

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter Of:)	
)	
JOHNS MANVILLE,)	
)	
Complainant,)	PCB No. 14-3
)	(Citizens Enforcement)
v.)	
)	
ILLINOIS DEPARTMENT OF)	Hearing Officer Halloran
TRANSPORTATION,)	
)	
Respondent.)	

NOTICE OF FILING

To: See Attached Service List

Please take note that today, February 9, 2018, I filed in the above-referenced matter **Commonwealth Edison Company's Response to IDOT's Motion to Reconsider**, with the Clerk of the Illinois Pollution Control Board, a copy of which is attached hereto and hereby served upon you.

/s/ Gabrielle Sigel
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CERTIFICATE OF SERVICE

I, GABRIELLE SIGEL, do hereby certify that on February 9, 2018, I caused to be served this **Notice of Filing** and its attached **Commonwealth Edison Company's Response to IDOT's Motion to Reconsider**, by sending the documents via email to all persons listed below, addressed to each person's email address.

/s/ Gabrielle Sigel

Gabrielle Sigel

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter of:)	
)	
JOHNS MANVILLE, a Delaware corporation,)	
)	
Complainant,)	PCB No. 14-3
)	(Citizens Enforcement)
v.)	
)	
ILLINOIS DEPARTMENT OF TRANSPORTATION)	Hearing Officer Halloran
)	
Respondent.)	

**COMMONWEALTH EDISON COMPANY'S
RESPONSE TO IDOT'S MOTION TO RECONSIDER**

Third Party Commonwealth Edison Company (“ComEd”) is appearing in this case solely to object to the discovery that has been served upon it and to obtain rulings protecting it from the production of certain information, quashing subpoenas, and, as necessary, regarding the non-disclosure of certain information. ComEd’s bases for its objections and requests for protection, to quash, and for determinations of non-disclosure are stated in its Motion to Quash or for Protective Order in Response to Subpoena *Duces Tecum* (filed on June 20, 2017) (“Motion to Quash”) and in its *In Camera* Application for Non-Disclosure and for Protective Order (“Application”) (filed on August 4, 2017) (“Application”), and in the briefings and filings in this matter with respect to its Motion and Application.

On December 21, 2017, the Illinois Pollution Control Board (the “Board”) issued an Opinion and Order (“the December 21 Order”) granting the separate applications for protective orders filed by ComEd and by Complainant Johns Manville (“JM”). The Board’s December 21 Order protected ComEd from having to produce discovery sought by Respondent Illinois Department of Transportation (“IDOT”) in this case. Specifically, in its December 21 Order, the

Board held, in part, that IDOT sought discovery from ComEd “that is neither relevant nor calculated to lead to information relevant to [the three pending] issues” and granted ComEd’s request for a protective order on that ground. (December 21 Order, p. 5.) Based on that ruling, the Board denied, as moot, ComEd’s *in camera* application for non-disclosure and ComEd’s motion to quash. (*Id.*)

On January 26, 2018, IDOT filed a Motion for Reconsideration, of the Board’s December 21, 2017 Opinion and Order. (“IDOT Motion for Reconsideration”) In IDOT’s Motion for Reconsideration, it seeks a Board order “[r]escind[ing] its December 21 Order barring IDOT from obtaining third party discovery from [ComEd] and permitting IDOT to take discovery from [ComEd], consistent with its May and June 2017 subpoenas” and requesting “such other relief as the Board deems to be appropriate.” (IDOT Motion for Reconsideration, p. 10.)

ComEd opposes IDOT’s Motion for Reconsideration, particularly to the extent that it seeks discovery to which ComEd has objected and with respect to which ComEd has moved for protective orders, to quash, and for non-disclosure determinations. Moreover, should the Board consider granting IDOT’s Motion for Reconsideration, ComEd urges the Board to consider and grant its Application and/or its Motion, and prohibit IDOT’s discovery of information and documents from ComEd in this proceeding.

Respectfully submitted,

COMMONWEALTH EDISON COMPANY

By: /s/ Gabrielle Sigel
One of its attorneys

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Dated: February 9, 2018