

**STATE OF ILLINOIS**  
**ILLINOIS COMMERCE COMMISSION**

<b>Commonwealth Edison Company</b>	:	
	:	
<b>Petition for Approval of Beneficial Electrification Plan under the Electric Vehicle Act, 20 ILCS 627/45.</b>	:	<b>24-0484</b>
	:	
<b>Illinois Commerce Commission</b>	:	
<b>On Its Own Motion</b>	:	
<b>-vs-</b>	:	
<b>Commonwealth Edison Company</b>	:	
	:	<b>24-0577</b>
<b>Investigation into Commonwealth Edison Company's Beneficial Electrification Plan 2</b>	:	<b>(Consol.)</b>
<b>Filing pursuant to 20 ILCS 627/45.</b>	:	

**ORDER**

Dated: March 27, 2025



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**ORDER**

By the Commission:

**I. INTRODUCTION**

The General Assembly enacted Public Act (“P.A.”) 102-0662 finding in part that the State of Illinois is overly reliant upon fossil fuel and consequently suffers from high transportation sector pollutants. P.A. 102-0662 enacted a new Section 45 of the Electric Vehicle Act (“EV Act”), which requires all electric utilities serving over 500,000 people within the State of Illinois to file Beneficial Electrification (“BE”) Plans by July 1, 2022, detailing the BE programs it intends to implement. BE programs are programs that lower carbon dioxide emissions, replace fossil fuel use, create cost savings, improve electric grid operations, reduce increases to peak demand, improve electric usage load shape, and align electric usage with times of renewable generation. 20 ILCS 627/45(b).

Commonwealth Edison Company (“ComEd” or “the Company”) filed its Petition with the Illinois Commerce Commission (“Commission”) seeking approval of its first BE Plan (“BE Plan 1”) on July 1, 2022. On March 23, 2023, the Commission issued a final Order approving ComEd’s BE Plan 1, with modifications. *See generally, Commonwealth Edison Co.*, Docket Nos. 22-0432/22-0442 (Consol.), Order (Mar. 23, 2023) (“BE Plan 1 Order”).

Section 45(f) of the EV Act requires ComEd to “file an update to the Plan on July 2024, and every 3 years thereafter. This update shall describe transportation investments made during the prior plan period, investments planned for the following 24 months, and updates to the information required by this Section.” 20 ILCS 627/45(f).

## II. FACTUAL AND PROCEDURAL BACKGROUND

On July 1, 2024, ComEd filed with the Commission a verified Petition for Approval of BE Plan 2 (“Petition”) and supporting direct testimony, which was assigned Docket No. 24-0484. On August 1, 2024, the Commission initiated a proceeding to investigate ComEd’s BE Plan 2 to determine whether: (1) the objectives described in Section 45 of the EV Act are being achieved; (2) investment targets should be increased based on achievement of spending goals outlined in the BE Plan and consistent with outcomes directed in the Plan stakeholder workshop report; (3) BE Plan 2 contains the information required by the EV Act and is cost-beneficial; and (4) BE Plan 2 is consistent with the directives of the Commission in its BE Plan 1 Order. This investigation docket was assigned Docket No. 24-0577 and consolidated with Docket No. 24-0484.

On August 13, 2024, a prehearing conference was held via videoconference before a duly authorized Administrative Law Judge of the Commission, wherein a procedural schedule was set.

Staff of the Commission (“Staff”), the Office of the Illinois Attorney General (“AG”), and the City of Chicago appeared in this matter. The following parties were granted leave to intervene: Citizens Utility Board (“CUB”); Sierra Club (“SC”); Respiratory Health Association (“RHA”); Environmental Defense Fund (“EDF”); EVgo Services, LLC (“EVgo”); and the Chicago Transit Authority (“CTA”).

Staff and intervenor direct testimony was filed on September 27, 2024. ComEd filed its rebuttal testimony on October 24, 2024, and an errata to its rebuttal testimony on November 1, 2024. Staff and intervenor rebuttal testimony was filed on November 22, 2024. ComEd filed its surrebuttal testimony on December 9, 2024. An evidentiary hearing was conducted on December 17, 2024. All parties waived cross-examination of all witnesses. The matter was marked “Heard and Taken” on December 23, 2024. On January 10, 2025, ComEd, Staff, the AG, EVgo, and collectively EDF, RHA, and SC (“EDF/RHA/SC”) filed Initial Briefs (“IBs”). On January 21, 2025, ComEd, Staff, the AG, EVgo, and EDF/RHA/SC filed Reply Briefs (“RBs”).

A Proposed Order was issued on February 18, 2025. On February 28, 2025, ComEd, Staff, and the AG filed Briefs on Exceptions (“BOEs”). On March 6, 2025, ComEd, Staff, the AG, and EVgo filed Reply Briefs on Exceptions.

## III. APPLICABLE LAW

Section 45 of the EV Act defines beneficial electrification programs as follows:

programs that lower carbon dioxide emissions, replace fossil fuel use, create cost savings, improve electric grid operations, reduce increases to peak demand, improve electric usage load shape, and align electric usage with times of renewable generation. All beneficial electrification programs shall provide for incentives such that customers are induced to use electricity at times of low overall system usage or at times when generation from renewable energy sources is high. "Beneficial electrification programs" include a portfolio of the following:

- (1) time-of-use electric rates;
- (2) hourly pricing electric rates;
- (3) optimized charging programs or programs that encourage charging at times beneficial to the electric grid;
- (4) optional demand-response programs specifically related to electrification efforts;
- (5) incentives for electrification and associated infrastructure tied to using electricity at off-peak times;
- (6) incentives for electrification and associated infrastructure targeted to medium-duty and heavy-duty vehicles used by transit agencies;
- (7) incentives for electrification and associated infrastructure targeted to school buses;
- (8) incentives for electrification and associated infrastructure for medium-duty and heavy-duty government and private fleet vehicles;
- (9) low-income programs that provide access to electric vehicles for communities where car ownership or new car ownership is not common;
- (10) incentives for electrification in eligible communities;
- (11) incentives or programs to enable quicker adoption of electric vehicles by developing public charging stations in dense areas, workplaces, and low-income communities;
- (12) incentives or programs to develop electric vehicle infrastructure that minimizes range anxiety, filling the gaps in deployment, particularly in rural areas and along highway corridors;
- (13) incentives to encourage the development of electrification and renewable energy generation in close proximity in order to reduce grid congestion;
- (14) offer support to low-income communities who are experiencing financial and accessibility barriers such that electric vehicle ownership is not an option; and
- (15) other such programs as defined by the Commission.

20 ILCS 627/45(b).

The EV Act requires the Commission to “determine if the proposed [BE] plan is cost-beneficial and in the public interest.” 20 ILCS 627/45(d). The EV Act enumerates eight objectives that the BE Plan should achieve and provides that:

When considering if the plan is in the public interest and determining appropriate levels of cost recovery for investments and expenditures related to programs proposed by an electric utility, the Commission shall consider whether the investments and other expenditures are designed and reasonably expected to:

(1) maximize total energy cost savings and rate reductions so that nonparticipants can benefit;

(2) address environmental justice interests by ensuring there are significant opportunities for residents and businesses in eligible communities to directly participate in and benefit from beneficial electrification programs;

(3) support at least a 40% investment of make-ready infrastructure incentives to facilitate the rapid deployment of charging equipment in or serving environmental justice, low-income, and eligible communities; however, nothing in this subsection is intended to require a specific amount of spending in a particular geographic area;

(4) support at least a 5% investment target in electrifying medium-duty and heavy-duty school bus and diesel public transportation vehicles located in or serving environmental justice, low-income, and eligible communities in order to provide those communities and businesses with greater economic investment, transportation opportunities, and a cleaner environment so they can directly benefit from transportation electrification efforts; however, nothing in this subsection is intended to require a specific amount of spending in a particular geographic area;

(5) stimulate innovation, competition, private investment, and increased consumer choices in electric vehicle charging equipment and networks;

(6) contribute to the reduction of carbon emissions and meeting air quality standards, including improving air quality in eligible communities who disproportionately suffer from emissions from the medium-duty and heavy-duty transportation sector;

(7) support the efficient and cost-effective use of the electric grid in a manner that supports electric vehicle charging operations; and

(8) provide resources to support private investment in charging equipment for uses in public and private charging applications, including residential, multi-family, fleet, transit, community, and corridor applications.

The plan shall be determined to be cost-beneficial if the total cost of beneficial electrification expenditures is less than the net present value of increased electricity costs (defined as marginal avoided energy, avoided capacity, and avoided transmission and distribution system costs) avoided by programs under the plan, the net present value of reductions in other customer energy costs, net revenue from all electric charging in the service territory, and the societal value of reduced carbon emissions and surface-level pollutants, particularly in environmental justice communities. The calculation of costs and benefits should be based on net impacts, including the impact on customer rates.

20 ILCS 627/45(d). The EV Act also lists minimum information requirements that the BE Plan must address. 20 ILCS 627/45(d)(i)-(x).

As noted above in Section I of this Order, ComEd filed an update pursuant to subsection 45(f) of the EV Act. The Commission addresses applicability of subsection 45(g) in Section IV.D.4.b of this Order.

#### **IV. COMED'S BE PLAN 2**

##### **A. Changes Between BE Plan 1 and BE Plan 2**

ComEd states that in 2023, the Commission approved ComEd's BE Plan 1, concluding that as modified over the course of Docket Nos. 22-0432/22-0442 (Consol.), BE Plan 1 complied with all applicable provisions of the EV Act, including the eight public interest criteria set forth in Section 45(d)(1) through (8); the ten minimum information requirements set forth in Section 45(d)(i) through (x); and Sections 45(g) and (h). BE Plan 1 Order at 157-200, 276-277, Amending Order (May 8, 2023), *aff'd*, *People ex rel. Raoul v. Ill. Com. Comm'n*, 2025 IL App (2d) 230020 (Jan. 13, 2025); and ComEd Beneficial Electrification Plan – Compliance Filing May 2023 (May 25, 2023) at 45-68. ComEd argues the proposed BE Plan 2 is essentially the same as BE Plan 1 with a discreet set of improvements.

According to ComEd, the evidence in this proceeding shows that BE Plan 2 includes experience gained under BE Plan 1 but is otherwise very similar in structure to BE Plan 1, and, for the most part, continues the same approved Programs and Sub-programs from BE Plan 1. *See, e.g.*, ComEd Ex. 1.0 at 4-5, 8; ComEd Ex. 3.0 CORR at 2, 5. ComEd argues that the relatively minor changes between BE Plan 1 and BE Plan 2 also reflect the compliance requirements of the BE Plan 1 Order and Staff and stakeholder feedback in the BE Plan 2 pre-filing collaboration sessions and as suggested in their testimony in this case. *See, e.g.*, ComEd Ex. 1.0 at 43-45; ComEd Ex. 2.0 at 17-23; ComEd Ex. 3.0 CORR at 6-7; ComEd Ex. 4.0 at 38-42; ComEd Ex. 6.0 at 6; ComEd Ex. 7.0 at 8.

ComEd argues that ComEd witness Botero's direct testimony carefully identified the relatively limited key changes from BE Plan 1 to BE Plan 2. ComEd also argues that BE Plan 2 reduces the annual average budget from \$77 million to \$58.2 million. ComEd further argues that BE Plan 2 reduces rebate amounts for customers that are not low-

income (“LI”) communities (“LICs”) and equity investment eligible communities (“EIEC”) but increases rebates for public charging infrastructure, regardless of location. ComEd notes that funding for residential heat pumps and heat pump infrastructure will continue exclusively under ComEd’s Energy Efficiency (“EE”) offerings and is not part of BE Plan 2. BE Plan 2 sunsets C&I/public sector rebates for light-duty vehicles (“LDVs”) for non-LI/non-EIEC customers, due to their expected favorable economics by 2026, but continues to offer LDV rebate funds for commercial and industrial (“C&I”)/public sector customers located in or primarily serving LICs/EIECs. ComEd replaces the former “BE Pilot Program” with a Research and Development (“R&D”) Program. ComEd reintroduces a new “Portfolio Program.” Finally, ComEd notes, BE Plan 2 removes limitations on eligible charging port types. ComEd Ex 1.0 at 8-9; see *also* ComEd Ex. 1.01 (BE Plan 2), § 1.4 (summary and explanations of the changes); ComEd Ex. 1.03 (red-lined comparison of BE Plan 1 and BE Plan 2). The key changes from BE Plan 1 to BE Plan 2 are shown in the following table:

**Table 1: Summary of Key Changes from BE Plan 1 to BE Plan 2**

(1) Budget and rebate size	<ul style="list-style-type: none"> <li>a) Lower total Plan budget</li> <li>b) Lower rebates for non-LIC/non-EIEC</li> <li>c) Higher rebates for public charging infrastructure</li> </ul>
(2) Program scope	<ul style="list-style-type: none"> <li>a) Heat pumps/infrastructure removed from BE Plan (left to EE)</li> <li>b) Sunset rebates for fleet light duty vehicles for non-LIC/non-EIEC</li> <li>c) "R&amp;D Program" replaces former "Pilot Program"</li> <li>d) New "Portfolio Program" introduced</li> </ul>
(3) Eligibility and funding caps	<ul style="list-style-type: none"> <li>a) Removed limitations on eligible charging ports for public chargers</li> <li>b) Single-entity funding caps increased</li> <li>c) Single-entity funding caps have new tiered structure</li> </ul>

ComEd Ex. 3.0 CORR at 6-7.

All parties note the similarities between BE Plan 1 and BE Plan 2 and overall recommend approving ComEd’s BE Plan 2. Staff, the AG, EDF/RHA/SC, and EVgo recommend the Commission adopt various modifications, commitments or reporting requirements prior to approving ComEd’s proposed BE Plan 2.

## **B. BE Plan 2 Programs and Programmatic Recommendations**

### **1. Residential EV Charger and Installation Program**

ComEd argues that the Commission should approve ComEd’s proposed Residential EV Charger and Installation Program, which is uncontested. According to

ComEd, this Program (previously called the “Residential EV Charging Infrastructure Sub-program” in BE Plan 1) is designed to address the barriers to customer ownership of electric vehicles by providing rebates to support the adoption of EVs by lowering the up-front costs associated with the purchase and installation of EV charging stations. ComEd Ex. 1.0 at 22-23; ComEd Ex. 1.01 at 38; 20 ILCS 627/45(d)(i), (d)(ii), and (d)(iv); 20 ILCS 627/45(d)(1), (d)(2), (d)(3), and (d)(5). ComEd notes, the Residential Charger and Installation Program will allocate an average of \$3.7 million annually (a total of \$11 million from 2026 through 2028) to incentivize the purchase and installation of residential EV charging infrastructure. ComEd Ex. 1.01 at 39.

In addition, ComEd argues that these funds will enable rebates for residential customers of \$500 per EV charging port for non-LI/non-EIEC customers and rebates of \$2,500 per port for LI/EIEC customers. ComEd Ex. 1.0 at 24. ComEd also argues that BE Plan 2 reserves at least 50% of the Residential Program budget and provides the higher rebates mentioned above for LI customers and customers located in EIECs to directly address the financial barriers to EV adoption in those communities. *Id.* at 10-11, 23. ComEd notes, this program also incentivizes rebate recipients to charge their EVs during periods when energy prices are low by requiring recipients to enroll in either ComEd’s Basic Electric Service Hourly pricing program (“Rate BESH”), a time-variant supply rate offered by an Alternative Retail Electric Supplier (“ARES”), or other eligible time-variant pilots or programs available to customers. See 20 ILCS 627/45(d)(ii); ComEd Ex. 1.0 at 13, 22.

Staff recommends that the Commission direct ComEd to engage with stakeholders before its next BE filing to discuss the cost-effectiveness methodology for this program. This issue is addressed in Section IV.D.3.c. wherein the Commission finds such a recommendation is unnecessary.

The AG recommends that the Residential and C&I Public Sector program administrative costs estimate be reduced from 15% of customer incentives to 14% of customer incentives. AG Ex. 2.00 at 12. This is addressed in Section IV.C.1, wherein the Commission rejects the AG’s recommendation to reduce the budget.

The Commission approves ComEd’s proposed Residential EV Charger and Installation Program for BE Plan 2.

## **2. C&I and Public Sector Program**

### **a. C&I and Public Sector EV Purchase Sub-program**

#### **(i) ComEd’s Position**

ComEd argues that the C&I and Public Sector Program seeks to promote electrification of fleet vehicles, including school and transit buses, and the installation of EV charging stations for C&I and public sector entities. ComEd Ex. 1.0 at 24, 27. ComEd budgets approximately \$44.2 million annually for this program, on average. ComEd Ex. 1.01 at 41. The C&I and Public Sector Program includes two sub-programs that are described in detail below.

ComEd explains that, for both the C&I and Public Sector Sub-programs, ComEd agreed to modify its per-entity funding cap structure to introduce more flexibility, per Staff and intervenor recommendations. ComEd agreed to 1) raise its default entity caps to

10% and 20% of annual budget for non-LIC/non-EIEC and LIC/EIEC/public entities, respectively, instead of the originally proposed 5% cap; 2) base per-entity caps on the 3-year budget instead of the initially proposed annual budget, in order to ensure better alignment with budget approval cycles and reduce funding uncertainty (this is contingent upon the Commission granting ComEd unlimited flexibility to move funds between BE Plan 2 years for a given sub-program without exceeding total funds approved by the Commission for the 3-year period); 3) introduce a tiered cap structure, to help incentivize larger electrification projects in years when demand for rebate funds is lower than the budgeted amount, without compromising on equity; and 4) establish a mechanism for entity cap monitoring and reporting. ComEd Ex. 3.0 CORR at 50, 55; ComEd Ex. 6.0 at 47–53, 55.

According to ComEd, each BE Plan 2 will begin with default (“Tier 2026”) per-entity funding caps of 10% and 20% of the total (3-year) sub-program budget for non-LIC/non-EIEC and LIC/EIEC/Public Sector entities, respectively. If customer response and uptake are slow, and ComEd does not project to spend its total sub-program budget by May 31, 2027, it will move to Tier 2027 caps of 20% and 30%, of total 3-year budget for non-LIC/non-EIEC and LIC/EIEC respectively. If by May 31, 2028 ComEd still does not project to use the remaining funds for this sub-program, it will lift the funding caps to “Tier 2028” caps of up to 100% of the 3-year sub-program budget. ComEd notes, that if a single entity has received funding up to its cap limit in the initial year(s) and the caps get raised by transitioning to the next Tier, the entity could claim the difference, as long as no other budget flexibility provisions are violated. *Id.* at 50.

According to ComEd, Staff and EVgo seek to modify ComEd’s proposed per-entity caps in both C&I and Public Sector Sub-programs. EVgo IB at 2-3, 6-7, 9-15; Staff IB at 81-83. ComEd argues the Commission should reject both proposals. ComEd states that significant compromises are being made to address the interests of both parties and these additional requests are neither warranted nor desirable.

ComEd explains, pursuant to separate requests from EDF/RHA/SC and EVgo, that ComEd agreed in rebuttal testimony to modify its initial per-entity funding cap structure to introduce more flexibility. ComEd Ex. 3.0 CORR at 48-53. ComEd further explains that after receiving more feedback from EDF/RHA/SC, EVgo, and Staff, ComEd further refined several aspects of this proposal in its surrebuttal testimony. ComEd Ex. 6.0 at 46–53. According to ComEd, this included adding an entity cap monitoring feature, at Staff’s request. *Id.* at 52–53. ComEd argues that this feature would give ComEd the flexibility to monitor and modify the caps annually. *Id.* at 52. “Annual entity cap changes could include, e.g. bifurcation of the cap structure by C&I Sub-program and/or by customer group (LIC/EIEC and public sector vs. non-LIC/non-EIEC), cap percentage changes, or changes in the conditions triggering a cap tier progression.” *Id.*

ComEd notes that EVgo agrees with ComEd’s proposal except for one item: it objects to the ability for ComEd to monitor and modify the caps. Per ComEd, EVgo proposes that, if the Commission grants ComEd the authority to adjust the caps during BE Plan 2, then ComEd should be required to collaborate with Staff and stakeholders to develop and publish criteria for when and how ComEd may alter the caps. According to EVgo, this stakeholder collaboration process should begin no later than July 1, 2025, and ComEd should be required to socialize proposed changes by November 1 of the year

before the change will go into effect, and to gather stakeholder feedback before announcing final decisions on December 1. ComEd argues that the Commission should reject that proposal because it lacks evidentiary support and goes far beyond what ComEd proposed and supported. See ComEd Ex. 6.0 at 52–53; 220 ILCS 5/10-103 (Commission findings shall be based exclusively on the record for decision), 220 ILCS 5/10-201(e)(iv)(A) (Commission findings must be based on substantial evidence); *Business & Prof'l People v. Ill. Com. Comm'n*, 136 Ill. 2d 192, 217-218 (1989) (the Commission “may not enter an order not based on the evidence”).

Moreover, while EVgo claims that ambiguity in ComEd’s proposal “adds friction to this process,” ComEd argues that it is EVgo’s new proposal that will slow the entire process down and hurt the entities that this program is trying to help. ComEd further argues that the requirement of ComEd to engage in an annual stakeholder feedback process to gain agreement on entity cap changes will stretch already constrained resources – in the middle of BE Plan 2 implementation – and will heavily strain and risk efficient rebate implementation. Additionally, ComEd argues that this approach risks paralysis by analysis which may result in drawn-out timelines leading to confusion for customers and uncertainty in the maximum funds that they can receive, which is precisely what EVgo is trying to avoid. ComEd states its current proposal strikes a delicate balance of meeting the varied needs of all participants. Therefore, ComEd argues that the Commission approve the C&I and Public Sector Program as proposed by ComEd in its surrebuttal testimony – with the monitoring and modification feature – or simply remove that feature, which is the only element that EVgo opposes. ComEd further argues that in no event should the Commission approve that feature and EVgo’s extensive stakeholder process proposal. In the event the Commission rejects Staff’s proposal (as reflected in ComEd’s surrebuttal) due to EVgo’s concerns, ComEd would be willing to voluntarily monitor the per-entity caps throughout the course of BE Plan 2 and provide this information as part of the BE Plan 3 pre-filing stakeholder collaboration process, allowing all parties to reevaluate this feature at that time.

According to ComEd, Staff also makes additional recommendations regarding per-entity caps. Specifically, Staff recommends that the Commission order ComEd to: conduct enhanced ongoing stakeholder engagement regarding the caps and introduce exemptions for high-impact projects and adjustments for initiatives demonstrating strong alignment with statutory objectives.

ComEd argues that the Commission should reject Staff’s proposals for two reasons. First ComEd argues, like EVgo’s proposed stakeholder process, these suggestions are not supported by any record evidence. Although Staff cites to testimony, that testimony does not contain those suggestions. Compare Staff IB at 82 (citing Ashbaugh Reb., Staff Ex. 17.0 at 29 and 30) with Ashbaugh Reb., Staff Ex 17.0 at 28–32 (discussing “Charging Stations and Annual Funding Cap for C&I and Public Sector Program” without any mention of stakeholder process). ComEd opposes, for the same reasons discussed above, enhanced stakeholder engagement regarding per-entity caps. If any party would have proposed exemptions for high impact projects and adjustments for initiatives demonstrating strong alignment with statutory objectives during the course of the proceeding, ComEd would likely have supported that proposal. ComEd argues a feature like that could be used, for example, to expand the available funds for a public

park district in an LIC/EIEC. However, ComEd states there is no record evidence in support of this proposal, and it has not been vetted through the testimony and discovery process.

Specifically regarding the C&I EV Purchase Sub-program, ComEd states that this sub-program offers C&I and public sector customers financial incentives in the form of rebates on the purchase of electric fleet vehicles, including school and transit buses, that are registered in the state of Illinois. ComEd Ex. 1.0 at 24; 20 ILCS 627/45(d)(iv); 20 ILCS 627/45(d)(2), (d)(5), and (d)(6). This sub-program includes five eligible categories of EVs for C&I and public sector customers. ComEd Ex. 1.0 at 26.

Additionally, ComEd proposes to spend \$28.5 million per year, on average, on the C&I and Public Sector EV Purchase Sub-program. The sub-program average annual budget is allocated as follows: \$5.5 million per year for school buses, \$6.4 million per year for transit buses, \$3.7 million for light duty fleet vehicles, \$8.3 million for medium-duty fleet vehicles, and \$4.6 million for heavy-duty fleet vehicles. *Id.* at 27. BE Plan 2 reserves at least 50% of the C&I and Public Sector EV Purchase Sub-program budget for LICs/EIECs and provides higher rebates for LICs/EIECs to directly address the financial barriers to EV adoption in those communities. ComEd notes that an applicant will be considered LIC/EIEC if they are located in or primarily serving an LIC/EIEC. ComEd states that the latter is true if they can show that over 50% of the driving done by the vehicles receiving rebates will be in LICs or EIECs. ComEd Ex. 1.01 at 45; ComEd Ex. 1.0 at 24–25, 25.

ComEd notes, however, that EDF/RHA/SC claim that there are three programmatic details recommended by EDF/RHA/SC witness Farquer that ComEd appears not to object to, but that ComEd has also not “explicitly committed to.” EDF/RHA/SC IB at 22. These are: (1) a requirement that ComEd allow rebate funds to be used for the repowering of buses through incentives such as point-of-sale rebates; (2) a requirement that third-party school bus fleet operators should be eligible to participate in partnership with the districts they serve; and (3) a requirement that financial incentives for repowers maintain inter-operability, that is, be agnostic to brand and technology. *Id.*

ComEd argues that it did, in fact, address and agree to the first and third programmatic details above when ComEd witness Botero states that it will “maintain eligibility for repowered” buses. ComEd Ex. 3.0 CORR at 7. ComEd argues that the Company does not limit any brand or technology from participating in the C&I and Public Sector EV Purchase Sub-programs, nor does ComEd distinguish between new and repowered buses.

Regarding the second detail ComEd argues that, although it is not explicitly stated in testimony, ComEd currently allows third party logistics providers to apply for rebates in partnership with the customer in BE Plan 1 and will continue this practice in BE Plan 2. ComEd argues that no party contests the C&I and Public Sector EV Purchase Sub-program, and the Commission should approve the Program with EDF/RHA/SC’s proposed modifications, which are consistent with what ComEd already does today.

**(ii) Staff's Position**

Staff recommends the Commission find that ComEd has adequately justified its proposed rebate level changes by vehicle type for the C&I Public Sector EV Purchase Sub-Program. Staff Ex. 20.0 at 3; ComEd Ex. 4.0 at 45. The C&I Public Sector EV Purchase Sub-program is designed to increase consumer choices in the EV market by offering rebates that lower the upfront costs of electric vehicles. Staff Ex. 9.0 at 4.

The Commission should find that ComEd's C&I and Public Sector EV Purchase Sub-Program is designed to support the objectives of Section 45(d)(4) of the EV Act. Staff Ex. 9.0 at 4-5. The Company's C&I Public Sector EV Purchase Sub-Program satisfies this objective by allocating an average of \$3.0 million annually to support these efforts in LI and eligible communities. Staff Ex. 9.0 at 4-5; ComEd Ex. 1.01 at 61. Furthermore, the Company's proposed program dedicates approximately \$12 million annually to providing purchase incentives for school buses and public transport buses, ensuring that these communities benefit from enhanced transportation opportunities and a cleaner environment through increased investment in electrification. *Id.*

The Commission should find that ComEd's C&I and Public Sector EV Purchase Sub-Program is designed to support the objectives of Section 45(d)(5) of the EV Act. Staff Ex. 9.0 at 4. The C&I Public Sector EV Purchase Sub-Program meets this objective by increasing consumer choices in the EV market through rebates that reduce the upfront costs of electric vehicles. Staff Ex. 9.0 at 4. Additionally, by offering tailored incentives for different vehicle types, the sub-program encourages business and public sector entities to opt for electric vehicles over traditional gas-powered options. *Id.*

The Commission should find that ComEd's C&I and Public Sector EV Purchase-Sub Program of BE Plan 2 satisfies the objectives of Section 45(d)(6). The program is designed to support the objectives of Section 45(d)(6) by reducing carbon emissions and improving air quality by encouraging electric vehicle purchases. *Id.*

Staff recommends the Commission find that ComEd's default rate structures for C&I and Public Sector EV Purchase Sub-Program support the objectives of Section 45(d)(7) of the EV Act. Staff Ex. 9.0 at 4-5. ComEd's default rate structure provides an incentive to C&I and Public Sector EV Purchase Sub-Program rebate recipients to charge during off-peak periods. Staff Ex. 9.0 at 4. Charging during off-peak periods contributes to the optimization of the grid. *Id.*

Regarding ComEd's School Bus Rebate Program, Staff recommends that the Commission adopt certain aspects of EDF/RHA/SC's recommendations to improve ComEd's School Bus Rebate Program while maintaining the existing program budget. Staff Ex. 20.0 at 10; EDF/RHA/SC Ex. 2.0 at 24-25. Specifically, the Commission should require ComEd to complete the following: 1) expand the School Bus Rebate Program to allow the rebates to be used not only for the purchase of new electric buses but also for repowering existing buses – i.e., converting older diesel or gasoline buses to electric; and 2) adjust, rather than eliminate, the 5% and 15% funding caps to provide greater flexibility in funding distribution while ensuring equitable access to program benefits. Staff Ex. 20.0 at 10-11; EDF/RHA/SC Ex. 2.0 at 24. Staff recommends the Commission reject EDF/RHA/SC's third recommendation to increase the overall program budget. Staff Ex. 20.0 at 11.

In response to EDF/RHA/SC's first recommendation (repowering costs), ComEd confirmed that it already covers vehicle repowering costs under its C&I and Public Sector EV Purchase Sub-Program in BE Plan 1 and will continue this support in BE Plan 2. Staff Ex. 20.0 at 11; ComEd Ex. 3.0 CORR at 55. Because ComEd has agreed to continue covering repowering costs, Staff has no concerns with formalizing this agreement in the Commission's Order. Staff Ex. 20.0 at 12.

In response to EDF/RHA/SC's second recommendation (funding caps), ComEd expressed concerns that removing the 5% and 15% funding caps could allow a small number of entities to dominate program funds, disadvantaging others. Staff Ex. 20.0 at 11; ComEd Ex. 3.0 CORR at 50. To address this concern while providing additional flexibility, ComEd proposed a tiered cap system that adjusts funding caps over time if funds are underutilized. Staff Ex. 20.0 at 11; ComEd Ex. 3.0 CORR at 51. Staff supports this tiered approach as it balances the need for flexibility with equity, ensuring equitable fund distribution and broader access to program benefits while accommodating larger projects if necessary. Staff Ex. 20.0 at 11-12.

In response to EDF/RHA/SC's third recommendation to increase the overall program budget, ComEd did not propose an increase. Staff Ex. 20.0 at 12. Staff agrees with ComEd's position and does not support increasing the program budget. *Id.* The tiered cap system proposed by ComEd adequately addresses the need for flexibility while ensuring funds are distributed equitably. Staff Ex. 20.0 at 11. Staff recommends that the Commission reject the EDF/RHA/SC's proposed budget increase for this program. *Id.* at 12.

Staff also agrees with EVgo's recommendations regarding the implementation of funding caps and ComEd's ability to adjust them. Accordingly, Staff recommends that the Commission require ComEd to take the following actions to address the issues surrounding the implementation of entity caps in BE Plan 2:

1. **Formalize Criteria for Cap Adjustments:** The Commission should direct ComEd to collaborate with stakeholders to develop clear and transparent criteria for modifying entity caps, as recommended by EVgo. Establishing such criteria will ensure that adjustments are made consistently and equitably, while maintaining alignment with program objectives.

2. **Establish a Structured Notification Timeline:** The Commission should require ComEd to adopt EVgo's proposed timeline for cap modifications. This includes sharing modification proposals with stakeholders by November 1 annually, gathering and incorporating stakeholder feedback, and finalizing cap levels by December 1 for implementation the following January. Such a process will provide stakeholders with adequate time to review and respond to proposed changes.

3. **Ensure Stakeholder Engagement:** The Commission should require ComEd to implement a formalized process for stakeholder consultation prior to finalizing any changes to entity caps. Regular stakeholder involvement will enhance transparency, improve decision-making, and ensure that adjustments align with statutory objectives and community needs.

4. **Balance Flexibility and Accountability:** The Commission should direct ComEd to maintain flexibility in adjusting caps based on market conditions while including mechanisms for reporting adjustments and their rationale in its annual reports. This approach will ensure accountability and transparency while supporting responsive program management.

While ComEd's tiered funding cap structure addresses some concerns raised in Staff's Initial Brief, these additional measures proposed by EVgo will ensure that funding caps are implemented transparently and equitably, with adequate input from stakeholders. Staff respectfully requests the Commission direct ComEd to adopt these recommendations to further enhance program outcomes and align with statutory objectives.

### (iii) EDF/RHA/SC's Position

EDF/RHA/SC note that ComEd includes specific resources to support school bus operators in meeting upfront costs of fleet electrification. EDF/RHA/SC witness Farquer outlined a host of reasons why programmatic adjustments to the entity cap structure initially proposed by ComEd would facilitate fleet electrification, particularly among under-resourced school districts that often serve environmental justice communities. EDF/RHA/SC Ex. 2.0 at 24. EDF/RHA/SC support ComEd's inclusion of such upfront electrification cost support for school bus fleets and support approval of this sub-program with their recommended changes. Those recommended changes, made by Mr. Farquer, EVgo witness Stegall, and Staff witness Ashbaugh and to which ComEd has agreed are:

1. ComEd should "adjust its tiered approach to raising per-entity funding limits so that moving on to the next tier is compelled by ComEd's projection that the annual Sub-program budget will not be spent rather than discretionary on the part of ComEd." EDF/RHA/SC Ex. 4.0 at 5.
2. ComEd should "allow itself discretion to raise the LIC/EIEC entity cap independently of the non-LIC/non-EIEC entity cap." EDF/RHA/SC Ex. 4.0 at 5.
3. ComEd should allow itself "increased discretion to bring forward [LIC/EIEC] funds from later years of the Plan and greater flexibility to transfer unused funds from non-LIC/non-EIEC communities to LIC/EIEC communities." EDF/RHA/SC Ex. 4.0 at 5.
4. ComEd should "change the percent caps so that they correspond to the percentage of the overall (three-year) budget rather than the annual budget." EDF/RHA/SC Ex. 4.0 at 6; EVgo Ex. 2.0 at 2.
5. ComEd should "[e]stablish a mechanism to communicate the remaining funding balance for the C&I and Public Sector Make-Ready Sub-Program on a monthly or quarterly basis, as agreed to by ComEd and EVgo." EVgo Ex. 2.0 at 2.
6. ComEd should monitor the effect of the revised entity cap structure on market participants. Staff Ex. 17.0 at 32.

7. “ComEd should be required to include in its Annual Report to the Commission information on funding cap utilization and its impact on EV infrastructure deployment, including data on how the revised caps influence participation by various market segments and geographic areas.” Staff Ex. 17.0 at 32.
8. ComEd should engage in “periodic reviews of the cap structure.” Staff Ex. 17.0 at 32.

EDF/RHA/SC assert that ComEd has agreed to implement those recommendations through a host of related commitments, first citing ComEd testimony that “ComEd conditionally agrees to base its per-entity caps on the 3-year Plan 2 budget.” ComEd Ex. 6.0 at 48. EDF/RHA/SC point out that ComEd now proposes to:

1. Base per-entity caps on the 3-year sub-program budget. An entity can elect to take up to the maximum cap funding at any point during the Plan 2 period in one or more payments as long as the sum of the payments does not exceed the cap.
2. Manage Tier progressions by having them happen once per year after the first year if ComEd projects that it will not spend its 3-year budget for a given sub-program.

ComEd Ex. 6.0 at 48-49. EDF/RHA/SC further point out that ComEd has also committed to raising its default entity caps to 10% and 20% of the total, 3-year sub-program budget, for non-LIC/non-EIEC and LIC/EIEC/public entities, respectively. *Id.*

EDF/RHA/SC explained that ComEd developed the second agreed proposal—to adjust the tiered entity cap structure throughout the year, pending funding uptake—in consultation with EDF/RHA/SC. See ComEd Ex. 6.0 at 50.

EDF/RHA/SC further note that ComEd and has “also agreed to eliminating discretion from the Tier progression and commits to progressing to the next Tier, provided that the trigger conditions are fully met,” as EDF/RHA/SC witness Farquer recommended. ComEd Ex. 6.0 at 51. EDF/RHA/SC add that they do not object to certain budget integrity conditions ComEd witness Botero described. *Id.*

EDF/RHA/SC continued by noting ComEd’s improvements to budget tracking and communication aspects of this C&I and Public Sector sub-program. In response to EVgo witness Stegall, “ComEd commit[ed] to publishing a dashboard that is updated quarterly and shows an estimate of remaining funds by C&I Sub-program and budget category (LIC/EIEC vs. non-LIC/non-EIEC) as well as an indication of the per-entity caps based on spend projections.” ComEd Ex. 6.0 at 52. In response to Staff witness Ashbaugh: “ComEd will monitor these caps closely and recommends that the Commission approve flexibility for ComEd to modify them annually, if deemed necessary based on data gathered throughout a given BE Plan 2 year and to align with evolving needs.” ComEd Ex. 6.0 at 52. EDF/RHA/SC support this recommendation as “[t]his approach is also aligned with EDF/RHA/SC witness Farquer’s recommendation for ComEd to have flexibility to adjust entity caps by customer group.” *Id.* at 52–53.

EDF/RHA/SC recommend three additional programmatic details, included in EDF/RHA/SC witness Farquer’s testimony, applicable to the C&I and Public Sector Program and to which, according to EDF/RHA/SC, ComEd appears not to object:

1. A requirement that ComEd allow these funds to be used for “[t]he cost of repowers . . . in addition to the cost of new school buses . . . through incentives—such as point-of-sale rebates—which cover upfront costs before they are incurred rather than only through after-the-fact rebates.” EDF/RHA/SC Ex. 4.0 at 6.
2. A requirement that third-party school bus fleet operators should be eligible to participate, in partnership with the districts they serve. EDF/RHA/SC Ex. 2.0 at 20-21.
3. A requirement that “financial incentives for repowers and new electric buses maintain inter-operability, that is, be agnostic to brand and technology of equipment and software.” EDF/RHA/SC Ex. 4.0 at 6.

EDF/RHA/SC acknowledge that ComEd has not explicitly committed to maintaining repowered fleet electric vehicles on equal footing with new ones when it comes to the provision of rebates, although they point out that ComEd has agreed “to maintain eligibility of repowered fleet electric vehicles, per feedback from EDF/RHA/SC.” ComEd Ex. 3.0 at 7. In EDF/RHA/SC’s view, the value and acceptability of the inter-operability recommendation is evident from ComEd’s agreement, as to other specific recommendations of Mr. Farquer, to maintain interoperability and to be “agnostic to brand and technology to support interoperability.” ComEd Ex. 6.0 at 55 (committing to “interoperability advocacy” as part of BE Plan 2 administrator’s scope or work); *Id.* at 60 (regarding school bus vehicle-to-grid (“V2G”) R&D). EDF/RHA/SC IB at 22-23. EDF/RHA/SC quote additional ComEd testimony in support of their position. “ComEd already offers point-of-sale rebates for the purchase of fleet EVs (including school buses) as part of its Business and Public Sector EV Purchase Sub-program BE Plan 1. Any EV dealer or manufacturer can offer point-of-sale rebates by joining ComEd’s EV dealer network. ComEd commits to continue this initiative in BE Plan 2.” EDF/RHA/SC IB at 23, citing ComEd 6.0 at 55.

Based on the foregoing, EDF/RHA/SC advocate that, in addition to integrating the agreed-upon improvements to this sub-program as EDF/RHA/SC have described, the Commission should make explicit in its Order that the C&I and Public Sector EV Purchase Sub-program will be implemented in accordance with these specific policies.

#### **(iv) Commission Analysis and Conclusion**

The Commission approves the C&I and Public Sector EV Purchase Sub-program with the many changes ComEd has made in response to Staff and intervenor proposals. To the extent there is any ambiguity regarding the three additional programmatic changes proposed by EDF/RHA/SC, it seems that no controversy remains regarding these proposals. The Commission adopts these recommendations and notes that, in particular, the Commission sees value in allowing for the re-powering of school buses.

The Commission does not agree with the proposal to increase the budget for this sub-program. Rather, the Commission finds that the flexibility to move funds will allow ComEd to ensure that money is available to those entities that are most interested while maintaining an emphasis on EIEC/LI communities. It appears that the only remaining

dispute surrounding the caps is whether stakeholders should be involved in the decision-making process, as suggested by EVgo. As discussed further in Section IV.B.2.b below, the Commission approves ComEd's proposed BE Plan 3 pre-filing stakeholder collaboration approach.

With these modifications, and those agreed to by ComEd, the Commission finds the C&I and Public Sector EV Purchase Sub-program to satisfy subsections (d)(4)-(d)(7) of Section 45 of the Ev Act.

**b. C&I and Public Sector EV Make-Ready Sub-program**

**(i) ComEd's Position**

ComEd argues that the Commission should approve ComEd's C&I and Public Sector EV Make-Ready Sub-program. ComEd notes, the C&I and Public Sector EV Make-Ready Sub-program ("Make-Ready Sub-program") (previously known as "C&I and Public Sector EV Charging Infrastructure Sub-program" in BE Plan 1) provides incentives to cover make-ready costs, on either side of the ComEd meter, to enable the installation of electric vehicle charging stations for C&I and public sector entities installing public and private Level 2 and direct current fast charging ("DCFC") charging facilities. ComEd Ex. 1.0 at 27; ComEd Ex. 1.01 at 45. ComEd budgets approximately \$15.6 million for the C&I and Public Sector EV Make-Ready Sub-program per year, on average. ComEd Ex. 1.0 at 29. ComEd explains that at least 70% of the budget is reserved for this sub-program to LICs/EIECs and provides higher rebates for LICs/EIECs, with public transit authorities able to access both pots of funding. *Id.* at 28; ComEd Ex. 1.01 at 45. ComEd notes that an applicant will be considered LIC/EIEC if they are located in or primarily serving a LIC/EIEC. ComEd argues that the latter is true if they can show that over 50% of the driving done by the vehicles using the charging infrastructure will be in LICs or EIECs. ComEd Ex. 1.01 at 45. Additionally, ComEd argues that members of the Building Owners and Managers Association of Chicago ("BOMA/Chicago") or other organizations will be allowed to apply for incentives collectively rather than individually. BE Plan 1 Order at 92.

ComEd notes that it has adopted three Staff and intervenor recommendations for this sub-program. However, two Staff proposals remain contested: reliability reporting and additional demand side management. ComEd argues that the Commission should not adopt these additional recommendations because they are either impracticable, outside of the scope of BE Plan 2, or unnecessary. ComEd further argues that, for the reasons explained below, the Commission should adopt ComEd's proposal for its C&I and Public Sector EV Make-Ready Sub-program, as updated over the course of this proceeding to incorporate the three accepted modifications and reject the two remaining Staff proposals.

First, ComEd agreed to make various changes to its per-entity caps. Second, ComEd agreed to play a more active role in supporting customers with data for selecting charging sites and providing information on which specific geographic locations should be favored when also considering equity and community-specific needs. ComEd Ex. 6.0 at 44–45. By the end of 2026, ComEd plans to enhance its EV Load Capacity Map with additional layers showing equity data, such as EIEC categorization, air quality metrics, and school bus depot locations. ComEd states that this will be part of ComEd's EV Toolkit

to help communities and charging station developers make equitable siting decisions. Additionally, by July 1, 2027, ComEd will develop a preliminary algorithm to assign a “score” to each community, indicating its potential benefit from charging infrastructure projects based on factors like grid capacity, EIEC designation, and air quality. This scoring will guide ComEd’s targeted outreach efforts, prioritizing communities that could benefit the most from charging infrastructure deployment. *Id.* at 45.

Third, in accordance with ComEd’s approach in rebuttal to target 30% of Fleet Electrification Assessment (“FEA”) funds annually to self-reported small fleets, ComEd will use best efforts to target 30% of charging depot funds going to depots of self-reported small fleets of 15 vehicles or less and to include in the annual report progress against this target. *Id.* at 54. Subject to the Commission approving the Program/Sub-program administrative budget proposed by ComEd, it agrees to include in the Request for Proposal (“RFP”) and contract for the BE Plan 2 administrator explicit requirements that its outreach staff will have technical expertise and/or qualifications in school bus electrification and charging infrastructure interoperability knowledge and advocacy. Additionally, ComEd states that it will ensure that its FEA follow similar standards and recommendations. This approach will ensure that BE Plan 2 funds can be used to provide school districts with the necessary support to transition to electric school buses, in addition to the support offered through ComEd’s Public School Carbon Free Assessments (“PSCFA”) program. *Id.* at 55.

Above and beyond the changes that ComEd accepted, Staff provided three additional recommendations to this sub-program that the Commission should reject. First, Staff recommends that ComEd become the authority monitoring and enforcing the 97% uptime reliability standard, as well as reporting on public charger reliability. ComEd notes, this would also include, for example, establishing Service Level Agreements with third-party public EV charging providers to monitor and financially enforce charger reliability standards, publicly sharing charger uptime in online platforms, and regular reporting of charger uptime performance to the Commission. Staff Ex. 6.0 at 17-20. ComEd argues this recommendation is simply not feasible because “ComEd does not own or operate EV charging stations and the monitoring, reporting, and enforcing of EV charging station reliability and utilization is outside the scope of ComEd’s proposed BE Plan 2.” ComEd Ex. 3.0 CORR at 54. Specifically, ComEd argues that ComEd does not have any way to regulate reliability and use of third parties’ EV charging stations and ComEd has not included the administrative burdens and costs to do so in its budget for BE Plan 2.

Second, Staff recommends that ComEd incorporate in BE Plan 2 explicit demand-side management strategies, such as distribution time of use pricing and demand-response programs, to enhance grid efficiency and optimize the use of charging infrastructure during off-peak times. Staff Ex. 6.0 at 3; Staff Ex. 17.0 at 5-6. But ComEd has already included demand-side management in BE Plan 2. According to ComEd, residential customers will continue to be required to enroll in a time-variant supply rate as a condition for eligibility for BE Plan 2 rebates. Additionally, the Commission has recently approved a distribution Time-of-Use (“TOU”) rate under ComEd’s Rate Design Investigation (“RDI”). See *Commonwealth Edison Co.*, Docket No. 24-0378, Order at 139, 147-148, 160 (Jan. 16, 2025). Regarding Staff’s proposal for a C&I distribution TOU

rate, the C&I distribution rate is already a TOU rate. ComEd Ex. 6.0 at 56. For non-residential customers, ComEd has agreed to prioritize managed charging as part of its BE Plan 2 R&D Program and will include a C&I managed charging project in the R&D project pool. According to ComEd, Staff does not make clear what additional demand response strategies it requests.

Third, Staff proposes strengthening ComEd's uptime requirements. ComEd argues that it "does not have any way to regulate reliability and use of third parties' EV charging stations and ComEd has not included the administrative burdens and costs to do so in its budget for BE Plan 2." ComEd IB at 19. ComEd states BE Plan 2 provides that, as a condition of receiving EV make-ready rebates incentivizing publicly accessible charging stations, the applicant must agree to "maintain at least a 97% uptime reliability standard, consistent with the NEVI Standards and Requirements." ComEd Ex. 1.01 at 46. ComEd further states that the plan also requires the applicants receiving those rebates to provide annual reliability reports that include, among other information: "[t]he quarterly and annual percentage uptime for each EV charging station." *Id.* ComEd also has agreed to include data on EV charging station annual utilization in its BE Plan 2 annual reports. ComEd Ex. 6.0 at 19. ComEd argues that it does not propose, and the Commission should not require, that ComEd adopt and implement any sort of "policing" or "regulatory" regime to be performed after rebates are issued, whether directly or through service-level agreements ("SLAs"), to verify that such rebate recipients have met or are meeting the 97% uptime reliability standard.

According to ComEd, Staff's proposal to strengthen these uptime requirements has four additional elements: (1) ComEd should enter into SLAs with public EV charging service providers receiving rebates, which would impose real-time uptime tracking and reporting requirements to make the providers accountable for meeting the 97% uptime standard in the proposed BE Plan 2; (2) the SLAs should include clear performance benchmarks, including response times for addressing downtime incidents, proactive maintenance schedules to minimize service disruptions, and regular system health checks; (3) ComEd should enforce compliance through "appropriate means, such as fixed monetary fines ... or reductions in rebate funds;" and (4) ComEd should conduct periodic audits or performance reviews of rebate recipients to verify compliance with uptime requirements.

ComEd argues, Staff's proposal is not feasible or practical and lacks a legal basis. ComEd explains how it does not own or operate the EV charging stations, and the monitoring, reporting, and enforcing of EV charging station reliability is beyond the scope and budget of the proposed BE Plan 2, except as provided above. ComEd Ex. 3.0 CORR at 54; ComEd Ex. 6.0 at 7. Moreover, ComEd argues that it is not aware of any legal basis in Section 45 of the EV Act for the proposed fines. ComEd also argues that to the extent the charging stations are customers, Section 10-108 of the Public Utilities Act, 220 ILCS 5/10-108, provides for utility complaints against customers for alleged violations of the Public Utilities Act or of Commission's rules or orders, but Section 10-108 does not afford a legal basis for a utility to levy fines on customers. ComEd further argues that to the extent the relationship between ComEd and the charging stations is strictly contractual, enforcing fines and penalties in state court is likely to cost significantly more than any funds recouped.

According to ComEd, Staff's testimony makes the point that EV charger reliability is important. ComEd agrees. Nonetheless, ComEd states that Staff's testimony does not show that its proposed "real-time" uptime enforcement regime is required, that ComEd has the legal authority to issue the proposed fines, or that the structure would be worth its burdens and costs. See Staff Ex. 6.0 at 5, 17–19, 19–20; Staff Ex. 17.0 at 3, 42–44. Instead, ComEd notes that Staff attempts to shift this burden to ComEd, stating that "if ComEd identifies concerns about the cost implications of these recommendations, it should provide the Commission with detailed justifications and cost analyses." Staff IB at 84. ComEd argues that setting aside the legality (or illegality) of Staff's proposal, this is obviously not something that ComEd can do at the briefing stage of the proceeding. Certainly, any increased costs from this proposal are not accounted for in any part of the BE Plan 2 budget. ComEd states, this topic is something that the parties would possibly be able to address in the BE Plan 3 pre-filing stakeholder collaboration process, allowing all parties to reevaluate this issue at that time.

Therefore, ComEd argues that Staff's three additional recommendations should not be adopted because they are impracticable, outside of the scope of BE Plan 2, would add administrative costs and burdens, or are unnecessary. ComEd further argues that the Commission should adopt ComEd's proposal for its C&I and Public Sector EV Make-Ready Sub-program, as updated over the course of this proceeding.

#### **(ii) Staff's Position**

Staff recommends the Commission direct ComEd to consider setting a minimum budget target for small fleets for its Make-Ready Sub-program and require ComEd to detail its progress toward achieving this target and address any barriers the Company identifies in the process in its annual report. Staff Ex. 15.0 at 6-7.

Staff recommends the Commission direct ComEd to include data such as the allocation of funds to small fleets, the number of small fleet participants, program participation rates, and the overall effectiveness of outreach efforts related to the FEA Program. While Staff did not recommend the same detail for the Make-Ready Sub-program in ComEd's annual reports, if the Commission adopts Staff's recommendation related to reporting small fleet data for the FEA Program, then the Commission should adopt that recommendation for the Make-Ready Sub-program to ensure consistent and transparent reporting of programs that are under the same sub-program.

The Company, in its surrebuttal testimony, agreed to make "best efforts to target 30% of charging depot funds going to depots of self-reported small fleets of 15 vehicles or less and to including in the annual report progress against this target." ComEd Ex. 6.0 at 54. Staff understands this issue is uncontested between Staff, EDF/RHA/SC, and ComEd. The Commission should memorialize the Company's agreement noted above with respect to the EDF/RHA/SC and Staff's recommendations.

Staff recommends ComEd incorporate demand response programs into its C&I and Public Sector Make-Ready Sub-program. Staff Ex. 6.0 at 8-9; Staff Ex. 17.0 at 4-6. In response, ComEd clarified that it does not consider this sub-program to be a main driver of compliance with Section 45(d)(1). ComEd Ex. 6.0 at 12. Additionally, ComEd detailed its residential time-variant rate offerings and explained how it will prioritize managed charging for non-residential customers. *Id.* at 56. ComEd's additional

information and further commitments have satisfied Staff's concerns regarding this sub-program.

Staff further states that the Commission should find that ComEd's proposed measures to ensure public EV charger reliability are insufficient and direct ComEd to adopt additional mechanisms to enforce the stated 97% uptime standard. Staff Ex. 17.0 at 42. High reliability of public EV chargers is critical to building consumer confidence and encouraging widespread EV adoption. Staff Ex. 6.0 at 17-20; Staff Ex. 17.0 at 42-43. While ComEd's BE Plan 2 includes a 97% uptime standard for public chargers, additional enforcement mechanisms will help ensure compliance. ComEd Ex. 1.01 at 46; Staff Ex. 6.0 at 17-20; Staff Ex. 17.0 at 42-43. In Staff's opinion, without such mechanisms, infrastructure could become unreliable which would undermine program goals and erode public trust. Staff Ex. 17.0 at 42-43.

To address these reliability concerns, Staff recommends several specific and actionable measures to strengthen ComEd's uptime requirements. First, real-time uptime tracking and reporting should be incorporated into service-level agreements ("SLAs") with public EV charging providers receiving rebates, which would shift the monitoring burden from ComEd to the providers and ensure direct accountability for meeting the 97% uptime standard. *Id.* at 46. Second, SLAs should include clear performance benchmarks, including response times for addressing downtime incidents, proactive maintenance schedules to minimize service disruptions, and regular system health checks to prevent outages. *Id.* Third, compliance should be enforced through appropriate means, such as fixed monetary fines for each day of downtime exceeding allowable limits or reductions in rebate funds for repeated violations of uptime standards. *Id.* at 46-47. Fourth, to minimize administrative burdens, ComEd could conduct periodic audits or performance reviews of rebate recipients to verify compliance with uptime requirements instead of directly monitoring uptime in real time. *Id.*

Implementing these measures would help ensure the reliability of ComEd's public EV charging infrastructure and maintain alignment with the Commission's 97% uptime standard. *Id.* at 46. This approach would enhance user confidence, encourage EV adoption, and support the broader objectives of ComEd's BE Plan 2. *Id.* Additionally, if ComEd identifies concerns about the cost implications of these recommendations, it should provide the Commission with detailed justifications and cost analyses. *Id.* at 46-47.

ComEd asserts that requiring it to monitor and enforce a 97% uptime reliability standard for public EV chargers is beyond the scope of its responsibilities under the BE Plan 2. ComEd emphasizes that it does not own or operate EV charging stations and, therefore, cannot regulate their reliability. *Id.* Staff disagrees, because public EV charger reliability is critical to achieving the statutory objectives of the EV Act, particularly equitable access and EV adoption in LICs and EIECs. While ComEd does not operate EV chargers, reliability requirements can be enforced through SLAs with rebate recipients, ensuring accountability while avoiding undue administrative burdens on ComEd. *Id.*

Staff recommends that ComEd require rebate recipients to comply with a 97% uptime reliability standard through SLAs that include clear performance benchmarks,

such as response times for downtime incidents and proactive maintenance schedules, while minimizing administrative burdens by conducting periodic audits of rebate recipients to verify compliance instead of directly monitoring uptime.

**(iii) AG's Position**

See proposed modifications in Section IV.C.1.

**(iv) EDF/RHA/SC's Position**

EDF/RHA/SC urge the Commission to direct ComEd, as part of its BE Plan 2, to set a minimum budget target of 30% of spending on fleet electrification within the Make-Ready Sub-program going towards small fleets, defined as those with 15 or fewer vehicles. EDF/RHA/SC assert, however, this target should not be binding, and ComEd should retain the budget flexibility to shift funding towards larger fleets if there is insufficient interest in the program from small fleets. They also propose that ComEd be required to include in its annual report reporting “on its progress towards achievement of the target, barriers identified towards achievement of the target, and any steps ComEd has taken to overcome those barriers.” *Id.*; EDF/RHA/SC Ex. 1.0 at 20. EDF/RHA/SC contend the recommended 30% initial target is appropriate as an initial target. According to EDF/RHA/SC, this would align with the recommended 30% minimum targets for ComEd’s FEA Sub-program (discussed below) and balances the importance of ensuring small fleets are not left behind in this transition with the importance of allowing ComEd the flexibility to ensure efficient deployment of its BE Plan budget. They note that no ComEd witness disagreed with EDF/RHA/SC witness Urbaszewski’s recommended 30% target. While they acknowledge that Staff witness Sanders did express concern that the 30% figure is unsupported in the record (Staff Ex. 15.0 at 4), EDF/RHA/SC point out that neither he nor any other Staff or ComEd witnesses offered an alternative figure despite their support for the target generally. They also point out that Staff “supports EDF/RHA/SC’s clarified recommendation and ComEd’s agreement” and “understands this issue is uncontested between Staff, EDF/RHA/SC, and ComEd.” Staff IB at 16.

EDF/RHA/SC also urge the Commission (EDF/RHA/SC RB at 5-6) to reject the AG’s recommended reduction in customer incentives by reducing the budget. They argue that the flexibility allowed by the target would guard against detrimental outcomes in the implementation of ComEd’s BE Plan 2, and that robust annual reporting requirements would allow ComEd and the Commission to adjust this figure in future iterations of the plan based on real-world data.

**(v) EVgo's Position**

EVgo asserts that the Commission should approve the agreed-upon three-year entity cap because it has the advantage of recognizing that EV Service Providers (“EVSPs”) development cycles do not neatly align with BE Plan program years. EVgo Ex. 2.0. at 4. Moreover, EVgo states that the agreed-upon three-year entity cap also addresses concerns raised by EDF/RHA/SC concerning timing and access to incentive funding. EDF/RHA/SC Ex. 4.0 at 6.

EVgo notes that the agreed-upon three-year entity cap did not address all aspects of how ComEd would apply the entity caps throughout the BE Plan 2 cycle, nor did it address proposals which ComEd introduced in surrebuttal testimony. Specifically, in

surrebuttal testimony, ComEd requested the ability to modify the entity caps for individual plan years in BE Plan 2 in response to changes in uptake patterns. ComEd Ex. 6.0 at 56. The Company stated that it desires this flexibility to avoid a situation where only a few entities use the entirety of the program budget before other entities can participate. *Id.* at 52. Thus, in EVgo's opinion, ComEd requests the discretion to change the entity caps, with such changes not subject to feedback from stakeholders or approval by the Commission. In addition, ComEd did not propose any process which would give stakeholders the ability to comment on the criteria that ComEd would use when adjusting the entity caps.

EVgo notes that ComEd later clarified in response to discovery that it does not plan to collaborate with other stakeholders to develop the criteria under which it would alter the entity caps. Staff Cross Ex. 1.0 at 10-11. ComEd added it will finalize criteria for reassessing entity caps before December 30 of every BE Plan 2 program year, such that it can communicate changes to customers by December 30 and implement the changes by January 8 of the subsequent BE Plan 2 program year. *Id.* at 11. Thus, EVgo asserts that, in practice, ComEd proposes to have the ability to change the entity caps for any of the BE Plan 2 program years between 2026 and 2028, to exclusively develop the criteria for such alteration, and to potentially change the criteria from year to year. Moreover, stakeholders will only know the criteria used by ComEd to adjust the entity caps, and what the actual adjustments to the entity caps will be, nine days before the Company implements these changes, i.e., the time between December 30 and January 8.

EVgo asserts that ComEd's request to have unilateral authority to develop the criteria for adjusting the entity caps, and the discretion to change those caps without stakeholder engagement, creates an opaque process that will lead to uncertainty and may discourage program participation. Thus, EVgo recommends that the Commission require ComEd to take the following actions that will help define the scope of its discretion in adjusting the entity caps. Specifically, EVgo states the Commission should adopt two recommendations.

First, EVgo recommends that if the Commission grants ComEd the discretion to change the entity caps annually, the Commission should direct ComEd to collaborate with Staff and other stakeholders to develop and publish criteria for modifying entity caps prior to the implementation of the program. EVgo maintains that these criteria should apply across all program years and should clarify the scenarios under which a cap would be modified and to what degree a cap may be adjusted. This stakeholder process should begin no later than July 1, 2025.

EVgo states that the Commission should adopt this proposal because allowing ComEd the ability to develop the criteria to change the entity caps and permitting the Company to change those criteria each year introduces significant uncertainty into the program and may impact program participation. EVgo notes that private entities that hope to participate in the program undertake multi-year planning processes for network expansion that account for incentive availability and eligibility. EVgo states that ambiguity regarding these program design features adds friction to this process. While EVgo understands ComEd's desire to limit the inefficiencies associated with a stakeholder process, EVgo maintains that such a process is crucial to ensuring the program provides adequate certainty and is administered equitably and fairly. EVgo recommends that this

stakeholder process begin no later than July 1, 2025, which is in alignment with the date proposed by Staff for this process. See *id.* at 10. EVgo asserts that this deadline will give the Company and stakeholders six months to develop the criteria that ComEd will use for the 2026-2028 BE Plan 2 cycle before the Company implements the plan in January 2026.

Second, EVgo recommends that the Commission direct ComEd to conduct a process to gather and incorporate stakeholder feedback following any proposal from ComEd to revise the entity caps. ComEd proposes to have the ability to publish criteria it will use to adjust the caps and the changes that the Company will make to the entity caps by December 30 of each BE Plan 2 program year. The Company will then implement the changes to the entity caps by January 8 of the following year. EVgo states that this process puts only nine days between ComEd's deadline to publish the criteria it will use to adjust the entity caps, along with the announcement of the changes to the caps, and the Company's changes to the caps.

EVgo states that the Commission should not adopt this structure but instead direct the Company to share cap modification proposals with stakeholders by November 1 of each plan year, conduct a process to gather and incorporate stakeholder feedback, and announce the final cap levels on December 1 of each plan year before implementing any changes the following January. EVgo states that proposal will allow additional time for stakeholders to offer feedback on proposed changes to the entity caps based on the established criteria and will allow potential participants additional time to plan around any changes to the caps.

Thus, EVgo requests that the Commission direct ComEd to adopt EVgo's recommendations regarding implementation of the entity caps to increase program certainty for prospective BE Plan 2 participants. EVgo recommends that the Company incorporate these recommendations into its compliance filing which it will submit after the Commission's Final Order in this proceeding.

EVgo notes that Staff and EDF/RHA/SC request that the Commission adopt ComEd's surrebuttal version of the Make-Ready Sub-Program but do not recommend formal processes for stakeholders to provide feedback on the criteria for adjusting the entity caps or on the proposed adjustments to the entity caps. EVgo maintains that the Commission should not adopt these recommendations because they would result in an opaque process that will lead to uncertainty for applicants and may discourage program participation.

EVgo agrees with Staff that the entity caps must serve the EV Act and should not stymie large-scale or transformative electrification projects. However, EVgo argues that Staff's recommendation does not include a process that would guarantee the ability for stakeholders to provide feedback on the criteria to be used to adjust the entity caps or on proposed cap modifications. Nor does Staff's recommendation provide applicants with transparency into the decision-making process around changes to the entity caps. EVgo states that granting ComEd the unilateral authority to change the entity caps for any of the BE Plan 2 program years between 2026 and 2028, to exclusively develop the criteria for such alteration, and to potentially change the criteria from year-to-year would introduce significant uncertainty in the Make-Ready Sub-Program. EVgo asserts that Staff's

proposal for parties to provide ComEd with informal feedback on the entity caps, which the Company would then use to potentially adjust the caps annually, does not provide EVSPs with the requisite certainty. Thus, the Commission should not adopt Staff's recommendation. Instead, EVgo recommends that the Commission adopt EVgo's proposals to define the scope of the Company's discretion in adjusting the entity caps, which provide the flexibility envisioned by Staff but create a more inclusive and transparent process for both stakeholders and the Commission. EVgo states that such a process is crucial to ensuring the program provides adequate certainty and is administered equitably and fairly.

For similar reasons, EVgo asserts that the Commission should not accept EDF/RHA/SC's defense of ComEd's ability to adjust annually the entity caps. EDF/RHA/SC states that ComEd should have this authority because the Company should retain "flexibility to adjust entity caps by customer group" but do not recommend additional process. EDF/RHA/SC IB at 21. EVgo acknowledges that the Company would retain the discretion to adjust the entity caps under ComEd's proposal but maintains that the power, as currently constituted, introduces significant uncertainty in the Make-Ready Sub-Program which could impact program success. EVgo states that the Commission should take steps to ease this uncertainty, create greater transparency, and promote inclusiveness to satisfy the requirements of the EV Act. Section 45(d)(5) of the EV Act requires that BE Plan 2 be designed and reasonably expected to "[s]timulate innovation, competition, private investment, and increased consumer choices in electric vehicle charging equipment and networks." 20 ILCS 627/45(d)(5). EVgo maintains that the Commission can effectively encourage private investment by adopting EVgo's recommendations regarding the process for adjusting entity caps.

#### **(vi) Commission Analysis and Conclusion**

The Commission agrees with EVgo that it is appropriate to include a stakeholder process for when the entity caps need to be adjusted. The process would increase transparency for interested stakeholders. It also appears that Staff's concern regarding demand response have been satisfied by ComEd. In addition, ComEd has committed to using best efforts to target 30% of charging depot funds going to depots of self-reported small fleets of 15 vehicles or less and to include in the annual report progress against this target. The Commission approves these modifications to BE Plan 2 and finds that they further the goals of the EV Act.

While the Commission agrees with Staff that uptime requirements provide value and support the goals of increasing EV adoption in the State of Illinois, the Commission does not find that the record supports Staff's position. Based on the record evidence, the Commission finds that ComEd does not need to conduct audits or performance reviews of independent third-party vendors. Accordingly, the Commission rejects Staff's recommendations for monitoring for EV chargers. The Commission notes ComEd states this is a topic that the parties may be able to address in the BE Plan 3 pre-filing stakeholder collaboration process, thus allowing all parties to reevaluate this issue at that time. The Commission directs the Company to address the issues related to uptime standard enforcement in its BE Plan 3 pre-filing stakeholder collaboration process.

It appears that the only remaining dispute surrounding the caps is the extent to which stakeholders should be involved in the decision-making process. Although the Commission appreciates ComEd's concerns that EVgo's proposed process could delay implementation, the Commission finds that it is important that interested stakeholders be notified of any proposed changes and be allowed to provide input. The Commission orders ComEd to conduct a stakeholder collaboration process in the event that ComEd decides to change the entity caps in any of the C&I and Public Sector Sub-programs in order to consult with Staff and stakeholders on proposed changes.

The Commission approves the C&I and Public Sector EV Make-Ready Sub-program as modified.

### **3. Customer Education and Awareness Program**

#### **a. ComEd's Position**

ComEd argues that the Commission should approve the Customer Education and Awareness ("CE&A") Program. The CE&A Program's annual average budget is \$3.7 million. ComEd Ex. 1.0 at 31. According to ComEd, this program has three components: (1) FEA; (2) Marketing Tactics; and (3) Other Customer Educational Tools, which includes various additional customer resources such as the Residential and fleet EV Toolkits and potential partnerships to support education, awareness, and readiness for transition to EVs. ComEd Ex 1.01 at 47-48. ComEd argues that these components include "activities that increase customers' awareness of the benefits of clean energy, transportation electrification opportunities, and the rebate programs available through ComEd's BE Plan 2." ComEd Ex. 1.0 at 29.

ComEd notes that the AG contests the CE&A budget, proposing to cut it in half. AG Ex. 1.00 at 20, 25; AG Ex. 2.00 at 12. ComEd further notes that the AG claims ComEd has provided no CE&A budget details and that BE Plan 2 exceeds the 1% retail rate cap for EV infrastructure defined in EV Act Section 45(g). AG Ex. 1.00 at 23; AG Ex. 2.00 at 12. On the contrary ComEd argues that ComEd has provided extensive CE&A budget details. See *e.g.*, ComEd Ex. 1.0 at 12-13, 31; ComEd Ex. 1.01 at 46-48; ComEd Ex. 3.0 CORR at 58-59; ComEd Ex. 6.0 at 37 (including Table 6 detailing estimated breakdown of CE&A Program budget). ComEd addresses the 1% limit argument in the Section IV.D.4. Aside from the AG's unsupported claims, the only contested issue regarding the CE&A Program concerns marketing tactics, discussed in its own subsection below.

According to ComEd, Staff witness Poon proposed three conditions for the CE&A Program to which ComEd has agreed. First, Staff witness Poon proposed that ComEd's BE Plan annual report should provide an overview of performance data that is available, and of how it affected program implementation. Staff Ex. 14.0 at 15, 17. ComEd notes they have agreed to that request. ComEd Ex. 6.0 at 63.

Second, ComEd states that Staff witness Poon requests that ComEd address whether one aspect of the program, the mobile education unit, is cost-effective. Staff Ex. 14.0 at 18-19, 23. ComEd explains that the proposed mobile education unit, a leased fully electric box truck, will provide customer benefits because it is a valuable and unique customer education tool at a reasonable cost. ComEd argues that the unit will bring hands-on electrification education directly to customers and communities, including

LIC/EIEC, going beyond the typical event footprint. According to ComEd, customers will be able to interact with various electrification technologies and understand the benefits of the switch to electric through a self-guided, ADA-compliant experience, with an action plan linking customers to programs, incentives, and rebates to support their electrification journey. ComEd explains that the budget for this unit is \$2.35 million over the BE Plan 2 three-year period. ComEd argues that while it is difficult to quantify its benefits at this time, this is a unique educational opportunity that extends beyond what is currently available. With a visitor capacity of about 500-700 people per day and 10-15 people in the unit at the same time, this will allow approximately 42,000 people per year to walk through the unit at an operational cost of approximately \$26 per person per visit. ComEd Ex. 6.0 at 38, 64-65. ComEd argues that the unit is a great example of how ComEd has listened to Staff and stakeholders about their desire to ensure that its CE&A Program has a heavy focus on customer education.

Third, ComEd states that Staff witness Poon requested that ComEd's surrebuttal testimony address Ms. Poon's concern regarding how ComEd's proposed reduced CE&A budget in later years (2027-2028) will impact future effectiveness of the program. Staff Ex. 14.0 at 18-19, 23. ComEd explains that the reduced budget will not compromise ComEd's ability to promote customer awareness and offer customer education regarding beneficial electrification, that the first year (2026) includes asset production costs that will not be necessary in later years (2027-2028), and that as customer awareness increases, broad-reach awareness tactics can be decreased. ComEd Ex. 6.0 at 65.

Further, in the interest of narrowing the issues, ComEd agrees with Ms. Poon's recommendation to not use the CE&A Program's potential benefits to satisfy Section 45(d)(1) of the EV Act and will make this change in its compliance filing.

ComEd argues that the Commission should approve ComEd's proposed CE&A Program, as modified, and explained, including its proposed budget. ComEd addresses three discrete components of the CE&A Program below in more detail below.

#### **(i) Marketing Tactics**

ComEd argues that the proposed CE&A Program general marketing activities build on the CE&A Program marketing activities in BE Plan 1. ComEd explains that the CE&A Marketing activities endeavor to expand general customer awareness of EVs, charging infrastructure, ComEd's educational tools, and rebates available through ComEd's BE Plan 2 Programs to a wide range of customers. ComEd Ex. 1.0 at 30. ComEd argues that its effort includes targeted outreach to engage low-income customers and those in LICs/EIECs, helping to secure engagement from those groups. *Id.* at 30. Similar in intent and design to CE&A efforts included in ComEd's BE Plan 1, funded activities include a host of tactics ranging from advertising and customer newsletters and bill inserts to community event engagement and education. *Id.* at 30; *see also* ComEd Ex. 1.01 at 47-48. "CE&A materials will be offered in multiple languages, resources will be offered both online and offline, and all materials will be competitively neutral. ComEd will also leverage experience and past success in CE&A efforts with BE Plan 1 and multiple other ComEd programs to raise awareness among all customers of BE Plan 2 and its offerings." ComEd Ex. 1.01 at 48.

According to ComEd, Staff and the AG made four programmatic recommendations regarding the CE&A Program marketing activities. ComEd is addressing those recommendations to the extent they are practical and feasible. First, Staff witness Poon recommended that ComEd consult Staff and community stakeholders when developing CE&A and other marketing materials. Staff Ex. 3.0 at 11-13. ComEd has agreed to consult Staff and interested stakeholders about its marketing plan, including key overarching themes and messaging, and potential financial benefits of electrification, but does not agree to sharing draft marketing materials for consultation purposes. See ComEd Ex. 6.0 at 35, 63; Staff Ex. 14.0 at 11, 17. ComEd relies on internal and external subject matter experts to develop its marketing materials and to use research to ensure messaging is tailored, targeted, and effective. Sharing draft marketing materials is not a common practice under any other ComEd program. Such a practice here would be impractical, and it would introduce delays, inefficiencies, and additional costs to customers. ComEd Ex. 3.0 CORR at 7, 57; ComEd Ex. 6.0 at 35, 63.

Second, Staff witness Poon recommended that ComEd provide CE&A Program detailed performance data from BE Plan 1 and indicate how this data was used to modify the CE&A Program in Plan 2. Staff Ex. 3.0 at 11-14. ComEd's rebuttal testimony provided some of the requested data, but the recommendation overall was not feasible. ComEd states that it was scheduled to conduct its biannual electrification study in November 2024, after ComEd's rebuttal testimony was due on October 24, 2024. Learnings from that study, combined with fully collected and evaluated metrics from the BE Plan 1 advertising campaign and a post-campaign awareness survey, will be used in the development of any new CE&A materials, including fact sheets, brochures, web content, and updated ads. ComEd Ex. 3.0 CORR at 58.

Third, Staff witness Poon recommended that ComEd "provide a detailed budget that breaks out the \$11 million CE&A Program [three-year] budget by various tactics and across different audiences," asserting that ComEd had not provided sufficient justification for the budget. Staff Ex. 3.0 at 12, 14-15. ComEd argues that the recommendation was not feasible. BE Plan 2 does not go into effect until 2026. ComEd does not yet have a detailed line-by-line breakdown of the CE&A budget for 2026-2028. ComEd can state at this time that: "Exemplary tactics and activities that are expected to be covered with the CE&A budget starting in 2026 include STEM Centers and Mobile Education Unit, FEA, advertising (TV, Radio, Social, and Out of Home), support of the Metropolitan Mayors' Caucus ("MMC"), maintenance and further development of ComEd's EV Toolkit, community events, bill inserts, and customer research, among others." ComEd Ex. 3.0 CORR at 58-59.

Fourth, Staff witness Poon and AG witnesses Alvarez and Gouin recommended that ComEd's surrebuttal testimony address the AG's question of whether the CE&A Program budget is overstated given ComEd's existing resources for marketing efforts. Staff Ex. 14.0 at 21-22; AG Ex. 2.00 at 12-13. ComEd argues that the budget is not overstated. ComEd explained that the marketing materials will be new materials tailored to BE Plan 2. In addition, the mobile education unit is new. ComEd Ex. 6.0 at 63-65.

## (ii) Fleet Electrification Assessment

ComEd argues that the Commission should approve the FEA portion of the CE&A Program. Under this program, ComEd will make FEAs available as a tool to support customers' understanding of the value of EVs for their businesses or municipalities. Drawing on experience from BE Plan 1, ComEd will work with eligible customers to collect, evaluate, and analyze fleet operations data and provide an assessment of customers' transportation electrification opportunities, costs, and benefits. ComEd notes that BE Plan 2 updates the existing FEAs in BE Plan 1 to reflect experience under that program, pre-filing stakeholder feedback, and consideration of feedback from EDF/RHA/SC in the instant case. In particular, ComEd agreed to conduct best efforts to target 30% of FEA budget to self-reported small fleets and to report on small fleet participation and effectiveness of FEA in the annual report. FEAs have an annual average budget of \$560,000. ComEd Ex. 1.0 at 30; ComEd Ex. 1.01 at 47; ComEd Ex. 3.0 CORR at 7, 60-61; ComEd Ex. 6.0 at 38, 54-55. ComEd argues the Commission should approve the FEA portion of the CE&A Program.

According to ComEd, in negotiating the common outline for these briefs, the parties agreed that this issue was uncontested. In their Initial Briefs, however, both EDF/RHA/SC and Staff offer new proposals for the FEA portion of the CE&A Program. ComEd argues that for the reasons discussed below, to the extent other parties do not object, ComEd is amenable to the EDF/RHA/SC and Staff proposed additions to the FEA portion of the CE&A Program as clarified below.

First, ComEd notes that EDF/RHA/SC lists five "minor modifications" that it recommends the Commission make to ComEd's FEA proposal. EDF/RHA/SC IB at 7, 27-29. ComEd argues that while ComEd did agree to most of these modifications, ComEd did not agree to "include in its annual compliance filings for BE Plan 2 additional information on how ComEd coordinates its fleet investments and its customer interconnection processes, including outlining the steps in the interconnection process and estimated interconnection timeline for fleets participating in the program." *Id.* at 7 (enumerated item 4). Indeed, there is no such thing as BE "annual compliance filings."

ComEd argues instead that it agreed to "include...in the final FEA report step-by-step new service request process to follow, an estimated new service connection timeline, and a dedicated point of contact for support throughout the entire customer journey." ComEd Ex. 3.0 CORR at 61. ComEd also did not agree to "include assistance to small fleets in applying for grants, rebates, and low-cost financing options." EDF/RHA/SC IB at 7 (enumerated item 3). *See also id.* at 27. However, in order to narrow the issues, ComEd agrees to offer assistance to small fleets in applying for grants and rebates as part of the FEA process.

Second, ComEd states that Staff supports ComEd's FEA proposal, but "recommends the Commission direct ComEd develop a clear plan to assist small fleets in accessing grants and rebates." Staff IB at 19. ComEd states its commitment above to include assistance to small fleets in applying for grants and rebates as part of the FEA process meets Staff's ask.

**(iii) Other Customer Educational Tools**

ComEd argues that the Commission should approve ComEd’s proposed CE&A Program’s other customer educational tools, which are uncontested. These tools include resources such as ComEd’s EV toolkits and partnerships and resources to support education, awareness and readiness for transition to EVs. “ComEd intends to continue making available online, self-service tools that support customer education and inform related decision-making and Program access. ComEd’s existing Residential and Fleet EV Toolkits are an example of this kind of tool. These tools are web-based resources that allow potential EV adopters to estimate vehicle costs and savings, explore charging options and estimated localized grid capacity, learn about the pros and cons of EVs, discover rate options, and more.” ComEd Ex. 1.0 at 31; *see also* ComEd Ex. 1.01 at 46-48. ComEd confirmed to Staff that the EV Toolkits will address environmental benefits of EVs. The budget allocated for “other customer educational tools” is \$275,000 annually, on average. ComEd Ex. 3.0 CORR at 59; ComEd Ex. 6.0 at 38, 45, 61.

**b. Staff’s Position**

**(i) Marketing Tactics**

Staff states that the Commission should approve the Company’s proposed \$11 million budget for the CE&A Program for the BE Plan 2 period, contingent upon the adoption of three provisions. First, for its CE&A Program and program-level marketing, the Company should share not only its marketing plan, but also any new marketing materials and any marketing materials that have been updated for BE Plan 2 from BE Plan 1 with Staff and other interested stakeholders. Staff Ex. 14.1 at 17. Both the marketing plan and materials should be shared in December of the year prior to the launch of the marketing materials – the timeframe ComEd specified for sharing its marketing plan only – to ensure that stakeholder feedback is considered before the launch of new materials. *Id.* Second, the Company should include performance data such as the post-campaign awareness study and the biannual electrification tracking studies in its annual reports. The reports should also include an explanation of whether this data led to changes in its marketing campaigns, and, if applicable, details on how those changes were implemented. Staff Ex. 14.0 at 22-23. Finally, the Company should focus on the financial benefits of electrification in its marketing to customers. Staff Ex. 14.0 at 22.

The AG recommends reducing the CE&A budget from \$11 million to \$5.5 million, arguing ComEd provided insufficient justification for the proposed amount. AG Ex. 2.00 at 12-14. While Staff acknowledges that more information from ComEd would be beneficial, particularly about whether the CE&A Program budget could be overstated given ComEd’s existing resources for its marketing efforts (ComEd IB at 25-26), Staff believes the additional information that the Company provided in its surrebuttal testimony is sufficient for the Commission to approve the Company’s proposed \$11 million CE&A budget so long as the above three provisions are also adopted. Staff also addresses the AG’s concerns in Section IV.C.1. *See also* Staff Ex. 14.0 at 17-24, 47-48.

ComEd has agreed to share only its marketing plan with Staff and stakeholders but does not agree to sharing draft marketing materials arguing that sharing draft marketing materials prior to their launch is impractical and is not a common practice under any other ComEd program. Staff disagrees, noting its review of ComEd’s performance

data on marketing materials and emphasizing the importance of ensuring that funding is allocated to channels that deliver tangible outcomes. Staff Ex. 14.0 at 17. ComEd also noted that learnings from its biannual electrification study, conducted in November 2024, fully collected and evaluated metrics from the BE Plan 1 advertising campaign, and a post-campaign awareness survey will inform the development of new CE&A materials and refine other marketing materials. However, Staff remains concerned with ComEd's delayed responsiveness to the performance data already available. Staff Ex. 14.0 at 11. Staff continues to recommend that ComEd share draft marketing materials so that the Company can adapt more quickly to stakeholder feedback during the development phase of its materials. *Id.* As with BE Plan 1, the marketing materials should remain competitively neutral. *Id.*

## (ii) Fleet Electrification Assessment

Staff recommends the Commission adopt EDF/RHA/SC's recommendation to improve ComEd's FEA Program. Staff Ex. 20.0 at 4. Specifically, the Commission should require ComEd to implement the following: (1) allocate 30% of the FEA Program budget to assess small fleets (15 or fewer vehicles) and target small fleets for 30% of annual program participation, with flexibility for larger if needed; (2) expand the program to assist small fleets with applying for grants, rebates, and low-cost financing to support electrification; and (3) align the FEA Program with EV charger installation processes, including grid readiness assessments, infrastructure upgrades, clear connection timelines, and a single point of contact for fleet operators. EDF/RHA/SC 1.0 at 11. ComEd responded positively to aspects of EDF/RHA/SC's recommendations. Staff Ex. 20.0 at 5-7; ComEd Ex. 3.0 CORR at 60-61.

ComEd acknowledged the importance of focusing on small fleets to advance equity and committed to striving toward a 30% allocation of FEA funds for small fleets. Staff Ex. 20.0 at 5-6; ComEd Ex. 3.0 CORR at 60. ComEd noted that dedicating funds requires significant outreach efforts and tools the Company currently lacks. *Id.* Nonetheless, ComEd agreed to make its best effort to allocate 30% of funds to small fleets and to track and report on participation and program effectiveness. Staff Ex. 20.0 at 6; ComEd Ex. 3.0 CORR at 60. This commitment is a positive step toward addressing the unique needs of small fleets. Staff Ex. 20.0 at 6. Staff recommends the Commission direct ComEd to include this data – such as the allocation of funds to small fleets, the number of small fleet participants, program participation rates, and the overall effectiveness of outreach efforts – in its annual reports to ensure transparency and accountability. *Id.*

ComEd did not provide a structured plan to assist small fleets in accessing grants, rebates, and financing opportunities. *Id.*; ComEd Ex. 3.0 CORR at 60-61. Staff recommends the Commission direct ComEd develop a clear plan to assist small fleets in accessing grants and rebates. Staff Ex. 20.0 at 2.

ComEd agreed EDF/RHA/SC's recommendation to align the FEA Program with EV charger installation process. Staff Ex. 20.0 at 7; ComEd Ex. 3.0 CORR at 61. ComEd committed to clarifying the steps in its FEA reports, including providing details on the new service request process, estimating connection timelines, and assigning a single point of contact for fleet operators. *Id.* Staff fully supports these improvements, as they will

streamline the deployment of EV infrastructure and optimize grid usage. Staff Ex. 20.0 at 7.

Staff agrees with EFD/RHA/SC that the Commission should reject the AG's recommendation to reduce the budget for the CE&A Program, including the FEA sub-program from a total of \$11 million over three years to \$5.5 million.

The CE&A Program, including the FEA sub-program, are vital because the sub-program helps customers assess electrification opportunities, costs, and benefits by collecting and analyzing fleet data, enabling data-driven EV adoption decisions, such as the program can reduce emissions and improve public health. Staff Ex. 20.0 at 4-5; ComEd Ex. 1.01 at 47.

### **c. AG's Position**

The AG asks the Commission to reduce BE Plan 2's budget because as proposed, it exceeds the 1% retail rate cap for the development of EV infrastructure, and because certain costs are excessive and unreasonable. AG Ex. 2.00 at 20. In order to ensure the BE Plan 2 budget is cost-effective, the AG asks the Commission to remove unreasonable costs. The AG asserts that the BE Plan 2 budget for CE&A is excessive and unreasonable and should be reduced to \$5.5 million, which provides an adequate budget while avoiding duplication with other EV providers and existing educational tools. According to the AG, the record does not support ComEd's proposed level of spending.

The AG's witnesses, along with Staff witness Poon, found that ComEd did not provide enough detail regarding how the Company intends to allocate \$11 million of ratepayer money for education and awareness, which is essentially advertising and marketing. *Id.* at 12. Additionally, Ms. Poon asserted that ComEd provided no evidence that its CE&A spending effectively increased program participation and/or EV adoption. *Id.* at 12-13. ComEd only responded to Ms. Poon regarding the lack of detail and stated that the detail she sought would only be available as part of its annual MYRP reconciliation. *Id.* at 13. The AG asserts that this is a troubling response because the BE Plan should include a plan for CE&A on which to base this substantial \$11 million budget. The Commission and the parties should not have to await the reconciliation to learn how ComEd plans to educate the public about the BE Plan. The AG argues that for the reconciliation to work properly, ComEd needs to provide a detailed CE&A plan and budget ahead of time, including the activities to be funded by that budget, and then justify any deviations from that budget in the reconciliation. 220 ILCS 5/16-108.18(f)(6). ComEd claimed its testimony and filed plan had "extensive" budget details. The AG responds that the Company did not provide the breakdown of its planned expenditures until its surrebuttal testimony, and that this level of detailed information should have been provided in the Company's initial filing. AG Ex. 2.00 at 13.

Furthermore, the AG argues that ComEd's failure to provide a detailed budget for CE&A expenditures raises concerns about duplicative and unnecessary spending in the budget. The CE&A budget has four primary functions: Portfolio marketing; FEA; a Residential customer EV toolkit; and a Fleet Electrification toolkit. AG Ex. 1.00 at 23. All program administrator roles include marketing responsibilities, so there is a risk of duplicated budgets. *Id.* at 23. The AG argues that without budget details, it is impossible to tell if there is duplication among manufacturers that are already providing marketing

and customer education and have a vested interest in doing so. AG. Ex. 2.00 at 13. Specifically, the AG argues that details of ComEd's CE&A spending are required to ensure that ComEd's FEA Sub-program does not unnecessarily duplicate the role of fleet vehicle manufacturers and other stakeholders. *Id.* at 13.

Finally, ComEd developed a thorough EV Toolkit and other marketing materials during BE Plan 1. *Id.* at 13. While ComEd should maintain and update these materials as needed, the AG argues that it does not need to continuously reinvent materials for every BE Plan. *Id.* Therefore, the AG asks the Commission to adopt its adjustment to reduce the Company's CE&A budget from \$11 million to \$5.5 million to ensure duplicative, unnecessary spending is eliminated.

**d. EDF/RHA/SC's Position**

EDF/RHA/SC support ComEd's proposed FEA Sub-program, subject to the incorporation of the three recommendations for the program made by EDF/RHA/SC witness Urbaszewski:

First, the Commission should require ComEd to set a minimum budget target of 30% of spending towards its FEA Sub-program going towards small fleets, and a minimum target of 30% of participating fleets being small fleets. As with the recommended minimum budget target for the Make-Ready Sub-program, this target should not be binding and ComEd should retain the budget flexibility to shift funding towards larger fleets if there is insufficient interest in the program from small fleets. But, the Company should be required to report annually on progress towards this target and related actions. In their Reply Brief, EDF/RHA/SC note that ComEd has adopted, and Staff supports, EDF/RHA/SC's recommendation to target 30% of the FEA sub-program budget annually to self-reported small fleets as an essential means for utilities to help smaller fleets in the transition to electric vehicles, contingent on this targeting being flexible to allow for serving other fleets if there is insufficient small fleet interest in the program. These parties also agree that reporting on these efforts in ComEd's annual report is appropriate.

Second, the Commission should require ComEd to assist small fleets in applying for grants, rebates, and low-cost financing as part of its FEA Sub-program. EDF/RHA/SC recommend that ComEd provide this assistance to help address the upfront financial barriers to electrification many small fleets face, noting that Mr. Urbaszewski explained that this proposal "would be a modest expansion of the scope of the program, as much of the information for such a funding proposal would already be developed as part of the typical FEA" while not incurring additional ratepayer costs. EDF/RHA/SC Ex. 1.0 at 13. They assert that adopting this recommendation could actually produce cost savings for ComEd's BE Plan 2, as any external funding sources may be able to offset the amount of incentives ComEd would provide towards the cost of vehicles and/or charging infrastructure to ensure the customer is not receiving more than 100% of the vehicle/infrastructure cost in support. These funds would then be available to support other customers' electrification efforts, magnifying the benefits of the BE Plan. Given this recommendation's reasonable inclusion within the scope of the current FEA Sub-program, its contribution towards achievement of the EV Act's equity goals, and its

potential to produce cost savings that can increase the benefits of the BE Plan, EDF/RHA/SC urge the Commission to adopt this recommendation in its Order.

Third, the Commission should direct ComEd to include in its compliance filing for its BE Plan 2 additional information on how it will coordinate between its FEA Sub-program and its customer interconnection processes, including outlining the steps in the interconnection process and estimated interconnection timeline for fleets participating in the program. *Id.* Additionally, EDF/RHA/SC recommend that ComEd designate a single point of contact for fleets who can guide fleet representatives through and answer questions about the FEA Sub-program and subsequent interconnection process. They point out that Mr. Urbaszewski made these recommendations given the centrality of the interconnection process to a fleet's electrification and to ensure that the information fleet managers gain in the FEA Program is directly actionable. EDF/RHA/SC Ex. 1.0 at 13-14. EDF/RHA/SC note that ComEd witness Botero agreed that "ComEd is open to driving improvements in its FEA process in BE Plan 2 to ensure that the current alignment with its new service connection process is more explicit and clearer to customers. This may include e.g., calling out in the final FEA report step-by-step new service request processes to follow, an estimated new service connection timeline, and a dedicated point of contact for support throughout the entire customer journey." ComEd Ex. 3.0 CORR at 61. EDF/RHA/SC claim that the compliance filing is the appropriate venue for ComEd to detail where and when it anticipates incorporating each of these three things—an explanation of the new service request process, estimated new service connection timelines, and a single point of contact—in its offerings for FEA Sub-program participants.

Finally, EDF/RHA/SC urge the Commission to reject the AG's recommendation that the budget for the CE&A Program, including the FEA Sub-program, be cut from \$11 million to \$5.5 million. They point out that the AG does not directly take a position on any of the above three recommendations for the FEA Sub-program, instead simply recommending the CE&A Program budget be cut in half (AG Ex. 1.00 at 23-25) and urge the Commission to reject this extreme position. They point out that the FEA Sub-program, supported by testimony from Mr. Urbaszewski and Mr. Ulziiburen (EDF/RHA/SC Ex. 3.0 at 5; Staff Ex. 20.0 at 4), is an important component of ComEd's overarching work to support fleet electrification and contributes to achievement of state policy goals for transportation electrification. With the above recommendations incorporated, EDF/RHA/SC assert that the sub-program specifically targets the information gap that can be a barrier to an equitable transition for small fleets and fleets located in and serving underserved communities. They point out further that it can provide fleet customers with an unbiased source of information when choosing between different vehicle and charging infrastructure they would not get from relying on manufacturers alone for this advice. EDF RHA SC Ex. 3.0 at 5.

EDF/RHA/SC next advocate that ComEd's commitments as to dedicated outreach and support for school bus fleets should be memorialized. They note that EDF/RHA/SC witness Farquer had previously recommended that the Commission require ComEd to include dedicated, proactive outreach by professionals with technical knowledge of "school bus transportation, fleet dependencies, EVSE [EV supply equipment] and related infrastructure, capacity charges and planning, and characteristics and available options for related equipment such as bi-directional and smart chargers." EDF/RHA/SC Ex. 4.0

at 8. To ensure that ComEd staff have such knowledge, EDF/RHA/SC urge the Commission to require “explicit certifications or qualifications in place” for ComEd staff. EDF/RHA/SC Ex. 4.0 at 8. They note that, while ComEd initially pointed to its PSCFA program as an existing resource (ComEd Ex. 3.0 at 56), Mr. Farquer explained that the PSCFA program lacks “the proactive outreach and specialized capabilities... crucial to support school decision makers in their fleet electrification decisions.” EDF/RHA/SC Ex. 4.0 at 7.

EDF/RHA/SC also note that, in response, ComEd has proposed an alternative means to provide the school-specific outreach and support noted as crucial by EDF/RHA/SC. As EDF/RHA/SC further note, ComEd “agree[s] with witness Farquer on the importance of offering strong support to school districts in their electrification journey.” ComEd Ex. 6.0 at 5. Rather than through changes to the PSCFA, ComEd stated it will address Mr. Farquer’s concerns with proactive outreach as follows, pending Commission approval: the “BE Plan 2’s Program/Sub-program administrator scope will include an outreach component . . . that will includ[e] the requirements, staff qualifications, industry outreach/engagement, and interoperability advocacy expectations recommended by witness Farquer[,] in the RFP and contract for the BE Plan 2 administrator.” ComEd Ex. 6.0 at 55. Accordingly, EDF/RHA/SC recommend that the Commission’s final Order memorialize ComEd’s proposal on this point.

#### **e. Commission Analysis and Conclusion**

ComEd agrees to most of the recommendations and/or conditions raised by Staff and EDF/RHA/SC regarding the CE&A Program, including: (1) consulting with Staff and interested stakeholders about ComEd’s marketing plan, including key overarching themes and messaging, and potential financial benefits of electrification; (2) for school bus fleets, “BE Plan 2’s Program/Sub-program administrator scope will include an outreach component . . . that will includ[e] the requirements, staff qualifications, industry outreach/engagement, and interoperability advocacy expectations. . . .” (ComEd Ex. 6.0 at 55); and (3) target 30% of the FEA Sub-program budget annually to self-reported small fleets contingent on this targeting being flexible to allow for serving other fleets if there is insufficient small fleet interest in the program, and report on these efforts in ComEd’s annual report.

In Initial Briefs, Staff and EDF/RHA/SC made additional recommendations for the CE&A Program. ComEd agrees to these recommendations with two clarifications. First, ComEd agrees to EDF/RHA/SC’s five “minor modifications” (EDF/RHA/SC IB at 7, 27-29) except for enumerated item 4, which requests that ComEd provide additional information on how ComEd coordinates its fleet investments and its customer interconnection processes. ComEd explains that it agrees to, “include...in the final FEA report step-by-step new service request process to follow, an estimated new service connection timeline, and a dedicated point of contact for support throughout the entire customer journey.” ComEd Ex. 3.0 CORR at 61.

Second, while ComEd did not initially agree to provide “assistance to small fleets in applying for grants, rebates, and low-cost financing options[,]” (EDF/RHA/SC IB at 7), ComEd agrees to do so to narrow the issues in this proceeding.

Those clarifications appear to address the concerns raised by Staff and EDF/RHA/SC. The Commission approves Staff and EDF/RHA/SC recommendations agreed to by ComEd and as clarified in ComEd's Reply Brief regarding the CE&A Program.

Additionally, the Commission finds Staff's request reasonable for ComEd to include copies of performance data in addition to the agreed-upon overview of this data and its impact on CE&A program implementation with the Company's annual report. Accordingly, the Commission directs ComEd to do so and to uphold its commitment to highlighting financial benefits in its marketing materials.

The only remaining issues regarding the CE&A Program are (1) Staff's request to receive draft marketing materials as opposed to only the marketing plan, and (2) the AG's program budget reduction.

ComEd starts drafting a marketing plan in October of the year prior to when that plan will run. Staff Ex. 14.1 at 17. ComEd agrees to share its marketing plan including key overarching themes and messaging with Staff and stakeholders. ComEd states it anticipates sharing its marketing plan as early as December of the year prior to when it will use the materials. *Id.* Staff argues that ComEd should be directed to share draft marketing materials as well because Staff is concerned about ComEd's delayed responsiveness to the performance data already available. The Commission finds that ComEd's commitment to share its marketing plan including key themes and messaging with Staff and stakeholders is sufficient and is not persuaded that sharing unspecified draft marketing materials is warranted given the volume of materials that may exist, the burden of complying, and potential cost.

Regarding the AG's recommendation to reduce the CE&A Program budget by half to only \$5.5 million, the Commission notes that the AG makes this recommendation under the overarching premise that ComEd's BE Plan 2 exceeds the 1% retail rate cap. The Commission disagrees and addresses this issue in Section IV.D.4.

The Commission finds that ComEd has adequately supported its proposed \$11 million budget. The Commission agrees with criticisms that ComEd should have provided a more detailed budget prior to surrebuttal testimony. Nevertheless, ComEd did provide a more detailed breakdown of the budget by marketing tactic. Upon this information, Staff withdrew its concerns with the program budget. EDF/RHA/SC also support ComEd's proposed program budget highlighting that it is an important component to support fleet electrification. The AG's vague assertion that ComEd's spending is duplicative and unnecessary and therefore the budget should be arbitrarily reduced by half lacks support.

Accordingly, the Commission approves the CE&A Program, including the sub-programs, and the associated costs.

#### **4. Research and Development Program**

##### **a. ComEd's Position**

ComEd argues that the Commission should approve ComEd's R&D Program with its approved modifications. ComEd's BE Plan 2 two-phase R&D Program is a dedicated annual fund for pilot programs and demonstration projects. ComEd Ex. 1.0 at 11. ComEd states that the R&D Program is an improved version of the Pilot Program approved by

the Commission in BE Plan 1. According to ComEd, its budget is approximately \$3.7 million annually to the R&D Program (a total of \$11 million from 2026 through 2028). ComEd Ex. 1.01 at 48. ComEd states that two contested issues remain regarding the R&D Program: Staff's request to have ComEd publicly report on sensitive and/or confidential customer information (i.e., Personal Information ("PI"), Personally Identifiable Information ("PII")), who collected it and why, and the AG's recommendation to reduce the R&D budget by half.

According to ComEd, the BE Plan 2 R&D Program will give ComEd the flexibility to collaborate with stakeholders earlier and more often than in BE Plan 1, as well as the ability to select projects and do research on early-stage technologies to determine what projects have the greatest potential impact and are most suited to proceeding to the pilot stage. ComEd Ex. 1.0 at 32. In contrast, ComEd argues that the BE Plan 1 Pilot Program mixed idea selection with pilot development and implementation within an accelerated timeline for the Requests for Information ("RFIs"), RFPs, and Preliminary Project Plans ("PPP") for each of the eight mandated pilots. *Id.* at 31-32. According to ComEd, this combined approach and accelerated timeline hindered ComEd's ability to respond to stakeholder feedback from the RFIs, RFPs, and PPPs. Additionally, ComEd notes that completing the eight pilots within the BE Plan 1 timeline has been challenging. Moreover, selecting all pilots upfront and suggesting they all be pilots rather than other project types creates risk of advancing pilots with little or no value. ComEd argues that this approach also leaves no room for research and development activities which are essential for determining the potential impact of proceeding with a pilot. *Id.* at 32.

Under the BE Plan 2 R&D Program, ComEd proposes several innovative activities to be executed in two phases: Project Identification and Project Implementation. *Id.* at 32. ComEd states that the Project Identification Phase is designed to achieve a full pipeline of projects for the R&D Program and consists of three main activities: (1) Ongoing Ideation, (2) Plan Focus Area Development, and (3) Project Selection. *Id.* at 33-34; ComEd Ex. 1.01 at 49.

First, ComEd states that the Ongoing Ideation activity consists of the program team requesting ideas and project proposals. Interested parties will be able to submit ideas for evaluation on an ongoing basis utilizing existing online tools. *Id.* at 33. Second, the Plan Focus Area Development refers to the process ComEd will use to create focus areas. ComEd will collect submissions from the prior Ongoing Ideation activity, utilize market research, and consider information gathered from past BE Pilot Program activities, and eventually past R&D activities, to propose focus areas. *Id.* Finally, during the Project Selection activity the program team will look to select ideas for projects based on the selected focus areas for BE Plan 2 and prioritize them using the evaluation criteria established in BE Plan 1 for the Pilot Programs, and the ability to fit within the BE Plan 2 budget.

ComEd explains that the Project Implementation Phase occurs after projects have been selected and the project team provides Preliminary Project Plans. The following are examples of project types: market characterizations, lab testing, customer research, field tests and demonstrations, scaled R&D deployment, and market development and market transformation. *Id.* at 34-35; ComEd Ex. 1.01 at 49-50. ComEd explains that market characterizations are projects designed to characterize a specific market in terms of key

actors, size, and key benefits. Lab testing are projects designed to test the performance of a technology or concept in a laboratory or non-field setting. Customer research is conducted to provide an understanding of a specific customer segment or a customer experience. Field tests and demonstrations are projects designed to test and measure the field performance of a technology or a concept in real-world conditions. Scaled R&D deployments are projects demonstrating the implementation, delivery or deployment strategy and experience of a new offering, typically used to reduce the risk of new programs before they are integrated on a broader scale. Market development and market transformation projects are designed to enable wide scale market adoption. *Id.*

ComEd states that it received strong interest in V2G and managed charging during BE Plan 2 stakeholder collaboration sessions. As a result, ComEd committed to prioritizing these technologies as part of its R&D Program, such that at least one of them has the best chance to begin transitioning into a customer program by the end of the BE Plan 2 period. This commitment is contingent on results from BE Plan 1 pilots affirming the value of further demonstration of these technologies, as well as stakeholder approval of these as focus areas for BE Plan 2 R&D. ComEd Ex. 3.0 at 30.

Staff proposed five recommendations that ComEd has agreed to implement, and two that ComEd cannot implement. First, ComEd will use the definition of “pilot” consistent with the Michigan Public Service Commission (“MPSC”). ComEd Ex. 6.0 at 58; Staff Ex. 19.0 at 7. All the project types recommended by ComEd as part of the BE Plan 2 R&D Program are in alignment with Staff’s proposed definition of a pilot as a “limited duration experiment or program to determine the impact of a measure, integrated solution, or new business relationship on one or more outcomes of interest.” *Id.*

Second, ComEd will provide stakeholders with “the opportunity to provide input on the pilot concepts to move forward with and give the Commission an opportunity to sign off on pilot concepts prior to the ComEd moving forward with pilot implementation.” ComEd Ex. 6.0 at 59; Staff Ex. 19.0 at 4.

Third, ComEd will ensure that the compensation models it will evaluate under its V2G R&D are agnostic to brand and technology to support interoperability. ComEd Ex. 6.0 at 60. “The R&D projects that could support a V2G program design would look to maximize the number of customers that can participate by balancing these technology requirements with the benefits they provide and therefore maintaining interoperability.” *Id.* at 60.

Fourth, ComEd cannot agree to, and the Commission should reject, Staff’s request for ComEd to publicly report on sensitive and/or confidential customer information such as descriptions of PI, PII, and customer data collected by BE Plan 2 Programs, as well as who collected it and why. This topic is discussed in further detail in Sections IV.C.6 (Annual Report) and IV.E.2 (Customer Data).

ComEd also argues that the Commission should reject the AG’s misguided recommendation to decrease ComEd’s R&D budget from \$11 million to \$5.5 million. AG Ex. 1.00 at 25. The AG’s arguments that no new programs can be added until existing programs are removed, and that program spending is unlikely to be productive is based on their erroneous conclusion that BE Plan 2 does not comply with the 1% retail rate cap. *Id.* at 25. Staff also disagrees with the AG’s recommendation. Staff Ex. 19.0 at 9. For

the foregoing reasons, the Commission should approve ComEd's R&D Program, including its budget.

In its Reply Brief, ComEd addresses Staff's suggestion, made for the first time in its Initial Brief, that "ComEd utilize available R&D Program funding toward successful completion of the BE Plan 1 pilots per the preliminary pilot plan goals or to extend technical demonstration efforts; and to develop BE pilot proposals to be submitted for approval in the next BE Plan filing or [Multi-Year Integrated Grid Plan ("MYIGP")] filing." Staff IB at 22. According to ComEd, Staff's suggestion is untimely. ComEd argues that no party has had a chance to pressure test this idea – no one has had the opportunity to issue data requests or provide testimony to determine and react to the contours and implications of Staff's proposal and ComEd argues the Commission should reject it on that basis alone.

According to ComEd, Staff's proposal also appears to gut the BE Plan 2 R&D Program, turning it into a wrap up of the BE Plan 1 Pilot Program and a planning tool for BE Plan 3 pilot execution. ComEd states that in theory this is an interesting concept – essentially to alternate between pilot planning and completion in one plan and pilot execution in the next. In some ways it is a different version of ComEd's proposed two-phase approach in this case, based on lessons learned from BE Plan 1. ComEd argues it is, however, in direct conflict with ComEd's commitment to other parties in this proceeding to prioritize V2G and managed charging as part of its BE Plan 2 R&D Program budget. Moreover, ComEd explains extensively in testimony and in its Initial Brief why the R&D Program and its budget are crucial to the success of BE Plan 2, including meeting certain uncontested statutory objectives like Section 45(d)(ii).

Therefore, ComEd argues that the Commission should approve ComEd's R&D Program and reject Staff's suggestion to fundamentally alter the program.

#### **b. Staff's Position**

Staff recommends the Commission direct ComEd to modify its proposed R&D Program and BE Plan to: (1) utilize available R&D Program funding toward successful completion of the BE Plan 1 pilots per the preliminary pilot plan goals or to extend technical demonstration efforts; (2) develop BE Pilot proposals to be submitted for approval in the next BE Plan filing or MYGIP filing; (3) track and report program research and development activities in terms of outcomes and benefits for customers in BE annual reports; and (4) utilize Staff's proposed pilot definition in the development and implementation of all BE pilot activities.

The AG recommends that the R&D Program budget be reduced from \$11 million dollars to \$5.5 million dollars. AG Ex. 1.00 at 25. Although ComEd did not address Staff's concerns, Staff does not agree with the AG's recommendation to reduce the R&D Program budget, as these funds should be available to use as necessary to bring BE Plan 1 pilot to a successful conclusion, per the preliminary pilot plan goals, or extend their technical demonstration efforts, as well as to develop new pilot proposals for future submittal to the Commission. Staff Ex. 19.0 at 9. To address the concerns raised regarding the proposed program, the Commission should adopt Staff's recommendations. *Id.* at 10.

In BE Plan 1, Staff raised a concern that ComEd did not intend to seek Commission approval for new projects under the former Pilot Program and recommended that there be criteria by which new programs are reviewed and approved. *Id.* at 5-6. ComEd agreed and the Commission adopted Staff's recommendation, noting the "process will provide Staff and interested parties an opportunity to inform or improve pilot design." *Id.* at 6. Despite this, the Company's BE Plan 2 proposes to implement pilot projects without providing stakeholders with the transparency and engagement associated with a Commission proceeding or the opportunity to weigh in on any pilot proposal prior to approval. Staff Ex. 19.0 at 4-5. ComEd described general types of research activities or examples of project types proposed for the R&D Program such as market characterizations, lab testing, customer research, field tests and demonstrations, scaled R&D deployments, and market developments, among others. Staff Ex. 19.0 at 6. ComEd is asking the Commission to allow ComEd to decide the pilots it wants to implement at some point in the future. *Id.* at 6-7. ComEd cites more flexibility to collaborate with stakeholders earlier and more often as a reason for changing the Pilots Program; Staff supports such collaboration with stakeholders. ComEd Ex. 1.0 at 32; Staff Ex. 19.0, 4-5.

In contrast to ComEd's proposal, under Staff's proposal, Staff, stakeholders, and the Commission would have the opportunity to review and provide input on the pilot concepts prior to the Company moving forward with pilot implementation. If stakeholders raise concerns with a proposed pilot under ComEd's new R&D Program, there is nothing in place to stop the Company from moving forward with those concepts despite the objections. Staff Ex. 19.0 at 4. The Commission should not authorize ComEd to implement BE pilots that have not been approved by the Commission because it is imperative that there be a transparent process for Staff and stakeholder involvement, and which will allow Commission oversight. See *id.* at 4-5; Staff Ex. 8.0 at 5.

The Company states in a data request response that, "learning benefits from the R&D activities will offset the costs of these projects just as it did in the approved BE Pilot Program in Plan 1." Staff Ex. 19.2 at 1. However, ComEd is assuming a net value of zero for R&D in its benefit-cost analysis ("BCA") and indicated it does not intend to track these benefits over multiple BE plan periods. *Id.* at 30. In light of this, Staff is concerned benefits will not exceed costs for the duration of the R&D Program for customers. *Id.* at 6. Staff believes it is important to verify ComEd's assumption that outcomes from R&D activities will offset the costs of the projects. Staff Ex. 19.0 at 5. To do this, the Company needs to track and report in future BE Plan updates the associated benefits and costs for the program. Staff discusses the zero net benefit assumption concerns in further detail in Section IV.D.3.f, which supports the recommendation for ComEd to track pilot cost and benefits over the duration of each project to provide transparency on pilot outcomes and benefits of the R&D program for customers. *Id.* at 6; Staff Ex. 1.0; Staff Ex. 12.0.

In its Initial Brief, ComEd agrees with Staff's recommendations except in two areas: (1) ComEd does not agree that pilots should be approved by the Commission prior to implementation; and (2) ComEd does not agree to tracking and reporting of the benefits and costs of pilot R&D activities in future BE plan updates over the duration of the project. ComEd argues its proposed change in its BE Plan 2 to implement pilot projects without Commission approval is due, in part, to the challenges to complete the ongoing eight pilot projects within the BE Plan 1 timeline. However, Staff states that no deadline was

mandated for the completion of any pilot, rather, the Commission recognized that the proposed pilot projects were described at a high level and will be more fully developed later. Staff proposed that ComEd use the proposed R&D spend toward its current eight BE Plan 1 pilot projects and bring them to successful completion, as well as to support the development of future pilot projects to the preliminary project plan stage.

ComEd also stated that stakeholders will have “the opportunity to provide input on the pilot concepts to move forward with and give the Commission an opportunity to sign off on pilot concepts prior to the ComEd moving forward with pilot implementation[,]” however, it is not clear how Commission approval would be solicited and obtained based upon the current program design. ComEd IB at 30. Lastly, ComEd did not address the need to validate the assumption that the benefits from R&D activities will offset the costs of projects, and Staff reiterates its recommendation for the Company to track and report on the benefits and costs of pilot projects in future updates over the duration of the project.

Instead of approving ComEd’s request to conduct activities yet to be determined under the proposed R&D Program, Staff recommends ComEd utilize available R&D Program funding toward successful completion of the BE Plan 1 pilots per the preliminary pilot plan goals or to extend technical demonstration efforts; and to develop BE pilot proposals to be submitted for approval in the next BE Plan filing or MYGIP filing. Staff Ex. 19.0 at 10. The Commission should direct ComEd to track and report pilot-related R&D activities in terms of outcomes and benefits for customers in BE annual reports and track and report in future BE Plan updates the benefits and costs associated with BE Pilot projects. *Id.* Lastly, ComEd noted agreement with Staff’s recommended definition for the term “pilot” in its surrebuttal testimony; thus, the Commission should direct ComEd to utilize Staff’s proposed pilot definition in the development and implementation of all BE pilot activities. Staff Ex. 19.0 at 7; ComEd Ex. 6.0 at 58.

### **c. AG’s Position**

The AG asks the Commission to reduce BE Plan 2’s budget because as proposed, it exceeds the 1% retail rate cap for the development of EV infrastructure, and because certain costs are excessive and unreasonable. AG Ex. 2.00 at 20. In order to ensure the BE Plan 2 budget is cost-effective, the AG asks the Commission to remove unreasonable costs. According to the AG, the BE Plan 2 Budget for R&D is excessive, unnecessary, and unreasonable and should be reduced to \$5.5 million.

The AG asks the Commission to reduce the Company’s proposed R&D Program budget from \$11 million to \$5.5 million. The AG maintains that ComEd’s proposal represents 6% of ComEd’s total BE Plan 2 budget and is unnecessary. According to the AG, ComEd is already spending in excess of the retail rate cap. AG Ex. 2.00 at 14. Since the Company’s spending is excessive, the AG argues that any new programs discovered through R&D should not be implemented without eliminating other programs. *Id.* at 14. However, the cost-effectiveness of other programs has not yet been measured since all programs are still relatively new. *Id.* The AG iterates that consumers should not be asked to pay for a large R&D budget when the Company has not even evaluated the programs it currently offers or has proposed. Moreover, ComEd never provided sufficient details about its proposed R&D Program beyond its commitment to prioritize V2G programs and testing the associated financial incentives which the AG supports and for which a \$5.5

million budget is sufficient. *Id.* at 14-15. Because ComEd has failed to justify its need for a full \$11 million budget, the AG argues that the Commission should reduce the budget to \$5.5 million which will ensure the BE Plan is cost-effective.

**d. EDF/RHA/SC's Position**

EDF/RHA/SC support ComEd's proposed V2G R&D Program, subject to the incorporation of the recommendations for the program made by EDF/RHA/SC witness Farquer. Specifically, citing Mr. Farquer's testimony, they urge the Commission to require that ComEd "indicate that a School Bus V2G R&D project will be scoped and implemented" as a "Market Development and Market Transformation" R&D project. They further propose that the Commission require that this "School Bus V2G R&D Project" include the creation of a data map and "the proposal of a specific V2G compensation model for electric school bus fleets." EDF/RHA/SC Ex. 4.0 at 2. Further citing Mr. Farquer's testimony, EDF/RHA/SC point out that he states that the explicit goal of this "School Bus V2G R&D Project" should be for it to be "turned into a full-blown program that would join ComEd's portfolio as a regular and permanent program offering" as part of ComEd's next BE Plan filing. EDF/RHA/SC Ex. 2.0 at 25. The Commission should also, EDF/RHA/SC contend, require that the V2G R&D Project and its compensation models for electric school bus fleets maintain interoperability.

EDF/RHA/SC contend that ordering the implementation of a School Bus V2G R&D Project within ComEd's BE Plan 2BE Plan 2 would further the goals of the EV Act as embodied in 45(d)(1), 45(d)(2), 45(d)(6), 45(d)(7), and 45(d)(v); that EV Act Section 45(d)(1) calls for the maximization of total energy cost savings and reductions; Section 45(d)(2) calls for addressing environmental justice interests; Section 45(d)(6) calls for reducing carbon emissions and addressing air quality; Section 45(d)(7) pushes for a more efficient and cost-effective use of the grid; and Section 45(d)(v) requires exploration of "methods of minimizing ratepayer impacts." EDF/RHA/SC IB at 32. EDF/RHA/SC argue that focusing on school bus fleets within its broader V2G development priority, making strides towards a permanent School Bus V2G Program through this R&D project, and providing an incentive structure support all these goals by creating a foundation to deliver throughout ComEd's service territory the wide-ranging benefits of school buses as a V2G resource, as Mr. Farquer explained in his testimony: air quality benefits; benefits to students; grid stability, efficiency, and adaptability; use of buses as backup generators during outages; savings for school districts and ratepayers; and increased investments in grid modernization. EDF/RHA/SC Ex. 2.0 at 5-16. They cite Mr. Farquer's testimony in which he has explained repeatedly why these benefits should be concentrated in and have the greatest impact for environmental justice communities. *See, e.g.*, EDF/RHA/SC Ex. 2.0 at 8-11.

EDF/RHA/SC note that ComEd has agreed to the substance of Mr. Farquer's recommendations on this point. They point to ComEd testimony in which they agreed to "prioritize managed charging and Vehicle-to-Grid (V2G) as part of the BE Plan 2 Research & Development (R&D) Program while ensuring inoperability" (ComEd Ex. 6.0 at 6), and note that, after some refinement through rounds of testimony, ComEd agreed to implement Mr. Farquer's data map recommendation. Specifically, ComEd agreed to "add[] layers to its existing EV Load Capacity Map by the end of 2026 showing relevant equity data such as EIEC categorization, air quality metrics, and school bus depot

locations.” ComEd Ex. 6.0 at 45. Additionally, as EDF/RHA/SC note, by “no later than July 1, 2027,” ComEd agreed to “develop a preliminary algorithm” to “assign a ‘score’. . . indicating the extent to which it could potentially benefit from charging infrastructure projects,” which it will use “to inform its targeted outreach efforts.” ComEd Ex. 6.0 at 45. EDF/RHA/SC also point out that, generally, ComEd also committed to prioritizing V2G such that it will have “the best chance to begin transitioning into a customer program by the end of the BE Plan 2 period.” ComEd Ex. 3.0 CORR at 61-62. EDF/RHA/SC cite testimony that ComEd agreed with Mr. Farquer’s suggestion that “compensation models for V2G be agnostic to brand and technology to support interoperability.” ComEd Ex. 6.0 at 60. Given these commitments reflected in ComEd testimony, EDF/RHA/SC contend the School Bus V2G R&D Project has already effectively passed the “project identification phase” of ComEd’s R&D Program selection process. EDF/RHA/SC Ex. 4.0 at 2; ComEd Ex. 1.01 at 47-49.

EDF/RHA/SC explain that ComEd is just beginning to distribute funds to participating districts under its first BE Plan’s School Bus V2G Pilot; therefore, the Commission should explicitly require ComEd to design the School Bus V2G R&D Project described herein in a way that leverages the early stage of BE Plan 1 Pilot implementation. They assert that the Commission should require that ComEd address the precise means of connecting the BE Plan 1 Pilot and BE Plan 2 R&D project as part of the design of the latter, after ComEd considers the characteristics and preferences of participants in the BE Plan 1 Pilot and the input of stakeholders. Such a requirement in this second BE Plan approval order, EDF/RHA/SC assert, is consistent with the statutory expectation that these plans will build off each other in a process of continuous programmatic improvement.

EDF/RHA/SC argue that the School Bus V2G R&D Project should be required to have the over-arching goal of supporting a proposal for a generally-available School Bus V2G Program in ComEd’s next BEP filing and have two core components: (1) creation of a data-mapping tool; and (2) assessment of options that support the proposal of a specific V2G compensation model for school bus fleets. They point to ComEd witness Botero’s commitments as to specific deadlines for the data mapping component should be translated directly into the Commission’s final Order as benchmarks for the required School Bus V2G R&D Project. Additionally, EDF/RHA/SC urge the Commission to require that the School Bus V2G R&D Project reflect the various programmatic design elements recommendations presented by Mr. Farquer and agreed to by ComEd in the context of the various related BE Plan 2 components, i.e., ensuring technological interoperability, designing financial incentives to address upfront cost and administration barriers, the eligibility of repowered buses and third-party bus contractors’ participation, etc.

EDF/RHA/SC point out that, although the AG apparently supports the aspects of the R&D Program to which EDF/RHA/SC direct their recommendations, the AG goes on to recommend that the R&D budget be cut in half. They note that the AG’s rationale for the proposed cut rests primarily on its erroneous application of the 1% retail rate cap. Because a robust R&D program is crucial to continuously improve BE plans, EDF/RHA/SC oppose the AG’s suggestion to cut the R&D budget.

### e. Commission Analysis and Conclusion

ComEd has agreed with the substance of EDF/RHA/SC's recommendations and made various commitments to prioritizing V2G and managed charging technologies in the R&D Program for BE Plan 2. In EDF/RHA/SC's Initial Brief, EDF/RHA/SC request that the Commission require in this Order that ComEd must: (1) "indicate that a School Bus V2G R&D project will be scoped and implemented" as a 'Market Development and Market Transformation' R&D project[;]" and (2) require that the V2G R&D project "and its compensation models for electric school bus fleets maintain interoperability." EDF/RHA/SC IB at 31-32. ComEd appears to agree with EDF/RHA/SC's programmatic design elements. The Commission agrees with EDF/RHA/SC that the goal of the School Bus V2G BE 1 Pilot Project is to look towards turning this project into a full-blown program in the next BE Plan filing. The Commission approves these recommendations by EDF/RHA/SC as agreed to by ComEd.

The Commission further approves the recommendations made by Staff and agreed to by ComEd, which include ComEd's agreement to use Staff's proposed "pilot" definition. Staff recommended the following definition of "pilot" be used for purposes of developing and implementing future BE pilots: a pilot is "a limited duration experiment or program to determine the impact of a measure, integrated solution, or new business relationship on one or more outcomes of interest." Staff Ex. 19.0 at 7.

Regarding further points of disagreement between ComEd and Staff, there appears to be confusion or disagreement as to what ComEd's commitment to provide stakeholders an opportunity to provide input on pilot "concepts" and give the Commission an opportunity to sign off on pilot concepts means as to process. In its BOE, ComEd argues the term "concepts" is undefined and may lead to confusion. ComEd's argument is surprising given ComEd itself agreed to provide stakeholders an opportunity to provide input on pilot "concepts." ComEd Ex. 6.0 at 59-60; ComEd IB at 30. ComEd agrees that stakeholders should have input on R&D focus areas, which establishes goals and priorities for the types and programs to invest in for BE Plan 2. ComEd Ex. 6.0 at 60. The Commission agrees with Staff that it is important for Staff and stakeholders to provide input on the pilot concepts prior to the Company moving forward with actual pilot implementation.

To implement new pilot programs, the Commission finds that ComEd should develop new BE pilot proposals and submit them for Commission approval in future BE Plan or MYIGP filings. In its BOE, rather than require Commission approval of new BE pilot programs prior to initiation of the pilot, ComEd recommends that new BE pilot programs be submitted as compliance filings in this docket, which would allow an opportunity for the Commission to review any pilot programs and initiate a proceeding if warranted. The Commission rejects this late proposal by ComEd and reiterates its agreement with Staff that future pilot programs as part of ComEd's R&D Program must be approved by the Commission prior to implementation.

While the Commission accepts ComEd's zero net benefit assumption in the BCA for the R&D Program (see Section IV.D.3.g.), the Commission finds value in having ComEd track and report pilot-related R&D activities in terms of outcomes and benefits for customers in the BE annual reports, and track and report on benefits and costs associated

with BE Pilot projects in future BE Plan updates. This will provide further lessons, and ComEd is directed to provide such information.

Staff recommends that ComEd utilize available R&D Program funding, as necessary, toward successful completion of the BE Plan 1 pilots per the preliminary pilot plan goals or to extend technical demonstration efforts, and to develop new BE pilot proposals to be submitted for Commission approval in the next BE plan filing or MYIGP filing. Staff IB at 22; Staff Ex. 19.0 at 9. ComEd argues that this recommendation (as well as the proposal that BE pilot proposals be submitted for approval in the next BE Plan or MYIGP filing) is raised for the first time in Staff's Initial Brief and should therefore be rejected. ComEd asserts that no party has had the time to react to the implications and conduct discovery, and therefore this recommendation is untimely. However, Staff's recommendation was raised in Staff witness Jenkins rebuttal testimony, Staff Ex. 19.0 at 2-9. ComEd had the opportunity to conduct discovery and respond to such recommendations in surrebuttal testimony and its Initial Brief. ComEd failed to timely respond to the recommendation and provide support that such a directive could negatively impact the purpose and objectives contemplated by BE Plan 2's R&D Program.

The Commission would like to see successful completion of BE Plan 1 pilots; therefore, the Commission adopts Staff's recommendation to direct ComEd to use BE Plan 2 funds, as necessary, towards completion of BE Plan 1 pilots and to develop new BE pilot proposals to be submitted for Commission approval in the next BE Plan filing proceeding or Multi-Year proceeding. This recommendation aligns with the BE Plan 1's School Bus V2G Pilot connecting to the School Bus V2G R&D project as contemplated by EDF/RHA/SC. Further, the Commission agrees with EDF/RHA/SC that ComEd should address the precise means of connecting the BE Plan 1 School Bus V2G Pilots as part of the design of the BE Plan 2 School Bus V2G R&D project.

For informational purposes, ComEd is directed to keep the Commission informed regarding progress toward development and prioritization of new pilot concepts through use of compliance filings in this docket, and presentation of detailed information in Multi-Year proceedings and future BE Plan proceedings to ensure transparency within ComEd's R&D Program. The Commission finds these measures will promote accountability and efficiency in meeting the EV Act's goals in the pilot planning process.

In sum, the Commission agrees with Staff that future pilot proposals as part of ComEd's R&D Program must be approved by the Commission prior to implementation in either future BE plan proceedings or Multi-Year proceedings. The Commission adopts Staff's recommendation to allow ComEd to use BE Plan 2 R&D Program funding to complete BE 1 Pilots, as necessary, and to develop new BE pilot proposals and submit them for Commission approval in future BE Plan or MYIGP filing proceedings. The Commission urges the Company to make efforts to conduct workshops and other collaborative stakeholder processes prior to submission of new pilot proposals in future BE Plans or Multi-Year filings.

Regarding the AG's proposal to cut the R&D Program budget by half, the Commission rejects this proposal. This proposal is based on the AG's incorrect claim that ComEd's BE Plan 2 budget is in excess of the retail rate cap. This issue is further discussed in Section IV.D.4.

In accordance with the Commission's findings, the R&D Program as modified above is approved. The R&D Program aids in ComEd's meeting the EV Act's statutory objectives such as those set forth in Section 45(d)(ii).

## 5. Portfolio Program

ComEd's position is that its Portfolio Program includes overarching activities that are instrumental to the successful deployment of the overall BE Plan 2, as opposed to Program-specific costs. The Portfolio Program consists of a Commission-mandated BE Plan 2 Evaluation, the development of the required future BE Plans (in particular, BE Plan 3), and activities that support BE Plan 2 and are not specific to any BE Plan Program or Sub-program. ComEd Ex. 1.0 at 11, 36-37; ComEd Ex. 1.01 at 50-52; ComEd Ex. 3.0 CORR at 66-67. In BE Plan 2, in order to increase transparency, ComEd conducted a bottoms-up approach to estimating the Portfolio Program costs. Moreover, ComEd provided additional information to support the budget in rebuttal testimony, especially about BE Plan 2 Evaluation costs. ComEd Ex. 3.0 CORR at 68-74.

The contested subject regarding the Portfolio Program was not its existence but rather its budget. ComEd initially proposed an average \$4.8 million annual budget (a total of \$14.4 million from 2026 through 2028) that was based on an assessment of costs required to support Portfolio Program activities. In order to narrow the issues, and in response to Staff's and the AG's requests, ComEd reduced the average annual Portfolio Program budget to \$3.0 million (a total of \$9 million from 2026 through 2028) by reducing the evaluation budget (from 3% to 2% of BE Plan 2 budget), next plan development budget (from 2% to 1% of BE Plan 2 budget), and the budget for other cross-cutting costs (from 3% to 2% of BE Plan 2 budget). ComEd also agreed to remove all contingencies from its Portfolio Program budget, per recommendation from Staff. ComEd Ex. 1.0 at 13-14, 36; ComEd Ex. 3.0 CORR at 6, 68, 70.

ComEd argues that it has provided ample evidence to support this revised Portfolio Program budget, and that the Commission should approve it. ComEd Ex. 3.0 CORR at 68-74. ComEd further argues that evidence has shown that its Portfolio Program budget is reasonable based on the best available information. Moreover, the actual costs will be subject to prudence and reasonableness review in annual cost reconciliations. ComEd Ex. 6.0 at 41.

Staff requested a breakdown of the software and licensing ComEd intends to purchase or use. ComEd provided such information to the extent it was available. In its Reply Brief, Staff requests that ComEd provide an itemized breakdown of budgeted IT and licensing costs for each program, broken down by year, in the Company's annual report and when filing future BE Plans. The Commission finds this recommendation reasonable, and it is adopted.

The Portfolio Program is uncontested. The Commission appreciates Staff's continued efforts to scrutinize administrative costs and seek proper justification for ratepayers. The Commission is concerned with the significant overhead ComEd proposes to spend to administer its BE Plan and encourages the Company to identify additional cost reductions in the future. See Section IV.C.2.d. The Commission approves the Portfolio Program and its revised budget.

**C. General Aspects of the Plan**

**1. BE Plan 2 Overall Budget**

**a. ComEd's Position**

ComEd argues that the Commission should approve ComEd's revised proposed BE Plan 2 annual average budget of \$58.2 million and reject the AG's proposal to reduce the budget. ComEd initially proposed that the BE Plan 2 budget should be an annual average amount of \$60 million, reduced from the Commission-established BE Plan 1 annual average budget of \$77 million. ComEd's revised figure of \$58.2 million reflects ComEd's further reduction of the Portfolio Program budget from an annual average of \$4.8 million to \$3.0 million. ComEd notes that Staff withdrew their proposed budget cuts after reviewing ComEd's surrebuttal testimony. Additionally, Staff suggests that ComEd provide a more detailed, activity-level budget upon filing its BE Plan 3. Staff Ex. 14 at 5. ComEd anticipates having the information requested by that time and can therefore agree to provide a more detailed, activity-level budget in that proceeding.

Only the AG contests ComEd's BE Plan 2 budget. ComEd addresses the 1% retail rate impact cap argument in Section IV.D.4.a.(i). ComEd addresses the AG's proposed cuts to the CE&A Program budget in Section IV.B.3.a. ComEd addresses the AG's proposed cuts to the R&D Program budget in Section IV.B.4.a. ComEd addresses the AG's proposed cuts to the Program/Sub-program administrative budget below in Section IV.C.2.a.

**b. Staff's Position**

Staff states that the Commission should (1) approve the Company's proposed overall BE Plan 2 budget of approximately \$175 million and (2) direct ComEd to file a detailed, activity-based budget when it submits future BE Plans, beginning with BE Plan 3. Staff Ex. 14.0 at 47-48.

While Staff had requested ComEd provide detailed, activity-level budgets, ComEd explained it was unable to provide detailed budgets in this proceeding because (1) there is not enough historical information from BE Plan 1 to help inform its BE Plan 2 budgets (ComEd Ex. 3.0 CORR at 73-74, 79; ComEd Ex. 6.0 at 26-27, 32) and (2) it is unrealistic at this planning stage (ComEd Ex. 3.0 CORR at 58, 69; ComEd Ex. 6.0 at 3). ComEd argued the level of detail that Staff is seeking will be available when ComEd demonstrates prudence and reasonableness of the actual costs incurred as part of the annual Multi Year Rate Plan ("MYRP") reconciliation. ComEd Ex. 3.0 CORR at 58. However, waiting until the annual MYRP reconciliation to address potential unreasonable or imprudent costs is too late to implement meaningful changes. For example, the review and reconciliation of 2026 actual costs will occur in 2027 with an expected final order due at the end of 2027. At that point, only one year will remain in the BE Plan 2 period, leaving limited time to implement any changes resulting from the annual MYRP reconciliation docket. The AG agrees that "this look-back approach does not provide sufficient guardrails to ensure the CE&A budget is efficient and cost effective." AG Ex. 2.00 at 13. However, if ComEd presents a detailed, activity-level budget upon filing its BE Plan 3, breaking down expenditures into specific activities within each program (e.g., costs of designing marketing materials by target audience, program manager salaries, software licenses,

etc.), stakeholders can offer input from the beginning to ensure budgets are appropriately allocated to activities that support BE adoption. Staff Ex. 14.0 at 47. Staff recommends that the Commission direct the Company to submit detailed, activity-level budgets that break down costs by specific activities so that Staff and stakeholders can assess whether funds are properly allocated to activities that support BE adoption when it files future BE Plans, beginning with BE Plan 3. No other parties addressed this issue, so Staff considers it to be uncontested.

The AG recommends reducing ComEd's budget, specifically the budgets for the Program/Sub-program administration, CE&A Program, and the R&D Program. Staff addresses the AG's arguments in Sections IV.C.2.b. (Program/Sub-program administration), IV.B.3.b. (CE&A Program), and IV.B.4. (R&D Program). The AG also asserts that ComEd's budget exceeds the retail rate impact cap because the Company improperly excludes costs associated with the revenues it includes in the retail rate impact cap calculation. Staff addresses these arguments in Section IV.D.4.a.(ii).

### **c. AG's Position**

The AG asks the Commission to reduce BE Plan 2's budget because as proposed, it exceeds the 1% retail rate cap for the development of EV infrastructure, and because certain costs are excessive and unreasonable. AG Ex. 2.00 at 20. ComEd estimates that 1% of its revenue requirements, including Distribution, Transmission, Energy Efficiency, DG Rebate, and supply components amounts to \$65.93 annually or \$197.79 million over the 2026-2028 period of the plan. AG Ex. 1.00 at 18. The AG notes that ComEd has included the Company's generation, transmission, distribution, and rider revenues in the revenue requirements from which the 1% rate impact is calculated. *Id.* at 18-19. The AG maintains that ComEd exceeds the 1% retail rate impact limit because the Company improperly—and inconsistently—excludes the costs associated with all of the revenues it includes.

In order to ensure the BE Plan 2 budget is cost-effective, the AG asks the Commission to remove unreasonable costs. The AG recommends that certain program administrative, education, and research costs which total 30% of the BE 2 Plan's surrebuttal testimony budget (\$53 million of \$175 million), be reduced. The AG proposes eliminating unnecessary costs from the administration and management budgets. AG Ex. 1.00 at 20.

Even if the Commission were to find ComEd has not exceeded the 1% retail rate or does not overstate net benefits (it should not), the AG argues these reductions are still necessary to prevent unnecessary and unreasonable spending and to ensure the BE Plan is cost-effective for ratepayers. AG Ex. 2.00 at 10-11. The AG recommends that the Residential and C&I Public Sector program administrative costs estimate be reduced from 15% of customer incentives to 14% of customer incentives. *Id.* at 12. The AG further recommends that the Commission reduce the CE&A Program budget from a total of \$11 million over three years to \$5.5 million and reduce the R&D Program budget from a total of \$11 million over three years to \$5.5 million. *Id.* at 9. During the testimony period, ComEd agreed to cut down its Portfolio Program budget from \$14.4 million to \$9.0 million. *Id.* at 10. The AG accepts ComEd's reduction to \$9.0 million for purposes of narrowing the issues.

Meanwhile, Staff identified \$22.6 million in cuts in its rebuttal testimony and initially recommended a \$152 million budget but has since withdrawn those budget cuts. Staff now requests the Commission direct ComEd to file a detailed, activity-based budget when it submits future BE Plans, starting with BE Plan 3. While Staff agrees with the AG that ComEd's proposal to wait until the MYRP to provide more details is too late to implement any meaningful change, the AG asserts that Staff erroneously argues that this problem can be resolved by requiring ComEd to provide more detailed information by BE Plan 3, which will not be filed until 2027. *Id.* at 24–26. This is not to say that ComEd should not provide a detailed budget for BE Plan 3—it absolutely should. But according to the AG, this does not solve the problem of not having enough information for the next reconciliation that will review the costs of this BE Plan. Furthermore, by not requiring ComEd to provide a detailed budget, the AG argues there is a risk of a bloated budget with duplicative costs, which they have identified in this budget. The AG's recommended cuts remove unnecessary spending from the budget and ensure the BE Plan 2 is cost-effective. The Commission should adopt the AG's recommended \$162.4 million budget.

#### **d. Commission Analysis and Conclusion**

The Commission adopts a revised BE Plan 2 annual average budget of \$55.9 million. The revised budget adopts ComEd's proposed budget but with a reduction to the Sub-program Administrative Budget from 15% to 10%, which reduces the three-year total from \$21 million to \$14 million. See Section IV.C.(2)(d). The AG's recommendation to reduce the budget is rejected and more fully addressed in other Sections of this Order, such as rejection of the AG's arguments regarding the 1% retail rate cap in Section IV.D.4.a. The Commission finds the revised proposed budget will support the planned scope and scale of the programs, which are reasonably designed to fulfill the goals of the EV Act and bring benefits to all customers, including in particular LI/EIEC customers.

The Commission also agrees with Staff that ComEd should submit detailed, activity-level budgets that break down costs by specific activities so that Staff and stakeholders can assess whether funds are properly allocated to activities that support BE adoption when it files future BE Plans, beginning with BE Plan 3. This recommendation is uncontested, and it is approved.

### **2. Program/Sub-program Administrative Budget**

#### **a. ComEd's Position**

ComEd argues that the Commission should approve ComEd's Program/Sub-program Administrative Budget, also referred to as administrative costs and administrator costs throughout ComEd's testimony. See *e.g.* ComEd Ex. 3.0 CORR at 78; ComEd Ex. 6.0 at 25. ComEd explains that this budget covers the cost of a Program/Sub-program administrator, also known as an implementation contractor. ComEd further explains that the administrator is responsible for Program/Sub-program implementation and will also conduct Program/Sub-program-specific stakeholder and community engagement, consistent with BE Plan 1. ComEd Ex. 1.0 at 37; ComEd Ex. 3.0 CORR at 78; ComEd Ex. 6.0 at 25. According to ComEd, the administrative budget is not discretionary. Without the administrative budget, ComEd will not be able to process any BE Plan 2 rebates or conduct any BE Plan 2 activities. ComEd Ex. 3.0 CORR at 2-3, 80.

ComEd has proposed to limit administrative costs to a three-year total of \$21 million, which is 15% of the three-year total Program/Sub-program budget. Staff Ex. 3.2 at 26-27.

ComEd explains that, the Program/Sub-program administrator scope of work will include activities similar to the administrator activities from BE Plan 1, including: “outreach to drive Program/Sub-program engagement, EV service provider network management, Program/Sub-program platform hosting, application processing, rebate payment, reporting, forecasting, on-site quality control and verification of projects, customer care and experience, IT system maintenance and support, and continuous improvement, among others.” ComEd Ex. 3.0 CORR at 80-81. ComEd estimated the 15% administrative budget from the administrative budgets required in BE Plan 1. ComEd utilized the BE Plan 1 rebate Program/Sub-program budgets broken down by spend type (i.e., labor, program specific stakeholder and community engagement, IT hosting and licenses, and travel.). ComEd further supported those budgets with actual implementation costs for a full year of implementation (i.e., a fixed fee for 2025). *Id.* at 81.

ComEd notes, both Staff and the AG requested more detailed breakdowns of the Program/Sub-program administrative costs. The Staff and AG requests lack merit given the information provided in ComEd’s testimony, the limits on available information at this time, and the reductions ComEd has already made in the total BE Plan 2 budget.

The AG recommended reducing ComEd’s Program/Sub-program administrative costs from 15% of Program/Sub-program budgets to 14% of Program/Sub-program budgets. AG Ex. 2.00 at 12. ComEd argues that the Commission should reject this recommendation, which is based on the flawed conclusion that “the Plan’s retail impact exceeds the 1% limit for EV infrastructure.” ComEd Ex. 3.0 CORR at 79.

ComEd notes that Staff no longer contests the Program/Sub-program administrative budget and recommends that the Commission approve ComEd’s proposed Program/Sub-Program administrative budget, with the caveat that ComEd also adopts the modified “annual report budget flexibility condition,” as defined by Staff. Staff IB at 29. ComEd has already agreed to this condition. ComEd Ex. 6.0 at 70.

#### **b. Staff’s Position**

Staff states that the Commission should approve the Company’s proposed Program/Sub-program administrative budget of approximately \$21 million, with the caveat that the modified annual report budget flexibility condition described in Section IV.C.5. is also adopted. Staff Ex. 14.0 at 46-47.

Staff notes that the AG recommends an administrative budget equal to 14%, rather than ComEd’s proposed 15% of the rebating sub-programs to reflect an improvement in administrative efficiency from BE Plan 1 to BE Plan 2. AG Ex. 2.00 at 12.

Given that the Company agreed in its surrebuttal testimony to dedicate outreach and support for school bus fleet customers in its administrative budget, Staff believes ComEd’s budget of 15% of the rebating sub-programs is appropriate as proposed. ComEd Ex. 6.0 at 55.

**c. AG's Position**

The AG argues that the BE Plan 2 budget for program-specific administrative costs should be reduced to a more representative and reasonable level. The AG asks that the Commission reduce the Residential and C&I Public Sector program administrative cost estimate from 15% to 14% because this is a part of the plan that ComEd has extensive control over, and the Commission should encourage efficient administrative practices. AG Ex. 2.0 at 12. ComEd witness Botero testified that the administrative costs for BE Plan 1 averaged 14.6% of customer incentives, so ComEd rounded up to 15% for purposes of its budget request in this case. ComEd Ex. 3.0 CORR at 79, 81. As the AG's witnesses testified, however, it is reasonable to expect further administrative efficiencies as the Company's BE Plan programs become more established. AG Ex. 2.00 at 12. The AG argues that ComEd's continued administrative efficiency should be reflected in lower program administrative costs in subsequent BE plan petitions. *Id.* By reducing the program costs from 15% to 14%, the Commission will cut \$1.6 million from the plan over three years and encourage incremental administrative efficiency. *Id.* at 12. The AG maintains that the Program/Sub-program Administrative Budget should be reduced from 15% to 14% to continue to encourage ComEd to pursue efficient administrative practices. AG Ex. 1.00 at 10. This is not ComEd's first BE Plan and as the programs from the BE Plan become more established, the administrative costs of those programs should be less, resulting in greater efficiency. AG Ex. 2.00 at 12. The AG argues that the Commission will encourage this incremental administrative efficiency over the three-year period by cutting \$1.6 million from the plan budget. *Id.* at 12.

ComEd argued that the AG's recommendation should be rejected because it is based on "the flawed conclusion that 'the Plan's retail impact exceeds the 1% limit for EV infrastructure.'" ComEd IB at 39. However, this is not the only basis for the AG's recommendation—the AG also wants to encourage efficient administrative practices to ensure the plan is cost-effective. In addition, ComEd states that the AG's request for more detailed breakdowns of the Program/Sub-program administrative costs "lack merit" due to the information provided in ComEd's testimony, the limits of available information at this time, and the reductions ComEd has already made in the total BE Plan 2 budget. *Id.* at 36. According to the AG, the information provided in the Company's direct and rebuttal testimony is what they found lacking because the Company did not provide a breakdown of costs until surrebuttal testimony. The AG avers that ComEd should have provided detailed costs earlier in the case. Furthermore, the AG iterates that the Company keeps asserting there is limited information available, but that it has requested substantial ratepayer money for these programs despite being unable to provide more detailed information until late in the case. Finally, the AG notes that reductions ComEd already made in the total BE Plan 2 budget were for the Portfolio Program. While the AG appreciates ComEd's agreement to reduce spending in its Portfolio Program, the AG seeks further cuts because the Company's proposed spending is unnecessary. That ComEd has reduced the total budget is irrelevant as to whether spending on a particular program should be reduced; a cut to one aspect of the plan obviously does not mean that other aspects of the plan are somehow underfunded and should not also have budget reductions. The AG concludes that the Commission should approve the \$1.6 million budget reduction to encourage administrative efficiency.

#### d. Commission Analysis and Conclusion

ComEd proposes administrative costs of 12% of the total annual BE Plan 2 budget or 15% of the sub-program budget. ComEd Ex. 1.01 at 51. The AG and Staff raised concerns throughout the proceeding with ComEd's Program/Sub-program Administrative Budget.

The AG's argument against the Company's proposal is, in part, based on the contention that the BE Plan 2 budget is in excess of the retail rate cap, which the Commission rejects. See Section IV.D.4. The AG further argues a reduction of the administrative budget from 15% to 14% would encourage year-over-year administrative efficiency. AG Ex. 2.0 at 12. The Commission agrees generally that ComEd should strive for administrative efficiency and look for ways to continually reduce administrative costs. Additional analysis and considerations are warranted: the Commission encourages parties to continue considering administrative efficiency in subsequent iterations of BE Plans.

The Commission acknowledges limited information is available as the BE Plans are a nascent, iterative process. The Commission agrees that ComEd should have provided a more detailed breakdown of costs before surrebuttal testimony. Staff initially found the Company failed to justify its administrative costs and proposed a disallowance of \$21 million, contingent on ComEd explaining: (1) the continued use of a 15% allocation for Sub-program Administrative costs from BE Plan 1 in BE Plan 2, and (2) why it believes the assumptions made in BE Plan 1 when developing this percentage allocation are still valid for BE Plan 2. Staff Ex. 14.0 at 43-46. In surrebuttal testimony, the Company explained that it used the same budget assumption in BE Plan 2 because "BE Plan 1 implementation experience is the most relevant data that ComEd has for estimating expected future costs and therefore budgets for BE Plan 2." ComEd Ex. 6.0 at 27. The Company stated that its actual annual spend for BE Plan 1 was approximately 14.6%. *Id.* Staff indicated in its Initial Brief that it now finds ComEd's 15% administrative budget reasonable. Staff IB at 26-27.

The Commission appreciates Staff's continued efforts to scrutinize administrative costs and seek proper justification for ratepayers. In BE Plan 1, energy efficiency procedures were a helpful reference point while BE Plan-specific information was not yet available; however, the Commission cautions against directly comparing the administrative costs of EE and BE programs without additional justifications specific to the unique requirements of BE programs. See ComEd Ex. 1.03 at 75. The 14.6% average relates to 2025 spending only, with part of the year's projected spend based on vendor bids received for BE Plan 2 administration. ComEd Ex. 3.0 CORR at 79, 81. This limited data is insufficient justification for extrapolating costs for the next three years in BE Plan 2. The Commission further notes the Company did not provide sufficient record evidence explaining its choice to hire a sub-program administrator in addition to utility employees for each sub-program. Based on this record, the Commission is unconvinced that an administrator is necessary. See *id.* at 78, 80-81. The Commission acknowledges, however, that staffing responsibilities rest within the Company's discretion. The Company should provide robust justification for its proposed administrative costs in the next iteration of its BE Plan.

ComEd's proposed overhead is significant. Its proposed BE Plan would be 17% of the total annual budget. See ComEd Ex. 1.01 at 51; see *also* ComEd Ex. 3.0 CORR at 68. ComEd has been on notice that it needs to justify its administrative costs, and when it has not, the Commission has removed those costs from the Company's BE Plan budget. See Docket Nos. 22-0432/0442 (Consol.) at 89; see *also* Docket Nos. 22-0486/23-0055 (Consol.) at 355. In this proceeding, ComEd's administrative costs remain unreasonably high. Therefore, the Commission reduces the Program/Sub-program Administrative budget from 15% to 10%. The Commission finds that this reduction in administrative spend appropriately balances the Company's need to administer its BE Plan and protect ratepayers from unjustified costs. The Commission notes that ComEd will have the opportunity in reconciliation to justify its actual costs. The Commission approves the Program/Sub-program three-year total administrative budget of \$14 million, which is 10% of the three-year total Program/Sub-program budget.

### **3. Program/Sub-program Marketing Budget**

ComEd argues that the Commission should approve ComEd's Program/Sub-program operating budget - marketing of \$1.14 million (0.6% of average annual BE Plan 2 budget) as presented. Staff Ex. 3.2 at 21. ComEd notes that this budget includes customer-targeted marketing tactics to inform and encourage participation in rebate programs such as email, direct mail, web copy, social and digital media, and collateral (fact sheets and brochures). ComEd Ex. 6.0 at 30-31. ComEd argues that failure to approve this budget would significantly reduce customer participation in the BE Plan 2 rebates, putting several of the statutory requirements of the EV Act at risk, which rely on these incentives. ComEd could shift funds from the CE&A Program to focus on a small, targeted group of customers however, this would reduce valuable general education and awareness activities (activities supported in the CE&A section).

ComEd and Staff reached agreement on the Program/Sub-program Operating Budget – Marketing Budget and recommend that the Commission approve ComEd's proposed budget of approximately \$1.14 million, with the same caveat regarding the "annual report budget flexibility condition" discussed in the Program/Sub-program administrative budget section. ComEd Ex. 6.0 at 70; Staff Ex. 14.0 at 46-47.

Staff further states that, while ComEd was unable to provide the level of detail that Staff requested for BE Plan 2, the Company indicated that its best estimate is based on its BE Plan 1 experience and may follow a similar pattern. ComEd Ex. 6.0 at 32. Staff found ComEd's explanations and additional information that it provided reasonable to justify its request for the Program/Sub-program marketing budget of \$1.14 million. No other parties addressed this issue during this proceeding.

The Program/Sub-program marketing budget of \$1.14 million is uncontested and it is approved.

### **4. Program/Sub-program Labor Budget**

No party contests ComEd's BE Plan 2 Program/Sub-program operating budget - labor and ComEd argues that the Commission should approve this \$1.62 million budget (\$0.54 million per year, which is 0.9% of ComEd's revised proposed average annual BE Plan 2 budget of \$58.2 million) as presented. Staff Ex. 3.2 at 21. ComEd notes that Staff

also recommends that the Commission approve ComEd's budget. ComEd created this budget by assuming the following: the BE Team will require one full-time Senior Program Manager per rebate Program/Sub-program, for a total of three (3) full time Senior Program Managers; the labor cost per Senior Program Manager; and a standard 2,080-hour work year compensation per hour per Senior Program Manager. Staff Ex. 3.2 at 22. ComEd used those assumptions to estimate the \$540,000 Program/Sub-program labor costs broken down as follows: Total Program/Sub-program labor cost = 3\*\$180,000 = \$540,000 annually (or 0.9% of ComEd's revised proposed \$58.2 million average annual BE Plan 2 budget). Staff Ex. 3.2 at 21. ComEd's projected costs and assumptions for Program/Sub-program labor are consistent with BE Plan 1. *Id.*

The Commission approves the Program/Sub-program labor budget of \$1.62 million.

## **5. Budget Flexibility**

### **a. ComEd's Position**

ComEd argues that the Commission should approve ComEd's BE Plan 2 budget flexibility recommendations, which are: (1) to pull forward Commission-approved BE Plan 2 funds to 2025; and (2) to roll unused BE Plan 2 rebate funds from 2028 into 2029 due to the potential for the long duration of EV charging infrastructure projects and the long lead time of EV orders. ComEd Ex. 1.0 at 16-17; Staff Ex. 3.0 at 24-25; Staff Ex. 3.2 at 4.

Staff agrees to these conditions subject to certain Staff recommendations. The Staff recommendations are to: (1) modify the BE Plan 2 budget flexibility provisions to prohibit shifting other funds into the R&D and Portfolio Programs; (2) allow pulling forward BE Plan 2 funds to 2025 only for R&D project identification; (3) allow rolling unused BE Plan 2 funds from 2028 to 2029 only for EV charging projects started or vehicles ordered on or before December 31, 2028, with separate reporting for budget approved by separate BE Plans; and (4) add new reporting requirements (proposed in rebuttal). ComEd agrees with Staff's first three conditions but does not agree with the fourth condition, as discussed in the Annual Report section.

ComEd notes that in their Initial Brief, Staff discusses what they believe is a mischaracterization of one of their requests regarding budget flexibility: ComEd's agreement to provide an explanation of variances of more than 15% versus Staff's request to provide an explanation of any material variances. ComEd does not object to Staff's clarification and did not intend to mischaracterize Staff's position. Indeed, ComEd's confusion is understandable, as Staff's testimony on this topic stated: "[t]he company should also provide an explanation for material variances between budget and actual costs (e.g. if actual costs exceed a program budget by more than 15%)." Staff Ex. 14.0 at 31. In any event, ComEd plans to report on all variances, so the use of either a specific percentage (15%) or a general term (material) as a benchmark is a distinction without a difference.

ComEd also requests unlimited flexibility to move funds between BE Plan 2 years for a given Program/Sub-program which will allow ComEd to adjust its budget over time for response to factors such as slower or faster customer uptake than expected as well

as longer than expected vehicle lead times. ComEd explains this proposal is essential for ComEd to act on the per-entity cap proposals of other parties and is supported by EVgo and EDF/RHA/SC. ComEd 6.0 at 42-43; EVgo Ex. 2.0 at 9-10; EDF/RHA/SC Ex. 4.0 at 5-6. All parties agree that ComEd's budget flexibility will not be used in a way that would violate EV Act Section 45(g) 1% provision. ComEd Ex. 1.0 at 15-17; ComEd Ex. 1.01 at 37-39; ComEd Ex. 3.0 at 82; ComEd Ex. 6.0 at 41-43; EVgo Ex. 2.0 at 9-10; EDF/RHA/SC Ex. 4.0 at 5-6. ComEd argues that the Commission should approve ComEd's budget flexibility proposal without further modification.

**b. Staff's Position**

Staff states that the Commission should reaffirm the budget flexibility conditions from the BE Plan 1 Order with modifications to the following three conditions: (1) the annual report condition, (2) no shifting of funds to the BE Pilot Program, and (3) the Company's overall BE Plan program spend being equal to or less than the overall BE Plan program budget approved by the Commission for the BE Plan period. Staff Ex. 14.0 at 30-31. Staff recommends one additional budget flexibility condition: the Company may not shift any funds to its Portfolio Program. Staff Ex. 14.0 at 31. Staff states that the Commission should grant ComEd the flexibility to shift funds between its programs and between BE Plan years within each BE Plan period subject to the following conditions (Conditions #4-6 are modifications from BE Plan 1 and Condition #7 is a new condition):

- (1) the Company must continue to comply with the objectives and requirements set forth in the EV Act, including annual spending that is below the statutory retail rate impact cap and the portfolio of programs remaining cost-beneficial;
- (2) funds that have been reserved to benefit LI customers, or environmental justice ("EJ") or Restore, Reinvest, Renew ("R3") communities cannot be shifted to activities that benefit non-low-income customers or non-EJ or non-R3 communities;
- (3) the Company cannot shift budgets from programs or sub-programs for EV-related activities to programs or sub-programs for non-EV-related activities;
- (4) the Company cannot shift funds to the R&D Program;
- (5) the Company has the flexibility to do the following:
  - a. ComEd should be granted flexibility to pull forward Commission-approved BE Plan 2 funds to 2025 only to allow ComEd to begin project identification activity for its R&D Program. This will allow ComEd to focus on project implementation during the BE Plan 2 period;
  - b. ComEd should be granted flexibility to roll unused BE Plan 2 rebate funds from 2028 into 2029 only for EV charging projects started or vehicles ordered on or before December 31, 2028, because of the long duration of EV charging projects and long lead time associated with EV orders; and

- c. in its 2025 and 2029 annual reports, ComEd should report the budget and actual spend approved for BE Plan 2 separately from the budget and actual spend approved for BE Plan 1 and BE Plan 3, respectively. Showing the BE Plan 2 funds separately from BE Plan 1 funds in 2025 and BE Plan 3 funds in 2029 will make clear which BE Plan 2 funds were pulled forward to 2025 and which ones were rolled over to 2029, as well as help demonstrate that the Company's overall BE Plan program spend is equal to or less than the overall BE Plan program budget approved by the Commission for the BE Plan period;
- (6) As part of its annual report, the Company will include a budget to actual cost comparison for each program, including its Portfolio Program, which will include a breakout of evaluation, BE Plan 3 development, and other cross-cutting costs. The budget to actual cost comparison should also further break out the program level non-incentive costs of marketing, labor, and administrative, from the incentive costs, for the year ended. The Company should provide explanations for any material variances (e.g., if actual costs exceed a program budget by more than 15%) between budget and actual costs for the year ended. If the Company is making any revisions to the filing year's budget (e.g., 2027 would be the filing year for the 2026 year ended), the Company should include an explanation of the material changes to the impacted programs and whether the BE Plan will continue to be cost-beneficial and will continue to comply with the EV Act; and
- (7) the Company cannot shift funds to its Portfolio Program.

Staff Ex. 14.0 at 31-34.

Staff notes that the AG agrees with Staff's recommended conditions. AG Ex. 2.00 at 19. Staff states that the Company mischaracterized Staff's rebuttal testimony regarding Condition #6. The Company stated that Staff recommended the following information be included in the annual report: "[e]xplanation of variances of more than 15% relative to budget, by Program." ComEd Ex. 6.0 at 70. However, Staff proposes that the Company provide explanations for any material variances, using actual costs exceeding a program budget by more than 15% only as an example. Staff Ex. 14.0 at 31. Staff explains that the term "material variances" refers to any differences between the Company's budgeted and actual costs that are significant enough to potentially affect the achievement of program goals, stakeholder and independent evaluation of program performance, and perceptions of prudence and reasonableness. Material variances could be a percentage such as the aforementioned example or a dollar threshold (e.g., if actual costs exceed a program budget by more than \$10,000). Specific thresholds for materiality may vary depending on the program's size, scope, and goals and are ultimately up to the discretion of the Company. Staff states that the Commission should adopt Condition #6 as written above.

According to Staff, with the exception of the provision to annually report on whether the BE Plan will continue to be cost-beneficial (Condition #6), ComEd agrees to Staff's

proposed conditions. In opposing Condition #6, ComEd cited administrative burden and associated expenses involved. ComEd Ex. 6.0 at 70-71. ComEd also equated Staff's recommendation for ComEd to report on the cost-effectiveness of its programs to Staff's other recommendations for ComEd to conduct an ex-post cost-effectiveness analysis, with which ComEd disagrees. ComEd Ex. 6.0 at 68-69, 71. Staff asserts that the Commission should reject ComEd's arguments. This portion of Condition #6 reports on Condition #1, and Condition #1 was approved in BE Plan 1 and should be approved again in BE Plan 2. BE Plan 1 Order at 136. Furthermore, Staff states, it would be unreasonable for ComEd to completely dismiss cost-effectiveness considerations once the plan is approved when it proactively makes changes to its programs during implementation. In Staff's view, the requirement for a BE Plan to remain cost-beneficial is not limited to the point of Commission approval but represents an ongoing standard that must be adhered to as the plan evolves over the BE Plan period, especially as the Company exercises budget flexibility. The EV Act intends to ensure that ratepayer funds are used efficiently when the total cost of BE expenditures is less than the net present value of benefits. 20 ILCS 627/45(d). Granting ComEd budget flexibility without mandating ongoing cost-benefit compliance could undermine the purpose of the EV Act's intent. Thus, while ComEd raises concerns about the administrative burden of annual reporting, Staff opines that these concerns cannot override the Company's legal responsibility to maintain compliance with statutory requirements.

Finally, in direct testimony, ComEd proposed notifying stakeholders through an informational filing within the docket if budget changes greater than 25% of the total BE Plan 2 budget were made. ComEd Ex. 1.01 at 38-39. EVgo disagreed, arguing that ComEd should have the flexibility to move funds between years without requiring a compliance filing. EVgo Ex. 2.0 at 9. In response, ComEd is now seeking unlimited flexibility to move funds between BE Plan 2 years subject to Commission-approved budget flexibility conditions. ComEd Ex. 6.0 at 42. Staff found no reason to object to either EVgo's or ComEd's request, provided that the Commission adopts the above budget flexibility conditions. Since the annual report budget flexibility condition, described earlier, includes reporting on any material changes to impacted programs, an informational filing notifying stakeholders of budget changes would no longer be necessary if this condition is adopted.

Staff concludes the Commission should reject ComEd's arguments and instead adopt Staff's budget flexibility conditions as proposed.

### **c. AG's Position**

The AG asks the Commission to adopt Staff witness Poon's position regarding conditions for BE Plan budget flexibility. AG Ex. 2.00 at 16. ComEd agreed to Ms. Poon's initial recommendations for budget flexibility. ComEd Ex. 3.0 at 82. In her rebuttal testimony, Ms. Poon recommended additional reporting requirements. ComEd agreed to all of these additional reporting requirements except the one requiring ComEd to provide explanations regarding whether the plan will continue to be cost-beneficial and compliant with the EV Act. ComEd Ex. 6.0 at 70. ComEd argues that this requirement is too arduous. *Id.* at 71. ComEd claims this reporting requirement is inconsistent with Section 45(d) of the EV Act because ComEd is not required to continually submit an annual cost-benefit analysis and an annual legal compliance analysis. *Id.* The AG argues that Staff's

recommendation should be adopted by the Commission because the requirement for the BE Plan to remain cost-beneficial “is not limited to the point of Commission approval but represents an ongoing standard that must be adhered to as the Plan evolves over the BE Plan period, especially as the Company exercises budget flexibility.” Staff IB at 33. The AG states that Staff is correct that “[g]ranting ComEd budget flexibility without mandating ongoing cost-benefit compliance could undermine the purpose of the EV Act’s intent.” *Id.* The AG iterates that the EV Act was not designed for ComEd to abuse budget flexibility to have a plan and budget that are no longer cost-beneficial. The Commission should adopt all of Ms. Poon’s reporting requirements, including the requirement showing the plan is cost-beneficial and compliant with the EV Act. The AG argues that ComEd should be striving to keep the plan cost-beneficial for ratepayers and compliant with the law, and that this requirement will keep ComEd accountable.

#### **d. EVgo’s Position**

EVgo recommends that the Commission approve ComEd’s requests for additional budget flexibility contained in the Company’s surrebuttal testimony. EVgo explains that ComEd requires additional flexibility to structure its entity caps are in line with the agreed-upon three-year entity cap approach.

EVgo states that the Company must have the ability to shift money between plan years for the sub-program as needed to offer entity caps consistent with the agreed-upon three-year entity cap supported by ComEd, EVgo, and EDF/RHA/SC. In direct testimony, ComEd requested the ability to spend up to 25% more than the total BE Plan 2 budget in any year during the BE Plan 2 period, with the budget for subsequent years during BE Plan 2 correspondingly reduced. ComEd Ex. 1.01 at 37. However, as explained by EVgo witness Stegall, that level of flexibility will not allow ComEd to offer the agreed-upon three-year entity cap approach because of the size of the Make-Ready Sub-Program’s budget compared to the spending that the Company would pursue in a given plan year. EVgo states that without this additional flexibility, the sub-program could, by itself, trip ComEd’s 25% budget limitation if the sub-program has many participants in one year. EVgo Ex. 2.0 at 8-9.

EVgo also states that limiting the sub-program budget by plan year does not align with the realities of EVSP project development cycles and risks harming the equitable distribution of resources. EVgo explains that program demand will not always align with plan years, and it is possible that in a particular year requests for funding will exceed the \$15.6 million average annual budget that ComEd initially proposed for the program. In such a situation, EVgo maintains that limiting the Company’s spending creates perverse incentives for EVSPs to delay or forego projects that would not exist without the 25% limit on budget flexibility. In addition, EVgo notes that ComEd would need to deny some applications that otherwise would qualify for an incentive notwithstanding the budget flexibility limit. EVgo notes that ComEd witness Botero succinctly describes the problems with the budget flexibility limit for a popular sub-program. She states that “[w]ithout unlimited ability to move Sub-program funds between BE Plan 2 years, ComEd risks running out of annual funds prematurely, which would jeopardize the equitable distribution of benefits that drove the creation of caps in the first place.” ComEd Ex. 6.0 at 48.

For these reasons, EVgo recommends that the Commission adopt ComEd's proposal in its surrebuttal testimony to have unlimited flexibility to move funds between BE Plan 2 program years for a given program or sub-program, so long as transfers do not result in ComEd violating the EV Act's statutory rate impact cap. *Id.* at 41.

### **e. Commission Analysis and Conclusion**

ComEd, Staff, the AG, and EVgo in large part agree on budget flexibility. The only contested recommendation appears to be Staff's rebuttal testimony recommendation that ComEd provide a budget to actual cost comparison for each program and explanations regarding whether the plan will continue to be cost-beneficial and compliant with the EV Act (enumerated Condition 6). This appears to be more of a reporting requirement for the annual report rather than a budget flexibility issue. The Commission approves Staff's proposed budget flexibility conditions, including Condition #6 as written and listed above. This is further addressed in Section IV.C.6. below.

## **6. Annual Report**

### **a. ComEd's Position**

ComEd argues that the Commission should approve ComEd's proposed annual report for BE Plan 2 as revised over the course of this proceeding without further modification. ComEd's proposed annual report has a structure similar to that of the annual report established by the Commission in the BE Plan 1 Order, but it contains various enhancements, and it reflects ComEd's agreement to several revisions proposed by Staff and intervenors. ComEd Ex. 1.0 at 17, 42-43; ComEd Ex. 1.03 at 114-117; ComEd Ex. 3.0 CORR 82 (agreeing to reporting spend for BE Plan 1, BE Plan 2, and BE Plan 3 as separate line items when there is an overlap); ComEd Ex. 6.0 at 53 (communication of entity cap changes, cap utilization, and drivers), 54 (agreeing to reporting on FEA effectiveness relating to small fleets, to the extent possible), 63 (CE&A performance data reporting), 70-71 (agreeing to three proposals relating to budget flexibility), 72 (agreeing to reporting on growth of EVs and ports in ComEd's territory and anonymized aggregation of Level 3 utilization), 73 (agreeing to break down of estimated emission reductions by sub-program and LIC/EIEC or non-LIC/non-EIEC). ComEd argues that the Commission should not approve the four remaining contested proposals because they are improper, redundant, unnecessary, or impractical.

First, Staff witness Hamidu and AG witnesses Alvarez and Gouin, in their respective direct testimonies, made proposals to change the BE Plan 1 Evaluation that they in turn also proposed be reflected in the April 2026 annual report regarding BE Plan 1. Staff Ex. 1.0 at 18-19; AG Ex. 1.00 at 15-16. ComEd responded that proposals regarding BE Plan 1 are beyond the scope of this case. ComEd Ex. 3.0 CORR at 75. Staff witness Hamidu, in rebuttal, withdrew his proposal. Staff Ex. 12.0 at 17. Whether the AG is still pursuing their proposal is unclear. AG witnesses Alvarez and Gouin, in their rebuttal testimony, did not respond. See AG Ex. 2.00. ComEd argues that in any event, as discussed in detail in Section IV.D.4.b (Investigation Pursuant to Section 45(g)) of ComEd's Initial Brief, proposals regarding BE Plan 1 are beyond the scope of this case under EV Act Section 45(g) and other law.

Second, ComEd argues that the Commission should reject Staff witness Delgado's request to have ComEd publicly report on sensitive and/or confidential customer information such as descriptions of PI, PII, customer data collected, and who does the collecting and why it is collected. ComEd discusses this issue in more detail in the Customer Data section, but in short, ComEd disagrees with this position as the Exelon security review process and terms in place with any contracted providers clearly define what PI, PII, and customer data is, as well as what happens in terms of a security breach or as part of the termination of a contractor. ComEd argues that furthermore, providing the requested detail on PI, PII, and customer data in the annual report could compromise data security and is therefore dangerous. ComEd Ex. 6.0 at 58.

Third, Staff witness Poon proposed that, in the annual report: "If ComEd is making any revisions to the filing year's budget ... the Company should include an explanation of the material changes to the impacted programs and whether the BE plan will continue to be cost-beneficial and will continue to comply with the [EV Act.]" Staff Ex. 14.0 at 33. ComEd argues that, on the contrary, Staff witness Poon proposed no details, but the recommendation necessarily would require ComEd to perform and submit both an annual cost-benefit analysis and an annual legal compliance analysis that are not required by the EV Act.

According to ComEd, Ms. Poon's recommendation is inconsistent with Section 45(d) of the EV Act. Section 45(d) contemplates the Commission making a public interest and BCA determination about "whether the investments and other expenditures are *designed and reasonably expected to*" achieve certain goals. 20 ILCS 627/45(d) (emphasis added); ComEd Ex. 3.0 CORR at 76. ComEd argues that this clearly only calls for a forward-looking analysis. Moreover, the proposal, if it were to provide a basis for denial of cost recovery by ComEd, would be unlawful under the well-established principle that "hindsight" prudence and reasonableness review is improper. *E.g., Ill. Power Co. v. Ill. Com. Comm'n*, 245 Ill. App. 3d 367, 371, 374 (3rd Dist. 1993). ComEd further argues that witness Poon's proposal also is impractical and counter-productive. The proposal would require extra cost-benefit analyses, which are a substantial effort, and evaluation of legal compliance with nearly two dozen provisions of the EV Act, similar to what occurred in this litigated proceeding. Those requirements would increase Program/Sub-program Administrative costs and Portfolio Program costs. ComEd Ex. 6.0 at 71. ComEd argues that the Commission should reject witness Poon's proposal.

Fourth, in reply ComEd notes that Staff adds an ambiguous request regarding "subsequent" BE Plans. Staff IB at 34. Staff states: "[t]o the extent Staff has recommended additional reporting requirements for subsequent BE Plans, the additional information should be submitted in the annual report." *Id.* ComEd interprets that phrase to mean future BE Plans beyond BE Plan 2 (BE Plan 3 and later). Staff includes no discussion of, or support for, its recommendation. *Id.* Such a request is beyond the scope of the instant case, which concerns only BE Plan 2, and is premature. ComEd asserts that the Commission should reject this proposal.

#### **b. Staff's Position**

Staff states that the Commission should approve ComEd's approach for the BE Plan 2 annual report. To the extent Staff has recommended additional reporting

requirements for subsequent BE Plans, the additional information should be submitted in the annual report.

**c. AG's Position**

ComEd claims that the AG asks for changes to the BE Plan 1 Evaluation that would be reflected in the April 2026 annual report regarding the BE Plan 1. ComEd IB at 45, *citing* AG Ex.1.00 at 15-16. In its brief, ComEd does not specify what changes to the BE Plan 1 Evaluation the AG proposed, but in the cited section of the testimony, the AG's witnesses recommended that the Commission order Staff to oversee the full independent NTG study that ComEd has already agreed to complete by April 1, 2026. AG Ex. 1.00 at 15. This study was ordered by the Commission to be completed as part of the BE Plan 1 Order and to be completed by April 1, 2026, as part of the annual evaluation. BE Plan 1 Order at 269–270. While the production of an NTG study is an obligation imposed in BE Plan 1, the results of that study will be used in future BE Plans.

ComEd disagrees with the AG's recommendation that Staff oversee the NTG study and claims this is unnecessary because the study will be performed by an independent third party. ComEd states that Staff has the right to review the contract and/or its scope with the evaluation, will receive draft evaluation plans, and can make recommendations. Furthermore, the Company argues the Commission may terminate the contract if it finds that the evaluation is not prepared independently. While the AG appreciates that Staff is involved, the AG maintains that the Company's assertions simply further indicate that there is no reason to not have Staff oversee the study and ensure it is conducted in a manner fully independent of any utility influence.

Since this study will have a significant impact in helping evaluate and determine a critical measure in future BE Plans, and the Commission already has put in place some guardrails to ensure independence (such as Staff and the Commission being able to review all data upon request), the AG believes that it is important for Staff to fully oversee the study to ensure independence is maintained and the NTG ratio obtained is as accurate as possible. BE Plan 1 Order at 269.

**d. EDF/RHA/SC's Position**

As discussed above in Sections IV.B.2.b and IV.B.3, EDF/RHA/SC point out that its witness Urbaszewski's recommendations for minimum budget and participation targets for small fleets in the Make-Ready Sub-program and FEA Sub-program include recommendations that ComEd report annually on progress towards these targets, including any challenges faced and actions ComEd took to overcome those challenges. EDF/RHA/SC Ex. 1.0 at 13, 20. They urge the Commission to direct ComEd to include this reporting in its annual BE Plan report. Regular reporting on progress towards the minimum budget and participation targets, as EDF/RHA/SC contend, is critical to their success towards ComEd "identifying, contacting, and working with a minimum number of small fleets that otherwise may not be aware of the feasibility of electrifying their fleets." EDF/RHA/SC Ex. 1.0 at 13. EDF/RHA/SC point out that Staff supported these recommendations, with Mr. Ulziiburen stating he supported the reporting recommendation for the FEA Sub-program (Staff Ex. 20.0 at 6), and Mr. Sanders recommending "ComEd should detail its progress toward achieving the target [for its

Make-Ready Sub-program] and address any barriers encountered in efforts to meet said target in its Annual Report” (Staff Ex. 15.0 at 2).

EDF/RHA/SC point out that ComEd agreed to adopt this recommendation “to the extent possible and to the extent this data is available.” ComEd Ex. 3.0 CORR at 60. Given its uncontested nature and the clear value of this reporting to determine the results of the small fleet targets, challenges faced, and related utility actions, EDF/RHA/SC urge the Commission to include these reporting requirements in its Order. EDF/RHA/SC also propose that the Commission should adopt and reflect in its Order ComEd’s commitment to report data concerning and allowing for other grant coordination, as this annual reporting obligation is a simple way to ensure future plan iterations comply with Section 45(d)(viii) of the EV Act.

**e. Commission Analysis and Conclusion**

ComEd contends that Staff and the AG made proposals to change ComEd’s BE Plan 1 Evaluation and reporting information in the BE Plan 1 annual reports. Staff subsequently withdrew its recommendation. The AG’s recommendation seems to be related to the AG’s position regarding reporting on NTG ratios. That issue is addressed in Section IV.D.3.d. To the extent any party recommends changes to BE Plan 1 and the reporting required in BE Plan 1, the Commission finds that those changes would be outside the scope of this proceeding.

The Commission does not find it necessary for Staff to oversee the NTG study. As ComEd notes, the NTG study is performed by an independent third party and there does not appear to be sufficient justification to assign additional burden on Staff to solicit and oversee the study as recommended by the AG.

Reporting requirements regarding customer data are addressed in Section IV.E.2.

Staff recommends that, “If ComEd is making any revisions to the filing year’s budget ... the Company should include an explanation of the material changes to the impacted programs and whether the BE plan will continue to be cost-beneficial and will continue to comply with the [EV Act]” in the annual report. Staff Ex. 14.0 at 33. ComEd’s argument that this may lead to improper hindsight review is not persuasive in comparison to the public interest and potential improvements to the BE Plan that such information may provide over the course of the plan. The Commission finds that the requested information will be helpful to inform the BE Plan as it evolves over the plan period. This will further the goal to ensure ratepayer funds are used efficiently. The Commission approves Staff’s recommended reporting requirement, Condition #6 in Section IV.C.5.b.

Regarding Staff’s vague statement that “To the extent Staff has recommended additional reporting requirements for subsequent BE Plans, the additional information should be submitted in the annual report.” Staff IB at 34. The Commission assumes Staff is referring to the customer data information that Staff requests be included in annual reports going forward. The Commission addresses various reporting requirements for BE Plan 2 throughout this Order, including the uncontested reporting recommendations supported by EDF/RHA/SC.

EDF/RHA/SC’s reporting recommendations have been accepted by ComEd and are addressed in the specific program sections.

## 7. Evaluation

### a. ComEd's Position

ComEd argues that the Commission should approve ComEd's proposed Evaluation of BE Plan 2, which is similar to the Evaluation of BE Plan 1 established by the Commission in the BE Plan 1 Order. ComEd Ex. 1.03 at 79-118. ComEd argues that there are two contested Staff and intervenor proposals regarding the BE Plan 2 Evaluation and the Commission should reject both.

First, ComEd notes that Staff witness Hamidu recommends that the BE Plan 2 Evaluation include a retroactive (after-the-fact) cost-effectiveness analysis, including NTG ratios based on primary data for ComEd's BE Programs, if available. Staff Ex. 1.0 at 18-19. It is ComEd's position that witness Hamidu's proposal is improper because it lacks a legal basis, is inconsistent with Section 45(d) of the EV Act, and appears to provide for unlawful "hindsight" review. Staff acknowledges ComEd's point that Staff's proposal is not required by law but Staff still expresses the view that the proposal could generate useful information. ComEd further argues that the proposal is also impractical and counter-productive because it, in effect, could create requirements of ongoing budget and rebate level adjustments, leading to unnecessary costs and risks for customers and ComEd. ComEd Ex. 6.0 at 68-70. ComEd also notes Staff witness Poon's somewhat similar proposal regarding Budget Flexibility.

Second, AG witnesses Alvarez and Gouin call for Staff oversight of the NTG study, but that proposal is unnecessary. AG Ex. 1.00 at 15. The NTG study will be performed by an independent third party. Also, the Commission has ordered specific independence protocols to ensure evaluator independence. Plus, Staff has the right to review the contract and/or its scope with the evaluator, Staff will receive draft evaluation plans, and Staff may make recommendations. Moreover, ComEd explains that the Commission may terminate the contract if it finds that the evaluator is not acting independently. ComEd Ex. 3.0 CORR at 76-77; ComEd Ex. 1.01 at 82.

### b. Staff's Position

Staff states that the Commission should approve ComEd's plan for the independent evaluation of the BE Plan, with the following conditions:

- (1) ComEd will have the evaluator perform an ex-post cost-effectiveness analysis of the BE Plan 2; and
- (2) in the NTG studies, ComEd commits the evaluator to conduct primary free ridership-related research for ComEd's BE programs and they should not rely upon secondary sources for evaluating the NTG ratios.

Staff Ex. 12.0 at 17-18.

The Company agrees with Staff's second recommendation requesting primary ridership-related research for BE programs and not relying on secondary sources. However, the Company disagrees with Staff's recommendation for an ex-post cost-effectiveness analysis of the BE Plan 2, arguing that it is not required by statute and would be costly and burdensome while introducing "significant uncertainty for customer regarding budget availability and rebate amounts." ComEd Ex. 6 at 68-69. However, as

Staff explains, an ex-post cost-effectiveness analysis offers an objective, retrospective evaluation of the Company's programs' actual performance. This evaluation should provide an ex-post cost-effectiveness analysis using actual performance data, such as participation rates, NTG ratios, costs, and benefits to assess whether programs meet their cost-effectiveness goals. Staff Ex. 1.0 at 18-19. Staff states that, while the Commission is only required to determine whether BE plan investments and expenditures are "designed and reasonably expected" to achieve certain goals, an ex-post cost-effective analysis will aid the Commission, Staff, and stakeholders in evaluating what the investments actually achieved. Staff Ex. 12.0 at 17.

**c. AG's Position**

The AG notes that ComEd reiterated in this section that the Commission should not adopt the AG's respective proposals to change the BE Plan 1 Evaluation that are referenced in Section IV.C.6.

**d. Commission Analysis and Conclusion**

ComEd agrees with Staff's recommendation regarding NTG studies noted above and it is approved. ComEd disagrees with the requirement to have the evaluator include an ex-post cost-effectiveness analysis. Similar to Staff's recommendation in Budget Flexibility (Section IV.C.5.), Staff requests that ComEd have an evaluator perform an ex-post cost-effectiveness analysis. The Commission agrees that such an analysis will provide an objective view of BE Plan 2's performance. The BE plans should ideally improve over time which this sort of analysis will help to enable. The Commission directs ComEd to include such an analysis.

**D. Statutory Requirements**

ComEd asserts that the Commission should determine that ComEd's BE Plan 2 satisfies all statutory requirements as outlined in the EV Act. ComEd's BE Plan must comply with the requirements in EV Act Section 45(d)(i) through (x); the EV Act Public Interest Criteria set forth in Section 45(d)(1) through (8); the BCA from Section 45(d); consideration of the Staff Workshop Report Recommendations as stated in Section 45(d) and (g); the reporting and development requirements in Section (f); and the workforce equity requirements in Section 45(h) and (i). See 20 ILCS 627/45; ComEd Ex. 1.0 at 38.

ComEd states that, in BE Plan 1, the Commission concluded that ComEd's BE Plan 1 met (or would meet with specific changes made in ComEd's Compliance Filing) the public interest criteria in Section 45(d)(1) through (8), the minimum information requirements in Section 45(d)(i) through (x), and all other statutory requirements. ComEd argues that "the backbone of BE Plan 2 is BE Plan 1 and ComEd did not make any changes that would have impacted the Commission's compliance determination from BE Plan 1." ComEd Ex. 3.0 CORR at 7. ComEd further argues that the Commission's conclusions regarding BE Plan 1's statutory compliance in the BE Plan 1 Order should and must apply to BE Plan 2. In ComEd's opinion, the differences between BE Plan 1 and BE Plan 2 do not materially alter those conclusions since ComEd continues with programs and approaches the Commission concluded satisfied the statutory criteria.

Staff also agrees that ComEd has complied with the requirements of the EV Act but recommends ways that the Company could improve its compliance. Those recommendations and suggested conditions are addressed throughout the Order.

The AG makes recommendations for improving the plan with a particular focus on the budget and the rate impact cap. Those recommendations are addressed throughout this Order. The AG asserts ComEd's BE Plan 2 is not cost-effective, but the Commission disagrees, as is discussed throughout this Order.

The Commission finds that, with the modifications adopted throughout this Order, ComEd's BE Plan 2 will comply with the EV Act.

**1. Public Interest Criteria in EV Act Sections 45(d)(1)-(8)**

**a. Carbon-dioxide Emissions Metric**

**(i) ComEd's Position**

ComEd explains that the AG recommends that the Commission direct ComEd to develop a carbon-dioxide emissions reduction per dollar metric for the evaluation of each direct incentive program in ComEd's BE Plan 2. The AG claims that the primary goal of transportation electrification is to reduce carbon or greenhouse gas emissions, and therefore each direct incentive program should be evaluated using this metric. Additionally, the AG claims that this metric is similar to a total resource cost test and would allow ComEd, the Commission, and stakeholders to be able to better assess the effectiveness of each program.

ComEd argues that the Commission should reject the AG's proposal for several reasons. First, the AG's concept of using a carbon-dioxide emissions reduction per dollar metric to evaluate each direct incentive program is based on an incorrect premise. Despite the AG's claim that the primary goal of transportation electrification is to reduce carbon or greenhouse gas emissions, and therefore each direct incentive program should be evaluated using the AG's proposed carbon-dioxide emissions reduction per dollar metric, program and sub-program evaluation is not straightforward and is based on several criteria because each program or sub-program has its own unique objectives in furthering the goals of the EV Act. AG Cross Ex. 1 at 2.

For example, the EV Act emphasizes EV adoption in LI and EIEC communities, and accordingly BE Plan 2 offers higher dollar-value rebates to these customers, which lowers the barriers to EV adoption in LICs/EIECs, thereby promoting equity and improving air quality in these communities. *Id* at 2-3; Section 627/45(d)(iv); Section 627/45(d)(2); Section 627/45(d)(3). ComEd argues that since the expected amount of carbon-dioxide emissions reduction over the life of a measure (e.g., a vehicle supported by a single rebate) is expected to be the same for both LI/EIEC and non-LI/non-EIEC applicants, the higher rebate amount for LI/EIEC applicants should result in less carbon-dioxide emissions reductions per dollar for LI/EIEC applicants. ComEd states that the AG's suggested metric would entirely overlook this dynamic and its associated contribution to furthering the goals of the EV Act, and in fact it could undermine the advancement of EV adoption in LI and EIEC communities. AG Cross Ex. 1 at 2-3.

As another example, it is likely that transit and school buses will result in less carbon dioxide emissions reductions per dollar, relative to other vehicle types in the C&I

and Public Sector EV Purchase Sub-program. AG Cross Ex. 3.01 at 3. However, BE Plan 2's inclusion of rebates for transit and school buses is aligned with the EV Act and responsive to stakeholder feedback. *Id* at 3. 220 ILCS 627/45(d)(4) specifically targets school and transit buses in LIC/EIECs.

ComEd points out that another reason why the AG's recommendation should be rejected is that ComEd's BE Plan 2 BCA, as specified in Section 627/45(d), already provides the statutorily required cost-effectiveness evaluation of BE Plan 2. AG Cross Ex. 1 at 2. Moreover, in response to Commission direction, the BCA already includes sub-program level BCAs to provide ample information to aid the Commission in understanding the cost-effectiveness of BE Plan 2's individual sub-programs. BE Plan 1 Order at 198; ComEd Ex. 2.0 at 18.

Furthermore, ComEd argues that the AG is incorrect in claiming that its proposed carbon-dioxide emissions reduction per dollar metric is similar to a total resource cost test. In fact, the BCA that ComEd has performed and presented is much more similar to a total resource cost test than the AG's proposed metric is. ComEd's BCA, similar to a total resource cost test, compares the cost-effectiveness of each individual program and sub-program in ComEd's BE Plan 2 in a way that appropriately accounts for all costs and benefits that must be considered in the cost-beneficial determination set forth in the EV Act, including the societal value of reduced carbon emissions and surface level pollutants. ComEd Ex. 2.0 at 4-5; AG Cross Ex. 1 at 3. In contrast, the AG witnesses' proposed carbon-dioxide emissions reduction per dollar metric would not even capture all of the environmental benefits of a given sub-program, as it would ignore the reductions in surface-level pollutants, which can vary by sub-program and which are recognized in the EV Act as being critical to include in the evaluation of a BE Plan. AG Cross Ex. 1 at 3.

Moreover, ComEd argues that given the information provided in the BCA, the AG's suggested metric is already available to the AG for calculation. The information in the workpaper submitted with Baumann Sur., ComEd Ex. 7.0 entitled "BCA ComEd BE Plan 2 Surrebuttal.xlsx" contains the components necessary to calculate both the numerator (i.e., the expected amount of carbon-dioxide emissions reduction for each Program/Sub-program) and the denominator (i.e., the expected dollar amount of rebates for each Program/Sub-program) of a carbon-dioxide emissions reduction per dollar metric. AG Cross Ex. 1 at 4. In addition, similar workpapers, reflecting earlier vintages of BE Plan 2 and/or earlier assumptions (before incorporating revisions to the assumptions recommended by various parties), were provided with Baumann Dir., ComEd Ex. 2.0, and Baumann Reb., ComEd Ex. 4.0. AG Cross Ex. 1 at 4.

Finally, ComEd argues that in the BE Plan 1 annual report, ComEd already captures and publishes metrics that can indicate aspects of the effectiveness of each individual program/sub-program and its ability to achieve its goals (e.g., rebate dollars paid out to customers, including the percentage provided to LI customers and customers located in or primarily serving EIECs). AG Cross Ex. 1 at 2. In BE Plan 2, ComEd expects to use similar metrics, however, these are subject to change based on BE Plan 1 experience and Commission direction. *Id* at 2. Notably, ComEd already plans to include (in the BE Plan 2 annual report) an estimate of the reduction of greenhouse gas emissions and local air pollutants resulting from BE Plan 2 Programs for a given BE Plan 2 year,

including a breakdown of the estimated emission reductions by sub-program and by customer type (LIC/EIEC or non-LIC/non-EIEC). ComEd Ex. 6.0 at 73.

**(ii) AG's Position**

The AG asks the Commission to direct ComEd to develop a carbon-dioxide emissions reduction per dollar metric to evaluate the Company's programs. By definition, "beneficial electrification programs" are "programs that lower carbon dioxide emissions, replace fossil fuel use, [and] create cost savings." 20 ILCS 627/45(b) (definition of "beneficial electrification programs"). Under Section 45(d)(6) of the EV Act, the BE Plan must be designed to "contribute to the reduction of carbon emissions." 20 ILCS 627/45(d)(6). Section 45(d) also requires that the BE Plan be cost-effective. Given the EV Act's focus on both carbon reduction and the efficient and cost-effective use of the electric grid, the AG recommends that the Company evaluate each direct incentive program with a common metric: carbon dioxide equivalent emissions avoided per dollar in addition to other evaluation metrics specific to the program. AG Ex. 1.00 at 28.

Furthermore, the AG iterates that the EV Act requires that the BE Plan be cost-effective, 20 ILCS 627/45(d)(7), but that neither the statute nor ComEd's plan identify what metric should be used to determine whether the statute's goal to reduce carbon in the atmosphere is furthered. 20 ILCS 627/45(d)(6). In order to expressly address Illinois' and the BE Plan's carbon reduction goals, the Commission should require a common carbon reduction metric be applied to every program. AG Ex. 1.00 at 28. Currently, the plan includes no metric to compare programs or evaluate their effectiveness over time. *Id.* at 28. Since the primary goal of transportation electrification is to reduce carbon or greenhouse gas emissions, the AG believes the Company should evaluate each program with a common metric: carbon dioxide equivalent emissions avoided per dollar. *Id.* at 28. This metric is similar to a total resource cost test for EV programs and would allow the Company, the Commission, and stakeholders to be able to assess the effectiveness of each program. AG Ex. 1.00 at 28-29.

Although the AG's recommendation is reasonable and firmly rooted in the statutory language, ComEd rejects it. In response to a data request, the Company responded it did not agree with the AG's recommendation to apply a consistent metric to direct BE Plan measures. AG Cross Ex. 1 at 1-4. The Company reasoned that the programs should not be measured against each other because each program has "unique goals." *Id.* at 1. However, the AG contends that each program is ostensibly in service of Section 45(d) of the EV Act; therefore, they argue the programs can be compared to each other due to the same legal standard being applied to each one. ComEd also opposes the adoption of the AG's recommended carbon-dioxide emissions reduction per dollar metric by arguing that such a metric would not capture all of the environmental benefits of a given sub-program. *Id.* at 3. The AG is not claiming that the carbon-dioxide emissions reduction per dollar metric captures all environmental benefits or that it would be the sole metric; rather, it would measure the reduction of greenhouse gas emissions, which is an explicit goal of the EV Act stated in section 45(d). 20 ILCS 627/45(d)(6); AG Ex. 2.00 at 17.

**(iii) Commission Analysis and Conclusion**

The AG recommends that the Commission direct ComEd to develop a carbon-dioxide emissions reduction per dollar metric to evaluate the Company's programs. ComEd asserts that all the information to conduct such an analysis is available in the record. Considering this, it is not clear why ComEd would object to providing such an analysis. The Commission finds that the AG's proposal could be a useful metric to evaluate this plan and in future BE Plans, and the AG's proposal is adopted. The AG's proposed metric would account for actual carbon impacts. The Commission agrees that each program has unique goals, however as the AG points out, they are all in service of Section 45(d) of the EV Act.

**b. Section 45(d)(1)**

**(i) ComEd's Position**

Section 45(d)(1) of the EV Act provides that a BE Plan is in the public interest if it is designed and reasonably expected to "maximize total energy cost savings and rate reductions so that nonparticipants can benefit." 20 ILCS 627/45(d)(1). The Commission should determine that ComEd's BE Plan 2 meets the objectives of this public interest criterion. Staff recommends that the Commission find that ComEd's BE Plan 2 meets the objectives of this public interest criterion, however, Staff had additional recommendations.

Staff witness Hamidu recommends that ComEd: (1) provide a clear connection between its BE Plan 2 programs and the potential rate decrease or cost savings for nonparticipants; (2) provide adequate information on how it reached the potential cost savings figure; and (3) clarify how assumptions made by ComEd would affect the potential rate reduction for nonparticipants. Staff Ex. 12.0 at 13.

First, ComEd has explained the clear connection between its BE Plan 2 programs and the potential rate decrease or cost savings for nonparticipants in its BE Plan 2 and ComEd witness Baumann's surrebuttal testimony and has reiterated it above. ComEd Ex. 1.01 at 70-71; ComEd Ex. 7.0 at 42-43, 50-51. Second, all assumptions and supporting calculations of the \$65.9 million value can be found in the workpaper submitted with Baumann Sur., ComEd Ex. 7.0 entitled "BCA ComEd BE Plan 2 Surrebuttal.xlsx." Third, ComEd explained how ComEd's assumptions would affect the potential rate reduction for nonparticipants. For the purpose of the potential rate reductions, ComEd assumed that transit buses charge at all hours of the day and that private fleet and other public sector operators have more flexibility and charge their vehicles solely during off-peak hours, avoiding wholesale generation capacity charges. This charging method allows fleet and public sector operators to lower their energy and capacity charges. ComEd also assumed that residential customers, enrolled in a time-variant rate as a condition of the Residential EV Charger and Installation Program, will charge their vehicles during off-peak hours when grid utilization is more likely to be low. ComEd argues that all of these assumptions contribute to the potential rate reduction of \$65.9 million as shown in the workpaper submitted with Baumann Sur., ComEd Ex. 7.0 entitled "BCA ComEd BE Plan 2 Surrebuttal.xlsx."

**(ii) Staff's Position**

Staff recommends that the Commission find that the Company's BE Plan 2 is designed and reasonably expected to maximize total energy cost savings and rate reductions so that nonparticipants can benefit as set forth in Section 45(d). However, the Commission should direct the Company to provide a clear connection between its BE Plan 2 programs and the potential rate decrease or cost savings for non-participants in its next BE Plan. The Commission should also direct the Company to provide an explanation of how the calculated potential incremental rate reduction amount would be impacted in the event these assumptions do not hold true in future BE Plan cases. Staff believes the Commission would benefit from an explanation from the Company on how its assumptions were considered in the potential rate reduction calculation for non-participants. Staff Ex. 12.0 at 13.

The Company stated that the potential incremental rate reduction from adoption due to the BE Plan increased from \$51.3 million to \$65.9 million. ComEd Ex. 7.0 at 50. ComEd argues that it has provided the information requested by Staff to show a clear connection between the Company's plan and benefits to non-participants and how it considered its assumptions in the calculation of the \$65.9 million potential rate reduction for non-participants. The Company also responded to Staff's request for a clear connection between the Company's plan and its achievement of Section 45(d)(1) and provided information on the assumptions used in its calculations. ComEd Ex. 7.0 at 50-51. However, Staff asserts the Company did not provide adequate information on how its calculation would be impacted, in any case, if its assumptions do not hold true. It is not clear to Staff how these assumptions would impact the stated benefit to non-participants without appropriate explanation. Staff believes such information would be relevant to the Commission to know the extent to which the assumption made by the Company would impact its plan benefits. Staff Ex. 12.0 at 13. Staff recommends the Commission direct the Company to further refine the information provided pertaining to Section 45(d)(1).

**(iii) Commission Analysis and Conclusion**

The Commission finds that ComEd's BE Plan 2 is designed and reasonably expected to achieve the goals of Section 45(d)(1). ComEd discussed the assumptions used in its calculations. Staff notes that ComEd provided information on its assumptions; however, the Company did not provide adequate information on how non-participants would be impacted if its assumptions do not hold true. The Commission finds that it is beneficial to know the extent to which the assumptions made by the Company materialize, since its assumptions impact the calculated benefits used to comply with the Section 45(d)(1). In the next BE Plan, the Commission directs ComEd to "further refine the information provided" to show how non-participants will be impacted if the assumed savings do not materialize.

**c. Section 45(d)(2)**

**(i) ComEd's Position**

ComEd argues that no party contests whether ComEd has met the objectives in Section 45(d)(2) and the Commission should determine ComEd's Plan meets the

objectives of this public interest criterion. Section 45(d)(2) of the EV Act provides that a BE Plan is in the public interest if it is designed and reasonably expected to “address environmental justice interests by ensuring there are significant opportunities for residents and businesses in eligible communities to directly participate in and benefit from beneficial electrification programs.” 20 ILCS 627/45(d)(2).

Staff provides two new recommendations beyond compliance, offered for the first time in their Initial Brief. Staff IB at 36-38. ComEd notes that, as a preliminary matter, Staff’s suggestions are untimely. No party has had a chance to analyze these suggestions or develop facts and evidence in response to these proposals. ComEd argues that the Commission should reject these recommendations on that basis alone. ComEd further argues that as discussed below, the Commission should also reject these recommendations on the merits.

First, while ComEd has already committed to reporting on estimated reductions in greenhouse gas emissions and local pollutants for EIECs by 2027 as part of its tracking mechanisms starting in its first BE Plan 2 annual report, Staff suggests that ComEd “accelerate the timeline for interim reporting, with transparent reporting on interim and final outcomes such as particulate matter reductions and improvements in air quality and transportation costs.” Staff IB at 36; *see also* ComEd Ex. 6.0, at 73. Staff does not explain the necessity for this accelerated timeline, nor does it detail the “interim” timeframe it suggests. Additionally, ComEd argues that requiring ComEd to accelerate its timeline would add administrative burden and expense, without increasing adoption of BE technologies or benefiting ComEd’s customers in any way.

Second, Staff recommends that the Commission direct ComEd to adopt more robust tracking and reporting mechanisms for the C&I and Public Sector Make-Ready Sub-program to effectively address the environmental justice objectives outlined in Section 45(d)(2) of the EV Act. Staff IB at 38. ComEd states that the tracking and reporting mechanisms ComEd plans to implement are sufficient to address the environmental justice objectives outlined in this section and do not need to be revised at this time, as they already detail both the adoption of EVs and EV ports through ComEd’s programs, and the utilization of charging stations in environmental justice communities. ComEd Ex. 6.0 at 72-73.

ComEd argues that for the foregoing reasons, the Commission should reject Staff’s recommendations and determine that ComEd has complied with the objectives of Section 45(d)(2) of the EV Act.

## **(ii) Staff’s Position**

Staff states that the Commission should find ComEd’s BE Plan 2 addresses the statutory objective set forth in Section 45(d)(2). Staff Ex. 2.0 at 13. Staff further recommends the Commission approve ComEd’s commitment to include metrics in its annual report, demonstrating the Company’s spending and resource allocation for EIEC/LI communities. Staff Ex. 13.0 at 5.

Section 45(d)(2) requires BE Plans to include measurable goals to address environmental justice. 20 ILCS 627/45(d)(2). ComEd’s commitment to reserving 70% of its C&I and Public Sector Make-Ready Sub-program budget for EIECs (ComEd Ex. 3.0

CORR at 59) establishes a promising foundation. However, Staff states that the sub-program could benefit from more robust mechanisms, such as interim reporting metrics, stakeholder engagement processes, and detailed tracking systems, to evaluate the effectiveness of these investments in delivering tangible benefits to EIECs. Staff Ex. 17.0 at 9. Without such mechanisms, ComEd cannot demonstrate how the program aligns with environmental justice goals. *Id.*

For instance, ComEd filed an annual report on BE Plan implementation and ComEd has committed to reporting on estimated reductions in greenhouse gas emissions and local pollutants for EIECs by 2027 as part of its tracking mechanisms in the report. Staff Cross Ex. 1.0 at 8-9. While this aligns with statutory objectives, establishing additional interim reporting metrics and stakeholder engagement processes could significantly enhance transparency and provide measurable benchmarks to evaluate the program's success over time. Staff Ex. 17.0 at 9.

Staff recommends ComEd accelerate the timeline for interim reporting, with transparent reporting on interim and final outcomes such as particulate matter reductions and improvements in air quality and transportation costs because these outcomes are critical to building trust among impacted communities and aligning with the goals of Section 45(d)(2). Staff Ex. 6.0 at 7-9; Staff Ex. 17.0 at 9. Metrics such as particulate matter reductions directly link electrification efforts to improved health benefits in EIECs. Staff Ex. 6.0 at 7-9. By implementing these enhancements, including reporting on environmental and economic impacts in its annual report, ComEd can establish a more effective and transparent framework for achieving measurable environmental justice outcomes and ensure its investments deliver the intended benefits to EIECs. Staff Ex. 6.0 at 7-9; Staff Ex. 17.0 at 9.

Staff also suggested ComEd include a detailed analysis of these metrics in its annual report to evaluate the effectiveness of the allocations. *Id.* In surrebuttal testimony, ComEd agrees to include in its annual report spending by programs in the EIEC/LI communities, reports on the growth of EVs and charging ports in its territory, including the percentage in EIECs, and share anonymized, public Level 3 charger utilization data for EIEC/LIs and non-EIEC/non-LI communities. ComEd Ex. 6.0 at 72. Furthermore, ComEd will utilize recommendations from its independent evaluation to assess the success of rebate allocations and identify opportunities for process improvements. ComEd Ex. 1.01 at 81; ComEd Ex. 6.0 at 72. Accordingly, Staff understands this issue is uncontested.

Although Staff makes recommendations to enhance the C&I and Public Sector Make-Ready Sub-program, these recommendations do not negate Staff's conclusion that ComEd's BE Plan 2 adequately addresses Section 45(d)(2). Therefore, Staff recommends the Commission find the ComEd BE Plan 2 addresses the statutory objective set forth in Section 45(d)(2). Staff Ex. 13.0 at 4.

### (iii) Commission Analysis and Conclusion

ComEd commits to include metrics in its annual report, demonstrating the Company's spending and resource allocation for EIEC/LI communities. Staff requests that ComEd establish more "robust tracking and reporting mechanisms for the C&I and Public Sector EV Make-Ready Sub-program to verify that LIC/EIECs are receiving measurable environmental and economic benefits . . . ." Staff Ex. 17.0 at 9. The

Commission finds value in improvements to tracking and reporting and directs ComEd to work with Staff and interested stakeholders to address Staff's concerns and work towards developing and enhancing tracking and reporting mechanisms. To the extent Staff's recommendations are tied to Staff's recommendations regarding compliance with Sections 45(d)(i), (vi) or (vii) of the EV Act, they are rejected as discussed below.

**d. Section 45(d)(6)**

**(i) ComEd's Position**

ComEd argues that no party contests whether ComEd has met the objectives in Section 45(d)(6) and the Commission should determine that ComEd's BE Plan 2 meets the objectives of this public interest criterion. Section 45(d)(6) provides that a BE Plan is in the public interest if it is designed and reasonably expected to "contribute to the reduction of carbon emissions and meeting air quality standards, including improving air quality in eligible communities who disproportionately suffer from emissions from the medium-duty and heavy-duty transportation sector." 20 ILCS 627/45(d)(6).

ComEd notes that although Staff explicitly agrees that ComEd complies with this Section, Staff proceeds to reiterate a C&I and Public Sector EV Make-Ready Sub-program specific recommendation. Specifically, Staff recommends that ComEd include "tracking and reporting mechanisms within ComEd's C&I and Public Sector Make-Ready Sub-program so that Staff and Stakeholders may evaluate ComEd's achievement of the emissions reduction and air quality improvement objectives in Section 45(d)(6) of the EV Act." Staff IB at 43. ComEd states that although this recommendation exceeds the requirements of this statutory section, ComEd has already agreed to implement this tracking and reporting mechanism. ComEd Ex. 1.0 at 43. Staff's request is therefore moot.

In addition to the recommendation above, Staff makes two new suggestions, raised for the first time in their Initial Brief. First, Staff makes the same proposal to accelerate the timeline for developing emissions tracking metrics by adopting interim targets that it made regarding compliance with Section 45(d)(2). ComEd addressed this issue in that section above.

Second, Staff recommends that ComEd encourage regular stakeholder collaboration and include the results in the annual report to ensure metrics remain relevant and to address community-specific needs. Staff IB at 44; Staff Cross Ex. 1.0, 10-11. Although this is a new recommendation, ComEd has continuously expressed its commitment to stakeholder collaboration throughout these proceedings. ComEd argues that in addition to being untimely, this recommendation is also ambiguous. ComEd is unclear what Staff means when they say "regular" stakeholder engagement and to include the "results" in ComEd's annual report. ComEd argues that the Commission should reject this proposal as well.

ComEd argues that the Commission should reject Staff's recommendations and determine that ComEd has complied with the objectives of Section 45(d)(6) of the EV Act.

**(ii) Staff's Position**

Staff states that the Commission should adopt Staff's recommendation to enhance the Company's tracking and reporting mechanisms within ComEd's C&I and Public Sector

Make-Ready Sub-program so that Staff and stakeholders may evaluate ComEd's achievement of the emissions reduction and air quality improvement objectives in Section 45(d)(6) of the EV Act. Section 45(d)(6) requires BE Plans to include measurable targets to reduce emissions and improve air quality. 20 ILCS 627/45(d)(6). The absence of these metrics in the C&I and Public Sector Make-Ready Sub-program limits ComEd's ability to evaluate its progress and make data-driven adjustments to meet statutory goals. Staff Ex. 17.0 at 14-16.

According to Staff, comprehensive metrics are essential for aligning the sub-program with statutory obligations and ensuring the Company's BE Plan 2's effectiveness. Staff Ex. 17.0 at 14-16. These metrics could include indicators such as carbon dioxide reductions, decreases in fossil fuel-based vehicle miles traveled, and particulate matter emissions reductions, particularly in EIECs. *Id.* Additionally, the sub-program should provide detailed, transparent reporting on budget allocations, project implementation, and measurable outcomes directly linked to objectives like emissions reductions, air quality improvements, and equitable infrastructure deployment. *Id.* Incorporating these elements into ComEd's annual reports would enhance transparency, foster accountability, and better align the sub-program with EV Act goals. Staff Ex. 17.0 at 16.

ComEd expressed its commitment to developing emissions tracking metrics by April 2027. Staff Cross Ex. 1.0 at 8-9. Staff recommends that ComEd accelerate its timeline and adopt interim targets that establish structured pathways to achieve emissions reduction milestones. Staff Ex. 17.0 at 16. Additionally, regular stakeholder collaboration should be encouraged, and the results included in the annual report to ensure metrics remain relevant and address community-specific needs. Staff Cross Ex. 1.0 at 10-11; Staff Ex. 17.0 at 14-16.

While Staff's recommendation on additional reporting is specific to the C&I and Public Sector Make-Ready Sub-program, if the Commission adopts Staff's recommendation it should be applicable to all programs designed to achieve this statutory objective.

### **(iii) Commission Analysis and Conclusion**

ComEd commits to developing emissions tracking metrics by April 2027. The Commission finds similar to Staff's recommendation in Section 45(d)(2) above, there is value in improved tracking and reporting mechanisms. Specifically, the Commission finds that additional refinements could be beneficial to ensure that ComEd's BE Plan 2 C&I and Public Sector Make-Ready Sub-program effectively reduces emissions and improves air quality in accordance with Section 45(d)(6). The Commission adopts Staff's request for an accelerated timeline and directs the Company to develop emissions tracking metrics by October 2026. Additionally, ComEd is directed to expand the scope of its tracking metrics to include detailed data on carbon dioxide reductions, fossil fuel-based vehicle miles traveled, and particulate matter reductions, particularly in EIECs.

The Commission further finds that regular stakeholder engagement is necessary to ensure that tracking measures remain relevant and aligned with community-specific needs. Accordingly, to aid in the implementation of the emissions tracking metrics proposal adopted above, ComEd shall formalize structured stakeholder engagement and

include findings from such discussions in its annual reports to ensure transparency and public accountability, as suggested by Staff. See Staff Ex. 17.0 at 14-16; Staff IB at 42-44. The Commission directs ComEd to work with Staff and interested stakeholders to implement these refinements and enhance tracking and reporting mechanisms to maximize the C&I and Public Sector Make-Ready Sub-program’s impact in reducing emissions and improving air quality in EIECs, as recommended by Staff. With these adjustments, the Commission finds ComEd met the objectives of Section 45(d)(6).

**2. Minimum Information Requirements in EV Act Sections 45(d)(i)-(x)**

**a. Section 45(d)(i)**

**(i) ComEd’s Position**

Section 45(d)(i) of the EV Act provides that a BE Plan must address “[m]ake-ready investments to facilitate the rapid deployment of charging equipment throughout the State, facilitate the electrification of public transit and other vehicle fleets in the light-duty, medium-duty, and heavy-duty sectors, and align with Agency-issued rebates for charging equipment.” 20 ILCS 627/45(d)(i).

The Residential and C&I investments proposed by ComEd are designed to facilitate the rapid deployment of charging equipment and fleet vehicles of all classes across the state, as required by this Section. ComEd Ex. 3.0 CORR at 26-27. The Residential EV Charger and Installation Program and C&I and Public Sector Make-Ready Sub-program provide rebates for make-ready work for residential and C&I/public sector customers, respectively, which cover costs incurred by the customer to make a home or site ready for EV charging, providing incentives for both LI/EIEC and non-LI/non-EIEC customers. “The C&I and Public Sector EV Make-Ready Sub-program has rebates set at different levels for [Level 2] and DCFC chargers in recognition that entities like public transit agencies may have different charging needs than light-duty fleets, for example.” ComEd Ex. 1.01 at 53-54. Furthermore, the C&I and Public Sector EV Purchase Sub-program will facilitate the electrification of public transit, school buses, and other vehicle fleets in the light-duty, medium-duty, and heavy-duty sectors by providing EV purchase rebates tailored to each vehicle class that will spur EV adoption.

ComEd argues that additionally, BE Plan 2 incentives align with rebates issued by the Illinois Environmental Protection Agency (“IEPA”) for electric vehicles and charging equipment. ComEd Ex. 1.01 at 54. Illinois residents can apply for electric vehicle purchase rebates through the IEPA, while ComEd offers rebates for the purchase and installation of EV chargers and charging infrastructure. Similarly, the IEPA provides grants to public and private entities for the installation and maintenance of publicly available charging stations. *Id.* ComEd’s C&I and Public Sector Make-Ready Sub-program offers complementary incentives for the necessary make-ready work to prepare charger sites for use. *Id.*

Moreover, ComEd seeks to further improve the already strong collaboration with State agencies like the IEPA and Illinois Department of Transportation (“IDOT”) by coordinating on incentive status and relevant information sharing, and by developing a collaborative framework for improved National Electric Vehicle Infrastructure (“NEVI”)

award grant coordination. ComEd Ex. 3.0 CORR at 27-28. ComEd will also require self-reporting of rebate applicants to disclose if they are receiving State or Federal funds as part of the rebate application process in BE Plan 2. ComEd Ex. 6.0 at 16; Staff Ex. 17.0 at 34-35.

ComEd notes that in the BE Plan 1 Order, the Commission instructed ComEd to bifurcate its C&I EV Charging Infrastructure Sub-program in order to comply with the minimum information requirements addressed in Section (45)(d)(i). BE Plan 1 Order at 176. ComEd confirmed this adjustment in its BE Plan 1 Compliance Filing. ComEd's BE Plan 2 has maintained this adjustment and has not made any other changes to BE Plan 2 that would impact this compliance determination. ComEd Ex. 3.0 CORR at 26. Furthermore, no party pointed to any specific changes in this BE Plan update, nor to any change in law, facts, or circumstances that would cause non-compliance with 45(d)(i). *Id.* at 27; see also ComEd Ex. 3.01 at 1-3.

ComEd notes that Staff witness Ashbaugh has asserted that "ComEd's BE Plan 2 does not have a robust data driven framework to prioritize investment based on community need or potential impact, relying on developers and operators for siting charging infrastructure, potentially leaving gaps in certain areas" and that "BE Plan 2 does not have transparent and measurable goals for infrastructure deployment" in LIC and/or EIEC. ComEd Ex. 6.0 at 15; see also Staff Ex. 17.0 at 34-35. Staff is the only party that contests ComEd's compliance with this Section. ComEd argues that the Commission should reject Staff's recommendation and determine that similar to its conclusions regarding BE Plan 1, ComEd's BE Plan 2 meets the minimum information requirements set forth in Section 45(d)(i) of the EV Act.

ComEd further elaborates on why the Commission should reject both of Staff's recommendations. First, Staff recommends that ComEd develop a data-driven, geographic prioritization framework incorporating metrics such as air quality data, EV adoption potential, and socioeconomic indicators to prioritize investments in underserved areas. Staff Ex. 17.0 at 35. But Section 45(d)(i) does not contain any equity-based objectives. *Compare* 220 ILCS 627/45(d)(i) (no equity objectives), with e.g., 220 ILCS 627/45(d)(d)(iv), (v), (vi), and (x) (all containing equity objectives). Staff's suggestion is therefore misplaced. ComEd has, nonetheless, committed to modifying its EV Load Capacity Map by the end of 2026 to show relevant equity data such as EIEC categorization, air quality metrics, and school bus depot locations offered as part of ComEd's EV Toolkit. ComEd Ex. 6.0 at 45. ComEd will use the data underlying this map to assign a "score" to each community that it will use to inform its targeted outreach efforts, such that it has a data-driven approach to prioritizing outreach to communities who could benefit the most from charging infrastructure deployment. *Id.* These measures, as described in ComEd witness Botero's surrebuttal testimony, directly address Staff's concerns. *Id.*

Second, Staff recommends that ComEd enhance coordination with state agencies by exploring opportunities to formalize joint planning sessions and create shared data platforms to align make-ready investments with state rebate programs. Staff Ex. 17.0 at 35. ComEd has already committed to continuing the ongoing strong collaboration, coordination, regular planning sessions, and data and learnings exchange with State agencies like the IDOT and IEPA through BE Plan 2 as described in ComEd witness

Botero's surrebuttal testimony. ComEd Ex. 6.0 at 16. These planning sessions that ComEd already facilitates with State agencies satisfy Staff's request to formalize joint planning sessions. Also, as part of this collaboration, ComEd plans to create a shared drive with the State agencies to exchange relevant data to support incentive coordination.

**(ii) Staff's Position**

In response to ComEd's surrebuttal testimony, Staff maintains that ComEd's C&I and Public Sector Make-Ready Sub-program does not adequately contribute to ComEd's compliance with the statutory requirements under Section 45(d)(i) of the EV Act. Section 45(d)(i) mandates that BE Plans include "make-ready investments to facilitate the rapid deployment of charging equipment" and the electrification of vehicle fleets in the light-duty, medium-duty, and heavy-duty sectors. 20 ILCS 627/45(d)(i). While ComEd's BE Plan 2 includes make-ready investments (ComEd Ex. 1.01 at 53), the program does not sufficiently address the unique infrastructure needs of medium- and heavy-duty fleets, particularly in underserved communities. Staff Ex. 17.0 at 34.

ComEd's surrebuttal testimony asserts that the BE Plan 2 satisfies the statutory requirement and highlights the reservation of funds and higher rebates for LIC/EIEC projects, allowing developers and operators to determine site locations. ComEd Ex. 6.0 at 16. Additionally, ComEd notes its commitment to reserving 70% of the C&I and Public Sector Make-Ready Sub-program budget for EIECs and its plans to assign a score to each community indicating the extent of project benefits. ComEd Ex. 6.0 at 45-46. While these commitments demonstrate progress, Staff states, this approach does not address Staff's recommendation that ComEd incorporate a robust, data-driven framework to ensure investments are targeted to areas with the greatest need. Staff Ex. 17.0 at 34. Delegating siting decisions to developers and operators without specific prioritization criteria risks leaving underserved areas without sufficient infrastructure. *Id.* ComEd states that Staff's recommendations for a geographic targeting framework, enhanced coordination with state agencies, and specific metrics are "programmatic" rather than compliance requirements. ComEd Ex. 6.0 at 16-17. The absence of measurable deployment targets, specific metrics, and detailed strategies undermines ComEd's ability to align its investments with statutory objectives. Section 45(d)(i) explicitly requires make-ready investments that facilitate infrastructure deployment across various vehicle sectors, particularly in underserved communities. Staff argues that without clear prioritization or measurable targets, ComEd cannot demonstrate that it is meeting these statutory goals. Staff Ex. 17.0 at 35.

According to Staff, ComEd's commitment to requiring rebate applicants to self-report additional state or federal funding (ComEd Ex. 6.0 at 17) is a step in the right direction but does not address the need for enhanced coordination mechanisms. ComEd's testimony indicates general collaboration with agencies like IEPA and IDOT (ComEd Ex. 6.0 at 17) but does not provide details on structured joint planning sessions or shared data platforms that could improve alignment and efficiency in resource allocation. Additionally, ComEd's commitments to reporting annually on expenditures and implementing a scoring system for communities are important but do not fully address the need for measurable deployment targets or interim milestones to track progress in achieving statutory goals. Staff Ex. 17.0 at 35.

While Staff acknowledges that ComEd's efforts demonstrate progress toward compliance with Section 45(d)(i) of the EV Act, the program lacks measurable deployment goals and a robust data-driven framework for prioritizing investments in underserved areas. ComEd's reliance on developers and operators for site selection without clear prioritization criteria risks leaving gaps in infrastructure for underserved communities, undermining statutory objectives.

In order to address Staff's concerns, Staff recommends the Commission require ComEd to:

- (1) Develop a data-driven, geographic prioritization framework incorporating metrics such as air quality data, EV adoption potential, and socioeconomic indicators to prioritize investments in underserved areas. Staff Ex. 17.0 at 34.
- (2) Enhance coordination with state agencies by exploring opportunities to formalize joint planning sessions and create shared data platforms to align make-ready investments with state rebate programs. Staff Ex. 17.0 at 35.
- (3) Set measurable deployment targets for infrastructure in LICs and EIECs and report on progress in its annual report. Staff Ex. 17.0 at 35.
- (4) Implement a self-reporting mechanism for rebate applicants to disclose additional state or federal funding received to ensure investments are comprehensively aligned. Staff Ex. 17.0 at 35.

Staff asserts that these measures are essential to align ComEd's sub-program with statutory requirements and ensure equitable infrastructure deployment.

### **(iii) EVgo's Position**

EVgo notes that Staff proposes to add a requirement to the Make-Ready Sub-Program where ComEd would adopt "a robust, data-driven framework to ensure investments are targeted to areas with the greatest need." Staff IB at 46; Staff Ex. 17.0 at 34. Staff suggests that the Company's framework should incorporate "metrics such as air quality data, EV adoption potential, and socioeconomic indicators to prioritize investments in underserved areas." Staff IB at 47; Staff Ex. 17.0 at 34. Staff states that "[d]elegating siting decisions to developers and operators without specific prioritization criteria risks leaving underserved areas without sufficient infrastructure." Staff IB at 46.

EVgo shares Staff's goal of ensuring funding is allocated to underserved communities and appreciates the intent behind Staff's proposal. However, EVgo recommends the Commission not adopt this recommendation because ComEd has made it a priority to ensure the development of EV charging stations in underserved areas. For example, ComEd proposes that 70% of funding for the Make-Ready Sub-Program goes to projects in LICs/EIECs. ComEd Ex. 1.01 at 7, n. 5. This proportion of funding corresponds to what the Commission ordered for the corresponding C&I and Public Sector EJ/R3 EV Charging Infrastructure Sub-Program, the predecessor to the Make-Ready Sub-Program, for BE Plan 1. BE Plan 1 Order at 68. ComEd has also proposed differentiated entity caps that will effectively encourage the private market to invest more heavily in LICs/EIECs.

In addition, EVgo notes that the geographic areas comprising LICs and EIECs have been defined based on metrics that include air quality data and socioeconomic indicators. Specifically, LICs include census tracts where at least half of the households earn an income of 80% or less of the Area Median Income. ComEd Ex. 1.0 at 7. EIECs include both R3 communities and EJ communities. R3 communities are those that “have been historically excluded from economic opportunities” as identified by 410 ILCS 705/10-40. *Id.* at 6. EJ communities are those that demonstrate higher risk of exposure to pollution based on environmental and socioeconomic factors and areas where residents have been historically subject to disproportionate burdens of pollution, including pollution from the energy sector. *Id.* at 7.

Thus, EVgo asserts that by reserving funds for, and encouraging investment in, LICs/EIECs, ComEd is indeed prioritizing investments in underserved areas, as Staff recommends. While EVgo commends ComEd for this, EVgo maintains that creating an additional prioritization framework may result in conflicting or competing priorities. In addition, EVgo warns that if the prioritization framework were to further limit eligibility within LICs/EIECs, some communities that could have otherwise benefited from investment would be excluded. EVgo asserts that the Commission should preserve the opportunity for all LICs/EIECs to benefit from the program.

Staff discusses the importance of ensuring investments are channeled to underserved communities with the greatest need for EV charging. EVgo states that EVSPs that own and operate EV charging stations have a natural incentive to deploy EV charging in locations with the greatest need for EV charging because their business model depends on utilization. EVgo notes that many EVSPs have developed sophisticated tools and models to support thoughtful siting of EV charging which ComEd may not be able to replicate if required to develop an additional prioritization framework. For example, EVgo employs a proprietary siting tool that incorporates years of data and several critical factors into charger siting, including population density, traffic patterns, EV density, proximity of other DCFC, multi-family housing proximity, amenities, among other factors. EVgo explains that such tools are utilized in network planning to identify the locations with the greatest charging need, while considering customer convenience. Thus, EVgo states that many EVSPs are already motivated to develop charging infrastructure in areas with the highest demand for EV charging.

Finally, EVgo maintains that incorporating additional geographic restrictions into the program may impact program participation. As there are already many factors that must be considered in siting an EV charging station, additional geographic requirements will further limit the pool of potential sites and may create a barrier to program participation.

Considering the steps ComEd has taken to ensure that LICs/EIECs are prioritized and the private market’s ability to reliably identify areas with the greatest need for EV charging, EVgo recommends the Commission not adopt Staff’s recommendations related to developing an additional prioritization framework. EVgo asserts that rejecting this recommendation will allow all LICs/EIECs the potential to benefit from the program and ensure that program participation is not hindered by additional geographic constraints.

**(iv) Commission Analysis and Conclusion**

No party argues that ComEd has not met the minimum requirements of Section 45(d)(i), rather Staff argues that ComEd's Public Sector Make-Ready Sub-program does not adequately contribute to ComEd's compliance with this Section. Staff makes several recommendations to enhance ComEd's compliance. The Commission agrees with ComEd that Staff's arguments under this specific provision of the EV Act are misplaced as there is no equity objective in Section 45(d)(i).

The Commission finds that ComEd has taken measures to address Staff's concerns that ComEd's Public Sector Make-Ready Sub-program adequately contributes to ComEd's compliance with the statutory requirements under Section 45(d)(i) of the EV Act. ComEd has agreed to a self-reporting mechanism. The Commission further finds that ComEd has already committed to and demonstrated its collaboration with state agencies. Further, the Commission finds ComEd has taken appropriate measures to prioritize and ensure the development of EV charging stations in underserved areas. The Commission finds that ComEd's BE Plan 2 meets the minimum information requirements set forth in Section 45(d)(i) of the EV Act. The Commission rejects Staff's additional recommendations.

**b. Section 45(d)(v)**

**(i) ComEd's Position**

ComEd argues that Staff explicitly agrees that BE Plan 2 meets the minimum information requirements set forth in Section 45(d)(v) and the Commission should find BE Plan 2 compliant with Section 45(d)(v). ComEd notes that while Staff does not contest ComEd's compliance with this Section, they renew their recommendation that the Commission direct ComEd to modify its BE Plan 2 by providing separate and detailed information on the methods that ComEd will adopt to ensure that rate impacts for LI customers will be minimized or, to the extent possible, exempted. Staff Ex. 12.0 at 15. ComEd argues that this directive is not feasible and does not follow the requirements of Section 45(d)(v) which states that a BE Plan must address "methods of minimizing ratepayer impacts and exempting or minimizing, to the extent possible, low-income ratepayers from the costs associated with facilitating the expansion of electric vehicle charging." 20 ILCS 627/45(d)(v).

ComEd states that the rate impacts of BE Plan 2 are relatively modest compared to the total electricity bill. Additionally, the costs of BE Plan 2 are allocated between Residential and C&I customers in proportion to the Residential Program and C&I and Public Sector Program spending levels, ensuring that residential customers are not unduly burdened by program costs. ComEd Ex. 1.01 at 55. ComEd argues that BE Plan 2 is designed to promote measure adoption in LICs/EIECs, ensuring that a significant portion of the benefits are directed to these areas. Meanwhile, LI customers will only bear a small fraction of the cost recovery as residential customers. *Id.* at 55-56. ComEd notes that the impacts to LI customer and non-LI customer bills are not expected to be materially different because the average kWh usage is similar. Therefore, the estimated modest net rate impact and the net bill impact for all non-participant residential customers is identical to that of non-participant LI customers. ComEd Ex. 6.0 at 17-18. ComEd discusses the estimated net rate impact and the net bill impact for all non-participant

residential customers in greater detail in the Analysis Concerning Customer Rates section. In addition, ComEd currently has a proposal that will discount LI customer total bills, including the impacts of BE Plan 2. Docket No. 24-0163 proposes a new Rider LID – Low Income Discount that will provide a percentage discount to eligible LI customer bills and the cost of the discounts will be recovered from all customer bills. ComEd argues that furthermore, as customers participate in BE Plan 2 and adopt EVs, their electricity consumption will increase. This rise in consumption will help lower the rates that ComEd needs to charge its customers to cover electricity grid and other costs, ultimately reducing the electricity bills for non-participants, all else being equal. *Id.* at 56.

ComEd argues that in the BE Plan 1 Order, the Commission instructed ComEd to include “in their compliance filing the methods of minimizing ratepayer impacts and exempting or minimizing low-income ratepayers from the costs associated with the BE Plan as required in the EV Act” in order to comply with Section 45(d)(v). BE Plan 1 Order at 176. ComEd notes that it made this adjustment in its BE Plan 1 Compliance Filing, essentially conveying the information stated above. May 2023 Compliance Filing at 47-58; ComEd Ex. 3.0 CORR at 31-32. ComEd has not made any changes to BE Plan 2 that would impact this compliance determination. ComEd Ex. 3.0 CORR at 32. ComEd goes on to argue that no party pointed to any specific changes in this BE Plan update, nor to any change in law, facts, or circumstances that would cause non-compliance with 45(d)(v). See *id.* at 33; see also ComEd Ex. 3.01 at 6-8.

Nonetheless, Staff witness Hamidu argued that to comply with this Section, ComEd should “provid[e] separate and detailed information on the methods [it] will adopt to ensure that rate impacts for LI customers will be minimized, or, to the extent possible, exempted.” Staff Ex. 12.0 at 15; ComEd Ex. 6.0 at 17. Witness Hamidu appears to believe that the collection of separate and distinct rate impact information for LI customers (separate from residential customers as a whole) is a key component to compliance with this Section. Staff Ex. 12.0 at 14.

ComEd argues that witness Hamidu is mistaken, and the Commission should reject this assertion. ComEd further states that, a reading of the plain language of this statute, including the term “to the extent possible,” clearly indicates exempting or minimizing low-income ratepayer impacts is desirable, but not required as witness Hamidu argues. 20 ILCS 627/45(d)(v). In any event, ComEd details above how it will minimize rate impacts for LI customers.

ComEd argues that the AG, for the first time in briefs, appears to contest ComEd’s compliance with Section 45(d)(v) by concluding that ComEd’s BE Plan 2 does not include special cost considerations for LI ratepayers within BE Plan 2 and its BCA does not minimize ratepayer impacts because it overstates benefits and understates costs. ComEd has already responded to the AG’s first statement in its response to a similar Staff argument. See ComEd IB at 66-67. ComEd addresses the AG’s second point in its BCA discussion.

## (ii) Staff’s Position

Staff states that the Commission should find that the Company’s BE Plan 2 specifically addresses methods of minimizing ratepayer impacts and exempting or minimizing LI ratepayers from the costs associated with facilitating the expansion of EV

charging as set forth in Section 45(d)(v). However, Staff states that the Commission should direct the Company to modify its BE Plan 2 by providing separate and detailed information on the methods that the Company will adopt to ensure that rate impacts for LI customers will be minimized or, to the extent possible, exempted. Staff Ex. 12.0 at 13. The Commission should be given the information to be able to tell if LI customers specifically are able to receive lower rates. Staff maintains the justification provided in direct testimony that the Company addresses rate reduction for residential customers, as a whole, but did not provide specific information on how the Company would minimize rate impacts for LI customers, as well as the Company did not provide any information that separates the expected rate reduction for LI customers from the rate reduction expected for residential customers as a whole. Staff Ex. 1.0 at 24; Staff Ex. 12.0 at 14.

The Company disagrees with Staff's request for a separate analysis that shows whether rates are being minimized for LI customers. The Company argues that the minimum requirements in Section 45(d)(v) refer to the rate impact on all residential customers which includes LI customers. The Company also argues that "the term 'to the extent possible' clearly indicates exempting or minimizing low-income ratepayer impacts is desirable, but not required . . ." ComEd IB at 67. The Company added that it does not expect the bill impact for LI and non-LI customers to be significantly different from each other because the KWh is similar. ComEd Ex. 6.0 at 17-18.

Staff believes a separate analysis would demonstrate to the Commission how rate impacts are being minimized for LI customers, apart from residential customers as a whole and help the Commission to track rate impacts, specifically for low-income customers. Staff Ex. 1.0 at 24; Staff Ex. 12.0 at 15. Further, if there is no significant difference in bill impact between the LI and non-LI customers in BE plan, Staff believes the Commission should be made aware of such instances by providing the Commission with a separate analysis of LI rate impact so the Commission knows the extent to which the Company would minimize or exempt LI customers from the costs associated with facilitating the expansion of electric vehicle charging. Staff Ex. 12.0 at 15.

The Company also stated its new Rider LID – Low Income Discount proposal in Docket No.24-0164 will provide a percentage discount to eligible LI customers on their total bill. However, the Company did not provide any information in the BE Plan 2 on how the proposed discount would minimize or exempt LI customers from the costs associated with facilitating the expansion of EV charging to the extent possible as stated in Section(d)(v).

This information will aid the Commission, Staff, and stakeholders in evaluating the effectiveness of the Company's efforts, and adjust those efforts as needed, and will support the Company in achieving the objectives of the EV Act. Staff recommends the Commission direct the Company to further refine the information it will report in furtherance of Section 45(v).

### **(iii) Commission Analysis and Conclusion**

The Commission finds that ComEd meets the minimum information requirements in Section 45(d)(v) of the EV Act by addressing methods of minimizing ratepayer impacts and exempting or minimizing LI ratepayers from the costs associated with facilitating the expansion of EV charging. Staff recommends that ComEd conduct a separate analysis

that demonstrates to the Commission how rate impacts are being minimized for LI customers, apart from residential customers as a whole and help the Commission to track rate impacts, specifically for LI customers. It is not apparent from the record that there would be any measurable difference on the bill impact between LI and non-LI residential customers as it pertains to the BE Plan. Nor is it clear how any future LI discount rate may minimize or exempt LI customers from costs associated with the expansion of EV charging. Therefore, the Commission finds a separate analysis as Staff suggests would be useful and it is approved.

**c. Section 45(d)(vi)**

**(i) ComEd's Position**

Staff is the only party that contests ComEd's compliance with this Section. ComEd argues that the Commission should reject Staff's recommendation and determine that similar to its conclusions regarding BE Plan 1, ComEd's BE Plan 2 meets the minimum information requirements set forth in Section 45(d)(vi) of the EV Act.

Section 45(d)(vi) of the EV Act provides that a BE Plan must address "plans to increase access to Level 3 Public Electric Vehicle Charging Infrastructure to serve vehicles that need quicker charging times and vehicles of persons who have no other access to charging infrastructure, regardless of whether those projects participate in optimized charging programs." 20 ILCS 627/45(d)(vi). ComEd's C&I and Public Sector EV Make-Ready Sub-program offers incentives for make-ready work to support the installation of Level 2 and Level 3 (DCFC) electric vehicle charging stations for both private and public sector entities and facilities. Since 70% of the budget reserved for infrastructure is located in or serving LICs/EIECs, DCFC stations can benefit those with limited charging access and limited available charging times, including residents and visitors of LICs/EIECs. ComEd Ex. 1.01 at 56. Also, ComEd has reduced barriers for charging providers and increased public charging options and availability by providing non-residential customers with a Watt-Hour Delivery Class. *Id.*

In BE Plan 1, the Commission specifically concluded that ComEd's BE Plan complied with Section 45(d)(vi) and ComEd has not made any changes to BE Plan 2 that would impact that compliance determination. BE Plan 1 Order at 176; ComEd Ex. 3.0 CORR at 34. Furthermore, no party pointed to any specific changes in this BE Plan update that would cause non-compliance, nor to any change in law, facts, or circumstances that would cause non-compliance with 45(d)(vi). See ComEd Ex. 3.0 CORR at 34-35; *see also* ComEd Ex. 3.01 at 9-10.

In BE Plan 2, ComEd will also more actively support the equitable selection of charging station sites, by agreeing to add layers such as EIEC and air quality to its existing EV Load Capacity Map. ComEd Ex. 6.0 at 19-20. Additionally, ComEd agreed to collect available public Level 3 charging station utilization information annually from charging station operators who received Make-Ready rebates, and report on it in the BE Plan 2 annual report, which was the only contested issue remaining in this Section. *Id.* at 19; ComEd Ex. 17.0 at 38-39.

ComEd argues that Staff incorrectly asserts that BE Plan 2 "does not establish specific deployment goals, tracking mechanisms, or strategies to assess and ensure

equitable infrastructure distribution” and appears to provide entirely or partially new recommendations. These suggestions are untimely. No party has had a chance to analyze the implications of these suggestions or develop facts and evidence in response to these proposals. ComEd argues that the Commission should reject these recommendations on that basis alone. As discussed below, the Commission should also reject these recommendations on the merits.

ComEd argues that as a preliminary matter, all of these recommendations far exceed the statutory directives of Section 45 (d)(vi). As shown below, none of these suggestions remotely relate to that statutory text.

First, Staff recommends that ComEd “commit to conducting periodic audits to evaluate progress, verify spending, and identify opportunities for improvement, particularly in LIC/EIECs.” Staff IB at 53. ComEd states that although not entirely clear, this recommendation appears to require ComEd to hire an auditor, which would be an additional, unnecessary expense that is not currently included in ComEd’s budget. This also appears to be duplicative of the purpose of both the annual report and BE Plan 2 evaluation, which will evaluate progress, verify spending, and allow parties to identify opportunities for improvement.

Second, Staff recommends that ComEd “enhance the proposed scoring system by incorporating metrics such as air quality improvements, EV adoption potential, and socioeconomic indicators to ensure investments target communities with the greatest need.” *Id.* ComEd notes that it has already committed to developing a robust scoring system to support the equitable selection of charging station sites that will incorporate multiple relevant criteria such as EIEC designation (which is a socioeconomic indicator), air quality, and estimated grid capacity. ComEd Ex.at 44-45.

Third, Staff recommends that ComEd “establish a stakeholder engagement framework that includes regular consultations with community representatives, third-party providers, and state agencies to align projects with community priorities and statutory objectives.” Staff IB at 53. ComEd argues that this recommendation is ambiguous and unnecessary. ComEd is unclear what Staff means by “regular” consultations, but ComEd’s C&I and Public Sector EV Make-Ready Sub-program already includes provisions for stakeholder engagement.

ComEd argues that the Commission should reject Staff’s recommendations and determine that ComEd has complied with the minimum information requirements of Section 45(d)(vi) of the EV Act. And notes that, in addition, because Staff’s additional recommendations are not related to a finding of statutory compliance, if the Commission disagrees with ComEd and implements any of these recommendations, any findings on these issues would more appropriately be addressed in the C&I and Public Sector EV Make-Ready Sub-program section.

## (ii) Staff’s Position

Section 45(d)(vi) requires BE Plans to expand access to Level 3 public EV charging infrastructure, with a particular focus on individuals lacking other charging options. 20 ILCS 627/45(d)(vi). While ComEd’s BE Plan 2 includes rebates for Level 3 public chargers and allocates funds for LIC/EIECs (ComEd Ex. 3.0 CORR, 34-35; ComEd

Ex. 1.01, 56), Staff argues that it does not establish specific deployment goals, tracking mechanisms, or strategies to assess and ensure equitable infrastructure distribution. Staff Ex. 17.0 at 36-37.

In its surrebuttal testimony, ComEd asserts that its existing rebate structure and enhanced incentives for projects in LIC/EIECs satisfy the requirements of Section 45(d)(vi). ComEd Ex. 6.0 at 23-24. ComEd highlights that it reserves funds for underserved communities, will score each community based on expected project benefits (ComEd. Ex. 45) and relies on developers and operators to determine the locations for charging infrastructure. ComEd also commits to reporting annually on the spend and impacts of these projects. ComEd Ex. 6.0 at 46. While this approach may encourage some development in these areas, it does not include a structured, data-driven framework to prioritize investments based on community need. Staff maintains that targeted prioritization criteria are necessary to avoid gaps in underserved areas which could undermine the statutory objective of equitable infrastructure distribution. Staff Ex. 17.0 at 36-37.

Staff acknowledges ComEd's existing collaboration with developers and operators, as well as its general engagement with state agencies such as IEPA and IDOT. However, Staff identifies a lack of measurable deployment targets, detailed strategies, and tracking mechanisms to ensure resources are directed toward areas with the greatest need. While ComEd's commitments to scoring communities and reporting on project spending demonstrate progress, these efforts must be coupled with interim benchmarks and geographic prioritization frameworks to effectively achieve the statutory objectives. ComEd's surrebuttal testimony characterizes Staff's recommendations for tracking utilization, conducting periodic audits, and implementing geographic prioritization as programmatic rather than compliance issues. ComEd Ex. 6.0 at 23-24. Staff disagrees, emphasizing that these mechanisms are essential to achieving compliance with Section 45(d)(vi). Without clear metrics or reporting structures, ComEd's BE Plan 2 cannot adequately demonstrate progress in meeting statutory goals. Staff Ex. 17.0 at 36-38.

To address these deficiencies, the Commission should direct ComEd to:

- (1) Develop robust tracking mechanisms for Level 3 chargers, including utilization data, to assess their effectiveness in meeting community needs. Staff Ex. 17.0 at 36-37.
- (2) Commit to conducting periodic audits to evaluate progress, verify spending, and identify opportunities for improvement, particularly in LIC/EIECs. Staff Ex. 17.0 at 36-38.
- (3) Enhance the proposed scoring system by incorporating metrics such as air quality improvements, EV adoption potential, and socioeconomic indicators to ensure investments target communities with the greatest need. *Id.*
- (4) Establish a stakeholder engagement framework that includes regular consultations with community representatives, third-party providers, and state agencies to align projects with community priorities and statutory objectives. Staff Ex. 17.0 at 36-38, 41.

- (5) Incorporate advanced planning tools like Geographic Information Systems (“GIS”) to identify high-need locations and prioritize investments accordingly. Staff Ex. 17.0 at 38.
- (6) Include detailed information in annual reports to the Commission addressing the deployment and usage patterns of Level 3 chargers in LICs and EIECs to ensure transparency and accountability. Staff Ex. 17.0 at 36-38.

These measures would provide the necessary framework to ensure ComEd’s BE Plan 2 aligns with the statutory requirements of Section 45(d)(vi), achieves equitable infrastructure distribution, and addresses the needs of underserved communities effectively.

ComEd asserts that its BE Plan 2 satisfies Section 45(d)(vi) by reserving 70% of the C&I and Public Sector EV Make-Ready Sub-program budget for LICs/EIECs and committing to collect and report utilization data for public Level 3 chargers receiving Make-Ready rebates. Staff acknowledges ComEd’s commitments and progress but emphasizes that reliance on developers and operators for site selection, without robust tracking mechanisms or measurable goals, risks infrastructure gaps in underserved areas. While reserving 70% of the program budget for LICs/EIECs is a step toward ensuring the program, when implemented, will further the objectives of the statute, additional measures, as outlined in Staff’s IB, are necessary to ensure resources are directed to areas with the greatest need and to avoid gaps in coverage that could undermine statutory objectives.

While ComEd’s BE Plan 2 demonstrates progress in increasing access to Level 3 public EV charging infrastructure, these additional measures are necessary to ensure equitable distribution and alignment with the statutory objectives of Section 45(d)(vi). The Commission should direct ComEd to adopt these recommendations to maximize the program’s impact and ensure underserved communities receive meaningful benefits.

#### **(i) Commission Analysis and Conclusion**

No party asserts that ComEd has failed to satisfy the requirements of Section 45(d)(vi) of the EV Act. However, the Commission finds that further refinements will ensure ComEd’s BE Plan 2 equitably expands access to Level 3 Public EV Charging Infrastructure in a strategic and measurable manner.

The record demonstrates that ComEd does not currently employ a structured, data-driven approach to prioritizing infrastructure deployment or measuring its impact. The Commission agrees with Staff that reliance on developer-led site selection, without specific prioritization criteria, tracking, or engagement mechanisms, risks leaving gaps in underserved areas.

To ensure ComEd’s BE Plan 2 fully meets the statutory objectives of Section 45(d)(vi), the Commission directs ComEd to develop and implement a tracking mechanism to monitor Level 3 charger utilization and assess infrastructure effectiveness in meeting community needs; enhance its scoring system to incorporate air quality metrics, EV adoption potential, and socioeconomic indicators to ensure investments are prioritized based on objective community needs; and utilize Geographic Information

Systems (“GIS”) and other advanced planning tools to optimize charging station locations based on need.

**d. Section 45(d)(vii)**

**(i) ComEd’s Position**

ComEd argues that Staff explicitly agrees that BE Plan 2 meets the minimum information requirements set forth in Section 45(d)(vii). Staff IB at 54 (“ComEd’s reliance on current practices ensures baseline compliance”). ComEd further argues that no party claims that ComEd is not compliant with the objectives of this public interest criterion.

Section 45(d)(vii) of the EV Act provides that a BE Plan must consider “[w]hether to establish charging standards for type of plugs eligible for investment or incentive programs, and if so, what standards.” 20 ILCS 627/45(d)(vii). ComEd believes this issue is potentially uncontested. In any event, the Commission should determine that ComEd’s BE Plan 2 meets the minimum information requirements set forth in Section 45(d)(vii).

Charging station operators have a variety of EV charging connector options including CHAdeMO, CCS, J1772, J3400 or NACS standard, and MCS (which is under development to support Megawatt charging). Given how fast the market and the technologies are changing, ComEd believes it is important in BE Plan 2 to allow charging station owners and operators to choose the appropriate charging connector for the application. ComEd Ex. 1.01 at 56. ComEd plans to collect and report on the number and type of connectors incentivized via BE Plan 2 and may choose to differentiate incentive levels for charger types that promote broad/equitable accessibility to EV drivers. *Id.* at 56-57. ComEd has also agreed to implement a formal process for regularly reviewing and updating its charging plug standards in collaboration with third-party providers.

Nonetheless, Staff provides two new programmatic-focused recommendations to “ensure sustained compliance” with Section 45(d)(vii). Staff IB at 56. ComEd argues that the Commission should reject these recommendations. First, Staff recommends that ComEd enhance stakeholder collaboration by committing to regular consultations with community representatives, charger manufacturers, third-party providers, and state agencies to incorporate stakeholder feedback into updates. Staff Ex. 17.0 at 39-42. ComEd argues that this recommendation is unnecessary because ComEd has already agreed to implement a formal process for reviewing and updating its charging plug standard. Additionally, it makes little sense to enhance a process that has not yet been implemented.

Second, Staff recommends ComEd include specific metrics in ComEd’s annual reports to track the adoption of updated charging standards and assess their impact on interoperability, reliability, and customer satisfaction. ComEd argues that while it previously agreed to review port types and other applicable charging technologies on an annual basis to evaluate any changes needed based on market and industry trends, in consultation with industry experts, ComEd did not agree to assess and report on technologies in this manner. ComEd Ex 6.0 at 21. ComEd further argues that as discussed previously regarding new proposals offered for the first time in Initial Briefs, Staff’s suggestions are untimely. No party has had a chance to analyze these

suggestions or develop facts and evidence in response to these proposals. ComEd argues that the Commission should reject this recommendation on that basis alone. In addition, ComEd states that it does not own or operate EV charging stations and therefore does not consider it appropriate or prudent for its customers to absorb the additional cost of overseeing charging station day to day operational aspects such as reliability, customer satisfaction, and interoperability.

ComEd argues that the Commission should reject Staff's recommendations and determine that ComEd has complied with the objectives of Section 45(d)(vii) of the EV Act. Further, ComEd states that in addition, because Staff's additional recommendations are not related to a finding of statutory compliance, if the Commission disagrees with ComEd and implements any of these recommendations, any findings on these issues would more appropriately be addressed in the Commission Analysis and Conclusion in the Annual Report section.

### **(ii) Staff's Position**

Staff acknowledges that ComEd's BE Plan 2 provides a foundation for achievement of the Section 45(d)(vii) objectives by adhering to widely accepted charging standards and emphasizing interoperability and standardization. Section 45(d)(vii) requires BE Plans to evaluate the need for charging standards and, if appropriate, specify the standards to be adopted. 20 ILCS 627/45(d)(vii). While ComEd's surrebuttal testimony emphasizes that its existing practices, such as industry collaboration and adherence to current standards, are sufficient to meet this requirement (ComEd Ex. 6.0 at 42-43), the absence of a formalized process for periodically updating charging standards leaves the BE Plan vulnerable to obsolescence as technology and market needs evolve. Staff Ex. 17.0 at 39-42.

ComEd contends that Staff's recommendation to establish a structured, forward-looking process for updating standards is programmatic and not a statutory requirement. ComEd Ex. 6.0 at 43. While ComEd's reliance on current practices ensures baseline compliance, Staff emphasizes that a more robust approach, including regular updates and collaboration mechanisms will safeguard long-term alignment with statutory objectives. Staff argues that without a clear framework for integrating emerging standards, ComEd risks falling behind industry advancements, potentially compromising interoperability and the reliability of its infrastructure. Staff Ex. 17.0 at 39-42. To address these concerns, the Commission should direct ComEd to:

- (1) **Establish a Formal Process for Updating Charging Standards:** ComEd should adopt a structured approach to regularly review and integrate emerging standards, ensuring alignment with technological advancements and market trends. This process should involve periodic evaluations of industry standards and direct engagement with key stakeholders, such as industry groups, regulators, and charger manufacturers. Staff Ex. 17.0 at 39-40.
- (2) **Enhance Stakeholder Collaboration:** ComEd should commit to regular consultations with community representatives, charger manufacturers, third-party providers, and state agencies to incorporate stakeholder

feedback into updates. Such collaboration would improve adaptability and align standards with evolving community needs. Staff Ex. 17.0 at 41.

- (3) Introduce Metrics for Monitoring Progress: Specific metrics should be included in ComEd's annual reports to track the adoption of updated charging standards and assess their impact on interoperability, reliability, and customer satisfaction. Such transparency is essential for evaluating the effectiveness of ComEd's approach and ensuring alignment with statutory goals. Staff Ex. 17.0 at 41.

ComEd's commitment to ongoing collaboration with industry stakeholders, as noted in its surrebuttal testimony (ComEd Ex. 6.0 at 42), is a positive step. However, this alone does not replace the need for a transparent, structured framework that includes regular updates and measurable outcomes. Without such mechanisms, ComEd's BE Plan 2 could fail to adapt to future technological developments, thereby undermining public confidence in its charging network. Staff argues that the Commission should require ComEd to adopt the measures outlined above to strengthen its approach and ensure sustained compliance with Section 45(d)(vii). Staff Ex. 17.0 at 41-42.

### (iii) Commission Analysis and Conclusion

No party contests that ComEd complied with Section 45(d)(vii). The Commission finds that ComEd's BE Plan addresses the required information. While Staff does not contest that ComEd meets the statutory requirements, Staff recommends the Commission direct ComEd to commit to regular consultations with stakeholders to incorporate their feedback into updates and include specific metrics in ComEd's annual reports to track the adoption of updated charging standards and assess their impact on interoperability, reliability, and customer satisfaction. ComEd does not own or operate charging stations and as such monitoring third party vendors to assess interoperability, reliability and customer satisfaction would likely be costly and burdensome. ComEd agreed to implement a formal process for reviewing and updating its charging plug standard. ComEd further agreed to review port types and other applicable charging technologies on an annual basis to evaluate any changes needed based on market and industry trends, in consultation with industry experts. The Commission does not find Staff's further recommendations necessary, and they are rejected.

## 3. Benefit-to-Cost Analysis Pursuant to Section 45(d)

### a. Overview

#### (i) ComEd's Position

ComEd argues that the EV Act provides that the Commission must find ComEd's proposed BE Plan to be "cost-beneficial and in the public interest" based on a comparison of "the total cost of beneficial electrification expenditures" with identified benefits associated with the BE Plan. 20 ILCS 627/45(d).

ComEd's interpretation of the types of costs and benefits required by the EV Act for a BCA is the same as it was in BE Plan 1, and the Commission accepted this methodology in the BE Plan 1 Order. ComEd Ex. 2.0 at 4. In the instant proceeding, ComEd performed a BCA that is similarly structured to align with the statutory language, and the BCA shows that BE Plan 2 is cost-beneficial. *Id.* Specifically, ComEd notes that

the sum of the benefits quantified in the BCA is approximately \$676 million, and the total cost of beneficial electrification expenditures is approximately \$371 million. ComEd Ex. 7.0 at 6, Table 1. In other words, BE Plan 2 is expected to produce approximately \$306 million in net benefits.

ComEd notes that none of the other parties' witnesses disagreed with ComEd's interpretation of the types of costs and benefits required by the EV Act for the BCA. However, other parties' witnesses commented on six aspects of the calculations in the BCA, offering recommendations for application in the instant proceeding or in future proceedings pertaining to future beneficial electrification plans. In response, ComEd incorporated adjustments in BE Plan 2 aligned with three of these recommendations. Those recommendations pertain to the C&I and Public Sector EV Make-Ready Sub-program Benefits, Residential EV Charger and Installation Program Benefits, and Net-to-Gross Ratios. The Commission should accept the BCA results with these adjustments incorporated.

ComEd also addressed parties' concerns and associated recommendations pertaining to the other three aspects of the BCA calculations on which parties commented, explaining why these concerns do not warrant changes to the BCA calculations. Specifically, these pertain to Distribution, Transmission, and Generation Costs, Social Cost of Carbon Values, and the R&D Program – Zero Net Benefit Assumption.

ComEd argues that while it rejected the changes to the BCA calculations suggested by parties in these areas and the Commission should do the same, for hypothetical purposes ComEd performed sensitivity analyses regarding Social Cost of Carbon Values and the R&D Program – Zero Net Benefit Assumption to illustrate how the BCA results would change if changes to the BCA calculations were made in response to a party's concern. All the associated sensitivity analyses presented showed expected positive net benefits for the BE Plan 2, highlighting the fact that, even if these changes were adopted, BE Plan 2 still would be "cost-beneficial" as required by the EV Act. ComEd Ex. 7.0 at 3-7.

The AG is the only party to the instant proceeding that questions the statutory compliance of the BCA, challenging some of the BCA's technical assumptions. AG IB at 25-31. ComEd argues that the Commission should reject the AG's arguments and determine that similar to its conclusions regarding BE Plan 1, ComEd's BE Plan 2 meets the BCA requirements and therefore is cost-beneficial as set forth in Section 45(d) of the EV Act.

Additionally, the total net benefit value cited by Staff in its Initial Brief should be clarified. Staff notes that ComEd's BE Plan 2 has a net benefit of \$181.6 million. Staff IB at 60-61. This was the net benefit value provided by ComEd in its direct testimony. After adopting subsequent adjustments that ComEd made to the BCA in response to various parties' suggestions, including recommendations from Staff witnesses, the estimated net benefit of BE Plan 2 increased to \$306 million.

### (ii) Staff's Position

Staff states that the Commission should find that the Company's BE Plan 2 is designed and reasonably expected to be cost beneficial as set forth in Section 45(d). Staff Ex. 1.0 at 13. While Staff had some analytical concerns with some of the assumptions used in the Company's cost-effectiveness analysis (e.g., NTG ratios), the projected net benefits are so large that Staff does not expect the overall BE Plan 2 to fail the cost-beneficial requirement regardless of whether ComEd alleviates those concerns. ComEd's BCA showed that the total benefit for the BE Plan 2, \$550.2 million, exceeds the total cost, \$368.5 million, resulting in a \$181.6 million net benefit. ComEd Ex. 1.01 at 68; Staff Ex. 12.0 at 4. Accordingly, the Commission should find ComEd's BE Plan 2 is designed and reasonably expected to be cost beneficial.

### (iii) AG's Position

The AG notes that the Commission must determine that the BE Plan is cost-beneficial. 20 ILCS 627/45(d). The statute mandates that a utility's BCA consider the impact on customer rates. In addition, the EV Act emphasizes that the Company's BE Plan produce bill savings for non-participants, thus showing that the BCA must demonstrate that its BE Plan will produce bill savings for all customers.

In addition to requiring a BCA, the AG finds that it is important to highlight that the results of the statutory stakeholder workshop process demanded the Company take costs/cost savings into consideration in its plan. 20 ILCS 627/45(c). Similarly, the AG emphasizes that the statute requires the Commission in approving the BE Plan to examine whether the Company's BE Plan is reasonably expected to "*maximize total energy cost savings and rate reductions* so that nonparticipants can benefit." 20 ILCS 627/45(d)(1) (emphasis added). In addition, the EV Act requires the Commission to consider other cost measures, including "whether a BE Plan is reasonably expected to support the *efficient* and *cost-effective* use of the electric grid in a manner that supports electric vehicle charging operations." 20 ILCS 627/45(d)(7) (emphases added). The BE Plan must also address "methods of *minimizing ratepayer impacts* and exempting or minimizing, to the extent possible, low-income ratepayers from the costs associated with facilitating the expansion of electric vehicle charging." 20 ILCS 627/45(d)(v) (emphasis added). According to the AG, it is clear that cost and cost-effectiveness should be at the forefront of the Commission's review of the Company's BE Plan. Given the statutory requirements and to ensure the BE Plan efficiently and accurately captures program costs and benefits, the AG argues for the need for an NTG study, and how the overstatement of benefits and understatement of costs have resulted in an inaccurate BCA. Furthermore, the AG recommends a more accurate social cost of carbon valuation. The AG argues that the Commission should adopt these recommendations for a compliant BCA.

### (iv) Commission Analysis and Conclusion

The Commission finds that ComEd's BE Plan 2 is cost-beneficial as required by Section 45(d) of the EV Act. Record evidence shows that ComEd's BE Plan 2 can reasonably be expected to produce net benefits. Although the Commission finds that BE Plan 2 is cost-beneficial, the Commission addresses the specific concerns and

recommendations pertaining to all six aspects of the BCA calculations on which parties commented below.

**b. C&I and Public Sector EV Make-Ready Sub-program Benefits**

In its direct testimony, ComEd presented BCA results for BE Plan 2 that conservatively assumed that the C&I and Public Sector EV Make-Ready Sub-program would not stimulate any additional EV adoption, and therefore have no associated benefits. ComEd Ex. 2.0 at 14. In their direct testimonies, Staff witnesses Hamidu and Ashbaugh and EDF/RHA/SC witness Urbaszewski disagreed with this approach and expressed interest in a quantification of benefits associated with this sub-program. Staff Ex. 1.0 at 17; Staff Ex. 6.0 at 15-17; EDF/RHA/SC Ex. 1.0 at 20-22. In rebuttal testimony, ComEd presented a sensitivity analysis that removed the assumption that the C&I and Public Sector EV Make-Ready Sub-program does not stimulate any additional EVs, and that instead included the benefits of additional EV adoption from this sub-program. In rebuttal testimony, Staff witness Ashbaugh noted that assuming no additional EV adoption from the sub-program was unrealistic and recommended that ComEd's BCA base case be updated to include benefits from incremental EV adoption, such as "emissions reductions, and associated environmental and public health benefits," in order to provide a more accurate and comprehensive valuation for the sub-program. Staff Ex. 17.0 at 27-28. In surrebuttal testimony, ComEd agreed to adopt Staff's recommendation to include benefits for the C&I and Public Sector EV Make-Ready Sub-program from associated EV adoption in its BCA base case, using the methodology to quantify the benefits that had been applied in the sensitivity analysis in ComEd's rebuttal testimony. ComEd Ex. 7.0 at 4, 9-12.

ComEd states that it quantified the benefits associated with the C&I and Public Sector EV Make-Ready Sub-program by first estimating the additional EV adoption due to the sub-program using the U.S. Department of Energy's EVI-Pro Lite: Daily Charging Needs tool. ComEd Ex. 5.0 at 23-24. The output from the EVI-Pro Lite tool, after adjustments were applied regarding the percentage of EVs attributable to charging infrastructure and the NTG factor, was used to calculate the number of EVs attributable to the sub-program, and then this value was multiplied by the benefit per EV to estimate the benefit of the sub-program as a whole. ComEd Ex. 4.0 at 24. The cost of the sub-program is estimated to be equal to the cost of the make-ready infrastructure, which the rebate is expected to cover, plus the administrative cost. *Id.* at 25.

ComEd argues that the method ComEd used to include these benefits is broadly aligned with Staff's recommendation in that it removes the assumption of no additional EV adoption from the sub-program, and it includes the types of benefits Staff witness Ashbaugh described. ComEd Ex. 7.0 at 11. While the method is broadly aligned with Staff's recommendation, Staff witness Ashbaugh recommended including "measurable" benefits from the Sub-program, whereas ComEd estimated benefits using a publicly available tool from the U.S. Department of Energy. *Id.* at 11 (referring to Staff Ex. 17.0 at 3). ComEd argues that it may not be possible to directly measure benefits as Staff witness Ashbaugh suggested. While it may be possible to measure charging station utilization rates from chargers supported by the sub-program, utilization rates may not accurately measure the benefits of the sub-program. Even if utilization rates are lower than

expected, the mere existence of publicly accessible chargers can help reduce customer range anxiety, increase charger accessibility, and drive EV adoption. ComEd Ex. 7.0 at 11.

EDF/RHA/SC state that under the updated BCA adopted by ComEd in surrebuttal testimony (ComEd Ex. 7.0 at 10), the Company is adequately estimating both the estimate costs and benefits of the sub-program. Staff did not address this issue in briefs. This issue appears uncontested. The Commission finds that ComEd has adequately estimated the benefits of the C&I and Public Sector EV Make-Ready Sub-program.

**c. Residential EV Charger and Installation Program Benefits**

ComEd included benefits associated with EV adoption from the Residential EV Charger and Installation Program, in response to Staff witness Ashbaugh's recommendation to remove the conservative assumption that make-ready infrastructure would not result in incremental EV adoption and Staff witness Moradeyo's recommendation that ComEd prioritize efforts to ensure the Residential EV Charger and Installation Program's cost-effectiveness. ComEd Ex. 7.0 at 4, 12-14. The Commission should accept this adjustment and the resultant BCA values.

In ComEd's direct testimony, the only benefit ComEd quantified for the Residential EV Charger and Installation Program was the energy and capacity cost savings from shifting EV usage to off-peak periods. ComEd Ex. 2.0 at 6-7. Similar to the evaluation of the C&I and Public Sector Make-Ready Sub-program in ComEd's direct testimony, the number of EVs adopted due to the Residential EV Charger and Installation Program was conservatively assumed to be zero. *Id.* at 20. In response, Staff witness Moradeyo noted that the Residential EV Charger and Installation Program is critical to the success of its BE Plan 2 and recommended that ComEd take actions to achieve cost reduction and improve the program's economic viability. Staff Ex. 2.0 at 10-11. Staff witness Moradeyo recommended that ComEd discuss with stakeholders prior to its next BE filing the cost-effectiveness methodology utilized for the program as well as efforts ComEd is making to improve the program's cost-effectiveness. Staff Ex. 13.0 at 10. However, ComEd argues that this recommendation to engage with stakeholders regarding the program's cost-effectiveness methodology overlooks the fact that ComEd updated its BCA methodology for this program in its surrebuttal testimony in response to Staff witnesses' recommendations. ComEd Ex. 7.0 at 12-14, 34.

Staff witness Ashbaugh recommended that ComEd remove the conservative assumption that make-ready infrastructure would not result in incremental EV adoption for the C&I and Public Sector EV Make-Ready Sub-program, and ComEd accepted that recommendation. ComEd states that for consistency and given Staff witness Moradeyo's concerns, in its surrebuttal testimony, ComEd assumed that the Residential EV Charger and Installation Program, which also provides incentives for EV infrastructure, would also lead to incremental EV adoption and included the benefits associated with estimated incremental EV adoption. *Id.* at 13.

ComEd states that the methodology for quantifying benefits for the Residential EV Charger and Installation Program is similar to that for the C&I and Public Sector EV Make-Ready Sub-program. Incremental vehicle adoption due to the program is first estimated, and then the benefits from these incremental EVs are quantified. The estimated numbers

of incremental EVs are calculated based on the dollar amount provided by the Residential EV Charger and Installation Program rebate relative to the incremental up-front cost to electrify. ComEd states that over the term of BE Plan 2, an average of 9.4% of an EV is attributed to each rebate, inclusive of the NTG adjustment. In other words, for roughly every 10 rebates it provides for the Residential EV Charger and Installation Program, one additional EV is adopted attributable to the program. *Id.* at 13-14.

This issue appears uncontested. In briefs, Staff still recommends that the Commission direct ComEd to engage with stakeholders regarding the program's cost-effectiveness methodology while also stating that this issue is uncontested. ComEd explains that Staff's concerns were addressed in surrebuttal testimony. The Commission finds that ComEd has adequately estimated the benefits of the Residential EV Charger and Installation Program. The Commission accepts ComEd's adjustment to the BCA methodology and the resultant BCA values and determines that Staff's recommendation to engage with stakeholders regarding the program's cost-effectiveness methodology is therefore unnecessary.

**d. Net-to-Gross Ratios**

**(i) ComEd's Position**

ComEd adopted Staff's recommendation to use an 80% NTG ratio for all customers. *Id.* at 4, 7-8. The Commission should accept the use of an 80% NTG ratio in the BCA for ComEd's BE Plan 2. The AG accepts the use of an 80% NTG for BE Plan 2. Thus, ComEd states, the use of an 80% NTG ratio for all customers for BE Plan 2 is uncontested and should be accepted by the Commission. Furthermore, consistent with Staff's recommendation, the Commission should reject AG witnesses Alvarez and Gouin's recommendation that the NTG independent study to be performed on ComEd's BE Programs be overseen by Staff. Staff Ex. 17.0 at 22; AG Ex. 1.00 at 15.

ComEd notes that in the BE Plan 1 Order, the Commission directed that ComEd use a NTG ratio of 80% for BE Plan 1 and adopted the AG's proposal that "NTG ratio studies should be provided for the next BE Plan." BE Plan 1 Order at 198. The NTG ratio accounts for adoption that would have occurred absent the incentive. ComEd Ex. 2.0 at 20-21. In the instant proceeding, ComEd provided a summary of available EV program NTG ratio studies. ComEd Ex. 1.01 at 78. ComEd argues that these studies are not relevant for informing the appropriate NTG ratio for BE Plan 2 because the studies provided are only for residential, light-duty vehicle rebates. ComEd Ex. 2.0 at 21. ComEd's BE Plan 2 does not offer residential, light-duty vehicle rebates, and is instead heavily focused on C&I and Public Sector adoption of medium-duty, heavy-duty, and bus applications, for which ComEd is not aware of any NTG studies to date. *Id.* at 21. ComEd states that because ComEd's EV incentive programs first became available to customers in February of 2024, ComEd does not yet have sufficient data to provide a relevant NTG study of its own BE Plan 1 programs; however, an independent evaluator will perform a NTG study on ComEd's BE Programs in the independent evaluation to be completed by April 1, 2026. *Id.* at 22.

In its direct testimony in the instant proceeding, ComEd proposed to continue to use the NTG ratio of 80% ordered by the Commission for BE Plan 1 for ComEd's rebates for non-LI/non-EIEC customers and proposed to apply a 100% NTG ratio for its rebates

for LI/EIEC customers. *Id.* at 22. ComEd noted that because LI/EIEC customers are more likely to face upfront purchase cost barriers, it is reasonable to use a higher NTG ratio for these customers, as is done in ComEd's Energy Efficiency programs. *Id.* at 22.

AG witnesses Alvarez and Gouin claimed that the BCA NTG ratio assumptions that ComEd applied in its direct testimony are insufficiently low. AG Ex. 1.00 at 5-6, 10. The AG witnesses did not provide any support for why a lower NTG ratio should be used for non-residential LI/EIEC customers. ComEd Ex. 4.0 at 17. Regarding the NTG ratio assumptions for non-LI/non-EIEC participants, the studies of light-duty vehicle rebate programs referenced by the AG witnesses to support their contention that the NTG ratio assumptions are too high do not provide credible support for the AG witnesses' position because the referenced studies are not relevant for informing the appropriate NTG ratio for BE Plan 2. ComEd Ex. 2.0 at 21-22; ComEd Ex. 4.0 at 17-19. As noted by Staff witness Ashbaugh, these NTG studies focus on programs "fundamentally different" from the programs ComEd is proposing in BE Plan 2 and there is an "absence of relevant studies" on which to base the NTG ratios. Staff Ex. 6.0 at 26-27.

Staff witness Ashbaugh recommended ComEd use an 80% NTG for both non-LI/non-EIEC and LI/EIEC customers. Staff Ex. 6.0 at 28-29; Staff Ex. 17.0 at 27. In its surrebuttal testimony, ComEd agreed to adopt Staff witness Ashbaugh's recommendation that an 80% NTG ratio be used for all customers until primary free-ridership research can be used to justify a different figure. ComEd Ex. 7.0 at 8. ComEd's understanding is that other parties agree with ComEd's position that future BE Plan filings will use the results of an independent evaluator's NTG study (i.e., primary free-ridership research) on ComEd's BE Plan 1 Programs. ComEd Ex. 4.0 at 19; ComEd Ex. 7.0 at 8.

As mentioned earlier, Staff witnesses Ashbaugh and Hamidu recommended that the NTG studies that ComEd engages an independent evaluator to conduct should include primary free ridership related research for ComEd's BE programs and they should not rely upon secondary sources for evaluating the NTG ratios. Staff Ex. 1.0 at 4-5; Staff Ex. 6.0 at 29; Staff Ex. 12.0 at 18; Staff Ex. 17.0 at 27. ComEd agreed to adopt this recommendation. ComEd Ex. 6.0 at 69.

AG witnesses Alvarez and Gouin recommended that the Commission order Staff to solicit and oversee the NTG independent study on ComEd's BE Programs. AG Ex. 1.00 at 15. ComEd argues this is unnecessary, as the NTG evaluation will be done by an independent third party, ComEd has agreed to follow Commission supported independence protocols, Staff has the right to review the contract and/or scope with the evaluator and provide any recommendations, ComEd states that it has committed to providing Staff with draft evaluation plans, and the Commission has the right to terminate the contract if it determines that the evaluator is not acting independently. ComEd Ex. 3.0 CORR at 76-77. Furthermore, Staff witness Ashbaugh recommended that ComEd manage the study, with oversight and independence provisions approved by the Commission in the BE Plan 1 Order at 269-270, rather than having Staff manage the process. Staff Ex. 17.0 at 22.

## (ii) AG's Position

The AG explains that in BE Plan 2 ComEd initially used a 100% NTG ratio for LI/EIEC participations in all programs and 80% NTG for all other program participation

with no distinction among commercial, school, or transit programs. AG Ex. 1.00 at 15. After urging from Staff, ComEd changed it to 80% NTG for all customer classes as an interim ratio while research is being done. ComEd Ex. 7.0 at 8. In addition, while ComEd provided NTG ratio studies as required by the BE Plan 1 Order, the studies only include light duty vehicle rebate programs, and ComEd claimed that since light duty vehicle purchase rebates are not part of its plan, the studies are not applicable. AG Ex. 1.00 at 15.

The AG notes that the NTG ratio of these provided studies averages 46%. *Id.* Given that this average of 46% is based on actual data applicable to EV purchasers, the AG contends that the 80% NTG for residential participants (other than LI/EIEC) ComEd employs is most likely far too high. *Id.* at 16. The inflated 80% NTG ComEd assumes in place of its actual study of light duty EVs contributes to an overstated estimate of plan benefits. *Id.* at 16.

ComEd has agreed to do to an NTG study on its plan by April 1, 2026, which is before the next BE filing date. *Id.* at 15. The AG accepts the 80% NTG ratio only for purposes of this Plan and expects that a revised NTG study using ComEd data will be available for the Company's next BE Plan filing. Assuming the study is independently and properly prepared, the AG expects that this study will significantly aid in evaluating and determining an accurate NTG ratio for measuring the BCA in future BE Plans. The AG asks the Commission to order Staff to solicit and oversee this study to ensure complete independence. *Id.*

### (iii) Commission Analysis and Conclusion

As of the conclusion of this proceeding, use of an 80% NTG ratio for all customer classes for BE Plan 2 is uncontested and its application in this proceeding is therefore approved by the Commission. ComEd committed to solicit an NTG study overseen by an independent third party. ComEd agrees to follow Commission-supported independence protocols to ensure evaluator independence. ComEd Ex. 3.0 at 76. ComEd further agrees that Staff will have the right to review the independent evaluator contract and/or scope with the evaluator and provide recommendations. ComEd states it will provide Staff with draft evaluation plans, and that the Commission may terminate the contract if the Commission determines the evaluator is not acting independently. The Commission does not find it necessary for Staff to solicit and oversee the independent study as the AG recommends.

The Commission finds that the NTG study must be based on primary research specific to ComEd's BE programs and Illinois market conditions, rather than relying on secondary research from other states. The results of the independent NTG study should be used in the Company's next BE plan filing.

## e. Distribution, Transmission, and Generation Costs

### (i) ComEd's Position

ComEd states that the estimated increases in energy and capacity (i.e., generation) costs included in the BCA total \$45 million, and the estimated increases in transmission and distribution costs included in the BCA total \$68 million. AG witnesses Alvarez and Gouin claimed that the BCA undercounts generation, transmission, and

distribution costs attributable to BE Plan 2, citing the disparity in magnitudes between ComEd's proposed Refiled Grid Plan ("RGP") investments (i.e., the \$585 million in distribution capacity costs and \$1.8 billion in New Business costs) relative to the transmission and distribution costs included in the BE Plan 2 BCA. AG Ex. 1.00 at 11; AG Ex. 2.00 at 4-5. In their direct testimony, the AG witnesses did not provide any associated recommendation for the instant proceeding to address their concerns, but they recommended that ComEd's BCAs for future beneficial electrification plans include all such costs associated with acceleration of EV adoption related to the BE plan. AG Ex. 1.00 at 16, 29. In their rebuttal testimony, the AG witnesses offered an additional recommendation to address their concerns. Specifically, the AG witnesses recommended that in the instant proceeding ComEd project increased distribution capacity and new business spending from increasing EV adoption using circuit-specific and load-specific forecasts and then scale those values in a manner proportional with the projected EV adoption due to BE Plan 2. AG Ex. 2.00 at 6.

ComEd argues that there is no merit to the AG witnesses' arguments that any distribution costs (including New Business costs) are undercounted in the BCA. ComEd's use of retail rates to estimate the relevant costs is reasonable for the purposes of the BCA, as the rate design principle of cost causation aims to align the costs that customers pay with the costs those customers incur. ComEd Ex. 7.0 at 21. This approach was also used to evaluate the Commission-approved BE Plan 1. *Id.* Both the \$585 million in distribution capacity costs and the \$1.8 billion in New Business costs cited by the AG witnesses to support their claims pertain to a much larger scope of investments than those needed to charge the EVs supported by the BE Plan. ComEd Ex. 4.0 at 8; ComEd Ex. 5.0 at 4-7; ComEd Ex. 8.0 at 5-7. For example, the RGP investments include such large-scale projects as 4kV to 12kV conversion, new substation, and summer critical upgrades. ComEd Ex. 5.0 at 5. Although some of these investments may create additional hosting capacity on ComEd's distribution system that could be used to facilitate EV charging, those investments are not limited to that purpose. *Id.* at 5-6. BE Plan 2 is forecasted to drive the adoption of 4,210 EVs, a figure much smaller than the 66,500 EVs enabled by the \$585 million in distribution capacity costs referenced by AG witnesses. *Id.* at 6. Consequently, it is not at all surprising that the \$585 million figure quoted by the AG witnesses is significantly higher than the transmission and distribution costs included in the BE Plan 2 BCA. *Id.* at 6. Similarly, the RGP's proposed \$1.8 billion in New Business costs quoted by the AG witnesses also pertains to a much larger scope of investments than those needed to charge the EVs supported by the BE Plan. *Id.* It was estimated that that EV projects only comprise approximately 1.2% of the overall New Business budget in the RGP, or approximately \$5 million annually. *Id.*; ComEd Ex. 8.0 at 5. ComEd argues that this is clearly not on the scale purported by AG witnesses, especially as only a subset of future New Business EV investments will be associated with or accelerated by BE Plan investments. ComEd Ex. 5.0 at 6. Simply stated, the distribution investments described in the two plans are not comparable and the Commission should reject the AG witnesses' assertions in this regard.

ComEd also states that there is no merit to the AG witnesses' arguments that any transmission or generation costs are undercounted in the BCA. The AG witnesses only applied conjecture when insinuating that transmission and generation costs were undercounted, basing this conjecture solely on the fact that they believed that distribution

costs were undercounted given their observations of RGP investment levels. AG Ex. 1.00 at 10-11. Even if there was any validity (which there is not) to the AG's conjecture that any undercounted distribution costs imply undercounted transmission or generation costs, that conjecture cannot be made based on the AG witnesses' contentions regarding any undercounted distribution costs, because the AG witnesses' claims of undercounted distribution costs are unfounded.

ComEd contends that the AG witnesses presented no valid support for their claims or insinuations that any distribution, transmission, or generation costs are undercounted in the BCA. Therefore, there is no need to make any changes to the BCA based on these claims or insinuations. Furthermore, the AG witnesses' recommended alternative methodology to estimate distribution costs associated with BE Plan 2, which would entail ComEd estimating incremental costs using circuit-specific and load-specific forecasts, is described only in concept, would require granular information that ComEd does not currently have, would entail significant uncertainty and highly variable investments, and ultimately would be a complex analysis that would be unlikely to lead to any meaningful improvement over the current approach. ComEd Ex. 8.0 at 9-11. For all these reasons, the Commission should reject the AG witnesses' recommendations regarding the estimates of generation, transmission, and distribution costs attributable to BE Plan 2.

ComEd explains that to further address the AG witnesses' concerns, in its surrebuttal testimony, ComEd performed and presented a modified version of the AG witnesses' recommended analytical approach to estimate incremental distribution costs, using readily available data, and the results of this analysis suggested that the incremental transmission and distribution costs would likely be lower than the estimated transmission and distribution costs included in the BE Plan 2 BCA. *Id.* at 11-15. This analysis underscores the fact that there is no merit to the AG's argument that the BCA undercounts distribution and transmission costs.

According to ComEd, the AG also overlooks ComEd's surrebuttal testimony when quoting the BCA's plan-related transmission and distribution costs. According to ComEd, when making its arguments, the AG cites a value of \$55 million. AG IB at 28-29. ComEd argues, this is an undiscounted value equivalent to a net present value of \$53 million, a value presented in ComEd's initial filing. ComEd Ex. 1.01 at 68. However, due to the subsequent adjustments that ComEd made to the BCA in response to various parties' suggestions, this estimate increased from \$53 million to \$68 million, as shown in ComEd's surrebuttal testimony. ComEd Ex. 7.0 at 33 (Table 3).

According to ComEd, the AG appears to make a separate claim that ComEd's BCA approach does not include any transmission costs at all, citing text from its witnesses. Specifically, ComEd notes, the AG states, "ComEd's approach is to compare incremental generation, transmission, and distribution capacity costs to the cents per kilowatt hour which does not account for any spending to increase transmission capacity which will add to distribution capacity. [AG Ex. 2.00 at 4-5]." AG IB at 29. Contrary to any such claim, ComEd's BCA approach includes transmission costs. ComEd Ex. 1.01 at 65-66; ComEd Ex. 7.0 at 33 (Table 3). ComEd states the excerpt from AG witnesses Alvarez and Gouin's testimony relied upon and cited by the AG does not support the AG's statement, because the excerpt does not claim that ComEd's BCA approach fails to include any

transmission costs. Instead ComEd argues, the excerpt simply states that the specific RGP cost figures referenced by the AG witnesses do not include transmission costs.

ComEd notes that in its Initial Brief, the AG also states that it may be possible to quantify EV-related grid plan infrastructure spending in the annual reconciliations under Section 16-108.18(f)(6) of the Public Utilities Act, and the AG refers to the ComEd BE Plan 1 Order at 221–222 to support its suggestion. AG IB at 29-30. ComEd states this suggestion is untimely, as the AG did not offer this suggestion before this instance in its Initial Brief, after the record had already been marked heard and taken. Moreover, ComEd states, the AG's suggestion is unclear, because the AG provides no proposal as to how reconciliations could be used to improve estimations of the infrastructure spending that is relevant to the BE Plan 2 BCA. ComEd argues this lack of clarity is partially driven by the fact that reconciliations are backward looking, yet the BCA is forward looking, as Section 45(d) contemplates the Commission making a public interest and benefit-to-cost analysis determination about “whether the investments and other expenditures are designed and reasonably expected to” achieve certain goals. 20 ILCS 627/45(d). Furthermore, ComEd argues that the AG's suggestion is not supported by the pages of the BE Plan 1 Order to which the AG refers. ComEd states that instead, these pages contain Commission findings regarding the Commission's denial of the Rider BE proposal in the BE Plan 1 proceeding.

ComEd notes that Staff witness Hamidu did not agree with the AG witnesses' conclusion that transmission and distribution costs attributable to BE Plan 2 are undercounted, noting that the AG witnesses did not identify specific transmission or distribution costs from the RGP which they believe were inappropriately omitted in BE Plan 2. Staff Ex. 12.0 at 20. However, in his rebuttal testimony, Staff witness Hamidu recommended that the Commission direct ComEd to provide a detailed cost comparison between the costs in the RGP and BE Plan 2 to demonstrate that all appropriate costs are included in the BCA's estimated transmission and distribution cost increase. *Id.* at 20-21. ComEd argues that this recommendation should be rejected, as it is vague, unnecessary, and counterproductive. ComEd Ex. 8.0 at 2, 8. ComEd's method to estimate transmission and distribution costs attributable to BE Plan 2 is reasonable and is the same approach used in the BCA for BE Plan 1, which was approved by the Commission. ComEd Ex. 7.0 at 21-22.

In making the recommendation, Staff states that, “The Company should also explain why transmission and distribution (‘T&D’) increase (‘T&D Increase’) costs identified in the Refiled Grid Plan were not included in BE Plan related T&D costs,” asserting that this would “help provide more information on whether there are any omissions in the costs presented by the Company in the ‘T&D Increase’ of \$55 million.” Staff IB at 62; Staff Ex. 12.0 at 20. ComEd argues that this recommendation is unclear because the term, “T&D Increase” costs, refers to a value in the BCA for BE Plan 2, but this term is not used in the RGP. ComEd Ex. 4.0 at 6; AG Ex. 1.00 at 11. Moreover, as previously noted, the cited value of \$55 million is not the correct value for the BCA's plan-related transmission and distribution costs, as it does not reflect the subsequent adjustments that ComEd made to the BCA in response to various parties' suggestions. ComEd argues that the correct value is \$68 million on a net present value basis, as shown in ComEd witness Baumann's surrebuttal testimony. ComEd Ex. 7.0 at 33 (Table 3).

ComEd explains that to the extent that Staff's recommendation is intended to request that the Commission direct ComEd to explain why the transmission and distribution costs it has included in the BE Plan 2 BCA are appropriate vis-à-vis the RGP distribution costs cited by the AG (i.e., the \$585 million in distribution capacity costs, which Staff erroneously refers to as \$591 million in distribution capacity costs in Staff's Initial Brief at 62, and the \$1.8 billion in New Business costs), ComEd argues that the ComEd has already done this. Specifically, ComEd explained in detail why the RGP costs cited by the AG pertain to a much larger scope of investments than those needed to charge the EVs supported by BE Plan 2. ComEd Ex. 4.0 at 8; ComEd Ex. 5.0 at 4-7; ComEd Ex. 8.0 at 5-7. In sum, ComEd argues the Commission should reject Staff's recommendation. ComEd further argues that the recommendation is unclear, ComEd has already provided the information needed to satisfy a reasonable interpretation of this recommendation, and this information confirms that any concerns about omitted costs are unfounded.

ComEd notes that Staff believes that "all costs related to EV adoption should be included in future BE plan cost estimates." Staff IB at 63. However, for clarification purposes, ComEd qualifies that only costs related to EV adoption that is supported by the BE Plan should be included in future BE Plan cost estimates. ComEd Ex. 4.0 at 7; ComEd Ex. 7.0 at 20.

## (ii) Staff's Position

Staff states that the Commission should direct the Company to provide a detailed cost comparison between the costs in the RGP and the BE Plan in future BE Plans to demonstrate that all costs associated with accelerated EV adoption have been included in the BE Plan 2. Staff Ex. 12.0 at 21. The Company should also explain why transmission and distribution ("T&D") increase ("T&D Increase") costs identified in the RGP were not included in BE Plan related T&D costs. This will help provide more information on whether there are any omissions in the costs presented by the Company in the "T&D Increase" of \$55 million. Staff Ex. 12.0 at 21.

In Direct Testimony, the AG stated that "capacity increase costs and new business (line extension) costs associated with accelerated EV adoption" appeared to be omitted and recommended "all costs associated with Plan-related EV adoption acceleration, including capacity expansion and new business costs, should be included in future beneficial electrification plan cost estimates." AG Ex. 1.00 at 10, 16. In rebuttal testimony, the AG stated that:

[I]t does not seem consistent to us that ComEd attributes a portion of billions in spending in its 2024–2027 Refiled Grid Plan to EV adoption while attributing relatively little increase in generation, transmission, and distribution capacity costs to its BE Plan 2 BCA.

AG Ex. 2.00 at 5.

Staff agrees that all costs related to EV adoption should be included in future BE Plan cost estimates. Staff Ex. 12.0 at 20. However, Staff does not agree with the AG because it did not identify specific costs from the Company's RGP that may have been omitted from the Company's BE Plan 2 in the "T&D Increase" cost category. This makes

it unclear whether ComEd omitted some of the costs from its RGP in its BE Plan 2 and to what extent the omission occurred. Staff Ex. 12.0 at 20.

The Company argues that Staff's recommendation for a detailed cost comparison between the BE Plan 2 and the RGP should not be adopted because it is unnecessary and counterproductive because ComEd's estimate increases in T&D costs for the BE Plan 2 BCA are reasonable. ComEd Ex. 8.0 at 8. In surrebuttal testimony, ComEd provided additional detail regarding the basis of its T&D estimates that partially explains the difference between costs in the BE Plan and RGP. ComEd Ex. 8.0 at 5. However, Staff believes that additional transparency would be beneficial and explained that such cost comparison is relevant because it will help provide more information on whether there are any omissions in the costs presented by the Company in the "T&D Increase" \$55 million as suggested by the AG. Staff Ex. 12.0 at 21.

### (iii) AG's Position

The AG argues that ComEd's BE Plan 2 BCA aggressively underestimates costs and overestimates benefits. AG Ex. 2.00 at 3. The Company underestimates costs by omitting certain costs such line extension costs and generation, transmission, and distribution capacity costs. AG Ex. 1.00 at 11. ComEd's BCA estimates a \$55 million increase in Plan-related transmission and distribution ("T&D") costs, but in the Company's RGP distribution costs associated with EV capacity requirements totaled \$584.5 million from 2024-2027. *Id.*; see also AG Ex. 2.00 at 4. In addition, in the RGP, ComEd noted EV adoption as a driver of New Business capital spending for line extensions, which the Company estimated at \$1.8 billion from 2024-2027. AG Ex. 1.00 at 11. As the AG's witnesses testified, if ComEd needs hundreds of millions of capital dollars on distribution capacity and line extensions for EV adoption, then hundreds of millions more dollars would conceivably be required for transmission capacity increases and generation capacity increases. *Id.* Yet, the AG stresses that none of these costs are included in the cost estimate, which understates costs and leads to an overstatement of Plan net benefits. *Id.*

To calculate an accurate estimate of the distribution capacity and New Business spending from increased adoption of EVs, the AG's witnesses stated that the Company should use circuit and load specific forecasts to estimate the increased distribution capacity and New Business spending resulting from increased EV adoption. AG Ex. 2.00 at 6. Then, the increase in projected EV adoption resulting from the BE Plan could be applied to the total EV-related spending increase to estimate the amount of the total EV spend attributable to the BE plan. *Id.*

ComEd's approach is to compare incremental generation, transmission, and distribution capacity costs to the cents per kilowatt hour which does not account for any spending to increase transmission capacity which will add to distribution capacity. *Id.* at 4-5. The Company argues this use of retail rates is reasonable and that the proposed methodology by witnesses Alvarez and Gouin is too complex and would not lead to "any meaningful improvement." ComEd Ex. 7.0 at 22. However, the AG maintains that just because an analysis is complex does not mean it should not be performed. Furthermore, the AG argues that ComEd never fully explains the discrepancy in accounting for distribution and capacity costs and New Business costs in the BE Plan and RGP. The

Company states that the capacity and New Business spending consists of growing to accommodate several loads, not just EV. AG Ex. 2.00 at 5. AG witnesses Alvarez and Gouin never claimed that EV was the only load growth but noted the numerical discrepancy between the BE Plan and RGP. *Id.* at 5-6. If ComEd is going to claim in its RGP that costs associated with distribution capacity are \$584.5 million but then in the BE Plan recognizes only \$55 million in capacity costs, then the AG argues that ComEd needs to explain why there is such a large discrepancy. ComEd did not do that in this record. The AG argues that the Company should be able to more specifically identify the infrastructure spending caused by EVs in its BE Plans.

Staff requests the Commission to direct the Company to provide a detailed cost comparison between the costs in the RGP and the BE Plan in future BE Plans to demonstrate that all costs associated with EV adoption have been included in the BE Plan 2. Additionally, Staff states: “[t]he Company should also explain why T&D increase costs identified in the Refiled Grid Plan were not included in BE Plan related T&D costs. This will help provide more information on whether there are any omissions in the costs presented by the Company in the ‘T&D Increase’ of \$55 million.” Staff IB at 62. The AG agrees with Staff and supports the Commission directing the Company to identify what T&D costs in the RGP are related to EVs or caused by the BE Plan.

The AG notes that it may be possible to quantify EV related RGP infrastructure spending in the annual reconciliations under Section 16-108.18(f)(6) of the Public Utilities Act. BE Plan 1 Order at 221–222. While ComEd claimed that its grid investment was driven at least in part by EV adoption, the scale of EV adoption and its effect on ComEd’s investments may be available in the reconciliation, which includes both the EV Plan costs and base rates. BE Plan 1 Order at 221–222. The AG indicated that they reserve the question as to how much grid investment is because of increased EV usage to the RGP reconciliation.

#### **(iv) Commission Analysis and Conclusion**

The Commission finds the record lacks support for the AG’s assertion that ComEd’s BE Plan 2 BCA underestimates costs. The AG does not point to specific generation, transmission, and distribution costs that have been underestimated, but rather generally refers to the “discrepancy” between ComEd’s spending in the RGP compared to the EV adoption costs attributed in the BE Plan 2 BCA. This is an insufficient basis for the Commission to make any determination that ComEd’s methodology in estimating these costs attributable to BE Plan 2 is unreasonable.

When asked if there is a way to estimate the portion of distribution capacity and New Business spending attributable to the increased adoption of EVs, the AG witnesses state that they “believe it can be approximated” and recommend ComEd develop circuit specific and load specific forecasts. AG Ex. 2.00 at 6. This recommendation is articulated as a general concept and not fully developed or clear. Further, this recommendation appears to be a complex analysis requiring generation and transmission data that ComEd may not have, and it is not clear that such an analysis would lead to meaningful improvement over ComEd’s current approach. The AG’s recommendation is rejected.

Similarly, the AG’s recommendation in its Initial Brief that it may be possible to quantify EV related RGP infrastructure spending in the annual reconciliations is likewise

not clear and the AG provides no proposal on how this may be accomplished. Therefore, the Commission does not make any finding on this proposal as to whether it would be material and rejects this recommendation based on the record in this proceeding.

The Commission finds that ComEd provided additional information regarding T&D costs in the RGP and why certain programs were not relevant to the BE Plan. ComEd further provided information on costs attributable to the BE Plan for programs that are at least partially attributable to EV load growth. See ComEd Ex. 8.0 at 8-16. It is not clear what further explanation Staff seeks. No party has pointed to any specific RGP costs that were omitted. Therefore, the Commission rejects further cost comparison analysis as suggested by the AG and Staff.

**f. Social Cost of Carbon Values**

**(i) ComEd's Position**

According to ComEd, the estimates used in the BCA for the social cost of carbon emissions are based on the United States Environmental Protection Agency's ("EPA") Social Cost of Carbon ("SC-CO2") estimates published in the November 2023 U.S. EPA's Report ("2023 EPA Report"). ComEd Ex. 7.0 at 22-23. ComEd states, no parties offered any explicit recommendation to use different estimates of the social cost of carbon emissions in the instant proceeding.

ComEd notes, however, AG witnesses Alvarez and Gouin contended that the social cost of carbon values used by ComEd are excessive, contributing to what they allege are overstated estimated net benefits, and they offered a recommendation for the future BCA applied to the next beneficial electrification plan. AG Ex. 1.00 at 13-14, 16-17. Specifically, they recommended that the Commission require that the social cost of carbon values from the February 2021 White House Interagency Working Group's ("IWG") Report ("2021 IWG Report") (or any subsequent updates from this particular working group) be used, rather than providing the flexibility to use the social cost of carbon values from the 2023 EPA Report (or another appropriate source). AG Ex. 1.00 at 17, 29-30. Staff witness Hamidu agreed with the AG witnesses' recommendation. Staff Ex. 12.0 at 23.

ComEd argues that the Commission should reject this recommendation to require ComEd to use the social cost of carbon values from the 2021 IWG Report (or any subsequent updates from this particular working group) in its next BE Plan. Instead, ComEd states the Commission should retain the flexibility for ComEd to use whatever values are available at the time of its next plan filing that are the most reflective of the best available science at that time and the General Assembly's findings regarding the urgency around addressing increasing threats from climate change and greenhouse gas emissions. ComEd Ex. 7.0 at 29. The 2023 EPA Report currently represents such an example. The 2023 EPA Report is explicitly and deliberately designed by the EPA, a member of the IWG, to incorporate the scientific advances that were explicitly recognized by the IWG to be missing from the 2021 IWG Report and that the IWG acknowledged the need to incorporate in future updates. *Id.* at 25-26. Furthermore, in developing the 2023 EPA Report, the EPA took steps to help ensure that the 2023 EPA Report is a balanced information source for social cost of carbon values, including subjecting the report to an external peer review panel that conducted a high-quality technical review and

commended the report, and including a process that solicited and obtained public comments on a draft of the report before finalization. ComEd Ex. 7.0 at 26-27.

ComEd contends that the concerns of AG witnesses Alvarez and Gouin and Staff witness Hamidu about the use of different social cost of carbon values in some previous ComEd filings also do not in any way invalidate ComEd's use of the 2023 EPA Report's social cost of carbon estimates in the instant proceeding. *Id.* at 28. While ComEd used the 2021 IWG Report values in its RGP, in the RGP itself ComEd recognized the EPA's revised social cost of carbon values, and it repeatedly and explicitly noted in testimony that the 2021 IWG Report values that it used to evaluate the RGP may be conservative, given the revised (and higher) values produced by the EPA. *Id.* at 28. Consequently, there is no merit to any suggestion that ComEd's position in the RGP was inconsistent with its use of the EPA's social cost of carbon values in the instant proceeding for BE Plan 2. Furthermore, there is no merit to the AG witnesses' insinuation that ComEd's use of social cost of carbon values in its most recent Energy Efficiency and Demand Response Plan that are aligned with the 2021 IWG Report in any way discredits ComEd's use of the 2023 EPA Report's values in the instant proceeding. AG Ex. 1.00 at 13. ComEd filed its most recent Energy Efficiency and Demand Response Plan on March 1, 2021, long before the 2023 EPA Report was issued. ComEd Ex. 7.0 at 28-29.

AG witnesses Alvarez and Gouin and Staff witness Hamidu also recommended that the social cost of carbon values be consistent across ComEd's various analyses for different Commission dockets (and "probably" across Illinois), including grid plans, energy efficiency plans, and BE plans. AG Ex. 1.00 at 17, 30; Staff Ex. 12.0 at 23. ComEd notes that while ComEd appreciates the desire for consistency, there are reasons why the social cost of carbon values used in one docket may be different from the social cost of carbon values used in another. For example, the estimated values of the social cost of carbon will evolve as the science and economics relevant to the social cost of carbon evolve. As a result, the estimates of the social cost of carbon are likely to change over time. ComEd explains that as new estimates are published, studied to best ensure that they reflect the latest science and economics, and then used as appropriate in Commission dockets, it is reasonable to conclude that different Commission dockets of different vintages may use different social cost of carbon values. ComEd Ex. 7.0 at 30. Consequently, ComEd argues that the Commission should reject the suggestion that social cost of carbon values must be fixed going forward, so that they are always the same across Commission dockets. ComEd also notes that AG witnesses Alvarez and Gouin recommended that ComEd perform a sensitivity analysis that shows the effect on the BCA results of changing the estimated social cost of carbon values. AG Ex. 2.00 at 8. In response to the AG witnesses' recommendation, ComEd performed a sensitivity analysis that shows the BCA results if the estimated social cost of carbon values were sourced from the 2021 IWG Report, as recommended by the AG witnesses, instead of being sourced from the 2023 EPA Report. As the results of this sensitivity analysis show, even if the estimated social cost of carbon values were sourced from the 2021 IWG Report, BE Plan 2 would still be cost-beneficial, with expected net benefits of \$140 million. ComEd Ex. 7.0 at 5-7, 30-31, 36. This reinforces the conclusion that BE Plan 2 is "cost-beneficial," as required by the EV Act. 20 ILCS 627/45(d).

ComEd states that the AG and Staff imply that the 2023 EPA Report is not a valid source of social cost of carbon values because the report was authored by the EPA, while in comparison the 2021 IWG Report was developed by 14 contributing agencies. Specifically, the AG claims that the 2021 IWG Report's values were "reached through a collaborated input across fourteen agencies," while the 2023 EPA Report's values were "calculated by one agency acting alone." AG IB at 31. Similarly, Staff states that using the 2021 IWG Report would "help ensure the emission reduction benefits estimates are based on a broader consensus across agencies." Staff IB at 64. ComEd argues that there is no basis for using a count of the number of federal agencies that directly contribute to a report as the measure of the validity of the report. These statements overlook critical and relevant facts that support the validity of the social cost of carbon estimates from the 2023 EPA Report, and some of these facts are communicated in the 2021 IWG Report itself.

ComEd argues that first, the 2021 IWG Report recognizes that the estimated values in the report do not incorporate the latest, peer reviewed science, yet "the research community has made considerable progress in developing new data and methods that will provide a path forward for bringing the USG SC-GHG [U.S. Government's Social Cost of Greenhouse Gases] estimates closer to the current frontier of climate science and economics and could address many of the National Academies' (2017) recommendations." ComEd Ex. 7.0 at 25. The 2021 IWG Report acknowledges that these limitations suggest that the social cost of carbon estimates presented in the report likely underestimate the true societal damages from carbon GHG emissions. *Id.* at 25-26. With a stated commitment to reflect the best available science and methodologies, the IWG acknowledges the need to incorporate the best available science in future updates. *Id.* at 26. The EPA is one of the members of the IWG, and the 2023 EPA Report is explicitly and deliberately designed to incorporate the scientific advances that were recognized by the IWG to be missing from the 2021 IWG Report. *Id.* The title of the 2023 EPA Report specifically recognizes this, and as explained in the 2023 EPA Report, "The methodological updates implemented in this report represent a major step forward in bringing SC-GHG estimates closer to the frontier of climate science and economics and address near-term updating recommendations from the National Academies' (2017)." *Id.*

Second, ComEd argues that despite the insinuations of the AG and Staff regarding the breadth of input by other parties in developing the 2023 EPA Report, the development and validation of this report involved appropriate stakeholder input and review. Specifically, the EPA initiated an external peer review panel to conduct a high-quality technical review. *Id.* The peer reviewers commended the EPA on its development of this update, calling it a much-needed improvement in estimating the social cost of carbon and a significant step towards addressing recommendations from the National Academies of Science, Engineering, and Medicine with defensible modeling choices based on current science. *Id.* at 26-27. In developing the 2023 EPA Report, the EPA also solicited and received public comment on the use of the updated social cost of carbon estimates and the external review draft of the 2023 EPA Report. *Id.* at 27.

ComEd contends that the AG also implies that the 2023 EPA Report should be discounted because "the EPA is part of the IWG and is continuing to participate in the work of the IWG while drafting a report presenting estimates incorporating new scientific

research.” AG IB at 30. However, as explicitly stated by the 2023 EPA Report which the AG references to support this statement, the EPA has done far more than “draft” a report. The 2023 EPA Report has been peer reviewed, subject to public comment, finalized, and used to develop a final rule in an EPA proceeding. *Id.*

Finally, in reviewing the AG’s Initial Brief, it is unclear to ComEd whether the AG is now proposing that the Commission require ComEd to use the 2021 IWG Report’s social cost of carbon values in the instant proceeding, in addition to the proposal by AG witnesses Alvarez and Gouin in their testimony that the Commission require the use of these particular values (or the values from any subsequent updates from the IWG) in the future BCA applied to ComEd’s next beneficial electrification plan. AG Ex. 1.00 at 17, 29-30.

### (ii) Staff’s Position

Staff notes that ComEd uses the social cost of carbon values from the 2023 EPA Report in the BE Plan 2 BCA, which is higher than the social cost of carbon values from the 2021 IWG Report ComEd used in the RGP and Energy Efficiency Plan. ComEd Ex. 2.0 at 8; AG 2.00 at 6-7; ComEd Ex. 4.0 at 10.

Staff states that the Commission should direct the Company to continue using the report from the IWG in its avoided emission benefit valuations in future BE Plans, as the Company has previously done in the RGP. Staff argues that the continued use of the IWG report would provide the Commission with a consistent estimate of emission reduction values across dockets. Staff Ex. 12 at 23-24. The IWG report is prepared by 14 federal agencies, including the U.S. EPA, whose report on emissions reduction estimate is currently being used by the Company for BE Plan 2. Staff Ex. 12 at 23. Staff believes that using the IWG report will help ensure that the emission reduction benefit estimates are based on a broader consensus across agencies and also ensure that the Company aligns its valuation methodologies across all related plans and analyses submitted to the Commission. Staff Ex. 12 at 24.

### (iii) AG’s Position

The EV Act requires the Company to provide a cost-benefit analysis of its EV Plan and authorizes it to include the avoided cost of carbon emissions. 20 ILCS 627/45(d)(6). The AG asks the Commission to order ComEd to use the \$51 per ton of avoided carbon dioxide equivalent emissions to calculate the avoided emissions value. AG Ex. 1.00 at 13. ComEd used this amount in its RGP, and in its Energy Efficiency Plan. *Id.* at 13. The number comes from a federal IWG made up of 14 U.S. government agencies, including the EPA and their report recommending the number was released in February 2021. *Id.* at 12. Despite using \$51 per ton of avoided carbon dioxide in other plans, ComEd chose to use a much higher value of \$190 per ton of carbon dioxide in its BE Plan 2. *Id.* at 13.

ComEd obtained this significantly higher value from an EPA report completed for the rulemaking process published in November 2023. The report itself acknowledges that EPA is part of the IWG and is continuing to participate in the work of IWG while drafting a report presenting estimates incorporating new scientific research. *Environmental Protection Agency, Report on the Social Cost of Greenhouse Gases: Estimates Incorporating Recent Scientific Advances*, at 104 (Nov. 2023). ComEd argues

that this number should be used because it is more recent than the IWG number. AG Ex. 2.00 at 7. However, the AG argues that recency alone is not reason enough to use the extraordinarily high \$190 per ton value. From a substantive determination, the \$51 value was reached through a collaborative input across fourteen agencies representing a variety of disciplines and perspectives whereas the \$190 value – close to four times as high was – calculated by one agency acting alone. Moreover, the AG notes that the EPA acknowledges in its report that work with the IWG remains ongoing which suggests its \$190 value could be modified. *Environmental Protection Agency, Report on the Social Cost of Greenhouse Gases: Estimates Incorporating Recent Scientific Advances*, at 104 (Nov. 2023). Furthermore, the AG contends that ComEd should strive to keep the values of avoided carbon emissions the same across the RGP, Energy Efficiency Plan, and the BE Plan. This consistency makes it much easier to measure the efficacy of the plans and allows for the plans to develop in tandem with each other. 20 ILCS 627/45(f). The Commission should thus revise ComEd’s cost-benefit analysis to be consistent with the social cost of carbon used in other Commission proceedings and programs as presented in AG Ex. 1.00.

#### **(iv) Commission Analysis and Conclusion**

ComEd requests that the Commission find ComEd should retain the flexibility to use the 2023 EPA Report values or whatever other values that are available at the time of its BE plan filing that are the most reflective of the best available science at that time and the General Assembly’s findings regarding the urgency around addressing increasing threats from climate change and greenhouse gas emissions. The Commission finds that retaining this flexibility is prudent and reasonable. The Commission rejects the position of Staff and the AG that ComEd be restricted to use the 2021 IWG Report or any subsequent update of that report by the IWG for the social cost of carbon values in future BE Plans. This position would unnecessarily sacrifice flexibility for future BE Plans. In ComEd’s next BE Plan, ComEd may propose using the 2023 EPA Report or another report from a credible source for its social cost of carbon values, if ComEd believes it is the most reflective of the best available science at the time of that BE Plan filing and the General Assembly’s findings regarding the urgency around addressing increasing threats from climate change and greenhouse gas emissions. As with any technical assumption, ComEd’s proposed values will be subject to stakeholder review and Commission approval or rejection in the evidentiary proceeding associated with the next BE Plan. The Commission directs ComEd to collaborate with Staff and stakeholders in determining what credible report should be used prior to filing the next BE Plan.

The Commission notes that ComEd’s sensitivity analysis shows that even when using the 2021 IWG Report estimated social cost of carbon values, BE Plan 2 would still be cost beneficial. On this point on an overall basis Staff appears to agree.

#### **g. R&D Program – Zero Net Benefit Assumption**

##### **(i) ComEd’s Position**

In the BCA, ComEd treats the R&D Program as having a net benefit value of zero (i.e., benefits equal to costs). ComEd Ex. 2.0 at 14. ComEd argues that the Commission should accept this approach and the resultant BCA values.

ComEd states that Staff witness Hamidu claims that ComEd did not provide an explanation of or justification for why it is appropriate to assume a net zero value if it has not fully defined the R&D program activities, or how it concluded that such benefits would equal the associated costs. Staff Ex. 1.0 at 15-16. Staff witness Jenkins expressed concern that research-related R&D efforts will not actually be likely to be cost-effective. Staff Ex. 8.0 at 6.

ComEd explained that the zero net benefit assumption for the R&D Program is the same assumption that ComEd applied to the Pilot Program in the BCA for BE Plan 1, which the Commission approved and which the R&D Program replaced in BE Plan 2. Staff Ex. 1.1 at 4; ComEd Ex. 1.0 at 9. While the specific configurations of the R&D projects under this program are not known at this time, the main purpose of R&D projects is to gain learning benefits that are not well suited to quantification but that justify such projects. ComEd Ex. 2.0 at 14. ComEd argues that it may not be possible to quantify the potential benefits or the likelihood of achieving benefits for nascent technologies, but a net benefit value of zero is reasonable given the potential for achieving significant scalable benefits. Staff Ex. 1.1 at 4. As with R&D activities more broadly, while many individual projects may not ultimately be cost-beneficial, a select few projects could ultimately be substantially cost-beneficial and/or facilitate learning benefits that lead to new products, services, or otherwise accelerate BE. ComEd Ex. 3.0 CORR at 65. Further, ComEd's project selection process for its R&D Program is designed to ensure the most promising and impactful projects are chosen, which will help to maximize the cost-effectiveness of the R&D Program budget. *Id.* at 65.

Finally, ComEd contends that any implication that there is no benefit attributable to R&D projects would constitute a divergence from Illinois policy where the Commission has deferred to the utility's business judgment and approved R&D, pilot, or similar exploratory projects on the basis that they may not have easily quantifiable, direct benefits for customers but will provide learning benefits over the long run and facilitate the adoption of new products, services, or otherwise accelerate beneficial electrification adoption. *Id.* at 65-66.

ComEd states that the Commission has a well-established practical approach to approval of pilot and other R&D programs that does not require cost-benefit tests that are not suitable for such programs. The Commission's approach is illustrated by its reasoning and rulings in the "Bronzeville Microgrid Demonstration Project" case. See *Commonwealth Edison Co.*, Docket No. 17-0331, Order (Feb. 28, 2018) ("Bronzeville Final Order"), appeal dismissed as moot, *Glidepath Development, LLC v. Ill. Com. Comm'n*, et al., 2019 IL App (1st) 180893. The Bronzeville program had a maximum net cost of \$25 million, and it was expected to: (1) provide direct reliability benefits to customers in its footprint; and (2) provide practical experience and information to benefit all customers, which could involve iterative adjustments of the project based on results. Bronzeville Final Order at 2-5, 53. The Commission rejected the arguments of Staff and certain intervenors regarding the prudence standard; *Ill. Power Co. v. Ill. Com. Comm'n*, 382 Ill. App. 3d 195, 201 (3d Dist. 2008) required a quantitative analysis of costs and benefits. ComEd argues that the Commission recognized that the project would have important learning benefits that could not be quantified in advance. Bronzeville Final Order at 32-33, 34, 52, 67-68, 84. In ComEd's opinion, Section 45(d) should not be

understood to mean that the Commission must require a formal benefit-cost analysis of the BE Plan 2 R&D Program contrary to established Commission standards and to what is practical.

ComEd explains that given these facts, it is reasonable to apply the zero net benefit assumption to the R&D Program. However, ComEd also presented a sensitivity analysis which conservatively assumes no benefits attributable to the R&D Program, and this sensitivity analysis shows that BE Plan 2 would still be cost-beneficial as a whole, even with this assumption. ComEd Ex. 7.0 at 16-17. ComEd argues that this reinforces the conclusion that BE Plan 2 is “cost-beneficial,” as required by the EV Act (20 ILCS 627/45(d)), regardless of the Commission’s ultimate determination on this issue. *Id.* at 5, 36.

ComEd notes that Staff witness Hamidu also recommended that ComEd include the R&D Program costs in the total cost section of its BCA, even if it assumed a zero net benefit, to provide a more accurate and complete picture of the total costs and benefits associated with the plan. Staff Ex. 1.0 at 15-16. ComEd adopted this recommendation, including an additional benefit line item with a value equal to the cost of the R&D Program, consistent with its zero net benefit assumption. ComEd Ex. 7.0 at 16.

In conclusion, ComEd argues that the Commission should find that ComEd’s BE Plan 2 is cost beneficial. ComEd also argues that the Commission should accept the BCA results including the Staff and intervenor proposed modifications that ComEd has accepted, as described above. ComEd further argues that the Commission should reject the remaining proposed modifications.

In its Reply Brief, ComEd states that Staff is the only other party besides ComEd that addresses the zero net benefit assumption for the R&D Program in its Initial Brief. According to ComEd, in its Initial Brief, Staff initially recommends that the Commission direct ComEd to include all investment or program costs in the total cost section of its BE Plan 2 BCA. ComEd states that later in its Initial Brief, Staff acknowledges that ComEd already adopted this recommendation in its surrebuttal testimony and updated its BCA accordingly. Staff IB at 67.

As noted in ComEd’s Initial Brief, ComEd treated the R&D Program as having a net benefit value of zero (i.e., benefits equal to costs), included a cost line item in the total cost section of the BCA (consistent with Staff’s recommendation), and included an additional benefit line item with a value equal to the cost of the R&D Program (consistent with its zero net benefit assumption). ComEd IB at 94-97. According to ComEd, Staff disagrees with ComEd’s assumption of a zero net benefit for the R&D Program, claiming that ComEd provided inadequate justification for this assumption. Therefore, ComEd states that Staff presumably also disagrees with ComEd’s subsequent addition of the benefit line item equal to R&D Program costs. Staff notes that its recommendation to show line items for the cost and benefits sections of the BCA provides information to the Commission on costs and benefits that can currently be monetized. However, ComEd explains that the specific configurations of the R&D projects under this program are not known at this time and it may not be possible to quantify the potential benefits or the likelihood of achieving benefits for nascent technologies. Additionally, ComEd states that Staff witness Hamidu acknowledged, in part, these limitations and noted that his position

was not meant to imply that the R&D Program would not provide benefits to customers. Staff Ex. 1.0 at 15; Staff Ex. 12.0 at 7; ComEd Ex. 7.0 at 16.

According to ComEd, Staff states in its Initial Brief, that it will be difficult for the Commission to adequately assess prudence in spending for the R&D Program if ComEd does not adequately justify its net zero benefit assumption. ComEd argues that to the extent that Staff's use of "prudence" in this context implies a retroactive (after-the-fact) review of programmatic spending beyond a standard utility prudence determination (similar to other suggestions made by Staff in the instant proceeding), ComEd maintains that such a position is improper. ComEd explains that it has agreed to R&D Program implementation measures that provide appropriate assurances of prudence, including providing stakeholders with the opportunity to provide input on the R&D pilot concepts and giving the Commission an opportunity to sign off on R&D pilot concepts prior to ComEd moving forward with pilot implementation. Furthermore, ComEd explains that its R&D Program project selection process is designed to ensure the most promising and impactful projects are chosen, which will help to maximize the cost-effectiveness of the R&D Program budget.

### **(ii) Staff's Position**

Staff recommends the Commission direct ComEd to (1) include all investment or program costs in the total cost section of its BE Plan BCA, and (2) explain the justification for the net zero assumption for the R&D Program. ComEd agreed with Staff's first recommendation to include all R&D costs in its BCA. ComEd Ex. 7.0 at 16. However, ComEd maintains its net zero assumption for the R&D Program in the BCA and merely added a line item in the benefits section of its BCA. Staff Ex. 12.0 at 7.

Inclusion of the R&D cost in the total cost section of the BCA will provide a more accurate and complete picture of the total costs and benefits associated with the BE Plan and aid in the Commission's determination of whether the BE Plan is cost beneficial as required in Section 45(d). Staff Ex. 12.0 at 6. These are real costs being expended on the program, and it is inappropriate to simply zero them out based on the "belief" that, at some point in the future, the benefits might come to fruition. Staff Ex. 12.0 at 6-7; ComEd Ex. 3.0 CORR at 65.

Staff recommended the Company provide a detailed justification for assuming a net zero value for the R&D Program and include the costs for the R&D program in the cost section of its BCA. Staff Ex. 12 at 6. In rebuttal testimony, the Company stated that it is amenable to including all R&D Program costs and benefits in the total cost and total benefits sections, but stated:

This recommendation is superfluous while assuming a net zero value for the R&D Program. This recommendation would simply require adding an additional line item with the same number to both the total benefits and total costs calculation, resulting in the same net benefits value currently shown in the BCA.

ComEd Ex. 4.0 at 32.

However, ComEd is incorrect. Staff's recommendation does not simply add a line item to the cost and benefit section; it provides information to the Commission on costs and benefits that can currently be monetized. Staff Ex. 12.0 at 8. Staff is concerned about how the Company would justify or demonstrate that the benefit gained through the R&D Program will be equivalent to the costs allocated for the program to explain its net zero assumption. Staff Ex. 1.1 at 4. The addition of a line item in the benefits section of the Company's BCA is important as it would help inform the Commission about benefits that are expected to be realized by the Company and benefits assumed by the Company. Staff Ex. 1.0 at 16; Staff Ex. 12.0 at 7. Beyond adding a line item to the cost and benefit sections of the BCA, Staff is concerned about the Company's inadequate justification that benefit gained through the R&D program will be equivalent to the costs located for the program to explain its net zero assumption. Staff Ex. 12.0 at 7.

ComEd seems to believe that Staff does not attribute any benefit to the Company's R&D Program. Staff does not suggest that the R&D Program would not provide benefits to customers; rather, Staff is concerned about the Company's assumption that the benefits of the R&D Program would be equal to the cost of the program absent adequate justification. Staff Ex. 12.0 at 7.

Staff believes that it will be difficult for the Commission to adequately assess prudence in spending for the R&D Program if the Company does not sufficiently justify its net zero assumption. Beyond adding a line item to the benefit sections of the BCA, the Company should justify or demonstrate how the benefit gained through the R&D Program will be equivalent to the costs allocated for the program to explain the Company's net zero assumption. Staff Ex. 12.0 at 7. The resulting BCA will do more than aid in assessing prudence; it will facilitate evaluating the R&D Program and inform future adjustments or expansion.

The Company also presented sensitivity analysis results where the Company did not add a line item in the benefits section of its BCA equal to the cost of the R&D Program. Staff notes that the net benefit of the BE Plan 2 is greater than the cost of the R&D Program, so the overall BE Plan 2 will still be cost beneficial if it includes the cost of the R&D Program in its BCA. Staff Ex. 1.0 at 16. As the Company stated in surrebuttal testimony, even if no benefits were allocated to the R&D program, the BE plan will still be cost beneficial. ComEd Ex. 7.0 at 17. Accordingly, Staff does not recommend the Commission adopt the Company's assumed benefits for the R&D Program, but instead direct the Company track the actual program benefits as discussed in Section IV.B.4.

### **(iii) Commission Analysis and Conclusion**

ComEd asserts, and to some extent Staff agrees, that it may not be possible to quantify potential benefits or the likelihood of achieving benefits. The R&D Program pilots are to learn from new technologies. A cost-benefit test is not necessarily suitable in approval of such programs where benefits cannot be quantifiable in advance. Accordingly, the Commission accepts ComEd's zero net benefit value assumption for the R&D Program, which is comparable to what was done in BE Plan 1.

**4. EV Act Section 45(g) Requirements**  
**a. 1% Retail Rate Cap for EV Infrastructure**  
**(i) ComEd's Position**

ComEd argues that the Commission should find that BE Plan 2 complies with the 1% retail rate cap for EV infrastructure. ComEd states that the EV Act expressly provides that the “retail rate impact from the development of [EV] infrastructure shall not exceed 1% of the total annual revenue requirements of the utility.” 20 ILCS 627/45(g); *see also* Docket Nos. 22-0432/22-0442 (Consol.), Interim Order at 38 (Nov. 10, 2022) (“BE Plan 1 Interim Order”). ComEd defines EV infrastructure as that uniquely and solely required to directly support the energy requirements of an EV such as EV charging equipment as well as the “make-ready infrastructure” that physically connects that charging equipment to the source distribution circuit. ComEd Ex. 3.0 CORR at 37.

ComEd states that of the programs included in BE Plan 2, only the Residential EV Charging Infrastructure Program and the C&I Public Sector EV Make-Ready Sub-program include funding for the development of EV infrastructure. ComEd Ex. 1.0 at 17-18. ComEd notes, other programs provide incentives that defray the cost of assets, like EVs, not the infrastructure that supports those assets. *Id.* at 18. Thus, the portion of ComEd’s BE Plan subject to the 1% cap on EV infrastructure investment is approximately \$19.3 million annually, of which \$3.7 million per year (average) is for the Residential EV Charger and Installation Program and \$15.6 million per year (average) is for the C&I and Public Sector Program. *Id.*

The average figure of \$19.3 million falls far below 1% of ComEd’s total annual revenue requirements, which is \$67 million. *Id.* at 18-20. ComEd performed the foregoing calculations in the same manner as they were performed for BE Plan 1 and that was approved by the Commission in the Interim Order (at 38) and in the BE Plan 1 Order (at 147). ComEd Ex. 1.0 at 20; *see also* ComEd Ex. 3.0 at 37-38; ComEd Ex. 5.0 at 7-10; ComEd Ex. 8.0 at 17-18. Thus, ComEd argues, BE Plan 2 complies with the 1% retail rate cap for EV infrastructure.

The AG asserts that ComEd has underestimated the costs of some generation, transmission, and distribution investments that should be included in the 1% cap. *See* AG Ex 1.00 at 11. ComEd argues that these assertions are legally incorrect and without factual basis. As explained above, the 1% retail rate cap for EVs only applies to the development of EV infrastructure. 20 ILCS 627/45(g). The RGP costs identified by the AG apply to grid infrastructure – not electric vehicle infrastructure. ComEd Ex. 5.0 at 8. Stated another way, and as discussed in the BCA; Distribution, Transmission, and Generation Costs Section the 1% retail rate cap for EV infrastructure applies to only a subset of investments that support BE Plan 2 and not those in furtherance of the broader objectives identified in the RGP that cover all of ComEd’s distribution investments over the four year (2024 to 2027) RGP period as opposed to the different three year (2026 to 2028) BE Plan 2 period.

According to ComEd, the RGP costs identified by the AG include Capacity Expansion investments that install shared assets that support the interconnected system of ComEd’s distribution system and all the assets (utility and customer owned) connected

to that system. *Id.* at 9. No capacity on the distribution system is reserved for particular purposes such as EV infrastructure; rather it is allocated on a first-come-first-served basis. *Id.* Consequently, ComEd argues, it is inappropriate to consider generally available grid assets as costs specific to EV infrastructure and therefore subject to the 1% retail rate cap. ComEd states that the same applies for New Business and Facility Relocation investments in the RGP that the AG identifies. *Id.* at 9. New Business investments may include off-property grid upgrades to support new customer load and on-property upgrades to physically connect customers to the distribution grid. *Id.* Both types of upgrades are not specific to EV charging and may be used by the same or multiple customers to serve both EV and non-EV load. *Id.* The AG provides no justification for its conclusion that Capacity Expansion and New Business investments identified in the RGP should be included in the 1% retail rate cap applicable to the BE Plan 2. ComEd explains that the programs described in the two plans are not comparable and further argues that the Commission should reject the AG's assertions in this regard.

ComEd argues in their Initial Briefs, ComEd, Staff, and EDF-RHA-CS all agreed with the Commission's statutory reading in the BE Plan 1 Order, although there is a modest disagreement over the proper definition of "EV infrastructure" that does not affect the outcome of this subject, as discussed further below. Finally, and conclusively ComEd argues that, on January 13, 2025, the Appellate Court agreed with the Commission and affirmed the BE Plan 1 Order on all issues on appeal, including the Commission's interpretation of the retail rate cap. *People v. Ill. Com. Comm'n*, 2025 IL App (2d) 230020 at ¶¶ 38-44.

ComEd argues that when the statute is read in accordance with the Commission's and the Court's conclusions, the evidence shows that ComEd's proposed BE Plan 2 budget complies with EV Act Section 45(g).

According to ComEd, Staff agrees that not all costs are subject to the retail rate cap and that the cap applies only to those costs that are directly for the development of EV infrastructure. Staff Ex. 14.0 at 27. Staff further recommends a definition of "EV infrastructure" similar to that used by Ameren Illinois Company ("Ameren"). *Id.* at 29. ComEd agrees that a common definition would provide clarity but cannot agree to Staff's specific definition which includes costs that "consist of the supplemental line extension allowances." ComEd Ex. 8.0 at 17. In ComEd's view, the inclusion of "line extension allowances" could include off-property extensions of distribution circuits which ComEd would classify as "grid infrastructure" rather than EV infrastructure. *Id.* at 17-18. This is contrary to Staff's position on this matter regarding the retail rate cap and therefore ComEd argues that portion of the proposed definition should not be adopted.

It is ComEd's position that there is a limited conceptual disagreement among ComEd, Staff, and EDF/RHA/SC regarding the best definition of EV infrastructure. ComEd explains that the modest disagreement does not affect ComEd's compliance with EV Act Section 45(g). ComEd defines EV infrastructure as that uniquely and solely required to directly support the energy requirements of an electric vehicle such as EV charging equipment as well as the "make-ready infrastructure" that physically connects that charging equipment to the source distribution circuit. ComEd Ex. 3.0 CORR at 37.

According to ComEd Staff proposes, and EDF/RHA/SC supports, to synch up ComEd's definition with the definition proposed in Ameren's concurrent BE Plan 2 proceeding. ComEd states that the Ameren definition, however, would include costs of supplemental line extension allowances. ComEd states the problem with the Ameren definition is that ComEd's BE Plan 2 does not include such allowances and ComEd believes those allowances could include off-property extensions of distribution circuits that ComEd would classify as "grid infrastructure" rather than "electric vehicle infrastructure," which would be inconsistent with how the 1% retail rate cap should be calculated. ComEd Ex. 8.0 at 17-18; see *also* ComEd Ex. 5.0 at 8-10.

According to ComEd, Staff understands this issue, but states that it is not a problem because the definition would only apply to "costs within the Company's BE Plan. Therefore, ComEd argues that, if ComEd is not offering supplemental line extension allowances as part of its BE Plan 2 (which it is not) then these costs are not subject to ComEd's retail rate impact cap." Staff IB at 70-71. ComEd further argues that to ensure such costs are not inadvertently included, and in the interest of narrowing the issues, ComEd suggests the following edits to Staff's proposed definition, shown in legislative format below:

The costs subject to the retail rate impact cap are ~~the retail rate impact of~~ all costs within the Company's BE Plan budget that are directly associated with service points and chargers, ~~within the Company's BE Plan.~~ These costs may consist of the supplemental line extension allowances for equipment leading up to the charging equipment on both the customer and utility side of the meter, and make-ready infrastructure as, defined in the EVA ~~as the electrical and construction work from the distribution circuit to the connection point of charging equipment, and incentives for chargers and make-ready infrastructure.~~

#### (ii) Staff's Position

Staff recommends the Commission: (1) find that the Company's BE Plan 2 meets the requirements of Section 45(g) of the EV Act for the retail rate impact cap, (2) direct the Company to update its retail rate impact cap calculation using its final 2024 distribution revenue requirement approved in Docket Nos. 22-0486/23-0055/24-0181 (Consol.) in a compliance filing to this docket, and (3) adopt Staff's proposed definition of the phrase "EV infrastructure" as it relates to the retail rate impact cap requirements set forth in Section 45(g). Staff Ex. 3.0 at 4; Staff Ex. 14.0 at 29-30.

Section 45(g) states, in part, the following:

The Commission shall consider revenues from electric vehicles in the utility's service territory in evaluating the retail rate impact. *The retail rate impact from the development of electric vehicle infrastructure shall not exceed 1% per year of the total annual revenue requirements of the utility.*

20 ILCS 627/45(g) (emphasis added). The AG believes that all BE Plan 2 costs should be counted against the retail rate impact cap. AG Ex. 2.00 at 15-16. To do otherwise would render the cap meaningless as it would enable the Company to spend virtually

unlimited amounts on any programs it categorizes as not EV infrastructure. Staff Ex. 14.0 at 27. Staff made a similar argument in BE Plan 1. However, in BE Plan 1, the Commission determined that (1) the retail rate impact cap applies to only EV infrastructure development, and (2) the phrase “total annual revenue requirements” does not only refer to the revenue requirement for delivery services. BE Plan 1 Order at 147; BE Plan 1 Interim Order at 37-38. The Company proposes the following budgets and the total retail rate impact that it has identified as supporting EV infrastructure development for 2026, 2027, and 2028, respectively: \$23.2 million; \$20.3 million; and \$14.5 million for a total of \$58 million over the BE Plan 2 period. ComEd Ex. 1.01 at 63; Staff Ex. 3.0 at 17. The Company’s revenue requirements for the purpose of calculating the retail rate impact cap is \$6.7 billion, and the resultant cap is \$67 million. ComEd Ex. 1.0 at 19. Therefore, Staff states that the Company’s proposed BE Plan 2 budget and retail rate impact is below the retail rate impact cap.

The Company agreed to update its retail rate impact cap calculation using its final 2024 distribution revenue requirement approved in Docket Nos. 22-0486/23-0055/24-0181 (Cons.) in a compliance filing to this docket. ComEd Ex. 3.0 CORR at 39; Staff Ex. 14.0 at 25. No other parties addressed this issue in this proceeding; therefore, Staff considers this issue to be uncontested.

Staff states that the phrase “EV infrastructure” is not defined in Section 45(g), nor was it defined in the BE Plan 1 Order; therefore, the Commission should adopt the following definition for the term “EV infrastructure” as it relates to the retail rate impact cap and ensure consistency between this docket and Ameren’s pending BE Plan 2 docket in Docket Nos. 24-0494/24-0578 (Cons.):

[T]he costs subject to the retail rate impact cap are the retail rate impact of all costs directly associated with service points and chargers, within the Company’s BE Plan. These costs consist of the supplemental line extension allowances for equipment leading up to the charging equipment on both the customer and utility side of the meter, make-ready infrastructure, defined as the electrical and construction work from the distribution circuit to the connection point of charging equipment, and incentives for chargers and make-ready infrastructure.

Staff Ex. 14.0 at 29. Staff states that this definition is a modification of Ameren’s definition and encompasses ComEd’s definition with minor modifications. *Id.*

While ComEd agrees that a common definition between this docket and Ameren’s pending BE Plan 2 docket would provide clarity, ComEd disagrees with Staff’s proposed definition. ComEd Ex. 8.0 at 17-18. ComEd disagrees with Staff’s proposed definition because it views “supplemental line extensions”, referenced in Staff’s proposed definition, as grid infrastructure. *Id.* Based on Staff’s reasoning that grid infrastructure costs should not be subject to the cap, ComEd believes that Staff’s proposed definition contradicts this reasoning and recommends the removal of line extensions from the definition. *Id.* Staff disagrees and would like to clarify that its proposed definition specifies that costs subject to the retail rate impact cap are to be within the Company’s BE Plan. Therefore, if ComEd

is not offering supplemental line extension allowances as part of its BE Plan 2 (which it is not), then these costs are not subject to ComEd's retail rate impact cap. Staff incorporates supplemental line extensions into its proposed definition because they are part of Ameren's definition of EV infrastructure. *Ameren Ill. Co.*, Docket Nos. 24-0494/24-0578 (Consol.), Ameren Ex. 7.0, 4-5 (Oct. 23, 2024). Staff recommends that the Commission reject ComEd's recommendation and adopt Staff's proposed definition of the costs subject to the retail rate impact cap to ensure consistency between this docket and Ameren's pending BE Plan 2 docket and future BE Plan filings.

Additionally, the AG contends that incremental generation, transmission, and distribution equipment capacity required to accommodate the growth in EV adoption due to the Company's BE Plan 2 and the new business costs of line extensions associated with BE should be categorized as EV infrastructure development and counted toward the cap. AG Ex. 1.00 at 17-20; Staff Ex. 14.0 at 25. The AG also argues it is inconsistent for ComEd to exclude these capacity costs from the cap while including the revenues associated with the increase in capacity in its revenue requirements in its retail rate impact cap calculation. The Company disagrees with the AG that capacity costs and the new business costs of line extensions should be counted against the cap because these costs are not part of the Company's BE Plan 2 budget. ComEd Ex. 3.0 CORR at 40-41; ComEd Ex. 5.0 at 8. ComEd further argues that the distribution capacity and new business costs are considered grid infrastructure costs, benefiting loads other than EV loads and provide power to all customers and not just ones with EVs. ComEd Ex. 5.0 at 8-10. Both Staff and EDF/RHA/SC agree with ComEd that capacity costs should not be counted toward the cap. Staff Ex. 14.0 at 28; EDF/RHA/SC Ex. 3.0 at 2. Staff disagrees with the AG that these costs should be counted toward the cap because the capacity costs support not just EVs but also other electrical loads; furthermore, Staff is concerned that these costs could leave little to no room for the necessary EV charging components of the BE Plan 2 while remaining under the retail rate cap. Staff Ex. 14.0 at 28. Moreover, the Illinois Court of Appeals recently held that Section 45(g) is clear and unambiguous, and the AG's argument is inconsistent with the plain language of the statute. *People v. Ill. Com. Comm'n*, 2024 IL App (2d) 230020 at ¶¶39, 44. The Commission should reject the AG's recommendation to count capacity and new business line extension costs toward the cap and accept Staff's proposed definition of EV infrastructure.

Furthermore, Staff explains, in ComEd's BE Plan 1 Order and BE Plan 1 Interim Order, in addition to the Commission finding that the cap applies to only EV infrastructure development, the Commission also determined that the phrase "total annual revenue requirements" does not only refer to the revenue requirement for delivery services. This interpretation of "total annual revenue requirements" was upheld on appeal. *People v. Ill. Com. Comm'n*, 2024 IL App (2d) 230020 at ¶41 (stating "... 'total annual revenue requirements' refers to the sum of multiple revenue requirements.") Thus, the Company's inclusion of all its revenues in the cap calculation is aligned with the BE Plan 1 Order and the BE Plan 1 Interim Order.

### (iii) AG's Position

ComEd estimates that 1% of its revenue requirements, including Distribution, Transmission, Energy Efficiency, DG Rebate, and supply components amounts to \$65.93 annually or \$197.79 million over the 2026-2028 period of the Plan. AG Ex. 1.00 at 18.

ComEd argued that the Company's revenue requirements from which the 1% rate impact is calculated should include generation, transmission, and distribution charges and not just distribution revenue requirements. *Id.* at 18-19. The AG argues that ComEd exceeds the 1% retail rate impact limit that is permitted by the statute. Per Section 45(g) of the statute; "The retail rate impact from the development of electric vehicle infrastructure shall not exceed 1% per year of the total annual revenue requirements of the utility." 20 ILCS 627/45(g). Thus, ComEd concludes its estimated \$180 million retail rate impact is under the limit. *Id.* at 18. However, the AG argues that ComEd's approach mismatches revenues and costs and understates BE Plan costs.

ComEd broadly defines revenue requirements to include delivery base revenues, supply revenues, and other rider revenues, but then inconsistently excludes the EV related costs of generation and supply, transmission, and distribution capacity costs, as well as new business stemming from EV adoption. The AG argues that this results in ComEd excluding hundreds of millions of dollars in its rate impact estimate, thereby creating a mismatch by including revenues from generation and transmission but excluding the associated costs. *Id.* at 18. According to the AG, ComEd cannot have it both ways: if the Company argues its rate impact limit should be based on generation, transmission, and distribution charges (rather than on delivery base rates), then an estimate of those costs should be included in its retail rate impact estimate. *Id.* at 19.

ComEd, however, maintains that the costs of generation, transmission, and distribution should not be included because those are grid infrastructure investments, and not electric vehicle infrastructure. ComEd Ex. 5.0 at 8. ComEd defines EV infrastructure to include infrastructure that is uniquely and solely required to directly support the energy requirements of an EV (i.e. EV charging equipment) and the "make-ready infrastructure" that physically connects that charging equipment to the source distribution circuit. *Id.* at 8. ComEd excludes investments that interconnect an EV charging load unless the investment includes the make-ready costs. *Id.* at 8-9.

The AG argues this narrow definition is at odds with ComEd using EV adoption as a reason for its investments in the MYIGP. AG Ex. 2.00 at 4-5. Excluding the costs of generation, transmission, and distribution charges is inappropriate because the costs of a BE Plan are intended to increase EV adoption which increases related infrastructure costs that customers will be required to pay. AG Ex. 2.0 at 16. Increased EV usage has an impact on the grid infrastructure and impacts all customers. Therefore, if the retail rate impact includes all revenues (delivery, supply, transmission and rider), all such costs should be included in determining BE costs applicable to the retail rate cap, otherwise asymmetry will result. AG Ex. 1.0 at 18. The AG urges the Commission to adopt their budget recommendations to ensure the Company's spending complies with the 1% cap.

#### **(iv) EDF/RHA/SC's Position**

EDF/RHA/SC urge the Commission to reaffirm its decision in its Order on ComEd's BE Plan 1 that the plain language of Section 45(g) of the EV Act requires that only costs directly related to the development of EV infrastructure count towards ComEd's retail rate cap. As EDF/RHA/SC point out, this determination was upheld by the Appellate Court, Second District, in its recent ruling on the Commission's interpretation of the same statutory language in the context of ComEd's BE Plan 1. *People v. Ill. Com. Comm'n,*

2025 IL App (2d) 230020. EDF/RHA/SC urge the Commission to reject the AG's recommendation (AG Ex. 1.00 REV 19) that all incremental generation, transmission, and distribution costs attributable to increased EV adoption count towards this cap.

EDF/RHA/SC agree with Staff and ComEd that a uniform definition of "EV infrastructure" as it applies to the retail rate cap is warranted, and largely agree with Staff's proposed definition. EDF/RHA/SC recognize, however, as ComEd explained, that the inclusion of "supplemental line extension allowances" within the proposed definition could encompass investments in shared infrastructure such as distribution circuit extensions. See ComEd IB at 99. EDF/RHA/SC point out that Staff, ComEd, and EDF/RHA/SC all agree that shared grid infrastructure is not "EV Infrastructure" within the meaning of Section 45(g), as demonstrated by the parties' shared opposition to the AG's position on generation, transmission, and distribution costs. Therefore, EDF/RHA/SC recommend adopting the definition proposed by Staff with the following modifications (shown as underlined):

The costs subject to the retail rate impact cap are the retail rate impact of all costs directly associated with service points and chargers, within the Company's BE Plan. These costs consist of the supplemental line extension allowances servicing individual EV charging customers for equipment leading up to the charging equipment on both the customer and utility side of the meter, make-ready infrastructure, defined as the electrical and construction work from the distribution circuit to the connection point of charging equipment, and incentives for chargers and make-ready infrastructure.

Staff IB at 70, quoting Staff Ex. 14.0 at 29.

This definition, as EDF/RHA/SC assert, retains the intended scope of Staff's proposed definition as EDF/RHA/SC understand it, while addressing ComEd's concern that Staff's proposed definition would include shared distribution grid infrastructure not solely serving EV charging customers through the BE Plan.

#### **(v) Commission Analysis and Conclusion**

The Commission finds that there should be a uniform definition of "EV infrastructure" as it applies to the retail rate impact cap. As the record indicates, Staff proposes the same definition of EV infrastructure in this proceeding as well as the pending Ameren BE Plan docket. Staff disagrees with ComEd's critique of Staff's definition, which includes the phrase "costs consist of the supplemental line extensions" and clarifies that Staff's definition is clear that it only includes costs within the Company's BE Plan. ComEd appears to accept Staff's clarification but is concerned that costs classified as "grid infrastructure" may still inadvertently be included under Staff's definition. To allay ComEd's concerns, ComEd provides a modification to Staff's definition of EV infrastructure in its Reply Brief. Also in a Reply Brief, EDF/RHA/SC propose a modification to Staff's definition to address concerns that Staff's definition may include shared distribution grid infrastructure not solely serving EV charging customers. The Commission notes that due to the briefing structure Staff did not have the opportunity to comment on the proposed modifications by ComEd and EDF/RHA/SC.

The Commission finds that ComEd’s modification retains the scope and intention of Staff’s definition while addressing ComEd’s concern. The Commission notes that “make-ready infrastructure” is defined in the EV Act as observed in ComEd’s modification. However, it is not clear why ComEd removed the phrase “incentives for chargers and make-ready infrastructure” from Staff’s definition as that has not been at issue and are “directly associated with service points and chargers.” The Commission finds this language should be retained. Therefore, the Commission adopts the following definition of “EV infrastructure” as it relates to the retail rate impact cap:

The cap applies to the retail rate impact of all costs within the Company’s BE Plan budget that are directly associated with service points and chargers. These costs may consist of the supplemental line extension allowances for equipment leading up to the charging equipment on both the customer and utility side of the meter, make-ready infrastructure as defined in the Electric Vehicle Act, and incentives for chargers and make-ready infrastructure.

Consistent with this definition and the Commission’s prior statutory interpretation of the retail rate impact cap that was upheld on appeal, the Commission finds that costs – such as incremental generation, transmission, and distribution equipment capacity – that do not solely serve the development of EV infrastructure through the BE Plan should not be counted toward the retail rate impact cap. See *People ex rel. Raoul*, 2025 IL App (2d) 230020. Additionally, the Commission reaffirms its prior decision that the phrase “total annual revenue requirements” does not only refer to the revenue requirement for delivery services as the AG contends.

The Commission finds that ComEd’s BE Plan 2 meets the requirements of Section 45(g) of the EV Act for the retail rate impact cap. The Commission directs the Company to update its retail rate impact cap calculation using its final 2024 distribution revenue requirement approved in Docket Nos. 22-0486/23-0055/24-0181 (Consol.) in the compliance filing to this docket.

**b. Investigation Pursuant to Section 45(g)**

**(i) ComEd’s Position**

ComEd argues that the scope of this case under Section 45 of the EV Act is BE Plan 2, and it does not include investigation or modification of BE Plan 1. ComEd further argues that the Commission, therefore, should not adopt Staff’s initial description of the scope of this case as including investigation of whether BE Plan 1 is achieving its objectives. See Staff Ex. 1.0 at 5-6 (citing EV Act Section 45(g)); Staff Ex. 12.0 at 16-17 (noting ComEd’s contrary position and deferring the issue to briefing and stating that the Commission’s order initiating Docket No. 24-0577 (“Initiating Order”) establishes the scope of the case). Nor should the Commission adopt Staff’s and the AG’s respective proposals to change the BE Plan 1 Evaluation and the April 2026 annual report on BE Plan 1. Staff has withdrawn their evaluation-related proposal, and it is unclear whether the AG is pursuing their evaluation-related proposal. In any event, the proposals are beyond the scope of this case. ComEd Ex. 3.0 CORR at 75.

ComEd states that the EV Act, including its Section 45(g), does not authorize the Commission in the instant case to review and revise BE Plan 1, including the Evaluation and annual reports established in the BE Plan 1 Order. Specifically, the investigation portion of Section 45(g) applies when the Commission, within 35 days of a utility's filing its annual report regarding its existing BE Plan, in this instance BE Plan 1, opens an investigation. Section 45(g) allows Commission modification of the existing BE Plan only in certain circumstances and respects. It states:

Within 35 days after the utility files its report, the Commission shall, upon its own initiative, open an investigation regarding the utility's plan update to investigate whether the objectives described in this Section are being achieved. The Commission shall determine whether investment targets should be increased based on achievement of spending goals outlined in the Beneficial Electrification Plan and consistency with outcomes directed in the plan stakeholder workshop report. If the Commission finds, after notice and hearing, that the utility's plan is materially deficient, the Commission shall issue an order requiring the utility to devise a corrective action plan, subject to Commission approval, to bring the plan into compliance with the goals of this Section.

20 ILCS 627/45(f).

ComEd notes that it filed its first annual report on BE Plan 1 on April 1, 2024, consistent with the BE Plan 1 Order at 216, 264, 269, 272, 274-275. The Commission did not open an investigation of BE Plan 1 within 35 days or at all. ComEd Ex. 3.0 CORR at 43. The Commission's August 1, 2024, Initiating Order commencing Docket No. 24-0577 directed an investigation of ComEd's proposed BE Plan 2. Thus, neither Section 45(g) nor the Initiating Order supports Staff witness Hamidu's direct testimony position.

Moreover, re-litigation of the legal sufficiency of BE Plan 1 is not within the scope of, or legally proper in, the instant case, absent a showing of relevant and material changes of law or circumstances. When two statutes relate to the same subject, they must be compared and construed with each other, and they must be read harmoniously, if reasonably possible. *E.g., Chi. Sun-Times v. Cook Cnty. Health & Hosps. Sys.*, 2022 IL 127519 at ¶ 32; *Kloepfel v. Champaign Cty. Bd.*, 2021 IL App (4th) 210091 at ¶ 16. To read the EV Act (apart from the proceedings authorized by Section 45(g)) to allow such re-litigation would put the EV Act in conflict with: (1) Sections 10-113(a) and 10-201(a) of the Public Utilities Act, and Ill. S. Ct. R. 335, regarding the exclusive means for review of the BE Plan 1 Order, which is appeal to the Appellate Court of Illinois; and (2) Section 10-113(a)'s provision that: "Only one rehearing shall be granted by the Commission; but this shall not be construed to prevent any party from filing a petition setting up a new and different state of facts after 2 years, and invoking the action of the Commission thereon." 220 ILCS 5/10-113(a), 10-201(a), and Ill. S. Ct. R. 335.

In its Reply Brief, ComEd noted that Staff did not address this issue in this section of its Initial Brief. ComEd states that in other portions of Staff's Initial Brief, however, Staff incorrectly cites language in EV Act Section 45(g) that applies only to a timely

Commission investigation of a utility's annual report on its existing BE Plan, as if that language also applies to the instant case. ComEd argues that the first four sentences of EV Act Section 45(g) apply only to such an investigation, while the remaining five sentences apply to a BE Plan update case. ComEd notes that Staff's references to Section 45(g) are to the first two sentences. ComEd argues that the Commission must reject any attempt to unlawfully expand the scope of the instant case to include an investigation of BE Plan 1 and cannot entertain proposed modifications to BE Plan 1.

**(ii) Staff's Position**

Staff states that the purpose of the investigation into ComEd's BE Plan 1 was to determine "whether the plan meets the objectives and contains the information required by [Section 45 of the EV Act]" and "if the proposed plan is cost-beneficial and in the public interest." 20 ILCS 627/45(d). The first investigation culminated in approval of BE Plan 1, which the Commission determined was designed to meet the statutory objectives in a cost-beneficial manner, with modifications. See *generally*, BE Plan 1 Order.

Staff argues that the purpose of the investigation into BE Plan 2 is different in that the Commission is required to determine "whether the objectives described in [Section 45 of the EV Act] are being achieved" and "whether investment targets should be increased based on achievement of spending goals outlined in the Beneficial Electrification Plan and consistency with outcomes directed in the plan stakeholder workshop report." 20 ILCS 627/45(g). Staff understands that as part of this investigation, the Commission must also determine whether BE Plan 2 contains the information required by Section 45 of the EV Act and that the proposed plan is cost beneficial. The investigation into BE Plan 2 will also determine whether the utility's BE Plan is achieving the statutory objectives and complying with the directives in the BE Plan 1 Order. In other words, Staff contends, the purpose of this proceeding is to consider whether the projects approved in BE Plan 1 are achieving the objectives of the EV Act, and if the changes and new programs proposed in BE Plan 2 are anticipated to improve the Company's effectiveness of meeting those objectives. Staff considered whether BE Plan 1 has been or is being implemented effectively, as demonstrated by the outcomes contained in ComEd's annual report, and proposed modifications intended to improve the effectiveness of BE Plan 2. Staff also considered whether the proposed changes to BE Plan 2, including the new projects proposed by the Company, were reflective of lessons learned from ComEd's BE Plan 1. The BE Plan 1 Order clarified that this was the intended purpose for which the Company's annual report should be used by directing ComEd to "capture and report any such information, finding that it can inform future electrification programs and MYIGP infrastructure investments." BE Plan 1 Order at 275.

In Staff's view, BE Plan 2 is not intended to be a new plan but rather an iterative update to BE Plan 1 to reflect lessons learned and to modify future BE programs and initiatives accordingly. The investigation into BE Plan 2 is intended to determine the extent to which the BE Plan as implemented is successfully achieving the statutory obligations. If the Commission determines it is not, the Commission can require the utility to "devise a corrective action plan, subject to Commission approval, to bring the plan into compliance with the goals of this Section." 20 ILCS 627/45(g). The Commission may, upon sufficient evidence, allow expenditures that were not part of BE Plan 1, provided that the expenditures are anticipated to improve the Company's ability to meet the

objectives of the EV Act and are not anticipated to negatively impact BE Plan 2's compliance with the EV Act.

ComEd argues that Staff's investigation into how effective BE Plan 1 has been in achieving the objectives of the EV Act is outside the scope of this proceeding but at the same time argues that the Commission's decision in BE Plan 1 prohibits the Commission from considering the anticipated effectiveness of BE Plan 2 in complying with the EV Act. ComEd's argument that the Commission may not consider results of BE Plan 1 directly conflicts with its argument that the Commission must conclude that the BE Plan 2 complies with the statutory objectives of the EV Act based solely on consideration of BE Plan 1. Moreover, both arguments improperly limit the Commission's ability to consider the effectiveness of BE Plan 2 and both conflict with the Commission's direction in the BE Plan 1 Order (at 275); the Commission's direction in the Initiating Order (at 5), and the EV Act.

Staff explains that the General Assembly clarified that it is not enough to merely present a plan that recites the objectives of the EV Act but rather the intended purpose is to ensure the Commission approves a plan that actually meets the objectives of the statute, noting it is the,

intent of the General Assembly to decrease reliance on fossil fuels, reduce pollution from the transportation sector, increase access to electrification for all consumers, and ensure that electric vehicle adoption and increased electricity usage and demand do not place significant additional burdens on the electric system and create benefits for Illinois residents.

20 ILCS 627/45(a). Thus, the Commission must consider both how effective BE Plan 1 has been and how effective BE Plan 2 is anticipated to be in meeting objectives of the EV Act.

In addition, ComEd's arguments, that the Commission may not consider the effectiveness of BE Plan 1 or the anticipated effectiveness of BE Plan 2, fail to consider the Commission's direction in the BE Plan 2 Initiating Order. The Commission expressly directed the parties to consider the effectiveness of BE Plan 1 and the anticipated effectiveness of BE Plan 2 by clarifying the purpose of this proceeding is to consider both whether "the objectives described in Section 45 of the Electric Vehicle Act are being achieved..." and whether "the Beneficial Electrification Plan 2 filing of Commonwealth Edison Company contains the information required by Section 45 of the Electric Vehicle Act and is cost-beneficial..." among other considerations. Initiating Order at 5. Furthermore, the Commission clearly directed the Company's BE Plan 1 annual report (pursuant to the Commission's Final Order in Docket Nos. 22-0432/22-0442 (Consol.)) be made part of the record evidence in this proceeding. *Id.* Despite disagreement between the Company and Staff regarding the purpose of this proceeding, ComEd's proposed BE Plan 2, as amended by Staff's proposed improvements, is anticipated to further the objectives of the EV Act. Accordingly, the Commission should reject ComEd's attempts to limit the Commission's consideration of the anticipated effectiveness of BE Plan 2 and adopt Staff's recommendations designed to improve the effectiveness of BE Plan 2 in furthering the objectives of the EV Act.

### (iii) AG's Position

The Company claims that the Commission should not adopt the AG's proposals to change the BE Plan 1 Evaluation and the April 2026 annual report on BE Plan 1. See Section IV.C.6., *supra*, for further discussion.

### (iv) Commission Analysis and Conclusion

The Commission agrees with ComEd that the language in subsection 45(g) of the EV Act cited by Staff stating that the Commission must determine "whether the objectives described in [Section 45 of the EV Act] are being achieved" and "whether investment targets should be increased based on achievement of spending goals outlined in the [BE] Plan and consistency with outcomes directed in the plan stakeholder workshop report" (20 ILCS 627/45(g)) refers to the Commission having the option to initiate an investigation into a BE Plan within 35 days after the filing of an annual report by the utility. The instant proceeding is to determine whether BE Plan 2 meets the requirements of the EV Act and is reasonably designed to meet the goals therein. The purpose of this proceeding is not to change BE Plan 1. However, the record shows that ComEd's BE Plan 2 is largely similar to its BE Plan 1. Therefore, on a practical level, it would only behoove the Commission to look into whether or not BE Plan 1 is obtaining the objectives of the EV Act so as to more effectively and efficiently determine whether BE Plan 2 is designed to obtain the objectives of the EV Act.

Subsection 45(d) of the EV Act provides the Commission with the authority to approve, approve with modifications, or reject a BE plan within 270 days from the date of the filing if it finds that the plan will achieve the goals and contains the information described in Section 45. 20 ILCS 627/45(d). Subsection 45(d) also states that proceedings under this Section shall proceed according to the rules provided by Article IX of the Public Utilities Act. *Id.* Included in subsection 45(d) are the minimum requirements for BE plans and additional goals for the Commission to consider when reviewing utility BE Plan filings. In its BOE, Staff continues to argue that subsection 45(g) applies to the instant proceeding. While subsection 45(g) does use the word "update," subsection 45(g) also clearly refers to a "report" and an "annual report." ComEd's Petition filed pursuant to subsection 45(f) is its update filing, which it is mandated to file only every three years, therefore this filing cannot be the "annual report" as contemplated by Section 45(g).

Staff argues that this docket is both an investigation into BE Plan 1 and an update to BE Plan 1. ComEd's Petition was filed pursuant to subsection 45(f), which in part requires ComEd to describe planned investments for the following 24 months. Staff's interpretation of subsection 45(g) does not account for the fact that nothing prevents ComEd from determining in an "update" filing that the previous BE programs were not worth pursuing and introducing entirely new programs for the next BE Plan. Under such a scenario where ComEd introduces new BE programs for the next BE Plan period the language of subsection 45(g) would be illogical in the respect that there would be no information available to investigate "whether investment targets should be increased based on achievement of spending goals" as there would be no achievement of any goals prior to Commission approval of the new programs. In effect, Staff's interpretation ignores that BE Plan 2 is not required to be the same, or even a continuation of BE Plan 1, and

subsection 45(g) clearly only contemplates corrections made to existing, currently active BE plans after an annual report is filed.

#### **5. Staff Workshop Report Recommendations in Sections 45(d) and (g)**

Sections 45(d) and (g) of the EV Act require that “[t]he plan shall take into consideration recommendations from the workshop report.” 20 ILCS 627/45(d). No party contests ComEd’s compliance with these Sections of the EV Act and ComEd argues that the Commission should determine that ComEd’s BE Plan 2 satisfies the workshop report requirements. ComEd greatly appreciates the insights provided throughout the Workshop process, which have helped shape ComEd’s BE Plan 2. ComEd notes that considerations pertaining to stakeholder recommendations have been addressed and noted throughout the Plan, and the Plan directly incorporates recommendations from the BE Plan 1 workshops.

ComEd notes that similar to BE Plan 1, in BE Plan 2 ComEd: 1) emphasizes equity by ensuring that all customers in the service area will benefit and provides an opportunity to improve air quality in communities that suffer disproportionately from pollution, 2) kickstarts the BE landscape with a multi-pronged, all of the above deployment strategy across a wide range of electric vehicle types and BE applications, and 3) designs BE Plan 2 to help customers overcome the many barriers that could limit, or hamper BE adoption. BE Plan 1 Final Order at 199. ComEd states that the Commission found that ComEd’s BE Plan 1 satisfied the workshop requirements of Sections 45(d) and (g) and they should reach the same conclusion for BE Plan 2.

This section is uncontested. The Commission finds that BE Plan 2 complies with the Staff workshop report requirements of Sections 45(d) and (g).

#### **6. Reporting and Development Requirements**

Section 45(f) of the EV Act provides that the BE Plan update “shall describe transportation investments made during the prior plan period, investments planned for the following 24 months, and updates to the information required by this Section. Beginning with the first update, the utility shall develop the plan in conjunction with the distribution system planning process described in Section 16-105.17, including incorporation of stakeholder feedback from that process.” 20 ILCS 627/45(f). No party contests ComEd’s compliance with this Section of the EV Act and ComEd argues that the Commission should determine ComEd’s BE Plan 2 satisfies the reporting and development requirements.

ComEd states that BE Plan 2 describes the investments made, including transportation, during the prior plan period up to the filing of BE Plan 2 which included: distributing rebates for high-efficiency heat pumps and associated infrastructure to LI customers and those residing in EIECs, providing three new transportation electrification rebate sub-programs available to customers, developing an integrated customer education and awareness plan, launching a BE Pilot microsite in 2023 to provide transparency to the BE Pilot planning process, and making the Watt-Hour Delivery Class available to non-residential customers installing EV charging stations in 2023. ComEd Ex. 1.01 at 8. Additionally, ComEd coordinated with the MYIGP process, “including

incorporation of stakeholder feedback from that process” as well as solicited stakeholder feedback. 20 ILCS 627/45(f); ComEd Ex. 1.01 at 77.

This section is uncontested. The Commission finds that BE Plan 2 complies with the reporting and development requirements in Section 45(f).

### **7. Workforce Equity Requirements in Sections 45(h) and 45(i)**

Section 45(h) of the EV Act requires that the utility demonstrate as part of its BE Plan, “efforts to increase the use of contractors and electric vehicle charging station installers that meet multiple workforce equity actions ... [and] establish reporting procedures for vendors that ensure compliance with [45(h)], but are structured to avoid, where possible, placing an undue administrative burden on vendors.” 20 ILCS 627/45(h). ComEd further argues that Section 45(i) of the EV Act requires that the utility “collect all data from Program applicants and beneficiaries to track and improve equitable distribution of benefits across Illinois communities” and “measure any potential impact of racial discrimination on the distribution of benefits” as required in 20 ILCS 627/45(i). No party contests ComEd’s compliance with either of these Sections and ComEd argues that the Commission should find that ComEd met the requirements set forth in these Sections of the EV Act.

ComEd states that it has a longstanding commitment to supplier diversity. “In 2023, ComEd spent \$1.05 billion with diverse suppliers, which represents 43% of ComEd’s total supply chain spend.” ComEd Ex. 1.0 at 41. ComEd also notes its experience in supporting and expanding the use of diverse local contractors, subcontractors, and suppliers in the design and execution of large, multi-year plans such as our Energy Efficiency plans. *Id.* ComEd has continued to refine its workforce equity approach through the 2022-2025 Energy Efficiency and Demand Response Plan (“Plan 6”) implementation, including, the Energy Efficiency Service Provider Network (“EESP”). *Id.* “The EESP established a centralized consistent structure for interactions by and between ... [ComEd’s] implementation contractor(s) ... and the independent contractors and/or consultant professionals used to promote and deliver energy efficiency programs.” *Id.* ComEd has leveraged this model for implementation of the BE Plan and launched its new Electric Vehicle Service Provider (“EVSP”) Network in the second quarter of 2024, promoting additional support for supplier diversity and workforce equity. *Id.*

Additionally, “ComEd has developed reporting procedures similar to those utilized for ComEd’s EESP, that is, ComEd requires the implementation contractor(s) to track, store, and report on all data points required ... including demographic and geographic data for each applicant and each person or business awarded benefits or contracts that voluntarily provides the information.” *Id.* at 42. According to ComEd, after evaluating the data on program applicants and beneficiaries, ComEd will collaborate with its implementation contractors as needed to adjust implementation strategies and customer education and outreach initiatives. ComEd notes that, this will help improve the equitable distribution of benefits across Illinois communities.

This section is uncontested. The Commission finds that BE Plan 2 complies with the workforce equity requirements and is reasonably expected to achieve the objectives in Sections 45(h) and (i).

## **E. Other Issues**

### **1. Cybersecurity**

No party contests ComEd's cybersecurity measures as it relates to BE Plan 2 and ComEd argues that the Commission should approve these measures as presented. In the BE Plan 1 Order, the Commission noted that cybersecurity is of the utmost importance and directed ComEd to require cybersecurity information from EV charging station operators (similar to what ComEd asks their vendors to provide) and to work with Staff to ensure that appropriate cybersecurity measures are in place. BE Plan 1 Order at 116. The Commission reiterates that cybersecurity continues to be of the utmost importance. For BE Plan 2, ComEd will implement Staff's recommendation to provide EV charging station operators who receive ComEd's C&I and Public Sector Make-Ready rebates with a copy of "NIST IR 8473: Cybersecurity Framework for EV Extreme Fast Charging Infrastructure." Staff Ex. 11.0 at 7; ComEd Ex. 3.0 CORR at 55. ComEd will disseminate this information by adding a link to this resource in its sub-program website, as well as provide the link via email when an applicant is informed that their rebate application has been approved. *Id.* ComEd further states that it will maintain ISO15118 and Open Charge Point Protocol compliance as a requirement for all public charging installations it incentivizes in BE Plan 2. ComEd Ex. 1.01 at 57.

This section is uncontested. The Commission finds that the cybersecurity measures proposed by Staff that ComEd agreed to are appropriate. The Commission adopts Staff's recommendations and directs ComEd to continue to work with Staff to ensure appropriate cybersecurity measures are in place for this BE Plan and all future BE Plan filings.

### **2. Customer Data**

#### **a. ComEd's Position**

ComEd argues that the Commission should accept ComEd's position on the collection of customer data in BE Plan 2 because it is appropriate and reasonable. ComEd explains that in response to Staff data requests, ComEd plans to collect, analyze, and evaluate in BE Plan 2 the same or similar data as it did in BE Plan 1 which consists of: a customer's name, email address, phone number, ComEd account number, customer energy use, premise information, charging information, vehicle information, miles driven, and utility rate information. Staff Ex. 18.0 at 5; Staff Ex. 18.1 at 1-2. ComEd also explains that data for managed charging pilots, like in BE Plan 1, may include: when and how much energy was used to charge an EV, location where the EV was charged, the state of charge of the battery including miles remaining, and any schedules that were overridden by the managed charging session. Staff Ex. 18.0 at 5; Staff Ex. 18.2 at 1. ComEd plans to collect data in a similar fashion to BE Plan 1, this approach is subject to change between now and BE Plan 2 implementation, contingent upon BE Plan 1 learnings. Staff Ex. 18.1 at 1-2. For example, ComEd may decide to increase the amount of information it collects or collect different information.

ComEd states that Staff recommends that the Commission direct ComEd to work with Staff to provide the following information for each BE Program in ComEd's BE annual report: (1) a description of customer PI collected, or that will be collected, by ComEd or

third party; (2) a description of customer PII collected, or that will be collected, by ComEd or third party; (3) a description of other customer data collected, or that will be collected by ComEd or third party; (4) an identification of who collected, or will collect, the customer PI, customer PII, and other customer data; and (5) an explanation as to why ComEd or third party collected, or plans to collect, customer PI, customer PII, and other customer data. Staff Ex. 18.0 at 8; Staff Ex. 18.6 at 1. ComEd argues that the Commission should reject Staff's recommendation because it presents a serious security threat to ComEd and its customers.

According to ComEd, disclosing specific customer data fields in BE Plan 2 annual reports and/or identifying who is collecting and has access to the data and why would potentially present a target to threat actors seeking a data source to breach. Staff Ex. 18.6 at 1. Furthermore, ComEd argues that, "the Exelon security review process and terms in place with any contracted providers clearly defines what is PI, PII, and customer data is, as well as what happens in terms of a security breach or as part of the termination of a contractor. Providing the requested detail on PI, PII, and customer data in the annual report could compromise data security further or be a breach of disclosure terms as part of the contract with these providers." ComEd Ex. 6.0 at 58.

Nonetheless, ComEd states that it understands Staff's concerns related to customer data privacy and is open to discussing alternative mechanisms to report/discuss the data in a manner that does not introduce a potential vulnerability. Staff Ex. 18.6 at 1. ComEd argues it is also willing to provide some customer data in an aggregated, anonymized fashion in BE Plan 2 annual reports as well as include a general explanation that customer data will be collected within the normal course of business to support BE Plan 2 program/sub-program implementation. *Id.* ComEd argues that the Commission should approve ComEd's approach to customer data as detailed above.

In its Reply Brief, ComEd states that Staff points to ComEd's RFP for BE sub-programs, which lists data points that ComEd requires implementation contractors to collect. ComEd Ex. 6.02 at 26. ComEd states this data includes customer information (e.g., name, address, contact information, account number), service provider or contractor information, rebate data, and installed measure specifics. Staff argues that it is contradictory for ComEd to disclose those data categories in its RFP, but not the data categories that Staff requests in the annual report.

ComEd argues that its position is, in fact, not contradictory at all. The categories of information listed in the RFP are exemplar and not exhaustive. See ComEd Ex 6.02 at 26 ("Those data points may include, but are not limited to, the following: ..."). And as ComEd indicated in its Initial Brief, ComEd would be willing to list those types of more benign categories of information in its annual report. Staff's request, however, goes beyond those general categories, and could encompass extremely sensitive topics like earnings and salary information, government issued identification numbers, etc. The Commission should reject Staff's request.

#### **b. Staff's Position**

Staff states that, to understand the scope of ComEd's collection of customer data and whether such data collection is reasonable in the context of this BE Plan and future BE Plan proceedings, Staff believes it is imperative that the Commission approve Staff's

recommendation to direct ComEd to work with Staff to provide aggregated, anonymized (i.e., non-identifiable data) customer data that ComEd intends to or is collecting, evaluating, and analyzing for its BE programs in its BE annual reports and upon filing in future BE Plans, as described below. Staff Ex. 18.0 at 9.

According to Staff, the Commission, Staff, stakeholders, and most importantly customers, should have the ability to know who collects customer information, how the information is being collected, who the information is being shared with, and why that data is collected related to ComEd's BE Plan. *Id.* at 6-7. Customer information, or data points, that ComEd identified it may collect, analyze, or evaluate for the FEA, R&D Program, Program Data Collection, ComEd-BOMA Chicago Collaboration, kWh data regarding the Residential EV Charger and Installation Program incentive, Residential Optimized Charging Pilot, and for ComEd's rate design options—Watt Hour and Rate BESH, as part of BE Plan 1 (ComEd does not yet have data on ComEd BE Plan 2), may include:

- customers names, addresses, phone numbers, e-mails, and ComEd account numbers;
- customer energy use (kWh and kW where available);
- premise information (address and location);
- charging information (kWh, charging time, to the extent information applicable under the specific program/sub-program);
- vehicle information (vehicle identification number (“VIN”), make and model, year, class and miles driven applicable under the specific Program/Sub-program);
- utility rate information;
- when and how much energy was used to charge an EV;
- location where the EV was charged;
- any schedules that were overridden by a managed charging session; and
- the state of charge of the battery including miles remaining.

Staff Exs. 18.1, 18.2, 18.3. ComEd states that it plans to collect similar customer data for BE Plan 2. Staff Ex. 18.1, 1. ComEd may share certain customer data with ComEd's internal departments, BE Plan implementation contractors, contracted Plan evaluator, in accordance with its published information privacy policy, and with contracted third parties regularly over the course of business. Staff Ex. 18.1 at 2.

Staff recommended the Company provide the following information in the Company's BE Plan 2 annual report for each BE program:

- (1) a description of customer personal information (“PI”) collected, or will be collected, by the Company or third party;
- (2) a description of customer personally identifiable information (“PII”) collected, or will be collected, by the Company or third party;

- (3) a description of other customer data that will be collected, or will be collected, by the Company or third party;
- (4) an identification of who collected, or will collect the customer PI, customer PII, and other customer data; and
- (5) an explanation as to why the Company or third party collected, or plans to collect customer PI, customer PII, and other customer data.

Staff Ex. 18.0 at 2-3.

In surrebuttal testimony, the Company indicated that it is opposed to this recommendation. Staff agrees with the Company that data security is vital to the cybersecurity of the Company and Staff does not want to increase the risk of a security breach, but Staff believes that the benefit of transparency to Staff and the public about what customer data is being collected during the course of these BE programs outweighs the risk of providing an anonymized description of PI, PII, and other customer data. Staff is not asking the Company to identify the specific PI, PII or other customer data collected from specific individuals or organizations, rather the Company would describe the PI, PII or other customer data types collected generally and in the aggregate for the Company's BE Plan.

Staff understands ComEd's concerns generally regarding data security and Staff agrees that data security is of the utmost importance and takes this very seriously, hence the reason for Staff's recommendation in this proceeding. Staff's approach could improve the Company's data security posture in the following ways: (1) Staff would be able to review the Company's data collection practices for reasonableness, which could reduce the amount of data that could be compromised by threat actors; and (2) Staff's approach could improve customer data security and the Company's data security posture related to the BE Plan as customers would be able to review the anonymized descriptions of data that the Company and contractors would collect from them and take actions to reduce the negative consequences of a data breach or leak of the collected data. Staff Ex. 18.0 at 6-9.

According to Staff, Staff's recommendation that ComEd provide support explaining why they plan to collect specific customer data, which provided in an anonymized, aggregated format without sensitive and confidential information, is a reasonable request of the Company so as not to risk compromising customer data and reduce its cybersecurity posture. Staff disagrees with ComEd that providing such data would "present a serious security threat to ComEd and its customers" and that disclosing such data "would potentially present a target to threat actors seeking a data source to breach." ComEd IB at 107. ComEd has not explained how Staff's request to report anonymized and aggregated descriptions of customer data would weaken the Company's data security posture, given the descriptions would not identify specific customers, contractors, or sub-contractors PI, PII, or other customer data, rather it would be collected generally and in the aggregate. Moreover, the data points that the Company identified as noted above (e.g., customer names, customer energy use, etc.) are exactly the type of descriptions that Staff is seeking in the BE annual reports. See Staff Ex. 18.0 at 5-6. Thus, it seems contradictory for the Company to provide such customer data information yet refuse to disclose the same customer data in the BE annual reports based on security

concerns. In fact, the Company stated it was agreeable to providing customer data in an aggregated, anonymized format in BE Plan 2 annual reports. Staff Ex. 18.6.

Further, the Company's RFP 2024-2025 BE sub-programs included the exact type of general information or anonymized descriptions of data points that Staff requested be included in the Company's BE annual reports. ComEd Ex. 6.02 at 26. Staff believes it is contradictory for the Company to disclose data points that may be collected by implementation contractors while refusing to disclose the same customer information in the BE annual reports based on data security concerns.

For these reasons, Staff continues to recommend that the Commission direct the Company to work with Staff to provide the requested information for each BE program in the Company's annual reports and in this BE Plan and future BE plans, in an anonymized and aggregated format.

Should the Commission reject that recommendation, Staff argues, then the Commission should direct ComEd to work with Staff to better understand the Company's concerns and determine what PI, PII, and other customer data are appropriate to report in the Company's BE annual report. Such discussions should include ComEd's willingness "to provide some customer data in an aggregated, anonymized fashion in BE Plan 2 annual reports as well as include a general explanation that customer data will be collected within the normal course of business to support BE Plan 2 Program/Sub-program implementation." ComEd IB at 107.

### **c. Commission Analysis and Conclusion**

It appears ComEd and Staff are committed to the same goal. The Commission agrees with Staff that this data will be helpful in analyzing the BE programs. ComEd is directed to provide the information requested by Staff for each BE Plan program in the Company's BE Plan 2 annual reports in an anonymized and aggregated format going forward. ComEd is directed to collaborate with Staff on the reporting of such information requested by Staff so as to address any security concerns.

## **V. DIRECTIVES FROM THE BE PLAN 1 ORDER**

### **A. ComEd-BOMA/Chicago Collaboration**

ComEd believes this issue may be uncontested. But, contested or not, ComEd argues that the Commission should find based on the evidence that ComEd has complied with the requirement of the BE 1 Final Order to collaborate with BOMA/Chicago and other interested parties to develop a three-to-five-year EV charging infrastructure plan for the Chicago Central Business District. BE Plan 1 Order at 92. Between August 2023 and December 2023, ComEd and BOMA/Chicago met biweekly to gather, share, and analyze information. ComEd Ex. 1.01 at 73.

ComEd notes that BOMA/Chicago facilitated a survey of its members to understand public parking garages' EV charging plans in the Central Business District ("CBD") over the next three to five years. Next, ComEd hosted a virtual BE discussion for interested parties in February 2024. Finally, ComEd conducted technical analyses leveraging insights from BOMA/Chicago's survey report to preliminarily evaluate and estimate the grid's capacity to support EV charging infrastructure plans across the CBD over the next five years. *Id.* at 74. ComEd has continued collaborating with

BOMA/Chicago to update the data used in ComEd’s technical analyses, identify specific CBD garages that are most in need, conduct demonstrations of tools available to BOMA/Chicago, and better understand BOMA/Chicago’s needs. *Id.* For the foregoing reasons, ComEd argues that the Commission should find that ComEd satisfied its BE Plan 1 directive to collaborate with BOMA/Chicago and other interested parties.

This issue is uncontested. The Commission finds that ComEd has complied with the requirements of the BE Plan 1 Order regarding the ComEd-BOMA/Chicago Collaboration

## **B. Stakeholder Collaboration Sessions**

ComEd states that the Commission directed ComEd to meet with Staff and interested stakeholders, walk through the information in the annual report, discuss stakeholder feedback from the MYIGP process, answer questions, and share thoughts on changes or additions ComEd is considering to the BE Plan for the July 1, 2024 BE Plan Update filing. *Id.* ComEd notes that three collaboration sessions were held that covered key learnings, recommendations, alignment on open topics, and stakeholder feedback. ComEd Ex. 1.01 at 75. According to ComEd several modifications to BE Plan 2 were made based on the Stakeholder feedback it received as a result of the sessions. ComEd notes that, those modifications include offering higher C&I Public Sector make-ready incentives for publicly accessible chargers (versus higher incentives only being available to LIC/EIEC customers in BE Plan 1) and continuing to offer LDV rebates for customers located in or primarily serving LICs/EIECs (versus the initial BE Plan 2 proposal to sunset all LDV rebates). *Id.* at 76. For the foregoing reasons, ComEd argues that the Commission should find that ComEd complied with the requirements of the BE Plan 1 Order to conduct stakeholder collaboration sessions.

This issue is uncontested. The Commission finds that ComEd has complied with the requirements of the BE Plan 1 Order regarding stakeholder collaboration sessions.

## **C. Analysis Concerning Customer Rates**

### **1. ComEd’s Position**

ComEd argues that the Commission should find that ComEd has complied with the Commission’s directive in the BE Plan 1 Order that ComEd include in future BE Plan filings “an analysis concerning customer rates such as a [ratepayer impact measure (“RIM”)] or similar test.” BE Plan 1 Order at 198; ComEd Ex. 2.0 at 17-23; ComEd Ex. 1.01 at Section 6.4.3 and Tables 6-2, 6-5, 6-6, 6-7, 6-8, 6-9, and 6-11; ComEd Ex. 4.0 at 2, 38-42; ComEd Ex. 7.0 at 2, 36-47; Staff Cross Ex. 1.0 at 6-7. ComEd interprets the term “RIM test” to be consistent with the AG’s description of this term provided in the BE Plan 1 Order at 195 (summarizing the AG’s position on this issue), which is an analysis of “the [customer rate] impact of the BE Plan on non-participants” entailing a “calculat[ion] [of] the incremental net revenues that ComEd would likely receive from sales due to the Company’s BE Plan and compar[ing] those figures to the BE Plan’s costs...” Applying this definition, in its surrebuttal testimony, ComEd presented the associated RIM test results, and it provided supporting discussion and more detailed breakdowns of these results. ComEd Ex. 7.0, Table 8 at 44; ComEd Ex. 7.0 at 38-49; Staff Cross Ex. 1.0 at 6. ComEd notes that similar analysis results, reflecting earlier vintages of BE Plan 2 and/or

earlier assumptions (before incorporating revisions to the assumptions recommended by various parties), were provided and explained at ComEd Ex. 1.01 at 62-63 and 68-71, Baumann Dir., ComEd Ex. 2.0 at 19-20, and ComEd Ex. 4.0 at 36-42. However, ComEd presents the more detailed analysis in its surrebuttal testimony in response to Staff witness Hamidu's recommendation that ComEd's RIM test identify the costs and benefits of BE Plan 2 that will affect customer rates and use these costs and benefits to determine the rate impact for customers. Staff Ex. 12.0 at 4. ComEd's understanding was that Staff witness Hamidu sought a detailed identification of the costs and benefits that impact customer rates, and an explicit calculation, including annual values, of potential customer rate impacts given these costs and benefits. ComEd Ex. 7.0 at 38.

According to ComEd, in his rebuttal testimony, Staff witness Hamidu also suggested that ComEd's customer rate analysis be aligned with the specific RIM approach that Ameren chose to apply in Docket Nos. 22-0431/22-0443. Staff Ex. 12.0 at 2, 4. Staff witness Hamidu stated that his reasoning for this suggestion was that such an analysis would "ensure consistency between the two dockets." *Id.* at 5. ComEd argues that there is no legal requirement that ComEd or Ameren must use the exact same approach when performing an analysis concerning customer rates. ComEd further argues that ComEd is not intimately knowledgeable about the detailed structuring, assumptions, and calculations of Ameren's specific RIM approach. However it is ComEd's position that, the results that ComEd presented throughout the proceeding, including in its surrebuttal testimony in response to Staff witness Hamidu's recommendations, along with the full supporting calculations found in the associated workpapers, provide ample information regarding the customer rate impacts of BE Plan 2 to reasonably compare the customer rate impacts of the two utilities' BE Plans, should the Commission find that to be useful.

ComEd's states that its limited understanding is that Ameren's specific RIM approach compares the costs of its BE Plan with the potential rate reductions from the BE Plan in order to determine the impact on non-participant customers' rates. ComEd Ex. 7.0 at 47. It is ComEd's position that, its analysis presented in its surrebuttal testimony also provides this information, both at a high level, as well as at a program/sub-program level and on an annual basis. *Id.* ComEd argues that there is no need to perform any other analysis or utilize any other form or definition of a "RIM or similar test." BE Plan 1 Order at 198. While the analysis that ComEd presented satisfies the BE Plan 1 Final Order's directive to include an "analysis concerning customer rates such as a RIM or similar test," ComEd further argues that, if the Commission believes it would be worthwhile, ComEd would be willing to work with Ameren prior to ComEd's filing of its next BE Plan, to explore potential additional opportunities for consistency in customer rate analysis approaches, while allowing the utilities to identify areas of deviation from a shared approach where appropriate. ComEd Ex. 7.0 at 49.

According to ComEd, as shown in Baumann Sur., ComEd Ex. 7.0, Table 7 at 43:633, and as explained in Baumann Sur., ComEd Ex. 7.0 at 45-46, BE Plan 2 is expected to increase nonparticipant customer rates during the 2026-2028 BE Plan 2 period and decrease non-participant customer rates afterward, as the EVs adopted due to the plan have useful lives beyond the recovery period of BE Plan 2 budget costs. Overall, on a net present value basis, non-participant customer rates are expected to

increase as a result of BE Plan 2. ComEd argues that this is understandable because a beneficial electrification plan will entail costs that customers must cover in order for them to realize the expected benefits of the plan, including the benefits of reduced carbon emissions and surface-level pollutants, particularly in LI/EIECs. ComEd further argues that at the same time, Baumann Sur., ComEd Ex. 7.0, Table 8 at 44:636 shows, BE Plan 2 also entails significant potential rate reductions to help offset the costs of achieving the benefits provided by BE Plan 2. Staff Cross Ex. 1.0 at 6-7.

According to ComEd, BE Plan 2 is designed to provide rebates to customers for taking specific actions that are aligned with the policy goals of the EV Act. ComEd argues that this helps ensure that the policy goals of the EV Act are advanced; however, the costs of these rebates must be recovered through customer rates, thereby increasing the impact on customer rates. For example, the C&I and Public Sector EV Purchase Sub-program represents roughly half of the costs of BE Plan 2. ComEd further argues that providing vehicle purchase incentives targeted at medium-duty vehicles, heavy-duty vehicles, and buses, as was recommended in the Staff Report (BE Plan 1 Workshops Staff Report at 49, 56, 58), will produce emissions reductions from some of the most emission-intensive vehicles, including those that travel through EIECs. Additionally, the customer rate impacts in part reflect the costs associated with BE Plan 2's particular focus on benefiting LI/EIEC customers.

BE Plan 2 reserves at least 50% of the Residential Program budget for LI customers and customers located in EIECs, and it reserves over 50% of the C&I and Public Sector Program budget for customers located in or primarily serving LICs/EIECs. The offering of higher dollar-value rebates to these customers lowers the barriers to EV adoption in LICs/EIECs, thereby promoting equity and improving air quality in these communities. As noted in ComEd Ex. 1.01 at 8, for each rebate offered in the Residential EV Charger and Installation Program and C&I and Public Sector Program, LI/EIEC applicants and public charging infrastructure projects are eligible for a rebate up to 5 times higher than the base level. ComEd argues, this helps to ensure that LICs/EIECs capture the associated benefits, including the environmental benefits, but it also increases the cost per rebate that must be recovered in customer rates. ComEd notes one shortcoming of the RIM test approach is that it does not capture non-rate-related benefits, such as the benefits of reduced carbon emissions and surface-level pollutants. Staff Cross Ex. 1.0 at 6-7. For the foregoing reasons, ComEd argues that the Commission should find that ComEd has complied with the applicable directive of the BE Plan 1 Final Order that ComEd include in future BE Plan filings "an analysis concerning customer rates such as a RIM or similar test." BE Plan 1 Final Order at 198.

In reply, ComEd argues that it has complied with the Commission's directive in the BE Plan 1 Final Order that ComEd include in future BE Plan filings "an analysis concerning customer rates such as a RIM or similar test." BE Plan 1 Final Order at 198. ComEd presented the associated RIM test results, and it provided supporting discussion and detailed breakdowns of these results. ComEd Ex. 7.0, Table 8 at 44; ComEd Ex. 7.0 at 38-49; Staff Cross Ex. 1.0 at 6-7.

According to ComEd, Staff recommends that the Commission direct ComEd to perform a RIM test where ComEd identifies the costs and benefits of BE Plan 2 that will affect customer rates and use these costs and benefits to determine the rate impact for

customers. Staff IB at 84. Staff witness Hamidu previously made the same request of ComEd. Staff Ex. 12.0 at 4. ComEd argues that in response, in its surrebuttal testimony, ComEd presented the associated RIM test results as well as supporting discussion and more detailed breakdowns of these results. ComEd Ex. 7.0 at 44 (Table 8), 38-49. ComEd supplemented this with additional commentary in response to a related discovery request from Staff to ComEd. Staff Cross Ex. 1.0 at 6-7. Consequently, Staff's recommendation has already been satisfied.

According to ComEd, Staff further recommends that the Commission direct ComEd to conduct a RIM test in the same manner as Ameren in Docket Nos. 22-0431/22-0443 (Consol.), arguing that this would provide a consistent basis for assessing customer rate impacts and facilitate consistency between the instant proceeding and the referenced Ameren proceeding. ComEd explains that there is no legal requirement that ComEd or Ameren must use the exact same approach when performing an analysis concerning customer rates, and that the results and supporting calculations that ComEd has presented provide ample information regarding the customer rate impacts of BE Plan 2 to reasonably compare the customer rate impacts of the two utilities' beneficial electrification plans, should the Commission find that to be useful. Furthermore, ComEd argues that while ComEd is not intimately knowledgeable about the detailed structuring, assumptions, and calculations of Ameren's specific RIM approach, ComEd states its limited understanding is that Ameren's specific RIM approach compares the costs of its BE Plan with the potential rate reductions from the BE Plan in order to determine the impact on non-participant customers' rates. *Id.* ComEd explains its analysis includes this information, both at a high level as well as at a program/sub-program level and on an annual basis. *Id.* ComEd further explains that there is no need to perform any other analysis or utilize any other form or definition of a "RIM or similar test." BE Plan 1 Order at 198.

Finally, ComEd states that, Staff is supportive of ComEd's proposal to work with Ameren prior to ComEd's filing of its next BE Plan, to explore potential additional opportunities for consistency in customer rate analysis approaches, while allowing the utilities to identify areas of deviation from a shared approach where appropriate. ComEd Ex. 7.0 at 49. ComEd is willing to engage with Ameren in this manner, if the Commission believes that would be worthwhile.

## **2. Staff's Position**

The Commission should direct the Company to perform a RIM where the Company identifies the costs and benefits of the BE Plan that will affect customer rates and use these costs and benefits to determine the rate impact for customers. Staff Ex. 12.0 at 4. The Commission approved use of the RIM test in Ameren's BE Plan 1 docket, stating "the Commission agrees with Ameren's use of the RIM to assess the impact of the BE Plan on customer rates." *Ameren III. Co.*, Docket Nos. 22-0431/22-0443, Order at 45-46 (Consol.) (Mar. 23, 2023). Directing ComEd to use a RIM test similar to the one approved by the Commission in Ameren's BE Plan 1 would provide the Commission and stakeholders with a consistent basis for assessing customer rate impacts and aid to ensure consistency between the two dockets since both Ameren and ComEd operate under the same statutory framework. Staff Ex. 12.0 at 5.

The Company responded that it “provided a sufficiently detailed ‘analysis concerning customer rates’” in its direct filing and “given that the information provided by ComEd complies with the Commission’s directive in the BE Plan 1 [ ] Order, Staff witness Hamidu’s recommendation to conduct a RIM test is not necessary.” ComEd Ex. 1.01 at Section 6.4.3; ComEd Ex. 4.0 at 42; ComEd Ex. 7.0 at 37. Staff does not oppose the analysis provided by the Company, however, ComEd’s BE Plan 1 Order specifically provides that “ComEd’s analysis should include an analysis concerning customer rates such as a RIM or similar test. BE Plan 1 Order at 198. Providing an additional RIM test similar to what the Commission approved in Ameren BE Plan 1 would be helpful to the Commission in assessing the rate impact of the BE Plan. Staff Ex. 12.0 at 5. The Company argues there is no legal basis for determining that Ameren and ComEd should provide the same rate impact analysis. Staff believes that using RIM tests would help provide the Commission and stakeholders with a consistent basis of the approach used by both companies in assessing customer rate impacts and ensure consistency between the two dockets since both Ameren and ComEd operate under the same statutory framework. *Id.* In surrebuttal testimony, the Company stated that it is willing to work with Ameren prior to ComEd’s filing of its next BE Plan to explore opportunities for consistency in customer rate analysis approaches if the Commission finds it useful. ComEd Ex. 7.0 at 49. Without withdrawing Staff’s recommendation that the Commission should direct ComEd to conduct a RIM test ratio in same manner that Ameren does at conclusion of this docket, Staff also supports ComEd’s proposal that the Commission should direct Ameren and ComEd to work together before next BE Plan filing to explore opportunities for consistency in customer rate analysis approaches to be included in future filings.

### **3. Commission Analysis and Conclusion**

There is no legal basis for the Commission to require ComEd and Ameren to provide the same rate impact analysis test. Staff agrees that ComEd provided the rate impact analysis but finds that it would be beneficial if Ameren and ComEd used the same approach. The Commission agrees. The Commission directs ComEd to engage Ameren in working together towards exploring opportunities for consistency in customer rate analysis approaches to be included in future BE Plan filings.

## **VI. COMPLIANCE FILING**

ComEd notes that it plans to follow the same timeframes and procedures for the BE Plan 2 compliance filing as outlined in the BE Plan 1 Order. See BE Plan 1 Order at 275-276. This includes revising BE Plan 2 (ComEd Ex. 1.01) to comply with all directives in the BE Plan 2 Order. ComEd will then share that updated draft with the service list no later than five weeks after the Commission issues the final Order in this case. The parties will then have two weeks to ensure it accurately reflects the Commission’s final Order and provide ComEd with comments on that topic. ComEd will then make a compliance filing in this proceeding no later than two weeks after it receives those comments from the parties. *Id.*

No party other than ComEd addressed the compliance filing procedure. The Commission finds that ComEd’s proposed compliance filing procedure mirrors the BE Plan 1 procedure, is reasonable, and it is approved.

## VII. 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 Commonwealth Edison Company 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 BE Plan 2 as modified herein is reasonable and meets the statutory requirements and policy goals of the EV Act;
- (5) Commonwealth Edison Company shall implement the additional reporting requirements as adopted herein;
- (6) Commonwealth Edison Company will share a draft compliance BE Plan 2 with Staff and intervenors no later than five weeks following the Commission's final Order, Staff and intervenors will provide Commonwealth Edison Company comments, if any, on the draft compliance BE Plan regarding whether the draft compliance BE Plan 2 accurately reflects the Commission's final Order within two weeks following the receipt of the draft compliance BE Plan 2;
- (7) Commonwealth Edison Company shall file a compliance BE Plan 2 in this proceeding no later than four weeks following the date it shares its draft compliance BE Plan 2 with Staff and intervenors;
- (8) Commonwealth Edison Company's proposed BE Plan 2 as modified herein is cost-beneficial and in the public interest, consistent with 20 ILCS 627/45(d); and
- (9) Commonwealth Edison Company's amended three-year BE Plan 2 is approved with an average annual budget of \$55.9 million.

IT IS THEREFORE ORDERED that Commonwealth Edison Company's proposed BE Plan 2 as modified herein is approved.

IT IS FURTHER ORDERED that Commonwealth Edison Company is directed to implement the additional reporting requirements as adopted herein.

IT IS FURTHER ORDERED that Commonwealth Edison Company shall share a draft compliance BE Plan 2 with Staff and intervenors no later than five weeks following the Commission's final Order, Staff and intervenors will provide Commonwealth Edison Company comments, if any, on the draft compliance BE Plan regarding whether the draft

compliance BE Plan 2 accurately reflects the Commission's final Order within two weeks following the receipt of the draft compliance BE Plan 2.

IT IS FURTHER ORDERED that any motions, petitions, objections, and other matters in this proceeding which 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 27<sup>th</sup> day of March, 2025.

(SIGNED) DOUGLAS P. SCOTT

Chairman