearing, the burden of proof to establish the justness and reasonableness of the proposed rates or other charges, classifications, contracts, practices, rules or regulations, in whole and in part, shall be upon the utility. The utility, the staff of the Commission, the Attorney General, or any party to a proceeding initiated under this Section who has been granted intervenor status and submitted a post-hearing brief must be given the opportunity to present oral argument, if requested no later than the date for filing exceptions, on the propriety of any proposed rate or other charge, classification, contract, practice, rule, or regulation. No rate or other charge, classification, contract, practice, rule or regulation shall be

> found just and reasonable unless it is consistent with Sections of this Article.

220 ILCS 5/9-201(c).

As discussed below in Section VI, Transmission Security Agreements ("TSAs") are also at issue in this proceeding.

IV. COMED'S PROPOSED REVISIONS TO THE GENERAL TERMS & CONDITIONS ("GT&C") TARIFF

A. Revisions Related to Definitions

1. ComEd's Position

ComEd proposes to improve the existing definitions and define the types of large load projects to which the updated deposit and security processes will apply by adding two new definitions to the GT&C. *See* ComEd Ex. 2.0 at 4-5. First, ComEd states that the GT&C would define an LDPAC as a customer requesting revised or new service that will be equal to or greater than 50 MW in ten calendar years of service:

> A Large Demand Project Applicant or Customer is: (1) an applicant for electric service; or (2) a retail customer that requests that the Company change or expand the facilities and / or services used to provide it electric service; when (3) the Applicant or Customer's projected load ramp for the project includes an Maximum Kilowatts Delivered (MKD) equal to or greater than 50 MW at any time before December of the tenth (10th) calendar year after the requested date of service.

Id. at 5 (*citing* ComEd Ex. 1.01 at 10).

ComEd explains that large load projects present distinct engineering and planning challenges that ComEd's proposed tariff revisions are designed to address. *See* ComEd Ex. 1.0 at 5. ComEd notes that these challenges are most acute for customers meeting the proposed definition of LDPAC. In general, ComEd asserts that customer loads below 50 MW can be served by extending distribution circuits at 12 kV or 34 kV, and their impacts are adequately addressed through ComEd's annual capacity planning process. *Id*. at 12. By contrast, ComEd points out that projects of 50 MW or greater typically require service at voltages of 138 kV or higher. *Id*. at 12. ComEd states that these loads, whether the equipment serving them is functionalized as high-voltage distribution or transmission, require specific evaluation to understand their impact on the system. *Id*. at 12. ComEd also states that such projects tend to require substantial infrastructure investments beyond what would be needed for smaller new business projects. *See id.* at 17. ComEd explains that by formally identifying and defining customers with loads of 50 MW or more, ComEd's proposed definition distinguishes the subset of projects most likely to present these unique technical and financial challenges. ComEd further explains that this change is fundamental for the remainder of the proposed tariff revisions because it defines the types of projects that the revisions are intended to address.

ComEd emphasizes that the proposed tariff already contains a detailed and integrated definition sufficient for purposes of this proceeding, the affected customers, and ComEd's approved terms and conditions of service. According to ComEd, only the City disputes the functional adequacy of the definition and both Staff and the AG affirmatively support ComEd's proposed language. *See* COC IB at 4-7; *see also* Staff IB at 8-9; AG IB at 10. Nevertheless, ComEd notes that the clarifications sought by the City, which ComEd agreed to in discovery, appear aimed at avoiding possible misunderstandings and do not represent substantive changes to the tariff's operation.

ComEd states that, even though it believes the existing definition is sufficiently clear, ComEd does not oppose the inclusion of clarifying statements in the Commission's Final Order. Specifically, ComEd explains the following clarifications as they relate to terms used in the proposed tariffs: (1) "Retail Customer" is defined in ComEd's tariff at 1st Rev. Sheet No. 132 and is consistent with the Act, 220 ILCS 5/16-102; (2) "Project" refers to a single bona fide request for new or increased load which request is to serve load that ramps up to 50 MW or more within ten calendar years of being placed in-service; (3) "Load Ramp" and "Projected Load Ramp" means the anticipated monthly request of new or increased electrical usage in MW; (4) "Change" is defined as the replacement of facilities with facilities of a different size or voltage; and (5) "Expand" refers to the installation of facilities of expanded capacity. ComEd further explains that, while it has no objection to the Commission referencing these clarifications in its Order to provide additional context, embedding them verbatim in the GT&C tariff would create duplication without improving tariff function or readability.

With respect to the City's proposal to separately define "Large Demand Project" before defining the related applicant or customer, ComEd responds that the current, integrated formulation is clearer and more straightforward for customers. ComEd also states that, given the overall support for the definition and the absence of any demonstrated confusion among customers, further restructuring does not appear necessary.

ComEd stresses that the Commission should reject JNGO's proposal to impose supplemental triggers that would expand the applicability of the proposed tariffs to certain projects below the 50 MW threshold. ComEd explains that the proposed 50 MW threshold serves as a clear and objective delineation point aligned with ComEd's engineering and planning practices. *See* ComEd Ex. 5.0 at 3. ComEd further explains that when a customer's load exceeds 50 MW, ComEd typically must plan to serve that customer at 138 kV or above. *Id*.; ComEd Ex. 1.0 at 12. Below that level, ComEd avers that customers are generally served with 12 kV or 34 kV distribution facilities. ComEd Ex. 1.0 at 12. ComEd states that this technical distinction ensures that customers understand certain critical information from the outset, including, but not limited to: (1) whether their project will proceed through the Cluster Study process or general distribution planning; (2) what deposits are applicable; (3) whether PJM Interconnection, LLC ("PJM") coordination may be required; and (4) the expected timeline for study and preliminary design. ComEd Ex. 3.0 at 12.

ComEd avers that introducing a multi-factor or subjective framework as JNGO previously proposed would reduce transparency for customers, complicate administration of the tariff, and increase the risk of inconsistent or delayed planning outcomes. *See id.*

at 13. ComEd observes that IIEC similarly notes that such a framework could broaden the tariff's applicability in unintended ways and reduce clarity for customers. *See* IIEC IB at 10-11. Therefore, ComEd states that maintaining a single, objective triggering criterion is essential to ensuring predictability, fairness, and efficient planning for both ComEd and prospective customers.

Second, ComEd states that the GT&C proposed revisions define an Acceptable LOC and require that LDPACs provide LOCs under some conditions. ComEd Ex. 2.0 at 5. Specifically, ComEd proposes adding to its GT&C the following new definition regarding an Acceptable LOC:

> An Acceptable Letter of Credit (LOC) must be an irrevocable security (1) provided by an applicant or customer, (2) issued by a bank chartered by the United States maintaining a credit rating of "A3" or better by Moody's Investors Service, Inc., or "A-" by Standard and Poor's Corporation with respect to such Acceptable LOC Issuing Bank's long-term, unsecured, unsubordinated deposits; and (3) authorizing the Company to access and draw upon the Acceptable LOC as authorized by the provisions of the Company's Schedule of Rates up to the designated amount at any time or times within the applicable period for which the LOC is to remain in force. The Company may also draw on an Acceptable LOC if the Acceptable LOC would otherwise expire within fourteen (14) days and no required extension or replacement has been provided, in which case the Company shall treat the resulting proceeds as a deposit unless and until a replacement Acceptable LOC is provided. All fees and charges, including issuing, commitment, renewal, and operation fees and charges, relating to the Acceptable LOC shall be borne by Applicant or Customer.

Id. (*citing* ComEd Ex. 1.01 at 8).

ComEd maintains that an LOC is a financial instrument that allows ComEd to demand and reliably receive payment from the applicant's lending financial institution if specific criteria of non-performance are met. ComEd Ex. 1.0 at 15. ComEd notes that security is critical to protecting other customers by ensuring that the applicant can promptly respond to obligations that would otherwise be socialized uncollectibles or revenue requirement components. *See Commonwealth Edison Co.*, Docket No. 24-0378, Final Order at 131 (Jan. 16, 2025) (finding Rider DE's deposit and LOC requirements "reduce[] the risk that other customers would have to cover the costs of the construction of facilities for a particular customer"). Importantly, ComEd states that among credit support instruments, an LOC uniquely provides the same security as cash; ComEd can draw on it immediately if needed and it is easier to administer. ComEd Ex. 1.0 at 15. ComEd explains that unlike cash deposits, LOCs eliminate the need for ComEd to track and manage individual account balances while still ensuring full payment protection. *Id*. at 15. ComEd points out that formalizing the definition of an Acceptable LOC ensures that all customers who elect or are required to provide an LOC in lieu of a cash deposit

are subject to uniform, transparent standards. ComEd further notes that this change improves administrative efficiency, reduces risk to ComEd and its other customers, and aligns the tariff with established utility and financial best practices.

ComEd urges the Commission to reject NRG's proposal to include surety bonds as an acceptable form of collateral under the proposed tariffs. ComEd asserts that NRG's claim that surety bonds are "functionally equivalent" to LOCs is false. ComEd explains that LOCs—and not surety bonds or other instruments—provide the necessary degree of protection to ComEd's broader customer base. *See* ComEd Ex. 3.0 at 39; ComEd Ex. 5.0 at 22-24. First, ComEd states that an LOC provides immediate, unconditional access to funds and is not subject to defenses or delays associated with an obligor's financial condition or disputes. ComEd Ex. 3.0 at 39. Second, ComEd avers that LOCs function as the equivalent of a cash deposit, rather than as a contingent insurance policy. *Id*. at 39. In contrast, ComEd explains that a surety bond requires multiple time-consuming steps: filing a claim with an insurer, providing documentation, undergoing a claim investigation, the insurer seeking recourse from the bonded entity, and eventual payment—if approved. *Id*. at 39. ComEd further explains that during that period, the financial risk is borne by ComEd's customer base, not by the applicant. *Id*. at 39. ComEd points out that insurance companies can and do dispute and litigate those claims. ComEd notes that this is not the case with LOCs. ComEd avers that because ComEd can draw on an LOC directly from the issuing bank, without filing a claim or relying on a third party's claims-handling process, it offers the best option to minimize the risk of cost-shifting to other customers. *Id*. at 39. ComEd further explains that commercial banks bet their reputation on honoring LOCs. ComEd Ex. 5.0 at 21. ComEd asserts that nothing in NRG's briefs or Mr. Dauphinais' testimony can disguise those critical differences.

ComEd also claims that NRG's reliance on PJM's Open Access Transmission Tariff ("OATT") is misplaced. As an initial matter, ComEd states that PJM's tariff serves different purposes and protects different categories of risk. ComEd explains that it is a state-regulated public utility with an affirmative obligation to serve, and its distribution planning and cost-recovery processes are governed by Illinois law and Commission-approved tariffs—not by wholesale market constructs. *See* 220 ILCS 5/3-105. As explained in detail throughout this proceeding, ComEd states that it faces rising financial and operational risk associated with the interconnection of LDPACs – risks that ComEd's other retail customers may be forced to bear if costs are not recovered. *See, e.g.,* ComEd Ex. 3.0 at 3-4. Because the magnitude, duration, and nature of the financial risks ComEd must manage are materially different from those of PJM's wholesale market operations, ComEd avers that a more conservative and immediately accessible form of collateral such as an LOC is necessary to protect Illinois customers.

ComEd stresses that PJM's willingness to socialize the costs of market participant credit defaults if and when surety bonds fail or require litigation to enforce does not mean that Illinois retail customers should bear a similar risk. Due to these differences alone, ComEd asserts that NRG's reliance on the "pay now / fight later" provisions in Attachment Q to PJM's OATT as support for accepting surety bonds should be rejected. NRG IB at 16, 18.

ComEd also explains that NRG's proposal misrepresents the actual scope of the surety bonds accepted by PJM. ComEd states that PJM places a strict $10 million cap

per surety issuer for each member and a $50 million aggregate cap per surety issuer. *PJM Interconnection, LLC*, 175 FERC ¶ 61,078 (Apr. 28, 2021). By way of comparison, ComEd explains that many of the financial security requirements for LDPACs seeking service from ComEd are much larger, often reaching well into the hundreds of millions of dollars per customer project. ComEd Ex. 5.0 at 22. ComEd avers that PJM's surety bond limits reflect the scale of its market-settlement exposure, which is substantially smaller than the capital investment risk ComEd must manage.

More critically, ComEd emphasizes that PJM does not allow for the use of surety bonds for financial transmission right ("FTR") market activity, in part because "historically the size of the FTR defaults experienced in PJM have been significant." *PJM Interconnection, LLC*, 175 FERC ¶ 61,078 (Apr. 28, 2021). ComEd explains that in such cases, PJM only permits participants to meet their credit support requirements with either cash or LOCs. *See id.* ComEd asserts that this distinction in and of itself demonstrates that while PJM may consider surety bonds—including those subject to "pay now / fight later" provisions—to be sufficient for lesser security amounts, the same is not true when the costs at issue are much more substantial. Said another way, ComEd explains that PJM prohibits surety bonds precisely where risk is highest and instead requires cash-equivalent collateral—mirroring what ComEd proposes here.

For these reasons, ComEd stresses that the risks arising in the context of PJM's OATT are not analogous to the financial risks ComEd must manage, and therefore, the PJM OATT does not support incorporation of surety bonds as an acceptable form of collateral under the proposed tariffs.

2. Staff's Position

Staff recommends the Commission adopt the definitions proposed by ComEd to its GT&C tariff. The amendments incorporated into the Company's GT&C tariff include definitions for LDPAC and Acceptable LOC. *See* ComEd Ex. 1.01.

Staff recommends the Commission approve the definition of an LDPAC proposed by ComEd. *See* Staff Ex. 1.0 at 9; Staff Ex. 5.0 at 4. The Company provides that generally loads below 50 MW can be served through extension of 12 kV or 34 kV circuits, while loads of 50 MW or more generally are served at higher voltage 138 kV circuits. *Id*. Staff does not object to ComEd's proposed definition and recommends that the Commission approve the proposed amendment to ComEd's GT&C tariff.

NRG argues that ComEd's definition "lacks essential clarity and transitional protections that are necessary to ensure fairness, regulatory certainty, and competitive neutrality." NRG IB at 14. NRG ties its recommendation on ComEd's proposed LDPAC definition to its recommendations for "grandfathering provisions" to exempt projects that are already part of ComEd's Cluster Study process from certain requirements of ComEd's proposed tariffs. *Id*. at 14-15. NRG recommends that, if ComEd's proposed LDPAC definition is approved, it be conditioned on "ComEd honoring its commitments to: (1) apply current tariff terms to projects already in active cluster studies; (2) preserve existing initial deposits for current applicants; and (3) prevent unnecessary restudies of cluster studies based solely on other participants accelerating or increasing their load ramps." *Id*. at 15. Staff did not take a position on transition issues in testimony or in its brief.

The City argues that ComEd's proposed LDPAC definition is "confusing, vague, and ambiguous because it tries to accomplish too much in one definition." COC IB at 5. Staff objects to the City's recommendations as they were improperly raised for the first time in briefs. First, the City did not make any specific recommendations with respect to the Company's proposed LDPAC definition in testimony. *See generally* COC Ex. 1.0. The City's testimony does little more than introduce Data Request Responses ("DRRs") and make general claims such as "it is important for [COC] to understand and for the record to reflect the meaning and application of the Proposed Tariff Amendments on [COC]." *Id*. at 3. Because COC raised its concerns with ComEd's proposed LDPAC definition for the first time in its Initial Brief, parties did not have an opportunity to respond or meaningfully engage with COC's concerns, and therefore the Commission should disregard them. *See, e.g., Ill. Com. Comm'n on its own Mtn*., Docket No. 94-0426, Final Order at 25, 1995 Ill. PUC Lexis 642, (Oct. 3, 1995); *Ill.-Am. Water Co*., Docket No. 24-0097, Final Order at 119 (Dec. 5, 2024) ("The Commission typically does not consider proposals raised for the first time in briefs.").

Second, the City's recommendations lack the necessary specificity for the Commission to approve them. The City recommends the tariff include additional definitions for various terms, such as "applicant," "retail customer," and "the project," but fails to propose any actual definitions for the Commission to consider. The City's Initial Brief does not contain any clear, actionable recommendations for the Commission to approve in lieu of the Company's proposal. While COC's language would have been appropriate as testimony accompanying a request for ComEd to provide greater detail, it does not provide parties the opportunity to respond to those concerns or the Commission a clear proposal to approve. For these reasons, Staff recommends COC's proposals be rejected.

JNGO do not oppose ComEd's LDPAC definition "as a first step," but recommends the Commission "direct ComEd to make further changes consistent with JNGO's testimony within 90 days of the Commission's Final Order in this case." JNGO IB at 18. JNGO's reference to their own testimony lacks any specific recommendation concerning the LDPAC definition. JNGO IB at 33. In testimony, JNGO's witness recommended:

> supplemental trigger[s] that would invoke the large load provision/processes under a set of defined conditions, including but not limited to: (a) any project whose interconnection point is identified as "weak" or constrained in ComEd's studies; (b) any project that requests voltage levels or in-service profiles that indicate high ramp rates, both in the MW size of ramps and the speed of the MW (fast switching of load at the second or sub-second level); or (c) any single developer proposing cumulative capacity in a geographic cluster that exceeds a defined MW threshold but within a short timeframe (months, for example).

JNGO Ex. 2.0 at 6. Staff is concerned that JNGO's recommendations could add "unnecessary complexity to ComEd's large load customer process that halt or significantly delay Cluster Studies to service data process for [LDPACs]." Staff Ex. 5.0 at 10. Staff

recommended that, in this docket, JNGO's proposal be rejected and that the issue be re-raised in Staff's proposed future proceeding. *Id*. at 10-11.

IIEC opposes JNGO's recommendation for "supplemental triggers" that "could lower the [50 MW] threshold" of the LDPAC definition. IIEC IB at 10-11. Specifically, IIEC is concerned that JNGO's supplemental triggers are "less well-defined, may be subjective, and have the potential to apply to much smaller loads than are intended to be addressed with this tariff filing." *Id*. at 11. Instead, ComEd's proposal of 50 MW is tied to the load ComEd plans to connect at voltages of 138 kV or above, which creates a "bright line" that will make clear how an application will be studied. *Id*. at 11-12. IIEC also raises a concern that, because JNGO's "supplemental triggers" would impact existing customers with loads less than 50 MW, they would have had no notice or expectation that these proceedings could affect their electric service. *Id*. at 12. Staff echoes these concerns and recommends that JNGO's recommendation for "supplemental triggers" be: (a) rejected in this proceeding; and (b) reconsidered in Staff's recommended future proceeding.

Staff also recommends the Commission approve ComEd's proposed definition for LOC in ComEd's GT&C tariff. Staff Ex. 1.0 at 9; *see generally* Staff Ex. 4.0.

Staff requested specific clarifications from ComEd regarding parental guarantees, and ComEd responded explaining the benefits of an LOC over parental guarantees, including the ease of collection. Staff IB at 13 (*citing* ComEd Ex. 5.0 at 21-22). Staff has no objection to ComEd's inclusion of its proposed definition for an Acceptable LOC, which strengthens its collateral requirement to ensure costs are not shifted to other customers. Staff recommends the Commission approve ComEd's proposed modification to its GT&C tariff.

3. AG's Position

The AG notes that, while some parties have sought clarification that the new tariff provisions would not apply to existing customers or Large Demand Projects that have reached a certain application milestone, *see* COC IB at 7-10 and NRG IB at 14-15, no party appears to contest the 50 MW threshold. The AG accepts this definition of LDPACs for purposes of this proceeding. *See* AG Ex. 2.0 at 2.

ComEd also proposes to define a new term for Acceptable LOC. The AG takes no position on this definition because it recommends that all costs to connect Large Demand Projects be paid for, in whole and in advance, by such Large Demand Project and not included in ComEd's rate base and socialized among all ratepayers.

4. City's Position

The City notes ComEd's GT&C tariff in its Schedule of Rates for Electric Service, applies to:

> electric service provided by the Company, to retail customers located in the Company's service territory, to applicants for electric service provided by the Company, to developers of retail customer premises located in the Company's service territory, to owners and operators of distributed generation that is interconnected to electric distribution facilities owned

> by the Company, to Retail Electric Suppliers (RESs), and to Metering Service Providers (MSPs), as appropriate.

ILL. C. C. No. 10, 8th Rev. Sheet No. 126. In a subsection of the GT&C tariff titled "Definitions," the GT&C tariff contains definitions for terms used throughout the Tariff Book. The City addresses solely the proposed definition of LDPAC.

The City asserts that ComEd's proposed LDPAC definition is confusing, vague, and ambiguous because it tries to accomplish too much in one definition. The LDPAC definition attempts to describe both "Large Demand Project" and the entities potentially seeking to obtain service for a Large Demand Project (an "Applicant" and a "Customer"). The City argues that, by combining two distinct concepts, neither a Large Demand Project nor the affected entities are clearly described. The City recommends that ComEd should first define a "Large Demand Project" and then define what is meant by "Applicant" and "Customer" for a Large Demand Project.

As an example of the vague, confusing, and ambiguous definition of a Large Demand Project, the City points to the words "the project" that appear midway through the LDPAC definition. The City asserts that, although the concept of a Large Demand Project is pivotal to ComEd's new definition, the LDPAC definition does not define the term "the project." The City also maintains that the LDPAC definition does not explain how "the project" relates to "the facilities and/or services" that follow the reference to a "retail customer." In response to one of the City's data requests, ComEd stated that, "the term 'project' [in the LDPAC definition] refers to a single bona fide request for new or increased load which request is to service load that ramps up to 50 MW or more within ten calendar years of being placed in-service." COC Ex. 1.05. According to the City, the definition in the GT&C tariff of the term "Large Demand Project" should include this explanation.

The City posits that defining what is meant by the term "the project," including that it is a "new or increased load . . . that ramps up to 50 MW," is a very important distinction for existing retail customers, such as the City, which may already have an account with service load approaching 50 MW as their Maximum Kilowatts Delivered ("MKD"). The City asserts that both existing and potential retail customers need to clearly understand what a "Large Demand Project" is and whether and when a request for increased or new load could trigger the "Large Demand Project" designation.

The City emphasizes that ComEd's proposed LDPAC definition also is vague, confusing, and ambiguous because it uses the term "projected load ramp" with respect to "the project," without defining the term "load ramp." The City notes that the terms "projected load ramp" or "load ramp" are not defined elsewhere in the Definitions subsection of the GT&C tariff. The City explains that in a ComEd DRR to the City regarding the meaning of the terms "load ramp" and "projected load ramp" in the LDPAC definition, ComEd stated that "[t]he terms 'load ramp' and 'projected load ramp' both refer to the anticipated monthly request of new or increased electrical usage in [megawatts]." COC Ex. 1.05. The City posits that if the two terms have the same meaning, the use of the word "projected" to describe "load ramp" is redundant and/or further confuses the use of the term in the LDPAC definition.

The City further claims that the proposed LDPAC definition also is confusing, vague, and ambiguous because it does not clearly describe the entities who are potentially addressed by the new definition. The City explains that the confusion starts with ComEd's use of a colon and the numbers "(1)", "(2)", and "(3)" following the opening phrase "A Large Demand Project Applicant or Customer is". ComEd Ex. 1.01 at 10; ComEd Ex. 1.02 at 4. Yet, the City shows, the words following each of those numbers do not necessarily describe an "Applicant or Customer" and, in any case, do not do so clearly. For example, the phrase following the number "(3)," does not describe an applicant or a retail customer at all; instead, it describes the size of the project at issue. *See* ComEd Ex. 1.01 at 10.

According to the City, the LDPAC definition also does not clearly explain in subpart (1) whether an "applicant" can be an existing retail customer with a new request for "electric service." In addition, the City avers, the LDPAC definition does not explain in subpart (2) what is meant when it describes a "retail customer" as one that requests that ComEd "change or expand the facilities and/or services used." ComEd Ex. 1.01 at 10; ComEd Ex.1.02 at 4. The City confirms that it served a data request ("DR") on ComEd, asking it to explain the meaning of the words "change" and "expand" in the LDPAC definition. COC Ex. 1.06. In response, ComEd stated that "the term 'change' refers to replacement of facilities with facilities of a different size or voltage." *Id*. In addition, ComEd stated that "the term 'expand' refers to installation of facilities of expanded capacity." *Id*. The City emphasizes that to establish just and reasonable tariffs, ComEd's explanations in response to the City's DRs should be included in any definition of an LDPAC published in the GT&C Tariff.

The City also suggests that the term "retail customer," as used in the context of a large demand project customer, be defined as a separate term. The City notes that, although the term "retail customer" is already a defined term in the GT&C tariff (ILL. C. C. No. 10, 1st Rev. Sheet No. 132) specific types of retail customers also are defined in the GT&C tariff. *See, e.g.*, "residential retail customer" (*id*.); "lighting retail customer" (ILL. C. C. No. 10, 5th Rev. Sheet No. 129); and "nonresidential retail customer" (ILL. C. C. No. 10, 3rd Rev. Sheet No. 130). The same definition of a specific type of retail customer should be added to the definitions with respect to an LDPAC.

Finally, the City notes that there are two scrivener's errors in the proposed LDPAC definition's subpart (3). First, "'s" should be inserted following "Applicant" in subpart (3). Second, the word "a" rather than "an" should precede the word "Maximum." The City suggests that these errors be corrected if the Commission otherwise approves the relevant language in the definition.

In summary, the City recommends that ComEd's proposed LDPAC definition be revised by (a) separately defining a "Large Demand Project" in the GT&C Definitions subsection, as well as defining what an "Applicant" or "Customer" is with respect to a "Large Demand Project;" (b) including definitions of terms in the context of a Large Demand Project and its affected partes, such as "applicant;" a "retail customer" in this context; "the project;" "projected load ramp;" and "change" and "expand" with respect to facilities and/or services; and (c) correcting the scrivener's errors.

5. JNGO's Position

JNGO do not oppose ComEd's proposed revisions to its GT&C Tariff but note that additional tariff changes will be necessary to meet the Act's "just and reasonable" standard. Because these revisions relate to JNGO's recommended Future Proceeding to develop large load interconnection standards, they are discussed in Section VII.A below. JNGO's position is that the Commission should: (1) approve ComEd's proposed revisions in this docket as a first step, and (2) direct ComEd to make further changes consistent with JNGO's testimony within 90 days of the Commission's Final Order in this case.

6. NRG's Position

NRG agrees that it is necessary to develop clear and appropriate terms for large load interconnections. However, NRG notes that several of ComEd's proposed GT&C revisions are unreasonable, inconsistent with Illinois law and policy, and would unnecessarily impose significant costs and risks on large load customers while providing ComEd with protections that are not tied to any demonstrated need. NRG advocates the Commission reject or modify these provisions to ensure that customer protections, cost-causation principles, competitive neutrality, and jurisdictional boundaries are preserved.

NRG submits that ComEd's proposed revisions to its GT&Cs include the addition of two new defined terms. NRG did not oppose ComEd's effort to define the new large demand customer category but notes that other parties proposed several appropriate refinements to that definition. Further, NRG presented expert testimony objecting to ComEd's proposed definition of Acceptable LOC which is unnecessarily restrictive and unsupported by any quantitative evidence, benchmarking, or industry-standard analysis. Adopting such a narrow collateral definition would impose avoidable and potentially substantial financing burdens on large load customers, increasing project costs and making Illinois less competitive for the high-value economic-development opportunities these projects represent - projects that would bring substantial investment, job creation, and long-term cost benefits to existing ratepayers through recovery of fixed delivery costs.

NRG states that ComEd proposes to define LDPAC as those who are seeking new or modified service for facilities that will reach 50 MW of demand within ten years. *See* ComEd Ex. 1.02 at 4, ILL. C. C. No. 10, 7th Rev. Sheet No. 129. NRG agrees that defining large load customers can support planning transparency and protect existing customers if implemented correctly. ComEd's proposed definition lacks essential clarity and transitional protections that are necessary to ensure fairness, regulatory certainty, and competitive neutrality.

NRG proposed that the Commission condition approval of any large load definition and framework on explicit grandfathering protections for projects with completed or in-process cluster studies and for customers where ComEd has already commenced engineering or construction work. *See* NRG Ex. 1.0 at 7, 39. Microsoft similarly testified that ComEd's proposal "would undermine the very Large Demand Project category that it seeks to address" if applied without grandfathering and explained that ComEd's lack of clarity regarding projects already underway "could substantially undermine the development process for projects that have already interconnected but are still increasing their load." Microsoft Ex. 1.0 at 6. Illinois courts and the Commission have repeatedly

held that regulatory certainty and protection of reasonable reliance on regulatory structures are critical. *See, e.g.*, *Citizens Util. Bd. v. Ill. Com. Comm'n*, 166 Ill. 2d 111, 124 (1995); *BPI v. Ill. Com. Comm'n*, 146 Ill. 2d 175, 244-45 (1991); *Commonwealth Edison Co.*, Docket No. 13-0387, Final Order at 259 (Dec. 18, 2013).

NRG notes that ComEd confirmed in discovery and testimony that cluster-study projects and those that have begun construction will be grandfathered, and it stated it is amenable to the Commission memorializing these commitments. *See* ComEd Ex. 3.0 at 21-22; NRG Ex. 1.5 at 4-5, 9-10. Therefore, according to NRG, the Commission should condition approval on ComEd honoring those commitments. As Mr. Dauphinais testified, the Commission should "condition any approval . . . on ComEd committing . . . that it will provide the indicated grandfathering and restudy protection" for pending applications. NRG Ex. 2.0 at 13. Specifically, the Commission should condition approval of ComEd's tariff amendments on ComEd honoring its commitments to: (1) apply current tariff terms to projects already in active cluster studies; (2) preserve existing initial deposits for current applicants; and (3) prevent unnecessary restudies of cluster studies based solely on other participants accelerating or increasing their load ramps. *See id.* at 41; NRG Ex. 1.5, ComEd Response to NRG-ComEd DR No. 1.04; *see also* NRG Ex. 2.0 at 38.

NRG states that ComEd proposes to limit acceptable collateral for large load projects to cash or bank LOCs. The record shows this restriction is unsupported, unduly burdensome, out of step with industry practice, and would increase project costs without improving ratepayer protections. The Commission should modify ComEd's proposal to allow other forms of credit as proposed by NRG witness Dauphinais.

As NRG demonstrated, ComEd's proposal is not based on analysis, benchmarking, or evidence of risk. ComEd "could not produce any policies or tariffs . . . nor did [it] perform . . . any benchmarking analyses" and "could produce no sensitivity analyses or scenario modeling" to support a cash-and-LOC-only requirement. NRG Ex. 1.0 at 35. ComEd testified that it "would not consider" parental guarantees or surety bonds – forms of credit support commonly accepted by other major utilities and by PJM – demonstrating an unnecessarily rigid approach to credit assurance that would hinder Illinois' efforts to attract and accommodate large load customers. NRG Ex. 1.0 at 35 (*citing* ComEd Response to NRG-ComEd DR Nos. 1.10d, 2.02, 2.06, and 2.07).

NRG provided evidence demonstrating that surety bonds are widely used across the utility sector, including at PJM and in other PJM jurisdictions, and can be "functionally equivalent to a letter of credit" in providing financial assurance. NRG Ex. 2.0 at 26. NRG witness Dauphinais recommended that ComEd be directed to accept surety bonds as a form of collateral to meet their transmission security requirement in the same way that PJM accepts surety bonds in Attachment Q of the PJM OATT. *See* NRG Ex. 2.0 at 25 (*citing* Section V.D. of PJM OATT Attach. Q). PJM's form of surety bond includes "pay now/fight later" provisions that specify that the surety, like the issuer of an LOC, agrees it will not assert defenses to a PJM demand for payment on the bond, agrees that its obligation to pay on the bond on demand by PJM is unconditional and absolute, waives its right to investigate or verify any matter related to a demand for payment under the bond that would delay payment or delivery of funds, and requires the surety to pay out on the surety bond within one business day of the demand for payment. Mr. Dauphinais explained that provisions like these "can ensure that the surety's obligation is solid,

unconditional, and payable within one business day of the demand -- functionally equivalent to the payment mechanics of a [LOC]." *Id*. at 25. NRG also cited tariff language from Dominion recognizing surety bonds as an acceptable form of security, subject to reasonable utility review. NRG Ex. 2.0 at 27 ("Surety Bond must be in a format acceptable to and approved by the Company.").

NRG witness Dauphinais explained that restricting customers to cash or LOCs would unnecessarily increase the cost of capital for large load customers and place Illinois at a competitive disadvantage compared to other states actively courting major load development. He testified that surety bonds are a commercially standard financial instrument, carry the same enforceable guarantee of performance as LOCs, and can provide strong credit assurance "without imposing unnecessary financing costs on customers." *See* NRG Ex. 2.0 at 26; NRG Ex. 1.0 at 35. Those additional costs ultimately increase the risk that otherwise viable projects will not locate in Illinois, depriving existing customers of the system-wide benefits of load growth – including increased contributions to fixed system costs.

NRG submits that ComEd offered no contrary evidence showing that alternative credit instruments pose unreasonable risk, and no evidence that an LOC-only rule is required to protect customers. Instead, ComEd witness Perkins asserts that only LOCs can provide "prompt and immediate" payment and suggests PJM's acceptance of surety bonds occurs only "in the range of tens of millions of dollars," implying those instruments are ill-suited to large load collateral requirements that "easily" reach into the hundreds of millions. ComEd Ex. 5.0 at 23-24. That critique is misplaced for two independent reasons.

First, NRG explains that the terms of PJM's Attachment Q are not a casual or weak assurance; it is an explicit "pay-now/fight-later" regime that renders a surety bond functionally equivalent to an LOC for purposes of immediacy and certainty of payment. As NRG witness Dauphinais explained, the Attachment Q form requires the surety to waive defenses, accept an unconditional and absolute obligation to pay on demand, and fund within one business day – precisely the "cash-equivalent" timing ComEd claims is necessary to protect other customers. *See* NRG Ex. 2.0 at 25-26.

Second, NRG states that ComEd offers no evidence that Attachment Q collateral is confined to "small" exposures or that surety instruments cannot be structured to support larger obligations. Moreover, what matters is not the nominal size of any single bond, but whether the tariff specifies equivalent draw mechanics and allows reasonable structuring (e.g., layering and tiering) to achieve the required total assurance. The record shows the potential TSA collateral could exceed $400 million, which is exactly why a flexible, multi-instrument framework is needed to minimize financing costs without compromising protection.

NRG further observes that ComEd's characterization of surety bonds as slow, uncertain, or contingent is unsupported by any data in the record. ComEd did not provide evidence regarding actual claim-processing timelines, default scenarios, or comparative recovery rates for surety bonds versus LOCs. In contrast, NRG's testimony explains that surety bonds are routinely accepted throughout the electric industry – including for transmission upgrade security under the PJM tariff – and that such instruments are

backed by regulated insurers subject to stringent capital and performance standards. NRG Ex. 2.0 at 26. The record contains no analysis undermining this testimony.

NRG respectfully requests that the Commission reject ComEd's proposed LOC-only requirement and direct ComEd to accept surety bonds and tiered credit structures, consistent with industry norms and sound economic and regulatory practice by including the following language at the conclusion of ComEd's proposed definition of Acceptable LOC:

> For purposes of satisfying security requirements applicable to LDPAC, the Company shall accept alternative forms of credit support that provide equivalent financial assurance, including but not limited to surety bonds and parental guarantees, provided such instruments are issued by entities of comparable credit quality and in forms reasonably acceptable to the Company. The Company shall not unreasonably withhold acceptance of any such alternative credit instrument, and may condition acceptance only on reasonable demonstration that the instrument provides the same enforceable payment assurance as an Acceptable LOC. Nothing in this section shall preclude the use of tiered or combined collateral structures (e.g., partial cash, partial surety bond, or parental guarantee) so long as the total secured amount meets the Company's required level of financial assurance.

NRG provides that allowing this reasonable flexibility in acceptable collateral forms will protect ratepayers, preserve system planning certainty, and avoid deterring beneficial, large load development in Illinois.

NRG supports the revisions to the Large Demand Project definitions proposed by the City. NRG agrees that the City's modifications improve clarity, reduce ambiguity in how the thresholds apply, and better align the definitions with the underlying engineering concepts used in ComEd's own planning processes. NRG believes that the City's refinements help ensure that the tariff's definitions are applied consistently and transparently, and prevent unintended expansions of scope that could capture projects not reasonably within the intent of the LDPAC framework. NRG therefore embraces the City's proposed revisions and recommends that the Commission adopt them in place of ComEd's original language.

7. Commission Analysis and Conclusion

ComEd demonstrates it has experienced an unprecedented increase in recent years of applications from new customers with exceptionally large service requests. ComEd Ex. 1.0 at 3, 5. According to ComEd, 75 applications from these customers currently in the Company's pipeline represent a maximum demand that surpasses ComEd's all-time system peak. *Id*. at 5-6. ComEd states these projects have distinctive characteristics, including anticipated cumulative maximum demand and high voltage service requirements, that necessitate unique engineering analyses and design processes. *Id.* at 3, 7. The Commission agrees with ComEd and other parties that these

projects present unique planning challenges that can impact other customers through cost increases. *Id.* at 3. These new and distinct projects can directly affect ComEd's ability to serve other customers efficiently, reliably, and affordably. ComEd explains that its current tariffs do not adequately address the issues presented by new large load project applicants. ComEd proposes revisions to two existing tariffs: the GT&C and Rider DE.

The City objects to ComEd's proposed GT&C definition of a "Large Demand Project Applicant or Customer," asserting the definition is confusing, vague, and ambiguous. COC IB at 4-7. Staff notes the City raised its concerns for the first time in its Initial Brief; however, parties had the opportunity to respond in Reply Briefs, which they did. In its response to the City's data requests, ComEd clarified the meaning of "Retail Customer," "Project," "Load Ramp," "Change," and "Expand" to alleviate the City's concerns. ComEd RB at 5-6. No party objects to the substance of these clarifications or ComEd's proposed definition. The City asserts that ComEd's clarifications should be included in ComEd's GT&C tariff language. NRG supports inclusion of the City's requested clarifications as they will reduce ambiguity. NRG RB at 11-12.

The Commission emphasizes that clarity in the scope, meaning, and application of new and revised tariff terms is necessary to ensure just and reasonable rates. *See Commonwealth Edison Co.*, Docket No. 22-0036, Final Order at 10 (Oct. 27, 2022) (*citing S. Branch LLC v. Commonwealth Edison Co.*, 46 F.4th 646, 649 (7th Cir. 2022)) ("Tariff language should strive to be as simple and clear as possible, as 'it has the force and effect of a statute.'"). Therefore, the Commission finds that ComEd's proposed definitions, as clarified in its responses to the City, are appropriate and approved. The Commission directs ComEd to include the following language in addition to its definition of a "Large Demand Project Applicant or Customer" in the tariff:

> For purposes of this definition, (a) "retail customer" means the same as defined in the Definitions part of these General Terms and Conditions and consistent with the Act, 220 ILCS 5/16-102; (b) "the project" means a single bona fide request for new or increased load, which request is to serve load that ramps up to 50 MW or more within ten (10) calendar years of being placed in service; (c) "load ramp" and "projected load ramp" both mean the anticipated monthly request of new or increased electrical usage in MW; (d) "change" means the replacement of facilities with facilities of a different size or voltage; and (e) "expand" means the installation of facilities of expanded capacity.

ComEd RB at 5; *see also* COC Exs. 1.01, 1.05, 1.06.

The Commission rejects NRG's arguments in support of surety bonds. The Commission is not persuaded by NRG's reliance on PJM's OATT as an example of other contexts where surety bonds are accepted. PJM permits only cash or LOCs for FTRs, its highest-risk market activities due to the scale of historical defaults. Likewise, it would not be reasonable or prudent for the Commission to permit surety bonds here with the estimated scale of future Large Load Projects.

The Commission notes that an LOC provides ComEd with immediate, unconditional access to funds when specified conditions of non-performance occur. This characteristic makes an LOC functionally equivalent to a cash deposit while reducing administrative burdens associated with tracking customer-specific cash accounts. The Commission has previously recognized that robust deposit and security arrangements reduce the risk of cost-shifting to other customers. *See Commonwealth Edison Co.*, Docket No. 24-0378, Final Order at 131 (Jan. 16, 2025). The Commission finds that ComEd's proposal advances this principle by ensuring that applicants bear the identified risks associated with their own projects rather than imposing those risks on the Company or ratepayers.

The Commission finds that ComEd's proposed definition of "Acceptable LOC" and its underlying requirement that it be issued by a U.S.-chartered bank with long-term, unsecured credit ratings of at least A3 (Moody's) or A- (S&P) are reasonable and necessary to ensure financial protection for ComEd and its customers in light of the significant financial risks posed by LDPACs. Therefore, the Commission adopts ComEd's proposed definition of "Acceptable LOC" and declines to adopt NRG's suggested modifications.

NRG's arguments regarding grandfathering are addressed in Section VII.F.5. below. Staff and parties' arguments regarding future proceedings are addressed in Section VII.A. below.

B. Revisions Related to Analysis of and Deposits of Large Demand Projects

1. Deposits for Large Demand Projects

a) ComEd's Position

ComEd proposes to amend the GT&C to clarify both the deposit requirements applicable to each LDPAC and the process and timing for the refund or application of those deposits. *See* ComEd Ex. 2.0 at 9. ComEd states that the proposed revisions recognize that the costs of engineering studies increase with the size and complexity of a project and that larger projects necessarily consume a greater share of ComEd's limited engineering resources. *Id*. at 10.

To that end, ComEd first proposes to require each LDPAC to provide a security deposit sufficient to cover the costs ComEd will incur to conduct preliminary planning and engineering analyses, inclusive of the Cluster Study. *Id*. at 9. As explained by ComEd witness Perkins, the deposit amount will be based on the MKD in the customer's load ramp and will be calculated as $1,000,000 plus an additional $500,000 for each whole 100 MW increment above 200 MW. *Id*. at 9. ComEd states that if the required deposit exceeds $2,000,000, the LDPAC must also provide ComEd with an Acceptable LOC for the amount above that threshold. *Id*. at 9 (*citing* ComEd Ex. 1.01 at 16).

ComEd notes that these revisions do not alter ComEd's existing practices regarding the refund or application of initial deposits. ComEd Ex. 1.0 at 15. ComEd explains that if a project proceeds to service, ComEd returns the deposit shortly after the service is energized or applies it toward other deposit or cost requirements. *Id*. at 13. ComEd states that on the other hand, should the project be canceled or abandoned,

ComEd retains only the portion of the deposit equal to the costs incurred to date, ensuring that those expenses are not shifted to other customers. *Id*. at 13. ComEd further states that this approach protects ComEd's broader customer base from bearing the costs of uncompleted projects. *Id*. at 13.

ComEd asserts that its current deposit structure—requiring a flat $1,000,000 deposit for all large load applications—no longer reflects the realities of today's large-scale projects. *See id.* at 12. ComEd points out that under the existing structure, a 500 MW project is subject to the same deposit requirement as a 1,000 MW project, even though the latter requires significantly more extensive study and planning. *Id*. at 13-14. ComEd further notes that this uniform approach effectively gives customers a "free option" to request more capacity than they may ultimately require, since there is no incremental financial impact associated with overstating demand. *Id*. at 14. ComEd states that as a result, the current tariff provides insufficient incentive for customers to submit precise and realistic load forecasts, which increases the risk of speculative or inflated requests and, in turn, inefficient or unnecessary investment. *See id.* at 13, 14.

ComEd explains that the proposed amendments directly address this concern by establishing a sliding-scale deposit structure based on project size. Larger projects—those with higher MKDs—require more complex scoping, design, and engineering analyses, and the proposed approach ensures that the associated deposits appropriately reflect those costs. *Id*. at 13. ComEd further explains that tying deposits to MKD not only promotes accuracy and accountability among applicants but also ensures transparency, consistency, and fairness in ComEd's treatment of all customers. *Id*. at 13. Moreover, ComEd notes that by aligning deposit levels with the actual costs and risks associated with large load applications, the proposal strikes an appropriate balance: maintaining reasonable requirements for customers while providing strong safeguards to protect ComEd's broader customer base from the risk of cost shifting and stranded investment.

ComEd states that the requirement that customers provide an Acceptable LOC for any portion of the deposit exceeding $2,000,000 further advances these objectives. As discussed above, LOCs are administratively efficient because they eliminate the need to track individual cash balances and can be readily drawn upon if needed. *Id*. at 15. ComEd notes that given the unprecedented volume of large load applications, requiring all deposits above $2 million to be paid in cash would impose unnecessary administrative burdens on both ComEd and customers. *Id*. at 15-16. Further, ComEd explains that many large load applicants prefer to post security in the form of an LOC because doing so leverages their lower borrowing costs and preserves liquidity. *Id*. at 16. ComEd further explains that incorporating this requirement therefore provides flexibility to customers while maintaining financial protection for non-large load customers and operational efficiency for ComEd. *Id*.

ComEd also proposes to require each LDPAC to provide a deposit sufficient to secure the costs of procuring long-lead materials, such as circuit breakers or transformers, required for that customer's project, as determined by ComEd. ComEd Ex. 2.0 at 10 (*citing* ComEd Ex. 1.01 at 12). ComEd notes that this provision reflects the growing complexity and scale of large load developments and ensures that customers initiating large load projects bear financial responsibility for the unique risks and resource commitments associated with their requests. ComEd explains that by including the cost

of long-lead materials within the required deposit, ComEd protects its broader customer base from potential stranded costs, aligns cost recovery with cost causation, and promotes equitable treatment among all customers.

Similar to the initial engineering deposit discussed above, ComEd states that it is not proposing to change the current process to collect and refund the deposit for long-lead materials, less any amount retained by ComEd under Rider NS – Nonstandard Services and Facilities ("Rider NS") or other applicable rate, at the earlier of the commencement of permanent service or the submission of any deposit under Rider DE. *Id*. at 11 (*citing* ComEd Ex. 1.01 at 12). Rather, ComEd observes that the revisions will memorialize and clarify ComEd's process of refunding deposits for LDPACs, thus providing transparency to Applicants and Customers. *Id*. at 11.

b) Staff's Position

Staff recommends the Commission approve ComEd's revisions to its GT&C tariff and Rider DE tariff related to collateral requirements for LDPACs. Staff noted that ComEd proposes three new or updated deposits: (1) an Enhanced Initial Engineering Analysis Deposit; (2) a Rider DE deposit; and (3) a TSA, which is specifically discussed in Section VI, below. Staff Ex. 4.0 at 2.

The amendments related to the Enhanced Initial Engineering Analysis Deposit clarify that each LDPAC is required to provide a security deposit sufficient to cover the costs ComEd will incur to conduct preliminary planning and engineering analysis of the facilities needed to provide electric service to one or more other LDPACs, inclusive of the Cluster Study. Staff Ex. 4.0 at 2-3. This security deposit will consist of a deposit calculated based on the MKD included in the load ramp provided by the LDPACs and be the sum of $1 million plus $500,000 for each additional whole 100 MW of MKD above 200 MW. *Id*. at 3. If the amount exceeds $2 million then, for the incremental amount greater than $2 million, the customer must also provide ComEd with an Acceptable LOC as defined in the definitions section of the GT&C tariff. *Id*. ComEd also proposes amendments to require that an LDPAC provide a deposit sufficient to secure the costs of procurement of long-lead materials required for the LDPAC's project, as determined by ComEd. *Id*.

The Rider DE Deposit is a refundable deposit that covers the cost of distribution system extensions and upgrades that new large loads impose. Staff Ex. 4.0 at 4. The tariff allows a customer to qualify for a credit towards a distribution extension if the customer passes a credit risk assessment based upon the cost of the extensions and expected revenues to determine if a deposit is required. *Id*. at 3. The amendments to Rider DE require applicants and retail customers under Rider DE with a deposit amount of $2 million or more to provide a qualifying LOC in lieu of a deposit; and defines the attributes of an Acceptable LOC that can serve as the equivalent of a cash deposit for these obligations. *Id*. at 4. If ComEd collects deposits under Rider DE, Rider DE provides the framework for annual refunds for up to ten years based on actual delivery service revenues associated with the distribution system extension. *Id*. at 5. Depending on whether the LDPAC's actual load is equal to or greater than its proposed load, its deposit will be fully refunded, typically during the ten-year refund period. *Id*. The formulas in Rider DE determine deposit and annual refund amounts to provide financial protection to

ComEd's customer base for distribution system extension costs that are not fully utilized. *Id*. at 5-6.

Rider DE provides options for customers to qualify for additional credit towards a distribution extension if the customer passes a credit risk assessment based upon the cost of the extension and expected revenues to determine if a deposit is required. Staff Ex. 4.0 at 6. ComEd indicated in its direct testimony that the credit evaluation and risk screening is performed by the Exelon credit group on a case-by-case basis. *Id*. at 7. In rebuttal testimony, Staff opined that the information relating to the credit evaluation and risk screening process used by the Exelon credit group to determine the amount of the deposit under Rider DE was vague and requested the Company explain further how Exelon credit group performs the evaluation and screening, as well as the types of credit enhancements or security that will be appropriate for LDPACs that are determined to be in good financial standing. *Id*. Staff further recommended that to the extent Staff determines the evaluation and screening process are sufficient collateral requirements for Rider DE, the Company specify the details of the evaluation and risk screening process in the tariff and apply those criteria equally to LDPACs in good financial standing. *Id*. at 7-8. To the extent Staff determines the processes are not sufficient collateral requirements for Rider DE, Staff recommended modifications set out in testimony, which related to modeling the collateral requirements after the Indiana Michigan Power Company tariff. *Id*. at 7-8, 16-18.

In discussing its alternative collateral requirements in the event Staff determined the processes were not sufficient collateral requirements for Rider DE, Staff also requested that ComEd explain why the collateral requirements should not be scaled with project maturity to ensure that the required collateral tracks the utility's actual risk at each stage of the project's development to avoid overly burdening the customer for costs not yet incurred. Staff Ex. 4.0 at 18. Staff further requested ComEd, to the extent it opposes granting high investment grade exemption from a portion of collateral requirements, explain how the risk exceeds the benefits of such an approach. *Id*.

In ComEd's surrebuttal testimony, the Company addressed and alleviated Staff's concerns. With regard to scaling collateral requirements with project maturity to ensure the required collateral tracks the utility's actual risk, ComEd explained that its proposed deposits and other collateral requirements scale with the risk that ComEd and its non-LDPAC customers carry during the period between the start of construction and the time at which the customer achieves its ultimate load. ComEd Ex. 5.0 at 22. ComEd also responded to Staff's alternative recommendation that applicants with certain credit ratings and liquidity should be exempt from a portion of the collateral requirement. Staff Ex. 4.0 at 17. ComEd explained that under its current practices, the credit ratings of large load customers are evaluated, and customers with senior unsecured credit ratings above BBB- and Baa3, as rated by S&P Global and Moody's Ratings, respectively, are allotted a 5-year revenue credit to offset any collateral requirements. ComEd Ex. 5.0 at 20. ComEd explained that these differences in treatment align with the real differences in financial risk associated with service to these different customers. *Id*. ComEd also addressed Staff's proposal to permit LDPACs to provide a parental guarantee, explaining that an entity's liquidity at the point in time they request service is not by itself particularly helpful

in the context of LDPACs' applications for service. *Id*. at 21-22. ComEd further explained the benefits of the LOC over parental guarantees. *Id*. at 21.

After reviewing the Company's responses provided in surrebuttal testimony, Staff has no objection to ComEd's proposed collateral requirements. ComEd clarified that investment grade large load customers are not required to post 100% of the required collateral. ComEd Ex. 5.0 at 20. Staff states that the current credit evaluation and risk screening process used by Exelon credit group provides adequate flexibility for creditworthy LDPACs to meet the security requirements. Staff no longer recommends further detail be added to the tariff language as originally proposed; as noted in Staff's rebuttal testimony, flexibility is needed with regard to collateral requirements. Staff Ex. 4.0 at 10. Staff recommends the Commission approve ComEd's proposed amendments related to deposits and collateral in its GT&C and Rider DE tariffs.

c) AG's Position

Regarding the enhanced engineering deposits, the AG does not necessarily oppose such deposits but believes they should not be refunded to the extent that ComEd incurs actual engineering costs. ComEd will refund these engineering deposits once the customer either posts a deposit under Rider DE or service commences and a TSA is on file at FERC, whichever is earlier. ComEd Ex. 2.0 at 10. The customer will receive the engineering deposit refund or release of the LOC, if applicable, after ComEd has taken out the customer's share of cluster study costs, any non-standard engineering costs, or the engineering costs incurred if the project is canceled. *Id*. at 10.

ComEd also proposes to require deposits "sufficient to secure the costs of procurement of long-lead materials required" for the Large Demand Project. ComEd Ex. 2.0 at 10. These deposits are also refundable when the customer either begins taking service or the submission of a deposit under Rider DE, whichever is earlier. ComEd Ex. 2.0 at 11.

While the AG appreciates the rationale for ComEd's proposals, the AG argues for modifications to better protect consumers. Specifically, the deposits for engineering studies should not be refundable to the extent that any actual engineering costs are incurred for the project, whether the costs are standard or non-standard. Additionally, Large Demand Projects that require long-lead materials should be required to pay the full cost of materials, in full when ordered.

The AG notes that NRG's Initial Brief describes three concerns it has with ComEd's proposed changes to the GT&C. The AG states that one of NRG's concerns is that ComEd has not presented "sufficient evidence" that its proposed tariff changes "would provide the appropriate balance between protecting its customers and attracting large load customers to Illinois." NRG IB at 20.

The AG disagrees with NRG that ComEd's proposal protects consumers too much. Rather, ComEd's proposal should go farther to ensure that existing customers are held harmless from the costs incurred to serve Large Demand Projects. ComEd's existing tariffs, most notably Rider NS and Rider ZSS – Zero Standard Service ("Rider ZSS"), already provide a mechanism to directly assign the cost of facilities and services that are "larger, more, and different" than standard facilities and services. *See* GT&C, ILL. C. C.

No. 10, 2nd Rev. Sheet No. 156; Rider NS, ILL. C. C. No. 10, 3rd Rev. Sheet No. 277. The AG states the record in this case is clear and extensive that the facilities and services necessary for Large Demand Projects are "larger, more, and different" than what is required to serve even ComEd's existing large customers. Thus, the AG argues that, contrary to NRG's contention, Large Demand Projects should be paying all of the costs to study, design, and construct the necessary infrastructure to connect themselves to the grid rather than attempting to "balance" the responsibility for such costs on the backs of existing customers.

d) JNGO's Position

JNGO support the AG's proposals to modify ComEd's proposed deposit requirements to better protect consumers. JNGO assert the AG's modifications are more protective of other customers and adhere to the Act's cost-causation principle that "the cost of supplying public utility services [should be] allocated to those who cause the costs to be incurred." 220 ILCS 5/1-102(d).

e) Commission Analysis and Conclusion

ComEd proposes to amend its GT&C to clarify that each LDPAC will be subject to two deposits: (1) a security deposit to cover the costs ComEd will incur to conduct preliminary planning and engineering analyses, inclusive of the Cluster Study; and (2) a deposit sufficient to secure the costs of procurement of long-lead materials required for the project. ComEd Ex. 2.0 at 9-10; ComEd Ex. 1.01 at 12, 16. Currently, the Company requires a flat $1,000,000 deposit for all large load applications. However, the Company sufficiently demonstrated this requirement is no longer adequate given the scale and frequency of LDPACs in its service territory. ComEd Ex. 1.0 at 12-14 (currently, 500 MW projects are subject to the same deposit requirement as 1,000 MW projects). The Commission agrees with ComEd that deposits should be relative to the size of the LDPAC's needs. *See id.* Under the revised tariff, the security deposit for projects requesting 50 MW or more will be based on the maximum kilowatts delivered ("MKD") in the customer's load ramp starting at $1,000,000 "plus an additional $500,000 for each whole 100 MW increment above 200 MW." ComEd Ex. 2.0 at 9. The LDPAC must also provide an Acceptable LOC for any amount exceeding $2,000,000. ComEd Ex. 1.01 at 16.

The second proposed deposit applicable to LDPACs will secure the costs of procuring long-lead materials, "such as circuit breakers or transformers, required for that customer's project, as determined by ComEd." ComEd Ex. 2.0 at 10; ComEd Ex. 1.01 at 12. ComEd argues this change will account for risks and resource commitments required for each specific project. *Id.* at 11.

ComEd will use its existing practices to refund both GT&C deposits to the LDPAC. ComEd Ex. 1.0 at 15. The initial security deposit will be refunded when service commences or when the LDPAC provides the separate Rider DE deposit and files a TSA with FERC, whichever is earlier. ComEd Ex. 2.0 at 10. Refund of the initial security deposit will not include the sum of: (1) the LDPAC's share of the cost of the Cluster Study; (2) the cost of actual non-standard engineering costs; and (3) the cost of any other actual engineering costs attributable to a canceled project. *Id.*; *see also* ComEd Ex. 1.01 at 16. The long-lead deposit, less any amount determined by the Company as covering non-

standard facilities, will be refunded to the LDPAC "upon commencement of permanent service and the submission of any deposit under Rider DE." ComEd Ex. 1.01 at 12; ComEd Ex. 2.0 at 11.

The Commission agrees with Staff and finds that ComEd's proposed revisions to the deposit requirements for LDPACs, except as noted below, are reasonable and are a better match for the increasing scale of large load projects than the current flat fee collateral requirements. Specifically, a deposit structure tied to the MKD in a customer's projected load ramp more accurately aligns the customer's deposit with the engineering and planning resources required to evaluate the request. This sliding-scale approach provides appropriate incentives for customers to submit realistic and supportable demand forecasts and helps mitigate the risk of speculative or inflated requests that could lead to inefficient planning or unnecessary system investment. The Commission also finds reasonable ComEd's proposal to require customers to provide an Acceptable LOC for any portion of an engineering deposit that exceeds $2,000,000.

The Commission finds ComEd's revision to require a deposit sufficient to cover the cost of long-lead materials properly accounts for the unique commitments and resources needed to serve LDPACs. The proposed deposit to cover long-lead materials is approved to ensure that other customers are not exposed to stranded costs or unnecessary upgrades should an LDPAC not proceed.

The Commission further finds that ComEd's existing process for refunding the GT&C deposits is reasonable. The Commission approves codifying the process in tariff language to improve clarity for customers.

For these reasons and based on the full record in this proceeding, the Commission finds ComEd's proposed deposit-related amendments to its GT&C tariff just and reasonable. Accordingly, the Commission adopts ComEd's proposed revisions to the deposit requirements for LDPACs, as clarified in this Order. As discussed in Section VI.A.8. below, the Commission expects parties to continue considering additional, more direct ratepayer protections related to LDPACs.

The Commission finds ratepayers are adequately protected from risks associated with the initial engineering analysis and acquisition of long-lead materials by the revised deposit requirement if the project is canceled. The Commission remains concerned about the risk of significant capital costs from large load projects that are abandoned or energized going into rate base. The AG's proposals to address these costs are further discussed in Sections V. and VII.A.8.

V. COMED'S PROPOSED REVISIONS TO RIDER DE - DISTRIBUTION SYSTEM EXTENSIONS ("RIDER DE")

A. ComEd's Position

1. ComEd Proposal

ComEd explains that Rider DE identifies the conditions under which ComEd requires a deposit, either in the form of an LOC or cash, to extend its distribution system to provide standard electric service to a customer's premises and identifies the method ComEd uses to determine the amount of any such deposit and the conditions under which the deposit is drawn-down and/or refunded. ComEd Ex. 2.0 at 3; ComEd Ex. 4.0 at 21.

ComEd further explains that the purpose of Rider DE is to provide financial assurance that reduces risk to other customers that might arise if the standard facilities constructed to serve a particular customer turn out to be under-utilized over time. ComEd Ex. 4.0 at 22.

ComEd states that Rider DE is straightforward. For example, ComEd notes that when it needs to extend its distribution system to serve a new customer's proposed load or to serve a proposed load increase for an existing customer, Rider DE is the mechanism to determine if a deposit is needed from the customer prior to ComEd constructing the distribution system extension. ComEd Ex. 2.0 at 15. Moreover, ComEd maintains that the current tariff provides an option for a customer to qualify for additional credit towards a distribution system extension if the customer passes a credit risk assessment based upon the cost of the extension and expected revenues to determine if a deposit is required. *Id.* at 15. ComEd further explains that if it collects such a deposit, Rider DE provides the framework for annual refunds for up to ten years to the depositor based on actual delivery service revenues associated with the distribution system extension. *Id.* at 15. Furthermore, ComEd notes that depending on the amount of the investment for service, typically during the ten-year refund period, if the customer's actual load is equal to or greater than their proposed load, or if they meet the requirements for an accelerated refund, their deposit will be fully refunded. *Id.* at 15. ComEd states that if the customer's actual load falls short of their proposed load, ComEd will retain a portion of their deposit. *Id.* at 15. Thus, the formulas in the current Rider DE determine deposit and annual refund amounts and provide financial protection to ComEd's customer base for distribution system extension costs that are not fully utilized. *Id.* at 15.

ComEd proposes revisions to Rider DE to (i) define extensions subject to Rider DE to include "additional construction or investment in [ComEd's] existing distribution system necessary to provide standard electric service to the premises," and for certain large demand customers, include standard facilities installed on that customer's premises; and (ii) permit ComEd to accept an LOC when the costs of an extension exceed $2,000,000. *Id.* at 3. ComEd asserts that as demonstrated by the record evidence, and discussed in detail below, ComEd's proposed revisions to Rider DE are just, reasonable, and non-discriminatory, and the Commission should approve them in full.

ComEd first proposes to modify the facilities that are subject to a deposit requirement by revising the Overview section of Rider DE to require Rider DE deposits submitted by LDPAC to include ComEd's standard facilities installed on the premises in addition to the standard facilities extended to the premises. *See* ComEd Ex. 2.0 at 15-16 (*citing* ComEd Ex. 1.03 at 6). ComEd explains that under the proposed Rider DE provision, for applicants with projected MKD that equals or exceeds 50 MW within ten calendar years, Rider DE deposits will include ComEd's standard facilities installed on the premises in addition to the standard facilities extended to the premises. *Id*. at 16 (*citing* ComEd Ex. 1.03).

Additionally, ComEd explains that the purpose of Rider DE is to provide financial assurance that reduces risk to other customers that might arise if the standard facilities constructed to serve a particular customer turn out to be under-utilized over time. ComEd Ex. 4.0 at 22. ComEd notes that for the majority of ComEd's customers, standard facilities include the wire or cable connecting their meter to the ComEd system. *Id*. at 22. ComEd

states that in the case of some larger customers, the standard facilities—in addition to wire or cable—also include a transformer deemed an Electric Service Station ("ESS"). *Id.* at 22. ComEd further explains that in the case of a large load customer served at 138 kV or higher, standard facilities include a high-voltage ESS consisting of high voltage switches, transformers, and associated facilities, which can cost up to $50 million. *Id*. at 22. ComEd maintains that it is common for large load customers to desire or require ComEd to place such facilities on property owned by the customer. *Id*. at 22.

ComEd notes that while current Rider DE deposit requirements provide adequate customer protections for standard distribution extensions for the vast majority of ComEd customers (who do not generally require financially material on-premises facilities), Rider DE does not currently protect other customers from the risks associated with the significant standard on-property facilities described above. ComEd Ex. 6.0 at 4; *see also* ComEd Ex. 1.0 at 17. Thus, to account for this, ComEd proposes to revise Rider DE to cover a Large Demand Customer's standard on-site facilities, which is a fair and balanced way to satisfy the customer's request for service with ComEd's need for financial assurance. ComEd Ex. 4.0 at 22; *see also* ComEd Ex. 1.0 at 17. ComEd asserts that all customers should continue to be entitled to standard on-premises facilities, but large load customers should also provide the same level of protection to other customers for those on-premises facilities as they currently do for off-premises extensions. ComEd Ex. 6.0 at 4-5. Furthermore, ComEd states that as with off-premises facilities, this is best accomplished through the deposit mechanism, because the deposit protects other customers from potential adverse rate impacts if the load of the customer driving the investment does not materialize, and leverages ComEd's existing protocols for the receipt, tracking, and return of Rider DE deposits. *Id*. at 5; *see also* ComEd Ex. 1.0 at 17. Thus, ComEd explains that its proposed revision requiring Rider DE deposits submitted by LDPACs to include ComEd's standard facilities installed on the customer's premises is just and reasonable, as it not only affords certainty to customers, but also stability to ComEd. *See* ComEd Ex. 6.0 at 5.

Second, ComEd proposes revising the LOC section of Rider DE to require applicants and retail customers with a Rider DE deposit amount of $2,000,000 or more to provide a qualifying Acceptable LOC in lieu of a deposit. ComEd Ex. 2.0 at 16 (*citing* ComEd Ex. 1.03 at 7); *see also id.* at 17 (*citing* ComEd Ex. 1.03 at 5). ComEd states that these revisions align with the proposed revisions to the GT&C explained above. ComEd Ex. 2.0 at 17; ComEd Ex. 1.0 at 17.

ComEd states that a variety of alternative proposals regarding Rider DE were raised by intervenors throughout this proceeding, ranging from proposals to leave Rider DE unchanged to requiring payment for standard facilities under ComEd's Rider NS. *See, e.g.*, ComEd Ex. 4.0 at 24 (*citing* AG Ex. 1.00 at 20, 39-40; JNGO Ex. 3.0 at 10, 18). ComEd witness Perkins addressed these alternative proposals in his rebuttal and surrebuttal testimony, explaining why such alternative proposals were not feasible or practical, and identifying other reasons such alternative proposals should be rejected by the Commission. *See* ComEd Ex. 4.0 at 21-26; ComEd Ex. 6.0 at 4-14.

ComEd explains that contrary to the assertions of several intervenors, ComEd's limited modifications do not alter long-standing cost allocation principles, expand Rider DE to non-standard facilities, or create undue barriers to development. *See* NRG IB at

21-25; *see also* AG IB at 20-26; JNGO IB at 13. ComEd asserts that the proposed changes provide transparency and financial safeguards consistent with the Act's cost causation and just-and-reasonable standards. *See* 220 ILCS 5/1-102(d); *see also* 220 ILCS 5/9-201(c). ComEd also notes that Staff agrees, stating that ComEd's surrebuttal testimony alleviated and addressed many of Staff's initial concerns and ultimately recommends that the Commission approve ComEd's Rider DE proposal. Staff IB at 13. More specifically, Staff observed that expanding Rider DE's deposit requirements serves as an "important consumer protection" mechanism and important step in the provision of service to Large Demand Projects by preventing undue cost shifts. *Id.* at 14 (*citing* Staff Ex. 2.0 at 3). ComEd further points out that Staff recommends the Commission accept ComEd's proposal to expand the definition of Rider DE to include on-premises equipment because it closes a current "loophole" in where a particular customer's equipment is—on or off-premises—and thus results in a fair and balanced proposal. *Id*. at 15 (*citing* Staff Ex. 2.0 at 16; ComEd Ex. 4.0 at 22). ComEd observes that, aside from Staff, different intervenors maintain various and conflicting views. *See* ComEd Ex. 6.0 at 4. ComEd notes that NRG takes the position that ComEd's Rider DE should remain as it is and ComEd should address enhanced Rider DE charges designed to protect customers in a future docket. NRG IB at 25; NRG Ex. 2.0 at 7. ComEd explains that such a proposal would entail NRG continuing to receive standard off-property facilities while not being required to post deposits for on-property facilities, unjustly leaving other customers at risk for those costs. ComEd Ex. 6.0 at 4. Accordingly, ComEd asserts that NRG's proposal to keep Rider DE unchanged runs afoul of the Act's cost-causation principles. 220 ILCS 5/1-102(d).

Next, ComEd notes that NRG's proposal ignores the fact that the problems Rider DE addresses are radically changing. ComEd observes that Rider DE must be modified to account for the reality that both ComEd and Illinois currently face. *See* ComEd Ex. 1.0 at 5-6 (illustrating the "accelerated and exponential" growth of large demand projects). ComEd states that its proposal not only accounts for the new reality of "accelerated and exponential" growth of large demand projects but also follows the Act's mandate regarding cost-causation. 220 ILCS 5/1-102(d).

ComEd observes that NRG's position on this issue conflicts with those of the AG and the JNGO, who each suggest that Rider DE should be amended so that large load customers are subject to Rider NS instead of Rider DE. ComEd Ex. 6.0 at 4. Both the AG and JNGO proposals would require large load customers to pay 100% of the initial investment costs of distribution facilities that serve them, up front. AG IB at 20-26; JNGO IB at 13, 31. ComEd maintains that, setting aside the misguided use of Rider NS for standard facilities (which is not in customers' interest), the widely recognized need to protect customers from distribution extension costs demonstrates that this issue is ripe for Commission action and should not be deferred to some future proceeding. ComEd explains that for the reasons set forth in ComEd's Initial Brief and testimony, ComEd proposed limited modifications to Rider DE to (i) strengthen deposit and collateral protections for new, large load projects, and (ii) ensure that the costs and risks associated with such unprecedented customer requests are not borne by existing ratepayers. *See* ComEd IB at 16-20; *see also* ComEd Ex. 2.0 at 15-16; ComEd Ex. 4.0 at 22.

2. AG Proposal

ComEd explains that Rider NS applies when a customer requests larger, more, or different distribution facilities than those considered to be "standard" based on the definition in ComEd's GT&C. ComEd Ex. 4.0 at 24 (*citing* ILL. C. C. No. 10, 5th Rev. Sheet No. 155). ComEd asserts that the AG continually uses the term "larger, more, and different" which is not the proper definition under Rider NS. *Compare* AG IB at 24 *with* ComEd Ex. 4.0 at 24. ComEd notes that the definitional inaccuracy undercuts the AG's own argument that all large demand projects are "larger, more, and different" from what can be considered standard service. *See* AG IB at 19, 24-25. ComEd avers that by attaching a more prescriptive definitional provision to Rider NS, rather than the actual definition stated in ComEd's ratebook, the AG improperly creates a strawman argument—one which the Commission should disregard.

Relatedly, ComEd notes that the AG's and JNGO's proposals to categorize all large load customers as non-standard (*see* AG IB at 25-26; *see also* JNGO IB at 13, 31) improperly ignore the realities of ComEd's system, which consistently provides standard service to large customers, and existing, effective rate designs which recover their costs appropriately. ComEd asserts that at bottom, all ComEd customers are entitled to a set of standard facilities when they initiate service, ComEd's existing tariffs define the facilities considered standard for various types of customers, and the costs of providing such standard services are recovered by ComEd through base rates. ComEd Ex. 6.0 at 6. The AG does not refute this. *See* AG IB at 20-26.

ComEd states that JNGO and the AG also ignore that many of the large load customers to which the revised tariffs will apply will be served at 345 kV, meaning that they will be served under ComEd's Rider ZSS. Customers served under Rider ZSS do not receive any facilities as "standard"; all facilities serving these customers are considered "non-standard." *See* ComEd Ex. 3.0 at 4-5. ComEd further explains that the existence of Rider ZSS means that the JNGO and AG proposals are functionally limited to only customers served at 138 kV – but that type of customer is more common on ComEd's system historically, and ComEd has long offered these customers "standard" facilities.

ComEd also notes that these rates, rate designs, and the definitions of "standard" and "non-standard" facilities have been repeatedly approved on grounds that they allocate costs in accordance with the accepted cost-of-service study. ComEd Ex. 6.0 at 6.

ComEd explains that with respect to transmission facilities costs, the JNGO and AG proposals ignore the benefits the system bestows to all customers. As ComEd witness Perkins testified, (i) ComEd's entire transmission system serves all customers, regardless of what customer's load was the driver of any particular investment; (ii) in the case of large load customers especially, it can be very difficult or even impossible to attribute even the need for particular transmission investments to particular end-use customers because investments can and are often driven by aggregate load and multiple requests and there is no good basis for individualizing the associated costs; and (iii) use of both the transmission and distribution systems can change over time, divorcing "up

front" payments for standard service from cost causation and benefit. *Id*. at 7-8 (*citing* ComEd Ex. 4.0 at 7-8).

ComEd asserts that rather than refuting these discrete benefits, which NRG witness Dauphinais pointed out as well, the AG simply encourages the Commission to "disregard th[e] argument." *Compare* AG IB at 25 *with* ComEd Ex. 6.0 at 9-11. ComEd maintains that the AG unpersuasively claims that ComEd does not consider the proper treatment of costs to serve new customers. AG IB at 25. ComEd avers that this too is inaccurate. ComEd presented an illustrative example demonstrating why treating all large load customers as inherently non-standard presents an unworkable framework. In this example, the first new customer to locate in an area would be required to bear 100% of the costs of facilities that were extended to serve them, via Rider NS and/or some other means of funding these investments through a Contribution in Aid of Construction ("CIAC"). ComEd Ex. 6.0 at 11. ComEd explains that under this example, ComEd made clear that all following customers would receive the benefits of the facilities, which the first customer already installed and funded, while subsequent customers would bear none of the costs. *Id*. at 11. ComEd observes that the specific example was not addressed by either the AG or JNGO. *See* AG IB at 20-26; *see generally* JNGO IB. ComEd asserts that neither the AG nor JNGO has carried their respective burden to substantiate its alternate proposal to treat all large load customers as non-standard, and thus the Commission should reject these proposals. *See Ill. Bell Tel. Co.*, 327 Ill. App. 3d at 776; *see also City of Chi.*, 133 Ill. App. 3d at 442-443. ComEd claims that it has demonstrated that those proposals are risky and unfairly allocate costs.

3. JNGO Proposal

ComEd urges the Commission to reject JNGO's proposals related to clean energy and resource adequacy issues, explaining that these recommendations have little to do with the tariff revisions ComEd has proposed and exceed both the scope of this docket and the Commission's statutory authority. ComEd explains that although JNGO claim their recommendations fall within the Commission's "general supervision" over public utilities, none of the proposals are tethered to the tariff amendments under consideration, and none are supported by any statute, regulation, or precedent granting the Commission authority to impose them here. *See* JNGO IB at 33-35.

First, ComEd opposes JNGO's recommendation that ComEd require prospective large load customers to submit "clean energy supply plans" as part of their service applications and use those plans to accelerate interconnection for customers who "bring their own clean generation." JNGO Ex. 1.0 at 27, 28; JNGO IB at 15-16. ComEd points out that this proposal would effectively prioritize a preferred subset of customers over others in the provision of delivery service—an outcome entirely outside the narrow purpose of this proceeding, which is limited to defining LDPAC and establishing requirements necessary to protect other customers from cost shifts. *See* ComEd Ex. 1.0 at 2. ComEd states that determining which customers "deserve" accelerated treatment based on their supply choices has nothing to do with ComEd's delivery obligations and would create an unprecedented, discriminatory bifurcation of service. *See* 220 ILCS 5/8-101 (requiring ComEd to provide electric service to customers "without discrimination and without delay").

ComEd notes that multiple parties agree that JNGO's proposal is inappropriate here. For example, NRG witness Dauphinais observed that broader clean-energy policy questions—such as whether certain resource mixes should be favored—are matters for the General Assembly or for Commission proceedings specifically concerning power procurement or renewable energy access. NRG Ex. 2.0 at 14. ComEd also agrees with Constellation's explanation that resource adequacy issues are already governed by PJM's markets and are not ComEd's responsibility. Constellation IB at 8-9. ComEd observes that IIEC similarly recommends rejection, emphasizing that ComEd is a delivery and distribution utility, not an energy supplier; that JNGO's proposal lacks any standards, enforcement mechanism, or consequence for non-compliance; and that such a requirement would be unprecedented in Illinois. IIEC IB at 2-6.

ComEd asserts that the Commission has ample tools—both formal and informal—to examine resource adequacy issues when appropriate, and ComEd fully supports such efforts. ComEd Ex. 5.0 at 28. But ComEd avers that a delivery-service tariff case is not the vehicle to impose supply-planning mandates on customers. *Id.* ComEd further explains that, as discussed above, the Commission cannot require a utility to offer a new service not expressly authorized by statute. 220 ILCS 5/16-103; *Citizens Util. Bd.*, 2016 IL App (1st) 152936. ComEd stresses that JNGO cite no statute, rule, or Commission decision that would permit the Commission to require customers to file supply plans or that would permit ComEd—a delivery utility—to review or evaluate them. ComEd also emphasizes that the Commission's "general supervision" authority, 220 ILCS 5/4-101, does not expand the Commission's powers beyond those granted by the legislature, nor does it override the well-established principle that the Act may not be enlarged by implication. *See Bus. and Prof'l People for the Pub. Interest v. Ill. Com. Comm'n*, 136 Ill. 2d 192, 201 (1989).

Second, ComEd urges the Commission to reject JNGO's recommendation that the Commission consider the Renewable Portfolio Standard ("RPS") implications of ComEd's proposed tariffs. JNGO IB at 15-16; JNGO Ex. 1.0 at 20-21. ComEd explains that RPS obligations fall on suppliers and procurement entities—not on ComEd as a delivery-services utility—and nothing in the proposed tariff revisions affects the procurement or generation of renewable energy or renewable energy credits ("RECs"). ComEd Ex. 3.0 at 40. ComEd states that just because Illinois may face challenges in meeting future statutory goals, that does not convert the delivery-service tariff revisions at issue in this case into an RPS or supply-planning proceeding. *See id.* ComEd states that IIEC correctly observes that JNGO identify no legal authority obligating ComEd or the Commission to modify this tariff case to address statewide RPS compliance. IIEC IB at 5.

Third, ComEd opposes JNGO's proposal for ComEd to adopt a "flexible interconnection" option that would provide non-firm or interruptible service to large load customers. JNGO IB at 13-16; JNGO Ex. 2.0 at 15-16. ComEd notes that flexible interconnection is a topic currently under discussion at regional, national, and federal levels, and ComEd welcomes further exploration of the concept in the appropriate forum. ComEd Ex. 3.0 at 42. But ComEd explains that creating an entirely new class of interruptible, non-firm transmission-level service far exceeds the scope of this docket and would require detailed policy, operational, and market analysis. ComEd also states that

a flexible interconnection option would be a new service, not required by statute, which ComEd cannot be mandated to provide. 220 ILCS 5/16-103; *Citizens Util. Bd.*, 2016 IL App (1st) 152936. ComEd emphasizes that the Commission should not delay necessary customer protections while waiting to address broad, prospective design concepts. ComEd Ex. 3.0 at 42. ComEd observes that IIEC also recommends that the Commission reject this proposal, stressing that ComEd is neither responsible for overseeing resource adequacy nor in a position to determine when service should be interrupted; that the proposal overlaps with existing PJM and curtailment-service programs; and that interruptible service of this scope would be unprecedented and potentially operationally problematic. IIEC IB at 6-9.

ComEd asserts that JNGO's remaining arguments attempting to justify these recommendations fare no better. Specifically, ComEd notes that JNGO argue that the Commission must address its proposals here because the legislature "may never do so." JNGO IB at 34-35. ComEd avers that this speculative reasoning cannot expand the Commission's statutory powers or transform this tariff docket into a vehicle for broad energy-policy redesign. ComEd also points out that JNGO invoke ComEd's obligation to serve, suggesting that its proposals tie to tangible differences in service and therefore do not run afoul of the prohibition against discrimination. JNGO IB at 37-38 (relying on 220 ILCS 5/8-101). But ComEd stresses that the very differences JNGO highlights—such as location, load profile, and timing—apply equally to all large load customers and do not justify creating favored categories or discriminatory fast-track service for only a subset of those customers. ComEd further explains that JNGO's citation to a separate tariff proceeding is misplaced as that docket concerns statutory mandates not at issue here, remains pending before this Commission, and is not part of the record in this case.

In sum, ComEd states that JNGO's proposals are beyond the scope of this docket, beyond ComEd's statutory role as a delivery utility, unsupported by law, and contradicted by the testimony of multiple parties. ComEd stresses that none bear on whether the Commission should approve the tariff revisions ComEd has proposed, and all should be rejected.

4. City Proposal

ComEd observes that the City claims that ComEd's Rider DE modification is confusing, vague, and ambiguous. COC IB at 8. ComEd states that while ComEd appreciates the City's well-intentioned proposal, ComEd does not agree with its characterizations. ComEd asserts that the revision to Rider DE is neither vague, ambiguous, nor confusing because it clearly indicates that the new provisions only apply to projects with an actual or proposed MKD equal to or in excess of 50 MW. *See* ComEd Ex. 1.04 at 2. ComEd avers that such modification tracks with ComEd's concurrent modification to the GT&C language where it defines "Large Demand Project Applicant or Customer." ComEd Ex. 1.01 at 10.

ComEd asserts that the City concedes this point in its own Initial Brief. *Compare* COC IB at 4 *with* COC IB at 9. ComEd explains that because "Large Demand Project Applicant or Customer" is already previously defined, there is no need to restate the definition once more in the Rider DE modification.

B. Staff's Position

1. ComEd Proposal

The Commission should approve ComEd's proposed tariff amendments to Rider DE. ComEd states that "Rider DE is a mechanism to determine if a deposit is needed from the customer prior to ComEd constructing the distribution system extension." ComEd Ex. 2.0 at 15; *see also* Staff Ex. 1.0 at 8. The amendments to Rider DE modify which facilities are subject to a deposit if ComEd requires a deposit for large load projects, specifies the mechanism for deposits equal to or over $2 million, and defines the requirements for an Acceptable LOC. Staff Ex. 3.0 at 7; ComEd Ex. 1.0 at 16.

Like ComEd's amendments to its GT&C tariff, the Rider DE deposit requirement provides important consumer protections as a first step in the process of addressing the provision of service to LDPACs. Staff Ex. 2.0 at 3. ComEd states that in the event a large load project fails to materialize, these modifications will help prevent the costs from those projects being shifted to ratepayers. Staff Ex. 3.0 at 7. The proposed modifications are reasonable and should help reduce the risk of cost shifting and protect non-LDPAC ratepayers by strengthening the deposit and collateral requirements for large load projects to require them to provide up-front financial security that ComEd can draw upon if a project fails to proceed and to offset the unrecovered investment. *Id*. at 7-8. While the effectiveness of these protections will depend on how consistently ComEd applies these provisions in practice, these provisions are important to avoid stranded assets that remain in rate base but are no longer supported by LDPAC usage. *Id*. at 8. Staff further addresses the collateral requirements of Rider DE in Section IV.B, *supra* and the on-premises equipment component of the revision to Rider DE as detailed below.

ComEd proposes revisions to its Rider DE deposits to ensure recovery of on-property distribution costs, in addition to off-property extension distribution costs. ComEd argues that it may be random whether equipment is on-premises or off-premises, and that including on-premises equipment as part of the Rider DE deposit "is a fair and balanced way to satisfy the customer's request for service with [ComEd's] need for financial assistance." ComEd Ex. 4.0 at 22.

Staff argues that ComEd has provided sufficient justification for its amendments to Rider DE. ComEd responded in its surrebuttal testimony that NRG appears to be questioning the need to incorporate on-premises facilities into Rider DE deposits, and ComEd confirms that the need exists. ComEd Ex. 6.0 at 5. "The facilities to serve large-load customers are being designed, and while precise costs will not be known until the facilities are constructed, ComEd estimates these costs to install on-premises high voltage switches, transformers, and associated facilities will be well over $10 million for a single customer." *Id.* ComEd explained in detail why the proposed amendments to Rider DE are just and reasonable; ComEd is not required to provide the specific data NRG requests to meet its burden. *See, e.g.*, ComEd IB at 16-19; *see* NRG IB at 23-24.

Staff recommends the Commission approve ComEd's proposed tariff amendments that include on-premises equipment as part of the Rider DE deposit calculation and modify the collateral requirements to require an Acceptable LOC for extension costs over $2 million. Staff Ex. 2.0 at 16. The Rider DE deposit amount should not be determined by the location of a piece of equipment, especially if the same or similar piece of

equipment may be considered on-premises for one customer and off-premises for another customer. *See id.* To ensure Rider DE costs are not unfairly shifted to non-LDPAC ratepayers, Staff recommends the Commission close this "loophole" and approve ComEd's proposed tariff modification.

2. AG Proposal

Staff notes the AG asserts that ComEd's proposal "to merely tweak" Rider DE to extend the deposit requirement to on-premises facilities is "insufficient to address the extraordinary costs" caused by LDPACs. AG IB at 16. The AG argues that the costs associated with connecting large load customers to the grid should not be treated as "standard" costs and recovered under Rider DE; instead, the costs should be treated as "non-standard" as the facilities and costs associated with those facilities are "larger, more, or different," and should therefore be recovered under Rider NS. *Id.* at 20-21. The AG urges the Commission to require ComEd to amend Rider NS to expressly cover the costs to connect LDPACs, which would require the LDPAC to pay, in full and in advance, the costs of connecting to the distribution grid, including line extensions and on-premises facilities. *Id.* at 24.

Regarding the AG's proposals supported by JNGO, Staff agrees that the Commission should follow cost-causation principles. Staff Ex. 3.0 at 10. However, the Commission must balance many considerations; it must ensure customers are protected from cost shifts, that ComEd is able to appropriately recover costs, and that it does not create unnecessary competitive barriers for LDPACs so as to disincentivize investment in Illinois, among other considerations. To fully and adequately address issues related to cost recovery for an entire class of customers, the Commission should analyze these proposals in a future separate proceeding as proposed by Staff. *Id.* at 10, 14-15.

This proceeding is limited to amendments to ComEd's Rider DE and GT&C tariffs. While Staff recognizes the Commission's authority to approve language "in lieu" of what is proposed (*see* 220 ILCS 5/9-210(c)), the intervenor proposals for amendments that apply to an entire category of customers (i.e., LDPACs) involving completely different tariffs than the ones at issue and suspended by the Commission for investigation in this proceeding (*e.g.*, Rider NS), are outside the scope of this investigation and unsupported by the record. Staff recommends these cost recovery issues be addressed in a future proceeding, or if applicable, in another, appropriate Commission docket. As further addressed in Section VII.A, there are benefits to addressing LDPAC issues holistically in a separate proceeding after a reasonable period of time in which ComEd can gain data and experience connecting LDPACs; however, to the extent issues fall within the scope of other Commission proceedings, the Commission can address the issues in those forums as well.

Staff asserts ComEd's proposed modifications to Rider DE in this proceeding are an important first step to ensure ratepayers are protected from unnecessary cost shifts. Specifically, the amendments strengthen the deposit and collateral requirements for LDPACs, requiring them to provide up-front financial security that ComEd can draw upon if a project fails to proceed and to offset the unrecovered investment. Staff recognizes the concerns posed by the AG and JNGO, and the Commission should address their recommendations in Staff's proposed future proceeding, with the benefit of ComEd

garnering data and experience with connecting LDPACs. Staff therefore recommends the Commission approve ComEd's proposed amendments to Rider DE.

3. JNGO Proposal

Staff indicates JNGO argue that ComEd's proposed revisions to Rider DE are a step in the right direction, but more changes will be necessary to meet the Act's "just and reasonable" standard. JNGO IB at 18. Specifically, JNGO argue that ComEd's tariffs should be modified to "end the Company's practice of socializing the costs . . . to serve large load customers." *Id*. Consistent with the AG's recommendation, JNGO also recommend the Commission modify Rider NS to require ComEd's new LDPACs to pay upfront for all high voltage connection facilities. *Id.* at 31.

Staff recommends the Commission reject JNGO's proposal to include certain standardized inputs and technical requirements in ComEd's tariff related to the LDPAC application process, and to further consider these topics in a future proceeding as proposed by Staff. In its IB, JNGO recommend that the Commission approve ComEd's tariff revisions as a first step, but request that the Commission initiate a separate proceeding within 90 days to discuss the inclusion of technical requirements, among other topics addressed by JNGO. JNGO IB at 33. Staff disagrees with the timeline proposed by JNGO, as discussed in Section VII.A. However, to the extent the Commission considers this topic in the current proceeding, Staff generally addresses JNGO's proposals below.

JNGO raise grid reliability concerns associated with the rapid, unprecedented proliferation of LDPACs. JNGO IB at 6. JNGO argue that ComEd's study process does not include adequate, standardized technical data and recommends the Commission direct ComEd to undertake a review of its large load interconnection process and propose new standards to address emerging reliability risks. *Id*. at 8. JNGO recommend ComEd create a tariff appendix that includes a standardized data checklist, modeled after Appendix A in the Elevate/GridLab report, which must accompany any LDPAC application. JNGO Ex. 2.0 at 10. JNGO also request that LDPACs provide verified and validated models of their facilities to ComEd. *Id*.

In rebuttal testimony, Staff requested that ComEd, in its surrebuttal testimony, identify which of the standardized inputs from the Elevate/GridLab Appendix A it currently collects and explain why it does not collect other inputs. Staff Ex. 5.0 at 14. ComEd provided a copy of its current standard application for service (ComEd Ex. 5.01), to which the recommended inputs would apply. ComEd Ex. 5.0 at 5. ComEd stated that it has "significant concerns with the feasibility" of incorporating JNGO's suggestions into this process, expressing concern that fixed tariff requirements would interfere with ComEd's ability to adapt to evolving industry standards and system needs. *Id*. ComEd also emphasized that it already collects substantial technical information from its applicants and is continually evaluating data collection and modeling practices. *Id*. at 5-6.

Regarding JNGO's recommendation that LDPACs use verified and validated models as inputs in the LDPAC application, Staff requested the Company comment on the validity of whether verified or validated models reduce cost savings, reduce work time, and increase accuracy of the studies, and to provide more information on the standards it uses to perform modeling on large load facilities. Staff Ex. 5.0 at 16. The Company

stated that it is unlikely that utilizing such models would reduce time and cost or improve accuracy because ComEd would need to review customer-provided models at a level of detail that would minimize any potential incremental cost or time savings. ComEd Ex. 5.0 at 7. Further, customer-provided models may not align with ComEd and PJM's modeling standards or may lack necessary detail or accuracy required to be utilized as part of ComEd's system studies. *Id*.

After reviewing the Company's responses to Staff's requests for clarification, Staff recommends the Commission reject JNGO's proposal to include JNGO's standardized inputs in ComEd's tariff related to the LDPAC application process, and to further consider this topic in a future proceeding as proposed by Staff.

JNGO also recommend that ComEd adopt certain technical requirements, as ComEd's tariff does not explicitly require "ride-through performance metrics, harmonics limits, power factor/VAR capability, or explicit protection coordination requirements[,]" but it admits that Exelon's Transmission Facility Interconnection Requirements ("FIR") partially meets some of the aforementioned requirements. JNGO Ex. 2.0 at 13. JNGO claim that ComEd's FIR does not define the requirements for LDPACs and recommends the tariff explicitly adopt technical requirements for LDPACs, and that applicants meet the ComEd FIR document. *Id*.

Staff disagrees that ComEd should adopt technical requirements that are modifications to ComEd's FIR. ComEd already follows the transmission interconnection requirements for facilities as part of North American Electric Reliability Corporation ("NERC") Reliability Standard FAC-001-04 and it may be unnecessary to require reference to ComEd's FIR in the tariff. Staff Ex. 5.0 at 18. To the extent JNGO's suggestions overlap with ComEd's FIR, those requirements fall outside the scope of this proceeding. *Id*. If JNGO's recommendation for the technical requirements is approved by the Commission, additional language should be added consistent with JNGO's recommendation that failure to follow the requirements could result in curtailments and interruptions to prevent issues with the bulk power system. *Id*.

Staff also asked ComEd to address in surrebuttal testimony whether any of JNGO's proposed technical requirements conflict with its FIR, are more stringent than its FIR, or materially change its FIR. Staff Ex. 5.0 at 19. In surrebuttal testimony, ComEd stated that the issue is outside the scope of this proceeding and confirmed that requirements of the FIR include ride-through performance metrics, harmonics limits, power factor/Volt-Ampere Reactive ("VAR") capability, and other factors. ComEd Ex. 5.0 at 7. ComEd states that these factors should not be incorporated into the application process. *Id*. at 7-8.

After reviewing the Company's responses to Staff's requests for clarification, Staff recommends the Commission reject JNGO's proposal to include certain technical requirements in ComEd's tariff as these recommendations fall outside the scope of the proceeding and further consider this topic in a separate proceeding, potentially the future proceeding proposed by Staff. Staff Ex. 5.0 at 19. Specifically, because some of the technical requirements JNGO recommend overlap with ComEd's FIR, those recommendations could result in a change to ComEd's FIR itself, which is not appropriately addressed here. At this time, the record does not support the inclusion of

LDPAC-specific interconnection requirements; those interconnection requirements should be considered as part of a broader conversation about the FIR.

C. AG's Position

Along with the changes described above to its GT&C tariff, ComEd proposes changes to Rider DE. Taken as a whole, these changes are intended "to improve protections for other customers from potential costs and risks associated with" Large Demand Projects. ComEd Ex. 1.0 at 3. Specifically, ComEd contends that its tariff revisions are intended to ensure "that the broader ComEd customer base is protected to the greatest extent possible against stranded costs and cost shifting." *Id*. at 7. While the AG agrees with ComEd's stated goal, the AG asserts that ComEd's proposed changes to Rider DE do not fully address the risks to consumers posed by Large Demand Projects.

1. ComEd Proposal

The AG explains that a key source of potential "stranded costs and cost-shifting" is the cost to build the infrastructure needed to connect Large Demand Projects, both at the distribution and transmission levels. The costs of extending the distribution system to serve a new Large Demand Project, which are recovered under Rider DE, can be immense, frequently tens of millions of dollars for a single customer. *See* ComEd Ex. 4.0 at 22; ComEd Ex. 6.0 at 5. If the Large Demand Project causing such costs to be incurred does not ultimately take service at the projected level of demand or for a long enough period of time (or if the project does not come online at all), then under ComEd's proposal other customers will be required to pay the costs incurred by the utility. AG Ex. 17. While ComEd should be credited for recognizing the reality of these risks, and that the status quo is untenable, the AG argues that ComEd's proposal falls short of protecting consumers "to the greatest extent possible." ComEd Ex. 1.0 at 7.

The AG provides background on how tariffs operate today to understand ComEd's proposed tariff changes in this case. The AG explains that when a load customer (as opposed to a generator) seeks to connect to ComEd's grid, ComEd's position is that the customer is entitled to "a standard connection paid for by the utility." Tr. at 301. This standard connection (also referred to at times as "standard distribution facilities" or "standard service") for a retail customer includes:

> distribution facilities adequate to provide, at a single delivery point, the electric power and energy required by such retail customer. However, in certain individual situations, more than one delivery point is provided in a standard distribution facilities installation if the Company determines that the provision of such multiple delivery points is more economical, efficient, or reliable than an installation of a single delivery point.

GT&C, ILL. C. C. No. 10, 5th Rev. Sheet No. 155. The "electric power and energy required" by the customer for purposes of this analysis is the customer's highest MKD at a power factor of 85%. *Id*. Thus, as ComEd witness Perkins confirmed, "standard facilities" will vary based on the size of the customer as well as its usage and characteristics. Tr. at 281. For Large Demand Projects, the costs of these "standard"

facilities can be substantial: upwards of $50 million for a single project and in excess of $10 million on average. Tr. at 282, 361.

The AG explains that if the distribution system facilities do not currently exist, or need to be extended, to provide standard service to a customer, then such facilities are built subject to the terms of Rider DE. GT&C, ILL. C. C. No. 10, 2nd Rev. Sheet No. 156. Under Rider DE, customers are entitled to a "free" extension equal to the cost of obtaining up to 5,000 feet of three-phase overhead service, including any necessary delivery voltage transformer and associated protective devices. ComEd Ex. 1.04 at 1. To the extent the estimated costs of a standard service connection exceed the amount incurred for those facilities, the customer is required to pay a refundable deposit equal to the costs of the necessary facilities, less a "credit" for the free extension, which ComEd witness Perkins testified was equal to $250,000. Tr. at 303. The customer can then earn back the deposit for the cost of facilities exceeding the standard allowance over a period of 10 years by paying its distribution rates. Tr. at 304.

As ComEd witness Perkins confirmed, "Rider DE applies only to standard facilities." Tr. at 282. Because distribution extensions under Rider DE are considered standard facilities, ComEd treats them as utility investments that go into the Company's rate base. Tr. at 282-283. The Company receives a rate of return on such investments and recovers the cost pursuant to the applicable depreciation schedule. Tr. at 353; AG Ex. 2.0 at 8. As AG witness Seryak put it, under Rider DE "100% of the distribution system upgrade costs are added to rate base and therefore socialized as system costs to be recovered through rates." AG Ex. 1.00 at 16.

However, not all costs to connect and serve customers at the distribution level are considered "standard" and recovered through base rates. In some cases, customers applying for service request facilities that are "above and beyond" what ComEd considers to be standard service. Tr. at 301. Under ComEd's tariffs, facilities are considered non-standard if they are "larger, more, or different distribution facilities than those considered to be standard." GT&C, ILL. C. C. No. 10, 2nd Rev. Sheet No. 156. For example, when a customer requests that overhead facilities be placed underground, such facilities will be considered non-standard. *Id*. When facilities or service are considered "non-standard," the costs that exceed the standard service allowance are recovered under Rider NS. Rider NS, ILL. C. C. No. 10, 3rd Rev. Sheet No. 277. A critical distinction between "standard service" to which Rider DE applies, and "non-standard service" to which Rider NS applies, is that the costs for non-standard service are typically paid for directly, in advance, by the customer receiving such service and do not go into the Company's rate base. Tr. at 291.

Some customers are not entitled to any standard service because of their unique characteristics. All non-generator customers that take service at a voltage of 345 kV or above are subject to Rider ZSS. At least half of the Large Demand Projects in ComEd's pipeline would be subject to Rider ZSS and therefore not entitled to any standard distribution service. ComEd Ex. 3.0 at 4-5. The costs incurred to connect these customers to the distribution system are non-standard and recovered under Rider NS, meaning customers would pay "the entire cost of connection upfront, in cash." *Id*. at 5; *see also* Tr. at 275. This is equivalent to a CIAC. ComEd Ex. 3.0 at 5. As ComEd witness Leichtman confirmed, "customers taking service under Rider ZSS are paying directly for

the cost of the non-standard facilities that serve them; and therefore, those costs are borne solely by the requesting customer and are not, potentially borne by the ComEd customer base more broadly." Tr. at 142.

The AG contends that ComEd's proposal to merely tweak Rider DE to extend the deposit requirement to on-premises facilities is insufficient to address the extraordinary costs caused by Large Demand Projects. The AG explains that under ComEd's proposed modifications in this docket, it only seeks two changes to how it will treat distribution extension costs caused by Large Demand Projects. First, ComEd would change the collateral provisions to require a letter of credit for extension costs over $2,000,000. ComEd Ex. 2.0 at 16. As explained further below, the AG's view is that the LOC provisions in Rider DE should be irrelevant for Large Demand Projects because the costs to connect such customers should be treated as non-standard and recovered under Rider NS. Second, ComEd would modify Rider DE to apply its deposit requirements to on-premises facilities. *See* ComEd Ex. 2.0 at 15-16.

By making on-premises facilities subject to Rider DE, the AG asserts that ComEd would entrench and further extend its practice of treating the facilities required by Large Demand Projects as standard service. According to ComEd witness Perkins, facilities needed to provide service to a Large Demand Project include a high-voltage ESS that consists of "high voltage switches, transformers, and associated facilities," and Large Demand Projects often desire, or even require, that these facilities be placed on the customer's premises. ComEd Ex. 4.0 at 22. These facilities, which ComEd considers standard, can cost as much as $50 million. *Id*. at 22. ComEd witness Perkins testified that on-premises facilities such as an ESS "can be substantial" and "could be the majority of the cost" to connect a Large Demand Project. Tr. at 366. Today, ComEd only requires deposits for standard facilities extended to the customer's premises but does not require deposits for such facilities installed on the premises. *See* ComEd Ex. 2.0 at 15-16.

The AG states that, with ComEd's proposed changes, Rider DE would apply to these significant facilities installed on the customer's premises. As such, ComEd would be able to collect deposits for the costs of building these facilities. The AG argues that while this would undoubtedly be an improvement over a status quo where Rider DE deposits do not apply to facilities that "could be a majority of the cost" to connect a Large Demand Project, *see* Tr. at 366, ComEd's proposed changes do not go far enough.

The AG notes that ComEd's stated purpose for its proposed changes to both the GT&C and Rider DE tariffs is to protect existing customers from stranded costs and from subsidizing the costs to connect Large Demand Projects. While the AG agrees that these are laudable and critical goals, there are several ways in which ComEd's proposal falls short of its consumer protection purpose.

First, the AG claims that ComEd's proposal increases the costs borne by all consumers to connect Large Demand Projects because it would treat a substantial portion of the costs to connect such projects as "standard" and therefore socialized among all customers. As ComEd's own witnesses confirmed, standard costs to connect a Large Demand Project go into the Company's rate base and are recovered through rates charged to all customers. Tr. at 283. On the other hand, non-standard costs are charged directly to the Large Demand Project and do not increase the rates paid by other

customers. Tr. at 277. Thus, when consumers pay for unusually large "standard" facilities, ratepayers must "pay more than just the cost of distribution and transmission facility upgrades"; they are also paying the utility's cost to finance the upgrades through its cost of capital, including its return on equity (i.e., profit). AG Ex. 1.00 at 24.

Second, the AG argues that ComEd's proposal does not ensure full recovery of the costs of distribution investments from the Large Demand Projects that cause them. Rider DE requires the Large Demand Project to provide a deposit or other security associated with the cost to the Company of installing the necessary facilities, less a $250,000 credit (which would be recovered from all ratepayers). Tr. at 303-304. The Large Demand Project would then have the opportunity to "earn back" the deposit over 10 years, but if at any point between 5 and 10 years the customer's average monthly Maximum Kilowatts Delivered over a 12-month period is at least 75% of the originally projected demand, the letter of credit is no longer required. To illustrate, the relevant terms of Rider DE provide:

> For a situation in which (a)(i) five, six, seven, eight, nine, or, but no more than, ten years, respectively have elapsed since the date that an extension was placed into service, and (ii) the average portion of the monthly MKDs over the previous twelve (12) consecutive monthly billing periods established at the premises for the incremental electric power and energy for which such extension was provided is at least seventy-five percent (75%) of the originally projected kW requirement associated with such extension . . . then a [LOC] is no longer required.

ComEd Ex. 1.04 at 3. In other words, if the customer pays its rates and maintains at least 75% of its originally projected demand for a period of time, ComEd considers that to be "good enough[,]" and the financial security requirements will be forgiven, even if the payments do not equal the full amount of the original deposit.

Moreover, the AG argues that the Company's approach requires other ratepayers to bear the Large Demand Projects' credit risk because it relies on deposits and financial security instruments rather than upfront payment. AG Ex. 1.00 at 16. For example, if a project goes bankrupt, uses less than anticipated, or ceases operation prematurely, the utility can recover its remaining costs from other customers. Conversely, for non-standard service, the Large Demand Project would be required to pay the full cost before construction begins, putting the payment and financial risk on the Large Demand Project. *Id*. at 25. As ComEd admitted, "Rider DE deposits provide revenue security related to the investments necessary to serve a customer, they are not intended to 'cover the costs' of the investments." NRG Ex. 1.5 at 3.

Additionally, the AG notes that the amount of the deposit required under Rider DE does not include the full cost to ratepayers because it is based only on the costs incurred by ComEd to provide the facilities and does not include the Company's rate of return and depreciation schedule. AG Ex. 2.0 at 8. By placing investments to serve Large Demand Projects into rate base, the actual costs to ratepayers increase because the Company earns a return of and on its rate base, and the depreciation schedule for high voltage

assets is typically much longer than the 10-year period over which the customer requiring such assets would be required to pay them. *Id*. at 8; Tr. at 303.

Third, the AG contends that ComEd's proposed changes to Rider DE misapply the principles embedded within its own tariffs because Large Demand Projects are inherently non-standard. Under existing tariffs, facilities are non-standard if they are "larger, more, or different" service than other customers. The AG states the record evidence is overwhelming that the needs of Large Demand Projects are inherently larger, more, and different than those of other ComEd customers, and the facilities needed to connect Large Demand Projects should be categorically treated as non-standard.

Finally, the AG argues that ComEd's tariffs are vague because they afford ComEd too much discretion to determine what is standard versus non-standard service. Fundamentally, the analysis ComEd is required to undertake is whether facilities are larger, more, or different than standard facilities. Tr. at 290-291. But as Mr. Perkins admitted, the definition of standard service depends on what ComEd determines to be "appropriate for the customer's usage" and what is "appropriate to their size." Tr. at 280-281. In other words, non-standard service is anything that is larger, more, or different than what ComEd deems to be appropriate for the customer's size and characteristics. Even this sliding scale definition for standard service has its limits, however, because some customers are treated as categorically non-standard under Rider ZSS and other costs are cited as presumably non-standard under Rider NS, such as underground facilities. ComEd's assertion that all customers are entitled to standard service ignores that some customers require service that is simply not standard, and further it is not consistent with how its tariffs operate today.

In summary, the AG maintains that ComEd's existing tariffs, along with its proposed changes, are unjust and unreasonable because they do not adequately protect existing customers from costs imposed by Large Demand Projects, they are vague and inconsistent with respect to what facilities can be considered "standard" for Large Demand Projects, and they do not reflect a fair application of Rider NS and Rider ZSS.

The AG points out that NRG incorrectly claims that ComEd's proposed changes to Rider DE are addressing a "non-existent problem." NRG IB at 21. The AG contends that NRG is incorrect to assert that the risks posed by Large Demand Projects are "non-existent." *Id*. The AG responds that the costs imposed on the distribution system are very real. As the record in this case shows, the costs to connect Large Demand Projects, including the on-premises facilities they require, can be immense. The cost to construct just the on-premises facilities required by Large Demand Projects can be up to $50 million, and as much as $10 million on average. Tr. at 282, 361. According to ComEd's annual investment report filed pursuant to Section 108.18(f)(5), it spent over $420 million on new business plant in 2024 alone. Commonwealth Edison Co., *Section 16-108.18(f)(5) 2024 Annual Investment Report*, Ex. 1, line 8, column (E). A key driver of new business spending is data centers, as ComEd explained in its most recent Multi-Year Integrated Grid Plan. ComEd Compliance Refiled Grid Plan, Chapter 7, pages 15–16. Thus, the AG claims that the evidence in this case, as corroborated by publicly available information, is clear that Large Demand Projects pose a risk of shifting distribution costs to other customers.

The AG explains that its proposed modifications to ComEd's tariffs in this case would address these risks because they would assign the costs to serve Large Demand Projects to the customer that is causing them. As NRG notes, the "General Assembly has specifically directed the Commission to ensure that electric utilities delivery services rates are cost-based." NRG IB at 9 (*quoting* 220 ILCS 5/16-108(c)). Moreover, electric utilities "shall recover the costs of installing, operating or maintaining facilities for the particular benefit of one or more delivery services customers, including without limitation any costs incurred in complying with a customer's request to be served at a different voltage level, directly from the retail customer or customers for whose benefit the costs were incurred" to the extent that such costs are not recovered under other tariffs. 220 ILCS 5/16-108(e) (emphasis added). Interpreting these provisions, the Illinois Appellate Court has held that the electric utility is allowed, although not required, to recover costs directly from the retail customer for whose benefit the costs were incurred. *Coal. to Request Equitable Allocation of Costs Together (REACT) v. Ill. Com. Comm'n*, 2015 Ill App (2d) 140202, ¶ 51. By treating the facilities needed to serve Large Demand Projects as non-standard under Rider NS, the cost-causer pays the full costs incurred to connect to the grid, consistent with applicable law.

The AG notes that IIEC argues that the Commission should reject any cost-of-service or rate design proposal, including proposals to require direct assignment of Large Demand Projects' interconnection costs. IIEC IB at 9. The AG also notes that NRG makes a similar claim that the appropriate forum to consider changes to the way distribution extension costs are allocated is in its next rate case or revenue-neutral rate design proceeding. NRG IB at 24. The AG states that the Commission should reject these claims.

The AG argues that the Commission can and should require direct assignment of Large Demand Projects' interconnection costs in this proceeding. ComEd's tariffs already distinguish between facilities that are considered standard and those that are considered non-standard. *See* GT&C, ILL. C. C. No. 10, 2nd Rev. Sheet No. 156; Rider NS, ILL. C. C. No. 10, 3rd Rev. Sheet No. 277. The AG explains that under these existing tariffs, "any costs incurred to provide non-standard services or facilities to large load customers are directly assigned to the customer under Rider NS, and paid by the customer either as CIAC or through ongoing directly assigned charges." ComEd Ex. 6.0 at 12. Moreover, the AG notes that ComEd has already determined that any facilities needed to connect customers taking service at 345 kV are categorically considered non-standard and connected under Rider ZSS. ComEd Ex. 3.0 at 5. Indeed, roughly half of the Large Demand Projects at issue in this proceeding are already subject to Rider ZSS. *Id*. at 4-5.

2. AG Proposal

To cure the defects in ComEd's proposal, the AG recommends that all costs to interconnect Large Demand Projects to ComEd's distribution system should be directly assigned to such customers under Rider NS or under Rider ZSS for projects that connect at 345 kV. Under Section 9-201, when the Commission enters into a hearing such as this one, "the Commission shall establish the rates or other charges, classifications, contracts, practices, rules or regulations proposed, in whole or in part, or others in lieu thereof, which it shall find to be just and reasonable." 220 ILCS 5/9-201(c). As explained above,

ComEd's proposal is unjust and unreasonable, and the Commission should modify or, where necessary, replace it. Under ComEd's existing tariffs, the facilities needed to connect customers to the grid, and the costs associated therewith, are considered standard unless they are "larger, more, or different," in which case they should be covered by Rider NS. GT&C, ILL. C. C. No. 10, 2nd Rev. Sheet No. 156; Rider NS, ILL. C. C. No. 10, 3rd Rev. Sheet No. 277. The AG explains that the evidence in this case is clear and overwhelming that Large Demand Projects are "larger, more, and different," and the Commission can cure the defects in ComEd's proposal simply by amending Rider NS to expressly cover the costs to connect Large Demand Projects.

The AG asserts that there can be no serious dispute that Large Demand Projects, and the demands they place on the distribution grid, are "larger" than existing customers. By definition, Large Demand Projects have a maximum demand of 50 MW and above. ComEd Ex. 1.02 at 4. ComEd chose this threshold because 50 MW "represents the point at which ComEd develops plans to provide service at voltages of 138 kV or above." ComEd Ex. 3.0 at 11. ComEd currently has over 4 million customers, and only 42 of them are connected at voltages of 138 kV or higher. ComEd Ex. 1.0 at 6. ComEd has 75 large demand projects in its current pipeline to connect to the grid, at least 50 of which would be taking service at 138 kV or higher, with a total requested demand of 28,000 MW. *Id*. at 6. For context, ComEd's all-time peak demand was 24,000 MW. ComEd Ex. 1.0 at 6. That means a pipeline of 75 prospective customers, mostly Large Demand Projects, would more than double the Company's all-time peak load set by its 4 million-plus existing customers. And this trend toward larger service requests is accelerating: within the past 12 months, the average Large Demand Project entering the pipeline requested 700 MW. *Id*. at 6. Although both of ComEd's witnesses professed that they had no idea what the maximum demand of ComEd's current largest customer is, the 50 MW definition for Large Demand Projects is five times larger than ComEd's current "extra large load" class threshold that includes customers with demand exceeding 10 MW. ILL. C. C. No. 10, Original Sheet No. 137; Tr. at 133, 284. It is undeniable that these Large Demand Projects are larger than what ComEd has previously experienced.

The AG notes that there are also "more" of these Large Demand Projects seeking service. As ComEd witness Leichtman demonstrated, the number of megawatts in new service requests from large load customers has increased sharply over the past three years. As ComEd witness Perkins confirmed, "We expect more large load customers than we ever have before," and even if all of the projects do not materialize, the Company would have "a lot more" Large Demand Projects on its system than it currently has within the next few years. Tr. at 289-290.

The AG explains that these larger and more frequent requests for service by Large Demand Projects place "more" and "different" demands on the distribution and transmission grids. As JNGO witness Thomas, an engineer and expert in long-term transmission planning with extensive utility experience overseeing interconnections of data centers for Dominion in Northern Virginia, explained, "the unique complex nature of these new large load facilities, especially data centers . . ., is introducing new operational characteristics of load facilities not previously seen at this scale." JNGO Ex. 2.0 at 7. As a result, Large Demand Projects "are creating novel and expanding reliability risks to the bulk power system at a pace that the industry has not seen before." *Id*. at 7. AG witness

Seryak testified that data centers, which make up the majority of Large Demand Projects, "present unique challenges in a variety of respects—from the size and density of their power demand to the speed at which they are seeking to connect to the grid." AG Ex. 2.0 at 18. JNGO witness Jacobs concurred, testifying that these "extremely large customers plainly require facilities that are different in nature than those required by other customers." JNGO Ex. 5.0 at 4.

The AG notes that the testimony of ComEd's own witnesses and ComEd's Initial Brief confirm these views. According to ComEd witness Leichtman, Large Demand Projects "present unique issues" and "require qualitatively and quantitatively different types of study and pose different challenges and risks." ComEd Ex. 1.0 at 5. Mr. Leichtman further confirmed that "as a project gets larger and the power request increases in size, it is an increasingly complex—it requires increasingly complex engineering analysis to effectively plan for it." Tr. at 139. Mr. Perkins likewise confirmed that customers served at higher voltages have different needs than a typical residential customer. *Id*. at 289.

The treatment of on-premises facilities, in particular, shows that ComEd is misapplying the principles of its own tariffs. ComEd is seeking to apply Rider DE to on-premises facilities only when they are installed for Large Demand Projects. ComEd Ex. 1.04 at 2. When asked why Rider DE deposits would not apply to all customers requesting on-premises facilities, ComEd witness Perkins admitted "[t]he on-premises facilities for non-large load customers are generally quite *de minimis* and are in the thousands of dollars, not millions of dollars." Tr. at 295. Later, Mr. Perkins, clarified "that large demand applicants and customers all seem to require significantly greater on-premises investments than we've historically seen." Tr. at 364. ComEd witness Leichtman similarly testified: "As a project grows in size, in requested demand, more equipment, such as transformers, breakers, protection and control devices, is required to be installed to meet that higher scale demand." Tr. at 138. These larger and more significant demands are "what is driving the increasingly significant on-premises standard facilities." Tr. at 138. In other words, Large Demand Projects request on-premises facilities more often, they tend to be larger, require more equipment, and cost more than a typical customer connection. Put succinctly, these requests are "larger, more, and different" than what non-large load customers request.

Because the facilities needed to connect Large Demand Projects are "larger, more, and different" than what could reasonably be considered "standard" facilities, they should be treated as non-standard and subject to Rider NS. This would require the Large Demand Project to pay, in full and in advance, the costs of connecting to the distribution grid, including line extensions and on-premises facilities. AG Ex. 2.0 at 2. As AG witness Seryak testified, costs under Rider NS "are fully paid by the cost-causing customer prior to the installation of distribution system equipment," meaning these costs "would not be shifted onto other customers and it would be impossible to strand these costs onto other ratepayers." AG Ex. 1.00 at 27. Unlike ComEd's Rider DE proposal, this approach would effectively protect ComEd's existing customers from the costs imposed by Large Demand Projects.

To effectuate this, the AG requests that the Commission revise ComEd's GT&C tariff by adding the following paragraph to ILL. C. C. No. 10, Original Sheet No. 156:

> Notwithstanding the other provisions of these General Terms and Conditions to the contrary, the distribution facilities required or requested by a Large Demand Project Customer or Applicant are considered nonstandard services and facilities and the Company provides such facilities in accordance with the provisions for nonstandard services and facilities.

This simple change to the tariff, which the AG recommend in lieu of ComEd's proposal, would effectuate what is already apparent from the record in this case: that Large Demand Projects require "larger, more, and different" distribution service and facilities than other customers and their service requests should be subject to ComEd's existing Rider NS.

The AG notes that ComEd contends that it would be inappropriate to directly assign the costs to connect to Large Demand Projects to the distribution system because the facilities "are part of a larger integrated network of distribution . . . system equipment that benefits all customers." ComEd Ex. 6.0 at 11. The Commission should disregard this argument. While it may be true that other customers may benefit from facilities built to serve Large Demand Projects in some instances, the AG contends that this is irrelevant to how ComEd determines what is standard versus non-standard service, and therefore what is socialized versus directly assigned.

The AG responds that the record shows that, when considering the proper treatment of costs required to serve new customers, ComEd itself does not consider whether facilities are part of a "larger integrated network" from which other customers receive benefits. For example, ComEd witness Perkins confirmed that facilities installed for customers subject to Rider ZSS "sometimes" benefit other customers. *See* Tr. at 298-299. Yet as ComEd witness Leichtman explained, the costs of distribution facilities installed for customers subject to Rider ZSS "are borne solely by the requesting customer and are not, potentially, borne by the ComEd customer base more broadly." Tr. at 142. Conversely, with respect to on-premises facilities, Mr. Perkins confirmed that they also provide benefits to other customers only "sometimes." Tr. at 299. Indeed, on-premises facilities are, in many cases, "really only valuable to that single customer" that requests them or to another large load customer that may subsequently take service at the same location. AG Ex. 2.0 at 38-39. Yet ComEd proposes to treat predictably costly on-premises facilities as standard to be added to rate base even though, for Large Demand Projects, they can cost tens of millions of dollars on average and up to $50 million in some instances. ComEd Ex. 6.0 at 5. In cross-examination, ComEd witness Perkins confirmed that, when determining whether facilities are standard or non-standard, ComEd does not consider whether other customers might benefit from such facilities. Tr. at 298-300. The AG asserts that ComEd should not hold the AG's proposal to a standard that its own existing tariffs do not meet.

The AG asserts that ComEd is not required to wait until its next rate case or rate design proceeding to assign costs pursuant to its GT&C, Rider ZSS, and Rider NS tariffs today, so modifying those existing tariffs to specify that Large Demand Projects are categorically non-standard, as the AG recommends, would not trigger such a requirement. Section 16-105.5 of the Act allows a utility to separate or "omit" rate design

from revenue requirement filings and "separately file" the rate design component of rates. 220 ILCS 5/16-105.5(a). While subsections 16-105.5(b) and (c) require that the utility file either its existing rates or a new revenue-neutral rate design for investigation, the AG contends that they do not contain any limitation on other rate design or tariff filings. The three-year review does not prevent ComEd from proposing tariff changes and does not prevent the Commission from fully considering its proposal as well as the proposals of other parties.

The AG concludes that the Commission should adopt the AG's recommendation to treat distribution facilities needed to serve Large Demand Projects as non-standard and collect the cost to install them under ComEd's Rider NS. Under Rider NS the exorbitant costs of such facilities are directly assigned to the Large Demand Project that causes them, thereby protecting existing customers and adhering to the principles of cost-causation.

D. City's Position

1. ComEd Proposal

According to ComEd, the City notes, ComEd's Rider DE "is applicable to any entity responsible for a premises for which electric service is requested and an extension of the Company's distribution system is necessary in order to provide standard electric service to such premises." ComEd Ex. 1.03 at 5. Rider DE describes the conditions triggering the need for financial security for the distribution system's extension, the calculation of the amount of financial security, and the conditions for any refund or draw-down of the financial security. *Id*. In general, ComEd proposes to change Rider DE with respect to financial security and in the Overview section of Rider DE. ComEd Ex. 2.0 at 3-4. The City urges corrections to ComEd's proposed changes to the Overview section of Rider DE.

The City notes that ComEd's current version of the Overview section in Rider DE describes what an "extension of the Company's distribution system includes." ComEd Ex. 1.03 at 6. ComEd's witness testified that its proposed changes to the Overview section are intended to require that LDPACs provide financial security for ComEd's standard facilities installed on the applicant/customer's premises, in addition to the current requirement to include extensions only up to the property line of the premises. *See* ComEd Ex. 2.0 at 15-16; ComEd Ex. 1.04 at 2. Specifically, ComEd proposes to add the language underscored below to the last sentence of the first paragraph in the Overview section of Rider DE:

> An extension of the Company's distribution system includes any additional construction or investment in the Company's existing distribution system necessary to provide standard electric service to the premises and, in the case of applicants for electric service and existing retail customers whose actual or proposed Maximum Kilowatts Delivered (MKD) equals or exceeds 50 megawatts (MW) at any time before December of the tenth (10th) calendar year after the requested date of service, also includes the Company's standard facilities installed on the premise.

ComEd Ex. 1.04 at 2 (emphasis added).

The City asserts that ComEd's proposed modification to the Overview section of Rider DE is vague, confusing, and ambiguous because it does not clearly describe the types of entities to which the new language applies. The City notes that, as currently proposed by ComEd, there would be two types of entities who are to provide security for an extension onto their premises: "applicants for electric service" and "existing retail customers whose actual or proposed [MKD] equals or exceeds 50 [MW] at any time before December of the tenth…calendar year after the requested date of service." *See* ComEd Ex. 1.04 at 2. The City shows that the language in the proposed change to Rider DE is confusingly written because the qualification regarding actual or proposed MKD could be understood to apply only to "existing retail customers," and not to "applicants for electric service."

The City further states that although ComEd's witness testified that these changes to the Overview section of Rider DE were meant to apply to Large Demand Project Applicants and Customers (*see* ComEd Ex. 2.0 at 15-16), nowhere in any of the proposed edits does Rider DE use the (proposed) newly defined term "Large Demand Project Applicant or Customer." According to the City, this missing reference causes confusion as to whether Rider DE is meant to apply to the same entities that come within the definition of "Large Demand Project Applicant or Customer." In addition, the City explains that the proposed revision to the Overview section of Rider DE does not clearly limit the expanded financial security requirements in the proposed amendments to Rider DE to circumstances when a new Large Demand Project (as opposed to another type of project) entails installing standard facilities on the premises of the Large Load Project Applicant or Large Load Project Customer.

2. City Proposal

The City, through a data request to ComEd, asked the Company to clarify the meaning of its proposed amendment to the Overview section of Rider DE. ComEd confirmed that its proposed modifications to Rider DE "will affect service only to projects with an actual or proposed [MKD] equal to or in excess of 50 MW" ("Large Demand Projects") and that "Rider DE, by design, relates to new projects, and does not retroactively apply to pre-existing load." COC Ex. 1.07. ComEd also confirmed that the new Rider DE financial security requirements are meant to affect service only to those applicants and existing clients who have new Large Demand Projects. *Id*.

The City also notes a grammatical error in the proposed new language in the Overview section of Rider DE. Specifically, the word "premise," which ends the proposed new language in Rider DE, should instead be the word "premises." *See* ComEd Ex. 1.04 at 2. The City explains that elsewhere throughout Rider DE, ComEd correctly uses the word "premises" to refer to a single location of an entity's building and land; that same correct usage of the word "premises" should occur in any future change to the language of Rider DE.

The City respectfully requests that the proposed changes in the Overview section of Rider DE be made clearer. This could most simply occur by using, in both the amended Rider DE language and the Definitions section of Rider DE, the more clearly defined terms from the GT&C tariff for "Large Demand Project" and "Large Demand Project Applicant

and Customer," as the City describes in Part IV.A. of its Statement, above. To achieve further clarity and greater public understanding and acceptance of changes to Rider DE's Overview section, the City proposes that ComEd's proposed language be revised by inserting the underscored language and deleting the struck-through language shown below:

> and, in the case of a Large Demand Project, ~~applicants for electric service and existing retail customers whose actual or proposed Maximum Kilowatts Delivered (MKD) equals or exceeds 50 megawatts (MW) at any time before December of the tenth (10th) calendar year after the requested date of service,~~ also includes the Company's standard facilities installed on the premises of the Large Demand Project's Applicant or Customer.

Compare to ComEd Ex. 1.04 at 2.

E. JNGO's Position

1. AG Proposal

JNGO agree with the AG's proposal to modify ComEd's Rider DE to ensure that ComEd's costs of connecting a Large Demand Project are assigned, up-front, to that project through Rider NS or Rider ZSS. Specifically, JNGO agree that the evidence is clear that the needs of Large Demand Projects are "larger, more, and different" than those of other ComEd customers. Thus, the facilities needed to connect Large Demand Projects should be categorically treated as "non-standard" and collected up-front from those customers. JNGO contend that ComEd's alternative proposal to modify Rider DE to require deposits for on-premises facilities is better than the status quo but is less desirable than the AG's proposal because it leaves open the risk that these costs (which could be upwards of $50 million for a single project) could be shifted to other ComEd ratepayers. The AG's proposal is more protective of other customers and adheres to the Act's cost-causation principle that "the cost of supplying public utility services [should be] allocated to those who cause the costs to be incurred." 220 ILCS 5/1-102(d).

2. JNGO Proposal

JNGO note that ELPC witnesses Jacobs, Thomas, and Siddique presented several policy solutions rooted in the State's jurisdiction over retail customer interconnection that could "help internalize" the various costs and risks created by the rapid influx of new large load service requests and "protect ComEd's captive ratepayers from further electricity price increases that they did not cause." JNGO Ex. 1.0 at 29; JNGO Ex. 3.0 at 18. Specifically, and as described further below, JNGO witness Jacobs recommended that the Commission modify ComEd's proposed tariffs to require large load customers to pay directly for the high-voltage infrastructure they need to connect to the grid instead of socializing those costs to other ComEd customers. ComEd's tariff already contains a mechanism under Rider NS for new customers to pay for connection facilities that are "larger, more, or different," than a standard connection; Jacobs recommends applying this provision to high voltage data center connections. This approach would

promote fairness and align with the "cost-causation" principles reflected in the Act and the State's large generator interconnection rules.

Mr. Thomas recommended that ComEd work with stakeholders to "create standardized, uniform interconnection processes for large loads with defined milestones, adequate fees for interconnections, material modification rules, and cluster study arrangements" along with "flexible interconnection arrangements" to "ensure bulk power system reliability while supporting the safe, reliable, and cost-effective integration of large loads." JNGO Ex. 2.0 at 9. "Flexible interconnection" refers to an arrangement "under which the facility does not receive firm, unconstrained service at all times, but instead agrees to provide the utility with defined operating flexibility of the facility's loads under certain agreed upon stressed grid conditions." JNGO Ex. 2.0 at 14. Flexible interconnection acknowledges the physical and economic reality that ComEd cannot magically double the size of its system to provide firm electric delivery service to 28 GW of new load without significant, costly, and disruptive changes to the electric power system in Illinois. JNGO's recommendations could therefore help "accelerate and de-risk the interconnection process" by allowing ComEd to interconnect large loads under temporary non-firm service arrangements even when sufficient generation capacity does not yet exist to serve the applicant's desired load ramp. ELPC witness Thomas cited several technical papers demonstrating how this kind of large load flexibility can help lower system peak stress, accelerate interconnection timelines, and reduce costs borne by all customers. JNGO Ex. 2.0 at 14.

JNGO witness Siddique pointed out that several states and RTOs have already implemented or are actively exploring non-firm service and other similar flexible approaches to mitigate the reliability and affordability impacts of large loads. *See* JNGO Ex. 1.0 at Sec. VII ("Emerging Best Practices and Regulatory Approaches"). "These trends are occurring both in deregulated states (like Ohio) and in states with vertically-integrated utilities (like Minnesota)." JNGO Ex. 1.0 at 26. This approach also has strong support in the academic literature. In a recent law review article (JNGO Ex. 1.13), law professors Alexandra Klass and Dave Owen explain that a non-firm "connect and manage" approach to large load interconnection would have several economic and public policy benefits:

> Major new [electricity] users could be allowed to connect to the grid and receive service, with the understanding that they would be curtailed in the rare circumstances when demand exceeds supplies. Those users also could use secondary markets to hedge against the risk of curtailment. New generation still would likely be needed, but not as quickly and not as much. And the risks associated with supply-demand mismatches would be borne primarily by data centers, which are run by (or for) large, sophisticated companies able to manage those risks, rather than by ordinary consumers. The system also would create powerful incentives for innovation, which might lead to new technologies, new business models for energy production and distribution, or both.

JNGO Ex. 1.13 at 47, Alexandra B. Klass & Dave Owen, *Allocating Electricity*, 94 Geo. Wash. L. Rev. (Aug. 20, 2025) at 39. JNGO recommend that the Commission direct ComEd to implement a flexible interconnection approach with a fast-track review process for projects that bring their own ("BYO") clean capacity resources such as renewable generation, battery energy storage systems, and demand response. ELPC witness Siddique explains that this "speed to grid" incentive would not only "protect ComEd's captive ratepayers," but would also "benefit data centers and the state's economic development goals by offering an expedited development pathway for innovative projects that align with the state's clean energy goals." JNGO Ex. 1.0 at 29. It would also help to enhance grid reliability, resource adequacy, and incidentally help to reduce the capacity prices paid by ComEd's retail customers. JNGO argue it thus represents a flexible and pragmatic solution that balances the State's interests in economic development, grid reliability, and consumer fairness. JNGO Ex. 1.0 at 31.

Mr. Siddique suggests the following pathway for implementing this BYO "speed to grid" approach through ComEd's load interconnection tariffs:

> ComEd's tariffs could specify that large-load customers that demonstrate adequate supply resources through a clean energy supply plan would be eligible to receive firm, non-interruptible service at standard tariff rates. Conversely, large loads that cannot yet demonstrate sufficient clean energy at the time of interconnection could be served temporarily under interruptible tariffs with curtailment rights during peak demand periods or supply shortfalls.

JNGO Ex. 1.0 at 31. If the Commission endorses this approach, ComEd could develop the detailed requirements of these clean energy plans in consultation with stakeholders for review in a future Commission proceeding. At a high level, the plans could include:

> (1) the customer's plans to meet its projected load ramp with new and/or existing energy supply resources; (2) specification of the customer's clean energy and/or demand flexibility opportunities, including distributed energy resources, load flexibility commitments, and participation in the Illinois Power Agency's RPS Self-Direct Program; (3) timelines and milestones to synchronize the customer's supply strategy with its planned load ramp to prevent supply-demand imbalances; and (4) financial commitments or security instruments ensuring continued compliance if market conditions change.

JNGO Ex. 1.0 at 28. The end goal would be a set of transparent and standardized load interconnection procedures that safeguard reliable electric service for all retail customers by recognizing and expediting the interconnection process for large load customers that pose less risk to the grid. Conceptually, this approach mirrors the "fast-track" pathways for generator interconnection outlined in Parts 466 and 467 of the Commission's rules. *See* 83 Ill. Adm. Code 466.

JNGO argue the record demonstrates compelling evidence that the rapid expansion of large load projects in ComEd's service territory is creating significant

reliability, affordability, and policy risks for other customers—risks that are unjust and unreasonable. ComEd and the other intervenors do not strongly dispute the merits of JNGO's proposed policies to mitigate these risks. Instead, some parties contend that JNGO's recommendations fall outside the scope of this proceeding, are matters for FERC or PJM to solve, would be better addressed by the Illinois General Assembly, are not sufficiently developed in the record, or should be deferred to a future Commission proceeding. JNGO respond to each one of these legal and procedural objections in detail below. Ultimately, however, JNGO agree that a future Commission proceeding will be necessary to flesh out the details to fully implement their policy recommendations.

F. IIEC's Position

1. JNGO Proposal

IIEC explains that JNGO witness Siddique recommended as part of the proposed large load interconnection process, "ComEd should require large load customers to develop and file a clean energy supply plan that broadly describes the customer's strategy to meet its projected load ramp with energy supply resources over time." JNGO Ex.1.0 at 27-28. He provides examples of items that these plans could include. *Id*. at 28.

In response to the suggestion that large load customers should file a clean energy supply plan as part of their application, IIEC points out that ComEd is a distribution and transmission service only utility. As a wires-only delivery service company, it is ComEd's responsibility to ensure that customers are connected to the distribution and transmission grids in a reliable and economic manner; ComEd is not responsible for their choice of supply. Requiring a customer to prove the availability of generation to supply its needs before interconnection is achieved would be unprecedented in Illinois and would require ComEd to go beyond its duties as a delivery service company. IIEC Ex. 1.0 at 4. IIEC concludes ComEd simply does not, nor should it, have a role in managing the adequacy of generation supply or the mix of resources used to generate electricity. ComEd Ex. 3.0 at 10.

IIEC notes that several other witnesses address the inherent conflict and uncertainty in the JNGO proposal. IIEC refers to Microsoft witness Campbell who testified PJM's operating manual makes clear that resource adequacy obligations rest with load serving entities such as ComEd and alternative retail electric suppliers, not with individual customers. He adds that requiring customers to support the front-end planning and contracting responsibilities does so without regard to PJM's processes, thus creating additional cost and compliance uncertainty. Microsoft Ex. 2.0 at 17-18. IIEC also points to NRG witness Dauphinais' testimony where he adds the proposal lacks critical information in terms of what standards would apply to evaluate the plans, who would review them, and how the requirements would be enforced. Further, there is no explanation or detail regarding the consequences for a customer if it fails to submit a plan or submit an incomplete or insufficient plan. NRG Ex. 2.0 at 14-15.

In addition, even if Mr. Siddique's recommendation were applicable to new large loads, IIEC argues the recommendation should not be applied to load expansions at existing customer accounts, as this would create a complicated entanglement of new versus existing requirements at the same facility. IIEC states existing customers already have in place their supply arrangements, and imposing on existing customers another

layer of a particular supply option can only lead to a complicated operational issue for those customers. IIEC Ex. 1.0 at 5.

IIEC acknowledges that Mr. Siddique also requires certain specifications associated with the customer's clean energy and demand flexibility opportunities which are problematic. JNGO Ex. 1.0 at 28. Notably, according to IIEC, the customers' energy supplies and the associated suppliers who will be serving them are subject to Illinois' laws and regulations related to the types of generation that are allowable in Illinois. ComEd, as a wires-only utility, should not be placed in the position of judging or policing whether an applicant's resource portfolio is adequate or "clean" enough. IIEC Ex. 1.0 at 5.

Further, IIEC refers to Mr. Stephens' testimony where he explains how a recommendation that customers be required to participate in the Illinois Power Agency's ("IPA") RPS Self-Direct Program fails on a number of counts. First, again, ComEd as a distribution only company should not be determining its customers' energy supply options. The IPA's RPS Self-Direct Program is not useful for the large majority of customers seeking to self-supply renewable energy. The reasons are two-fold but related explains Mr. Stephens. First, the requirements to qualify for self-direct status are relatively onerous; that is, new utility scale wind or solar resources sufficient to meet at least 40% of the customer's usage must be built or acquired. Such a high standard is incongruous when considering that the state's current RPS goal of 25% is well below this level, and that its performance to date is much lower still. Second, participation in the Self-Direct Program provides little economic incentive for customers to pursue their own renewable resources, given that only about 8% of the ComEd-imposed RPS charge is avoided by customers who take the extraordinary step of becoming self-direct customers, meaning that such customers effectively pay twice for the renewable attributes. *Id*. at 5-6. Third, ComEd's obligation to serve retail customers and provide reliable delivery is not dependent on the State's RPS requirements or goals. IIEC Ex. 1.1 at 1.

Mr. Siddique's suggestions outline timelines and milestones to synchronize the customer's supply strategy with its planned load ramp, and suggestions of financial commitments or security instruments ensuring continued compliance if market conditions change, should be disregarded, says IIEC. JNGO Ex. 1.0 at 28. Given the inappropriateness of requiring customers to provide their clean energy supply and the other specifications suggested by JNGO in the first instance, these suggestions are irrelevant, misplaced and ill-defined. IIEC Ex. 1.0 at 6. Mr. Siddique also opines that requiring clean energy supply plans would mitigate risks for other ComEd customers and assist in the development of innovative data center projects. JNGO Ex. 1.0 at 28. Mr. Siddique broadly alleges the Commission has a responsibility to consider how its regulatory decisions in one area affect the State's ability to meet statutory clean energy requirements, while maintaining a safe and reliable grid, particularly when ComEd's own data shows their large load pipeline could more than double Illinois electricity consumption by 2040. *Id*. at 6, 25-28.

Absent from Mr. Siddique's testimony described above is any reference to any legal authority for these propositions. IIEC is unaware of any legal authority that would prompt the Commission or ComEd to initiate or expedite the development of data centers or projects of that nature. Illinois has long been a retail choice state explains IIEC, and it has been left to the market to develop and implement innovative approaches to

customers' energy supply. Interfering in the market as JNGO suggest will only inhibit the market from operating properly. Such initiatives are better left to market forces in a competitive environment, and not in the realm of monopolies such as ComEd.

Moreover, JNGO's proposal is at odds with PJM's role according to IIEC. Any requirement that a large load customer be required to submit a clean energy plan, undermines, circumvents and corrodes the existing PJM markets that are designed and intended to bring forth new supply opportunities. The consequences of the JNGO proposal are severe and will result in a chilling of new supply options and ultimately the loss of existing supply resources, both of which will result in lower reliability and increased cost for Illinois consumers. Constellation Ex. 2.0 at 6. Furthermore, ComEd's obligation to serve retail customers and provide delivery services is not dependent upon PJM's Resource Adequacy requirements. IIEC Ex. 1.1 at 2.

In further support to reject the JNGO proposal, IIEC acknowledges NRG's position that there are already a number of forums that are currently open or soon to be initiated within which broad based policy proposals can be explored or additional tariff revisions can be fully evaluated. NRG refers to the Future of Gas workshops and the soon to be initiated Renewable Energy Access Plan docket. NRG IB at 40. In addition, the recently passed Senate Bill 25 of the 104th General Assembly creates a new Section 16-201 of the Act which, among other things, provides for administrative integrated resource planning, which will enable certain Illinois agencies to "be able to coordinate, modify, expand, and direct all of Illinois' existing energy programs and policies so as to address any resource adequacy or reliability concerns" and "direct the development of new energy programs and policies in order meet resource adequacy and reliability needs without the need for additional legislative action," with such resource plans to be submitted to the Commission by no later than November 15, 2026. 220 ILCS 5/16-201(a)(6), (d). This bill has passed both chambers of the Illinois General Assembly and is awaiting the Governor's signature. These are the better forums by which to address alternative proposals.

IIEC concludes that the Commission should find there are multiple reasons to reject the proposal that a large load applicant, whether a new or existing customer, must bring a clean energy plan or its own generation as part of the application process. The proposal is easily beyond the scope of this docket for one. More concerning IIEC says, such a proposal is wholly inconsistent with how distribution utilities in Illinois operate as a wires-only company. Imposing a clean energy plan creates operational issues for both the utility and the customer and is in direct conflict with the paradigm that exists today by which energy markets are managed at both the state and federal level.

IIEC opines that JNGO witness Siddique appears to be advocating for a non-firm option where new large load customers could select or be required to receive non-firm service. JNGO Ex.1.0 at 29-31. While he frames the option as ComEd "offering" a non-firm tariff, it seems Mr. Siddique is recommending ComEd require non-firm service: "If Exelon's analysis is correct, then it is clearly within the Commission's power to require ComEd to develop a new non-firm service tariff for large loads. *Id*. at 30. If JNGO's recommendation is that ComEd only offer non-firm service as an option, then IIEC's reservations are less, provided that any reduction in the rate for non-firm delivery service, which costs are largely fixed, is not shifted to firm service customers. However, if the

recommendation is that this new non-firm service is required, then there are several problems with that recommendation. IIEC Ex. 1.0 at 7-8.

First, IIEC says with ComEd being a wires-only utility, ComEd should not be placed in a position of having to monitor the adequacy of supply and determine when and if delivery service should be interrupted for supply-based reasons. This is not how the unbundled energy markets in Illinois work. *Id*. at 8. ComEd witness Leichtman, in response to JNGO witness Thomas, also observed a requirement to create a group of customers that receive non-firm, interruptible power is outside the scope of ComEd's revised tariff proposals. ComEd Ex. 3.0 at 42. IIEC agrees with Mr. Leichtman's observation.

In addition, IIEC notes that Mr. Siddique points to a draft paper as support which only adds confusion to his recommendation. JNGO Ex.1.0 at 29-30. The authors of the paper refer to "new" users in the first sentence, suggesting the discussion was limited to "new" users. The distinction matters. It is important to distinguish between new users and existing users which may be expanding their loads, and now a suggestion that such load expansions must be considered interruptible. This hybrid situation of some portion of the delivery load being firm and some non-firm at the same facility creates a complex and unwieldy situation. For example, according to IIEC, existing customers may add large new processes which are fully integrated with existing operations at their plants. Forcing part of the customer's load to be interruptible while the rest is not, is untenable. IIEC Ex. 1.0 at 8.

As important, to the extent existing customers have loads or processes which are interruptible, they are already participating in a demand response program, either directly with PJM or through a curtailment service provider. Consequently, the interruptible service that Mr. Siddique seems to be advocating could be duplicative and ineffective in the case of such existing customers. *Id*.

To add to the questionable reliance on the paper, IIEC states there is no distinction between vertically integrated utilities, as exist in some states, and delivery service-only utilities, as exist in Illinois. Accordingly, the authors have not fully considered the ramifications of their recommendation under the circumstances present in Illinois, making moot JNGO's recommendation. *Id*. at 9.

IIEC maintains that requiring customers' service to be interruptible would be stepping into new regulatory and legal territory in Illinois. IIEC is unaware of any regulatory and legal authorities that would mandate a customer having to take interruptible service under the circumstances prescribed by JNGO. Moreover, requiring mandatory interruptible service to the loads of large new customers may conflict with the customer's current energy supply sources, creating operational issues. IIEC Ex. 1.0 at 9.

To summarize IIEC's opposition, if it was JNGO's intent to require an applicant to take non-firm service, in doing so that presents a host of problems to the applicant. IIEC explains that large load customers such as data centers require energy on a near continuous basis. Non-firm service simply is unworkable for these customers. Next, IIEC refers to continuing theme in opposition to the proposal of non-firm service being a requirement or even an option, that ComEd should not be in the business of dictating the form or type of the generation that a customer is required to take. Furthermore, to the

extent the proposal would apply to existing customers who chose to add an additional 50 MW load to its operations, non-firm service would only create chaos for that customer who already has its existing supply in place. Finally, a requirement to create a group of customers that receive non-firm interruptible power is outside the scope of ComEd's proposed tariffs. IIEC IB at 6-9.

According to IIEC, JNGO witness Jacobs recommends that the Commission order ComEd separate the costs from the construction, ownership and maintenance of high voltage facilities required by large load customers through a Rider NS filing. Mr. Jacobs claims that there will be greater transparency around the functionalization and tracking of the cost of upgrades and direct connection facilities in ComEd's cost of service studies, and the assignments of those costs to retail customer classes that include Large Demand Project Customers. JNGO Ex. 3.0 at 6, 25-26.

IIEC objects to any predetermination as to how ComEd's class cost of service study should be conducted in the context of this case. Rather, under the current Multi-Year Rate Plan and rate design investigation process, all determinations as to the proper conducting of a class cost of service study for ComEd are to be considered in the revenue-neutral rate design cases, as was done in ComEd's last rate design investigation case. *See* Docket No. 24-0378, Final Order. IIEC asserts no predetermination regarding cost of service and rate design should be made in this proceeding. IIEC Ex. 1.0 at 10-11.

IIEC says that ComEd shares IIEC's point of view, stating the Commission has already approved revenue requirements through 2027 and the associated allocation of costs. Any change in how a single delivery class of customers is to be assigned standard or nonstandard costs should be reviewed in a rate design proceeding to ensure a fair and balanced outcome for all the delivery classes. ComEd Ex. 6.0 at 13. ComEd adds that its proposed tariff revisions do not make any change in the nature of facilities considered standard, or the previously-approved cost allocation for those costs. Nor is ComEd proposing to alter the way in which incremental non-standard costs are currently directly charged to customers under Rider NS. *Id*.

IIEC acknowledges the AG offers argument suggesting that ComEd's method of allocating connection costs is improper. Specifically, the AG recommends that all costs to study and connect large demand customers be treated as non-standard and, therefore, charged directly to the customer causing the costs. In addition, the AG recommends that the TSA requirement be strengthened, to require as a condition of retail service that large demand customers pay in advance the cost of all transmission upgrades required to serve them in the form of a CIAC. AG IB at 2, 20-26, 35. IIEC notes JNGO also offers a variety of related claims, arguing ComEd's manner of allocating high voltage connection cost violates the Act's cost-causation principles. JNGO argue the Commission has authority in this proceeding to address the problem and would require the Commission to direct ComEd to file tariff provisions that would require new large load customers provide a Contribution in Aid of Construction for their new high voltage connection facilities as a condition of retail service. JNGO IB at 21-30.

IIEC suggests it may be that the AG's and JNGO's cost-causation arguments have merit. However, this is not the docket for the Commission to make these determinations. Even the AG's recitation to statutory authorities and case law does not serve its purpose

argues IIEC. The AG argues that rates for delivery service are to be cost based and that these rates should recover costs directly from the customer for whose benefit the costs were incurred. The AG adds that the Commission can treat different classes of customers differently if necessary to establish just and reasonable rates. AG IB at 8.

In reply, IIEC argues the determination of rates and cost responsibility by a "customer" cannot be decided in a vacuum, as the AG and JNGO would do, absent all other rate classes' cost of service considerations. The determination of a customer or class's cost of service is to be decided in the revenue-neutral rate design cases, as was done in ComEd's last rate design investigation case. *See* Docket No. 24-0378, Final Order. No predetermination regarding cost of service and rate design can effectively and properly be made in this proceeding. IIEC Ex. 1.0 at 10-11; ComEd Ex. 6.0 at 13.

In summary, IIEC offers that there are a host of reasons to reject any proposal to revisit cost of service or rate design issues in this docket. Existing statutory mandates already dictate the next opportunity to review ComEd's cost of service and rate design. Furthermore, according to IIEC, this record is woefully incomplete regarding any assessment of how costs should be assigned to rate classes. Only one rate class has been the subject of this proceeding and even then, there is virtually no information as to cost responsibilities with respect to that class.

IIEC states, to reiterate, the scope of this docket is set forth in the direct testimony of Mr. Leichtman and his exhibits. *See* ComEd Ex. 1.0 at 2. Despite the limited scope of the docket, IIEC argues that JNGO witness Thomas, as did other JNGO witnesses, makes recommendations which are beyond the scope of this proceeding.

IIEC explains that Mr. Thomas offers material bulk power system reliability impacts can occur from load additions smaller than 50 MW, depending on a variety of factors, including system load strength at specific locations, congestion on the system, and the type of large load facility and operational characteristics. He recommends retention of the 50 MW threshold as a "primary" trigger mechanism but adds supplemental triggers which could lower the threshold. These supplemental triggers include, but are not limited to, criteria related to: (1) interconnection points being identified as weak or strained; (2) high ramp rates; and (3) accumulation of capacity that exceeds a defined MW threshold within a short timeframe. JNGO Ex. 2.0 at 5-6.

IIEC's primary concern with Mr. Thomas's recommendations is that by adding a multi-faceted supplemental trigger, the standard becomes less well-defined, may be subjective, and has the potential to apply to much smaller loads than are intended to be addressed in this tariff filing. IIEC Ex. 1.0 at 12. IIEC states ComEd witness Leichtman agrees, testifying the proposal offered by JNGO witness Thomas has no lower limit, meaning that any project application—regardless of size or type, including those from smaller businesses or even residences—could be included in a large load Cluster Study. Adding ambiguous criteria could create a situation wherein ComEd applies subjective determinations and then applies the tariff requirements to new loads and existing load expansions, when such application would not necessarily need to be treated through the proposed tariff. ComEd Ex. 3.0 at 13.

Notwithstanding the inappropriateness of the proposal with respect to the scope of this proceeding, IIEC notes that Mr. Thomas changes his criteria in his overall

recommendation section to be even more vague, using phrases such as "unique/risky interconnection locations and situations." JNGO Ex. 2.0 at 16. The vagueness of these critical terms adds to the subjectivity and ambiguity of Mr. Thomas' proposal and further justifies its rejection. IIEC Ex. 1.0 at 12.

IIEC says that ComEd shares IIEC's perspective, arguing a clear delineation point for what constitutes a large load project is critical both for ComEd and for external stakeholders and prospective customers. The 50 MW threshold is the point at which ComEd develops plans to provide service at voltages of 138 kV or above. This threshold creates a "bright line" that will make clear how an application will be studied. It will also allow a prospective customer to understand how ComEd's tariffs will apply to its project. JNGO witness Thomas's undefined terms make it impossible for a prospective customer to know how its project will be studied, what initial deposits will be requested, and the general timeline for the initial analysis phases. ComEd Ex. 5.0 at 3-4.

Whether intended or not, asserts IIEC, JNGO's recommendations may affect existing customers whose loads are less than 50 MW. These customers would have had no notice nor expectation that these proceedings could affect their receipt of delivery service from ComEd. The Commission should not entertain any recommendations, given the narrow scope of the docket, which may affect these existing customers. IIEC Ex. 1.0 at 14.

In summary, IIEC concludes there is no disagreement that the focus of this proceeding has been limited to new large load customers greater than 50 MWs as defined by ComEd's filing and the tariffs at issue in this proceeding. Proposals by JNGO and for that matter any other party that creeps into ComEd's provision of delivery services to existing customers, or new customers below 50 MWs, should be disregarded, not only for the reason such proposals are beyond the scope of the docket, but also because there is unfairness to those customers that may be affected absent any knowledge of such proposals, and so lacking their input the record remains incomplete.

G. NRG's Position

1. ComEd Proposal

NRG notes that ComEd proposes two substantive changes to Rider DE that would materially alter long-standing Commission-approved cost allocation and customer protection frameworks. Rather than address a non-existent problem in this proceeding, NRG respectfully requests that the Commission direct ComEd to address this issue in its upcoming rate case, multi-year rate case, or rate design proceeding where the Commission can adjust ComEd's proposal as well as any other rates it deems appropriate.

NRG argues that ComEd's proposals to significantly modify Rider DE are unsupported, inconsistent with cost-causation principles, and would impose unjustified and avoidable financial barriers to large load commercial development in Illinois at precisely the time when the State is pursuing policies to attract such economic activity.

First, NRG maintains that ComEd seeks to expand Rider DE to require deposits for standard distribution facilities located on certain customer premises, which are currently funded through embedded rates. ComEd Ex. 6.0 at 2. As ComEd describes it:

"ComEd proposed to include… the costs to provide any standard facilities that happen to be located on the property of Large Demand Projects Applicants or Customers." ComEd Ex. 6.0 at 2 (*citing* ComEd Ex. 1.03). ComEd acknowledges this is a departure from current tariff practice, under which Rider DE applies only to facilities extended to the premises, yet ComEd does not identify any instance in which the existing approach has failed to protect customers, nor does it present any quantitative support, study, or analysis demonstrating that current Rider DE treatment has resulted in cost-shifting or uncollected investment or that the risk is imminent. *See id.*; *see also* Tr. at 350, 351-352. As ComEd witness Perkins admitted, ComEd did not perform benchmarking or sensitivity analyses and relies instead on hypothetical scenarios. *See* Tr. at 354-355.

Second, NRG explains that ComEd proposes to require customers with Rider DE deposit obligations of $2 million or more to provide an Acceptable LOC, as defined in its tariff, in lieu of posting cash. ComEd Ex. 6.0 at 2. Under ComEd's language, once a customer's deposit exceeds $2 million, the excess amount must be secured with a qualifying LOC that meets ComEd's proposed credit instrument criteria. *See id.*; *see also* ComEd Ex. 1.02. However, ComEd offers no empirical basis for selecting the $2 million threshold nor any study of the impacts of restricting acceptable collateral instruments.

NRG maintains that ComEd offers no study, analysis, or quantified evidence that current Rider DE treatment has produced cost-shifting or that this change is necessary to protect ratepayers. To the contrary, NRG explains that ComEd admitted that over the last five (5) years, it has not experienced any customers over 50 MW that required significant "on-premises" costs. *See* NRG-ComEd Cross Ex. 3; *see also* Tr. at 357-359. Instead, ComEd points to generalized concerns regarding the potential that large load growth customers could impose those costs, without identifying a single instance where on-premises facilities have resulted in costs being paid by other ratepayers. ComEd Ex. 2.0 at 2. If ComEd or any other stakeholder saw this as an actual issue, it could have been raised in ComEd's rate design proceeding that was filed last year but neither ComEd nor any other party raised this issue. Tr. at 360-361. Further, for the primary driver of these on-premises facilities – the transformers, which can cost in excess of $50 million – customers who connect at over 345 kV are required to purchase those facilities under Rider ZSS and all other customers are given the option to purchase those facilities or pay a variable "high voltage transformer rental" charge known as the Transformer Charge ("TC"). *See* Tr. at 357.

ComEd failed to provide data and detail regarding:

- A breakout of the component costs that it fears could drive higher costs at a large load customer's premises;
- The basis for setting the cut-off at 50 MW rather than some higher or lower level of demand;
- The likelihood that the over-50 MW customer's on-premises would exceed $10 million or be less than $2 million; or
- The anticipated average on-premises standard facilities costs for large load customers.

Tr. at 351-355. ComEd has the burden of proof for each element of its proposal. *See* 220 ILCS 5/9-201(c); *City of Chi.*, 13 Ill. 2d at 617-618. As NRG witness Dauphinais explained, "ComEd still has failed to provide any analysis or supporting data related to its proposal to include on-premises facilities in Rider DE deposits change. Without such evidence, ComEd's proposal is unjust, unreasonable and unduly discriminatory against customers with projected or actual demand in excess of 50 MW." NRG Ex. 2.0 at 34-35.

NRG notes that under ComEd's proposal, identical high-voltage equipment with identical costs would receive entirely different rate treatment depending solely on the size of the customer it serves. Equipment serving smaller customers would be classified as "standard" and recovered through ComEd's base rates, while the same equipment serving a large load customer would be separately identified and subject to Rider DE for that customer. This disparate treatment plainly contravenes the Act's mandates that rates be cost-based, just, and non-discriminatory. *See* 220 ILCS 5/1-102(d)(iii); 220 ILCS 5/16-108(c); 220 ILCS 5/9-241(a); *see also Ameren Ill. Co. v. Ill. Com. Comm'n*, 2025 IL App (5th) 240014-U, ¶ 134 (Commission does not have authority to have one set of customers pay costs assigned to another).

NRG explains that if circumstances evolve in a way in which the treatment of certain on-premises facilities becomes an actual issue, and ComEd believes the treatment of on-premises facilities warrants further examination, there is an appropriate forum in which it can present supporting data and propose a consistent, system-wide approach. As ComEd witness Perkins acknowledged, under P.A. 102-0662, ComEd must file either a traditional rate case or another multi-year rate case in 2027, for rates effective in 2028. *See* Tr. at 359-360; *see also* 220 ILCS 5/16-108.18(d)(9). Moreover, if rate design issues are not included in that filing, ComEd is required to initiate a rate design proceeding no later than January 2028. *See* Tr. at 360-361. Those upcoming proceedings—not this narrowly focused tariff docket—are the proper venue to address any broader reconsideration of cost allocation for on-premises facilities.

In short, NRG argues that ComEd's Rider DE revisions would impose new financial burdens on large load customers, without record support that such changes are necessary or appropriate at this time to protect existing ratepayers or consistent with cost-causation principles.

NRG notes in its reply that no party identifies any instance in which the existing Rider DE has failed to recover on-premises facility costs or caused cost shifting. The record contains no evidence that on-premises facilities differ in cost or function for LDPAC customers, and ComEd offers only generalized assertions of "exponential growth" without any quantitative analysis of incremental costs. Staff likewise provides no independent support and relies solely on ComEd's assumptions. Treating identical standard facilities as "non-standard" based solely on customer size violates cost-causation principles, and ComEd's proposal is therefore unsupported and discriminatory.

NRG respectfully requests that the Commission enter an Order directing ComEd to address this issue in its upcoming rate case, multi-year rate case, or rate design proceeding so that the Commission can issue a more informed data-based decision consistent with cost-causation principles.

2. AG Proposal

NRG opposes the proposals advanced by the AG and JNGO that would require all large load projects to pay full CIACs for both distribution and transmission facilities, noting that these proposals are unsupported by the evidentiary record, conflict with cost-causation principles, and would unlawfully extend state authority into matters reserved exclusively to FERC.

NRG notes that the AG and JNGO improperly introduced entirely new regulatory frameworks in their Initial Briefs rather than through testimony, depriving other parties and the Commission of the opportunity for discovery, testing, or evidentiary development.

With respect to distribution facilities, NRG notes that neither the AG nor JNGO presented testimony or analysis demonstrating that existing tariffs fail to protect ratepayers or that CIAC is needed to prevent cost shifting. ComEd already recovers substantial revenues from large load customers through Distribution Facilities Charges ("DFCs"), TCs, Rider DE deposits, and Rider NS and Rider ZSS tariffed charges, and these revenues contribute significantly to fixed-cost recovery for the benefit of all customers. Imposing full CIAC on facilities that are standard elements of service for all other customers would violate cost-causation principles and result in discriminatory treatment of large load customers without a factual basis in the record.

With respect to transmission-level facilities, NRG explains that the CIAC proposals of the AG and JNGO suffer from an additional, fundamental jurisdictional defect. Under the Federal Power Act, FERC has exclusive authority over the allocation and recovery of transmission upgrade costs. A state commission may not require customers to prefund or contribute capital toward transmission facilities that are subject to a FERC-jurisdictional tariff. NRG states that the AG and JNGO proposals would directly conflict with federal law and longstanding Supreme Court precedent holding that states may not modify, supplement, or substitute for FERC's cost-allocation framework.

NRG further observes that the AG and JNGO cite no persuasive authority supporting their approach, and their reliance on an interim California Public Utility Commission ("CPUC") decision is misplaced. The CPUC's Pacific Gas & Electric ("PG&E") decision is only an interim decision at the outset of the proceeding that neither addresses the federal/state jurisdictional divide nor provides reasoned guidance applicable here.

Finally, NRG notes that rigid CIAC requirements would undermine Illinois' economic development objectives by imposing substantial upfront capital burdens not justified by the record. NRG states that existing tariffs already provide appropriate protections, and any broader reexamination of cost allocation for large load projects should occur, if at all, in a future rate design proceeding where systemwide cost-recovery issues can be evaluated comprehensively.

For these reasons, NRG requests that the Commission reject the CIAC proposals advanced by the AG and JNGO.

H. Constellation's Position

1. JNGO Proposal

Constellation states that the Commission should reject any proposal that includes a bring your own generation ("BYOG") component or imposes an obligation that requires an individual customer to propose a clean energy supply plan. Constellation argues that mandatory BYOG requirements and similar policies that would give preferential treatment to new generation resources are problematic for several reasons.

Constellation first asserts that, as a fundamental matter, the concept of a BYOG proposal and the related Clean Energy Supply Plan are outside the scope of this proceeding. Constellation Ex. 1.0 at 7; ComEd Ex. 3.0 at 41. Constellation notes that ComEd is a Transmission and Distribution Utility. Constellation further notes that this docket concerns two specific ComEd tariffs, and its related proposed TSA, for identifying and connecting LDPACs. Constellation IB at 8. Constellation contends that energy supply is not an issue in the tariffs. *Id*. Moreover, Constellation argues that the energy supply issue falls outside the obligations and capabilities of ComEd as a whole. *Id*. Constellation notes that for customers belonging to a group that has been declared competitive, the energy portion may only be supplied at market prices. *Id*. at 8-9; 220 ILCS 5/16-103(c). Given that commercial and industrial classes have been declared competitive in ComEd's service territory, Constellation argues that ComEd may only provide the energy supply for customers of this size via hourly rates at the PJM Locational Marginal Price. ILL. C. C. No 10, 3rd Rev. Sheet No. 140; ILL. C. C. No. 10, 3rd Rev. Sheet No. 29.

Second, Constellation argues that BYOG requirements generally are both unnecessary and affirmatively unhelpful, actually undermining competitive electric markets in a manner that ultimately reduces reliability and increases costs. Constellation IB at 9; Constellation Ex. 2.0 at 7-18. JNGO, in Constellation's view, suggest that a BYOG/Clean Energy Plan requirement can address resource adequacy concerns. Constellation argues that a new requirement to address resource adequacy is not needed. Constellation notes that the PJM markets are designed and intended to signal when new supply is needed. As resource adequacy tightens, capacity prices rise, signaling to the market when and where to invest in generation resources throughout the PJM region. Constellation IB at 9; Constellation Ex. 2.0 at 13. In addition to being redundant with the PJM capacity auction, Constellation contends that ComEd lacks the ability to coordinate its own utility-specific interconnection process with the overall PJM supply forecast. Constellation Ex. 2.0 at 11; ComEd Ex. 1.0 at 10.

Constellation argues that a BYOG policy that only allows new generation to be used not only circumvents that intended market signal but also undermines that message to the market. Constellation states that implementation of a BYOG requirement or policy could result in several negative outcomes. Constellation argues that one obvious outcome stemming from an Illinois BYOG requirement would be that LDPACs would avoid building and investing in Illinois and would instead migrate to states that had more favorable regulatory policies. Constellation IB at 9. Constellation additionally argues that imposing a BYOG requirement, or offering an incentive for new BYOG, could chill new investment outside of BYOG and put existing resources at risk. *Id*. If a BYOG

requirement or policy favored new resources to avoid the possibility of curtailment or otherwise, Constellation notes that those new resources could reasonably be expected to obtain premium pricing for the resource's output. *Id*.; Constellation Ex. 2.0 at 14. Constellation explains that those generation resources obtaining such a premium are not reliant on the capacity market for funding their operations; any capacity payment would simply be an additional income stream over and above what they had already secured and that likely fully supported their operations. Meanwhile, Constellation contends that generators not allowed to compete for serving the large loads would not be able to access that potential source of demand and would receive signals telling them to retire. Constellation IB at 10. Constellation overall argues that a regulatory framework encouraging out-of-market entry, with its concomitant effect on PJM markets, will have the perverse effect of encouraging existing resources, such as Illinois's nuclear fleet, to retire, increasing consumer costs and decreasing reliability. *Id*.; Constellation Ex. 2.0 at 14.

Third, Constellation argues that a BYOG policy in Illinois would be particularly harmful. Constellation notes that Illinois is home to six carbon-free nuclear generation plants, with a total of 11 reactors. Constellation IB at 10. Almost half of the state's electricity needs are met by these clean, reliable resources. *Id*.; Constellation Ex. 1.0 at 7. Constellation further notes that nine of these reactors are under state contracts that prevented their retirement after years of low market prices threatened continued operation and loss of the 24/7 clean, reliable and resilient energy powering the state's economy. Constellation Ex. 1.0 at 8-10. Constellation states that enactment of the Federal Nuclear Production Tax Credit has extended that financial safety net through 2032, after which nuclear plants in Illinois and around the country return to an uncertain financial future. As explained by Constellation, large customers are therefore coming forward to ensure continued operation of nuclear plants through long-term contracts extending into the 2040s, replacing public subsidies with private dollars. Constellation states that these long-term contracts not only require Constellation to renew 20-year operating licenses, but also enabling expansion of output at existing plants through uprates and consideration of new reactor construction at our existing sites. *Id*. Constellation suggests that if a BYOG requirement or policy favoring new generation resources was put in place, this private investment would be undermined, and the future of the state's nuclear fleet would fall again on the shoulders of policymakers.

I. Commission Analysis and Conclusion

1. ComEd Proposal

The record in this proceeding establishes that the large load service requests at issue are new, unprecedented, distinctive, and are not adequately addressed under ComEd's current tariffs. ComEd Ex. 1.0 at 3, 5. ComEd explains its limited modifications to Rider DE are intended to provide financial assurance and reduce the risk to ratepayers should a large load project be under-utilized. ComEd Ex. 4.0 at 22. The Commission notes many intervenors objected to ComEd's proposed revisions and contested the appropriate treatment of costs to serve new large load customers. Parties argued for tariff language revisions and alternative remedies, ranging from proposals to leave Rider DE unchanged to directly assigning the interconnection costs to large load projects under ComEd's Nonstandard Services and Facilities Rider ("Rider NS") or Zero Standard

Service Rider ("Rider ZSS"). *See, e.g.*, AG Ex. 2.0 at 2, 10, 38; AG IB at 20-26; COC IB at 10; JNGO Ex. 3.0 at 10, 18; JNGO IB at 13-16.

The record indicates parties in this proceeding widely recognize the need to protect existing ratepayers from costs and risks posed by new large load projects. While many intervenors argued ComEd's proposal is insufficient to fully address the risks associated with the extraordinary costs of LDPAC projects, several parties acknowledged ComEd's revisions represent an initial step toward addressing the novel issues presented by provision of service to large load customers. *See* Staff Ex. 2.0 at 3; JNGO IB at 18. The Commission agrees and adopts ComEd's revisions to Rider DE as part of that initial step.

ComEd's Rider DE determines if a deposit is needed from a new customer prior to ComEd constructing any extensions necessary to provide standard service. ComEd Ex. 2.0 at 17. Rider DE provides the conditions "under which the Company requires a deposit, letter of credit, or nonrefundable payment," the amount of that deposit, and the refunding mechanism available to the new customer. ComEd Ex. 1.04. ComEd proposes three changes to Rider DE to address issues related to LDPACs: (1) modify which facilities are subject to a deposit if ComEd requires a deposit for large load projects; (2) specify the mechanism for deposits equal to or over $2,000,000; and (3) define the requirements for an Acceptable LOC. ComEd Ex. 1.0 at 16.

Rider DE will now include standard facilities installed on premises and "additional construction or investment in [ComEd's] existing distribution system necessary to provide standard electric service to the premises." ComEd Ex. 1.03 at 6. This revision addresses a limitation within Rider DE which currently authorizes deposits only for equipment located outside the customer's property line. Staff IB at 15. As both ComEd and Staff note, standard on premise facilities for LDPACs often include high-voltage Electric Service Stations ("ESS") that can cost upwards of $50 million. ComEd Ex. 6.0 at 5. Including on-site facilities in an LDPAC's deposit calculation helps ensure that the cost-causer is responsible for providing financial assurance and protects against cost shifts and stranded investments if the project fails to proceed. The Commission agrees this revision is necessary and finds the requirement for financial security should not be determined by the equipment's geographic location or property lines.

ComEd further proposes to require an LOC for all extension costs exceeding $2,000,000 in lieu of a deposit. ComEd Ex. 2.0 at 16; ComEd Ex. 1.03 at 7. The Company argues the number of LDPAC requests and the logistics of collecting cash deposits for projects greater than $2,000,000 would create administrative complexity. ComEd Ex. 1.0 at 17. This mirrors the revision in the Company's GT&C tariff. *Id.* The Commission finds that it is just and reasonable for ComEd to require an LOC when the costs of an extension exceed $2,000,000 and adopts the revision.

ComEd intends to use its existing practices to refund the Rider DE deposit to an LDPAC. The Commission understands this practice to include an annual calculation of the amount of revenue paid by the LDPAC to ComEd through its rates, which is reduced from the deposit balance. ComEd Ex. 2.0 at 15-17. At the end of 10 years, if the LDPAC has not paid the entirety of the deposit amount through rates, ComEd retains the remainder. *Id.*; *See also Commonwealth Edison Co.,* Docket No. 25-0677, Cross Examination Tr. at 294:9-12 (Oct. 29, 2025); *Commonwealth Edison Co.,* Docket No. 25-

0677, Oral Argument Tr. at 10:10-11:8 (Feb. 17, 2026). The LDPAC may receive an accelerated refund should it average 75% or more of its requested load in the applicable monthly billing periods between years 5 and 10. ComEd Ex. 2.0 at 17. If applicable, the LOC for amounts over $2,000,000 will no longer be required at that time. ComEd Ex. 1.03 at 7. Alternatively, should the project be canceled or abandoned, ComEd retains the amount equal to the costs incurred to date from the deposit. ComEd Ex. 1.0 at 15. The Company argues this refund process can protect against stranded assets and unfair cost shifts for system extension costs that are canceled or not fully utilized. *Id.* at 13; ComEd Ex. 2.0 at 15.

The Commission finds ComEd's proposed modifications to Rider DE are necessary to strengthen deposit and collateral protections for new, large load projects. The Commission agrees with Staff that the expanded deposit requirements provide important protections and represent a key first step toward serving large load projects while preventing undue cost shifts.

NRG asks the Commission to consider the proposed changes in an upcoming rate case, multi-year rate case, or rate design proceeding so that the Commission can issue a more informed, data-based decision consistent with cost-causation principles. The Commission finds that it is not precluded from approving ComEd's revisions to Rider DE here but agrees with NRG that there should be continued consideration of these issues as addressed in Section VII.A.8. below.

2. AG Proposal

The Commission notes that approximately half of the 75 large demand projects currently in ComEd's project queue will take service at 345 kV or higher, thereby qualifying for ComEd's Rider ZSS, under which all facilities are treated as non-standard. ComEd Ex. 1.0 at 6; ComEd Ex. 3.0 at 4-5; AG BOE at 23. Rider ZSS is applicable to nonresidential retail customers taking service at 345 kV or higher, or at 12 kV or higher if the customer utilizes on-site generation to serve a portion of its requirements. ILL. C. C. No. 10, Original Sheet No. 284. Customers served under Rider ZSS "are not entitled to any 'standard' facilities" and "must pay the entire costs of connection upfront, in cash." ComEd Ex. 3 at 5; ComEd RB at 26. ComEd argues this is the equivalent to the Contribution in Aid of Construction ("CIAC") methodology the AG and JNGO discuss. *Id.* While it is unclear from this record exactly how many LDPACs will qualify for Rider ZSS, the Commission notes that no party claimed all LDPACs will.

The AG and JNGO advocate to apply ComEd's Rider NS to LDPAC projects that will not meet the voltage threshold to qualify for Rider ZSS. Rider NS applies when a customer requires "larger, more, or different" services or facilities than those needed for standard electric service. ILL. C. C. No. 10, 1st Rev. Sheet No. 277. ComEd determines whether a customer's requested facilities are "nonstandard" based upon the customer's usage size and other characteristics. ComEd Ex. 6.0 at 8; Cross Examination Tr. at 269-272. Under Rider NS, costs that exceed standard service allowance are recovered directly from the customer. ILL. C. C. No. 10, 1st Rev. Sheet No. 277; AG IB at 14. The AG's application of a "larger, more, or different" determinant to LDPACs does not comport with the Company's internal determinations, which prescribe standard service depending

on customer class. The AG's proposal would change ComEd's long-standing practice of providing standard facilities to customers served below 345 kV.

The Commission shares the AG's and JNGO's concerns about ratepayers bearing the costs for LDPAC projects but finds this proceeding and this record do not provide an adequate basis for the requested changes. The record and scope of this proceeding are constrained by the revisions to Rider DE and GT&C proposed by ComEd. The Commission is tasked with determining whether the revisions proposed in this proceeding are just and reasonable. 220 ILCS 5/9-201(c). The Commission is concerned that pertinent questions remain unanswered by this record, including the cost and consequences of adopting the alternative proposals. For example, the Commission notes a more robust discussion is needed regarding cost causation specific to LDPACs and how to identify and allocate costs of certain upgrades and new system equipment that may provide benefits to other customers. While the Commission declines to adopt the AG's and JNGO's proposals based on this record, it is not precluded from considering and adopting similar proposals in the future. The Commission agrees many valid and important issues have been raised by the AG and JNGO. Accordingly, the Commission directs parties to participate in a broader discussion of LDPACs in the future proceeding directed by the Commission in Section VII.A.8. of this Order.

3. JNGO Proposal

The Commission agrees with JNGO that the rapid expansion of large load projects in ComEd's service territory is creating significant reliability, affordability, and policy risks for other customers. The Commission agrees these issues are important and increasingly prominent throughout ComEd's service territory. JNGO is encouraged to participate in a broader discussion of LDPACs as directed by the Commission in Section VII.A.8. of this Order. The Commission is intrigued by JNGO's clean energy supply proposals and the policy considerations raised. Nonetheless, the Commission finds that these proposals are best considered in a future proceeding where all affected parties can meaningfully engage.

4. City Proposal

The Commission finds the City's proposed change is unnecessary because the Rider DE modification explicitly states that it applies only to projects with an actual or proposed MKD of 50 MW or more, which removes ambiguity. Further, this language aligns with ComEd's proposed GT&C definition of "Large Demand Project Applicant or Customer," ensuring consistency across provisions. The Commission notes that because the definition will be established in the GT&C, there is no need to restate it in Rider DE. No other party shared this objection. Accordingly, the Commission rejects the City's additional proposals for Rider DE.

VI. TRANSMISSION SECURITY AGREEMENT (TSA)

A. ComEd's Position

GT&C Revisions Related to Transmission Revenue Security

ComEd proposes to include in its GT&C a new tariff provision, titled "Transmission Revenue Security," making clear that it is a condition of receiving retail delivery services that Large Demand Project Applicants and Customers enter into a TSA. ComEd Ex. 2.0

at 11; *see also* ComEd Ex. 1.01 at 14 (ILL. C. C. No. 10, Original Sheet No. 150.1). ComEd explains that the TSA is a contract that will be reviewed by FERC as a rate schedule under Section 205 of the Federal Power Act. ComEd Ex. 2.0 at 12.

ComEd explains that its proposed tariff does not require the Commission to evaluate or approve the terms and conditions of the TSA – which are jurisdictional to FERC – but only to (i) find that it is just and reasonable to condition the receipt of retail service on the provision of transmission revenue security, a conclusion that is squarely within the Commission's jurisdiction; and (ii) define, in ComEd's tariffs, what constitutes a "Transmission Security Agreement."

ComEd further explains that its proposed tariff language defines a TSA as a FERC-jurisdictional agreement that requires an Applicant or Customer to guarantee that its annual payments for transmission service, calculated in accordance with the PJM OATT, will align with the annual payment that would have been made by a customer meeting the load ramp submitted to ComEd for a period of ten years after the commencement of service. *Id*. at 12. Furthermore, ComEd states that if the customer does not contribute transmission revenues aligned with that anticipated payment in any year, the delta will be recovered from that customer under their TSA and credited to the transmission revenue requirement. *Id*. at 12. ComEd notes that entry into a TSA is a condition of ComEd's provision of retail service. ComEd further explains that this ensures that ComEd's FERC-jurisdictional and Illinois-jurisdictional tariffs are in sync, which minimizes the likelihood of customer misunderstanding or confusion. *Id*. at 13.

ComEd states that aside from this definition, and the requirement to enter a TSA meeting that definition as a condition of receiving retail service, the tariffs submitted here do not address any of the particular terms or conditions of a TSA.

A Revenue Guarantee is Necessary and Appropriate to Protect Other Customers and Applicants.

ComEd states that the proposed revenue guarantee under the TSA—requiring the applicant customer to guarantee a contribution to the shared annual transmission revenue requirement aligned with the contribution associated with the ten-year load ramp the customer is asking to serve—is necessary and appropriate for several reasons and should be approved by the Commission.

First, ComEd explains that the revenue guarantee provided under the TSA, as proposed by ComEd is an essential safeguard to protect all other customers in the ComEd Zone, ensuring that they are not required to fund—through transmission rates—a shortfall in the transmission revenue that was anticipated to be contributed by the large load customer. ComEd Ex. 4.0 at 4. ComEd further explains that requiring a TSA will ensure that if a Large Demand Project Applicant or Customer fails to meet its requested load ramp or does not materialize at all, the resulting shortfall in transmission revenues—which may be financially significant—is not borne by other customers. ComEd Ex. 2.0 at 13. Thus, ComEd states that the TSA requirement insulates the broader ComEd customer base from the shifting of FERC-jurisdictional transmission costs. *Id*. at 13.

Second, ComEd explains that the TSA also protects other large load customers by ensuring that each individual large load customer makes a contribution to the

transmission revenue requirement that aligns with their stated load projections. *See* ComEd Ex. 6.0 at 20. ComEd notes that it is obligated to plan and maintain a grid system capable of serving all delivery service customers and that, when a customer applies for service and ComEd determines that service can be provided, the customer's forecasted load is incorporated into ComEd's system planning and subsequent engineering studies. *Id*. at 20. ComEd further notes that this has real, practical, and immediate impacts for other customers further down in the load application queue. *Id*. at 20. ComEd explains that planned load "uses up" available capabilities of the network, and therefore directly affects any applications that are later in time, by either delaying ComEd's ability to serve that customer or increasing the costs of that service. *Id*. at 20. ComEd asserts that it is a loss to other customers and to the State, in taxes and in contributions to system benefit charges.

ComEd avers that the proposed revenue guarantee requirement of the TSA is necessary and appropriate because it directly attacks this loss in multiple ways. First, ComEd explains that by holding large load applicants to the representations that they make, the TSA will minimize speculation in the project queue and minimize the risk that a speculative project takes queue time and resources away from other projects that would have come online sooner and made revenue contributions sooner if it were not for the speculative project. *Id*. at 21. Second, ComEd further explains that when an applicant does not live up to its representations, and especially when other large load applicants are deferred or deterred as a result, all of ComEd's customers lose out and end up paying more for transmission service. *Id*. at 21. ComEd notes that these are real losses for other customers that are caused by the failure to meet the proposed load ramp, and they are what the revenue guarantee requirement of the TSA is meant to address. *See id*. at 21; *see also* ComEd Ex. 4.0 at 17-18. ComEd states that the revenue guarantee requirement of the TSA avoids these risks by ensuring that an applicant who calls on a utility to provide service to a new large load project contributes to the transmission revenue requirement commensurate with the load the applicant tells the utility it must prepare to serve. ComEd Ex. 4.0 at 3-4. ComEd explains that if the new customer does not materialize or its actual demand is lower than forecast, the customer will nonetheless be responsible for making the same contribution to the revenue requirement as if the load matched what the applicant represented to the utility. *Id*. at 4. Furthermore, ComEd explains that without such revenue guarantee, there is no incentive for a large load applicant to live up to the representations those customers made when they applied for service.

In sum, ComEd asserts that the revenue guarantee requirement is necessary and appropriate because it reduces the risk that transmission system investments are made to support new large loads, those loads do not materialize, and all other customers are left to pay for those investments without the benefit of large load customer revenue contributions.

ComEd notes that several parties contend it is inappropriate for the TSA to protect revenues, rather than the costs of constructing new transmission infrastructure. *See*, *e.g.*, AG IB at 36-42; JNGO IB at 24-31; NRG IB at 25-38. ComEd responds that this critique is fundamentally flawed and suggests that a review of how transmission costs are recovered illustrates the flaws.

ComEd explains that, today, PJM's FERC-approved tariffs require that a utility's total FERC-approved transmission revenue requirement be divided among all of the customers within the zone according to each customers' usage during the five system-peak hours in the previous year. Under these tariffs, ComEd states, the utility will recover 100% of its revenue requirement each year. ComEd Ex. 4.0 at 11; ComEd Ex. 6.0 at 14-5; *see also* PJM OATT Sched. 12. Thus, ComEd explains, the portion of the total revenue requirement that is borne by any particular customer in a year depends on its relative share of load at system peak. Moreover, ComEd asserts that FERC generally prohibits "and" pricing of transmission costs, so that a party who pays incremental transmission costs need not pay the embedded cost of even the facilities it uses. Perhaps for this reason, ComEd notes that PJM's tariff contains no provisions authorizing such an approach.

In practice, ComEd explains, it might construct transmission-function facilities that, in part, are triggered by the need to serve a customer at a particular voltage and on a particular customer-specified timeline. That does not mean that those facilities are the only transmission facilities serving that customer or that those new facilities do not and will not also serve other customers. Nor, ComEd explains, does it mean that customers are better off if the triggering large load customer funds a particular capital investment at the cost of never paying for operations and maintenance or contributing revenues to all the other transmission assets it uses. Indeed, ComEd states that the very magnitude of the revenues that are protected by the TSA, which is in the billions, *see* ComEd Ex. 4.0 at 10, quantifies the loss to other customers were new large load customers asked to pay incremental rather than embedded costs.

ComEd offers an illustrative example to reinforce this point. First, assume that incremental facilities, and the other transmission services a customer consumes via those facilities, have a cost equivalent to 10% of ComEd's transmission revenue requirement in the year after it enters service. Next, assume that, in the year after the assets enter service, the customer that triggered the construction uses less energy than they had expected when they submitted the application that triggered the project and is therefore responsible for only 6% of the total system-wide consumption at peak. Simplifying somewhat, ComEd states that the customer will pay 6% of the utility's total revenue requirement, despite having some cost-causation responsibility for 10% of the revenue requirement. ComEd explains that the remaining 4% will be divided up among all ComEd's other customers, according to their fractional, relative demand at peak.

ComEd notes that the record in this case outlines three alternative ways to address the cost-shifting outlined in that hypothetical. First, the Commission could do nothing – simply allow the potential for cost shifts to continue unless and until large load customers enter TSAs voluntarily, or FERC orders significant changes to PJM's cost allocation methods. However, ComEd points out that the record reflects this would come at extraordinary cost for non-large load customers, who could bear approximately $500 million in incremental costs for each large load customer that enters the queue but whose load does not materialize. ComEd Ex. 4.0 at 10.

Second, ComEd posits that fundamental changes could be made to the way transmission revenue requirements are recovered through PJM's FERC-approved rates. For instance, ComEd suggests that FERC could direct that certain types of assets be

functionalized as distribution, rather than transmission, removing those assets from transmission rate base and revenue requirements. Or FERC could direct that the costs of certain types of assets be allocated 100% to a particular customer or subset of customers. But, ComEd points out, this is neither current practice nor anything the Commission can adopt.

Third, ComEd suggests, the customer in the example above could be required to actually pay 10% of ComEd's transmission revenue requirement. ComEd states that this option takes as a given FERC's and PJM's existing transmission rate design and does not require any fundamental changes in the way that costs are functionalized or allocated. It simply contractually obligates the customer to pay the amount that it would have paid, had it actually consumed electricity at the volume it identified in the application for service. ComEd states that the payments from the customer under the contract will offset the overall transmission revenue requirement, meaning that a lower total dollar value will be divided among all other customers. This, ComEd explains, is the "revenue protection" model discussed in the record.

In comparison to a facilities-cost model, ComEd states that the revenue protection model has the significant advantage of recognizing and adhering to existing federal-state jurisdictional lines, existing FERC-approved rate design, and existing PJM tariffs. ComEd notes that it requires no changes to any of those practices. In contrast, ComEd points out, a Commission order requiring a facilities-cost model would conflict with existing FERC-approved rate design and PJM tariffs, or at the very least require a treatment that is not currently spelled out there. ComEd asserts that order would likely violate jurisdictional lines.

ComEd explains that a revenue protection model also ensures that non-large load customers are held harmless, regardless of whether the loads anticipated by large load customers actually materialize in the volume, or at the time, the large load customers anticipate when they submit their applications. In contrast, ComEd notes, a facilities-cost model would not be sufficient, on its own, to provide that protection. ComEd states that JNGO and the AG acknowledge that, even if the PJM cost allocation methodology was amended to permit a facilities-cost model, a TSA would also need to be in place to protect the larger body of customers if a single large load customer ceases taking service altogether.

Finally, contrary to some claims, ComEd states that a revenue protection model does not harm large load customers. Under this model, ComEd explains, no new customer is required to pay more than the costs associated with the transmission services that they themselves are asking ComEd to be prepared to provide. ComEd states that a revenue protection model would certainly internalize certain costs and risks to large load customers, but that is not a harm in itself; the costs and risks exist today, and are currently borne by other customers because current tariffs allow large load customers to externalize them.

The Commission Has Jurisdiction to Adopt ComEd's Proposed Tariff Language.

ComEd notes that during this proceeding, several parties raised jurisdictional concerns regarding ComEd's proposal. ComEd asserts that those concerns are unfounded. ComEd explains that Illinois law is clear that the Commission has jurisdiction

over retail-level service standards and minimum requirements, including customer protection features. *See, e.g.*, 220 ILCS 5/8-101; 220 ILCS 5/8-102; *Vill. of Apple River v. Ill. Com. Comm'n*, 18 Ill. 2d 518, 523 (1960) (the Commission has "very broad powers" and "can promulgate orders, rules or regulations fixing adequate service standards"); *Sheffler v. Commonwealth Edison Co.*, 2011 IL 110166, ¶ 40 ("the Commission [has] broad powers, so that the Commission . . . can promulgate orders, rules or regulations fixing adequate service standards and requiring adequate facilities"). ComEd states that this is precisely what ComEd's proposal requires—core customer protection features as part of the retail tariff. *See* ComEd Ex. 4.0 at 2. ComEd further states that the proposed tariff revisions place before the Commission the question of what key characteristics of customer protection should be prerequisites for retail service. ComEd Ex. 6.0 at 25. ComEd maintains that this request is well within the Commission's jurisdiction. *See, e.g.*, *Sheffler v. Commonwealth Edison Co*., 399 Ill. App. 3d 51, 61 (1st Dist. 2010) (tariffs approved by the Commission set forth the "services being offered; rates and charges with respect to services; and governing rules, regulations, and practices relating to those services" (*citing Adams v. N. Ill. Gas Co.*, 211 Ill. 2d 32, 55 (2004)).

Importantly, ComEd states that nothing in its proposed tariff asks or would require the Commission to review or approve the terms of a particular TSA, nor is ComEd asking the Commission to assume jurisdiction over that agreement. *See* ComEd Ex. 4.0 at 6. ComEd further states that it has explicitly made clear that it will file the TSA with FERC under Section 205 of the Federal Power Act (16 U.S.C. § 824d) and the terms of the TSA will be reviewed by FERC. *Id*. at 6. ComEd explains that it does not, however, limit the Commission's authority to set minimum requirements for retail service, which is precisely what ComEd's filed tariff language does. *Id*. at 6.

Moreover, ComEd is not asking the Commission to take any action to limit or alter FERC's exclusive jurisdiction over the rates, terms, or conditions of transmission service generally, or of the determination of the appropriate transmission revenue requirement. ComEd Ex. 2.0 at 14. ComEd notes that nothing in the retail tariff limits or otherwise alters FERC's exclusive jurisdiction over transmission service rates. Likewise, nothing in the TSA limits or alters the ICC's jurisdiction over the rates, terms, or conditions of retail delivery service generally, or its authority over the allocation of the retail service revenue requirement. *Id*. at 14.

ComEd states that just as with any other prerequisite for retail service, the Commission has jurisdiction to adopt ComEd's proposed Transmission Revenue Security tariff language and should do so to ensure that the core customer protection features are a prerequisite for retail service.

Other Issues Raised by Intervenors are Outside the Commission's Jurisdiction and Beyond the Scope of this Proceeding.

ComEd states that several parties raised concerns about specific terms of a TSA, suggesting ways in which those terms may be adjusted, especially regarding collateral requirements. *See, e.g.*, ComEd Ex. 6.0 at 17. ComEd further states that issues regarding specific terms and provisions of a TSA—which are not at issue in this proceeding nor are part of ComEd's tariff proposal before the Commission—are within the exclusive jurisdiction of the FERC. *See id*. at 24. ComEd asserts that for this reason

alone, the Commission should reject such issues as outside its jurisdiction and beyond the scope of this proceeding.

Response to Cost Causation Criticisms

ComEd notes that JNGO argue ComEd's proposed revenue-protection TSA structure would not be sufficient to protect non-large load customers against "cost-shifts because it allows ComEd to continue socializing the costs of high-voltage extension[s]" built to serve large load customers. JNGO IB at 20. ComEd asserts that the reference to "continue[d]" socialization of costs reveals two important points.

First, ComEd points out that the socialization of costs to which JNGO refer is the current, and long-standing, mechanism for cost recovery under PJM's FERC-approved transmission tariffs. So, ComEd explains, when JNGO says that ComEd's TSA would "continue" socialization, the implication is that ComEd's TSA will leave PJM's transmission ratemaking and cost-allocation procedures intact. And, those costs are socialized for good reason. ComEd explains that the transmission system services all network load. The fact that the trigger for an investment may be a new increment of load growth does not mean that only the new customer uses or benefits from it. *See* ComEd Ex. 6.0 at 15; ComEd Ex. 4.0 at 8.

Second, ComEd states that JNGO's focus on the costs of transmission assets ignores the transmission revenues that large load customers contribute. Under PJM's FERC-approved tariffs, ComEd explains that the costs of transmission assets are recovered from all transmission customers – including the customer that may have triggered the need for the project – according to their relative usage at times of system peak. In other words, ComEd states, customers who actually consume large volumes of power pay more, in transmission rates, than customers who consume less. ComEd explains that a large load customer that actually consumes power at the rate, and at the time, set forth in their application for service, is likely to generate revenues that approximate, over the long term, the cost of the services they consume.

ComEd maintains that this is precisely the role of the TSA – to ensure that a large load customer actually contributes revenues that correlate to those any other customer of its size would have generated.

Response to Arguments that the Commission Should Order ComEd to Use CIAC Instead of Revenue Guarantee

ComEd notes that several parties argue that the Commission should replace the revenue protection mechanism in the TSA with a requirement that the customer triggering the need for transmission infrastructure pay CIAC equivalent to the cost of the infrastructure. *See, e.g.*, AG IB at 27, 42; JNGO IB at 21. ComEd asserts that not only would a Commission order imposing that requirement violate well-established jurisdictional boundaries, but it would also provide inadequate customer protection. ComEd maintains that the Commission should reject these proposals.

First, ComEd notes that both the AG and JNGO recommend that (i) ComEd's Illinois-jurisdictional tariffs be amended to include a TSA requirement; but (ii) the TSA should mandate that large load customers provide CIAC rather than a revenue protection guarantee. ComEd states that the structure of this proposal highlights its inherent

problems. ComEd notes that both parties recognize that the Commission cannot unilaterally order ComEd to allocate the costs of transmission infrastructure differently than is required under PJM's FERC-approved tariffs. So, instead, ComEd states, they suggest that the Commission order ComEd to file a contract with FERC that has the same effect. Whether the change in allocation is embodied in a contract or a Commission order, ComEd maintains that the issue remains: the allocation of costs of transmission infrastructure is within the exclusive jurisdiction of FERC.

ComEd states that the AG appears to acknowledge this problem, perhaps inadvertently, when it argues that "Customers should not be subject to the risk that other customers will cover a Large Demand Project's costs because the transmission rate does not produce sufficient revenues to cover high interconnection costs." AG IB at 39. ComEd points out that this statement makes clear the core of the AG's issue is with the "transmission rate" – an issue over which the Commission does not have jurisdiction. ComEd again notes that its proposal, in contrast, would leave the "transmission rate" untouched, and would merely mandate that customers pay the transmission revenue requirement associated with the load in their application, as FERC calculates that revenue requirement.

ComEd states that JNGO also recognize their proposal represents a fundamental change in PJM's FERC-approved transmission cost allocation methodology, but argues that two recent cases enable the Commission to intrude on that arena. *See* JNGO IB at 25-26, 27-28. ComEd points out that the CPUC order that JNGO cite is expressly an interim order, which is subject to change when the CPUC issues a final order. ComEd states that litigation remains ongoing and, whatever the outcome, may be subject to appeal. In addition, ComEd notes, the factual circumstances that drove the PG&E proposal, and the CPUC's interim order, are materially distinct – namely, the proposals offered there were made in response to concerns about PG&E's ability to finance the cost of construction to serve the influx of large load customers. *See Pacific Gas & Elec. Co*., CPUC Decision No. 25-07-039 (July 24, 2025) at 28-33. ComEd asserts there is no evidence that those circumstances exist for ComEd. ComEd further asserts that the legal implications of the CPUC's decision may be materially different as well, since PG&E is within the California Independent System Operator ("CAISO"), which is a single-state independent system operator ("ISO"). *See id*. ComEd maintains the Commission should not rely on (i) a non-final interim decision; (ii) from another state; (iii) with a single-state ISO; (iv) that is experiencing materially different factual circumstances, as "precedent" for its decision in this case.

Likewise, ComEd asserts that the recent FERC order in the Tri-State case does not support JNGO's conclusions here. In that case, ComEd explains, FERC found that contracts that contain minimum monthly demand and energy consumption requirements are subject to the primary jurisdiction of the state, rather than FERC. *Tri-State Generation and Transmission Ass'n, Inc.*, 193 F.E.R.C. ¶ 61,070, at ¶ 50 (2025) ("*Tri-State*") (*quoting FERC v. Elec. Power Supply Ass'n*, 577 U.S. 260, 280 (2016) ("*EPSA*")); JNGO IB at 27. But, ComEd notes, that contract structure does not alter the otherwise-applicable FERC-approved cost allocation or rate design. ComEd explains that it requires a customer to consume a certain amount of power, or pay as though it had, and applies existing FERC-approved rate design to that consumption. FERC's order does not address any situation

other than the one presented to it. ComEd states that JNGO's proposal – that CIAC should replace the revenue guarantee mechanism in the TSA – was not addressed, and certainly was not found to be within state jurisdiction. In other words, ComEd explains, FERC did not determine, as JNGO appear to suggest, that states are free to require whatever terms and conditions they wish to impose on the receipt of retail service; FERC only found that minimum consumption requirements are within the states' purview. If anything, ComEd concludes, the *Tri-State* case supports the conclusion that the Commission has the authority to impose contractual requirements that do not alter the otherwise-applicable FERC-approved transmission rate designs – like the TSA revenue guarantee structure that ComEd has proposed.

Finally, ComEd states that JNGO attempt to support its CIAC proposal by arguing that "[w]hether a line is functionalized as 'distribution' or 'transmission' under the Seven Factor Test is immaterial to the question of who should pay for new facilities," JNGO IB at 29-30, or in other words, that the Commission should simply ignore the long-standing distinction between federally-jurisdictional transmission service and state-jurisdictional distribution service because it disagrees with the way in which FERC allocates costs. ComEd notes JNGO even acknowledge that FERC's long-standing Seven-Factor Test was developed because, in connection with open access, FERC "had to identify the parts of a utility's interconnected system that qualify as FERC-jurisdictional transmission." *Id*. at 29. But, ComEd states, FERC is responsible for ratemaking for the portions of the system identified under the Seven-Factor Test as "FERC-jurisdictional transmission." ComEd maintains that, if JNGO believe that FERC's ratemaking is inappropriate given changes in circumstances associated with large load customers, the appropriate place to make that argument is at FERC. ComEd asserts JNGO should not ask the Commission to issue an order that is reversible because it is within FERC's exclusive jurisdiction.

ComEd notes the AG argues its CIAC proposal would align with a recent Advance Notice of Proposed Rulemaking issued by FERC. AG IB at 42-43. ComEd maintains this is also not precedent on which the Commission should rely; it is merely notice that FERC will accept comments regarding whether CIAC is an appropriate approach, not a finding that it is indeed appropriate. ComEd states it is certainly not a finding that a state regulator has jurisdiction to require utilities to demand CIAC for transmission infrastructure.

Even if the Commission determines it has jurisdiction to adopt a tariff that defines a TSA as requiring customers to make CIAC payments, ComEd maintains it should decline to do so. Although JNGO and the AG characterize CIAC as being more protective than the revenue guarantee mechanism ComEd proposed, ComEd states that it is clear other parties that are closer to the development of infrastructure see the implications differently. Indeed, ComEd notes, parties like NRG and Microsoft appear to prefer the CIAC structure to the revenue guarantee structure – presumably because CIAC would require less of a financial commitment than the revenue guarantee mechanism ComEd has proposed.

Response to Policy Questions about Revenue Guarantee

ComEd notes several parties argue that the revenue-protection TSA model is inapt because it would eliminate the incentive for large load customers to manage their costs

by curtailing usage or using behind-the-meter ("BTM") generation or storage during peak hours. AG IB at 41; Microsoft IB at 14-18. ComEd maintains this is incorrect.

On the contrary, ComEd explains, the TSA simply changes the point in time at which it is advantageous for a large load customer to evaluate those alternatives and places the highest incentive at the point in time where the choice will make the most significant impact on the costs and risks to which other customers are subject. As noted above, ComEd states, the TSA holds a large load customer to the load projections in its application for service. Given the dollar-value of anticipated TSA commitments, ComEd explains that large load customers will have a very significant incentive to evaluate the potential contributions of BTM generation and storage when they are designing their projects and developing their load forecasts. To the extent those solutions enable a customer to lower their forecasted peak demand, ComEd states that they will reduce the financial commitment under the TSA.

And, because the TSA places the incentive at the point in time when the customer is designing their project, ComEd asserts that the TSA structure ensures that the actual grid facilities constructed are no larger – and no more costly – than they need to be to serve the customer's actual long-term needs. ComEd notes that the AG and Microsoft suggest that customers should have an incentive to reduce their demand after the facilities that interconnect them are built. But, if the facilities are built, ComEd points out, the costs are incurred and are being recovered. Or, under a CIAC model, the facilities are built and the customer has already paid for them.

Response to Criticisms about Timing and Uncertainty

ComEd notes that several parties argue the Commission should not impose a requirement that customers enter a TSA because the commercial terms of the TSA are not certain or are outside the control of the parties to this case. *See, e.g.*, NRG IB at 19-21; Monarch IB at 4-6. But ComEd maintains that this is not a reasonable basis on which to delay imposing the requirement. ComEd explains that the proposed tariff simply defines a TSA by reference to the revenue protection component of the agreement. As the AG asserts, "[t]he risk that a particular TSA might deviate from [that basic concept] can be addressed based on the details of that TSA and is appropriate to accept given the unprecedented nature of Large Demand Projects." AG IB at 31.

ComEd states that NRG asserts there is "no requirement" that ComEd actually finalize or file a TSA with FERC and hypothesizes that this could allow ComEd to "unilaterally block a customer." NRG IB at 27. ComEd responds that this is a red herring, and utterly without basis in fact. ComEd points out that it has an obligation and responsibility to serve customers, and to do so on a non-discriminatory basis. ComEd states there is nothing in the record to suggest that ComEd would selectively file or withhold TSAs to advantage or disadvantage any particular customer.

ComEd also notes that Monarch suggests imposing the TSA requirement would "deprive" the Commission from the ability to enforce Section 8-101 of the Act, which requires ComEd to furnish service to anyone "reasonably entitled thereto . . . without delay." 220 ILCS 5/8-101. ComEd maintains that nothing in ComEd's proposed tariff would prevent the Commission from taking any action it is lawfully entitled to take today. ComEd explains that the proposed tariff simply asks the Commission to determine

whether a large load customer that has not signed a TSA is, in fact, "reasonably entitled" to retail service. That is a judgment that the Commission is plainly capable of making, and later, if necessary, enforcing.

B. Staff's Position

Staff recommends the Commission approve ComEd's GT&C tariff amendment requiring LDPACs to enter into a TSA with ComEd as a condition of interconnecting the LDPAC and receiving retail service. Staff IB at 16; Staff Ex. 2.0 at 14-15.

ComEd includes a new tariff provision, "Transmission Revenue Security", in its GT&C tariffs that requires LDPACs to enter into a TSA that is on file with, or otherwise approved by FERC, as prerequisite or condition to ComEd providing retail delivery service to that LDPAC. *See* ComEd Ex. 1.0 at 18; ComEd Ex. 1.01 at 6; ComEd Ex. 2.0 at 4, 11. In requiring a TSA as a condition of providing retail service, LDPACs are responsible for contributing transmission revenue if there is a shortfall in actual demand from what the LDPAC initially projected over a ten-year period (regardless of whether the LDPAC meets the load or ceases to continue service) and provide a credit "to the transmission revenue requirement borne by transmission customers in the ComEd zone." Staff Ex. 2.0 at 13; ComEd Ex. 1.01 at 14; ComEd Ex. 2.0 at 4; ComEd Ex. 4.0 at 3; ComEd Ex. 6.0 at 18.

The TSA is a means to ensure that the transmission revenue requirement is not shifted to other, non-LDPAC ratepayers. Staff Ex. 2.0 at 15. With a TSA, ComEd can recover the minimum transmission revenue associated with the LDPAC's forecast and "protect both existing customers and other customers from significant financial harm . . . if a [LDPAC] project does not materialize as proposed or at all." Staff Ex. 3.0 at 12; ComEd Ex. 4.0 at 3. ComEd explained further why the TSA is needed and reduces significant financial risks, specifically:

> [T]he TSA will minimize speculation in the project queue and minimize the risk that a speculative project takes queue time and resources away from other projects that would have come online sooner and made revenue contributions sooner if it were not for the speculative project. Second, when an applicant does not live up to its representations, and especially when other large load applicants are deferred or deterred as a result, all of our customers lose out and end up paying more for transmission service.
>
> …
>
> [The TSA] also reduces the risk that transmission system investments are made to support new large loads, those loads do not materialize, and all other customers are left paying for those investments without the benefitting of large-load customer revenue contributions.

ComEd Ex. 6.0 at 21.

Staff's primary concern is that, under the status quo, customers are not protected if a project proposed by an LDPAC, who would have a significant contribution to the Company's revenue requirement, fails to materialize. *See* Staff Ex. 2.0 at 5. If a project

is later determined to be speculative or otherwise fails to materialize, and that project is the but-for cause of projects further in the queue deciding to locate outside of ComEd's service territory, existing ratepayers are harmed because no new LDPAC will step in to replace the revenues the failed project would have contributed to the Company's revenue requirement. *See id*. at 15. ComEd's TSA requirement is a reasonable approach to ensure that transmission revenues are sufficient to prevent unfair cost shifts to non-LDPAC ratepayers. *See id*. at 3, 15.

Additionally, Staff proposes clarifying edits to the TSA language in the GT&C tariff. Staff Ex. 2.0 at 13-14. Specifically, in data requests to ComEd, Staff asked if ComEd would further specify that the LDPAC is the entity responsible for any potential revenue shortfall. *Id*. Staff's proposed edit to amend the TSA language is shown below in underline:

> If there is a revenue shortfall <u>from the LDPAC</u> in any year, the delta will be recovered under the TSA <u>with that LDPAC</u> and credited to the transmission revenue requirement borne by transmission customers in the ComEd zone.

Staff Ex. 2.0, Attach. A at 2.

ComEd agreed to make the edit shown above and noted that "[f]or avoidance of doubt, ComEd notes that the revenue shortfall for any [LDPAC] might be recovered from that LDPAC or through the credit security the LDPAC posts for its obligations, but ComEd does not believe that the edit proposed in this data request suggests otherwise." *Id*.

Additionally, Staff identified a discrepancy between ComEd's Supplemental Statement to its GT&C tariff and its proposed GT&C tariff revisions. Staff Ex. 1.0 at 8. In ComEd's Supplemental Statement, ComEd states that it will require LDPACs to enter into a TSA, whereas ComEd's proposed tariff revisions state that the Company may require an LDPAC to enter into a TSA. *Id*. Thus, Staff requested that ComEd change the word "may" in underline below to "shall" as part of its proposed tariff language:

> The Company <u>may</u> require that a Large Demand Project Applicant or Customer enter into a Transmission Security Agreement (TSA) with the Company.

Staff Ex. 2.0 at 14; Staff Ex. 2.0, Attach. A at 1.

<u>Jurisdiction</u>

Multiple parties raise concerns about the Commission's jurisdiction in this docket, most notably surrounding ComEd's proposal to require LDPACs to enter into a TSA with ComEd prior to receiving service. Monarch and NRG argue that requiring LDPACs to enter into a TSA with ComEd and to obtain approval of that TSA from FERC before it can receive service is outside the jurisdiction of the Commission. Monarch IB at 5; NRG IB at 11-12. ComEd argues that requiring LDPACs to enter into a TSA is within the Commission's jurisdiction of retail-level service standards and minimum requirements, but recommendations related to the specific terms of a TSA are outside the Commission's jurisdiction. ComEd IB at 23-25. JNGO and the AG argue that requiring LDPACs to contract with ComEd concerning minimum monthly demand and energy requirements is

within the Commission's jurisdiction and is supported by recent decisions, most notably the FERC decision in *Tri-State*. JNGO IB at 27-30; AG IB at 28-31.

Staff agrees with ComEd, JNGO, and the AG that the Commission has jurisdiction to require an LDPAC to enter into a TSA with ComEd as a condition of receiving retail service. Staff agrees with ComEd that the Commission has jurisdiction over retail-level service standards and minimum requirements, including customer protection features. ComEd IB at 23-24 (*citing* 220 ILCS 5/8-101; 220 ILCS 5/8-102; *Village of Apple River v. Ill. Com. Comm'n*, 18 Ill 2d 518, 523 (1960); *Sheffler v. Commonwealth Edison Co*., 2011 IL 110166, ¶ 40). Staff also agrees that ComEd's TSA proposal does not limit or alter FERC's exclusive jurisdiction over transmission service rates. ComEd IB at 24-25.

Staff further agrees with the AG and JNGO that recent decisions support the argument that the Commission has jurisdiction to approve ComEd's proposed TSA. In *Tri-State*, FERC considered a proposed tariff including "minimum billing demand and energy floors" as well as a pro forma agreement offered for FERC's approval. *Tri-State*, 193 F.E.R.C. ¶ 61,070, at ¶ 11, 12. As explained by FERC,

> The [Federal Power Act] authorizes [FERC] to regulate the sale of electric energy at wholesale in interstate commerce, including both wholesale electricity rates and any rule or practice directly affecting such rates. But the law places beyond [FERC's] jurisdiction, and leaves to the states alone, the regulation of any other sale—most notably, any retail sale—of electricity.

Id. at ¶ 46 (internal quotations omitted.); *see also EPSA*, 577 U.S. at 279. Ultimately, FERC held in *Tri-State* that it is outside FERC's jurisdiction for FERC to approve a tariff that requires, as a condition of retail service, a large load customer to enter into an agreement with a utility that the customer will satisfy minimum load and energy requirements; instead, the specific terms of sale at retail "is a job for the states alone." 193 F.E.R.C. ¶ 61,070, at ¶ 50, 51 (*citing EPSA*, 577 U.S. at 280; *New York v. FERC*, 535 U.S. 1, 17 (2002)).

Transmission Revenues vs. Incremental Cost of Service

Parties disagree as to what specifically the TSA should guarantee ComEd: future transmission revenues paid by the LDPAC or the incremental cost of facilities ComEd is required to build to serve those LDPACs.

Staff agrees with ComEd's proposed TSA, which guarantees transmission revenues rather than the incremental cost of service. Staff Ex. 3.0 at 13. However, Staff notes that interesting points have been raised regarding the need to align customer cost responsibility with the actual incremental costs their projects impose on the system. *Id*. As discussed in Section VII.A., below, Staff recommends such cost recovery issues be considered in a future proceeding. In concept, an incremental revenue requirement guarantee is a thoughtful safeguard, because it would tie an LDPAC's payment obligation directly to the cost of transmission and distribution facilities that would not exist but for that customer's load. *Id*. However, ComEd explained it can be exceedingly difficult, if not impossible, to identify incremental transmission system costs that support service to a

particular customer because an LDPAC-sized end use load interacts with the system as a whole and the most effective solution will often be an investment that addresses multiple needs, including baseline system needs. ComEd Ex. 4.0 at 7-8. Furthermore, transmission inherently benefits all customers connected to the network regardless of what the immediate trigger of that transmission network investment is. *Id*. Finally, ComEd does not incur system investment costs until well into the process, creating a window in which an LDPAC could drop out of ComEd's queue before ComEd incurs those costs, but customers are still harmed because the LDPAC's actions could have caused a competitor-LDPAC to locate outside of ComEd's service territory, preventing the opportunity for ComEd to acquire a customer that would have made significant contributions to its transmission revenue requirement.

ComEd also noted concerns about AG witness Seryak's analysis comparing customers based on high or low interconnection costs and billing demands. ComEd Ex. 4.0 at 11-12; *see also* AG Ex. 1.0 at 19-20. As explained by ComEd, the AG's analysis fails to recognize how transmission investments are recovered under existing FERC-ratemaking structures. ComEd Ex. 4.0 at 11. Specifically, ComEd explained that the transmission revenue requirement is not allocated based on incremental cost, but rather based on a customer's load ratio as determined by a customer's peak load contribution; most importantly, there is no risk of excess recovery. *Id*. Instead, the AG's analysis highlights that there are instances where incremental transmission investments are minimal in comparison to the load requested by the customer, and that customers are far better off with collateral requirements tied to revenue requirement contributions. This is also true of NRG's analysis. *See* NRG Ex. 1.01.

Most arguments made by parties opposed to ComEd's proposal to guarantee transmission revenues rather than the incremental cost of service posit that guaranteeing revenues either violates cost causation principles or is not just and reasonable. However, this implies a narrow view of what constitutes a cost. These parties ask the Commission to interpret the meaning of "cost" only as the investment expense required to connect an LDPAC to the system. If the Commission views costs more broadly than just investment expense, and the risks to customers as greater than just the threat of stranded transmission system investment, then it is both just and reasonable and aligned with cost causation principles to require LDPACs to post collateral to protect existing ratepayers from the possibility of cost shifts.

ComEd also addressed JNGO's concern that projects have "no incentive to locate their projects efficiently." Energy costs are the predominant variable cost associated with many large load projects. ComEd Ex. 5.0 at 13. While ComEd cannot force or limit a project to a particular location, ComEd and LDPACs work in tandem to understand the scope and cost of a project at particular locations. ComEd Ex. 4.0 at 13. In 2023 and 2024, ComEd reviewed nearly 150 large load sites, identified sites with developed infrastructure and potentially lower costs to projects, and shared those sites with real estate brokers and with LDPACs. *Id*. Under ComEd's proposal, LDPACs are incentivized to locate efficiently and avoid over-forecasting demand.

Staff also cautions the Commission from relying entirely on a recent decision by the CPUC, as suggested by JNGO. *Pacific Gas & Electric Co*., CPUC Decision No. 25-07-039 (July 24, 2025). First, the Commission is not bound by what other state regulatory

bodies have approved. *See*, *e.g.*, *Central Ill. Light Co.*, Final Order, Docket Nos. 99-0119/99-0131 (Cons.), 1999 Ill. PUC Lexis 649, 190 (Aug. 25, 1999) ("Nor is the Commission persuaded by Enron/NEV's argument that California electric utilities place the customers in question immediately on bundled service. The Commission is not bound by what other state regulatory bodies have approved."). Instead, the Commission must base its decision on the record evidence in this proceeding, as is required by law. 220 ILCS 5/10-103; *see, e.g.*, *Teleport Communications Group Inc. v. Ill. Bell Tel. Co. Ameritech Ill*., Final Order, Docket No. 97-0404 et al. (Cons.), 1998 Ill. PUC Lexis 161, 32 (Mar. 11, 1998) ("Ameritech Illinois correctly points out that the decisions of other state commissions are not binding, and indeed, we have made an independent evaluation of the evidence presented in this docket.").

Second, PG&E is an ongoing docket; the July 24, 2025 order is an Interim order; the legal standard is based on California, not Illinois law; it involves different parties; the parties did not dispute the proposal to require a CIAC for transmission level payments; and the decision is not yet final, so no appeals have been filed and FERC nor any other entity has considered its legal validity.

Finally, Microsoft's concerns regarding Staff's position are misplaced. Microsoft complains that Staff testimony included "no corroborating or substantiating analysis or explanation that supports [its] conclusory statement [supporting ComEd's TSA proposal]." Microsoft IB at 18. However, Staff does not bear the burden of proof in this docket, nor does any law or rule require Staff to perform such an analysis. Staff's recommendation is based on the knowledge and expertise of its expert witness, as well as that witness's review of the record including the proposed tariffs, testimony, and discovery. Staff did not need to perform its own independent analysis to reach the conclusion, based on the record in this proceeding, that ComEd's proposed TSA is sufficient to prevent cost shifts to non-LDPACs. Staff Ex. 2.0 at 15. Interestingly, Microsoft's recommendation is not based on its own independent analysis but instead cites to NRG's analysis and the AG and JNGO's testimonies. *See, e.g.*, Microsoft IB at 15-16.

C. AG's Position

In response to ComEd's proposal to require Large Demand Projects to have a TSA approved by FERC before the Large Demand Project is able to interconnect and receive service, the AG points out that ComEd's proposed changes to GT&C do not actually mandate that any specific provision be included in the TSA before the Large Demand Project receives service. Upon cross examination, ComEd's witnesses concede that the exact provisions of the TSA that will be approved by FERC are unknown, including whether the requirement for the "delta" of transmission payments to be credited back to other ComEd transmission customers and the posting of the collateral security for these TSA obligations will be included. In short, ComEd's tariff changes mandating a TSA for Large Demand Projects resemble a hope more than a guarantee.

Further, as established by AG witness Seryak, ComEd's suggested TSA provisions do not sufficiently protect ratepayers from the costs of Large Demand Projects, but rather serve, to use ComEd's term, as "revenue protection" for ComEd. ComEd Ex. 2.0 at 12. In order to truly protect ratepayers and satisfy the just and reasonable standard, the AG argues that the GT&C should explicitly require an approved TSA that guarantees that a

Large Demand Project pays the costs of any transmission connection and upgrade as an upfront CIAC. The AG maintains that this is a requirement that the Commission is clearly authorized to make as a condition of retail service as discussed more fully below. *See EPSA*, 577 U.S. 260.

Jurisdiction

The AG contends that the Commission is within its authority as a regulator of retail electricity service to require a FERC-approved TSA as a condition of retail service. Microsoft witness Campbell, who is not an attorney, raises a potential legal concern in his testimony, that requiring a FERC-approved TSA is "inherently at odds" with the Commission's enforcement of a state tariff. Microsoft Ex. 1.0 at 27. The AG asserts, however, that a state tariff provision that conditions retail service on obtaining a FERC-approved TSA with specific provisions does not impinge on FERC authority as the regulator of interstate and wholesale electricity. This tariff provision does not require FERC to take any position. The mere fact that a state tariff mentions or acknowledges a federal regulator does not impinge on its jurisdiction, but rather acknowledges that the system of electric regulation is "inextricably linked" on the wholesale and retail level. *EPSA*, 577 U.S. at 264.

The AG explains that affirmation of the Commission's ability to require a FERC-approved TSA with specific terms in a state tariff comes from the U.S. Supreme Court decision in *EPSA*. *EPSA* involved a challenge to FERC Order 745, which built off a prior FERC order allowing wholesale market operators to receive demand response bids from aggregators of electricity consumers, except when the state regulatory authority barred demand response participation. Demand response is an agreement to curtail electricity use by a specific user. FERC Order 745 specified the price to be paid for those demand response bids, requiring market operators to pay the same price to demand response providers for conserving energy as the wholesale price paid to generators, so long as it meets a "net benefits test," which ensures that accepted bids actually save consumers money.

The AG explains that the FERC order establishing the price of demand response was challenged on the basis that it was outside of the FERC's statutory authority because the rule "effectively" regulated retail rates. *Id*. at 283. The Court in *EPSA* affirmed FERC's jurisdiction to set the price of demand response bids, denying the claims it represented an impermissible intrusion into retail rates. Specifically of note to this proceeding, the Court noted that a "FERC regulation does not run afoul of § 824(b)'s proscription [against the regulation of retail rates] just because it affects —even substantially—the quantity or terms of retail sales." The opinion goes on to provide: "It is a fact of economic life that the wholesale and retail markets in electricity, as in every other known product, are not hermetically sealed from each other. To the contrary, transactions that occur on the wholesale market have natural consequences at the retail level. And so too, of necessity, will FERC's regulation of those wholesale matters." *Id*. at 281.

In this proceeding, the AG asserts that the fact that a state jurisdictional tariff would require ComEd and a Large Demand Project to have a FERC-approved TSA is also "of no legal consequence." *Id*. A tariff provision mandating an approved TSA does nothing in the way of "asserting jurisdiction" over FERC, as Microsoft witness Campbell suggests.

MS Ex. 1.0 at 27. It does not order FERC to require the TSA—it only specifies what is expected to be in a TSA as a condition of receiving retail service in Illinois. There is nothing "inherently at odds" as Microsoft witness Campbell suggests, with mentioning FERC in a state tariff. *Id*. at 27. As the Court in *EPSA* recognizes, the wholesale and retail markets are not "hermetically sealed" from each other. To suggest otherwise presents an unnecessary and unwarranted boundary that would leave Illinois consumers exposed to high transmission costs caused by Large Demand Customers and would have a negative impact on the regulation of the electricity market as whole.

The AG notes that FERC recently applied the principles of *EPSA* when it rejected a proposed tariff intended to address the impacts of large load customers and applicants. *Tri-State*, 193 F.E.R.C. ¶ 61,070 (2025). In *Tri-State*, a utility proposed to set, via a FERC-jurisdictional tariff, the minimum amount of energy that a large load customer must purchase at retail. *Id*. at ¶ 48. Specifically, the utility sought to impose minimum monthly demand and energy requirements as a term of retail service in a tariff before FERC. *Id*. FERC rejected the proposed tariff because it "sets the terms of retail sales," which "'is a job for the States alone.'" *Id.* at ¶ 50 (*quoting EPSA*, 577 U.S. at 280; *New York v. FERC*, 535 U.S. at 17). Thus, the AG claims that a FERC decision that is barely a few weeks old found that the exact type of proposal at issue in this case—a requirement that a customer pay for a set amount of service—is subject to state jurisdiction over the terms and conditions of retail service.

The AG further argues that, beyond dispelling the erroneous jurisdictional argument, it is important to acknowledge the practicality of an Illinois ComEd tariff requiring a TSA approved by FERC to contain certain provisions. While there is a risk that FERC may not approve a TSA with the specified conditions or may add other conditions to the TSA, a tariff requiring a FERC-approved TSA recognizes the value of an agreement for these Large Demand Projects. On cross examination, ComEd witness Perkins admitted that a TSA is not currently required for Large Demand Projects to receive federal transmission service. Nevertheless, currently, or in the absence of the requested changes to GT&C, ComEd can seek approval of a TSA by FERC. It is between the parties to reach agreement on a TSA and within FERC's jurisdiction to determine if a requested TSA meets the standards set forth in the Federal Power Act.

The extreme and unprecedented risks to ratepayers imposed by Large Demand Projects demonstrate the need for Illinois to specify the conditions it expects in order to fairly interconnect Large Demand Projects. If the TSA terms proposed by the AG are not approved by FERC, then the Large Demand Project would be unable to receive retail service in the absence of a change to the tariff. Tr. at 330-332. However, a retail tariff that informs the utility and the Large Demand Projects about what Illinois regulators expect in order to connect to the distribution grid will expedite resolution of transmission connection agreements because the fundamental terms are specified. The risk that a particular TSA might deviate from the tariff requirements can be addressed based on the details of that TSA and is a risk appropriate to accept given the unprecedented nature of Large Demand Projects.

ComEd's TSA Proposal Does Not Protect Consumers

ComEd cites three reasons why its proposed TSA provisions in GT&C are necessary, only one of which directly references concerns about the costs imposed on retail customers by Large Demand Projects. *See* ComEd Ex. 2.0 at 13. Specifically, ComEd's TSA changes in the GT&C tariff are intended to protect against a revenue shortfall being borne by other customers, to "sync" the ComEd tariffs with the FERC jurisdictional tariffs, and to avoid "customer misunderstanding or confusion." *Id*. Regardless of the motivation, the AG contends, these intended protections of ComEd's TSA proposal are illusory. That is, while ComEd requires that the customer pay a portion of its anticipated load at the transmission rate, ComEd does not mandate any specific FERC-approved TSA terms that would protect customers from increased costs before the Large Demand Project receives retail service. *See id*.

The AG claims that the illusory nature of ComEd's GT&C TSA provisions is clear when looking at the actual language of the tariff changes. ComEd proposes to add the following provisions to the GT&C tariff:

> TRANSMISSION REVENUE SECURITY
>
> The Company may [will or shall] require that a Large Demand Project Applicant or Customer enter into a Transmission Security Agreement (TSA) with the Company. The TSA, which is subject to the jurisdiction of the Federal Energy Regulatory Commission (FERC), will inter alia require the Applicant or Customer to guarantee that its annual payments for transmission service, calculated in accordance with Attachment H-13 of the PJM Open Access Transmission Tariff (OATT) or any successor tariff in force at the time of service, will not for a period of ten (10) years after the commencement of service fall below the annual payment that would be made by a customer meeting the load ramp submitted to ComEd. If there is a revenue shortfall in any year, the delta will be recovered under the TSA and credited to the transmission revenue requirement borne by transmission customers in the ComEd zone. A TSA that is on file with, or otherwise approved by, FERC and effective is a condition of the Company's commencement of retail service to a Large Demand Project Applicant or project.

ComEd Ex. 1.02 at 8.

In response to a concern raised by Staff witness Rearden, ComEd has expressed "no objection" to modifying the first sentence to contain more of a directive, replacing the "may" with a "will." ComEd Ex. 4.0 at 6. Upon cross examination ComEd witness Perkins stated that ComEd has no objection if this first "will" were replaced with "shall." Tr. at 335.

Even with that change, the AG argues, the problematic "will" is in the second sentence of these changes to ComEd's GT&C: the TSA "will inter alia require the Applicant or Customer to guarantee that its annual payments for transmission service . . . will not for a period of ten (10) years after the commencement of service fall below the annual payment that would be made by a customer meeting the load ramp submitted to

ComEd." ComEd Ex. 1.02 at 8. In the AG's view, the "will" is not a direct mandate for the TSA to contain the transmission service guarantee. Under the principles of statutory interpretation under Illinois law, even the clearer term "shall" can be subject to interpretation as to whether that term is mandatory or permissive. *See Emerald Casino, Inc. v. Ill. Gaming Bd.*, 346 Ill. App. 3d 18, 21, 803 N.E.2d 914, 916 (2003) ("The law is clear: 'shall' means shall, except when it doesn't."). Far from preventing "customer misunderstanding or confusion" as ComEd claims, the use of the word "will" does not on its face indicate that the guarantee of transmission revenues secured with collateral must be in an approved TSA between ComEd and a Large Demand Project. Nor does the context of the usage of the word "will." The AG is concerned that the term "will" is not permissive or mandatory. Rather, the AG argues that it is a term expressing hope, and hope is not good enough for Illinois ratepayers in a tariff intended to protect them from the very real impact of Large Demand Projects.

The AG further argues that the final sentence of these amendatory GT&C terms also clearly shows that the revenue protection requirement that ComEd says will protect customers does not have to be in the FERC-approved TSA in order for the Large Demand Project to receive service. That sentence simply provides that a "TSA that is on file with, or otherwise approved by, FERC and effective is a condition of the Company's commencement of retail service to a Large Demand Project Applicant or project." ComEd Ex. 1.02 at 8. Once again, this sentence does not specify that the TSA shall contain the specific guarantee for transmission revenue payments in order to serve as a condition for the Large Demand Project to receive service. The plain language of this tariff change states that simply having a TSA approved by FERC allows a Large Demand Project to commence retail service or energize. The AG points out that the TSA could have protections outlined by ComEd, or it could not. In this tariff change, the condition of a TSA being "on file with, or otherwise approved by, FERC" is the only articulated condition to being energized. This does not "sync" state jurisdictional tariffs and federal jurisdictional tariffs although it may provide some clarity to customers about what is expected. *See* ComEd Ex. 2.0 at 13. Most importantly, the AG contends that it offers inadequate protection to ratepayers.

On cross examination by the AG and other parties, ComEd witness Perkins freely admitted that the transmission revenue guarantee in its GT&C proposals is far from a guarantee. Mr. Perkins explained, ComEd's proposal to "requir[e] a TSA with essentially this bare-bones requirement for a revenue requirement contribution for a period of 10 years as a condition of receiving retail service does not implicate or otherwise change FERC jurisdictional rates, tariffs, terms, or conditions." Tr. at 344. He acknowledged that the provisions contained in the GT&C changes do not bind FERC.

> Q. So during the course of the approval proceeding, FERC could change the terms from what ComEd has discussed as the potential terms of the TSA in this case, is that correct?
>
> A. Potentially, yes.
>
> Q. And it could provisions pertaining to collateral or security?
>
> A. Potentially, yes.

Tr. at 308.

ComEd witness Perkins also admitted in response to cross examination by NRG that the TSA protections in its proposal are not binding on FERC or a Large Load Project counterparty and he did not know whether the methodology to calculate the collateral under ComEd's proposed TSA was subject to FERC jurisdiction and decision. Tr. at 344-345.

The AG contends that, while ComEd asserts that the TSA requirement is intended to protect consumers as well as its revenue from Large Demand Projects, the terms of the GT&C are vague as to what exactly is required. Further, given that a TSA is an agreement with another entity for interstate services that are not subject to Illinois jurisdiction, FERC's authority over TSAs, and the fact that FERC, not the Commission, must review, approve, and enforce the TSA, it is impossible for ComEd or the Commission to be certain about what the terms of a TSA will ultimately be. For this reason, the AG argues that the GT&C must explicitly require that before a Large Demand Project can be connected to the distribution grid, it must have a FERC-approved TSA containing specific terms, as discussed below.

The AG claims that it is essential that the changes to ComEd's GT&C are clear and mandatory. They note that the use of the word "will" is ambiguous and does not provide the notice, clarity, or stability to customers that ComEd seeks, nor does it provide certainty to ratepayers that the protections set forth in the GT&C regarding Large Demand Projects are required. A "soft" direction in the tariff provision is unjust and unreasonable and should not be approved by the Commission. The requirement to have an approved TSA is different than requiring FERC to approve a TSA, the latter being a decision that this Commission has no jurisdiction over. In the context of this tariff, the Commission can and should provide clear mandates to public utilities like ComEd and its customers that a TSA with certain terms is required for retail service.

Thus, the AG argues that in lieu of the changes proposed by ComEd, the Commission should approve a change to ComEd's GT&C to require Large Demand Projects to have a FERC-approved TSA that contains a guarantee that the Large Demand Project will pay for any transmission upgrades necessary for the project. The change to the GT&C tariff should be clear that this is a mandatory requirement to receive retail service and not a suggestion. The AG contends that this change will actually protect ratepayers from socialized transmission costs and provide "skin in the game" as an inducement for Large Demand Projects to drive out speculative interconnection requests that have downstream impacts of driving up energy and capacity prices through inflated forecasts.

The AG notes that this approach to requiring a FERC-approved TSA that has the Large Demand Project pay the transmission costs it imposes on the network aligns with the recent Advanced Notice of Proposed Rulemaking ("ANOPR") issued by the U.S. Department of Energy on the interconnection of large loads, which includes in its principles for reform a requirement that loads in excess of 20 MW should be responsible for 100% of the network upgrades that they are assigned through the interconnection studies.

The AG explains that, before understanding how ComEd's proposal to secure "revenue protection" in the TSA fails customers, it is important to once again back up and understand how transmission upgrades for Large Demand Projects are currently evaluated, approved, and then paid for. As explained by ComEd in a response to a Data Request issued by JNGO, ComEd uses the "seven-factor" test to "functionalize" assets as either distribution assets subject to state jurisdiction, or transmission assets subject to federal jurisdiction. AG Ex. 1.02. If an upgrade is classified as distribution, it is subject to Riders DE, NS, or ZSS depending on the nature of the upgrade. If it is classified as interstate transmission, then the interconnection approval process goes through PJM, which is the RTO that provides transmission services to ComEd customers.

The AG points out that the PJM approval process for transmission upgrades for Large Demand Projects does not include a detailed review of costs. Large Demand Projects can impose transmission costs on other customers because the PJM process for reviewing supplemental transmission projects lacks a "critical review" of the cost impact of these transmission projects. AG Ex. 1.00 at 12. As AG witness Seryak explained, supplemental transmission projects are proposed by transmission owners and are considered local projects that are not needed for bulk power system reliability. *Id*. at 12. PJM reviews supplemental transmission projects to ensure they do not impair grid reliability, but it does not review supplemental transmission projects to ensure the projects are implemented in an economical fashion, to evaluate whether there are cost-effective alternatives, or to even authenticate the need for the project. *Id*. at 237–241. This is vastly different than the process PJM performs for baseline transmission system upgrades, which proceed through the PJM's Regional Transmission Expansion Planning or "RTEP" process. *Id*. at 13. Baseline transmission system upgrades are required for grid reliability and can be triggered by increases in load or retiring generation.

AG witness Seryak testified that "most of the costs associated with Large Demand Projects are showing up in supplemental projects rather than baseline projects." *Id*. at 13. According to the AG, this means that transmission upgrades for Large Demand Projects that ComEd functionalizes as federal-jurisdictional do not receive a rigorous review for cost impact at PJM and their costs are currently added to the transmission revenue requirement without specific customer allocation, effectively socializing a cost that is driven by a single cost-causer. Thus, all customers, including those who did not cause the costs and likely do not receive significant benefits from the assets, will be paying the costs to connect Large Demand Projects. And because the connection costs are treated as utility investments, ratepayers pay considerably more than the actual labor and material costs incurred.

The AG maintains that this is because, as AG witness Seryak explained, ratepayers also have to pay the utility's cost of capital on the investment over the full depreciation schedule. AG Ex. 2.00 at 8. ComEd's transmission return on equity ("ROE") is currently 11.50% and its capital structure has a 54.56% common equity ratio, resulting in high financing costs. *Id*. at 9. Moreover, the "true cost" of the upgrades caused by the Large Demand Project is "the full 40-year total of amortized costs." AG Ex. 2.00 at 7. The record shows that this approach often "results in the final cost of the project being about four times larger than the initial cost." *Id*. at 8.

The AG argues that a TSA that requires Large Demand Projects to pay the costs to connect to the transmission system is necessary to avoid the current practice where a Transmission Owner simply adds the costs of a Supplemental Project to its total revenue requirement, which is then paid by all ratepayers that receive transmission service. Further, Large Demand Projects should have the option to finance these costs independent of the utility regardless of how they are functionalized to both reduce costs and protect other consumers from Large Demand Project upgrade costs. A requirement that the Large Demand Project pay its own upgrade and interconnection costs provides the customer with important financing flexibility and protects other consumers from increased costs caused by large loads.

The AG contends that ComEd's proposed required security of federal transmission revenue payments for ten years as a part of the FERC approved TSA is insufficient to protect ratepayers from the true and total costs imposed by Large Demand Projects. As demonstrated by AG witness Seryak, transmission security in the form of revenues does not protect Illinois ratepayers because it does not require that Large Demand Projects pay the costs they impose on the system. ComEd's proposal will put the costs of transmission projects caused by Large Demand Projects into rate base and recover them through rates paid by all customers. The AG asserts that, if the expected revenues are insufficient to cover the connection costs, other customers will pay for costs they did not cause.

AG witness Seryak recognized that the likelihood that Large Demand Customers would cover their costs under ComEd's approach depended upon how transmission rates are determined and how much of their upgrade costs they would cover under ordinary transmission ratemaking. He testified that whether Large Demand Customers cover their costs depends on whether they impose high upgrade costs, their demand, and how well they manage their peak demand. He analyzed "whether the annual increase in the transmission revenue requirement, divided by the annual load increase from the Large Demand Customer is higher or lower than ComEd's current [Network Integration Transmission Service] [("NITS")] rate." AG Ex. 1.00 at 19. He testified that customers "with high loads but low upgrade costs could lower transmission rates for all ComEd customers. In contrast, Large Demand Customers that trigger high upgrade costs but with low loads coming online, would raise transmission rates for all customers." *Id*. at 19-20 (Table 1). Customers should not be subject to the risk that other customers will cover a Large Demand Project's costs because the transmission rate does not produce sufficient revenues to cover high interconnection costs.

The AG points out that JNGO witness Jacobs also exposes the faults of ComEd's use of transmission revenue security, as this provision "is not based on the actual costs that a particular Large Demand Project imposes on the transmission system, but instead on the rates they pay for transmission service." JNGO Ex. 2.0 at 23. Instead of requiring that a Large Demand Project that requires transmission upgrades and other facilities pay the costs it causes, the proposed TSA would require it to commit to paying transmission rates for 10 years at its maximum kilowatt demand. AG witness Seryak and NRG witness Dauphinais demonstrated that, at best, there is only a loose connection between upgrade costs and transmission revenues.

The AG argues that record shows that simply relying on revenue from the Large Demand Project's rates to recover costs over 10 years leaves other customers at risk of having to bear substantial costs. AG witness Seryak, building on an analysis presented by NRG witness Dauphinais, examined seven specific transmission projects driven by large load customers for which ComEd has sought approval at PJM. AG Ex. 2.0 at 6-10*; see also* NRG Ex. 1.0 at 14-17. Mr. Seryak compared 10 years of minimum guaranteed revenue recovery through rates, which is the protection that ComEd proposes through the TSA, with the full 40-year cost recovery of the proposed transmission upgrades. AG Ex. 2.0 at 7. As demonstrated in the table in AG Ex. 2.0 at 7-8, Mr. Seryak found that in 4 of the 7 projects, ComEd would fail to recover the full lifetime cost of the project from the Large Demand Project after 10 years of rates.

The AG contends that AG Ex. 2.0 at 7, demonstrates how the guaranteed cost recovery under ComEd's approach would be approximately $900 million less than the full lifetime costs of the projects. In other words, ComEd's ten-year revenue protection leaves other customers exposed to nearly $900 million of potential costs that they did not cause.

The AG notes that even ComEd witness Perkins, who described the benefits of the TSA requirement, admits that the requirement fails to include the total cost impact imposed by Large Demand Projects:

> Q. Is 10 years of rates equal to the cost to connect the customer to the system?
>
> A. I guess what do you mean by "the cost to connect the customer"?
>
> Q. So the cost of any necessary facilities needed to safely and reliably connect the customer to the system, these would be the types of costs that you're determining in your cluster studies and the engineering analyses and the like?
>
> A. No.

Tr. at 316.

The AG asserts that the policy goal of consumer protection, and the legal mandate of just and reasonable rates, require more.

Mr. Seryak explained that a transmission operator's rate is called NITS and is based on the transmission zone's coincident peak. The transmission operator charges large customers so that a large demand customer is allocated transmission costs based on the customer's electricity use during the transmission operator's peak hours. AG Ex. 1.0 at 12–13. Because transmission rates are based on use during the transmission operator's peak hours, a large demand customer has both the incentive and ability to "manage their [allocation] by curtailing their operations or by using behind-the-meter generation or storage during peak hours. A customer could drop its active load during peak times to zero and effectively pay $0 for transmission for a year if they are successful." *Id*. at 13. Using transmission rates as a method to recover interconnection costs is inconsistent with the ordinary method of allocating transmission costs and the incentive large customers have to use demand response, behind-the-meter generation or

other techniques and practices to lower their transmission costs. The AG argues that this is yet another way that ComEd's proposal would unjustly shift cost to consumers.

The AG recommends that, in order to provide the necessary protection to Illinois ratepayers against the already significant costs imposed by Large Demand Projects, the Commission should implement changes to ComEd's GT&C as proposed here by the AG and described by AG witness Seryak. The AG argues that the Commission should require that as a condition of retail service, a Large Demand Project shall obtain a final, FERC-approved TSA which guarantees that the project will pay all costs to interconnect based on CIAC. A CIAC payment ensures the customer causing the upgrade cost pays for some or all of the upgraded system that it is going to use, and thus ensures that the covered upgrade costs are not socialized into rates." AG Ex. 1.0 at 15, 17–16. The amount of the CIAC should be used to pay all transmission upgrades to avoid putting the cost caused by these customers in rates paid by ratepayers in the PJM ComEd Zone.

The AG claims that the Commission should modify the changes proposed by ComEd to require Large Demand Projects to have a FERC-approved TSA that contains a guarantee that the Large Demand Project will cover all transmission upgrades necessary for the project with a CIAC payment. AG Ex. 1.0 at 15–16, 17. The AG argues that the change to the GT&C tariff should be clear that this is a mandatory requirement to receive retail service and not a suggestion. According to the AG, this change will protect ratepayers from socialized transmission costs and discourage speculative Large Demand Project interconnection requests that have downstream impacts of driving up energy and capacity prices through inflated forecasts. Significantly, this approach to requiring a FERC-approved TSA with a CIAC provision aligns with the recent ANOPR issued by the U.S. Department of Energy on the interconnection of large loads, which includes in its principles for reform a requirement that loads in excess of 20 MW should be responsible for 100% of the network upgrade costs they cause. Thus, the AG recommends that the Commission modify the GT&C proposed by ComEd to require a TSA that requires CIAC payments for transmission interconnection and upgrade costs caused by Large Demand Projects. The AG contends that direct assignment of costs via CIAC is the only way to ensure that these costs are not unfairly borne by retail ratepayers.

TSA Provisions

The AG notes that ComEd does not directly engage with the AG's CIAC proposal, but rather alludes to two reasons why it and other proposals to improve its proposed TSA requirement are faulty. First, ComEd refers to proposals that are "not at issue in this proceeding nor are part of ComEd's tariff proposal before the Commission," and second, it asserts that issues "regarding the specific terms and provisions of a TSA . . . are within the exclusive jurisdiction of the FERC." ComEd IB at 25. The AG asserts that both of these arguments fail as applied to the AG's proposed TSA changes.

First, as to the "exclusive jurisdiction of FERC" over the terms of the TSA, the AG argues that if that is true, then ComEd's proposal to mandate that a TSA include a ten-year load ramp guarantee is subject to the same limitation. The AG contends that ComEd cannot claim that its TSA proposal protects ratepayers and is within the authority of the Commission, but that all other suggestions on how a TSA can protect ratepayers are somehow outside of the Commission's authority.

Second, the AG notes that ComEd's proposed tariff changes do not limit the tariff changes the Commission can adopt in this case. As clearly provided in Section 9-201(c) of the Act, the Commission can approve the tariff changes proposed "in whole" or "in part" or adopt proposals "in lieu thereof." 220 ILCS 5/9-201(c). The AG argues that this idea of a limited "scope of the proceeding" as defined by ComEd is contrary to the express provisions of the Act. Rather, the Commission has now twice suspended the implementation of ComEd's proposed tariff changes, including the TSA provisions, and opened an investigation on this matter pursuant to its statutory authority. The AG further notes that the Commission also has the authority to approve tariff changes of "its own initiative without complaint." 220 ILCS 5/9-201(b).

The AG points out that the Commission recently recognized the scope of its authority to review both the utility's tariff proposals and those of other parties in reviewing rate design. In Commonwealth Edison, Revenue-neutral tariff changes related to rate design, Docket No. 24-0378, the three-year rate design investigation, the Commission stated:

> [T]he Commission examines specific proposals ComEd alleges are outside the scope. For reasons specific to these proposals, the Commission finds that additional rate design-related issues should be addressed in this proceeding. The bases for examining these issues are discussed in the relevant sections of this Order. Broadly, review of such issues is supported by consideration of: administrative efficiency, including conservation of already strained time and resources; prior directives to address specific issues in this proceeding; and P.A. 102-0662's mandate that the impact of ComEd's tariffs and rate design be holistically considered. 220 ILCS 5/16-105.17(f)(4). Reasonable anticipation of new services and tariffs in furtherance of P.A. 102-0662's objectives support more inclusive rate design proceedings.

Docket No. 24-0378, Final Order at 19.

In that docket, as in this docket, parties offered substantive alternatives to the utility's tariff proposals, and the Commission both considered those alternatives and adopted some of them. *See, e.g.*, *id*. at 118-120 (incorporating COC and Building Owners and Managers Association of Chicago tariff changes); 160 (adopting modifications to ComEd's time-of-use tariff requirements); 189–190 (discussions on supply TOU, further developed in Order on Rehearing (July 17, 2025)). To imply that the Commission, which is tasked with addressing these proposed tariff changes involving one of the most consequential issues facing the electric system and affordability of essential electricity service, cannot consider any solutions other than what ComEd presents to them is an inaccurate statement of the Commission's authority. The AG contends that while ComEd retains the privilege of providing retail electric services to customers in Illinois, it does not define the limits of Commission's ability to address the important regulatory issues facing those same customers.

D. JNGO's Position

The record demonstrates that ComEd's current approach to large load connection costs requires residential customers to subsidize large load customers' high-voltage connections. ComEd's approach to large load connection costs thus violates the principle that "the cost of supplying public utility services [should be] allocated to those who cause the costs to be incurred." 220 ILCS 5/1-102(d). When ComEd files tariffs for electric delivery service under Section 16-108 of the Act, the Act requires that the Company must recover costs "through its charges to its delivery service customers that use the facilities and services associated with such costs." 220 ILCS 5/16-108(c). Socializing the costs of large load connection facilities violates that rule.

The AG and JNGO both recommend a requirement that large load customers pay their high-voltage connection costs directly but propose different mechanisms to impose that requirement. The AG proposes modifications to the GT&C to require Large Demand Projects to have a FERC-approved TSA that contains a guarantee that the Large Demand Project will pay for any transmission upgrades necessary for the project. Under the AG's proposal, a large load customer could not receive retail service until ComEd and the customer obtained a FERC-approved TSA that required the large load customer to pay for any necessary transmission upgrades. In contrast, JNGO do not rely on the TSA at all. Instead, JNGO propose modifications to Rider NS to clarify that new retail customers must pay directly for their high-voltage connection costs as nonstandard costs under ComEd's distribution tariff. JNGO suggest the following revisions to ComEd's existing tariff, Rider NS:

- Modify Rider NS to define "nonstandard facilities" to include "Any new lines substations, or other facilities at an incoming voltage of 138 kV or higher, including networked and non-networked facilities, but excluding upgrades to existing transmission facilities that are part of the PJM-controlled transmission network at the time of the service request."
- Modify Rider NS to require a single upfront payment to the NS COST calculation, see Tariff, 4th Revised Sheet No. 278, for any nonstandard facility serving a Large Demand Project Applicant or Customer.

Both the AG's and JNGO's proposals adhere to the cost causation principle by requiring large load customers to pay for their connection facilities and eliminate the unjust cost shift that results from socialization of the costs of high-voltage facilities. JNGO accordingly recommend that the Commission adopt either the JNGO or the AG proposal.

E. Monarch's Position

Monarch argues that ComEd's proposed tariff revisions that would require a Lare Demand Applicant to execute and deliver a TSA, and have the TSA approved by FERC, as a condition for receiving electric service, stand in violation of the Act, and if accepted, would harm and stymie large load development in Illinois.

Monarch points out that, under Section 8-101 of the Act, ComEd is required to: (1) furnish, provide, and maintain adequate, efficient, just, and reasonable service and facilities, (2) serve all persons who apply and are reasonably entitled to service, and (3) to do so without discrimination and without undue delay. *See* 200 ILCS 5/8-101.

Monarch states that ComEd's proposal would create a condition for electric service—obtaining a FERC-approved TSA—that is beyond the ultimate control of the Large Demand Applicant, ComEd, or the Commission, as the validity and effectiveness of the TSA is contingent on FERC's approval. Under ComEd's proposal, a Large Demand Applicant and ComEd could agree to all terms in a TSA, file such TSA at FERC, and if FERC were to reject such TSA due to concerns within FERC's jurisdiction to adjudicate, the Large Demand Applicant would not be allowed to interconnect and receive retail electric service from ComEd.

This is particularly problematic, Monarch argues, not only because FERC's approval is beyond the Large Demand Applicant's and ComEd's control, but because FERC's approval of the TSA, on which service to the Large Demand Applicant depends, would be outside the jurisdiction of the Commission. This means, in turn, that if the Commission were to accept ComEd's proposal, then the Commission would effectively be depriving itself of the ability to enforce the provision of Section 8-101 of the Act with respect to a Large Demand Applicant's service request.

Monarch concludes that ComEd's proposal violates Section 8-101 of the Act because it is impossible for ComEd, or the Commission, to ensure that ComEd can "furnish . . . suitable facilities and services" to the Large Demand Applicant – an entity "reasonably entitled" to such service – "without delay," if such service is contingent upon FERC approving the Large Demand Applicant's TSA. 200 ILCS 5/8-101.

Monarch also argues that if ComEd's tariff revisions are accepted, the requirement that a Large Demand Applicant execute and deliver a TSA as a condition for receiving electric service would harm large load development in Illinois. That is, the excessive collateral requirements inherent in ComEd's proposal would dissuade large load customers from locating their projects in Illinois. The TSA would, *inter alia*, require that a Large Demand Applicant guarantee the payment of "a [transmission] revenue stream in each year of the ten-year period that aligns with the customer's stated load [ramp] . . . . A shortfall would trigger a draw on the letter of credit." ComEd Ex. 4.0 at 18-19.

Monarch notes that large load customers – such as data centers, manufacturers, and other major employers – create significant economic and job benefits for Illinois. *See* NRG Ex. 2.0 at 36. Monarch points out that the record demonstrates that a high-cost form of collateral would exclude even creditworthy customers and would inappropriately discourage new large load customers from bringing additional investment and jobs to the state. *See id*. at 27.

For all of these reasons, Monarch recommends that the Commission reject ComEd's proposal to condition service to a Large Demand Applicant on execution and delivery of a TSA, as well as FERC approval of such TSA.

F. NRG's Position

NRG explains that ComEd proposes to condition retail electric service for any Large Demand Project Applicant or Customer on executing a new FERC jurisdictional TSA, which has not yet been developed by ComEd or approved by FERC. Under ComEd's proposal, each TSA would require customers to guarantee ComEd's expected transmission revenues from that customer for ten (10) years even if the customer never

takes service or develops load more slowly than forecast. As the proceeding evolved, ComEd indicated it does not propose a single TSA template but instead plans to negotiate and file individual TSA agreements with FERC on a case-by-case basis. *See* ComEd Ex. 6.0 at 24. It was unable or unwilling to identify which terms would vary among the various TSAs. *See* Tr. at 229.

NRG states that it supports protecting existing customers from undue risk but opposes ComEd's TSA structure because it improperly links retail service to a FERC jurisdictional document that does not yet exist, bases collateral on projected revenues rather than incremental costs, and requires massive collateral postings before customers have reliable cost estimates.

Accordingly, NRG requests that the Commission reject ComEd's reference to the TSA in its tariffs or, at minimum, adopt NRG's modifications that ensure any such security is tied to actual incremental transmission costs rather than hypothetical revenue projections and provide the customer with a reasonable sense of its transmission and distribution costs.

ComEd's Proposal Would Improperly Condition Retail Service Upon FERC Approving a Yet-to-be-Developed FERC-Jurisdictional TSA

NRG advises that although the Commission has broad authority over distribution service and retail rates, the Commission's statutory authority is strictly construed. *See Monsanto v. Touchette*, 63 Ill. App. 2d 390, 400-01 (5th Dist. 1965). The Commission possesses no authority beyond that which the legislature confers, and the facts necessary to establish its jurisdiction must affirmatively appear in the record. *See Ill. Com. Comm'n v. E. S. L. & C. R. Co*., 361 Ill. 606, 611 (1935). The Commission may not extend its jurisdiction by implication or policy preference. *See Ill. Landowners Alliance v. Ill. Com. Comm'n*, 406 Ill. Dec. 248, 256 (3d Dist. 2016) (*citing Sheffler v. Commonwealth Edison Co.*, 399 Ill. App. 3d 51, 60 (1st Dist. 2010)), *aff'd Ill. Landowners Alliance v. Ill. Com. Comm'n*, 418 Ill. Dec. 290 (2017).

NRG asserts that, under the Federal Power Act, FERC has exclusive jurisdiction over the rates, terms, and conditions of transmission in interstate commerce and practices affecting those rates. *EPSA*, 577 U.S. at 264. Illinois courts have recognized the same boundary. *Ill. Landowners Alliance*, 418 Ill. Dec. at 295; *Gen. Motors Corp. v. Ill. Com. Comm'n*, 143 Ill. 2d 407 (1991). Thus, while the Commission retains authority over retail distribution service, it may not regulate FERC-jurisdictional transmission matters. NRG notes that the Commission's own decisions consistently reflect this jurisdictional boundary. *See* Docket No. 16 0315, Docket No. 22-0237, Docket No. 24-0476.

NRG states that the Commission's deference to FERC on transmission issues prevents regulatory overlap, preserves federal supremacy, and promotes efficient market administration. Accordingly, any proposal that would condition retail service on compliance with federally governed transmission terms or shift FERC jurisdictional costs to retail customers exceeds the Commission's authority and must be rejected.

NRG highlights that ComEd itself acknowledges that its proposed tariff language is designed to make the filing of a TSA with FERC a prerequisite for retail service. *See* ComEd Ex. 1.02 at 8; NRG Ex. 1.0 at 19. According to NRG, ComEd seeks to make

state-regulated retail access contingent on the future approval of a FERC-jurisdictional contract that neither the Commission nor any party has reviewed, much less negotiated or litigated. This approach is unprecedented, jurisdictionally flawed, and contrary to sound regulatory policy.

NRG maintains that the first problem is that ComEd has not finalized—let alone filed and received approval of—the TSA that would control large load customers' rights. Key commercial elements, including (a) the percentage of load ramp to be guaranteed, (b) whether collateral may be adjusted mid-stream, and (c) the timeline for collateral release, remain entirely unknown. *See* ComEd Ex. 4.0 at 3, 6; *see also* NRG-ComEd Cross Ex. 3. ComEd witness Perkins could not identify which provisions might vary across TSAs. *See* Tr. at 329. Without knowing these mechanics, the Commission cannot determine whether the TSA (or TSAs) would strike the appropriate balance between attracting beneficial new load and protecting existing ratepayers. Adopting a tariff that references a non-existent, undefined FERC instrument would abdicate the Commission's duty to ensure just and reasonable retail terms.

Second, NRG claims that it is even more problematic that ComEd's language contains no requirement that ComEd actually finalize or file a TSA with FERC. This omission would allow ComEd to unilaterally block a customer from taking retail service simply by withholding a FERC filing. Under cross-examination, Mr. Perkins admitted that if ComEd does not file a TSA with FERC, "the customer doesn't get service." Tr. at 318-319. Such unchecked discretion is antithetical to the Act's nondiscrimination mandate and would effectively place ComEd in the role of gatekeeper determining who may receive retail service in Illinois. *See* 220 ILCS 5/9-241(a). The Commission – not the utility – must control that determination.

Third, NRG notes that ComEd repeatedly refused to discuss or commit to the TSA's commercial provisions, stating that those terms are "exclusively FERC-jurisdictional" and outside this Commission's authority. *See* NRG-ComEd Cross Ex. 1; Tr. at 331-332; *see also* ComEd 6.0 at 24. NRG agrees that the commercial terms of the TSA are FERC-jurisdictional. As NRG witness Dauphinais explained: "The Commission cannot require execution of a TSA that FERC has not approved. This is purely a matter for FERC to decide . . . . The Commission should continue to maintain the current Rate language and not allow ComEd to force Large Demand Project Applicants to execute a TSA, unless and until FERC approves a TSA for ComEd." NRG Ex. 2.0 at 30. Because the TSA falls squarely within FERC's jurisdiction, the Commission cannot lawfully dictate its terms or require execution of a contract that FERC has not accepted.

Finally, NRG argues that ComEd's proposal assumes FERC will eventually approve a TSA with the conditions included in ComEd's proposed tariff. However, there is no guarantee that FERC will do so—or that FERC will even view a TSA as the appropriate mechanism for addressing large load risks. As NRG witness Dauphinais explained, there is a real risk the terms in ComEd's proposal will not be embraced by FERC. *See* NRG Ex. 1.0 at 22. Even ComEd witness Leichtman acknowledged that he does not know "what actions FERC might take or how it might modify a proposed agreement in front of it." Tr. at 146. If FERC declines to approve a TSA or modifies the terms in a way that is inconsistent with the conditions included in ComEd's proposal, ComEd's tariff language would bar all large load customers from taking retail service until

the Commission reopens and revises the tariff. Mr. Perkins conceded that in this event ComEd would have to petition the Commission to modify the tariff before any new customers could take service. *See* Tr. at 317-323. That outcome would create an indefinite moratorium on large load development in Illinois as ComEd again would be in a position to block these customers from connecting due to the operation of its proposed language.

Thus, NRG maintains that the proper course is clear: the Commission should delete all references to a TSA from ComEd's proposed tariffs and maintain the existing Rate RDS framework unless and until FERC independently approves a TSA structure that this Commission can subsequently reference with confidence and clarity.

ComEd's Proposal Would Improperly Base The TSA Collateral Upon ComEd's Revenue Requirement Rather Than Incremental Costs

NRG points-out that ComEd confirmed that its proposed TSA: (1) does not seek to recover directly allocable incremental costs, (2) sets collateral levels based upon long-term load forecasts rather than actual load, (3) requires customers to cover "revenue shortfalls" relative to forecasted load, and (4) may demand letters of credit of nearly a half billion dollars for large load projects. *See* NRG Ex. 1.0 at 20; Tr. at 191-192. ComEd has confirmed the proposed TSA would serve as a guarantee of ComEd's transmission revenue requirement, rather than act as a cost-based security instrument. *See* Tr. at 338. ComEd provided no examples where the Commission has approved collateral requirements based upon a utility's projected revenues. *See* Tr. at 338, 341.

NRG maintains that 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, is inconsistent with cost-based rates and well-established principles of cost causation. The Act requires that rates be just and reasonable, and that there are no customer or class subsidies without lawful justification. *See* 220 ILCS 5/9-201, 9-241(a); *see also* NRG Ex. 1.0 at 10. The Commission and the courts have 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. *See Cent. Ill. Light Co. v. Ill. Com. Comm'n*, 252 Ill. App. 3d 577, 586 (3rd Dist. 1993) (rates must be designed to bring charges closer to cost of service, reducing inter-class imbalances and ensuring that cost-causers are cost-payers); *City of Chi. v. Ill. Com. Comm'n*, 281 Ill. App. 3d 617, 625 (1st Dist. 1996) (It is unjust to charge one group of ratepayers for the costs of serving another group)*; see also* NRG Ex. 1.0 at 10. As NRG witness Dauphinais explained, "Any framework that departs from cost-based ratemaking should be presumed to be unjust, unreasonable, unfair, and harmful to Illinois ratepayers." NRG Ex. 1.0 at 254-256.

NRG witness Dauphinais presented quantitative, empirical, data-driven analysis showing that ComEd's proposed revenue-based TSA collateral formula would, in practice, generate wildly inconsistent and inequitable collateral requirements - too little in some cases to protect existing customers and too much in others, imposing excessive financial burdens on new projects. *See* NRG Ex. 1.0 at 12-17.

Mr. Dauphinais' analysis shows a substantial mismatch between collateral and cost: "For some large load projects, the transmission revenue requirement of the

incremental transmission facilities needed to serve the Large Demand Project significantly exceeds the guaranteed revenues that the TSA would provide. For other projects, the TSA would require collateral several times greater than the cost of the facilities actually needed." NRG Ex. 2.0 at 33. For three of these actual projects, ComEd's proposal would collect collateral that would be between $52.6 million to $161.5 million short of covering the incremental costs imposed by the projects, leaving other ratepayers exposed. For the other four projects, ComEd's calculation would result in a request for collateral that is $52.7 million to $192.2 million more than their incremental costs, which does not send the appropriate pricing signal and may result in the project simply not being built in Illinois. As Mr. Dauphinais explained, "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." NRG Ex. 1.0 at 34; *see also* Tr. at 56.

Mr. Dauphinais' analysis demonstrates that ComEd's proposal would undercollateralize high-cost projects and overcollateralize low-cost ones, depending entirely on the product of its calculation, not actual system impacts or costs. Indeed, no party disputes that ComEd's revenue method can over-secure some customers and under-secure others.

NRG notes that ComEd witness Perkins acknowledged that "in some instances the collateral would exceed the incremental transmission facility costs" and in other instances it would not. *See* ComEd Ex. 6.0 at 27. This confirms ComEd's approach is not cost-reflective.

NRG states that Mr. Perkins asserts that "Covering the cost of incremental infrastructure development . . . does not protect other customers" because a project that fails to materialize could deprive ComEd of expected revenues. ComEd Ex. 4.0 at 25. This exposes the true nature of ComEd's proposal: it is not a cost-based protection mechanism but a revenue guarantee structure, which requires full funding even if the customer never takes service.

NRG further states that Mr. Perkins' assertion that unrealized load "exposes customers to risks that exceed by many times the value of incremental investment" is unsupported. ComEd Ex. 6.0 at 27. No evidence shows that failure of a large load project leads to stranded system costs or ratepayer harm beyond the incremental facilities built for that load. To the contrary, transmission expansion in PJM is modular and regionally planned; if a project fails to materialize, any facilities already approved can either be deferred or reallocated to serve other load growth.

NRG's Incremental Revenue Requirement ("IRR") Approach Is Consistent With Cost-Causation Principles

NRG asserts that its Incremental Revenue Requirement ("IRR") approach would tie the collateral obligation directly to the specific transmission facilities required to serve a project -- aligning responsibility with identifiable cost impacts and eliminating both under and over collateralization. *See* NRG Ex. 1.0 at 11-17; NRG Ex. 2.0 at 31-33. Mr. Dauphinais explained how this methodology would work:

> 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.

NRG Ex. 1.0 at 11.

By basing the collateral on the incremental revenue requirement, the costs which the new customer caused would be covered by the guarantee and existing customers would benefit from the 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. *See* NRG Ex. 1.0 at 12. NRG's incremental cost approach ties collateral to the transmission facilities that would be required "but for" the large load project. NRG Ex. 2.0 at 33. Unlike ComEd's one size fits all formula, the IRR method scales the security to each project's real cost impact providing adequate protection without distortion. As a result, unlike ComEd's proposal, the IRR approach also sends an appropriate 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. NRG Ex. 1.0 at 13-14. This cost-based framework mirrors the established Rider DE methodology and advances cost causation principles long recognized by this Commission and FERC.

ComEd witness Perkins testifies that although ComEd tracks project costs, those costs cannot and should not be assigned to individual large load customers because transmission investments support the integrated network and benefit all customers. ComEd Ex. 6.0 at 25. This argument misrepresents both the purpose and practicality of Mr. Dauphinais's recommendation. As Mr. Dauphinais testified, ComEd already identifies incremental transmission costs associated with new load additions through its participation in PJM's Regional Transmission Expansion Plan and cluster study processes. *See* NRG Ex. 2.0 at 32–33. The integrated nature of ComEd's system does not prevent identifying marginal costs; it simply requires that engineering and planning data be used to assign responsibility for facilities that would not exist "but for" the large load project.

NRG also asserts that Mr. Perkins' testimony concedes that ComEd tracks project-specific costs but seeks to avoid using them to align collateral with cost causation. Cluster studies already apportion responsibility for incremental facilities among participating customers, confirming that such allocations are both accurate and practical. NRG's IRR framework builds upon ComEd's existing data and PJM planning processes to ensure

collateral reflects actual incremental cost exposure, providing a transparent and cost-based alternative consistent with Commission precedent and established cost-causation principles.

AG witness Seryak criticized the IRR method, NRG notes, asserting that because it is limited to ten years of collateral, it produces an alleged "$900 million under-recovery" when compared to ComEd's 40-year cost of service. However, on cross-examination, Mr. Seryak admitted that the ten years of collateral in NRG's IRR approach understandably mirrored the ten years of collateral in ComEd's proposal. *See* Tr. at 87. Further, Mr. Seryak's workpapers reveal that he stopped calculating customer revenues after year 10 while continuing to accumulate costs through year 40. *See* Tr. at 94; NRG-AG Cross Ex. 9. When the revenues from years 11-40 are properly included, the alleged shortfall disappears -- and overall becomes an over-recovery, confirming the way in which these large load customers contribute to ComEd's "old" system costs. The AG's analysis therefore fails to measure true ratepayer exposure and misrepresents the balance between customer payments and system costs. NRG's IRR approach properly focuses on the early-stage exposure period when a project's load uncertainty could impact incremental facilities -- not on guaranteeing ComEd's lifetime rate-base recovery.

As Mr. Dauphinais testified, large load customers should be responsible only for the incremental revenue requirement associated with transmission facilities that would not exist "but for" their load for their initial ten (10) years of service. NRG Ex. 1.0 at 15. Mr. Seryak's proposal to extend the IRR cost responsibility over a 40-year cost horizon would transform a targeted cost-protection mechanism into a revenue guarantee, violating cost-causation principles and Commission precedent. The record confirms that NRG's IRR framework is the only approach grounded in empirical evidence, proportional to actual risk, and consistent with the Commission's duty to ensure just and reasonable rates.

NRG's proposal ties the security obligation to actual incremental transmission costs, not forecasted revenue requirements and protects customers without turning transmission tariffs into a forward earnings guarantee.

ComEd Should Be Required To Provide A "Reasonably Binding" Estimate of All Costs Prior To Execution Of The TSA

NRG further recommends that no Large Demand Project Customer be required to execute a TSA until at least 30 days after receiving from ComEd a reasonably binding, complete estimate of all Rider DE deposits, long-lead time deposits, and non-standard service payments. *See* NRG Ex. 1.0 at 20. This would ensure that customers have a reasonable understanding of their full financial obligations before being compelled to post multi-million dollar security.

NRG refers that ComEd has recognized that execution of the TSA will bind the customer to providing collateral that could total nearly a half billion dollars. *See* Tr. at 191; *see also* NRG Ex. 1.0 at 20. To make such a non-revocable commitment, it is only reasonable that customers be provided with a "reasonable binding" estimate of all the transmission and distribution cost and deposit obligations they will be subject to by ComEd. Although the cluster study will provide an understanding of the transmission costs, the customer needs to know both its transmission and distribution cost exposure.

As NRG witness Dauphinais explained, "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." NRG Ex. 1.0 at 30.

NRG witness Dauphinais explained that a "reasonably binding" estimate does not require a precise calculation, but rather a ballpark estimate that is no worse in accuracy than an American Association of Cost Engineers International ("AACE") Class 3 cost estimate. *See id*. at 31-32 (*citing* AACE Recommended Practice 10S-90, Engineering Terminology, July 23, 2025, at 37). This is the class of cost estimate, with an expected accuracy typically in the range of -20% to +30%, that is typically required before substantial financial commitments and generally prepared to form the basis for budget authorization, appropriation and/or funding. *See id*. Mr. Dauphinais explained that the magnitude of financial commitment that is being made by executing a TSA is consistent with providing this class of estimate. *See id*. at 32.

NRG indicates that ComEd did not take issue with the commercial reasonableness of providing such an estimate but rather discussed the difficulty of providing a precise calculation of its distribution costs. *See* ComEd Ex. 5.0 at 19. However, on cross-examination, ComEd witness Leichtman admitted that ComEd presented no evidence that it was incapable of providing estimates in the range that NRG witness Dauphinais recommended. Tr. at 212-213.

Additional Time Limits And Guidance Should Be Included In ComEd's Tariffs

According to NRG, during cross-examination, it was revealed that, under the language proposed by ComEd, there are several ways in which ComEd improperly could give preference to projects that ComEd wanted to advance and inappropriately disadvantage projects it wanted to negatively impact. Several discrete changes to the language ComEd has proposed could prevent such improper and potentially unduly discriminatory results.

NRG notes that ComEd admitted that it did not include in its tariffs any obligation that ComEd timely provide a draft TSA to large load clients. ComEd witness Leichtman recognized that it would reduce uncertainty if ComEd's tariffs were to require ComEd to present a draft TSA to its large load customers no later than forty-five (45) days following the completion of the cluster study. *See* Tr. at 196.

G. Microsoft's Position

Microsoft contends that, despite not including even a pro forma of the agreement along with its filings (and only providing term sheets in discovery), ComEd proposes that the Commission require a Large Demand Project Customer or Applicant to execute a federally-jurisdictional TSA as a prerequisite of retail service. Microsoft responds that ComEd's proposal is neither sufficiently defined nor supported by substantial evidence and, thus, should be rejected by the Commission.

Microsoft states that the Commission could (and should) reject ComEd's proposed TSA execution requirement for any of the following three reasons: (1) The evidentiary record does not support approval of ComEd's proposal because the terms and conditions of the TSA remain unknown and FERC has yet to consider or approve a TSA that is

applicable to ComEd; (2) the TSA is designed for protecting ComEd's revenues and not for protecting other customers by recovering actual marginal costs that may be associated with a Large Demand Project; and (3) the proposed TSA is inconsistent with the goals and policy of the Climate and Equitable Jobs Act because it would, if approved, erode incentives to add onsite renewables or storage, or reduce peak demand through demand response or energy efficiency. Indeed, Microsoft argues that each foregoing reason is independently sufficient for the Commission to reject ComEd's proposal to require as a condition of retail service a FERC-jurisdictional TSA.

Alternately, Microsoft offers that if the Commission is inclined to adopt concepts from ComEd's unsubstantiated TSA proposal in a manner that specifically protects other ratepayers and is state jurisdictional, the evidentiary record could support an Illinois-jurisdictional mechanism (instead of a FERC-jurisdictional mechanism) that could be utilized to ensure that each Large Demand Project Customer pays (in retail transmission payments) at least its marginal impact on ComEd's transmission revenue requirement. Therefore, Microsoft continues, to the extent that the Commission deems some elements of ComEd's TSA proposal just and reasonable, the Commission could order ComEd to create an Illinois-jurisdictional mechanism to ensure Large Demand Projects Customers' retail transmission payments are adequate to cover the costs of their marginal transmission upgrades (and thus ensuring that other customers' allocations do not increase).

ComEd's Proposal is Not Sufficiently Defined because the TSA is Subject to Rejection or Modification

Microsoft notes that ComEd asks the Commission to require Large Demand Project Customers or Applicants to execute a TSA as a condition of retail service, but it has not presented in the record a pro forma TSA to be executed. Thus, Microsoft argues, it is premature to approve ComEd's request because it is unclear what the Commission would be requiring Large Demand Project Customers or Applicants to execute. Microsoft contrasts that while ComEd presented a term sheet (and later updated the term sheet) in discovery, ComEd concedes in surrebuttal testimony:

> The parties appear to assume that FERC would approve a pro forma TSA, but it is ComEd's intention that, at least at the outset, TSAs will be entered into bilaterally between ComEd and a large-load customer, and FERC will review and approve them individually.

ComEd Ex. 6.0 at 24.

Microsoft notes that ComEd further concedes that "[t]here are no specific terms required or included [in the TSA, once proposed and approved] beyond the fact of the revenue guarantee. Whether and how those protections are implemented remains up to FERC." Accordingly, Microsoft argues, the Commission cannot determine whether a requirement to execute a TSA is just and reasonable because neither the underlying record nor any party or participant involved in this consolidated docket can inform the Commission what the TSA will require or whether it will be approved by FERC as just and reasonable. As a result, Microsoft concludes that the Commission must reject ComEd's proposal.

The TSA Protects ComEd's Revenues, Not Consumers

Microsoft states that, as a current retail customer of ComEd, it strongly supports a tariff structure that designs just and reasonable rates that insulate other ratepayers from the costs of marginal transmission upgrades incurred by ComEd for a new Large Demand Project. In contrast, Microsoft explains that ComEd seeks a tariff structure that (via the use of a TSA) is not intended to protect consumers from excess costs but, instead, is intended to protect ComEd's revenue projections from the time of the interconnection application:

> MS witness Campbell is correct that the TSA links customers financial obligations to their stated load ramps—what they represent their load will be when they apply for service—rather than the cost of incremental infrastructure.

ComEd Ex. 6.0 at 22.

Importantly, Microsoft argues, the record demonstrates that neither consumers nor Large Demand Project Customers benefit from ComEd's proposed revenue protection approach because: (1) ComEd does not establish it needs revenue protection; (2) ComEd's revenue protection approach harms ratepayers; and (3) ComEd's revenue protection approach harms Large Demand Projects. Microsoft contends that the record is completely devoid of evidence or any rationale that ComEd's revenue expectations from an initial service application would need to be protected. In fact, Microsoft notes, not once in hundreds of pages of testimony does ComEd allege it will be unable to collect just and reasonable transmission costs in its rate base; even ComEd concedes that it will be made whole for its revenue requirement – whether or not ComEd collects from any particular customer. Tr. at 255.

Moreover, Microsoft explains that ComEd's proposal would harm ratepayers (generally) or Large Demand Project Customers (specifically) in virtually every case instead of balancing the interests of both. Indeed, Microsoft illustrates that the record on this point is notable.

NRG demonstrates with detailed analysis that ComEd's revenue protection approach leaves other ratepayers at risk when the cost of marginal transmission upgrades exceeds ComEd's proposed TSA minimum payment. Microsoft argues that the same analysis shows that for lower-cost marginal transmission upgrades, ComEd's proposal excessively charges Large Demand Project Customers beyond what is necessary to ensure other ratepayers are held harmless. *See* NRG Ex. 1.0 at 32.

Both the AG and JNGOs raise concerns about costs of marginal transmission upgrades exceeding ComEd's proposed revenue protection payment. According to Microsoft, Mr. Campbell agrees with the concerns of the AG and JNGO, though noting (like NRG) that costs of marginal transmission upgrades will not necessarily exceed ComEd's proposed minimum payment. AG witness Seryak, in particular, explains:

> Large Demand Customers with high loads but low upgrade costs could lower transmission rates for all ComEd customers. In contrast, Large Demand Customers that trigger

> high upgrade costs but with low loads coming online, would raise transmission rates for all customers.

AG Ex. 1.0 at 19.

According to Microsoft, the Commission must balance the benefits to ComEd from its proposed revenue protection approach against impact on participants and ratepayers to evaluate the standard for justness and reasonableness in Section 9-201(c). Taken together, Microsoft states, unless by happenstance ComEd's revenue protection calculation is equal to the cost of marginal transmission upgrades associated with Large Demand Projects, ComEd's proposal harms either all ratepayers or the Large Demand Project Customer. In fact, Microsoft continues, ComEd's proposed calculation and the amount needed to protect other customers "have nothing to do with each other," as Mr. Campbell observes. Thus, Microsoft argues, ComEd cannot meet its burden to show its TSA proposal is just and reasonable. Therefore, Microsoft concludes, while ComEd extensively opines on its preference for a revenue guarantee (which it masks as a consumer protection mechanism), ComEd fails to substantiate in the underlying record why the Commission should protect its revenues instead of right-sizing the minimum payment required from a Large Demand Project Applicant or Customer to only the actual marginal upgrade costs.

Microsoft contends that ComEd's mere identification of a risk is not evidence and cannot be used to substantiate its insistence that a federally-jurisdictional TSA is required to mitigate the risks associated with retail speculative load and unrealized load ramps. Microsoft highlights that, as corroborated by *Citizens Util. Bd. v. Ill. Com. Comm'n,* ComEd's identification of potential risks under the status quo is not itself evidence that ComEd's TSA proposal is just and reasonable. Microsoft counters that the Commission must still rely on the record evidence, and the record evidence presented by NRG and Microsoft (among other parties) demonstrates that ComEd's TSA proposal is not even responsive to the potential risks ComEd identifies. Instead, Microsoft argues, the record evidence supports the implementation of these measures to ensure the right-sizing of transmission upgrades to more justly and reasonably interconnect Large Demand Projects: (1) implementing Mr. Campbell's cluster study improvements, (2) identifying whether upgrades support other Large Demand Projects or all ratepayers, (3) staging deposits to mirror natural development timelines, and (4) releasing financial assurance as a Large Demand Project delivers transmission revenue.

Finally, while Microsoft acknowledges Staff's support of ComEd's TSA proposal, Microsoft also acknowledges the duality of Staff's position, as well. Microsoft cites Staff witness Rearden's testimony on rebuttal, in which he states that, in his "opinion, the TSA requirement is a reasonable approach to ensure that transmission revenues are sufficient to prevent cost shifts to non-LDPACs [Large Demand Projects]"; however, Microsoft counters by explaining that Dr. Rearden's testimony includes no corroborating or substantiating analysis or explanation that supports his conclusory statement on this point. In fact, in the very next sentence of Dr. Rearden's referenced testimony, he concedes that the issue of "the potential interplay between the incremental costs to interconnect large loads and the recovery of incremental transmission costs" should be further explored. Microsoft illuminates that despite extensive testimony from many parties in this consolidated docket who identify the many deficiencies in ComEd's TSA proposal,

Staff, nonetheless, and without evidentiary support, recommends that ComEd's TSA proposal be approved as is and any further issues be addressed in a future proceeding. Microsoft responds that this is unnecessary, inappropriate, and administratively inefficient given that there is a well-developed record on this issue in this consolidated docket. Accordingly, Microsoft concludes that the Commission should not deny or defer consideration of this major issue, and, instead, follow the clear record evidence in the underlying record and deny ComEd's proposal.

The TSA Conflicts with Public Act ("P.A.") 102-0662's Goals

According to Microsoft, ComEd's proposed TSA, if approved, would also undermine the goals of P.A.102-0662. Microsoft argues that P.A. 102-0662 demonstrates the General Assembly's clear directives to empower behind-the-meter renewable generation and storage, demand response, and energy efficiency. Microsoft explains that, typically, retail customers benefit from implementing these technologies and programs from reducing their Network Service Peak Load ("NSPL") (retail transmission allocation) – giving customers opportunities for savings on transmission costs. Microsoft raises concern that if the Large Demand Project Customer must pay transmission costs for ten years equal to the MKD from its load ramp multiplied by the PJM transmission rate, ComEd takes away any benefit of NSPL reduction because any savings from reducing NSPL values will be erased by the minimum payment tied to estimates of MKD from the initial interconnection application. Likewise, Microsoft notes that the AG posits that "the TSA in conjunction with the load ramp creates a financial disincentive for behind-the-meter renewable energy, storage, demand response, and energy efficiency." Therefore, Microsoft suggests that instead of focusing on requiring the execution of a TSA that frustrates P.A. 102-0662's goals, the Commission should focus on Mr. Campbell's testimony where he details ComEd's other more just and reasonable options to minimize transmission build that is not used and useful, including using shorter-term and flexible load ramps and to improve the interconnection study process—none of which undermine the statute's goals.

Proposed Commission Action

Microsoft recommends that the Commission reject ComEd's proposal that each Large Demand Project Applicant be required to execute a FERC-jurisdictional TSA as a condition of retail service. Alternatively, to the extent the Commission is inclined to adopt concepts from ComEd's unsupported TSA proposal in a manner that protects all other ratepayers and is state-jurisdictional, Microsoft offers that the record could support the implementation of an Illinois-jurisdictional mechanism that ensures that any Large Demand Project Customer makes retail transmission payments of at least its marginal impact on ComEd's transmission revenue requirement (the "Alternative Protection Mechanism"). Microsoft suggests that the Commission could order ComEd to develop and propose such a mechanism consistent with the evidentiary record in its Final Order in this consolidated docket.

H. Constellation's Position

The TSA is an appropriate tool for prioritizing viable projects

Constellation argues that the TSA can be a tool to separate out speculative projects that unnecessarily require resources for studies and slow down the timing for other verifiable projects. Constellation notes that the interconnection queue can include Large Load Project Applications that may not be viable. Constellation explains that there are several reasons for this. First, Constellation notes that a developer may submit multiple applications to better understand the interconnection constraints and costs to the developer of building the project at different sites within the same service territory. Similarly, Constellation notes that a developer may be exploring the costs and benefits of a potential project in different service territories in a single state or across multiple states. Additionally, Constellation explains that projects may face commercial challenges, such as restricted capital, potential supply issues, or any number of factors that affect the calculus as to whether a Large Load Project Applicant will ultimately proceed with a studied project.

Thus, Constellation supports the properly tailored TSA as a tool to deter speculative large load projects and ensure financial commitments from Large Load Project Applicants and Customers, thereby streamlining the interconnection queue and protecting other customers from unfair costs. Constellation Ex. 1.0 at 13-14. Constellation argues that allowing speculative projects to request interconnection and later walk away without consequence is unfair to other Large Load Project Applicants or Customers standing in inferior queue positions, who may be delayed in their interconnection study requests and ultimately in the Commercial Operation Date. Additionally, Constellation notes that the committed Large Load Project Applicants or Customers may be forced as a condition of their own service to pay for upgrades that in the end are not needed when the earlier-queued load project drops out. Constellation maintains that the TSA is one way to ensure that Large Load Project Applicants and Customers make a meaningful financial commitment when they request service, which will help deter speculative projects. Constellation argues that the TSA, which requires that Large Load Project Applicants and Customers demonstrate a financial commitment to build the project according to a stated ramp rate, soon after completion of the initial study, can provide greater speed to market for large load projects with adequate financial backing and strong commercial commitment.

Constellation notes that, as the distribution and transmission utility, ComEd has a legitimate interest in protecting both the electric infrastructure in its service territory, as well as protecting existing and future network customers from unnecessary or unfair costs. Constellation further notes that when studies for Large Load Project Applicants or Customers reveal a need for transmission network upgrades, ComEd recovers upgrade costs from all network customers through ComEd's formula rates, as is the case with all transmission network upgrades. *S*ee "Cost Recovery" of the Exelon Draft Transmission Security Agreement Non-Binding Term Sheet, IIEC-ComEd 1.09_Attach 1 (CONF) at 5. Constellation states that ComEd characterizes the transmission charges that the Large Load Project Applicant and Customer would have paid via transmission rates as "opportunity costs". ComEd Ex. 4.0 at 8-10; ComEd Ex. 6.0 at 20-21; Tr. at 228–230. Constellation disagrees with the usage of that phrase, as a Large Load Project Applicant and Customer that later withdraws or that does not reach its scheduled ramp rate has not actually taken anything away from ComEd. Constellation argues that the Commission should not use ComEd's description, as the TSA is not recovering for an actual cost and

there is no recognized "reservation" charge to retail customers. Constellation notes that, as Mr. Perkins made clear, the TSA only requires a Large Load Project Applicant and Customer to provide a revenue requirement contribution consistent with its expected load. ComEd Ex. 4.0 at 6-9. Constellation states that there is no difference in the ComEd revenue requirement, and ComEd will be recovering the entirety of the revenue requirement, as specified in its allocation methodology.

Constellation acknowledges that, despite ComEd's inartful phrasing related to its characterization of the costs associated with the TSA, ComEd needs to be able to rely on the ramp rates indicated by Large Load Project Applicants and Customers, for its transmission and distribution planning functions. In Constellation's view, however, ComEd should exhibit some flexibility to accommodate modest adjustments designed to avoid the need for a network upgrade. Additionally, Constellation argues that the TSA commitments will prevent other customers from bearing costs that would have been allocated to the Large Load Project Applicant and Customer had they taken service at the indicated usage.

ComEd's TSA proposal requires more transparency and flexibility

Constellation notes that ComEd's proposal requires that a Large Load Project Applicant and Customer agree to a Committed Revenue Contribution under the TSA, knowing that the Large Load Project Applicant and Customer will be responsible for any revenue shortfall each year for a period of ten years, regardless of whether the project performs to expectations. ComEd Ex. 2.0 at 12. Constellation argues that it is important that both the calculation of the Committed Revenue Contribution and the calculation of the revenue shortfall be transparent, given the need for business planning for large projects in which there is a decades-long commitment. Constellation notes that ComEd initially proposed what appears to be the wrong tariff language to make the calculations. In particular, ComEd cited to the PJM OATT attachment H-13 —which includes only transmission rates. Constellation notes that ComEd later clarified in response to Constellation-ComEd 1.01-1.03, that TSA calculations are to be performed generally using the PJM OATT in existence at the time of calculation (rather than a particular attachment to the OATT in isolation from the rest of the tariff), including the rate design applicable to the customer's specific load and its system configuration. *Id.*; General Terms and Conditions, ILL. C. C. No. 10, Original Sheet No. 150.1; ComEd Ex. 1.01 at 14; Constellation Ex. 1.1. Constellation recommends that the ComEd tariff be modified to include that important clarification.

Constellation also explains the importance of putting in place security agreements and other tariff obligations that protect existing customers and the grid, balanced with not imposing requirements that are overly burdensome such that potential large loads choose to locate in states with more favorable regulatory treatment. Constellation notes that Large Load Project Applicants and Customers will already pay significant costs for the interconnection itself up front, under Rider ZSS – Zero Standard Service and Rider NS – Nonstandard Services and Facilities charges. ComEd Ex. 3.0 at 4-5; ComEd Ex. 4.0 at 14. Constellation advocates for flexibility and balance in the TSA terms to avoid overly burdensome restrictions that could have the effect of turning away genuine projects. Constellation explains that, for example, the requirement that a Large Load Project Applicant and Customer post security based on 80% of peak load, even if its anticipated

utilization is far less than 80%, could unduly burden large loads. Accordingly, Constellation advocates carefully balancing the desire to discourage speculative projects with the need to not unduly burden mature projects that will promote economic development in the State.

Constellation argues that, as part of that flexibility, the characteristics of Large Load Project Applicants and Customers should be considered in the requirements of a TSA. Constellation acknowledges ComEd's apparent recognition of the need for flexibility, by assigning different collateral percentages required under the TSA based on the Customer Credit Rating. Constellation argues that other customer characteristics should be considered, as well. Constellation explains, for example, that non-Wires Alternatives ("NWAs") such as co-located generation can reduce system upgrades and costs. Constellation recommends that ComEd should provide incentives for projects that impose minimal, or no network transmission upgrades, including expedited interconnection processes and flexible ramp schedules.

In response to other parties, Constellation reiterates that ComEd should provide flexibility to avoid the need for a transmission network upgrades, and to encourage efficient siting of Large Load Project Applicants and Customers. Constellation notes that Staff states ComEd agreed to a tariff clarification that the Large Load Project Applicant and Customer will be responsible for any revenue shortfall under the tariff. Constellation asserts that it is important not only to make clear who will be responsible for any shortfall, but how the shortfall will be calculated. Constellation agrees with Staff's observation that Illinois is competing with other states to attract Large Load Project Applicants and Customers, and providing regulatory certainty is necessary. Constellation argues that although the tariff discussion of annual payments references Attachment H-13 of the PJM OATT (ComEd Ex. 1.01 at 14), that single attachment is not necessarily the only relevant part of the PJM tariff. Constellation notes that in response to data requests Constellation-ComEd 1.01-1.03 (Constellation Ex. 1.1), ComEd clarified that TSA calculations are to be performed using the PJM OATT as a whole, including not just the transmission rate in effect at the time but also the rate design applicable to the specific customer. Constellation contends that, as with Staff's clarification, ComEd should likewise agree to modify its proposed tariff to include that important clarification or, in the absence thereof, the Commission should require the tariff revision as reflected below.

> TRANSMISSION REVENUE SECURITY * The Company may require that a Large Demand Project Applicant or Customer enter into a Transmission Security Agreement (TSA) with the Company. The TSA, which is subject to the jurisdiction of the Federal Energy Regulatory Commission (FERC), will inter alia require the Applicant or Customer to guarantee that its annual payments for transmission service, calculated in accordance with Attachment H 13 of the PJM Open Access Transmission Tariff (OATT) including but not limited to Attachment H-13, or any successor tariff in force at the time of service, will not for a period of ten (10) years after the commencement of service fall below the annual payment that would be made by a customer meeting the load ramp

> submitted to ComEd. If there is a revenue shortfall in any year, the delta will be recovered under the TSA and credited to the transmission revenue requirement borne by transmission customers in the ComEd zone. A TSA that is on file with, or otherwise approved by, FERC and effective is a condition of the Company's commencement of retail service to a Large Demand Project Applicant's or Customer's project.

Constellation RB at 13.

Constellation argues again that, just as ComEd agreed in data requests that the revenue shortfall should consider the transmission rate and rate design applicable to the customer, which may recognize differential effects on the transmission system based on the customer's system configuration or location, the proposed tariff should recognize that different Large Load Project Applicants and Customers have different transmission system impacts. Constellation agrees with Microsoft's statement that a revenue guarantee that simply multiplies the transmission rate times quantity of expected load disincentivizes Large Load Project Applicants and Customers to site in locations with lower transmission investment costs. *Id*. at 13. Constellation notes that these decisions can have profound effects in the area surrounding the Large Load Project Applicant and Customer, and on the transmission system more broadly, regrading the need for transmission network upgrades. Constellation argues that, ultimately, efficient siting and use of generation resources benefits all customers, by reducing the need for costly network upgrades that are paid for by all customers. Constellation further argues that ComEd should encourage efficient siting of Large Load Project Applicants and Customers. *Id*. Constellation asserts that ComEd could achieve this by providing information about locations on the grid that could most easily absorb a Large Load Project Applicant and Customer, and providing incentives for projects that impose minimal or no network transmission upgrades. Constellation explains that incentives could come in the form of expedited interconnection processes and flexible ramp schedules, for example, that reflect the characteristics of the Large Load Project Applicant and Customer and its impact – or lack thereof – on the transmission system. Constellation concludes that for those projects for which network upgrades are identified, ComEd should allow Large Load Project Applicants or Customers to make a one-time adjustment to its ramp schedule if doing so would avoid or reduce the need for network upgrades. *Id*.

I. Commission Analysis and Conclusion

The Commission notes that several parties, notably NRG and Monarch, raised jurisdictional concerns regarding ComEd's TSA proposal which must be addressed.

NRG argues that while the Commission has broad, but strictly limited, authority over retail distribution service, it cannot extend its jurisdiction into areas reserved exclusively for FERC under the Federal Power Act. NRG maintains that ComEd's proposal crosses this boundary by conditioning Illinois retail service on a future FERC-approved TSA. According to NRG, this is unlawful because: (1) the TSA does not yet exist and contains unknown commercial provisions, preventing the Commission from determining whether such an arrangement would be just and reasonable; (2) ComEd acknowledges that the TSA's commercial terms are exclusively FERC-jurisdictional and

outside the Commission's authority, meaning the Commission cannot lawfully require customers to execute a contract FERC has not approved; and (3) there is no guarantee FERC will approve or even accept ComEd's envisioned TSA structure. Finally, NRG warns that if FERC rejects or modifies the TSA, ComEd's tariff would prevent any LDPAC from receiving service until the Commission reopened the tariff.

Monarch argues that ComEd's TSA proposal would violate the Act. Monarch emphasizes that Section 8-101 requires ComEd to provide adequate, efficient, just, and reasonable service, without discrimination or undue delay. Conditioning retail service on FERC's approval of a TSA, an approval outside the control of the applicant and ComEd and outside the jurisdiction of the Commission, creates a service prerequisite that neither state regulators nor customers can ensure is satisfied. Similar to NRG, Monarch warns that if FERC were to reject a TSA for reasons within its own jurisdiction, an applicant otherwise fully entitled to retail service could be barred from interconnecting, effectively preventing the Commission from enforcing Section 8-101's mandate.

ComEd argues that the Commission plainly has jurisdiction to require LDPACs to satisfy retail level service standards and minimum customer protection requirements, including conditioning retail service on entering into a FERC-approved TSA. ComEd emphasizes that its proposal does not ask the Commission to approve, interpret, or enforce the TSA itself and does not infringe on FERC's exclusive authority over wholesale transmission rates. ComEd's proposal would have it file TSAs with FERC under Section 205 of the Federal Power Act, and FERC, not the Commission, will review their terms.

Staff agrees that the Commission has clear authority to require LDPACs to enter into a TSA with ComEd as a condition of receiving retail delivery service. Staff notes that Illinois law grants the Commission jurisdiction over retail-level service standards, minimum requirements, and customer-protection provisions, and that ComEd's TSA requirement falls squarely within that authority. Staff also agrees that ComEd's proposal does not infringe upon or alter FERC's exclusive jurisdiction over wholesale transmission service rates.

The AG argues the Commission has authority to require LDPACs to obtain a FERC-approved TSA as a condition of receiving retail electric service. The AG contends that referencing or relying on a FERC-approved agreement does not intrude on federal jurisdiction.

The Commission finds that it has jurisdiction to require a TSA as a condition of receiving retail service. A tariff provision mandating an approved TSA does not infringe on FERC's exclusive authority over wholesale transmission rates. As ComEd notes above, the Commission is not being asked to approve, interpret, or enforce the TSA itself. The Commission agrees with the AG and Staff that FERC's recent decision in *Tri-State* is supportive of a finding that minimum load or energy requirements tied to retail service are matters reserved for state regulators, not FERC. *See Tri-State Generation and Transmission Ass'n., Inc.*, 193 F.E.R.C. ¶ 61, 070 (2025).

Monarch and NRG raised concerns related to potential delays if FERC were to reject ComEd's TSA proposal outright because their approval is outside the Commission's jurisdiction. The Commission notes there is no evidence in the record to suggest that FERC is likely to outright reject ComEd's use of TSAs. However, if such a scenario were

to arise, the Commission would expect ComEd to move quickly to amend its tariff provisions related to TSAs. In such a situation, the Commission is confident in its ability to address those proposed rate changes in an expedited manner.

The Commission notes there are disagreements on what the TSA should require of ComEd. ComEd argues the TSA should require transmission revenue contributions from LDPACs. The AG argues the focus should be on the incremental cost of the transmission facilities required to serve those customers.

The AG states that LDPAC driven upgrades are often "supplemental transmission projects" that do not benefit existing customers, and therefore existing customers should not bear these costs. AG Ex. 1.00 at 12-14. To prevent cost-shifting and inflated transmission rates, the AG urges the Commission to order ComEd to amend the TSA to require LDPACs to make CIAC payments upfront for all project-driven transmission upgrades, rather than guaranteeing revenue, asserting that only upfront CIAC ensures true cost causation and prevents socialization of high-voltage extension costs.

JNGO similarly contend that a revenue guarantee fails to protect customers because it still allows ComEd to rate base expensive transmission extensions. JNGO urge the Commission to follow the California Public Utility Commission's ("CPUC's") recent model and require LDPACs to directly fund all transmission facilities built to serve them, arguing this creates efficient siting incentives and ensures no costs shift onto other ratepayers.

NRG criticizes the revenue guarantees as inconsistent with cost-causation principles and claims they produce excessive and uneven collateral requirements. As an alternative, NRG proposes tying the TSA guarantee only to the cost of specific facilities needed to serve each project.

ComEd defends its revenue-guarantee model, stating it is the only workable approach given how transmission costs are actually allocated under FERC rules. ComEd argues that incremental costs cannot be cleanly assigned to individual projects because transmission upgrades usually serve multiple customers and benefit the system as a whole. ComEd maintains that revenue guarantees: (1) protect existing customers from paying for shortfalls if an LDPAC underperforms or withdraws; and (2) discourage speculative projects that may block other viable LDPACs in the queue. Staff ultimately agrees with ComEd but recommends that broader cost-allocation reforms be examined in a future proceeding once more data and experience are available.

The Commission finds that ComEd's proposed TSA is reasonable and is designed to ensure the transmission revenue requirement is not shifted to other, non-LDPAC ratepayers. The TSA as proposed allows ComEd to recover the minimum transmission revenue associated with an LDPAC's forecast while protecting existing customers from significant financial harm if a project does not materialize as forecasted or does not materialize at all. In addition, the TSA is intended to help reduce speculative activity in the project queue, lessening the risk that a speculative project occupies a queue position and consumes planning resources at the expense of other projects that could have proceeded sooner and contributed transmission revenues earlier. This is a significant concern because under the current tariffs, if a project that later proves speculative or fails to move forward was the but-for cause of other projects choosing to locate outside of

ComEd's service territory, existing customers would be harmed without a similar project to replace the transmission revenues.

The Commission agrees with Staff that aligning payments with incremental costs through an incremental-cost guarantee or a CIAC model is conceptually appealing. However, the record in this docket makes it clear that it can be difficult to identify incremental transmission costs that support service to a particular customer. The most cost-effective solution may be an investment that addresses multiple needs. ComEd Ex. 4.0 at 7-8. The Commission notes that under existing FERC-ratemaking structures, the transmission revenue requirement is not allocated based on incremental cost but rather based on a customer's load ratio as determined by a customer's peak load contribution. *See* ComEd Ex. 4.0 at 11.

The Commission finds NRG's cost causation argument misplaced as it too narrowly defines what constitutes a cost. The Commission views costs more broadly than just investment expense, and the risks to customers are evolving. The Commission finds that ComEd's proposed TSA is just and reasonable and aligned with cost causation principles to require LDPACs to post collateral to protect existing ratepayers from the possibility of cost shifts.

The Commission declines to adopt JNGO's recommendation to follow CPUC's recent model stemming from *PG&E*. *See Pacific Gas & Elec. Co*., CPUC Decision No. 25-07-039 (July 24, 2025) ("PG&E"). The Commission finds this docket factually distinct from *PG&E* and notes that the decision in *PG&E* is an interim order that is not yet final. *Id.* Issues related to growing LDPAC demand are not unique to Illinois. Many other states are considering and addressing these issues concurrently with Illinois. While not binding, the Commission encourages discussion of other state public utility commission decisions on LDPACs and reserves the right to consider them when making determinations based on record evidence.

The Commission notes that Constellation supports the use of a TSA, in principle, as a screening tool to distinguish viable from speculative large load projects and keep the interconnection queue moving. At the same time, Constellation pushes for more transparency and flexibility. Constellation recommends that TSA terms account for customer characteristics (such as credit quality and use of non-wires alternatives), provide incentives and potentially expedited treatment for projects that avoid or minimize network upgrades, allow limited ramp adjustments to avoid upgrades where feasible, and encourage efficient siting. The Commission finds that Constellation's calls for transparency and flexibility, while important, are premature for this docket and would be better addressed in a future proceeding once ComEd has more experience and data.

The Commission approves ComEd's proposed TSA requirement and finds it a reasonable approach to ensure that transmission revenue assurances are present to prevent unfair cost shifts to non-LDPAC ratepayers. The Commission agrees with Staff's proposed clarifying edits to the TSA language to: (1) specify that the LDPAC is the entity responsible for any potential revenue shortfall; and (2) changing "The Company <u>may</u> require that Large Demand Applicant or Customer enter into a Transmission Security Agreement (TSA) with the Company" to "The Company <u>shall</u> require that Large Demand

Applicant or Customer enter into a Transmission Security Agreement (TSA) with the Company." The approved TSA language is as follows:

> The Company shall require that a Large Demand Project Applicant or Customer (LDPAC) enter into a Transmission Security Agreement (TSA) with the Company. The TSA, which is subject to the jurisdiction of the Federal Energy Regulatory Commission (FERC), must inter alia require the Applicant or Customer to guarantee that its annual payments for transmission service, calculated in accordance with Attachment H-13 of the PJM Open Access Transmission Tariff (OATT) or any successor tariff in force at the time of service, will not for a period of ten (10) years after the commencement of service fall below the annual payment that would be made by a customer meeting the load ramp submitted to ComEd. If there is a revenue shortfall from the LDPAC in any year, the delta will be recovered under the TSA with that LDPAC and credited to the transmission revenue requirement borne by transmission customers in the ComEd zone. A TSA that is on file with, or otherwise approved by, FERC and effective is a condition of the Company's commencement of retail service to a Large Demand Project Applicant or project.

VII. OTHER ISSUES

A. Future Proceeding

1. ComEd's Position

ComEd notes that Staff and JNGO recommend that the Commission direct ComEd to initiate a subsequent proceeding to propose additional tariff modifications and to provide an opportunity to assess certain issues raised by intervenors in this proceeding. *See* Staff Ex. 2.0 at 3-4; *see also* JNGO Ex. 4.0 at 8. As explained by ComEd witness Leichtman, this proposal is neither necessary nor appropriate. *See* ComEd Ex. 5.0 at 26. ComEd maintains that it has justified approval of the tariff revisions it filed and there is no evidentiary gap to be filled in.

ComEd further states that it would be inappropriate to require a special future proceeding to take advantage of additional learnings. ComEd states that Illinois law already provides ample procedural mechanisms for the review and refinement of tariff provisions through established, periodic Commission investigations. *See* 220 ILCS 5/16-105.5. ComEd notes that Section 16-105.5 of the Act sets forth standards governing a utility's rate case filings, including requirements for the presentation of revenue-neutral rate designs. *Id*. ComEd further notes that within those proceedings, utilities such as ComEd may propose amendments to existing tariffs, and interested stakeholders are afforded a full and formal opportunity to participate through discovery, testimony, and evidentiary hearings. *Id*. ComEd states that these processes are specifically designed to ensure comprehensive review of both rate design and tariff-related issues on a recurring, transparent basis.

ComEd states that the same statutory framework applies to the tariffs it has proposed in this proceeding. ComEd explains that under Section 16-105.5, additional tariff modifications can be evaluated during the Commission's normal rate design review process, which occurs on a three-year cycle. *See id.* ComEd further explains that the framework already provides the opportunity Staff and JNGO seek—without the need for a separate or duplicative proceeding. ComEd states that creating an additional docket to revisit these same issues would be administratively inefficient, risk delaying implementation of beneficial changes, and depart from the established statutory process.

ComEd stresses that NRG shares many of these concerns and opposes Staff's proposal for a future proceeding, noting that it exceeds the scope of this docket, conflicts with established Commission practice, and undermines regulatory certainty. *See* NRG IB at 39-41. ComEd notes that NRG also correctly observes that numerous existing proceedings—such as the Future of Gas workshops, the Renewable Energy Access Plan docket, and the forthcoming joint resource-adequacy report—already provide forums for addressing the broader policy issues raised by some intervenors. *See id.*

Nevertheless, as discussed in Section VII.B, below, ComEd has also agreed to make periodic reports concerning the implementation and operation of the proposed tariff provisions. ComEd Ex. 5.0 at 27. ComEd explains that these reports will allow Staff and other stakeholders to monitor developments and evaluate the tariffs' performance over time. ComEd further explains that if, after reviewing those reports, Staff or any other party believes that a particular issue warrants further investigation or consideration in a litigated context, they may raise those issues through existing procedural mechanisms, including the one described above. *Id*. at 27. ComEd states that in this way, the Commission's current processes—together with ComEd's commitment to ongoing transparency—fully satisfy the intent of Staff and JNGO's recommendation without the need for a new proceeding.

In short, ComEd asserts that there is no basis for the Commission to prejudge that a future proceeding will be required or to conclude that the comprehensive statutory review process provided by the Act is inadequate. ComEd further asserts that the Commission should therefore reject Staff and JNGO's recommendation for a new proceeding, and allow the issues raised in this docket to be addressed within the ordinary rate-case cycle established by law.

2. Staff's Position

Staff recommends the Commission direct ComEd to come before the Commission no later than, and sooner if practicable, two years after the date of the Final Order in this proceeding to potentially propose any recommendations or modifications to its tariffs and to discuss the proposals raised by intervenors in this proceeding related to the provision of service to LDPACs, some of which may be outside the scope of the specific tariff modifications the Company proposes in this proceeding. *Id*. at 3-4.

ComEd's amendments to Rider DE and its GT&C tariffs provide important consumer protections. *Id*. at 3. However, these protections are only a first step in a process of addressing the provision of service to LDPACs. *Id*. Staff is concerned that consumers are not protected under the status quo. Staff Ex. 2.0 at 5. This proceeding is designed to formalize ComEd's existing processes and procedures and to memorialize

terms and conditions that protect customers from potential cost shifting or missed opportunities for ComEd to connect customers who could potentially make significant contributions to ComEd's revenue requirement, lessening the burden on other ratepayers. *Id*.

However, to incorporate changes as the large load market rapidly evolves, and to benefit from additional experience processing and connecting LDPACs, a future proceeding would provide the Commission a clear, defined opportunity to review ComEd's existing tariffs and determine whether certain modifications, exceptions, or exemptions to certain tariff requirements are prudent and reasonable. *Id*. Over time, ComEd will develop best practices, and may be able to confirm whether certain information should be standardized and always required. *Id*. A future proceeding would balance the interests of the State of Illinois and its ratepayers in ensuring consumer protections are memorialized now, while dictating a point in time where further modifications may be approved to best protect the interests of the state of Illinois, ComEd's existing ratepayers, and LDPACs.

In response to discovery, multiple parties objected to Staff's recommendation for a future proceeding insofar as it may preclude the Commission from approving recommendations made in the instant proceeding. Microsoft argues that "no follow-up proceeding . . . is necessary because the Commission can and should address in-scope issues raised in this consolidated docket based on the substantial evidence in the record." Staff Cross Ex. 1.0 at 6. The City argues that it opposes Staff's recommendation because "[c]onsideration of and decisions regarding service by ComEd for LDPACs should not be postponed to begin more than two years from now." *Id.* at 9. JNGO oppose Staff's recommendation "to the extent it proposes to defer consideration of the many important issues raised by intervenors in this proceeding until the future." *Id.* at 18.

To be clear, Staff's recommendation for a future proceeding is not intended to preclude the Commission from approving or considering any of the recommendations made by any party in the instant proceeding. Staff's recommendation for a future proceeding is separate and distinct from its recommendation the Commission approve ComEd's tariff revisions with relatively minor modifications, as agreed to by ComEd.

Instead, Staff argues that there are numerous recommendations which the Commission may reject in this proceeding. *See, e.g.*, ComEd Ex. 5.0 at 5. Some of those recommendations are outside the scope of the tariff modifications proposed by ComEd in this proceeding. More importantly, as these large load industries develop in Illinois, ComEd may initially need flexibility and discretion to attract customers to Illinois, develop best practices for processing LDPAC applications and connecting LDPACs to retail service, and navigate a nascent and rapidly evolving industry. However, for the same reasons memorializing ComEd's existing processes and procedures as part of its tariff is vital in the instant proceeding, it is vital to ensure that the best practices developed by ComEd in the near future are also memorialized in the tariff moving forward to ensure that all applicants are treated fairly and similarly. Staff's future proceeding recommendation ensures an opportunity to memorialize these protections with the benefit of hindsight and additional expertise gained over a relatively short period of time.

Likewise, Staff's recommendation for a future proceeding is not intended to preclude the Commission from considering any other recommendation made by any other party in the instant proceeding in any other future, appropriate Commission docket. It would be both efficient and reasonable for the Commission to consider related issues in other docketed Commission proceedings should those issues be relevant and within the scope of those proceedings. For example, NRG recommends that some issues could be addressed in ComEd's multi-year rate design proceeding pursuant to Section 16-105.5 of the Act. Staff Cross Ex. 1.0 at 16.

Staff agrees with ComEd that there are issues raised by other parties that are simply outside the scope of this proceeding, which is limited to modifying ComEd's GT&C and Rider DE tariffs. *See, e.g.*, ComEd Ex. 5.0 at 7. However, Staff contends that there are related issues that should be addressed by the Commission, especially with the benefit of additional time for the industry to evolve and for ComEd to gain more experience processing LDPAC applications. Again, this proceeding is only a necessary and vital first step in this process, and Staff recommends approval of these tariff modifications to ensure customer protections are memorialized in ComEd's tariffs. Staff intends its future proceeding proposal to have a broader scope than this docket and provide the Commission and all parties an opportunity to collaborate on memorializing ComEd's processes and procedures that it develops over the next couple of years into its filed tariffs.

Multiple parties provided recommendations on a Future Proceeding in their Initial Briefs. JNGO recommend the Commission direct ComEd to work with stakeholders to develop and file further tariff modifications, but to do so within 90 days so that the Commission can review them in a future proceeding. JNGO IB at 32. ComEd recommends Staff and JNGO's proposals be rejected because "Illinois law already provides ample procedural mechanisms for the review and refinement of tariff provisions through established, periodic Commission investigations," specifically revenue-neutral rate design proceedings under Section 16-105.5 of the Act. ComEd IB at 26-28. The AG recommends Staff's proposal be rejected because the record in the instant proceeding has ample evidence on which the Commission can make a determination. AG IB at 43-45. NRG recommends Staff's proposal be rejected as "unnecessary, beyond the scope of this docket, and inconsistent with Commission practice and policy favoring regulatory certainty." NRG IB at 39-41.

ComEd argues that "Illinois law already provides ample procedural mechanisms for the review and refinement of tariff provisions through established, periodic Commission investigations" and it is not "appropriate to require a special future proceeding to take advantage of additional learnings." ComEd IB at 26. Specifically, ComEd recommends parties suggest modifications of these tariff proposals "during the Commission's normal rate design review process, which occurs on a three-year cycle." *Id*. at 27. ComEd argues that Staff and JNGO's proposals are "administratively inefficient, risk delaying implementation of beneficial changes, and depart from the established statutory process." *Id*.

ComEd notes that under Section 16-105.5 of the Act, additional tariff modifications can be evaluated during the Commission's normal rate design review process. ComEd IB at 27. Section 16-105.5 of the Act is the statutory framework for a revenue-neutral rate

design proceeding. *See generally* 220 ILCS 5/16-105.5. Staff agrees that this is a possible forum to further discuss tariff modifications and proposals related to the provision of service to LDPACs. Staff IB at 22.

Staff supports any Commission decision that effectuates further discussion on ComEd's tariffs that impact LDPACs. However, Staff's concern with ComEd's recommendation is that it is too inflexible in this specific circumstance. The decisions the Commission makes, in this docket and future dockets, with respect to LDPACs will directly impact Illinois' ability to attract LDPACs and compete with other states for projects and the economic benefits they bring. Staff IB at 7. Even assuming that some of the proposed 28,000 MW of proposed demand in ComEd's large load queue is speculative, the amount of load ComEd plans to connect to its system will significantly impact both ComEd and its existing ratepayers. It is vital the Commission monitor ComEd's progress and move quickly to develop this regulatory framework as the industry evolves and as best practices become evident.

Furthermore, just like the industries that large load projects are designed to develop, the regulatory landscape impacting the provision of electric service to large load customers is also rapidly evolving. Currently, there are proceedings and other efforts at FERC, Regional Transmission Organizations ("RTOs"), and many other state public utility commissions that will have direct and indirect impacts on the processes and procedures the Commission approves in this docket. For example, FERC issued an Opinion only two weeks before Initial Briefs were due in this docket with potentially significant implications on ComEd's TSA proposal that, because the record had already been marked "Heard and Taken", could not be incorporated into witness testimony in the instant proceeding. *See Tri-State*.

NRG recommends the Commission reject Staff's proposal, arguing that the record in this docket supports approving intervenors' proposed revisions. NRG IB at 39-40. As argued in its Initial Brief, Staff's proposal is not intended to preclude the Commission from approving any other recommendation in this proceeding; instead, the intent is to provide a clear and explicit forum to revisit and reconsider recommendations made in this proceeding but are rejected by the Commission. Staff recommends the Commission approve ComEd's proposed tariff modifications, with minor modifications, because it is supported by record evidence.

Furthermore, NRG argues that Staff's proposal "would inject regulatory uncertainty precisely where stability is most needed." NRG IB at 40. However, utility inexperience with this quantity of large load customers and the rapidly evolving regulatory landscape make regulatory uncertainty inevitable. Staff's proposal recognizes these circumstances and provides the Commission and stakeholders a clear, future opportunity to memorialize processes and customer protections, like the ones NRG proposes in this docket, should the Commission determine that the record evidence in this docket does not support those recommendations.

Finally, NRG argues that other forums are appropriate to further develop ComEd's processes and policies and that the Commission has established mechanisms to revisit ComEd's tariffs without requiring a future proceeding. NRG IB at 40-41. Staff agrees that the Commission should consider related proposals in other Commission dockets, should

those proposals be within the scope of those dockets. Staff IB at 21-22. However, the tariff modifications proposed in this docket are merely a necessary and important first step, and there are benefits to considering all related proposals in a single future docket, rather than across multiple proceedings.

The AG recommends Staff's proposal be rejected because Staff's proposal "contains many erroneous assumptions." AG IB at 44. However, the AG's Initial Brief mischaracterizes Staff's recommendation and introduces strawman proposals. First, the AG claims Staff argues that the instant proceeding is not formal or docketed. *Id*. Staff makes no such claim in its testimony. Staff simply argues that a docketed proceeding, rather than an informal workshop process, would be the more appropriate forum in which to further develop these processes and procedures. Second, the AG argues that Staff's proposal asks the Commission to "abandon" its role as regulator and "adopt wholesale what ComEd has proposed, and simply 'check in' two years later." AG IB at 44-45. Directing ComEd to return is not an "abandonment" of the Commission's responsibility, but recognition of the importance of this issue amidst a rapidly evolving economic and regulatory landscape.

JNGO agree that a future proceeding is necessary. JNGO IB at 31-33. However, JNGO's proposal limits the future proceeding solely to the large load interconnection proposals JNGO recommend in this proceeding. *Id*. at 33. Staff disagrees that the future proceeding should be limited solely to JNGO's proposals in this docket. Furthermore, JNGO recommend that this proceeding be filed within 90 days. *Id*. Staff disagrees, as 90 days is unlikely to be enough time for ComEd to gain additional experience and learn best practices or for the regulatory environment to develop.

While processes like workshops can be beneficial in some instances, more time is necessary to determine how best to proceed. ComEd's Cluster Study process is "relatively new" and will take approximately six months to complete. ComEd Ex. 3.0 at 26. It will take even more time for ComEd to conduct individual engineering studies, negotiate and receive FERC approval of TSAs, and gain experience with the construction, connection, and provision of service to actual projects. Additionally, FERC and RTOs are reviewing related proposals that could impact how ComEd provides service to LDPACs. If the quick pace of recent decisions is any indication of the pace of future decisions, the regulatory landscape will continue to rapidly shift. Simply put, more time is needed before meaningful discussion can be had on these proposals. JNGO's recommendation that a proceeding be held within 90 days would be both inefficient and impractical.

In conclusion, Staff's proposal for a future proceeding is not meant to limit the Commission but to facilitate discussion and development of ComEd's processes and procedures. Staff welcomes further discussion concerning LDPACs in other future Commission dockets. Staff's primary objective is for these tariffs and related tariffs to continue to develop to ensure existing ratepayers are protected, LDPACs are treated on a non-discriminatory basis, and Illinois remains an attractive and competitive destination for economic development. LDPACs pose both unique opportunities and crucial risks to ComEd and their existing ratepayers, the regulatory environment governing large load customers is rapidly evolving at every jurisdictional level, and the Commission's decisions with respect to how ComEd connects LDPACs to its systems are vital. Staff's proposal is

designed to invite further consideration and implement further proposals, and Staff is supportive of any Commission decision that provides for such opportunities.

3. AG's Position

The AG explains that Staff witness Rearden makes a recommendation to do what the Commission refused to do when it suspended ComEd's tariff revisions at issue in this proceeding—adopt ComEd's proposed tariff revisions as proposed as an "important first step" in "consumer protections." *See* Staff Ex. 2.0 at 3-4. According to witness Rearden, ComEd should then come back to the Commission no later than two years from now to provide "recommendations or modifications to its tariffs and to discuss the proposals raised by intervenors in this proceeding related to the provision of service to" Large Demand Projects. *See id.* The AG sums up its position on a future proceeding plainly, that this proposal would be a disservice to Illinois ratepayers who have already absorbed costs caused by Large Demand Projects in their utility bills. Further, the AG argues that the recommendation for a future proceeding ignores the Commission order to suspend and investigate the proposed tariff changes and the subsequent record established in this proceeding, which not only has ample evidence that ComEd's proposed tariff changes are not just and reasonable, but also has substantial support for changes that the Commission should require ComEd to implement in its tariffs in lieu of its current proposal.

The AG submits that this current proceeding is sufficient for the Commission to address the tariff provisions proposed by ComEd and the cost-shift imposed on residential retail customers by Large Demand Projects. The AG argues that the record contains ample evidence of how ComEd has failed to meet its burden in establishing that its proposed changes to its GT&C and Rider DE are just and reasonable. Going even beyond that standard, the AG believes that the record clearly shows that ComEd's proposed tariff changes will codify ComEd's practices that cause residential ratepayers to shoulder the burden of Large Demand Project infrastructure in ComEd's rate base and not protect residential ratepayers from the impact of transmission costs imposed by Large Demand Projects. In lieu of ComEd's proposed tariff changes, the record includes the specific recommendations for tariff changes to address the impact of Large Demand Projects, changes that are supported by testimony of several different parties, including the AG.

The AG contends that Staff witness Rearden's proposal contains many erroneous assumptions. First, it references the potential "future, formal docketed proceeding" as if the current proceeding is not formal or docketed. Staff Ex. 2.0 at 4. The AG acknowledges that the current proceeding has progressed on a more truncated deadline, but that shortened timeline is based in large part on ComEd witness Leichtman's initial testimony that it is "critical that ComEd receive Commission approval for the revised tariffs as soon as possible but no later than the end of calendar year 2025." ComEd Ex. 1.0 at 7. Notwithstanding the tight schedule, the AG argues that it is not credible for Staff witness Rearden to suggest that a proceeding with several different witness testimonies from multiple parties, including live cross examination and full briefing, is not "formal."

Second, the AG argues that the recommendation from Staff ignores the specific language of Section 9-201(c) of the Act, which authorizes the Commission to approve the proposed tariff changes "in whole or in part, or other in lieu thereof." 220 ILCS 5/9-201(c).

The AG explains that the Commission plays a critical role as regulator, exercising a legislative authority to make just and reasonable tariffs for utility customers that inform their rates. *See Bus. & Prof'l People for the Pub. Int. v. Ill. Com. Comm'n*, 146 Ill. 2d 175, 243 (1991). The AG states that, for the Commission to abandon that critical role, adopt wholesale what ComEd has proposed, and simply "check-in" two years later is a dereliction of responsibility that ratepayers should not have to suffer, particularly in light of the extraordinary pace of Large Demand Project growth. ComEd Ex. 1.0 at 6. The AG argues that there is no reason why the Commission should not exercise its clear authority in this matter and simply accept whatever the Company proposed as Staff Witness Rearden has suggested, especially when Section 9-201 speaks clearly to the Commission implementing alternative proposal to tariff changes proposed by a utility.

Aside from Staff, the only support for a future proceeding appears to come from JNGO. *See* JNGO IB at 32-33. Their recommendation differs from Staff's in a pair of important ways. First, JNGO plainly recommend that the Commission address the critical issues of the TSA requirement and appropriate allocation of interconnection costs, including the JNGO's and AG's proposals to require direct assignment of such costs and CIAC payments, in this proceeding. *Id*. Second, JNGO correctly recognize that certain issues—more detailed technical criteria for interconnection as well as plans to enable or require Large Demand Projects to bring their own supply—necessitate additional deliberation. *Id*. Accordingly, they recommend that the Commission order ComEd to initiate a follow-on proceeding within 90 days of the Final Order in this case to consider such issues. *Id*. at 33.

The AG argues that the JNGO proposal is far from Staff's proposal for a future proceeding, which is simply to adopt everything that ComEd has proposed with very minor changes, and check in to see how that is all going for retail ratepayers two years from now. The AG and other parties have developed a substantial record that not only clearly outlines the significant consequences of Large Demand Projects already in the queue—some of which, like skyrocketing capacity and energy costs currently being absorbed by ComEd customers, have already come to pass—but also sets forth recommendations on how to better protect ratepayers. As such, the AG argues that the future proceeding as proposed by Staff should be rejected by the Commission, but the AG does not oppose JNGO's request.

4. JNGO's Position

As explained in the testimony of JNGO witness Thomas, the proliferation of complex large load facilities, especially data centers, is "creating novel and expanding reliability risks to the bulk power system at a pace that the industry has not seen before." JNGO Ex. 2.0 at 7. While ComEd's cluster study progress represents meaningful progress, several parties expressed concern about the lack of transparency in ComEd's load interconnection process. Unlike generator interconnection, which is governed by clear and well-established standards, ComEd's load interconnection procedures are not written down. This is causing confusion and ambiguity for large load customers and the public alike. And it creates risks that ComEd is not applying best practices to discover and mitigate the unique reliability risks caused by extremely large loads on the grid.

To address this gap, JNGO recommend that the Commission initiate a future proceeding within 90 days to establish transparent interconnection standards grounded in best practices. This approach would ensure that ComEd develops clear, enforceable requirements that strike an appropriate balance between transparency and operational flexibility, providing the Commission and stakeholders with a robust framework for oversight and accountability.

If the Commission orders a future proceeding, it should set clear expectations and impose a near-term deadline. Waiting for a future rate case or rate design proceeding to consider JNGO's proposals would mean that any changes the Commission adopts in those orders would not take effect until 2028 or later, which is much too late given the rapid pace of change in this market. JNGO therefore recommend that the Commission's Final Order include the following or similar language in its Order:

> Within 90 days of this Order, ComEd shall work with stakeholders to develop and file proposed large load interconnection standards consistent with the recommendations of JNGO witnesses in this docket. The proposal shall include:
>
> - standardized, uniform technical criteria with defined milestones, adequate fees, material modification rules, and cluster study arrangements based on emerging best practices, as recommended by JNGO witness Kyle Thomas;
> - a "flexible interconnection" option providing ComEd with defined operating flexibility of the facility's loads under certain agreed-upon stressed grid conditions;
> - a fast-track review process for projects that bring their own (BYO) clean capacity resources, such as renewable generation, battery energy storage systems, and demand response, as recommended by JNGO witness Saad Siddique; and
> - a methodology for large load applicants to demonstrate their BYO commitments through a clean energy plan, including timelines and milestones to synchronize the customer's supply strategy with its planned load ramp.

The flexible interconnection and BYO fast track policies proposed by JNGO will benefit large load customers and support the state's economic development goals by providing an expedited development pathway for innovative projects that align with the state's clean energy policy objectives. This presents tremendous opportunities for Illinois to attract investments and jobs in clean technologies to help power large load customers

interested in accelerating their interconnection to the grid. These policy solutions are consistent with Illinois' restructured competitive electricity market and well within the Commission's jurisdiction over retail rates.

5. IIEC's Position

IIEC argues there need to be guard rails in place should the Commission accept the Staff's proposal. The Commission and the parties should not be required to revisit issues that will have no bearing on later large load customer applications. Specifically, IIEC asserts the Commission should make clear that any later proceeding should not take into consideration whether a customer is obligated to bring its own generation or clean energy plan, whether in the form of firm or non-firm service, whether voluntary or not. Furthermore, the Commission should make clear that it will not revisit or entertain any proposals that effectively are cost of service or rate design proposals, as there already exists a statutory filing for that purpose.

6. NRG's Position

NRG respectfully opposes Staff's recommendation that the Commission direct ComEd to file a new, formal "future proceeding" within two years of the Final Order to revisit broad policy issues concerning service to large load customers. A Commission-ordered "future proceeding" of the breadth proposed by Dr. Rearden is unnecessary, beyond the scope of this docket, and inconsistent with Commission practice and policy favoring regulatory certainty. The record demonstrates that the Commission can address many of the issues in other forums where similar issues are being addressed and can ensure adequate oversight through existing tools without pre-judging the need for a subsequent contested case.

First, NRG points out that the record does not support the Commission finding that a separate, follow-up docket is required to protect customers or to evaluate ComEd's implementation. ComEd's proposed tariffs and intervenors' proposed revisions already introduce meaningful transparency, deposit safeguards, and procedural improvements. *See* ComEd Ex. 6.0 at 2; *see also* ComEd Ex. 5.0 at 26-27; NRG Ex. 2.0 at 31. To the extent that ComEd has not justified its proposals, they should be rejected. *See* 220 ILCS 5/9-201(c); *see also* NRG Ex. 2.0 at 34-35. As ComEd explains, the Commission retains ample authority to require informational or compliance filings if additional reporting becomes warranted. *See* ComEd Ex. 5.0 at 26-27.

Second, NRG maintains that establishing a mandatory "future proceeding" would inject regulatory uncertainty precisely where stability is most needed. Large load and data-center developers require predictable cost-allocation and interconnection processes when evaluating multi-hundred-million-dollar investments. By signaling that all provisions adopted here may be reopened within two years, the Staff proposal would undermine the confidence of customers and investors in the durability of the Commission's determinations. ComEd explains that embedding a requirement for a new docket would "make it impossible for a prospective customer to know how their project will be studied" and could hinder economic-development opportunities in Northern Illinois. ComEd Ex. 5.0 at 3. Such an outcome directly contradicts the Commission's objectives of attracting large-scale economic development and maintaining competitive neutrality among potential host jurisdictions.

Third, NRG notes that there already are a number of forums that are currently open or are soon to be initiated within which broad-based policy proposals can be comprehensively explored or additional tariff revisions can be fully evaluated. For example, the ongoing Future of Gas workshops and soon-to-be-initiated Renewable Energy Access Plan docket are forums in which stakeholders consider both legislative issues and regulatory solutions, making them appropriate forums to consider the JNGO's proposals. *See* NRG Ex. 2.0 at 14-15. Additionally, ComEd is required to file cases to consider the rates in and rate design of its tariffs. The Commission also soon will be filing a joint report together with the IPA and the Illinois Environmental Protection Agency regarding resource adequacy issues that will result in another proceeding to develop solutions to any identified issues. *See* 415 ILCS 5/9.15(o).

Finally, NRG notes the Commission's established mechanisms - periodic compliance filings under Section 8-101, tariff revisions under Section 9-201, and rehearing or investigation authority under Section 10-113 - already provide the procedural safeguards Staff seeks. *See* 220 ILCS 5/801, 9-201, 10-113. Mandating a new docket would therefore be redundant and inefficient, imposing litigation costs on all parties without enhancing consumer protection or transparency.

In contrast to Staff's proposed "follow-up docket," NRG states that ComEd supports a single post-order compliance filing to implement the Commission's determinations and provide the Commission with the data necessary to monitor tariff implementation. *See* ComEd Ex. 5.0 at 26-27; Staff Ex. 2.0 at 5. This approach strikes the proper balance between transparency and efficiency – allowing the Commission, Staff and stakeholders to review implementation without reopening the proceeding or imposing unnecessary regulatory burdens.

7. Microsoft's Position

Microsoft explains that, as an initial matter, Staff concedes that "Staff's recommendation for a future proceeding is not intended to preclude the Commission from approving or considering any of the recommendations made by any party in the instant proceeding." Microsoft posits that, as explained extensively in Microsoft's Reply Brief and Initial Brief, the record conclusively establishes that ComEd's proposals for the cluster study, the TSA execution requirement, and the load ramp are unjust and unreasonable, and the record provides just and reasonable modifications that the Commission can consider in its ultimate disposition of this consolidated docket. Indeed, Microsoft argues that the Commission can and should act on the record developed by the parties in this consolidated docket.

Microsoft also argues that while Staff recognizes the Commission's ability to approve modifications to ComEd's proposed revisions that are supported by the underlying record, Staff incorrectly recommends adopting ComEd's proposals and deferring further consideration of these material issues on the basis that "ComEd is experiencing an unprecedented number of applications for service from new customers with large forecasted demand, and ComEd's tariff revisions are necessary to help minimize speculative behavior and provide important financial protections for the rest of ComEd's ratepayers." Notably, Microsoft contends that Illinois courts have held that evidence that the status quo is inadequate is not sufficient to meet the utility's burden to

show the proposed changes are just and reasonable. Specifically, Microsoft continues that in *Citizens Util. Bd.*, 276 Ill. App. 3d at 738, the Commission found in the underlying proceeding as follows: "The Company's current rate design is fraught with complexity, cross-subsidies, inequities and inefficiencies. The weight of the evidence demonstrates that [the Company's] proposed . . . rate design eliminates, to a large measure, many of the problems which currently exist." Microsoft argues that the Appellate Court held that the Commission's finding was insufficient to establish that the utility's proposal was just and reasonable because, despite specifically addressing the status quo, the record was devoid of any analysis of ratepayer impact. Therefore, Microsoft concludes that given ComEd's failure to address ratepayer impact in this consolidated docket, ComEd should be subject to the same consequences as the utility in *Citizens Util. Bd.*, even if ComEd purports to address (it does not) problems with the status quo.

Moreover, Microsoft explains that JNGO similarly recommend deferral to a future proceeding of "standardized, uniform technical criteria with defined milestones, adequate fees, material modification rules, and cluster study arrangements based on emerging best practices." JNGO IB at 33. Again, Microsoft contends that these proposals are squarely within the scope of this consolidated docket and are in fact consistent with Mr. Campbell's proposed revisions to ComEd's load interconnection process. Indeed, Microsoft observes that the JNGOs provide no basis for deferring implementation of Mr. Campbell's recommendation despite the substantial record evidence demonstrating that Mr. Campbell's modifications could cure the defects of ComEd's unjust and unreasonable proposal.

Microsoft notes that JNGO also recommend a future proceeding to address their two out-of-scope recommendations: the interruptible tariff and BYOG recommendations. Microsoft offers that in considering the JNGO's request, the Commission should also consider other parties' criticisms that would likewise have to be addressed in that future proceeding. In particular, Microsoft highlights that Constellation and IIEC raise concerns about BYOG, including concerns about jurisdiction, authority, and interplay between ComEd and PJM obligations. Microsoft also highlights that IIEC raises further concerns about Commission authority regarding the interruptible tariff proposal. Microsoft concludes that the Commission should consider these questions and issues in determining whether an additional proceeding is prudent at this time.

8. Commission Analysis and Conclusion

The Commission agrees that the record in this proceeding has been sufficiently developed to allow the Commission to make the determinations reached herein. The record demonstrates that many revisions proposed in this docket are adequately supported; however, some of the proposals remain out of scope, are insufficiently developed, or may be better addressed in a future proceeding. Accordingly, the Commission will initiate an investigation to meaningfully address such critical issues associated with accommodating novel large load interconnections while prudently managing the associated risks and costs to the utility and its ratepayers.

ComEd describes an extraordinary influx of large load requests that present unique challenges not adequately addressed under its current tariffs. ComEd Ex. 1.0 at 3. The revisions to ComEd's existing tariffs as approved in this Order begin to address cost risks

related to the unprecedented surge in large service requests and the resulting construction of “but for” facilities. However, the revenue assurances achieved through deposits and other collateral requirements do not fully protect Illinois ratepayers from the risks and burdens associated with the infrastructure investments to interconnect and serve these exceptionally large customers, nor the risks associated with overbuilding for LDPACs that do not fully materialize. Both financial assurances and effective ratepayer protections are crucial to ensure just and reasonable rates for the lifecycle of the investments.

The record and scope of this proceeding contain limited discussion of potential cost recovery mechanisms to mitigate rate base impacts, allocate costs incurred to serve distinctive loads, and address affordability concerns. These objectives bear directly on the prudence and affordability of the substantial investments needed to serve LDPACs. Such investments challenge established tariff frameworks, cost allocation principles, and cost recovery mechanisms. Accordingly, the Commission directs the initiation of an investigation to identify, examine, and adopt appropriate ratepayer protections and cost recovery mechanisms beyond the financial assurances approved in this Order. This future docketed proceeding should address critical issues affecting affordability and the prudence of undertaking such projects, including ensuring that costs attributable to large loads are appropriately allocated and recovered, while preserving just and reasonable rates for existing ratepayers. At a minimum, the Commission expects the following approaches and issues to be considered:

- The extent Rider NS and Rider ZSS should function as companions to, or substitutes for, Rider DE for provision of service to LDPACs.
- Whether the threshold kV amount to qualify for Rider ZSS should be modified.
- Whether the unique requirements of LDPAC requests warrant a separate tariff structure, including definitions of large load projects, size and cost differences of large load projects, and revenue requirement implications.
- Whether all costs to interconnect should be directly assigned to large load customers under Rider NS, Rider ZSS, a CIAC, or another equivalent.
- Discussion of costs and benefits of infrastructure attributable to large load projects and facilities, including proper cost allocation, that may benefit the larger customer base.
- Whether Rider DE should be further refined to address LDPAC considerations, including a more precise definition of standard service as it relates to LDPACs, whether collateral requirements should be structured differently, and the efficacy of refunds accelerated by performance thresholds.
- Provision of interim, interruptible service as an element of tariffed service while waiting for network upgrades to be constructed.
- The feasibility of interruptible service or other flexible interconnection arrangements to address resource adequacy concerns, including depletion or replenishment of existing capacity used by large load customers.
- Other new or modified tariff frameworks designed to avoid or mitigate rate impacts to existing ratepayers from LDPAC projects.
- Types of data necessary to inform a tariff for LDPACs, and whether such data is already collected.

- Estimated timelines to implement the proposals discussed in this proceeding.

The Commission directs Staff to prepare a report and draft an initiating order to assist the Commission in initiating an investigation by April 23, 2026, to be completed within eight months or as expeditiously as possible. *See* 220 ILCS 5/10-101 (granting the Commission authority "to hold investigations, inquiries and hearings concerning any matters covered by the provisions of this Act, or by any other Acts relating to public utilities subject to such rules and regulations as the Commission may establish"); *see also* 220 ILCS 5/9-250 (granting the Commission authority "to investigate a single rate or other charge . . . and to establish new rates or other charges, classifications, rules, regulations, contracts or practices or schedule or schedules, in lieu thereof").

NRG states there are a number of additional dockets that may provide a forum to make further determinations, as necessary, regarding LDPACs and to consider the policy ramifications that are inherent to connecting them to the grid. As noted by JNGO and NRG, Senate Bill 25, the Municipal and Cooperative Electric Utility Transparent Planning Act, creates a new Section 16-201 of the Act which, among other things, provides for integrated resource plans to be submitted to the Commission by no later than November 15, 2026. 220 ILCS 5/16-201(a)(6), (d). Further, Illinois law provides a comprehensive and recurring framework for reviewing and refining tariff provisions through the triennial rate design investigation under Section 16-105.5 of the Act. Such processes also afford full procedural rights, including discovery, testimony, and hearings, and offer an appropriate forum for future refinements that may be necessary. The Commission notes that: (a) the investigation directed in this proceeding is not intended to preclude consideration of issues raised by parties in other dockets; and (b) the need for ratepayer protections with respect to LDPAC-related investments is not diminished by other proceedings. It may be efficient for parties to discuss related issues in other proceedings should they be relevant and within scope.

As discussed in Section VII.B.3. below, the Commission approves ComEd's commitment to provide periodic reports on the implementation of the approved tariff provisions. These reports will allow Staff and stakeholders to monitor developments and, if warranted, seek further review through existing statutory mechanisms. This, however, should not limit Staff's ability to provide recommendations to the Commission if Staff determines that additional consideration of issues related to LDPACs is warranted based on the periodic reports or for some other reason.

B. Compliance Filing

1. ComEd's Position

ComEd notes that Staff also recommends that ComEd make periodic compliance filings to provide updates on the implementation and outcomes of the proposed tariff amendments. *See* Staff Ex. 2.0 at 6-7. ComEd agrees with this recommendation and has committed to making annual filings in this docket to promote transparency and facilitate ongoing regulatory oversight. ComEd Ex. 5.0 at 27. ComEd explains that these filings will present anonymized data consistent with the Commission's 15/15 Rule, which requires that any released data set include at least fifteen customer accounts, with no single account representing fifteen percent or more of total group consumption. *See Ill. Com. Comm'n*, Docket No. 13-0506, Final Order at 16-17 (Jan. 28, 2014).

ComEd further explains that as a part of these annual reports, it will provide detailed information to the Commission and stakeholders regarding the progress and impacts of large load projects, including:

1. The number of projects and aggregate load, broken out by Cluster Study;
2. The initiation and completion dates of each Cluster Study;
3. The initiation dates of future planned Cluster Study;
4. Plant-in-service investment associated with large load projects (aligned with ComEd's most recent multi-year plan reconciliation filing); and
5. The actual capacity being utilized by large load projects.

ComEd Ex. 5.0 at 27-28.

ComEd states that these periodic filings will provide the Commission and interested stakeholders with meaningful visibility into the growth and operational effects of large load connections over time. ComEd further states that this reporting structure will ensure that implementation of the proposed tariff provisions remains transparent, data-driven, and aligned with the Commission's privacy standards and oversight objectives.

2. Staff's Position

Staff recommends the Commission direct ComEd to submit regular compliance filings in this proceeding, which should include updates concerning progress of Cluster Studies and data concerning total infrastructure investment spend on LDPAC projects or planned for future, confirmed LDPAC projects. Staff Ex. 2.0 at 4, 6.

In its surrebuttal testimony, ComEd agreed to make annual compliance filings in this docket and ensure that the filings present anonymized data in compliance with the Commission's 15/15 Rule. ComEd Ex. 5.0 at 27. Further information concerning the Cluster Study components of the Compliance Filing recommendation are included in Section VII.D, below. Staff does not object to what ComEd proposes to include as part of its compliance filing and recommends the Commission direct ComEd to submit annual compliance filings containing the information noted above.

NRG states the compliance filing recommendation allows the Commission, Staff and stakeholders an opportunity to review implementation. NRG IB at 41. No other party commented on Staff's compliance filing recommendation.

For these reasons, Staff considers its compliance filing recommendation uncontested and requests the Commission approve it in its Final Order.

3. Commission Analysis and Conclusion

The Commission adopts Staff's recommendation, agreed to by ComEd, that ComEd submit periodic compliance filings to provide updates on the implementation and outcomes of the tariff revisions approved in this proceeding. The Commission finds that ComEd's commitment to make annual filings in this docket will enhance transparency and facilitate effective regulatory oversight as large load projects continue to develop. The Commission directs ComEd to file its first Annual Report in this docket, covering all

Cluster Studies completed through calendar year 2026, on February 1, 2027, and to file subsequent annual reports each year on or before February 1.

The Commission notes that ComEd will prepare these reports using anonymized data consistent with the Commission's 15/15 Rule, thereby safeguarding customer confidentiality while ensuring the availability of meaningful, system-level information. The Commission further finds that the specific data categories ComEd has committed to provide—including project counts and aggregate load by Cluster Study, study initiation and completion dates, planned future study windows, plant-in-service investment associated with large load projects, and actual utilized capacity—will offer stakeholders a clear and consistent view into the operational and planning impacts of large load service.

The Commission notes that these annual compliance filings will provide an opportunity to monitor implementation of the new tariff provisions.

C. Load Ramp

1. ComEd's Position

ComEd proposes revisions to the GT&C to clarify that each LDPAC must provide ComEd with a projected load ramp extending through the first ten calendar years that the project will be in service. ComEd Ex. 2.0 at 6. ComEd explains that the projected load ramp must include monthly projections of the Applicant's or Customer's MKD, and if the Applicant or Customer revises the projected load ramp at any point before ComEd has completed engineering analysis of the project, then ComEd—at its sole discretion—may initiate a new engineering analysis. *Id*. at 6-7.

ComEd asserts that this proposed revision is just and reasonable because an accurate projected load ramp is a critical data point for strategic infrastructure planning and investment, enabling ComEd to ensure that utility infrastructure is built and commissioned at the right time with right-sized facilities to reliably serve customers over the longer term. *Id*. at 7. ComEd points out that without an accurate load ramp, ComEd cannot accurately determine the facilities required for service, or the date on which those facilities are required. *Id*. at 7. Furthermore, ComEd states that the large load projects are reviewed simultaneously with other large load projects and, in the absence of an accurate forecasted load ramp, ComEd may not be able to accurately determine the facility requirements and service dates of other customers being studied at the same time. *Id*. at 7.

Moreover, ComEd notes that it currently asks customers requesting service for large demand projects to provide a detailed ten-year load ramp—that requirement is simply not memorialized in ComEd's tariffs. *Id*. at 7. Thus, ComEd states that amending the tariffs to require customers to provide a load ramp schedule at the time of application will improve transparency for large demand customers and further support the accuracy of forecasted load. *Id*. at 7.

ComEd states that certain parties, including the AG and Microsoft, propose adjustments to the ten-year load ramp requirement set forth in ComEd's proposed tariffs. *See* AG Ex. 2.0 at 3; *see also* Microsoft Ex. 2.0 at 2, 31. ComEd notes that although the AG's and Microsoft's theories differ, each rests on the same flawed premise: that ComEd can reliably plan, design, and construct significant transmission-level infrastructure based

on flexible, shifting, or speculative peak-load assumptions. ComEd asserts that the record shows that ComEd cannot do this.

ComEd's proposed load ramp requirement serves a fundamental planning purpose: it ensures that ComEd's infrastructure investments are strategically aligned with customers' projected needs and reduces the risk of stranded costs that would otherwise be borne by ComEd's broader customer base. *See* ComEd Ex. 2.0 at 7. ComEd further notes that, absent a defined service request, there is no way that ComEd can meaningfully study if and when the service can be provided. Additionally, ComEd states that apart from financial considerations, no grid operator or planner can evaluate an undefined load request or even a defined peak demand with an undefined timeline.

ComEd asserts that the AG's proposal to base load ramps on NSPL and Peak Load Contribution ("PLC") rather than MKD is unworkable. ComEd explains that MKD is an observable, customer-specific metric that represents a customer's highest 30-minute billing demand during defined on-peak windows. ComEd Ex. 3.0 at 31. ComEd further explains that MKD reflects the customer's actual maximum demand—i.e., the very condition the transmission system must be capable of serving. By contrast, ComEd states that a customer's contribution to the PJM system coincident peak depends on the behavior of every other PJM customer across a multi-state region during the five hours of highest annual system load—hours that are identified only after the year ends. *Id*. at 31. ComEd notes the coincident contribution of a single customer is unpredictable in advance, and wholly impossible to forecast for customers not yet taking service—a reality AG witness Seryak himself acknowledges. *See* AG Ex. 1.00 at 34; *see also* ComEd Ex. 3.0 at 31– 32. ComEd asserts that due to this inherent uncertainty, it is not a usable input for transmission-level planning.

ComEd also explains that the AG's assumption that replacing MKD with coincident-peak metrics would reduce required infrastructure is unfounded. *See* AG IB at 45-48. ComEd stresses that it must build the transmission system to meet the customer's maximum delivered load—not its speculative contribution to a future PJM system peak that may or may not materialize. ComEd Ex. 5.0 at 16. ComEd explains that if it instead planned to a lower, estimated coincident-peak value, but behind-the-meter generation or demand-response measures failed to perform during a high-load hour, the grid could face reliability risks. *Id*. ComEd states that nothing in the record suggests that building to the customer's stated maximum demand constitutes "overbuilding." *Id*. To the contrary, ComEd explains that the TSA revenue guarantee that is tied to the load ramp requirement ensures that other customers are protected if a customer ultimately uses less than its requested load.

ComEd also disagrees with the AG's proposal that ComEd offer more "flexibility" in customer load ramps, emphasizing that the record contradicts this recommendation. AG IB at 47-48. ComEd explains that greater uncertainty expands the envelope of potential system conditions that ComEd must study, plan for, and engineer against. ComEd Ex. 5.0 at 14–15. ComEd further explains that flexible load ramps complicate not only the applicant's own engineering but also ComEd's analysis of all customers "downstream" in the queue whose needs depend on the final configuration of earlier projects. *Id*. ComEd notes that its testimony makes clear that long-lead transmission upgrades require years of planning, procurement, and construction. *Id*. at 15. ComEd

asserts that a stable ten-year load ramp is essential to allow ComEd to design the grid to meet the customer's maximum stated load while maintaining system reliability for all customers.

ComEd further explains that the proposed load ramp will align capacity additions with actual customer needs and an increased risk of inefficient investment. ComEd notes that this uncertainty benefits neither large load customers—who rely on clear timelines and predictable interconnection outcomes—nor ComEd's other customers, who depend on system reliability and cost discipline. *See id*. at 15; *see also* ComEd Ex. 3.0 at 30–32. ComEd maintains that the provisions, as proposed by ComEd, strike the appropriate balance between flexibility for customers and the certainty necessary for prudent and efficient system planning. Intervenors' suggested modifications do not.

ComEd notes that Microsoft's comments underscore why this certainty matters. Specifically, ComEd observes that Microsoft acknowledges that large load customers, including data centers, typically have extended, modular load ramps and may not reach full capacity for several years. Microsoft IB at 20-22. ComEd further notes that Microsoft argues that requiring customers to provide binding ten-year monthly MKDs is too rigid and will "likely" lead to unjust and unreasonable outcomes, such as overbuilding. *Id*. at 21. ComEd emphasizes that Microsoft cites no evidence that transmission upgrades would be oversized if built to a customer's stated maximum demand; nor does it address the fundamental need to protect other customers from bearing the costs of inaccurate forecasting. Instead, ComEd asserts that Microsoft relies on unspecified "recognizable" benefits of flexibility, offers no engineering analysis, and focuses solely on the interests of large load customers—all without acknowledging ComEd's obligation to balance LDPAC' interests against those of all other retail customers. *See id*.

ComEd also urges the Commission to reject Microsoft's alternative proposal—a "flexible" five-year load ramp with annual updates—as it would undermine the purpose of the load-ramp requirement entirely. *See id*. at 22. As ComEd explains, permitting customers to revise load forecasts "in pencil" impairs ComEd's ability to identify needed transmission upgrades, initiate long-lead procurement, secure necessary permits and approvals, and coordinate with PJM for regional impacts. *See* ComEd Ex. 5.0 at 15. ComEd states that flexibility also increases the likelihood of late-stage changes that complicate neighboring projects and delay the engineering queue. *Id*. at 14. ComEd maintains that a load-ramp structure that changes annually would add uncertainty, not reduce it—and would materially weaken the customer protections at the core of ComEd's proposal.

In short, ComEd explains that neither the AG nor Microsoft has presented a workable alternative to the ten-year MKD-based load-ramp requirement. ComEd stresses that their proposals rely on speculative notions of customer behavior, misapprehend the complexity and lead times of transmission construction, and fail to address the risks to system reliability and non-participating customers. ComEd avers that the record strongly supports ComEd's proposal, which provides the stability and predictability necessary for long-term grid planning while ensuring that the customers whose projects drive the need for new investment bear the resulting costs. ComEd states that the Commission should therefore reject the AG's and Microsoft's proposed modifications.

2. Staff's Position

Staff recommends the Commission approve ComEd's tariff modifications requiring LDPACs to provide a ten-year load ramp as part of the initial interconnection application process. Staff Ex. 5.0 at 11.

After reviewing the Company's responses to Microsoft and the AG, Staff recommends the Commission approve ComEd's ten-year load ramp in this proceeding, but direct ComEd to address whether load ramp forecasting requirement changes are appropriate in a future proceeding. Staff Ex. 5.0 at 12-13; Staff Ex. 3.0 at 16. Staff understands Microsoft's concerns regarding LDPAC flexibility and concerns regarding overbuilding, but that must be balanced with ComEd's requirement to provide adequate, efficient, and reliable service. Staff Ex. 5.0 at 13. The ten-year load ramp memorializes what information large load customers must provide, which improves transparency and supports the accuracy of the forecasted load. *Id*. Staff notes that load ramp forecasting requirements could differ between projects with different capacity requirements, and providing ComEd the ability to gain experience with its LDPAC and Cluster Study processes will provide stakeholders important insight and data to determine which, if any, load ramp forecasting requirements should be modified. *Id*.

For these reasons, Staff recommends the Commission reject the AG's and Microsoft's proposed modifications to ComEd's tariff amendment requiring LDPACs to submit a ten-year load ramp. Staff recommends the Commission approve ComEd's proposed ten-year load ramp and allow ComEd to garner data and experience regarding its processes related to its load ramp requirement, but direct ComEd to address whether any changes to its load ramp requirement are appropriate in a future proceeding.

3. AG's Position

The AG explains that ComEd proposes that Large Demand Projects submit a ten-year load ramp upon which the revenue guarantee in the TSA, the engineering deposit requirement, and the minimum revenue provisions in Rider DE will be based. ComEd Ex. 1.02 at 10. The AG recommends that ComEd's tariff changes related to load ramp submitted by a Large Demand Project be modified to better align with transmission ratemaking and cost allocation principles and that it be updated frequently. ComEd proposes to require that the Large Demand Projects submit a projected load ramp for the first 10 years of service that includes a monthly projection of the customer's MKD. ComEd Ex. 1.02 at 5. ComEd intends to use this load ramp for, among other things, establishing the customer's requirement to pay under the Transmission Security Agreement, the enhanced engineering deposit requirements, and the customer's security collateral under Rider DE. ComEd Ex. 2.0 at 12. This requirement, in turn, is intended to prevent speculative load requests and ensure Large Demand Projects will pay rates in accordance with their projected demand.

The AG posits that while attempting to solve one consumer protection problem, ComEd risks creating others by basing the load ramp solely on MKD. The AG explains that ComEd uses MKD in its load forecast, which it submits to PJM for purposes of transmission and capacity market planning, and both ComEd and PJM use this forecast to plan capacity procurements and electric system upgrades. AG Ex. 1.00 at 34. Thus, the AG argues that load forecasts based solely on MKD drive the costs of capacity,

transmission, and distribution. According to the AG, the problem is that these forecasts are "inherently incorrect and inflated as compared to the expected coincident peak." *Id*. at 34.

The AG points out, as AG witness Seryak explained and as discussed above in connection with the TSA requirement, transmission costs are typically allocated in accordance with a customer's demand during coincident peak hours. *Id*. at 12. Specifically, the rate that transmission operators such as ComEd charge is called the NITS rate. The NITS rate is determined by dividing ComEd's annual transmission revenue requirement by the coincident peak load for the ComEd zone (in MW) to arrive at a rate measured in dollars per MW-year. *Id*. Each load-serving entity ("LSE") in the ComEd zone is then charged the NITS rate multiplied by the LSE's aggregate coincident peak load, which is called its Network Service Peak Load or "NSPL." *Id*. at 12. Capacity costs are allocated in a similar manner using the coincident peak demand for capacity, which is called the Peak Load Contribution or "PLC." *Id*. at 35. In most cases, these allocations are passed along from the LSEs to their customers in accordance with the customers' individual Network Service Peak Load and PLC.

Because costs are allocated to customers in this way, the People argue that sophisticated customers such as Large Demand Projects can manage their demand at certain peak hours to reduce the share of costs they have to pay for transmission and capacity. The People point to the testimony of their witness Mr. Seryak, a licensed engineer who has worked extensively with large load customers, who stated, "In my experience, Large Demand Customers such as hyperscale data centers have a transmission system coincident peak of 35 to 85% of monthly billed demand, with the variance likely due to the presence of load management strategies the customer is implementing that lower its coincident peak, or due to tariff provisions of the utility that raise the customer's billed demand." *Id*. at 34. Likewise with capacity charges, Mr. Seryak further testified that, in his experience, "a Large Demand Customer's coincident peak used to allocate capacity charges can range from 50-90% of billed demand." *Id*. at 35.

According to the People, there is a mismatch between the way that load is forecasted, which drives up costs, and the way those costs are recovered in transmission rates. For these reasons, the People recommend that the load ramp submitted by Large Demand Projects not be based exclusively on MKD. AG Ex. 1.00 at 35. Rather, the load ramp requirement should be modified to include an estimate of the customer's power use during the transmission system coincident peaks, also called its NSPL and the PJM capacity coincident peak, called the PLC. *Id*.

The AG notes that ComEd argues that the AG's recommendation to include additional information in the load ramp submitted by Large Demand Projects would "create substantial uncertainty in the planning and design process." ComEd IB at 29. This would create "greater difficulty in aligning capacity additions with actual customer needs and increased risk of inefficient investment." *Id*. ComEd claims that its ten-year, rigid load ramp based on MKD provides "the certainty necessary for prudent and efficient system planning." *Id*. at 30.

The AG contends that the Commission should reject ComEd's arguments and adopt the AG's recommendations for a more flexible load ramp based on the Large Demand Project's expected coincident peak demand. As AG witness Seryak explained, "While MKD is useful for the sizing of the electrical line that would run directly to the facility of the Large Demand customer, it otherwise is not relevant for planning purposes for distribution or transmission circuits that serve the facility." AG Ex. 1.00 at 34. Both ComEd and PJM use coincident peaks to plan upgrades to their systems as well as procure and allocate the cost of capacity. *Id*. at 34-35. By basing the load ramp on MKD, ComEd will incorporate a customer's highest possible peak demand in its load forecast that, in turn, feeds into its network transmission planning and capacity procurements, yet it will only recover the costs from the customer based on its coincident peak. The record shows that Large Demand Customers can and likely will manage their coincident peak such that they will pay less than their full share of the costs they caused. AG Ex. 1.00 at 34-35. Thus, an accurate load ramp would consider the customer's coincident peak demand to align with how the system is planned and how network transmission and capacity costs are recovered. AG Ex. 2.0 at 21.

The AG highlights that its recommendation is contingent upon the Commission adopting the AG's recommendation to require that Large Demand Projects pay all costs to connect to the grid upfront as CIAC. Under the AG's recommended approach, Large Demand Projects will pay the full costs they require to be connected to the grid, and the risk of shifted or stranded distribution and transmission upgrade costs would be eliminated. ComEd's load ramp serves a different purpose as the basis for the minimum demand provisions it seeks to impose as part of the TSA. If the Commission were to change the load ramp provisions without changing the underlying structure of the consumer protection provisions, it would likely further weaken ComEd's proposal to prevent existing customers from bearing the costs imposed on the system by Large Demand Projects.

4. Microsoft's Position

Microsoft explains that, as part of ComEd's proposed load interconnection process, Large Demand Project Applicants must provide their load ramp, which describes how the Large Demand Project Applicant's maximum demand, in megawatts, will increase over time as the customer's facilities begin service and eventually reach maximum operational capacity. Microsoft states that, typically, many data centers will have an extended load ramp while computer equipment is installed and customer applications are loaded to servers. Moreover, Microsoft notes that many data centers tend to be larger and may be modular in design to accommodate future customer demand.

Microsoft observes that in this consolidated docket, ComEd proposes to require, as part of a Large Demand Project Applicant's initial interconnection application, binding forecasts for monthly MKD for the first ten years following the commencement of the Applicant-turned-Customer's operations. Microsoft continues that ComEd proposes to then feed that load ramp from that initial application into ComEd's study of the scope of transmission upgrades that would be necessary to serve the Large Demand Project Applicant as well as to determine the minimum transmission payment that would be required under the proposed TSA. Importantly, Microsoft highlights that the rigidity with

which ComEd proposes to utilize load ramps for transmission planning and to determine the Large Demand Project Applicant's liabilities under the TSA will likely lead to unjust and unreasonable results—specifically including the potential that ComEd might overbuild transmission resources relative to the Large Demand Project Applicant's actual needs. Therefore, Microsoft concludes that rigidly adhering to a preliminary load ramp is inconsistent with right-sizing transmission upgrades for the Large Demand Project Applicant's needs and may lead to a cascading effect of causing extra socialized costs to all customers stemming from overbuilt (and underutilized) transmission.

Notably, Microsoft argues that ComEd fails to address or identify how a Large Demand Project Applicant may decrease a load ramp during the development process despite the recognizable and substantiated benefits of allowing a Large Demand Project Applicant to do so. Microsoft argues that, while ComEd described in discovery (and not in its proposed tariff) a process for what happens when a customer increases a load ramp during the cluster study (the additional increase is studied in a subsequent cluster), ComEd was silent with respect to decreases in load ramps. Microsoft contends that this omission is a substantial hole in ComEd's proposal, as Mr. Campbell explains that datacenters have many reasons as to why they would revise a load ramp downward, "including changes to onsite technology used (such as newer and more efficient equipment), addition of onsite generation or storage, design changes, and other refinements that are normal during the development process."

As an alternative to ComEd's rigid use of a ten-year load ramp from the initial interconnection application, Mr. Campbell proposes the use of a five-year, flexible load ramp, which would allow adjustments to the load ramp as the Large Demand Project Applicant continues development and enters operations. Microsoft highlights that Mr. Campbell also recommends that ComEd implement annual forecast updates and objective, transparent restudy triggers serving as safeguards for inaccurate load forecasts. Notably, Microsoft states that Mr. Campbell's approach better aligns with aspects of PJM's transmission planning, such as its M-3 supplemental project process. Indeed, Microsoft argues that Mr. Campbell's proposed load ramp approach would ensure that changes in Large Demand Project Applicant's facility design and usage are captured to ensure the proper timing for transmission upgrades. Therefore, Microsoft continues, Mr. Campbell's approach considers the needs of both Large Demand Project Applicants and expanding needs of ratepayers generally striking the right balance between serving new customers, maintaining short- and longer-term system reliability, cost allocation, and flexibility.

Microsoft states that Mr. Campbell also recommends that ComEd implement objective, transparent restudy triggers mirroring those in PJM's Manual 14A, in which material changes to assumptions automatically trigger a restudy under clearly defined thresholds. Microsoft notes that Mr. Campbell's specific recommendations here address ComEd's concerns that non-binding five-year load ramps (and indicative forecasts for time periods beyond) could undermine ComEd's ability to right-size transmission upgrades. And, similarly, Microsoft declares that upon review of the AG's testimony, Mr. Campbell agrees that ComEd should require load ramp forecast updates from Large Demand Project Applicants on at least an annual basis to more realistically incorporate a Large Demand Project Applicant's demand in ongoing transmission planning.

Importantly, Microsoft argues that Mr. Campbell provides the only complete proposal in the evidentiary record that right-sizes ComEd's infrastructure investments and protects other ratepayers from the risk of paying socialized costs of assets that are not immediately used and useful. Accordingly, Microsoft concludes that the Commission should reject ComEd's rigid ten-year load ramp approach and instead adopt Mr. Campbell's proposed approach of using a five-year, flexible load ramp with annual updates.

Microsoft argues that ComEd continues to try and identify support for its ten-year rigid load ramp proposal in the evidentiary record, but it continues to fail for multiple independent reasons. For example, Microsoft notes that ComEd argues that its ten-year rigid load ramp proposal "ensures that ComEd's infrastructure investments are strategically aligned with customers' projected needs and reduces the risk of stranded costs that would otherwise be borne by ComEd's broader customer base." ComEd IB at 29. However, Microsoft counters that this assertion ignores evidence from the AG and Mr. Campbell that ComEd is at risk for overbuilding transmission upgrades relative to Large Demand Project Applicant needs if ComEd rigidly adheres to an initial ten-year load ramp and does not account for natural reductions in MKD or NSPL from more efficient equipment, changes in operations, or on-site energy management (such as behind-the-meter renewables or storage). Notably, Microsoft offers that if the Commission decides to adopt the Alternative Protection Mechanism, that mechanism – paired together with Mr. Campbell's recommendation for a 5-year load ramp that is updated annually – would better accomplish ComEd's customer protection argument.

Moreover, Microsoft argues that ComEd's argument that "[i]ntroducing additional flexibility into the ten-year ramp structure would create substantial uncertainty in the planning and design process" is also misplaced. ComEd IB at 29. Microsoft contends that, yet again, ComEd fails to confront the record evidence. Microsoft states that, as the AG and Mr. Campbell explain, flexibility from annual updates and a five-year load ramp (updated annually) improves alignment between Large Demand Project Applicant needs and transmission upgrades. Microsoft continues that any concern ComEd may have about load ramp increases are allayed by Microsoft's non-opposition to ComEd's proposal that load ramp increases be addressed in a future cluster study.

Accordingly, Microsoft concludes that the Commission should modify ComEd's tariffs in a manner consistent with Mr. Campbell's testimony because the record continues to demonstrate that a five-year flexible load ramp, updated annually, better protects customers and Large Demand Project Applicants by right-sizing transmission upgrades.

5. Commission Analysis and Conclusion

The Commission finds ComEd's proposed GT&C revisions requiring LDPACs to submit a ten-year projected load ramp to be reasonable and supported by the record. The evidence shows that accurate long-term load projections are essential for ComEd's engineering analyses and for planning substantial, long-lead time infrastructure needed to serve large loads. Monthly MKD forecasts enable ComEd to identify the appropriate facilities and the timing for bringing them online, helping to maintain reliability and avoid delays for both the applicant and other customers. As ComEd notes, because multiple large load requests may be studied at the same time, inaccurate projections from one

application could compromise broader system planning. Therefore, requiring a ten-year load ramp at application improves transparency and supports coordinated planning across projects. The Commission also finds it reasonable for ComEd to perform a revised engineering analysis if a customer updates its ramp before engineering is complete, as such changes may materially alter required facilities. The Commission notes that ComEd already collects ten-year load ramp information in practice, and incorporating this requirement into the tariff provides clarity and consistent treatment for all applicants.

Microsoft expressed a number of concerns about ComEd's proposal, arguing that it is unreasonably rigid and risks overbuilding transmission based on preliminary forecasts that are likely to change as data-center designs evolve. As Microsoft states above, data centers often install equipment gradually, may add on-site generation or storage, or may switch to more efficient technologies which may result in downward revisions to load forecasts. The Commission understands Microsoft's concerns regarding LDPAC flexibility and the risk of overbuilding. However, that must be balanced with ComEd's requirement to provide adequate, efficient, and reliable service. At this point, the record supports a finding that the ten-year load ramp provides ComEd with the data necessary to determine system investments. The Commission notes that Microsoft's own testimony stated that many data centers have an extended load ramp while equipment is installed and customer applications are loaded to servers. *See* Microsoft Ex. 1.0C at 8. Microsoft further explains that many datacenters tend to be larger and may be modular in design to accommodate future customer demand. *Id*. This suggests that adopting a more "flexible" approach or shorter load ramp window could risk underestimating the forecasts.

While the Commission rejects the AG's and Microsoft's proposed alternatives to ComEd's requirement that LDPACs submit a ten-year load ramp, the Commission expects that ComEd will gain additional data and experience over time regarding the load ramp process. The Commission expects ComEd to consider and file any warranted tariff modifications as appropriate, following completion of the stakeholder workshops directed in Section VII.D.6. below. Specifically, the Commission encourages ComEd and interested parties to examine whether a ten-year load ramp is the most appropriate forecast timeline for system investments. The Commission further anticipates that these issues may be relevant in a variety of future proceedings, including the investigation directed in Section VII.A.8., and notes that this Order does not foreclose a party from raising issues in future proceedings, as they become relevant.

D. Cluster Study

1. ComEd's Position

ComEd states that as an initial matter, ComEd's proposal in this case is intentionally limited to establishing the basic framework and procedural steps governing how applications from large load customers are processed. *See* ComEd Ex. 1.0 at 2. ComEd further states that with respect to the Cluster Study process, ComEd's proposal merely memorializes its ability to study applications on a cumulative, rather than purely individual, basis. *Id*. at 9. ComEd explains that the proposed tariff language does not attempt to dictate the specific engineering methodologies, sequencing, or analytical techniques ComEd's planning departments must apply in every future Cluster Study any more than any tariff – state or federal – tries to dictate the engineering of existing load

studies. ComEd asserts that to do so would be both impractical and counterproductive. ComEd notes that the tariffs are intended to ensure that ComEd has authority to study related projects in groups—not to prescribe a single, static approach that would constrain ComEd's ability to tailor studies to evolving technical and system conditions. ComEd Ex. 5.0 at 8.

ComEd observes that, more fundamentally, the proposals to hardwire study methodologies into the tariff overlook that ComEd's methodology for studying large load applications must remain flexible to accommodate changing circumstances. *Id*. at 8. ComEd explains that the Cluster Study process itself is relatively new—ComEd completed its first study in March 2025—and the Company continues to refine its approach in response to real-world experience, evolving market conditions, and technological developments. *Id*. at 8. ComEd states that large load projects are part of a dynamic and rapidly changing sector. ComEd further states that consequently, any attempt to codify highly specific procedural or timing details in tariff language risks locking ComEd into methods that may quickly become obsolete. *Id*. at 8–9. ComEd explains that it may determine that additional analytical steps or refinements are necessary in the future to preserve accuracy and efficiency. *Id*. ComEd maintains that the same logic applies to rigid timing requirements, which could inadvertently slow the process and create administrative burdens without corresponding benefits. *Id*. at 9.

To clarify the engineering analysis that must be performed, ComEd proposes revising the GT&C to memorialize ComEd's existing practice of conducting an initial engineering analysis of the facilities required to provide electric service to an LDPAC. ComEd Ex. 2.0 at 7-8. Specifically, ComEd seeks to clarify that it may, as it does today, perform these assessments jointly for multiple LDPACs. *Id*. at 8 (*citing* ComEd Ex. 1.01 at 12 (ILL. C. C. No. 10, Original Sheet No. 149.3)).

ComEd notes that this combined approach—referred to as a "Cluster Study"—allows ComEd to evaluate requests for large demand service in "clusters" or batches. ComEd Ex. 1.0 at 10. Under this method, ComEd states that it defines study "windows" during which ComEd collects requests from LDPAC across its service territory. *Id*. at 10. ComEd further states that each window has a set deadline for submission, and a new window opens as soon as the previous window closes. *Id*. at 10. ComEd then aggregates the demand schedules, or "ramp rates," of all projects submitted during the same window and studies them collectively to determine the cumulative impact on both the transmission and distribution systems. *Id.* at 10. Through this analysis, ComEd also identifies whether any transmission or high voltage system reinforcements or expansions are needed to ensure the safety, reliability, and efficiency of those systems, as well as ComEd's ability to serve all its customers. *Id*. at 10. ComEd explains that once a Cluster Study is complete, ComEd conducts project-specific engineering analyses to determine the precise facilities required to serve each customer. ComEd Ex. 2.0 at 9.

ComEd states that Cluster Studies mark a significant improvement over its prior "first-in, first-out" approach, under which large load customer applications were studied sequentially and independently. *See* ComEd Ex. 1.0 at 10-11. ComEd notes that this prior method became inefficient by mid-2024, when both the number and average size of new large load applications grew dramatically. *Id*. at 11. ComEd further observes that evaluating applications one-by-one not only delayed ComEd's ability to provide

customers with critical information about potential in-service dates but also required repeated re-studies as new projects entered the queue. *See id*. at 11. ComEd explains that the Cluster Study process resolves these issues by allowing ComEd to evaluate projects together, improving responsiveness to customers and capturing economies of scale in study and planning processes. *Id*. at 11.

ComEd asserts that this approach also provides a more comprehensive and transparent view of the collective impacts of large demand growth. *Id.* at 11. ComEd explains that when multiple projects are proposed in similar timeframes, studying them as clusters enables ComEd to better assess overall system reliability and the interrelationship of nearby loads—insights that cannot be achieved through isolated, piecemeal evaluations. *Id*. at 11. ComEd states that, as a result, Cluster Studies produce more accurate, efficient, and forward-looking outcomes for both applicants and the broader customer base.

ComEd explains that the proposed amendments also specify that each Applicant or Customer included in a Cluster Study will be responsible for an equal, non-refundable share of the total actual costs of the study. ComEd Ex. 2.0 at 8 (*citing* ComEd Ex. 1.01 at 12 (ILL. C. C. No. 10, Original Sheet No. 149.3)). ComEd notes that, importantly, the Cluster Study process does not replace or eliminate the need for site-specific engineering analyses prior to service commencement, nor does it alter each Applicant's or Customer's obligation to bear the costs of those individualized studies. *Id*. at 8. ComEd points out that, instead, the process enhances fairness and efficiency by ensuring that all participating customers contribute equitably to the cost of shared analyses while retaining responsibility for their individual project requirements.

ComEd notes that intervenors and Staff also recommend that ComEd be required to memorialize its Cluster Study process and timeline in greater detail. *See, e.g.*, Microsoft Ex. 2.0 at 28–29, 34; *see also* Staff Ex. 2.0 at 7–8; 10. ComEd asserts that these proposals are not only unworkable in practice, but they also reflect a misunderstanding of the scope and purpose of this proceeding.

ComEd urges the Commission to reject intervenors' proposals to incorporate detailed technical requirements, explicit study milestones, and tariff-based timelines into the proposed tariffs as these recommendations are neither necessary nor appropriate. As an initial matter, ComEd stresses that it is critical to recognize both the nature of the Cluster Study and its distinction from the technical requirements and project-specific engineering and planning methodologies used in grid studies. ComEd explains that the Cluster Study assesses high-level system impacts from multiple concurrent projects, providing customers with an initial view of timeline and cost so that they can make informed decisions about whether to expend resources required to pursue the more detailed engineering process. ComEd Ex. 3.0 at 17. ComEd further explains that the Cluster Study is informed by the most up-to-date information about system needs, ensuring that any changes in one project are considered when designing solutions for others. *Id*. at 17. By contrast, ComEd states that the project-specific engineering that follows evaluates the unique details of each customer's direct connection, including engineering and design, identification of technical challenges, and securing necessary approvals. *Id*. at 16. ComEd asserts that these are fundamentally different exercises that serve distinct purposes.

ComEd avers that the record contradicts Microsoft's assertion that the "undetailed and overly general description" of the Cluster Study renders the tariff unjust and unreasonable because it "defers all important details to ComEd's policies and procedures." Microsoft IB at 8. ComEd explains that its testimony provides a clear and comprehensive description of how the Cluster Study functions: it evaluates the aggregated load ramps of all applicants, assesses impacts on the transmission and high-voltage distribution systems, and identifies—at a high level—the infrastructure needed to reliably serve those loads. ComEd Ex. 3.0 at 15-16. ComEd states that after the study is completed, ComEd communicates individualized results to each customer, including estimated system impacts, preliminary costs, required deposits, and anticipated in-service dates. *Id*. ComEd further explains that it then proceeds with the Phase 1 engineering needed for each customer's direct connection, during which it works closely and regularly with applicants through its Economic Development and Project Management teams. *Id*.

ComEd observes that Microsoft's comments fundamentally misapprehend the level of detail typically included in Illinois rates. ComEd states that its rates—and the tariffs of Illinois utilities generally—do not, and need not, itemize detailed engineering processes nor do they supplant the need and obligation of utility engineers and planners to exercise professional judgment. ComEd also avers that the specifics of ComEd's proposed tariff refute Microsoft's claim. ComEd asserts that there is nothing vague or "overly general" about a proposed tariff that codifies ComEd's ability to study large load projects on a cumulative, rather than individualized, basis. *See* ComEd Ex. 3.0 at 7; ComEd Ex. 5.0 at 8. ComEd explains that the ability to jointly study customer applications is clearly and appropriately stated in the rate.

ComEd avers that the tariff need not and should not detail how individual system impacts are determined and studied. ComEd points out that study methodologies must remain adaptable because system needs, technology, and the large load market are rapidly evolving. ComEd Ex. 3.0 at 19-20; ComEd Ex. 5.0 at 8-9. ComEd notes that the Cluster Study process itself is new—the first study was completed in March 2025—and prescribing rigid, static requirements in tariff language now would freeze in place technical processes that may quickly become obsolete. ComEd Ex. 5.0 at 8-9. ComEd emphasizes that flexibility is essential to ensure that ComEd can refine its approach as experience grows, new data requirements emerge, or customer demand fluctuates. ComEd further explains that if any of the proposed requirements become obsolete or new information becomes relevant, ComEd or the Commission would have to open a new—potentially litigated—proceeding to add, change, or edit the requirements list. *See* ComEd Ex. 3.0 at 23-24. ComEd states that this could introduce unnecessary delay and complexity that would undermine ComEd's ability to maintain system reliability while efficiently processing an unprecedented volume of large load requests.

ComEd asserts that Microsoft's general assertion that, without its proposed standards, customers would be "forced to accept results" of the Cluster Study is also factually incorrect. *See* Microsoft IB at 11. ComEd notes that it engages in detailed and transparent discussions of its engineering studies with its customers, at least to the extent they do not implicate CEII or confidential information of other customers. ComEd Ex. 3.0 at 25. As explained by ComEd, if a customer cannot, for business or financial reasons,

accept the results of a Cluster Study after clarifying discussions with ComEd's Economic Development, Planning, and Project Management teams, the customer has the option to halt development of its project. *Id*. At that point, ComEd states that it would refund any deposit amounts in excess of the actual project expenditures. *Id*. ComEd observes that the same choice would face a customer whose project was studied on an individual basis. *Id*.

ComEd avers that Microsoft's proposal for defined schedule checkpoints suffers from the same flaw. *See* Microsoft IB at 8. ComEd explains that the proposal to establish preset milestones and timelines is neither defined nor supported by evidence, and would risk prioritizing arbitrary time targets over thorough engineering analysis, especially when clusters include many projects, simultaneous load ramps, or unusual system conditions. *See* ComEd Ex. 5.0 at 12. Additionally, ComEd notes that the evidence demonstrates that ComEd already keeps its customers regularly informed of relevant study timeframes: participants in Cluster Study 2, for example, were advised that the study window would run from February through December 2025. ComEd Ex. 3.0 at 27. ComEd also notes that Monarch Energy Cross Leichtman Ex. 1 further illustrates the detailed nature of ComEd's customer communications, outlining key steps and timelines for Phases 1, 2, and 3 of a Large Demand Project. *See* Monarch Energy Cross Leichtman Ex. 1. In addition, ComEd emphasizes that ComEd witness Leichtman confirmed that it is "in ComEd's interest to convey the results of the Cluster Study to customers as quickly as ComEd can." Tr. at 214. Finally, ComEd states that, as explained above, customers who cannot accommodate the study timelines remain free to withdraw and receive refunds of any unused deposits. *See* ComEd Ex. 3.0 at 25. ComEd asserts that rigid, tariff-embedded deadlines are therefore unwarranted.

ComEd also points out that Microsoft's attempt to justify these requirements by analogy to the Commission's distributed generation interconnection rules further highlights the mismatch between its proposal and the realities of large load service. See Microsoft IB at 11. ComEd asserts that those Commission Rules apply to thousands of small, homogenous inverter-based Distributed Energy Resource ("DER") projects each year—resources for which standardized technical requirements and uniform timelines are both practical and appropriate. *See* ComEd Ex. 3.0 at 17-18; *see generally* 83 Ill. Adm. Code 466, 467. But ComEd notes that large load interconnections are entirely different. *See* ComEd Ex. 3.0 at 17-18. ComEd explains that each involves unique considerations, including customer type, load characteristics, ramp schedules, site conditions, environmental permitting, land acquisition, and potential transmission reinforcements. Id. ComEd states that its testimony makes clear that there is no feasible way to distill the engineering requirements for such diverse and complex projects into a generic list of technical requirements. *Id*. ComEd stresses that this challenge was also acknowledged by Staff, who found that it would be "premature to require ComEd, in this docket, to develop a manual or similar set of formal procedures [comparable to the DER Interconnection Guidelines for Interconnection Customers] to interconnect LDPACs." Staff IB at 26. ComEd concludes that, taken together, these factors demonstrate that direct engagement with each applicant—not prescriptive tariff language—is the only practical and effective approach. ComEd avers that the DER rules therefore provide no basis for altering ComEd's proposal.

ComEd explains that NRG's concerns rest on an equally unsupported premise. *See* NRG IB at 41-42. ComEd notes that NRG speculates that ComEd might complete a Cluster Study but inexplicably delay sharing the results. *Id*. at 42. ComEd asserts this claim is not only fanciful but directly contradicted by the record. ComEd explains that Mr. Leichtman testified that ComEd has "no reason" to delay releasing results and in fact benefits from communicating them promptly. Tr. at 214. ComEd notes that NRG similarly imagines that ComEd might release results to different customers at different times, even though the testimony establishes that ComEd's "practice is that customers are informed individually of the results of the cluster at the same time," with individualized meetings used solely to protect confidential or CEII-sensitive information. Tr. at 199, 200. ComEd states that NRG's hypotheticals provide no basis for modifying the tariff and should be rejected outright.

ComEd avers that NRG's remaining recommendation—that ComEd should be allowed to require a new engineering study only upon a "reasonable determination" of a "material change" to a customer's load ramp—suffers from the same flaw. NRG IB at 42. ComEd states that the suggestion presupposes a risk of arbitrary or repeated re-studies that finds no support in the record. As with NRG's other concerns, ComEd emphasizes that there is no evidence—nor any testimony—indicating that ComEd ever has misused, intends to misuse, or has any incentive to misuse its engineering-study authority. ComEd points out that it simply has not happened. To the contrary, ComEd explains that NRG's suggestion – which would further its interests as a developer – could cause real damage to the study process and other customers. ComEd further notes that it explained why updated engineering may be necessary when a customer alters its proposed load ramp: the load ramp is a fixed input to both the Cluster Study and the detailed engineering analysis, and a change to that input can materially affect system impacts, infrastructure needs, or project sequencing. *See*, *e.g*., ComEd Ex. 2.0 at 7. ComEd asserts that introducing an ambiguous threshold such as "material change" would only invite disputes and delay. ComEd stresses that NRG's proposal should therefore be rejected.

ComEd also urges the Commission to reject the AG's recommendation that ComEd be required to evaluate NWAs within the Cluster Study to reduce distribution costs and "prevent inflated load forecasts." ComEd explains that this recommendation should be rejected because it is unnecessary, contrary to the purpose of the Cluster Study, and beyond the scope of this proceeding and the Commission's statutory authority.

To begin, ComEd stresses that NWAs do not reduce total forecasted load; where feasible, they are simply a means of meeting an identified or forecasted load. ComEd also notes that the Cluster Study framework already accommodates customer-driven load-reduction measures. ComEd Ex. 5.0 at 13. ComEd explains that the Cluster Study neither diminishes nor alters customers' incentives to pursue demand-offset strategies, and nothing in ComEd's proposal prevents or inhibits ComEd or customers from incorporating NWAs into their project or grid plans. *Id*. ComEd states that nothing in the amendment alters in any way ComEd's obligation to design its grid to serve loads prudently. ComEd further explains that ComEd's proposal also does not change customers' incentives to pursue NWAs; because energy costs make up a substantial share of operating costs for many large load customers, such customers already have strong economic incentives to implement solutions that reduce their ultimate demand. *Id*.

ComEd points out that where a customer proposes load-reducing measures that are sufficiently firm and supported, ComEd will account for the resulting demand offset in its analysis. *Id*. Therefore, ComEd asserts that the AG's suggestion that ComEd is ignoring NWAs is simply unfounded.

ComEd emphasizes that the AG's proposal is not just unnecessary, it risks harm. ComEd explains that the AG would require ComEd to design, engineer, or mandate customer-side technologies as part of the Cluster Study. ComEd states that this is not ComEd's role. *See id*. at 13-14. ComEd stresses that it is a distribution and delivery services utility, and decisions about behind-the-meter generation, storage, demand management, or other NWAs are matters of customer choice. *Id*. ComEd asserts that the feasibility and value of such measures depend on information uniquely within the customer's control—such as how "firm" the reductions are and whether and how the customer will operate if they fail. ComEd Ex. 3.0 at 20-21. ComEd observes that these questions would arise under any study methodology, including the sequential "first-in, first-out" processes ComEd has historically used. *Id*. ComEd argues that the Cluster Study is a high-level feasibility assessment—not an alternative resource planning exercise—and it is not designed (nor should it be expanded) to conduct project-specific cost-benefit analyses or evaluate the operational viability of customer-side assets.

ComEd also notes that the AG's recommendation essentially asks the Commission to require ComEd to provide a new tariffed service that ComEd has not proposed. ComEd asserts that this request exceeds the Commission's authority. Specifically, ComEd explains that Section 16-103 of the Act prohibits the Commission from requiring an electric utility to offer any new tariffed service except those the statute mandates. 220 ILCS 5/16-103. ComEd states that courts and the Commission have repeatedly enforced this prohibition. *See Citizens Util. Bd. v. Ill. Com. Comm'n*, 2016 IL App (1st) 152936; *Commonwealth Edison Co*., Docket No. 21-0850, Final Order (Aug. 11, 2022); *Ill. Com. Comm'n v. Commonwealth Edison Co.*, Docket Nos. 22-0432/22-0442 (Consol.), Final Order (Mar. 23, 2023). ComEd further explains that requiring it to evaluate, design, or mandate NWAs as part of its large load service-request process would plainly constitute a new service, not required by statute and not previously offered by ComEd. ComEd states that, if adopted, the AG's proposal would obligate ComEd to engage in customer-specific resource planning, technology evaluation, and operational verification that fall well outside the utility's traditional function as a distribution provider. ComEd asserts that the Commission therefore cannot impose it here.

For all these reasons, ComEd avers that the AG's proposal to incorporate NWA evaluation into the Cluster Study framework is unsupported, impractical, and legally impermissible. ComEd therefore urges the Commission to reject it.

In sum, ComEd urges the Commission to reject all proposals to further codify or rigidly define ComEd's Cluster Study methodology or schedule. ComEd maintains that its proposed framework already provides transparency regarding when and how applications will be grouped for study while preserving the operational flexibility necessary to adapt its engineering and planning processes as conditions evolve. ComEd further asserts that balance—clear authority coupled with procedural adaptability—is essential to ensuring efficient service, prudent system investment, and fair treatment of all customers.

2. Staff's Position

Staff recommends the Commission: (1) approve ComEd's amendments to its GT&C tariff; (2) direct ComEd to consider and potentially file relevant additional tariff amendments to further describe and develop its interconnection processes in a more transparent way for LDPACs; and (3) direct ComEd to make annual compliance filings in this docket which would contain updates concerning progress of cluster studies as detailed in Section VII.B., above. Staff's recommendations are reasonable consumer protections that ensure the state of Illinois does not miss out on competitive, economic opportunities. Staff's recommendations also allow the Commission to gather important data related to ComEd's processes so that it can further review and analyze the issues raised in this proceeding.

ComEd's proposed GT&C tariff amendment adds a provision that explains how ComEd proposes to process LDPAC project applications. ComEd Ex. 1.01 at 12; ComEd Ex. 1.01 at 6; Staff Ex. 1.0 at 4-5. ComEd explained that the first step for LDPAC applications is to gather applications received over a certain period of time or window, which are grouped into a "cluster." ComEd Ex. 1.0 at 10. After forming a cluster, "[t]he combined demand of all projects within that window is then studied collectively to determine the impact of the new demand on the transmission system and any effects on distribution system reliability," which is referred to as a "Cluster Study." *Id*. The Cluster Study is an initial engineering analysis that investigates the effects of the cluster on ComEd's distribution grid as well as the transmission system. *Id*. After the Cluster Study is concluded, ComEd conducts an individualized engineering analysis to determine the facilities required to serve each customer and "communicates to individual customers the conditions relevant to their projects identified by the analysis, ComEd's preliminary assessment of the system investments needed to mitigate those conditions, and the initial impact on the particular project's in-service date." Staff Ex. 1.0 at 5-6; Staff Ex. 1.0, Attach. B at 2.

ComEd's GT&C tariff amendment gives ComEd sole discretion to determine when and whether the initial engineering study would be done collectively or individually. ComEd Ex. 1.01 at 12; Staff Ex. 1.0 at 5-6. Staff requested ComEd provide any documents that describe or control ComEd's process for transitioning projects from the Cluster Study process to the individual engineering process as part of a discovery request. Staff Ex. 1.0 at 6; Staff Ex. 1.0, Attach. A., 2. ComEd responded that it "did not have specific documentation on the process" and pointed to ComEd witness Leichtman's testimony illustrating ComEd's process at a high level. Staff Ex. 1.0, Attach. A at 2; ComEd Ex. 1.0 at 19, Fig. 2. Thus, it is Staff's opinion that there is a lack of clarity on ComEd's process for transitioning LDPAC projects from the Cluster Study process to the individual engineering process, and in particular, how ComEd handles analyzing more than one LDPAC or a group of LDPACs. Staff Ex. 1.0 at 7. It is not clear how ComEd would manage the process of sorting through numerous project applications in its study process in a crowded queue and determine which projects would move forward to completion. *See* Staff Ex. 2.0, 7.

In direct testimony, Staff expressed concern that ComEd's current, proposed Cluster Study processes and procedures lack transparency. To provide clarity to potential

applicants and other stakeholders concerning the study process, Staff recommended that ComEd:

> 1. Provide further detail and documentation on its LDPAC application study process and procedures and how it transitions from the Cluster Studies to the analyses for individual projects;
>
> 2. Explain how it may provide transparency and structure to LDPACs prior to submitting their applications; and
>
> 3. Consider providing a public manual or handbook describing its procedures or processes on the Company's website, similar to ComEd's DER Interconnection Guidelines for Interconnection Customers; or
>
> 4. Further amend the GT&C tariff to better describe the LDPAC application study process and procedures.

Staff Ex. 1.0 at 7-8.

In rebuttal testimony, ComEd provided additional details on how studies proceed, the activities ComEd conducts during the Cluster Study, and ComEd clarified that a project is not analyzed in concert with another project or projects in a further study process. ComEd Ex. 3.0 at 17. Given ComEd's responses, Staff found it premature to require ComEd, in this docket, to develop a manual or similar set of formal procedures to interconnect LDPACs. Staff Ex. 2.0 at 2. ComEd also responded generally that details of its Cluster Study process should not be and have not been in the tariffs and that "[s]tudy methodology needs to evolve and adapt." ComEd Ex. 5.0 at 8; *see also* ComEd Ex. 3.0 at 19-20. ComEd further states that the focus is on the necessity of studying customer applicants in groups, without restricting how applications are studied or defining a methodology to be applied in every instance, regardless of risks or circumstances an application or a Cluster presents. *See* ComEd Ex. 5.0 at 8.

Staff emphasizes that the amended tariff memorializes important consumer protections as a first step in the process of addressing the provision of service to LDPACs and Staff's primary concern is that consumers are not protected under the status quo (i.e. potential cost shifting or missed opportunities for ComEd to connect customers who could potentially have a significant contribution to the Company's revenue requirement). Staff Ex. 2.0 at 5, 13. While Staff recommends approval of ComEd's amendments to its GT&C tariff, the Commission should direct ComEd to consider and potentially file relevant additional tariff amendments that describe and develop its interconnection processes for LDPACs in a more transparent way within a specified period of time. *See* Staff Ex. 2.0 at 8. This approach would allow interested parties to provide additional information and policy support for well-developed methods and procedures. Staff Ex. 2.0 at 8.

Staff acknowledges the wide-ranging intervenor proposals on adding additional tariff language on Cluster Study standards, study timelines, incorporation of non-wires alternative planning into the study process, resource adequacy, and clean energy. While these topics have merit, they clearly go beyond the tariff amendments ComEd proposes in this docket and are outside the scope of this proceeding. Staff does not reach any

conclusion on these proposals. Staff Ex. 2.0 at 2,12. Instead, Staff recommends that these proposals be considered by the Commission in a future proceeding where it can be addressed comprehensively with an expanded scope along with ComEd's gained experience in conducting Cluster Studies.

Based on the experience gained by ComEd, as it conducts more Cluster Studies for LDPACs, its reporting to the Commission (*see* Section VII.D., above) should be particularly informative for a future proceeding. Moreover, ComEd notes that its first Cluster Study was completed in March 2025 and the Company is "continuing to refine the process in response to changing market conditions, among other factors" and "details that are memorialized in the tariff language may rapidly become obsolete." ComEd Ex. 5.0 at 9. ComEd further states that "it is important to maintain a reasonable level of flexibility in the Cluster Study process." *Id*.

While ComEd argues that it should not be required to submit additional tariff amendments in the future, ComEd also testified that:

1. Additional or modified measures may be needed or appropriate in the future;
2. It urges the Commission to not allow the perfect to be the enemy of the good;
3. That action on the proposals offered in this proceeding will not foreclose actions to improve upon these proposals in the future, if and when experience warrants;
4. Proposals ComEd makes here are well founded in the data ComEd now has; and
5. Two years is likely the shortest reasonable timeframe for a follow-up proceeding because it would allow the tariff amendments approved in this proceeding to remain in place long enough to identify any issues that must be addressed.

See ComEd Ex. 3.0; ComEd Ex. 5.0.

To be clear, Staff does not recommend the Commission require ComEd to amend its tariff. *See* Section VII.A, above. However, Staff recommends the Commission direct ComEd to consider and potentially file relevant additional tariff amendments with respect to its interconnection process for LDPACs as described above. ComEd's assertions above lend support to Staff's overall recommendation that there be a future proceeding in which ComEd proposes any recommendations or modifications to its tariffs related to its provision of service to LDPACs. Staff Ex. 2.0 at 3-4.

The AG recommends that ComEd include a consideration of NWAs that can meet a customer's capacity needs in lieu of distribution and/or transmission system upgrades as part of ComEd's engineering analysis. AG IB at 48. The AG claims this "would help prevent inflated load forecasts." *Id*.

In rebuttal testimony, ComEd indicated that it will account for the demand offset resulting from NWAs that are proposed by customers as part of its Cluster Study process. ComEd Ex. 5.0 at 13. ComEd also indicated that parties have an incentive to propose NWAs to offset their demand because energy costs are the predominant variable cost associated with many of these projects. *Id*. However, ComEd disagreed that it should design, engineer, or otherwise mandate that individual customers propose behind-the-meter solutions that might decrease load. *Id*. at 13-14. Staff argues that resource

adequacy and clean energy supply issues are outside the scope of the current proceeding. Staff Ex. 2.0 at 12-13.

JNGO propose certain amendments to ComEd's study process; specifically, a fast-track review process for projects that BYO clean capacity resources, and a methodology for LDPACs to demonstrate their BYO commitments through a clean energy plan, including timelines and milestones. JNGO IB at 33. JNGO further recommend that ComEd develop a non-firm service tariff so that ComEd could curtail customers when needed. *Id*.; JNGO Ex. 1.0 at 27; Staff Ex. 2.0 at 12. ComEd argues that these proposals "would prioritize some subcategory of customers over others in the provision of delivery service" and is outside the scope of this docket. ComEd Ex. 3.0 at 41. Staff agrees with ComEd that the issue is outside the scope of this docket. The tariff revisions at issue here do not address resource adequacy and clean energy supply issues; these issues fall outside the scope of this proceeding and should be addressed in a future proceeding. Staff Ex. 2.0 at 12-13.

NRG argues that the tariff modifications as proposed would allow "ComEd [to improperly give] preference to projects that ComEd wanted to advance and inappropriately disadvantage projects it wanted to negatively impact." NRG IB at 41. However, the record does not indicate any rationale or incentive for ComEd to expedite or delay a particular project; instead, the record shows that "ComEd always desires to get its customers connected as quickly as practicable." Tr. at 309. NRG further recommends Cluster Study results be shared "as soon as practical," and "contemporaneously with all members of the [Cluster Study]," and further recommends revisions to the tariff language to "provide that ComEd only be allowed to require a new engineering study be conducted if ComEd reasonably determines that there is a material change to the customer's load ramp." NRG IB at 42. However, because ComEd has no incentive to delay, Staff opines that it is common sense that ComEd would be incentivized to connect as many customers, and sell as much electricity, as it feasibly can. There is no reasonable basis to argue that ComEd is somehow incentivized to prioritize one project over another.

Next, NRG complains that ComEd is allowed, at its sole discretion, to require a new engineering study if there is any modification to the load ramp schedule. *Id*. However, NRG's proposed replacement language—that ComEd only be allowed to require a new engineering study if ComEd reasonably determines that there is a material change to the customer's load ramp—does little to address this concern, according to Staff. *See id*. There is no definition for what constitutes a "material change to the customer's load ramp," and requiring ComEd to "reasonably determine" that there is a "material" change does little to provide clarity to customers; it seemingly only opens the door for litigation which further delays projects. Again, the record does not provide any support for a conclusion that ComEd would require an unnecessary re-study and unnecessarily delay connecting customers to the electric grid. As explained throughout Staff's briefs, while the present tariff modifications could provide more clarity, more time is necessary for ComEd to gain experience with this process and help inform best practices and future tariff modifications. This proceeding is a necessary first step, and Staff expects these issues to be further litigated in both its proposed Future Proceeding and in other Commission dockets.

Microsoft argues that ComEd's Cluster Study proposal "lacks sufficient information for Commission approval at this time." Microsoft IB at 8. Specifically, Microsoft argues that ComEd's Cluster Study and load interconnection approach is "unjust and unreasonable because it defers all important details to ComEd's policies and procedures." *Id*. Microsoft recommends the Commission direct ComEd to incorporate directly in its tariff necessary milestones, timelines, and technical standards. *Id*. at 12; *see id.* at 9.

Staff agrees that parties, including Microsoft, raise reasonable concerns about the Cluster Study and engineering study processes. Staff Ex. 2.0 at 10. However, ComEd raises crucial points in response as well, including that introducing such rigid requirements at this stage may sacrifice thoroughness and may not serve the goals of ensuring reliable interconnection of complex loads. ComEd Ex. 5.0 at 11-12. Staff recommends ComEd's tariff provisions, which memorialize vital consumer protections, be approved as a necessary and important first step to processing LDPAC applications; however, Staff also recommends that these proposals be re-evaluated in a future proceeding by which ComEd, the Commission, and all other parties will have more experience and data concerning how ComEd's processes and procedures are being implemented.

Staff recommends the Commission (1) adopt Staff's recommendations to approve ComEd's GT&C tariff amendments related to cluster studies and the GT&C amendments in its entirety; (2) direct ComEd to consider and potentially file relevant additional tariff amendments in a future proceeding to further describe and develop its interconnection processes in a more transparent way for LDPACs; and (3) direct ComEd to submit compliance filings including the information discussed in Section VII.B, above.

3. AG's Position

The AG points out that ComEd proposes to codify in Rider DE its current practice of studying groups of Large Demand Projects in a "cluster" as opposed to the "first in, first out" that had been previously utilized. ComEd Ex. 1.0 at 10-12. The AG points to the testimony of AG witness Seryak and argues that ComEd should include in the engineering analysis that is part of the Cluster Study a consideration of NWAs that can meet a customer's capacity needs in lieu of distribution and/or transmission system upgrades and that can reduce the customer's total distribution charges. AG Ex. 1.00 at 23. The AG states that this requirement would help prevent inflated load forecasts, which ComEd acknowledges have an impact on capacity costs paid for by residential ratepayers, who pay for the demand predicted for Large Demand Projects "regardless of whether the demand is realized." ComEd Ex. 1.0 at 14.

The AG further notes that Microsoft points out several ways in which ComEd's Cluster Study proposal is missing important information. Microsoft IB at 7-12. Microsoft explains that generator interconnection is an appropriate model for large load interconnections, but ComEd's proposed tariff memorializing the Cluster Study process does not provide the same detailed timelines, disclosure requirements, and technical standards that the Illinois administrative rules governing interconnections provide. *Id*. at 11. JNGOs make a similar recommendation that the Commission order ComEd propose, within 90 days of the Final Order in this docket, "standardized, uniform technical criteria with defined milestones, adequate fees, material modification rules, and cluster study

arrangements based on emerging best practices, as recommended by JNGO witness Kyle Thomas," as well as other crucial topics such as flexible interconnection and "bring your own capacity" obligations. JNGO IB at 33. While the AG, generally, does not oppose ComEd's proposal to memorialize its cluster study process, it does not object to Microsoft and JNGO's recommendations to improve the process in a follow up proceeding.

4. NRG's Position

NRG notes that during cross-examination, it was revealed that, under the cluster study language proposed by ComEd, there are several ways in which ComEd improperly could give preference to projects that ComEd wanted to advance and inappropriately disadvantage projects it wanted to negatively impact. Several changes to the language ComEd have proposed could prevent such improper results.

First, NRG maintains, there is no requirement that ComEd timely release the results of its cluster studies. Tr. at 215. Thus, under ComEd's proposal, it is possible that ComEd could complete the cluster study and then – for any reason – decide not to provide the study results to the large load customers, thereby delaying the development of the projects. ComEd witness Leichtman indicated that ComEd would not object to being required to share those results as soon as practical. Tr. at 215.

Second, NRG specifies that under ComEd's proposed tariff language, there is no requirement that ComEd provide the results of the cluster study to all members of the cluster simultaneously. Thus, there is nothing in the tariffs that would prevent ComEd from sharing the cluster study results to one customer months before releasing the results to others, enabling the one customer to move forward with the interconnection process while the other customers were sidelined. *See* Tr. at 201. NRG respectfully requests that ComEd be required to share the cluster study results contemporaneously with all members of the cluster study.

Third, NRG notes that the language in ComEd's proposal would allow ComEd at its sole discretion to require a new engineering study if there is any modification to the load ramp schedule that the customer provided at the outset of its application process. Thus, even with an enormous project an insignificant revision to a single month's projected load over a period of ten years could result in ComEd deciding to delay the project and restart the engineering process. Tr. at 205. NRG respectfully requests that the tariff language to be revised to provide that ComEd only be allowed to require a new engineering study be conducted if ComEd reasonably determines that there is a material change to the customer's load ramp.

5. Microsoft's Position

Microsoft states that, as described in Section IV.B, Microsoft supports ComEd's stated goals of speed and taking a holistic view of necessary upgrades. However, Microsoft continues that it opposes ComEd's specific proposal in this consolidated docket for the reasons explained below. Therefore, Microsoft concludes that the Commission should require ComEd to add to its tariff the milestones, timeframes, and technical standards recommended by Microsoft witness Campbell.

According to Microsoft, ComEd proposes a new cluster study approach applicable to Large Demand Project load interconnections that lacks critical details necessary for

approval. Notably, Microsoft highlights that in contrast with the Commission's generation interconnection rules, the cluster study portion of ComEd's proposed tariff lacks even basic information about important milestones, timeframes, and technical standards. In fact, Microsoft states that the following passage is the sum and substance of ComEd's proposed tariff language to define the cluster study process:

> The Company shall conduct an initial engineering analysis of the facilities needed to provide electric service to a Large Demand Project Applicant or Customer and may, in its sole discretion, conduct such analysis in combination with, and at the same time as, its engineering analysis of the facilities needed to provide electric service to one or more other Large Demand Project Applicants or Customers. Such a combined analysis (a Cluster Study) may analyze the impact that the included applications or requests would collectively have on the transmission system and on the Company's distribution system and identify transmission and / or distribution system reinforcements and / or expansions needed to ensure the safety, adequacy, reliability, and efficiency of those systems and the Company's ability to serve all of its customers. If an Applicant's application or a Customer's request for revised service is the subject of a Cluster Study, then each Applicant or Customer is responsible for an equal share of the total actual cost of the Cluster Study. The Cluster Study does not replace or supplant the need to conduct additional analyses prior to the commencement of service and does not alter or limit the Applicant's or Customer's responsibility for the Company's costs of such analyses.

ComEd Ex 1.01 at 6.

While Microsoft indicates its support for ComEd's stated goals of speeding interconnection review and holistically considering upgrades, Microsoft contrasts that ComEd's specific proposal in this consolidated docket lacks sufficient information for Commission approval at this time. Importantly, Microsoft argues that ComEd's undetailed and overly general description of its cluster study and load interconnection approach is unjust and unreasonable because it defers all important details to ComEd's policies and procedures (which are not approved by the Commission). Additionally, Microsoft states that because ComEd does not currently undertake cluster studies under the Commission's rules or Illinois-jurisdictional tariffs, there is no baseline rule or tariff-based cluster study approach that might fill the gaps, and ComEd declined to provide any examples of cluster study reports in discovery.

Moreover, Microsoft argues that even if the Commission looks beyond ComEd's tariff to its testimony and discovery responses—which are not themselves part of the proposed tariff—ComEd still leaves undefined important milestones and timelines as well as comprehensive technical standards. Indeed, Microsoft highlights that, based on the testimony of Microsoft Campbell, material gaps in ComEd's proposed cluster study

process. *See* Microsoft Ex. 1.0C at 14-17, 19, 21, 23; *see also* Microsoft Ex. 2.0 at 36; NRG Ex. 2.0 at 21.

According to Microsoft, there are missing but materially important, transparent, and predictable milestones and timelines which are necessary for successful development of Large Demand Projects. MS Ex. 1.0C at 16. In addition, LDPACs benefit from such milestones and timelines as they need to revise technical specifications (including load ramps) or exercise go/no-go decisions to mirror typical development processes. Microsoft Ex. 1.0C at 19.

Notably, Microsoft spotlights that Mr. Campbell's criticisms of ComEd's load interconnection process address not only the interconnection process itself but also how interconnection fits within the process for developing multi-billion dollar Large Demand Project Customer projects. Importantly, Microsoft continues that the development process not only involves proceeding through load interconnection but also involves other material considerations including detailed engineering, permitting, and financing. Microsoft posits that, given that developers undertake the development process in parallel with the interconnection process, successful development requires the interconnection process to work in harmony with other development tasks. Therefore, Microsoft concludes that Mr. Campbell identifies timing and deadlines that "would align with industry practice and ensure that customers have the timely information needed to make multi-billion-dollar investment decisions." Microsoft. Ex. 1.0C at 16.

Specifically regarding missing technical standards, Microsoft notes that Mr. Campbell recommends that ComEd include within its tariff additional information as follows:

1. Study eligibility, including details on the study inputs, such as load and supply assumptions incorporated into the base case modeling for the cluster studies.
2. Restudy triggers such as increases or decreases in projected load ramps of customers, especially threshold (in MW or MKD) of changes up or down in the aggregate load of the cluster (which would necessarily capture customers dropping out of a cluster study or declining to proceed after the cluster study), both during and after the cluster study; clear timelines around re-studies and associated customer commitments.
3. With each cluster study, technical information consistent with requirements, similar to what PJM establishes in their Manuals, including: (1) the base case modeling assumptions; (2) the contingencies and criteria applied to the process; and (3) any system constraints identified.

Microsoft Ex. 1.0C at 21. Microsoft highlights that Mr. Campbell explains, "[w]ithout such requirements, customers are forced to accept results without the ability to test their validity, undermining confidence in both the process and the resulting cost allocations." Indeed, Microsoft states that these technical standards and related disclosures help each Large Demand Project Customer ensure that specific upgrades are just and reasonable.

Importantly, Microsoft contends that ComEd's proposed cluster study approach and broader interconnection process stands in stark contrast to the Commission's rules (Part 466 and Part 467) that ComEd must follow for Illinois-jurisdictional generation

interconnection. For instance, Microsoft illustrates, both Part 466 and Part 467 provide clear timeframes for the entire process (from start to finish), set binding deadlines and deliverables for each study, impose minimum disclosures and technical standards, and provide clarity for the entire process. Microsoft notes that while these rules may provide for substantial gap-filling on technical details from the utilities (outside of the rule), they nonetheless require the utility to publish technical and cost-estimation standards and incorporate applicable technical standards by reference. Notably, Microsoft contends that the Commission has a clear model that Staff recognizes (and Mr. Campbell agrees) ComEd should follow for its cluster study process and the load interconnection process.

6. Commission Analysis and Conclusion

The Commission finds that ComEd's proposed tariff revisions clarifying its authority to conduct initial engineering analyses, including the use of Cluster Studies, are reasonable, supported by the record, and should be approved. The evidence demonstrates that Cluster Studies are an appropriate and necessary evolution of ComEd's planning practices in light of the unprecedented volume of large load interconnection requests. Transitioning from a sequential, first-in/first-out study model to a clustered approach enables ComEd to evaluate cumulative system impacts and identify the transmission and high-voltage distribution upgrades needed to ensure safe, reliable service.

The Commission further finds that allocating the actual cost of each Cluster Study equally among all participating applicants is just and reasonable. Each participant benefits from the shared system-impact analysis, while remaining responsible for its project-specific engineering costs. This framework results in fair and efficient cost responsibility.

The Commission recognizes that the Cluster Study process is relatively new; ComEd completed its first study in March 2025, and the record reflects legitimate concerns raised by Staff and Microsoft regarding transparency, particularly with respect to study timelines and milestones. At the same time, the Commission agrees with ComEd that embedding rigid, highly detailed requirements in the tariff at this early stage could constrain ComEd's needed flexibility as it refines its approach in response to evolving system conditions, market dynamics, and technological developments.

To balance these considerations, the Commission directs ComEd to convene a workshop process through which stakeholders and the Company may evaluate and recommend improvements to the Cluster Study and interconnection process. The workshops should address, at a minimum, enhancements to transparency, clearer timelines and milestones, and overall process understanding for LDPACs. While no party specifically proposed an alternative workshop timeline, JNGO proposed an expedited proceeding beginning within 90 days of the Final Order, which the AG supported. *See* JNGO BOE at 14-16; AG RBOE at 14. The Commission notes that Staff opposed this expedited approach, calling it impractical and inefficient. Staff RBOE at 23-27. The Commission concludes that within 180 days of the Final Order in this docket, ComEd shall file a report summarizing workshop outcomes, including areas of agreement, proposed refinements, and any remaining points of divergence. This workshop is distinct from the future docketed proceeding and is intended to quickly address the technical and

engineering needs associated with grid upgrades, costs, and timelines relevant to the cluster study and interconnection processes.

NRG raises concerns that ComEd could use the Cluster Study process to favor or disadvantage particular projects. The Commission finds no evidence in the record supporting such claims. Nothing in the record indicates that ComEd has an incentive or motivation to delay or advance particular projects, and NRG's proposed language changes rely on vague or undefined standards that would not meaningfully address the concern. The Commission concludes that improved transparency and clearer timelines, addressed through the workshop process, are the appropriate means to bolster customer confidence.

The Commission declines to adopt the AG's recommendation to incorporate non-wires alternatives into the tariff framework. While the Commission recognizes the importance of resource adequacy and clean energy development, those issues fall outside the scope of this proceeding, and the record does not contain sufficient evidence to support such changes. The Commission notes, however, that ComEd stated it will account for demand-offsetting NWAs proposed by customers as part of its analyses, and that customers have natural incentives to propose such measures given the significant energy-related costs associated with large load projects. *See* ComEd Ex. 5.0 at 13.

The Commission also declines to adopt JNGO's proposed amendments, including a fast-track process for projects with self-supplied clean capacity, development of a methodology for demonstrating such commitments, and creation of a non-firm service tariff. These proposals raise important policy considerations but fall outside the scope of this docket and are not supported by a sufficient evidentiary record.

Accordingly, the Commission approves ComEd's proposed tariff revisions clarifying its authority to conduct initial engineering analyses, including the use of Cluster Studies. The Commission expects ComEd to consider and file any warranted tariff improvements following completion of the stakeholder workshops.

E. Load Forecasting

1. ComEd's Position

ComEd notes that two intervenors—the AG and JNGO—raise concerns regarding ComEd's existing load forecasting methodologies. *See, e.g.*, AG Ex. 2.0 at 25– 26; *see* JNGO Ex. 4.0 at 5. ComEd states that these comments fall well outside the scope of this proceeding. ComEd maintains that the purpose of this case is narrow and well-defined: to review and clarify the tariff provisions governing ComEd's process for handling applications from large load customers, including the steps and requirements that apply to those projects. ComEd asserts that this proceeding does not involve, nor do the proposed tariffs address, ComEd's systemwide forecasting models, assumptions, or methodologies.

ComEd explains that the appropriate forum for evaluating ComEd's retail load forecasting practices is in proceedings specifically designed for that purpose—such as ComEd's Multi-Year Integrated Grid Plan. ComEd further explains that those dockets provide the analytical and evidentiary framework necessary to assess forecasting methodologies in the context of broader system planning, investment decisions, and other

issues. Additionally, ComEd notes that wholesale forecasts are addressed at the RTO level. ComEd states that by contrast, this proceeding is focused on the justness and reasonableness of proposed revisions to ComEd's tariffs governing the treatment of large load customers, not the underlying forecasts that inform ComEd's long-term infrastructure planning.

ComEd maintains that attempting to litigate forecasting issues here would not only expand the scope of this case beyond the bounds of a review of the filed rates under Section 9-201 of the Act but would also risk duplicating or conflicting with Commission determinations in those other, more appropriate contexts. ComEd asserts that the Commission should therefore decline to consider these comments in this docket and instead reaffirm that such issues are properly addressed through the Multi-Year Integrated Grid Plans processes, where they can be evaluated comprehensively and in coordination with other system planning inputs.

ComEd further notes that the AG invokes select elements of the PJM Independent Market Monitor's ("IMM") analysis of the 2026-2027 capacity auction in support of its recommendations in this case. *See* AG IB at 48-50. ComEd asserts that the AG's reliance on and reference to this information is misplaced. ComEd explains that the IMM's observations relate to regional market outcomes driven by generation entry and exit, market participant behavior, and PJM's capacity rules—none of which are at issue here. ComEd maintains that this case concerns ComEd's retail delivery service tariffs and the processes for studying and serving new large load interconnection requests. ComEd Ex. 1.0 at 2. ComEd further explains that PJM capacity prices fluctuate for many reasons, including new resource additions, retirements, evolving load forecasts, and market-rule changes. ComEd Ex. 5.0 at 36–37. ComEd avers that modifying ComEd's load-connection processes will not insulate customers from their PJM capacity obligations or alter their capacity costs under PJM's tariff. *See id*.

More fundamentally, ComEd stresses that the AG does not explain how its arguments fit within the limited scope of this proceeding. ComEd states that it has proposed tariff revisions designed to ensure that customers driving the need for new transmission and high-voltage distribution investments bear the associated costs and risks. ComEd notes that the AG's competing proposal is not tied to any specific deficiency in ComEd's filing, nor does it rest on any legal authority requiring the Commission to adopt a different cost-allocation framework. Instead, ComEd argues, the AG attempts to introduce broad regional-market considerations that fall outside the scope of delivery-service tariff revisions and that ComEd, as a distribution utility, is not empowered to control.

2. AG's Position

The AG argues that the effect of load forecasting related to Large Demand Projects is already substantial and projected to get worse. Pointing to the increases in PJM capacity charges from $28.92 per MW-day in 2024-2025 to $269.92 per MW-day in 2025-2026 and $329.17 per MW-day in 2026-2027, the AG states that these increased charges demonstrate the outsized impact load forecasting is have on customer rates. PJM 2026/2027 Base Residual Auction Report at 5 (July 22, 2025). In addition, the PJM IMM

released an analysis of the 2026-2027 capacity auction that specifically identified the effect of large demand forecasts on prices. The IMM concluded:

> The basic conclusion of this analysis is that data center load growth is the primary reason for recent and expected capacity market conditions, including total forecast load growth, the tight supply and demand balance, and high prices. But for data center growth, both actual and forecast, the PJM Capacity Market would not have seen the same tight supply demand conditions, the same high prices observed in the 2025/2026 BRA and the 2026/2027 BRA, and the currently expected tight supply conditions and high prices for subsequent capacity auctions.

Monitoring Analytics, Analysis of the 2026/2027 RPM Base Residual Auction Part A, Independent Market Monitor for PJM, Oct. 1, 2025, at 1-2.

Recently, PJM has initiated the Critical Issue Fast Path accelerated stakeholder process mechanism that is attempting to address the effect of large load additions on PJM capacity and energy prices. Finally, as discussed by the AG in its discussion of the TSA requirement, the Department of Energy has asked FERC to initiate a rulemaking to address the treatment of large loads.

The AG contends that this docket is about the terms that apply when a Large Demand Project seeks to connect to the ComEd grid. However, a rigorous and fair interconnection process can also be expected to affect the load forecasts ComEd submits to PJM, which in turn have driven up capacity prices and affect energy and transmission prices. ComEd is correct that changes to current practices to require Large Demand Projects to make serious financial commitments in order to be eligible for service can weed out speculative projects and should dampen the effect that large load requests have had on load forecasts. The AG recommends the adoption of different tariff provisions (i.e. that Large Demand Projects pay all costs of interconnection and upgrades), and ComEd should not rely on or use a load ramp that overstates capacity needs because it also unreasonably increases load forecasts. At the same time, the AG argues that changes to current tariffs and practices are essential to separate Large Demand Projects that will come into operation from more speculative projects, reach more realistic load forecasts, and to bring down customer capacity charges.

3. Commission Analysis and Conclusion

As an initial matter, the Commission notes that JNGO witness Siddique raised concerns regarding ComEd's existing load forecast methodologies in his rebuttal testimony. JNGO noted in their Initial Brief that they no longer took a position on the issue. *See* JNGO IB at 39.

The Commission finds that the concerns raised by the AG regarding the impact load forecasts submitted to PJM have on capacity prices are valid, but finds this docket is not the appropriate forum to make a decision on this issue. The Commission agrees with ComEd that this docket is narrowly focused on revisions to tariff provisions governing the processing of large load service requests and does not support a deeper dive into the

Company's systemwide forecasting models or RTO-level market outcomes. The Commission expects ComEd to consider and file any warranted tariff modifications as appropriate, following completion of the stakeholder workshops directed in Section VII.D.6. above. The Commission further anticipates that these issues may be relevant in a variety of future proceedings, including the investigation directed in Section VII.A.8., and notes that this Order does not foreclose a party from raising issues in future proceedings, as they become relevant.

F. Transition Issues

1. ComEd's Position

ComEd notes that Microsoft and Monarch recommend that the Commission impose a "transition period" for certain projects currently under development. Microsoft Ex. 2.0 at 32–33; Monarch IB at 6-15. While ComEd acknowledges these parties' concerns, their recommendations should be rejected for several reasons.

ComEd maintains that it has already proposed a clear, limited, and reasonable approach to the effective date of the tariff revisions that appropriately recognizes the reliance interests of customers with materially advanced projects while maintaining the integrity and purpose of the proposed tariff provisions. ComEd Ex. 5.0 at 25–26. ComEd notes that its proposal does not seek to retroactively apply new tariff requirements to projects that have already passed the relevant milestones. ComEd Ex. 5.0 at 25. ComEd asserts that depending on how "under development" is defined, Microsoft's proposal could have the unintended effect of exempting a significant number of projects—potentially dozens—from the very tariff provisions that are designed to ensure equitable treatment, cost recovery, and protection for ComEd's broader customer base. *Id*. Additionally, ComEd states that Microsoft's proposal would force ComEd to administer exemptions on a case-by-case basis, determining which projects qualify and for how long, resulting in inconsistent outcomes, administrative burden, and significant uncertainty.

ComEd explains that these consequences are particularly unwarranted because ComEd has already taken steps to address the core fairness concerns that Microsoft identifies. Specifically, ComEd states that it has committed that it will not seek to revise initial deposit amounts for customers that have already applied for service and entered the Cluster Study process. *Id*. at 25. ComEd explains that it does not propose to require any Large Demand Project Applicant or Customer in Cluster 1 that has already initiated construction as of the effective date of the Commission's order to execute a TSA as a condition of receiving retail delivery service. *Id*. at 25. ComEd further explains that these commitments appropriately account for the circumstances of customers who have made substantial financial and operational commitments under the existing tariff framework and ensure that those projects can proceed without disruption. *Id*.

ComEd states that in applying the effective date of the amended tariff provisions in this manner, ComEd has struck a careful and reasonable balance. ComEd further states that the proposed approach protects ComEd's broader customer base from the risks of cost shifting and stranded investment associated with speculative or incomplete projects, while also respecting the reliance interests of customers with active, advanced projects. *Id*. at 25–26. ComEd explains that by contrast, the transition mechanism proposed by Microsoft would introduce ambiguity and administrative complexity—

requiring ComEd to determine, on a case-by-case basis, which projects qualify for exemption and for how long—without producing any clear benefit. ComEd asserts that the Commission should therefore decline to adopt Microsoft's recommendation and approve ComEd's proposed effective date as a fair and workable approach that aligns with established regulatory principles and customer expectations.

ComEd notes that Monarch's proposal goes even further, urging the Commission to declare that all Cluster Study 1 participants must be exempted from the TSA requirement. Monarch IB at 15. ComEd stresses that Monarch offers no specific evidence that every customer in Cluster Study 1 has made what Monarch considers to be meaningful financial commitments or is far enough along in project development to justify categorical exemption. ComEd explains that participation in a Cluster Study, standing alone, does not demonstrate that a project has obtained permits, executed binding contracts, or begun construction; nor does it reflect the level of investment or certainty necessary to warrant exclusion from the financial safeguards proposed in this docket. ComEd further maintains that Monarch's argument relies heavily on general assertions about customer expectations and its own self-described reliance on ComEd's previous tariff provisions, but such individualized assertions cannot support a blanket exemption for an entire group of projects—particularly where, as here, ComEd has already provided a reasonable, objective, and administrable threshold tied to actual project milestones.

ComEd asserts that Monarch's reliance on other Commission dockets, including Docket No. 20-0700, is similarly unpersuasive. *See* Monarch IB at 10. ComEd notes that even Monarch acknowledges that the circumstances in that case—which involved standardized, small-scale generator interconnections under 83 Ill. Admin. Code Parts 466 and 467—are not analogous to the large, bespoke, transmission-level projects at issue here. *Id*. (acknowledging that "the concept of treating all applicants who filed before the effective date of the new tariffs under the old rules is too broad to apply here"). Thus, ComEd explains that the transition mechanism Monarch invokes in fact underscores the need for objective, milestone-based criteria, not the blanket exemption Monarch seeks.

ComEd also urges the Commission to reject Monarch's claims that ComEd's proposal could violate the "filed rate" or "no undue discrimination" principles under the Act. *Id*. at 10-15. ComEd asserts that despite Monarch's claims to the contrary, ComEd's approach is neither vague nor discriminatory: the "commence construction" threshold is an objective, demonstrable milestone tied to substantial, real-world commitments, and it ensures that only customers who have already made binding investments under the existing tariff structure are treated under that structure. ComEd maintains that Monarch's proposal—treating all Cluster Study 1 participants identically regardless of their vastly varying levels of development—would itself create unreasonable discrimination by privileging customers who have taken no meaningful action while disadvantaging those that have. ComEd further states that Monarch's alternative proposal that the Commission adopt a definition of "commence construction" drawn from environmental regulations or federal tax guidance only underscores the difficulty: those definitions were created for entirely different statutory schemes, involve criteria that do not map onto utility-service obligations, and would add unnecessary complexity without improving clarity.

ComEd notes that NRG takes a far more limited approach, simply requesting that the Commission condition approval of the tariff revisions on ComEd honoring its commitments not to revise initial deposits for current cluster participants, not to require restudies solely because other customers modify their load ramps, and not to impose TSA requirements on projects that meet the construction threshold. NRG IB at 43-44. ComEd explains that it has already made these commitments, and thus NRG's position is effectively aligned with ComEd's proposal.

In sum, ComEd avers that its targeted, milestone-based approach to applying the revised tariff provisions is fair, administrable, and supported by the record. ComEd maintains that this approach respects the reliance interests of customers with materially advanced projects while ensuring that the revised tariffs take effect promptly enough to protect other customers from significant financial and operational risks. ComEd maintains that the far-reaching transition mechanisms proposed by Microsoft and Monarch would undermine these goals, introduce uncertainty, and create inconsistent or discriminatory outcomes. ComEd therefore urges the Commission to reject those proposals and adopt the effective-date approach reflected in ComEd's testimony.

2. Monarch's Position

Monarch notes that ComEd recognized in its Surrebuttal Testimony that a transition to the new tariffs is appropriate for customers that have already made the most significant financial and operational commitments and are able to proceed with their projects. ComEd Ex. 5.0 at 25. Monarch points out that ComEd suggested in its Surrebuttal Testimony that any Large Demand Applicant that has already applied for interconnection and participated in an already completed cluster study not be required to pay the increased initial deposit proposed in the revised tariffs. Additionally, Monarch notes that ComEd now recommends that to recognize Cluster Study 1 participants that initiate construction prior to the effective date of the amended tariff provisions, such Cluster Study 1 participants will not be required to enter into a TSA as a condition of obtaining delivery service. ComEd Ex. 5.0 at 25.

Monarch urges the Commission to issue an order which concludes that ComEd cannot require any participants in Cluster Study 1 to enter into a TSA as a condition of obtaining retail delivery service. Monarch notes that all the original thirteen applicants who participated in Cluster Study 1 have made significant financial and operational commitments based on their projects being developed pursuant to ComEd's current tariffs applicable to Large Demand Projects. Therefore, no project participants in Cluster Study 1 should be required to enter into a TSA as a condition of obtaining retail delivery service.

Monarch notes the testimony of ComEd witness Leichtman that a participant's deposit payment for its share of Cluster Study 1 costs is non-refundable. Monarch argues that participation in Cluster Study 1 is sufficient to show not only significant operational and financial commitments, but also that these participants are far along in the ComEd interconnection process under the current tariffs. Monarch states that on August 6, 2024, more than ten months before ComEd filed for approval of its revised tariffs on June 23, 2025, ComEd sent correspondence to Cluster Study 1 participant Monarch Rock Air, LLC which stated that: "We appreciate your early engagement in the exciting project and look forward to working with you through the engineering and construction process." Monarch

Energy Cross Leichtman Ex. 2 at 3. The President of Monarch Rock Air LLC executed this correspondence, expressing its commitment to ComEd's interconnection process as set forth in the August 6, 2024, correspondence. *Id*.

Monarch notes that ComEd made its Transition Period proposal in response to Microsoft witness Campbell proposal that the TSA requirement not apply to projects that are "under development." ComEd Ex. 5.0 at 25. Monarch states that Microsoft witness Campbell testified that it was "necessary to avoid retroactive treatment of projects that relied on existing tariff provisions and made substantial commitments under those rules." Microsoft Ex. 2.0 at 33.

Monarch states that ComEd opposed Mr. Campbell's proposal on grounds that his "under development" standard could exempt dozens of projects from key provisions of ComEd's proposed tariff revisions depending on how the "under development" language is interpreted. ComEd Ex. 5.0 at 25. ComEd contends that the "under development" language proposed by Microsoft "could encompass anything from a project that has been placed in service to one who has just submitted an application but for which no study or design work has begun." *Id*. ComEd is concerned that this would exempt over 100 projects totaling over 38,000 MWs of ultimate demand from the proposals put forward by ComEd in this proceeding. ComEd Ex. 3.0 at 14.

On the other hand, Monarch argues, there were only 13 projects in Cluster Study 1, all of which have objectively established that they have proceeded a very long way through the ComEd interconnection process. Monarch Energy Cross Leichtman Ex. 2 at 1. Just as important, the results of ComEd's Cluster Study 1 specifically stated that the identified grid upgrade work for the projects is "not extensive." *Id*.

In short, Monarch argues that ComEd's proposed condition of commencing construction by the effective date of the tariff revisions is an onerous, unjust and unreasonable condition to impose on the Cluster Study 1 participants in order for such participants to receive an exemption from the TSA requirement.

Monarch points to Docket No. 20-0700, where the Commission authorized revisions to distribution-level generator interconnection (specifically 83 Ill. Admin. Code Parts 466 and 467). In that case, ComEd treated all interconnection applicants who filed their applications before the effective date of the rule revisions under the old rules and treated applicants who filed after the effective date under the new rules. *See* Microsoft Ex. 2.0 at 34. Although Monarch recognizes that the concept of treating all applicants who filed before the effective date of the new tariffs under the old rules is too broad to apply here, Monarch argues that this Commission case provides precedential support for the exemption from the TSA requirement for Cluster Study 1 participants.

Moreover, Monarch contends that ComEd's "commence construction" standard should not be required as an additional condition for exemption from the TSA requirement for Cluster Study 1 participants because ComEd is proposing that ComEd be the sole judge of whether a project has commenced construction, and ComEd is not even providing a definition of the "commence construction" standard.

Monarch argues that in stark contrast, "participated in Cluster Study 1" is an objective standard not subject to interpretation. Furthermore, ComEd is proposing that

this standard be used for exemptions from the revised initial deposit amounts in ComEd's proposed tariffs. Unless this is also the standard applied to the exemption from the TSA requirement, the exemption could run afoul of both the "filed rate" and "no undue discrimination" principles of Illinois public utility law.

Monarch states that the tariff revisions proposed by ComEd are a "rate" within the meaning of Section 3-116 of the Act, which provides:

> "Rate" includes every individual or joint rate, fare, toll, charge, rental or other compensation of any public utility or any two or more such individual or joint rates, fares, tolls, charges, rental or other compensation of any public utility or any schedule or tariff thereof, and any rule, regulation, charge, practice or contract relating thereto.

220 ILCS 5/3-116; *see, e.g.*, *Bloom Twp. High School v. Ill. Com. Comm'n*., 309 Ill. App. 3d 163, 175 (1st Dist. 1999), on remand 2000 WL 34446525 (a utility tariff is a "rate" for purposes of the Act).

Monarch argues that the transmission security guarantee deposit that ComEd seeks to impose on Large Demand Applicants and customers under its proposed tariff revisions is likewise a "rate" within the meaning of Section 3-116 of the Act. 220 ILCS 5/3-116; *Moenning v. Ill. Bell Tel. Co*., 139 Ill. App. 3d 521, 525 (1st Dist. 1985), appeal denied (security deposit requirement is a credit practice that falls under area of rate regulation of telephone company). A Commission-approved tariff is the "law, not a contract, and has the force and effect of statute." *Wade v. Ill. Com. Comm'n*., 2017 IL App (1st) 171230, ¶ 20 (*citing Sheffler v. Commonwealth Edison Co.*, 955 N.E. 2d 1110, 1119 (2011)).

Monarch further argues that the testimony of ComEd witnesses makes clear that the TSA requirement proposed by ComEd will require Monarch and the other Cluster Study 1 participants to guarantee hundreds of millions of dollars in ComEd revenues, a requirement that they could not have anticipated based on the terms of ComEd's existing tariffs. ComEd Ex. 4.0 at 10, 12; ComEd Ex. 6.0 at 21, 26. Monarch notes that because Illinois law provides that tariffs have the force of law, Monarch and the other Cluster Study 1 participants made long-term commitments and material alterations in their operational and financial positions. These participants made these commitments and material alterations under the reasonable belief that their projects would proceed under the ComEd tariffs as they were in effect when they first paid millions of dollars to ComEd.

Since ComEd's currently effective tariffs constitute a filed rate that is a "law, not a contract, and has the force and effect of statute," *Sheffler v. Commonwealth Edison Co.*, 955 N.E. 2d 1110, 1119 (2011), and because all Cluster Study 1 participants took major actions based on this tariff, Monarch argues that all participants in Cluster Study 1 should be exempted from the proposed TSA requirement. Moreover, Monarch notes that if ComEd exempts only certain Cluster Study 1 participants, but not others by requiring those other, but similarly situated, participants to meet the "commence construction" standard, then ComEd would violate the undue discrimination prohibition in Section 9-241 of the Act. 220 ILCS 5/9-241.

As discussed above, Monarch points out that ComEd plans to exempt Cluster Study 1 participants from the TSA requirement if they "commence construction" by the effective date of the revised tariffs. Tr. at 183. However, Monarch also mentions that ComEd does not define what it means by the term "commence construction." Therefore, Monarch and other Cluster Study 1 participants are at the mercy of ComEd's arbitrary and subjective decision as to whether ComEd, or one of its employees, thinks construction has been commenced on a given project.

Monarch argues that the question of whether construction has commenced at a given project determines whether a Cluster Study 1 participant will or will not be subject to ComEd's TSA requirement and its concomitant requirement to provide security guarantees of hundreds of millions of dollars to ComEd. Without any definition or criteria, ComEd's decision to impose these financial requirements is completely arbitrary and subjective. Therefore, Monarch argues that all participants in Cluster Study 1 should be exempted from the TSA requirement in order to avoid violating Section 9-241 of the Act. 220 ILCS 5/9-241.

Monarch argues in the alternative that, to the extent that the Commission accepts ComEd's proposal to not exempt all projects in Cluster Study 1 from ComEd's proposed requirement that a Large Demand Applicant execute and deliver a TSA, then the Commission should require that ComEd adopt, or otherwise accept, a definition for "commencing construction" that is consistent with Illinois law and other widely recognized definitions for commencing construction.

Specifically, Monarch argues that the Commission should require ComEd to recognize that in order for a Large Demand Applicant to be deemed to have begun "commencing construction," the Large Demand Applicant must have either: (1) entered into substantial binding agreements or contractual obligations or (2) otherwise committed substantial investments and costs towards development of a project. Monarch contends that this is appropriate for the following reasons.

Monarch notes that the Illinois Administrative Code includes guidance on the meaning of "commenc[ing] construction" in the context of certain state environmental protection requirements relating to emissions from large combustion sources. *See* 35 Ill. Adm. Code 225.130. Here, the Illinois Administrative Code provides that "commenc[ing] construction" requires an owner or designee to have obtained all necessary pre-construction approvals or permits, and either to have: (a) begun or caused to begin a continuous program of actual on-site construction of the source to be completed within a reasonable time, or (b) entered into binding agreements or contractual obligations (non-cancelable without substantial loss) to undertake a program of actual construction to be completed within a reasonable time.

Likewise, Monarch notes that the Internal Revenue Service has issued guidance establishing the beginning of construction for certain solar energy projects utilizing the commercial solar Investment Tax Credit. *See* Internal Revenue Service, Beginning of Construction for the Investment Tax Credit under Section 48, Notice 2018-59, available at: https://www.irs.gov/pub/irs-drop/n-18-59.pdf ("Notice 2018-59").

Accordingly, Monarch argues that to the extent the Commission does not determine that all projects in Cluster Study 1 are exempt from the TSA requirement, the

Commission should require ComEd to adopt the definition of "commence construction" from the Illinois Administrative Code set forth above. Monarch states that this definition is consistent with state and federal guidelines which recognize that incurring significant payments of the costs of the project or entering into substantial contractual obligations and substantial binding agreements constitute "commencing construction," and that commencing construction does not require actual physical work to be performed.

3. NRG's Position

NRG maintains that ComEd's proposal failed to include transitional protections that are necessary to ensure fairness, regulatory certainty, and competitive neutrality. The Act specifically contemplates that the Commission should ensure that "regulation allows for orderly transition periods to accommodate changes in public utility service markets." 220 ILCS 5/1-102(d)(v).

NRG proposes that the Commission condition approval of any large load definition and framework on explicit grandfathering protections for projects with completed or in-process cluster studies and for customers where ComEd has already commenced engineering or construction work. *See* NRG Ex. 1.0 at 38-39. This is consistent with similar calls from Microsoft. Microsoft Ex. 1.0 at 6. Illinois courts and the Commission have repeatedly held that regulatory certainty and protection of reasonable reliance on regulatory structures are critical. *See, e.g.*, *Citizens Util. Bd. v. Ill. Com. Comm'n*, 166 Ill. 2d 111, 124 (1995); *BPI v. Ill. Com. Comm'n*, 146 Ill. 2d 175, 244–45 (1991); *Commonwealth Edison Co*., Docket No. 13-0387, Final Order at 259 (Dec. 18, 2013).

NRG states that ComEd confirmed in discovery and testimony that cluster-study projects and those that have begun construction will be grandfathered, and it stated it is amenable to the Commission memorializing these commitments. *See* NRG Ex. 1.0 at 38-39 (*citing* NRG Ex. 1.5 ComEd Responses to NRG-ComEd Data Request Nos. 1.04(a), 1.04(c), 2.01(a), 2.01(b)). Therefore, the Commission should condition approval on ComEd honoring those commitments. NRG respectfully requests that the Commission condition approval of ComEd's tariff amendments on ComEd honoring its commitments to: (1) apply current tariff terms to projects already in active cluster studies; (2) preserve existing initial deposits for current applicants; and (3) prevent unnecessary restudies of cluster studies based solely on other participants accelerating or increasing their load ramps. *See id*. at 41.

4. Microsoft's Position

Microsoft contends that the Commission should explicitly direct ComEd to address in its tariff(s) how systems under development or going through the study process will be impacted by approval of ComEd's proposed tariffs. Microsoft explains that ComEd proposes modifications to its interconnection study and financial assurance processes (including execution of a TSA) at a time when a number of Large Demand Projects are currently under development. For instance, Microsoft illustrates that ComEd identifies at least two cluster studies that have been completed and, based on discovery, ComEd has initiated at least one more since the second closed in February 2025. Microsoft argues that ComEd's proposed tariff language does not explicitly address applicability of its tariff proposal to Large Demand Projects currently under development or proceeding through the interconnection process. Microsoft notes that while ComEd states that it does not

intend for any Large Demand Project Applicant to repeat any step in the interconnection process, Large Demand Project Applicants cannot plan around ComEd's proposal because ComEd's proposal lacks sufficient information about the milestones in the study process.

Microsoft explains that the Commission imposes or approves transitions and safe harbors in conjunction with approving tariff and rule changes. According to Microsoft, Mr. Campbell references as examples the safe harbor for revisions to Part 466 and, separately, the long (and extended by the Commission) transition period where customers could remain on an eliminated supply rate. Microsoft states that the record demonstrates that the proposed tariffs need a clear transition or safe harbor. Therefore, Microsoft concludes that, to provide stability and transparency and to match up with parallel processes, the Commission should adopt Mr. Campbell's recommendation that the Commission should direct ComEd to safe harbor Large Demand Project Applicants based on objective development milestones:

> Such criteria should include executed site control, executed long-lead equipment procurement orders (such as binding purchase agreements or contracts for major electrical or mechanical components), or documentation of achieved construction milestones demonstrating reliance on the existing tariff. Projects meeting such thresholds would continue under the preexisting process; all others would proceed under the revised rules.

MS Ex. 2.0 at 32. Microsoft states that by adopting these milestones, the Commission will "avoid the retroactive application of new rules to projects that have already committed resources under the existing framework (while making speculative applicants subject to the new tariff requirements)." However, Microsoft offers that if the Commission does not adopt Mr. Campbell's primary proposal, it may adopt the following alternative:

> the Commission should require ComEd to describe, in the tariff itself, each of the stages of the interconnection process and the measure by which it is deemed "complete" so each Large Demand Project Applicant will have full transparency based on the tariff—rather than ad hoc communication from ComEd—as to what their next step(s) will be and how the process will diverge based on ComEd's tariff revisions.

Id. at 34.

Microsoft notes that ComEd criticizes Mr. Campbell's proposed transition period even though it is rooted in objective development milestones. Microsoft explains that, according to ComEd, "depending on how 'under development' is defined," Mr. Campbell's proposal could unintentionally exempt potentially dozens of projects from ComEd's new tariff provisions and thus frustrate ComEd's purpose. However, Microsoft counters that Mr. Campbell suggests clear, objective criteria demonstrating that a Large Demand Project Applicant or Customer has made substantial financial and operational commitments including the execution of site control, the execution of long-lead equipment procurement orders, or the documentation of achieved construction milestones. Microsoft

argues that, indeed, these financial and operational commitments, if approved, can be used to substantiate whether a Large Demand Project is more likely to come online and make retail transmission payments (while speculative projects, who have yet to make commitments, would be subject to the new requirements under the tariff).

Moreover, Microsoft states that while Microsoft appreciates ComEd's commitment to a safe harbor process and to generally avoid "retroactively apply[ing] new tariff requirements to projects that have already passed the relevant milestones," ComEd's proposal is insufficient because ComEd fails to provide sufficient clarity in its cluster study proposal. Importantly, Microsoft explains that without clearly detailing relevant milestones, Large Demand Project Applicants will not be able to determine which milestones have been completed or which milestones still need to be met (potentially causing Applicant's to repeat or miss steps).

Microsoft argues that, instead of providing clarity to its proposed tariff revisions, ComEd defers numerous important details regarding its proposed cluster study approach to the Company's policies and procedures, none of which are subject to Commission approval. Microsoft counters that given ComEd's tariffs have the force of law once approved and therefore delineate and supersede ComEd's internal policies and procedures, ComEd cannot accurately claim that it has "already taken steps to address the core fairness concerns that Microsoft identifies" unless and until the applicable milestones are set out in its tariff(s).

Accordingly, Microsoft concludes that the Commission should adopt a transition approach based on objective milestones consistent with Mr. Campbell's recommendation. However, in the alternative, the Commission could direct ComEd to implement a safe-harbor Campbell's proposal.

According to Microsoft, NRG proposes that the Commission require ComEd to define its safe harbor framework to include projects that are in a cluster study or have completed a cluster study in order to provide regulatory certainty. Microsoft notes that NRG further recommends that the Commission enforce ComEd's commitments from discovery to: (1) apply current tariff terms to projects already in active cluster studies; (2) preserve existing initial deposits for current applicants; and (3) prevent unnecessary restudies of cluster studies based solely on other participants accelerating or increasing their load ramps.

Microsoft states that it agrees with NRG's proposal to the extent that it applies to Microsoft's alternative proposal to impose a well-defined framework on interconnection milestones and ComEd's commitment not to repeat steps.

5. Commission Analysis and Conclusion

The Commission finds that ComEd's proposed effective date and the applicability of its revised tariff provisions are reasonable and supported by the record, in the context of the supplemental directives ordered herein. ComEd has stated that it will not revise initial deposits for customers already in the cluster study process and will not require TSAs for Cluster Study 1 customers who have commenced construction. The Commission finds that these commitments appropriately account for the reliance interests

of customers with materially advanced projects while preserving the core purpose of the tariff revisions.

The Commission declines to adopt Microsoft's proposal to "safe harbor" projects that have achieved development milestones such as executed site control, binding long-lead equipment orders, or documented construction progress. Although Microsoft argues that such steps demonstrate meaningful commitment, ComEd explains nearly 100 projects totaling over 38,000 MW of demand would qualify under Microsoft's proposed definition. ComEd Ex. 3.0 at 14. The Commission concludes that exempting such a large volume of projects from requirements designed to ensure equitable treatment, prevent cost shifting, and protect the broader customer base poses an unacceptable risk.

The Commission also rejects Monarch's proposed transition approach. Monarch argues that all projects in Cluster Study 1 should be exempted from the TSA because they have allegedly made meaningful financial commitments or are sufficiently advanced. However, merely participating in a cluster study does not demonstrate that a project has obtained permits, executed binding contracts, or begun construction. Since the beginning of this proceeding, the number of projects continuing from the first cluster study has dropped from 13 to 7, demonstrating that even projects proceeding through the queue and participating in these load impact studies are still uncertain. Monarch Energy Cross Leichtman Ex. 2 at 1; Oral Argument Tr. at 34-35. Monarch further asserts that ComEd's "commence construction" threshold is vague and violates the Act's filed rate and nondiscrimination principles. The Commission finds this argument unpersuasive. The "commence construction" standard is an objective, demonstratable milestone tied to real-world commitments and ensures that only customers who have already made binding investments under the existing tariff structure remain under that structure.

With respect to NRG's proposal, the Commission notes that ComEd has already committed to preserving existing initial deposits for current applicants and to avoiding unnecessary restudies based solely on other participants accelerating or increasing their load ramps. The Commission expects ComEd to honor these commitments and considers these issues resolved. For the reasons stated above, the Commission declines to adopt NRG's request to require ComEd to apply current tariff terms to projects already in active cluster studies.

VIII. FINDINGS AND ORDERING PARAGRAPHS

The Commission, having considered the entire record herein 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, distribution, and sale 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 the parties and the subject matter herein;

(3) the recitals of fact and conclusions of law reached in the prefatory portion of this Order are supported by the evidence of record and are hereby adopted as findings of fact and conclusions of law;

(4) Commonwealth Edison Company's proposed revisions to its General Terms and Conditions of Service, as clarified over the course of this proceeding and in this Order, are just and reasonable, and should be approved;

(5) Commonwealth Edison Company's proposed revisions to its Rider Distribution Extensions – Rider DE, as clarified over the course of this proceeding and in this Order, are just and reasonable, and should be approved;

(6) Staff of the Illinois Commerce Commission is directed to prepare a report and draft an initiating order to assist the Commission in initiating an investigation by April 23, 2026, consistent with the findings in this Order;

(7) Commonwealth Edison Company should submit, as compliance filings in this Docket, annual reports providing detailed information about large load projects, as detailed above; and

(8) Commonwealth Edison Company should develop a workshop process by which interested stakeholders can discuss the Cluster Study and interconnection process. The workshop should address enhancements to transparency, clearer timelines and milestones, and overall process understanding for LDPACs. Commonwealth Edison Company should file a report on the outcome of the workshops, including any agreements and findings, within 180 days of this Order.

IT IS THEREFORE ORDERED that Commonwealth Edison Company's proposed revised General Terms and Conditions of Service are approved as modified herein.

IT IS FURTHER ORDERED that Commonwealth Edison Company's proposed revised Rider Distribution Extensions – Rider DE is approved as modified herein.

IT IS FURTHER ORDERED that Commonwealth Edison Company is authorized to file new tariff sheets with supporting workpapers in accordance with the Findings of this Order.

IT IS FURTHER ORDERED that Staff of the Illinois Commerce Commission is directed to prepare a report and draft an initiating order to assist the Commission in initiating an investigation by April 23, 2026, consistent with the findings in this Order.

IT IS FURTHER ORDERED that Commonwealth Edison Company shall prepare and submit, as compliance filings in this docket, annual reports providing detailed information about large load projects, as described in this Order.

IT IS FURTHER ORDERED that Commonwealth Edison Company is directed to develop a workshop process by which interested stakeholders can discuss the Cluster Study and interconnection process. The workshop should address enhancements to transparency, clearer timelines and milestones, and overall process understanding for Large Demand Project Applicant or Customers. Commonwealth Edison should file a report on the outcome of the workshops, including any agreements and findings, within 180 days of this Order.

IT IS FURTHER ORDERED that any motions, petitions, objections, or other matters in this proceeding that remain outstanding are hereby disposed of consistent with the conclusions herein.

IT IS FURTHER ORDERED that pursuant to Section 10-113(a) of the Public Utilities Act and 83 Ill. Adm. Code 200.880, any application for rehearing shall be filed within 30 days after service of the Order on the party.

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

By Order of the Commission this 19th day of March, 2026.

(SIGNED) DOUGLAS P. SCOTT

Chairman