NRG Exhibit 2.0

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

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

Rebuttal Testimony of

James R. Dauphinais

On behalf of

NRG Energy, Inc.

October 14, 2025

BRUBAKER & ASSOCIATES, INC.

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

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Introduction and Summary

Q. Please state your name and business address.

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

Q. Are you the same James R. Dauphinais who sponsored direct testimony in this proceeding on September 26, 2025?

A. Yes, I am.

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

A. The testimony of the Illinois Commerce Commission ("Commission" or "ICC") Staff ("Staff") and the other intervenors reflects broad agreement that the potential addition of large load customers creates significant challenges. The parties also agree that the Commission must adopt solutions that are both transparent and firmly grounded in cost-causation principles tied to the incremental costs that need to be incurred to serve large load customers. Commonwealth Edison Company ("ComEd") in its direct and rebuttal testimony was generally in alignment with these goals, but its proposed solutions are not sufficiently transparent and are not grounded in cost causation principles. Furthermore, ComEd's proposals are unnecessarily burdensome in certain respects, such as the forms of collateral proposed to be allowed. As a result, ComEd's proposals would be harmful to both ComEd's existing customers and Large Demand

Project Customers. Additionally, many of ComEd's proposals are not competitive with the offerings of other electric utilities, which would drive the benefit of the contribution to existing fixed transmission and distribution costs provided by Large Demand Projects away from ComEd's existing customers and to the existing customers of other electric utility systems located outside of Illinois. My direct testimony identified competitive, reasonable solutions to accomplish the intervenor shared goals, which include aligning collateral requirements with basic principles of cost-causation by tying them to the utility's incremental cost and providing flexibility in the forms of collateral that may be posted.

My rebuttal testimony specifically responds to the direct testimony of the following intervenor witnesses:

- The People of the State of Illinois ("Attorney General" or "AG") Witness John A. Seryak with respect to his recommendations that Commonwealth Edison Company ("ComEd" or "Company") require:

  (i) all on-premises and line-extension distribution costs for Large Demand Project Customers be subject to ComEd Rider NS; and

  (ii) a Contribution in Aid of Construction ("CIAC") payment be required from Large Demand Project Customers for transmission facilities under ComEd's Transmission Security Agreement ("TSA") instead of a cash deposit or letter of credit.[1]

- Environmental Law & Policy Center, Natural Resources Defense Council, Union of Concerned Scientists, and Vote Solar (collectively, "Joint NGOs" or "JNGO") Witness Saad Siddique with respect to his recommendations regarding new Illinois Commerce Commission ("ICC" or "Commission") policies.[2]

- JNGO Witness Mike Jacobs with respect to his recommendations to:

[1] AG Ex. 1.0 at 39-40.
[2] JNGO Ex. 1.0 at 3-4 and 31-33.

(i) directly assign high-voltage costs under ComEd Rider NS; and

(ii) expand deposits to cover both incremental distribution costs and incremental transmission costs.[3]

My rebuttal testimony also responds to the rebuttal testimony of the following ComEd witnesses:

- ComEd Witness Max Leichtman with respect to:

  (i) the information available to a Large Demand Project Customer once a Cluster Study is completed and the Large Demand Project Customer is required to provide additional financial commitments related to long lead material deposits and ComEd's proposed TSA;[4]

  (ii) the confirmation of four points of clarification regarding the application of the Cluster Study process to Large Demand Project Customer applications that are currently completed or underway;[5] and

  (iii) the use of surety bonds as an alternative to a Letter of Credit ("LOC").[6]

- ComEd Witness Bradley R. Perkins with respect to:

  (i) the alleged harm to existing customers if a Large Demand Project Customer does not provide its projected contribution to ComEd's transmission revenue requirement even if the customer covers the incremental transmission revenue requirement incurred by ComEd to serve it;[7]

  (ii) his argument that the Commission can and should approve proposed General Terms & Conditions ("GT&C") tariff language that require a TSA and specify the core requirements of that TSA even though ComEd is not asking the Commission to assume jurisdiction over the TSA;[8]

  (iii) his claim that it is impractical to identify incremental transmission costs that support service to a particular customer;[9]

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[3] JNGO Ex. 3.0 at 25-26.
[4] ComEd Ex. 3.0 at 16.
[5] ComEd Ex. 3.0 at 21.
[6] ComEd Ex. 3.0 at 39.
[7] ComEd Ex. 4.0 at 3-5 and 8-10.
[8] ComEd Ex. 4.0 at 5-6.
[9] ComEd Ex. 4.0 at 7-8.

(iv) his claims comparisons between Large Demand Project Customers based on high and low interconnection costs and billing demand are not helpful;[10]

(v) his arguments with respect to why the Commission should reject conditioning Large Demand Project applicants' receipt of delivery services on executing TSA or letters of intent for TSAs;[11] and

(vi) his arguments with respect to why it is appropriate to include on-premises facilities and equipment when calculating the necessary deposits for Large Demand Project Customers under Rider DE.[12]

My silence with respect to other portions of the direct testimony of these witnesses or the direct testimony of any other witnesses in this proceeding should not be interpreted as agreement with that testimony.

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

A. No, I am not.

I. RESPONSE TO AG WITNESS SERYAK'S CIAC RECOMMENDATIONS

Q. Please briefly summarize AG Witness Seryak's recommendation related to requiring all on-premises and line-extension distribution costs for Large Demand Project Customers be subject to ComEd Rider NS.

A. Mr. Seryak is essentially recommending that all distribution facilities costs incurred by ComEd to serve a Large Demand Project Customer be directly assigned to that Large

[10] ComEd Ex. 4.0 at 11-12.
[11] ComEd Ex. 4.0 at 15-16.
[12] ComEd Ex. 4.0 at 22.

Demand Project Customer through ComEd's existing Rider NS for Non-Standard service.[13] In practice, this would compel the customer to make an upfront Contribution in Aid of Construction ("CIAC") payment for the entire cost of the facilities through Rider NS without accounting for: (i) the substantial Distribution Facility Charge ("DFC") and Transformation Charges ("TC") revenues that would not have been provided to ComEd but for the addition of the customer's load; or (ii) other loads that may make use of the facilities at a later date.[14]

Q. How do you respond to this recommendation?

A. Mr. Seryak agrees that the Commission should ensure that the costs of serving Large Demand Project Customers are not shifted onto existing customers, and that the principle of cost causation should guide the Commission's decision in this docket.[15]

However, we differ on the solution. Mr. Seryak asserts that the Commission should require a full upfront CIAC payment from the customer. His suggested approach is unnecessarily rigid, would require massive upfront payments, fails to consider the DFC and TC revenues that will be collected from the customer, and risks deterring economic development in Illinois. It also ignores the fact that many of these facilities may later serve other customers.

Mr. Seryak's approach is highly problematic as it would force Large Demand Project Customers to make upfront payments for facilities that are part of **standard**

[13] AG Ex. 1.0 at 39-40.
[14] AG Ex. 1.0 at 17-18, 24-29 and 39-40.
[15] AG Ex. 1.0 at 13.

electric service -- a requirement imposed on no other ComEd customer. It also gives no consideration to the substantial contribution to ComEd's existing fixed distribution costs that will be provided to ComEd through the DFC and TC revenues which the Large Demand Project Customers will pay, benefiting existing ratepayers. It also ignores the fact that at least a portion of these facilities may be used by other customers, making full cost assignment to the first Large Demand Project Customer, particularly without consideration of the DFC and TC revenues collected from that customer, unfair.

Rider NS should apply **only** when facilities go beyond what ComEd deems necessary to provide standard service to the customer, consistent with the existing tariff language of Rider NS. For example, if a Large Demand Project Customer requires a level of redundancy in facilities greater than is provided under standard service, the cost for that additional level of redundancy would appropriately be directly assigned to the Large Demand Project Customer via Rider NS since ComEd already applies Rider NS to all customers to recover such costs from the individual customers who cause them. But directly assigning the full cost of the facilities necessary to provide standard service to that Large Demand Project Customer would improperly result in unequal treatment and would be unduly discriminatory.

Finally, it would be unreasonable to subject all new Large Demand Project Customers to Rider NS in a docket where Rider NS is not at issue.

Q. Does ComEd's Rider DE already adequately address the treatment of distribution facility costs for standard service that need to be incurred by ComEd to serve a Large Demand Project Customer?

A. Yes. Under ComEd's existing Rider DE, customers are already required to provide a cash deposit -- or equivalent collateral -- for the cost of any distribution facilities that exceed the standard extension allowance. This cash deposit or collateral is similar in nature to a CIAC payment except it is returned over a period of up to ten years based on the actual DFC and TC revenues that are provided by the customer.[16]

ComEd's Rider DE strikes the right balance. It appropriately recognizes that DFC and TC revenues that are being collected from the customer are a contribution toward ComEd's existing distribution facility costs that benefits ComEd's existing customers and would not have been made but for the addition of the customer. Furthermore, it protects ComEd and its existing customers in the event this contribution toward existing facility costs does not materialize. Finally, it ensures comparable treatment for all customers with respect to facility costs that need to be incurred to provide them standard service. This ensures ComEd's Rider DE approach is not unduly discriminatory to Large Demand Project Customers. In short, Rider DE already reasonably assures that customers, not other ratepayers, cover the cost of facilities beyond the standard extension allowance through a collateral requirement based on that cost; there is no need for Mr. Seryak's highly problematic recommendation with respect to distribution facility costs, and it should be rejected.

[16] ComEd Ex. 2.0 at 15.

Q. Under ComEd's existing Commission-jurisdictional tariffs, are there any customers that are not eligible for standard service from ComEd?

A. Yes. Wholesale generation station service customers and all customers taking service at 345 kV or higher voltage are not eligible for standard service and instead must take service under ComEd's Rider ZSS - Zero Standard Service.[17] As with all other ComEd retail customers taking service at 345 kV or higher voltage, Large Demand Project Customers served at 345 kV or higher voltage would not be eligible for standard service. Instead, pursuant to Rider ZSS, they would be directly assigned the cost of the dedicated distribution facilities directly serving them from the transmission system as determined and applied in accordance with ComEd Rider NS.[18] However, it is important to note that this is not the same as AG Witness Seryak's recommendation. Specifically, in exchange for such direct assignment of the costs of the dedicated distribution facilities serving them, Rider ZSS customers receive a Zero Standard Credit that cancels out their DFC and TC charges such that, unlike standard service customers, they essentially pay no DFC and TC charges. Hence, Rider ZSS customers, while fully covering the cost of the dedicated distribution facilities serving them from the transmission system, are not required to make any contribution toward the cost of ComEd's standard service distribution facilities. As a result, application of Rider ZSS to 345 kV and higher voltage Large Demand Project Customers does not introduce the same concerns as AG Witness Seryak's' recommendation which would require Large Demand Project

[17] ComEd ILL. C. C. No. 10, Original Sheet No. 284, filed with the Illinois Commerce Commission on December 16, 2008; effective January 15, 2009.

[18] ComEd ILL. C. C. No. 10, 2nd Revised Sheet No. 286, filed with the Illinois Commerce Commission on May 25, 2011; effective June 1, 2011.

Customers to pay both charges for the full cost of the incremental distribution facilities that ComEd needed to add to serve them **and** DFC and TC charges for standard service.

Q. Please briefly summarize AG Witness Seryak's recommendation related to requiring a Contribution in Aid of Construction ("CIAC") payment from Large Demand Project Customers for transmission facilities under ComEd's TSA instead of a cash deposit or other forms of collateral.

A. Mr. Seryak recommends that under ComEd's TSA, the Large Demand Project Customer be required to make an upfront CIAC payment for the cost of the transmission upgrades necessary to serve that Large Demand Project Customer, instead of requiring these customers to post collateral.[19] Under this recommendation, the Large Demand Project Customer still would be subject to ComEd's standard PJM OATT transmission rate and the CIAC payment collected from the customer would not be refunded based on either the standard ComEd PJM OATT transmission revenues collected from the customer or other customers in the future that use the transmission capability created through the transmission upgrades.

Q. How do you respond to Mr. Seryak's recommendation with respect to transmission facility costs?

A. Mr. Seryak's proposed solution is fundamentally flawed and should be rejected. While Mr. Seryak raises a number of legitimate concerns with respect to ComEd's proposed

[19] AG Ex. 1.0 at 29-32 and 40.

TSA, including the need to ensure that protections for existing customers are tied to the incremental cost of the transmission upgrades required to serve the Large Demand Project Customer. Indeed, similar points were made in my direct testimony.[20] However, Mr. Seryak's proposal would create a jurisdictional conflict and send the wrong signal to new large load customers.

Q. Please explain in more detail why AG Witness Seryak's proposed CIAC payment under ComEd's TSA is fundamentally flawed.

A. Adopting Mr. Seryak's framework at the state level would create a clear jurisdictional conflict with the Federal Energy Regulatory Commission ("FERC"), expose the Commission to reversal on appeal, and send the wrong signal to prospective large-load customers -- ultimately discouraging investment and the associated job growth Illinois seeks to attract.

First, the Commission cannot approve a CIAC for transmission facilities because FERC -- not the ICC -- has exclusive jurisdiction over transmission service. As discussed at length in my direct testimony, the TSA is jurisdictional to FERC rather than this Commission and, as of the time of filing this rebuttal testimony, has not yet even been filed by ComEd with FERC, much less approved by FERC.[21] As such, the best course of action to address the problem with ComEd's TSA at this time is to reject ComEd's proposed General Terms & Conditions ("GT&C") tariff language that

[20] *Compare* AG Ex. 1.0 at 19-20 *with* NRG Ex. 1.0 at 4, 10-17, 25-28 and 40.
[21] NRG Ex. 1.0 at 21-22.

unnecessarily attempts to incorporate the terms and conditions of its proposed TSA.[22] This will allow the issue to be addressed at FERC in a future proceeding where the Commission can participate as it feels is appropriate.

Second, Mr. Seryak's proposal for transmission facilities suffers from the same problem as his proposal for distribution facilities. Specifically, it fails to consider the contribution to ComEd's existing fixed transmission costs that will be provided to ComEd to the benefit of its existing transmission customers through the standard ComEd PJM OATT revenues that are collected from the Large Demand Project Customer that would not have been provided but for the addition of the Large Demand Project Customer.

Q. If the Commission determines that it has some level of jurisdiction over the TSA, should it consider Mr. Seryak's CIAC proposal?

A. No, it should not. As detailed in my direct testimony, if the Commission concludes it has some level of jurisdiction over the TSA, the ten-year minimum transmission revenue guarantee should be based on the revenue requirement of the transmission system reinforcements that would not have been needed but for the Large Demand Project Customer rather than the submitted load ramp of the customer multiplied by the standard ComEd standard PJM OATT transmission rate.[23] This would ensure the required minimum transmission revenue guarantee is based on the cost of the transmission system reinforcements required, consistent with generally accepted principles of cost

[22] NRG Ex. 1.0 at 23-24 and 40.
[23] NRG Ex. 1.0 at 24-28 and 40.

causation. This also appropriately reflects that the transmission revenues provided by the customer under the ComEd standard PJM OATT transmission rate would not have been provided but for the addition of the customer.

Alternatively, as I discussed in my direct testimony, the Commission could restructure the TSA to work in a manner like ComEd's Rider DE, which bases the customer's facility collateral requirements on the cost of the required system reinforcements and returns that collateral back to the customer over ten years based on the actual revenues collected from the customer.[24] It too is consistent with cost causation and appropriately reflects that the transmission revenues provided by the customer under the ComEd standard PJM OATT transmission rate would not have been provided but for the addition of the customer.

Q. Do you have any other concerns with Mr. Seryak's CIAC proposal for ComEd's TSA?

Yes. Apart from the jurisdictional and cost-causation concerns, a CIAC payment under ComEd's TSA as Mr. Seryak proposes, would create an unreasonable burden on data center developers, reducing the available capital for data center project development and putting at risk the economic development and job benefits that these projects can bring. Further, the CIAC proposal would do this for essentially no corresponding benefit, since it has been proposed to mitigate a risk that would already be mitigated by the TSA collateral requirements ComEd proposed in this case provided those collateral

[24] NRG Ex. 1.0 at 24-25, 29-30 and 40.

requirements, and the underlying minimum transmission revenues they are trying to guarantee, are based on the incremental cost of the transmission facilities necessary to serve the customer as I discussed in my direct testimony.[25]

II. RESPONSE TO JNGO WITNESS SIDDIQUE REGARDING CLEAN ENERGY ISSUES

Q. Please summarize JNGO Witness Siddique's testimony regarding Illinois' clean energy obligations.

A. Mr. Siddique suggests that the scope of this proceeding should be expanded to not only address ComEd's proposed tariff revisions and ways to protect customers from potential stranded costs, but also to more globally align new customers' obligations with CEJA's clean energy goals. He correctly notes that since REC requirements are calculated as a percentage of total utility load, then load growth will necessarily cause an increase in renewable energy procurement needs.[26] However, he then asserts that the Commission should require large demand customers to present clean energy supply plans to mitigate the risk of REC cost spikes and ensure that Illinois' statutory clean energy obligations are met fairly.[27]

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[25] NRG Ex. 1.0 at 24-26.
[26] JNGO Ex. 1.0 at 18.
[27] *Id.* at 27-28.

Q. How do you respond to the potential policy solutions raised by JNGO Witness Siddique?

A. The broader clean energy and REC procurement issues Mr. Siddique identifies are important, but this docket is not the proper venue to resolve them. This expedited proceeding was initiated to review ComEd's proposed tariff amendments and to ensure that stranded costs are not shifted to existing customers. The sweeping policy recommendations Mr. Siddique advances -- such as mandating customer clean energy plans -- are better suited for legislative forums, the Commission workshops and proceedings regarding the Renewable Energy Access Plan ("REAP"), the proceedings addressing the Illinois Power Agency ("IPA") Long-Term Renewable Resources Procurement Plan ("LTRRPP"), or a separate docket designed specifically for addressing how large load customers can assist with CEJA implementation. Addressing these issues here would unreasonably expand this case beyond its purpose, without the benefit of a full evidentiary record regarding alternatives, jurisdictional authority, or the potential need for statutory change.

Q. How do you respond to JNGO Witness Siddique's proposal to require large load customers to provide clean energy supply plans?

A. JNGO witness Siddique states that ComEd could amend its load interconnection tariff to require prospective large load customers to file clean energy supply plans as part of their applications for interconnection service. However, the testimony does not explain what those plans would include, what standards would apply to evaluate the plans, who would review them, or how the requirement would be enforced. Nor does it address what the consequences would be if a customer were to fail to submit a plan or submit an incomplete or "insufficient" plan. Although JNGO witness Siddique recommends that the Commission direct ComEd to work with stakeholders on the details, those discussions should occur in a more comprehensive, transparent, and inclusive process, such as those identified above.

Q. If the Commission decides to address these issues in this case, do you have a recommendation or proposal for how large load customers can assist the state with meeting its clean energy obligations?

A. Yes. The Commission should revisit the concept of providing large customers with a more attractive "self-direct" option. NRG has previously explained that a properly designed self-direct mechanism would empower large customers to invest directly in renewable resources and thereby help close Illinois' persistent REC compliance deficits.[28] At the time, the Commission declined to modify the self-direct program, noting that it preferred to maintain funding for other IPA programs.[29] However, if the Commission is interested in expanding customer participation in CEJA compliance, a redesigned self-direct option would provide a constructive and targeted solution. Additionally, regarding JNGO Witness Siddique's recommendation for new Large Demand Project Customers to file clean energy plans, the Commission should consider

[28] Verified Joint Objections of the NRG Companies in the Illinois Power Agency Petition for Approval of the IPA's 2024 LTRRPP Pursuant to 16-111.5(b)(5)(ii) of the Public Utilities Act Section, ICC Docket No. 23-0714 (filed November 3, 2023).

[29] Order dated February 20, 2024 at 32.

creating an incentive for such a plan instead of a mandate for it. For example, the Commission could establish reduced REC procurement costs for new Large Demand Project Customers that file clean energy plans. It could also consider other incentives. The scope of possibilities for new clean energy policies that could be adopted are very broad, so broad that they should instead be considered in legislative forums, Commission workshops and proceedings regarding the Renewable Energy Access Plan ("REAP"), proceedings addressing the Illinois Power Agency ("IPA") Long-Term Renewable Resources Procurement Plan ("LTRRPP"), or a separate docket.

III. RESPONSE TO JNGO WITNESS JACOBS REGARDING DIRECT ASSIGNMENT AND DEPOSITS

Q. Please briefly summarize JNGO Witness Jacobs' recommendation related to directly assign high-voltage costs under ComEd Rider NS.

A. Similar to AG Witness Seryak, JNGO is proposing to directly assign all incremental high voltage facility costs that were incurred by ComEd to serve a particular Large Demand Project Customer to that same Large Demand Project Customer.[30] Also, like under Mr. Seryak's proposals, Mr. Jacobs' proposal would still subject the Large Demand Project Customer to ComEd's Commission-jurisdictional DFC and TC charges for distribution service and ComEd's FERC-jurisdictional standard PJM OATT transmission rate. However, unlike Mr. Seryak, Mr. Jacobs proposes to apply Rider NS to both distribution and transmission facilities, not just distribution facilities.[31]

[30] JNGO Ex. 3.0 at 25-26.
[31] JNGO Ex. 3.0 at 18-19.

Furthermore, Mr. Jacobs tries to justify his proposal by arguing that taking service at 138 kV is not standard service.[32]

Q. How do you respond to Mr. Jacobs' proposal to directly assign all high-voltage costs under ComEd Rider NS.

A. Mr. Jacobs' proposal to directly assign all incremental high voltage facility costs to Large Demand Project Customers through ComEd's Rider NS should be rejected for the same reasons I recommended that Mr. Seryak's proposal with respect to direct assignment be rejected. Specifically, it is: (i) unduly discriminatory because it requires upfront facility payments for providing standard electric service to the customer and (ii) gives no consideration to the contribution to ComEd's existing fixed distribution and transmission costs that will be provided to ComEd through the DFC distribution revenues, TC distribution revenues, and ComEd standard PJM OATT transmission rate revenues collected from the Large Demand Project Customer or, in the alternative, consider that at least a portion of the facilities in question may be used by ComEd to serve other customers in the future. Only distribution facility costs incurred by ComEd for service that truly goes beyond providing standard electric service to a Large Demand Project Customer should be subject to Rider NS. This should only be for when the distribution facilities required or requested by the Large Demand Project Customer are larger, more, or different than those identified by ComEd as necessary to provide

[32] JNGO Ex. 3.0 at 10.

standard service to the Large Demand Project Customer consistent with the tariff language of Rider NS.

Q. Are there additional issues with Mr. Jacobs' proposal to directly assign all high-voltage costs under ComEd Rider NS?

A. Yes. Mr. Jacobs would have the Commission intrude on FERC's jurisdiction over unbundled retail transmission service by trying to use ComEd's Rider NS to directly assign the costs of incremental transmission facilities to Large Demand Project Customers through ComEd's Rider NS, which is jurisdictional to this Commission, not FERC. This is a further reason to reject the transmission portion of Mr. Jacobs' proposal with respect to the direct assignment of incremental facility costs.

Q. How do you respond to Mr. Jacobs' argument that service at 138 kV is inherently non-standard service.

A. His argument is unsupported and contrary to ComEd's longstanding practices. In their rebuttal testimonies, ComEd Witnesses Leichtman and Perkins both discuss ComEd's historic provision of standard service to 138 kV customers.[33] In addition, as I discussed earlier in my testimony in response to AG Witness Seryak, only wholesale generation station service customers and all 345 kV and higher voltage customers are not eligible for standard service under ComEd's current tariff. Rider NS – Non-Standard Service should only apply to Large Demand Project Customers served at 138 kV or lower

[33] ComEd Ex. 3.0 at 4-6 and ComEd Ex. 4.0 at 24.

voltage when the facilities required or requested by a Large Demand Project Customer are larger, more, or different than those identified by ComEd as necessary to provide standard service to that Large Demand Project Customer consistent with the tariff language of Rider NS.

Q. Please briefly summarize JNGO Witness Jacobs' recommendation related to expanding deposits to cover both incremental distribution costs and incremental transmission costs.

A. Mr. Jacobs recommends that deposits, like those collected under Rider DE for distribution facility extension costs also be collected for incremental transmission facility costs.[34] This appears to be an alternative recommendation, given that his primary recommendation is to instead directly assign the cost of all incremental distribution and transmission facilities to Large Demand Project Customers through ComEd Rider NS.

Q. How do you respond to this recommendation of Mr. Jacobs?

A. I agree that the cost of incremental transmission facilities should be the basis of any minimum transmission revenue guarantee or collateral requirement for transmission and my direct testimony recommendations with respect to ComEd's proposed TSA reflect this.

[34] JNGO Ex. 3.0 at 22-26.

IV. RESPONSE TO COMED WITNESS LEICHTMAN'S REBUTTAL TESTIMONY

A. Provision of a Reasonably Binding, Complete Estimate of All T&D Costs and Deposits Prior to Required Execution of a TSA

Q. Please briefly summarize the point you make in your direct testimony regarding requiring ComEd to provide Large Demand Project Customers with additional information before requiring execution of a TSA.

A. Execution of the TSA will obligate the customer to post collateral that could be in the range of half a billion dollars. Before making such a substantial and irrevocable financial commitment, it is imperative that the customer understand the financial obligations that ComEd will impose. Under the structure proposed by ComEd, a Large Demand Project Customer would only know its transmission-related exposure under the TSA; the customer would not know its distribution-related financial responsibilities. Requiring a customer to post collateral under the TSA without knowledge of the full scope of its anticipated financial obligations -- including Rider DE deposits -- would be commercially unreasonable and inconsistent with prudent utility and investment practices. Therefore, once the Cluster Study is completed but before a Large Demand Project Customer is required to execute a TSA, ComEd should be required to provide the customer with a reasonably binding, complete estimate of all the customer's transmission and distribution cost and deposit obligations.

Q. Please summarize ComEd Witness Leichtman's rebuttal testimony responding to your recommendation.

A. ComEd Witness Leichtman indicates that once a Cluster Study is completed, the results as they apply to an individual project are shared with that customer – including initial cost estimates, required deposits, estimated in-service date, and next steps in the process.[35] He states each customer is then given an opportunity to decide whether it intends to proceed, and, if so, it must provide additional financial commitments related to long lead time material deposits and ComEd's proposed TSA.[36]

Q. Do you have concerns about this testimony?

A. Yes. ComEd Witness Leichtman's rebuttal testimony improperly gives the impression that at the time of the completion of the applicable Cluster Study, and prior to being required to provide the financial commitment that would be required under ComEd's TSA, a Large Demand Project Customer would have a complete estimate of all the financial commitments the customer will have to make to ComEd. As explained in my direct testimony, this is not the case.[37] ComEd disclosed in discovery that Large Demand Project Customers would have to execute a TSA within 30 days of completion of the Cluster Study and be required to post their required collateral for their TSA within 30 days of FERC approval of their TSA.[38] However, the Large Demand Project

[35] ComEd Ex. 3.0 at 16.
[36] *Id.*
[37] NRG Ex. 1.0 at 21-22.
[38] NRG Ex. 1.0 at 21; *Also,* ComEd Response to Data Requests NRG-ComEd 4.05a, 4.05b and 4.05c. (provided in NRG Ex. 1.5).

Customer would not have a complete estimate of their Rider DE deposits until several months after the Cluster Study is completed.[39] Thus, customers could be required to make non-revocable commitments totaling hundreds of millions of dollars without knowing the full extent of their financial obligations.[40] The Commission should require ComEd to provide Large Demand Project Customers with a reasonably binding, complete estimate of the customer's Rider DE deposits, long-lead time deposits, and non-standard service payments no later than 30 days prior to the applicant being required to execute a TSA.[41]

B. Cluster Study Grandfathering and Restudy Protections

Q. Please summarize your direct testimony regarding clarifications that should be made regarding the application of the Cluster Study process to Large Demand Project Customer applications that are currently completed or underway.

A. My direct testimony, identified four points related grandfathering and restudy protections that ComEd clarified in response to discovery that should be memorialized by the Commission conditioning any approval of ComEd's proposed tariff language amendment to its GT&C and Rider DE in this proceeding upon ComEd committing to honor those clarifications.[42]

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[39] *Id.*
[40] NRG Ex. 1.0 at 31-32.
[41] NRG Ex. 1.0 at 24.
[42] NRG Ex. 1.0 at 39.

Q. Please summarize ComEd Witness Leichtman's rebuttal testimony related to those four points of clarification.

A. Witness Leichtman in his rebuttal testimony confirms those points of clarification and indicates that ComEd is amenable to language being included in the Commission's order in this case memorializing these clarifications.[43]

Q. How do you respond to this testimony?

A. NRG appreciates ComEd's confirmation of its clarifications and its willingness to have the points of clarification memorialized in the Commission's order in this proceeding. As explained in my direct testimony, ComEd's clarified intentions with respect to these points should be memorialized in the Commission's order in this proceeding and the Commission should condition any approval of ComEd's proposed tariff language amendment to its GT&C and Rider DE in this proceeding upon ComEd committing to fully following through with its clarified intentions with respect to the four points.

C. <u>Surety Bonds and Other Alternative Forms of Collateral</u>

Q. Please briefly summarize your direct testimony regarding why Large Demand Project Customers should be allowed to use a surety bond as an alternative to posting a Letter of Credit ("LOC").

A. ComEd would restrict acceptable forms of collateral for Rider DE deposits and TSA obligations to either cash or LOCs. This restriction is unreasonable, unsupported, and

[43] ComEd Ex. 3.0 at 21-22.

commercially inefficient. The Company provided no benchmarking, policy review, or analysis of comparable utility practices to justify such rigidity, nor any assessment of how these requirements might affect project siting decisions in Illinois. By refusing to consider alternative forms of security -- such as surety bonds, parental guarantees, or tiered collateral frameworks -- ComEd would impose significantly higher financing costs on large-load applicants even though equally secure instruments are commonly accepted by other major utilities. If adopted, ComEd's approach would make Illinois less competitive for data centers and other large-demand projects, depriving existing customers of the rate and economic benefits such projects provide. Therefore, I recommended that the Commission direct ComEd to permit all collateral forms authorized under PJM Attachment Q, or at minimum require acceptance of surety bonds or a tiered collateral framework consistent with the collateral requirements of other utilities.

Q. How does ComEd Witness Leichtman respond to your testimony that explained the benefits of allowing large load customers to use surety bonds?

A. ComEd Witness Leichtman asserts that surety bonds do not provide equivalent security and could leave other customers exposed to cost shifts if a project does not advance as expected.[44] Mr. Leichtman asserts that a surety bond would require additional legal or administrative processes to access funds, whereas a LOC gives prompt access to the pledged collateral -- ensuring that all other customers are protected from shortfalls in

[44] ComEd Ex. 3.0 at 39.

revenue caused by speculative or unrealized projects. Mr. Leichtman further contends that maintaining the letter of credit requirement is needed to deter speculative load applications and uphold the TSA's protective purpose.

Q. How do you respond to ComEd's testimony that an LOC is more appropriate than the surety bond alternative that you propose?

A. Mr. Leichtman provides no empirical evidence or quantitative analysis to support his assertions; his rejection of surety bonds as a legitimate form of collateral is unwarranted, unsupported, and overly rigid, given that surety bonds are widely accepted forms of credit assurance in both utility and commercial contexts. As explained in my Direct Testimony, ComEd should 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.[45] PJM's form of surety bond includes "pay now/fight later" provisions that specify that the surety, like the issuer of a letter of credit, 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.[46] These provisions can ensure that the surety's obligation is solid, unconditional, and payable

[45] NRG Ex. 1.0 at 38.

[46] Section V.D. of PJM OATT Attachment Q. The PJM OATT in its entirety is posted by PJM at the following link: https://www.pjm.com/pjmfiles/directory/merged-tariffs/oatt.pdf.

within one business day of the demand -- functionally equivalent to the payment mechanics of a Letter of Credit. Thus, any concern about delayed recovery or legal disputes can be fully mitigated. With these types of protections, a surety bond can provide ComEd the certainty it needs while offering greater flexibility and lower costs to new large load customers.

Q. Are you proposing ComEd's tariffs be revised to include the language from Attachment Q of the PJM OATT?

A. Not exactly. PJM's Attachment Q provides the requirements for a surety bond acceptable to PJM and only applies to PJM. My recommendation is that customers be permitted to use all forms of collateral allowed under Attachment Q, but in a manner that is acceptable to ComEd. The terms and provisions of a surety bond can be flexible -- more flexible than a LOC -- but it is still a financial instrument that must be acceptable to the principal, obligee, and surety. PJM's approach is an example of how a sophisticated regional transmission organization successfully addressed the same concerns Mr. Leichtman raises. ComEd should accept surety bonds as a form of collateral and provide new large load customers with reasonable terms and provisions for an acceptable surety bond as collateral.

Q. Is your recommendation consistent with the approach used by other utilities?

A. Yes. For example, the Dominion Virginia (Virginia Electric and Power Company) proposed tariff states "The Surety Bond must be in a format acceptable to and approved by the Company."[47] This is the appropriate model for the language that should be included in ComEd's tariffs.

Q. Please summarize your conclusions and recommendation regarding allowing large load customers to use surety bonds as a form of collateral.

A. Allowing the use of properly structured surety bonds would not diminish ComEd's ability to recover; it would simply provide greater flexibility and lower capital costs for large-load customers who already face significant up-front deposit and collateral requirements. Many other utilities allow surety bonds, and Mr. Leichtman has not presented any evidence that surety bonds have failed to protect utilities or ratepayers in analogous contexts. It simply is unreasonable for Mr. Leichtman to suggest that ComEd should use a single, high-cost form of collateral that would exclude even creditworthy customers, inappropriately discouraging new large load customers from bringing additional investment and jobs to the state.

Properly structured surety bonds can provide ComEd with the same financial certainty and administrative simplicity as LOCs, while reducing the cost burden on new large-load customers. Therefore, the Commission should direct ComEd to accept surety bonds in a format acceptable to and approved by the Company, thereby achieving a reasonable balance between system protection and economic development.

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

V. RESPONSE TO COMED <u>WITNESS PERKINS' REBUTTAL TESTIMONY</u>

A. Commission's Jurisdiction to Include <u>References to ComEd's Proposed TSA</u>

Q. Please briefly summarize your testimony regarding the Commission's jurisdiction to include references in ComEd's tariffs to the TSA.

A. The Commission lacks jurisdiction to approve, enforce, or reference ComEd's proposed TSA within ComEd's tariffs because the TSA relates FERC-jurisdictional transmission service. ComEd itself concedes that the TSA is a FERC-jurisdictional agreement, yet it seeks to amend its General Terms and Conditions ("GT&C") to make execution of a TSA a prerequisite for retail service and to define at a higher level the terms and conditions of that TSA. This approach is improper because it effectively requires the ICC to endorse or enforce the terms of a TSA that has not been filed with or accepted by FERC, thereby overstepping the Commission's authority. Moreover, ComEd's existing Rate RDS tariff already incorporates by reference all applicable FERC-jurisdictional transmission rates, terms, and conditions -- making the proposed TSA-related GT&C language unnecessary. Accordingly, I recommend the ICC reject the TSA-related tariff language amendments in their entirety and make clear that ComEd may not condition a Large Demand Project Customer's access to service on executing any TSA, or any letter of intent with respect to a TSA, that has not been accepted for filing by FERC under the Open Access Transmission Tariff ("OATT").[48]

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[48] NRD Ex. 1.0 at 23-24.

Q. Please summarize ComEd Witness Perkins' rebuttal testimony related to the Commission's jurisdiction over the TSA.

A. ComEd Witness Perkins argues a TSA meeting the core requirements identified in ComEd's proposed GT&C tariff language amendment related to its proposed-TSA are necessary to protect customers, the proposed tariff language ensures those requirements are prerequisite for retail service, and the Commission can and should approve that requirement.[49] However, he also claims ComEd is not asking the Commission to assume jurisdiction over the TSA.[50]

Q. How do you respond to this testimony?

A. The Commission cannot dictate the terms, conditions and rates for unbundled retail transmission service – that authority rests exclusively with FERC. ComEd's proposal improperly attempts to have the Commission endorse TSA terms that have not even been filed with FERC, much less approved by FERC. Furthermore, contrary to ComEd's Witness Perkins arguments, since the terms of the TSA have not been approved by FERC, including them at a high level in ComEd's GT&C tariff language as ComEd's proposes would not add necessary transparency, but instead greatly risk the possibility of confusion as FERC may not approve a TSA at all or may approve a TSA with very different terms than those specified in ComEd's proposed GT&C tariff language amendments. For these reasons, the Commission should reject ComEd's proposed GT&C tariff language amendment related to the proposed TSA and continue

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[49] ComEd Ex. 4.0 at 5.
[50] ComEd Ex. 4.0 at 6.

to rely on the existing Rate RDS language that already requires unbundled retail transmission service be pursuant to FERC's terms, conditions and rates.[51]

Q. Please summarize ComEd Witness Perkins' rebuttal testimony regarding conditioning Large Demand Project applicants' receipt of delivery services on execution of TSAs or letters of intent for TSAs.

A. ComEd Witness Perkins asserts that my recommendation should be rejected because the TSA is a necessary protection to existing customers and the Commission has authority to condition retail service on compliance with FERC requirements and promotes transparency.[52]

Q. How do you respond to this testimony?

A. The Commission cannot require execution of a TSA that FERC has not approved. This is purely a matter for FERC to decide and FERC has not made that decision; and at the time of filing this rebuttal testimony, it has not even considered specific terms and conditions of a proposed TSA. The Commission should continue to maintain the current Rate RDS language and not allow ComEd to try to force Large Demand Project Applicants to execute a TSA, unless and until FERC approves a TSA for ComEd.

[51] NRG Ex. 1.0 at 23-24.
[52] ComEd Ex. 4.0 at 15-16.

B. ComEd's Proposed "Load Ramp x Standard Rates" Collateral Requirement for its Proposed TSA

Q. Please summarize your direct testimony regarding the way in which ComEd has proposed to calculate the amount of the collateral it will require from Large Demand Project Customers under its proposed TSA.

A. ComEd proposes to compel Large Demand Project Customers to post massive collateral – potentially hundreds of millions of dollars -- based on forecasted load ramps multiplied by ComEd's standard transmission rate under the PJM OATT ("Load Ramp x Standards Rate") rather than the actual incremental transmission investments needed to serve them, creating the risk of both customer overpayments and cross-subsidies to existing ratepayers. I recommended that the Commission direct ComEd to utilize an Incremental Revenue Requirement ("IRR") approach, a cost-based and transparent alternative that ties the customer's revenue guarantee directly to the specific transmission facilities built solely to serve that customer, ensuring revenues match costs, preserving cost-causation principles, and providing appropriate locational price signals. The IRR method mirrors the cost-alignment features of ComEd's own Rider DE for distribution service, promotes regulatory consistency between the ICC and FERC, and avoids the economic distortions and procedural defects inherent in ComEd's proposal.

Q. Please summarize how ComEd Witness Perkins responds to your proposal.

A. ComEd Witness Perkins asserts that if a Large Demand Project fails to materialize, existing customers might not only face stranded incremental investment costs, but also lose the project's anticipated contribution to ComEd's transmission revenue requirement and potential future benefits from deferred projects.[53] He asserts that ComEd's proposed approach for its TSA, under which a Large Demand Project Customer is required to guarantee transmission revenues equal to the submitted load ramp multiplied by ComEd's standard transmission rate, is necessary to protect ComEd's existing customers.[54]

Mr. Perkins further claims it is impractical to tie TSA collateral requirements to the cost of the incremental transmission system costs that support service to particular customers because it is exceedingly difficult, and, in many cases, impossible to do so.[55]

Q. How do you respond to this testimony?

A. Mr. Perkin's analysis is flawed. First, while it is appropriate to protect existing customers from the risk of the stranded revenue requirement of the transmission system investments that would not have been made **but for** a project, it is unjust and unreasonable to compel a Large Demand Project Customer to provide a guaranteed contribution toward the revenue requirement of ComEd's existing transmission facilities. Once the revenues necessary to cover the revenue requirement of the incremental transmission system investments are covered, existing customers will be no worse off than if the Large Demand Project had not been pursued.[56]

Second, ComEd's own presentations in the PJM stakeholder process, which are provided in NRG Exhibit 1.2 attached to my direct testimony, demonstrate that ComEd

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[53] ComEd Ex. 4.0 at 3-5 and 8-10.
[54] *Id.*
[55] ComEd Ex. 4.01 at 7-8.
[56] NRG Ex. 1.0 at 11-13.

already tracks incremental costs and can reasonably allocate them to individual Large Demand Project Customers.

Finally, as shown in Table JRD-1 of my direct testimony, which is based on that actual data from ComEd presentations in the PJM stakeholder process, for some Large Demand Projects, the transmission revenue requirement of the incremental transmission facilities needed to serve the Large Demand Project significantly exceeds the guaranteed revenues that would be provided under ComEd's "Load Ramp x Standards Rates" approach.[57] For such projects, ComEd's proposal for its TSA leaves ComEd's existing customers exposed. In contrast, the incremental revenue requirement approach described in my direct testimony -- tying the TSA guarantee to the costs of transmission facilities actually required for the Large Demand Project -- appropriately protects ComEd's existing customers in all circumstances while not overcharging Large Demand Project Customer.[58] In the alternative, the Commission should require a structure like that of ComEd's Rider DE.[59]

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[57] *See* Large Load Additions ComEd 2023-008, ComEd 2024-001 and ComEd 2024-007 in Table JRD-1 on page 16 of NRG Ex. 1.0.
[58] NRG Ex. 1.0 at 11-17.
[59] NRG Ex. 1.0 at 24-25.

C. ComEd's Proposed Treatment of <u>On-Premises Facilities and Equipment under Rider DE</u>

Q. Please briefly summarize your direct testimony regarding ComEd's proposal to include on-premises facilities and equipment when calculating the Rider DE deposits for Large Demand Project Customers.

A. Currently under Rider DE, on-premises facility costs are not included in the determination of the applicant or customer's Rider DE deposit for distribution facilities, only off-premises facilities. For large demand projects, ComEd is proposing to now also include on-premises facility costs in determining the Rider DE deposit amount for facilities.[60] However, ComEd has failed to provide any analysis or supporting data related to its proposal to include on-premises facilities in the Rider DE deposit.

Q. Please summarize ComEd Witness Perkins' response to your direct testimony on this issue.

A. ComEd Witness Perkins asserts that standard facilities for customers served at 138 kV or higher include a high-voltage Electric Service Station ("ESS") with associated facilities, which can cost up to $50 million.[61]

Q. How do you respond?

A. 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,

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

[61] ComEd Ex. 4.0 at 22.

ComEd's proposal is unjust, unreasonable and unduly discriminatory against customers with projected or actual demand in excess of 50 MW.[62]

VI. CONCLUSIONS AND RECOMMENDATIONS

Q. Please summarize your conclusions.

A. There is broad agreement among Commission Staff and the intervenors -- including the Attorney General, Microsoft, and JNGO -- that the Commission must act to prevent the unfair shifting of incremental facility costs to existing ratepayers and that ComEd's proposals in this proceeding fall short in this respect. There is also consensus that any solution must be transparent and based on cost-causation principles tied to the incremental cost of the facilities necessary to serve large load customers. NRG fully supports those shared objectives.

Where these parties diverge is on how to achieve those objectives. The Attorney General and JNGO proposals for blanket, upfront CIAC payments for all incremental transmission and distribution facilities would unfairly single out large customers for costs associated with standard service -- contrary to both Commission precedent and cost-causation principles. And while the separate JNGO recommendation for clean energy planning raises important policy issues, those matters are outside the scope of this tariff proceeding and are better addressed in CEJA or IPA forums.

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[62] NRG Ex. 1.0 at 33.

Q. What broader concerns are there with the AG and JNGO CIAC proposals?

A. Both proposals would send the wrong signal about Illinois' regulatory and economic climate. Large demand customers -- such as data centers, manufacturers, and other major employers -- create significant economic and job benefits for Illinois. These projects generate construction employment, permanent high-wage jobs, and substantial tax revenues for local communities. The addition of these customers allows the utility's fixed costs to be recovered over a broader customer base, thereby lowering this portion of rates for existing customers. Requiring such customers to make massive, unnecessary upfront CIAC payments would discourage investment and drive these opportunities to other states with more balanced and predictable utility frameworks, ultimately raising costs for Illinois ratepayers.

Moreover, many of the infrastructure upgrades needed to serve large new loads enhance reliability and system capacity for all customers. Assigning the full cost of those upgrades to a single customer is both unfair and inefficient. Finally, applying a state-level CIAC framework to transmission facilities would directly conflict with FERC's exclusive jurisdiction, inviting legal uncertainty and potential reversal on appeal.

Q. Did ComEd rebuttal testimony resolve any of NRG's concerns with ComEd's proposals in this proceeding?

A. While NRG appreciates ComEd's confirmation of four points with respect to grandfathering and restudy protections and its willingness for those points to be memorialized in the Commission's order in this proceeding, ComEd's rebuttal testimony did not resolve any of the other concerns presented in my direct testimony.

Q. Please summarize your recommendations.

A. The Commission should:

1. Refuse to Engage Regarding TSA Tariff Language

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

2. Adopt the Incremental Revenue Requirement Guarantee, if it Does Engage

If the Commission chooses to address the TSA in this proceeding, it should require that any revenue guarantees from large demand project applicants be tied to the *incremental revenue requirement* of transmission and distribution investments that would not have been made but for the project, rather than ComEd's "Load Ramp × Standard Rates" approach.

3. Make Any TSA References Conditional

To the extent the Commission believes it has authority related to the TSA, it also should condition any approval of TSA-related tariff language on:

- Transmission Revenue Security being based on the incremental revenue requirement (or structured like Rider DE deposits).
- Customers being permitted to use all collateral forms allowed under Attachment Q of the PJM OATT (e.g., surety bonds, parental guarantees).
- TSA execution not being required until 30 days after ComEd provides binding estimates of all Rider DE deposits, long-lead time deposits, and non-standard service costs.

4. Reject Expansion of Rider DE to On-Premises Facilities

The Commission should direct ComEd to remove its proposed Rider DE amendment that would include on-premises facility costs in deposit calculations, absent substantive evidence that such expansion is necessary and reasonable.

5. Allow Flexible Collateral Options

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

6. Require Grandfathering and Restudy Protections

The Commission should condition approval of ComEd's tariff amendments on ComEd honoring its commitments to:

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

Q. Does this conclude your rebuttal testimony?

A. Yes, it does.