STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Central Illinois Light Company d/b/a AmerenCILCO	)))	No. 08-0619
Central Illinois Public Service Company d/b/a AmerenCIPS	)))	No. 08-0620
Illinois Power Company d/b/a AmerenIP	))))	No. 08-0621
Proposal to implement a combined Utility Consolidated Billing (UCB) and Purchase of Receivables (POR) service.	)))	

BRIEF ON EXCEPTIONS OF THE RETAIL ENERGY SUPPLY ASSOCIATION, THE ILLINOIS COMPETITIVE ENERGY ASSOCIATION AND DOMINION RETAIL, INC.

Dated: July 15, 2009

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BRIEF ON EXCEPTIONS OF THE RETAIL ENERGY SUPPLY ASSOCIATION,
THE ILLINOIS COMPETITIVE ENERGY ASSOCIATION
AND DOMINION RETAIL, INC.

The Illinois Competitive Energy Association ("ICEA"), the Retail Energy Supply Association ("RESA") and Dominion Retail, Inc. (collectively "ICEA/RESA/DRI"), by one of its attorneys, pursuant to Section 200.830 of the Rules of Practice of the Illinois Commerce Commission ("Commission" or "ICC"), hereby submit their Brief on Exceptions to the Administrative Law Judge's("ALJ") Proposed Order("PO") issued July 2, 2009 in the instant proceeding regarding the proposal of Central Illinois Light Company, Central Illinois Public Service Company, and Illinois Power Company (collectively "Ameren", "the Ameren Illinois Utilities", or "AIU") to implement a combined Utility Consolidated Billing (UCB) and Purchase of Receivables (POR) service ("UCB/POR").

INTRODUCTION

At the outset, ICEA/RESA/DRI, commend both AIU for its commitment and efforts to work with stakeholders over the course of the last year to timely implement the required UCB/POR tariff offerings and the ICC's Office of Retail Market Development ("ORMD") for its input and support throughout that process. The proposed UCB/POR program, as modified below, is a workable mechanism that can help bring the benefits of retail competition to residential and smaller commercial customers.

ICEA/RESA/DRI note with appreciation the positive, steadying force the Commission has provided over the years to the evolution of the Illinois competitive market, encouraging parties to reach negotiated settlements and to look for opportunities to increase certainty in the retail electric markets. The Commission's decisions have produced an atmosphere in which all market participants, including utilities, consumer groups, and competitive retail electric suppliers ("RESs") have been increasingly able to focus their attention and effort on improving commercial conditions and conducting business rather than expending resources on contentious regulatory proceedings with uncertain outcomes.

Members of ICEA, RESA and DRI have been active participants in the collaborative workshop process overseen by the ICC ORMD since January 2008 to implement Public Act 95-0700. Those workshops have culminated in the instant proceeding initiated by the Ameren Illinois Utilities. In the interest of administrative efficiency and due to common interests, ICEA and RESA combined to present testimony and the briefs regarding Ameren's proposed implementation of UCB/POR tariffs. In furtherance of this commitment towards administrative efficiency and in an effort to resolve issues, ICEA, RESA, and DRI have entered into a Memorandum of Understanding ("MOU") with the Ameren Illinois Utilities regarding certain key disputed issues in this proceeding.

Pursuant to the MOU, RESA, ICEA, DRI and the Ameren Illinois Utilities agreed to resolve the following three key issues:

- The "All-In / All-Out" Rule (Issue III. D.):
    - The "All-In or All-Out" provision in the Supplier Terms and Conditions tariff will be revised such that the tariff restriction will only be applied to retail customers in the residential rate class. RESs will be permitted to utilize the UCB/POR program for their non-residential customers in the DS-2 and DS-3 customer classes.
    - The Parties agree to work through an ORMD Stakeholder process to address a possible further limitation or exception of the application of the "All-In or All-Out" provision to residential customers that are part of an aggregation program, affording opportunity for stakeholder comment.

- Definition of Power and Energy (Issue III. E.):
    - The parties agree that in furtherance of the implementation of both Public Act 95-0700 and 95-1027, the proposed AIU tariffs will be modified consistently to allow RESs to include charges that reflect supply products that utilize renewable energy credits, represent alternative compliance payments or other appropriate means of establishing compliance with the renewable portfolio standards as set forth in Public Act 95-1027, the Public Utilities Act, and/or Administrative Rules of the Commission.

- Discount Rate: (Issue III. A.)
    - RESA, ICEA, and Dominion agree to support the recommendation of the AIU witness to set the POR discount rate as described in their Direct and Surrebuttal Testimony.

(A full and complete copy of the MOU is attached to the RESA/ICEA and DRI Initial Briefs as Attachment A.)

The PO appropriately adopted the MOU resolution of the All-In/All-Out rule, but did not follow the MOU approach regarding the definition of Power and Energy or the Discount Rate. The Commission should adopt the MOU in its totality, as discussed more fully below.

At its core, electric market restructuring and customer choice for non-residential customers have been a resounding success in Illinois. However, the results have not been as forthcoming in the residential market. At present, there are only a handful of residential customers taking service

from RESs in the Ameren service territories. (*See* Illinois Commerce Commission, Ameren Monthly Reports filed pursuant to ICC Docket No. 03-0303, *available at* http://www.icc.illinois.gov/electricity/switchingstatistics.aspx.)

The lack of electric supplier choices for residential and small commercial customers is not due to lack of desire among the RES to serve these customers. Rather, development of the residential and small commercial market has been hampered over the last several years by a number of barriers, including below market frozen utility default service rates and the absence of a number of "best practices" and regulatory structures that are common to state's with more robust residential and small advanced retail energy markets.

The Illinois General Assembly have taken a number of aggressive steps to foster retail electric choice for residential and small commercial electric customers in order to provide these customers with the same sort of choice of suppliers that larger, non-residential users of electricity enjoy in Illinois. Those steps include the creation of the ORMD as well as the very issue at the heart of this proceeding—the implementation of usable POR and UCB offerings.

The existence of a usable POR-UCB program, while not the only element in a RES determination to enter a market, is a critical component of a RES decision to enter a market. Simply put: the decisions that the Commission makes in this proceeding will likely determine whether residential and smaller commercial customers enjoy the benefits of retail competition, as envisioned by the General Assembly in enacting Public Act 95-0700.

Accordingly, RESA and ICEA respectfully request that the Commission enter an Order in the instant proceeding that is consistent with the MOU.

IV. CONTESTED ISSUES

A. DISCOUNT RATE

1. The Discount Rate Formula Should Produce a Discount Rate that Encourages Participation in the UCB / POR Program.

The Commission should adopt a discount rate formula that produces a discount rate that encourages participation in the UCB/POR program. The MOU supported discount rate does just that. It fairly balances the concerns raised during the proceeding and arrives at a just and reasonable discount rate that fulfills the purpose of the legislation.

As Ameren noted in its Initial Brief:

> [B]ased on the AIU current UCB implementation cost estimate, adding the FCAA would result in a UCB/POR discount rate of approximately 1.63%, which is nearly 50% higher than the discount rate that results using the AIU current cost estimate and proposed cost recovery mechanism. This higher discount rate may have the unintended consequence of discouraging participation in the UCB/POR program, and result in eligible retail customers paying a larger share of the UCB implementation costs.

See AIU Initial Brief at 10.

The CUB FCAA discount rate of 1.63% is greater than that used by most other utilities with POR programs (Ameren Ex 1.0 at 6-8; Ameren Ex 1.1). Rather than tear down a barrier to retail electric choice for Ameren's residential and small commercial customers, the CUB FCAA discount rate formula adopted by the PO leaves the barrier largely in place thereby failing to fulfill the legislature's goal of availing smaller consumers with the benefits of competition. A RES must be able to recover the cost of the discount applied to its receivables via the prices the market is willing to pay for the RES' services. If the discount rate is too high, the market will not bear this cost. Consequently, RESs will not be able to participate in POR and residential and small commercial consumers in AIU will not receive the benefits of a robust retail electric marketplace.

The PO makes some rather strong statements regarding the impact of POR/UCB legislation and the significance of the discount rate on a supplier's decision to enter a particular retail electric market:

> In advancing competition, however, the parties and the Commission must not lose sight of the proverbial "big picture." The simple fact that legislation now exists requiring the larger incumbent electric utilities to offer UCB and POR service is a boon for competitive suppliers and a significant step toward the goal of residential and small commercial customers having competitive options. The level of the discount rate, while not insignificant, is unlikely to be the determining factor in a RES' decision to enter the Illinois residential and small commercial market. The Commission recognizes that RES would prefer the lowest discount rate possible, but RES preferences are not the only perspectives to consider.

PO at page 23.

ICEA/RESA/DRI agree that the UCB and POR requirements contained in PA 95-0700 were a major step forward in removing barriers to residential and small commercial retail electric competition in Illinois. However, ICEA/RESA/DRI respectfully submit that mere existence of a statutory requirement to provide UCB and POR, without the accompanying just and reasonable tariff language on file at the Illinois Commerce Commission to make these offerings usable by the supplier community, is more accurately described as a "bust" than a "boon". Theoretically, residential electric competition has been authorized by the General Assembly since May 1, 2002 (*See,* 220 ILCS 16-104(a)(4)). The purported "boon" provided by Section 16-104(a)(4) of the Public Utilities Act has been on the legislative books for over seven years now. Yet, despite the simple existence of this statutory provision enabling residential electric competition—an undeniably significant initial step in the journey to a robust residential retail electric market-- residential electric competition has yet to materialize in Illinois in any meaningful fashion.

Likewise, as noted above, the PO's assumption that the discount rate is unlikely to be a determining factor in a RES' decision to enter the Illinois residential and small commercial market is a faulty one. PO at 23. There is no record evidence to suggest that RESs will not consider the

discount rate when deciding whether or not to enter the market. Nor does the evidence support the related CUB musing that RESs will be somehow "subsidized" by a lower discount rate. PO at 19. The AIU rate formula is not an attempt to incrementally "sweeten the deal" for RESs as the PO suggests. PO at 23. To the contrary, the retail electric energy business in Illinois is a competitive and low margin business, and the discount rate, in absolute terms, is a significant (and potentially deciding) factor in whether a supplier enters a particular market. Ameren should only be able to charge ARESs for the actual incremental bad debt expenses and administration expenses above and beyond what Ameren would have incurred if the customer remained on default service.

ICEA/RESA/DRI confirm and whole heartedly agree with the statement by ORMD Staff witness Torsten Clausen in discussing factors at play in a supplier's decision to enter a market that the "level of the POR discount rate would be especially important" to a supplier's decision to enter a market "and that is indeed a factor the Commission can impact in this Docket." *See,* ICC Staff Exhibit 3.0 at lines 170-172. Ameren witness Pearson gave similar testimony that if the discount rate is too high, it would discourage, rather than encourage, RES participation in the POR program. (Ameren Ex 1.0REV at 15-16, 20;Ameren Ex 8.0 at 12; Ameren Ex 4.0-2REV at 17-18.)

If the POR program is unattractive to RESs, then they will not participate. Thus, while RESs may still serve residential and small commercial customers, they will be selective in doing so, leaving customers considered to be bad credit risks with Ameren. A robust POR program, on the other hand, will encourage RESs to seek customers of all economic backgrounds, thus allowing every customer in Illinois the opportunity to share the benefits of competition.

Ameren's proposal to recover 25% of such costs through the discount rate and the remaining 75% through the SCC is entirely appropriate. The concern expressed in the PO that such an allocation creates a subsidy for RES customers is faulty. In fact, by making RES customers absorb 25 percent of the costs, the opposite is true. DRI witness Mr. Barkas showed that utility

customers (including those using or wishing to use RES services) have paid rates that include a component for the utility's billing systems. Thus, RES customers have already paid their share of the billing systems that would be used for UCB/POR. The adoption of CUB's FCAA proposal would require RES customers to pay twice for billing systems - - the utility's as well as the RES' system costs. Thus, there is no "subsidy" of RES, but rather, adoption of CUB's proposal would constitute a penalty on consumers for choosing a supplier other than the host utility. DRI Ex. 2.0, p. 3-4.

Finally, the Commission should remember that if RESs do not participate in the UCB/POR Program and it ultimately fails, then Ameren's sales customers will pay all of the UCB implementation costs of the program. Thus, all customers, RES and Ameren customers, have an interest in the program succeeding.

Accordingly, the Commission should adopt the MOU Discount Rate resolution, reject the unreasonable and unsupported CUB discount rate adjustment and enter an Order that encourages, rather than inhibits, RES' entry into smaller customer retail electric markets as envisioned by the Legislature. The Proposed Order should therefore be modified as follows:

> ~~In advancing competition, however, the parties and the Commission must not lose sight of the proverbial "big picture." The simple fact that legislation now exists requiring the larger incumbent electric utilities to offer UCB and POR service is a boon for competitive suppliers and a significant step toward the goal of residential and small commercial customers having competitive options. The level of the discount rate, while not insignificant, is unlikely to be the determining factor in a RES' decision to enter the Illinois residential and small commercial market. The Commission recognizes that RES would prefer the lowest discount rate possible, but RES preferences are not the only perspectives to consider.~~
>
> Each dollar of UCB implementation costs that AIU does not reflect in the discount rate, it will collect from eligible residential and small commercial customers through the SCC. AIU proposes to recover 25% of such costs through the discount rate and the remaining 75% through the SCC. ~~While t~~The Commission agrees with AIU that the ~~does not object to AIU's decision to~~ allocation~~e~~ of some of the costs to eligible end users is appropriate.~~, the Commission is not convinced that there is not a better way to address cost recovery. From the perspective of eligible end users, passing costs on to them in order to incrementally "sweeten the deal" for RES may seem inappropriate. This is a large part of the argument of CUB and the AG in support of the FCAA. The Commission is inclined to share this perspective and~~

~~views the FCAA favorably. The Commission acknowledges that customers will still pay for 75% of the UCB implementation costs through the SCC under the FCAA, but also understands that there is at least a possibility that they may see their payments refunded, with interest.~~

The Commission also finds attractive that aspect of Staff's Balance Factor that attempts to fix the discount rate during the initial rate period. Stability in the discount rate may be appealing to some RES, as Staff suggests. Such stability, however, would primarily benefit RES with only possible indirect benefits flowing through to eligible residential and small commercial customers. ~~Since the Commission favors the FCAA because it considers the customer perspective and since it is unclear how and whether the Balance Factor and FCAA could be combined,~~ Thus, the Commission will not adopt Staff's Balance Factor.

~~Accordingly, the Commission concludes that the discount rate proposed by AIU should be modified to incorporate the FCAA proposed by CUB. The interest rate discussed in the FCAA shall be the same as that provided for in Section 280.70(e)(1) of Part 280 governing interest rates on customer deposits, as suggested by Staff. Section 280.70(e)(1) provides that the rate of interest will be the same as the rate existing for the average one-year yield on U.S. Treasury securities for the last full week in November, rounded to the nearest .5%. Staff's suggested interest rate is taken over Mr. Thomas' suggestion that the interest rate be the same as AIU's weighted average cost of capital because Staff's proposal is more consistent with Commission practice.~~

D. DEFINITON OF POWER AND ENERGY

1. The MOU Preserves the Ability of a RES to Collect Costs Associated With Compliance With Public Act 95-1027.

As a legal matter, effective June 1, 2009, RESs are now required to meet new renewable portfolio standards ("RPS") as a condition of providing service to retail customers in Illinois (Cerniglia Dir, ICEA-RESA Ex. 1.0, 26:18 -27:11). The RPS contained in Public Act 95-1027 establishes the minimum percentage of RES load that must be served by renewable energy resources. One of the ways that obligation can be met is through the purchase of Renewable Energy Credits ("RECs")(Cerniglia Reb, ICEA-RESA Ex. 2.0, 5:24-7:5). Another authorized means for a RES to satisfy that obligation is by making an alternative compliance payment. As such, a RES will need to be able to collect such costs from their customers. While the exact rules and

regulations regarding how RESs will be able to demonstrate compliance have not yet been established, great care must be taken to not restrict the ability of RESs to collect their costs of meeting these compliance obligations by way of overly restrictive UCB / POR tariffs (*Id.*)

The MOU resolves this issue in a manner that is consistent with applicable law and anticipated revisions to the Public Act 95-1027. Such a resolution will also remove a proposed tariff requirement that would have inhibited product innovation, limited the universe of available products, and limited the ability of suppliers to meet their customers' demand for green energy. (Cerniglia Reb, ICEA-RESA Ex. 2.0, 6:18-7:18.)

The MOU, by modifying Ameren's proposed tariff definition of the term "Power and Energy", will remove a potential obstacle to RESs' ability to comply with Illinois law. Senate Bill 2150, which was unanimously passed in both the Illinois Senate and House and now awaits the Governor's signature, makes a number of changes to the RPS contained in Public Act 95-1027. One of those changes contains a requirement that RESs meet 50% of their RPS requirements through making an alternative compliance payment ("ACP"). Although SB 2150 has not yet been enacted into law, the Commission needs to ensure that Ameren's UCB/POR program does not act in a manner that would frustrate the ability of RESs to meet their RPS compliance requirements. (Cerniglia Reb, ICEA-RESA Ex. 2.0, 6:6-7:5.)

Not only would the original proposed definition of Power and Energy prevent RESs from meeting the mandatory RPS requirements through the purchase of RECs, it would also frustrate the efforts of RESs to meet customer demands for renewable power that exceed the statutory minimum requirement. Customer demand for green energy may well exceed the statutory minimum in Public Act 95-1027. If this turns out to be the case, the UCB/POR program should foster rather than inhibit growth in the renewable energy sector. Modifying the proposed definition of Power and Energy per the MOU will permit a RES utilizing UCB/POR to offer "green products" that are

desired by certain customers and of benefit to the environment. (Cerniglia Reb., ICEA-RESA Ex. 2.0, 6:18-7:18.)

Accordingly, the Commission should adopt the definition of Power and Energy contained in the MOU and the Commission Conclusion found on page 39 of the PO should be revised as follows:

> Although it is not entirely clear, the Commission believes that resolving this issue amounts to determining the most appropriate language for the definition of "power and energy service," since it seems that all parties agree in principle on what the definition should contain. The Commission finds that the definition of "power and energy service" in the MOU is reasonable~~, but agrees with the AG that it could be improved upon. The Commission concurs with the AG that references to specific laws or means of compliance as well as references to terms that are undefined elsewhere in the tariffs ought to be eliminated. Omission of the former may eliminate the need to later revise the definition. Omission of the latter may eliminate later confusion. Accordingly, "power and energy service" shall be defined as proposed by the AG and set forth above.~~.

Notwithstanding ICEA/RESA/DRI support for the MOU, ICEA/RESA/DRI do not strongly object to the AG or PO edits to the MOU language removing specific references to the new RPS Law. Indeed, the position that a specific reference to the law is unnecessary is not unreasonable.

ICEA/RESA/DRI find unreasonable, however, the AG's and PO's other edit to the MOU Power and Energy definition. As ICEA/RESA/DRI understand the AG's concern, the AG is concerned that "termination fees" and "value added services" are undefined terms in the tariff and would prefer instead a "blanket exclusion of any other costs beside costs associated with supply". *See,* AG Reply Brief at 8. The PO concurred with this concern and recommends that the last sentence of the definition be changed to read as follows: "The accounts receivables purchased for the RES shall not include ~~items such as early termination fees or fees for value added service~~ any other costs."

PO at 39 (referencing AG definition at 38).

The AG and PO edits to the last sentence of the MOU definition of Power and Energy Service are unsupported by the record. There is no record support for the proposition that the terms "early termination fees" or "value added services" are so vague as to lead to non-power and energy related charges flowing through the POR mechanism. Nor is there any need for such a "blanket exemption". The law itself is clear that the purchase of receivables is for "receivables for power and energy service." *See,* Section 16-118(c) of the Act. Further, the use of the word "costs" erroneously implies that the RES are cost regulated and that the Commission should be concerned with the nature of all costs incurred by a RES in providing power and energy service rather than whether the fees or charges in question are for power and energy services.

Accordingly, the Commission should adopt the definition of Power and Energy contained in the MOU.

E. CONSUMER PROTECTIONS

1. <u>PO's Finding Regarding Consumer Protection Issues.</u>

Finding (6) of the PO states:

> prior to the effective date of the tariffs authorized herein, the parties to this case participating in the ORMD workshops *should* develop and implement consumer education and consumer protection plans as described in the prefatory portion of this Order;

(Emphasis supplied.)

The PO appears to express a preference that consumer education and consumer protection plans be in place prior to the effective date of the UCB/POR tariffs but also recognizes that such plans may not be developed and implemented prior to the effective date of the UCB/POR tariffs. Providing such flexibility makes sense, particularly in light of the ORMD's latest annual report in which the ORMD advised the General Assembly that:

> the Commission "lacks the explicit statutory authority to establish [certain additional consumer protections] through additional administrative rules. As a result, we recommend that the General Assembly either a) amend the Public Utilities Act to provide the Commission with explicit rulemaking authority to establish rules in line with the proposed requirements discussed above, or b) turn the recommended requirements into statutory mandates."

See, Office of Retail Market Development, Illinois Commerce Commission, Annual Report 2009 at page 17.

ICEA/RESA/DRI respectfully suggest that certain modifications in language would address the need for possible legislative action as well as encourage the ORMD and parties to continue to work in good faith toward expeditiously developing and implementing consumer education and consumer protection plans. Specifically, ICEA/RESA/DRI recommend that the language contained on page 47 of the PO be changed as follows:

> Other recommendations which the Commission views favorably are the AG's proposals that a consumer education plan and protection plan be developed in the ORMD workshops and be in place by the time that the UCB/POR tariffs become effective. In light of the agreement regarding the effective date of the tariffs being 60 days following entry of this Order (sometime near the end of October 2009), sufficient time should exist for the workshop participants to develop such plans (particularly since the Commission understands that the workshop continued during the course of this proceeding). Once appropriate consumer education and protection plans are developed, those aspects appropriate for inclusion in AIU's tariffs shall be submitted to the Commission via tariff filings. If the provisions are deemed reasonable by the Commission, they will be allowed to go into effect. To be clear, the Commission is not requiring the plans on August 31, 2009, as suggested by the AG. This date is only a few days following the deadline for Commission action in this proceeding and will not leave sufficient time for the development of the plans. <u>Nor is the Commission requiring the plans as a precondition to AIU's deployment of UCB/POR in the AIU service territories. Rather, the Commission expects the ORMD and parties to continue to work in good faith, as they have apparently been doing for the last several months, toward the goal of developing and implementing appropriate consumer protection and consumer education plans in as timely a manner as possible. It may be that such plans or aspects of such plans require legislative action or approval. In such case, the Commission expects the ORMD and parties to work in good faith toward obtaining legislative action or approval in as timely a manner as possible.</u> Additionally, the Commission expects to see within the tariff filings a full explanation of the customer protections under AIU's dispute

resolution process. This process is intrinsically significant and should be publicly available and not easily altered. AIU's proposed UCB/POR tariffs already contain aspects of AIU's dispute resolution process (see, for example, 3rd Revised Sheets Nos. 5.016 and 5.017 of the STC tariffs) and additional details will be beneficial to customers.

Finding (6) of the Proposed Order should be revised to read as follows:

prior to the effective date of the tariffs authorized herein, the parties to this case participating in the ORMD workshops should continue to work in good faith to develop and implement consumer education and consumer protection plans as described in the prefatory portion of this Order. While the Commission would prefer to see these plans developed and implemented prior to the effective date of the tariffs authorized herein, the Commission is not requiring that these plans be developed and implemented as a precondition to AIU's deployment of UCB/POR in the AIU service territories. Rather, the Commission urges the ORMD and parties to continue to work in good faith to develop and implement these plans (or aspects of these plans) in as timely a manner as possible;

Although RESA/ICEA/DRI continue to agree that it is important to have adequate and sufficient consumer protections as part of any competitive market structure (Cerniglia Reb, ICEA-RESA Ex. 2.0, 9:14-19), adequate consumer protections currently exist in the Public Utilities Act, Part 451 of the Illinois Administrative Code, and the Illinois Consumer Fraud Act and Deceptive Business Practices Act. AIU Br. at 19-20. Moreover, any additional measures should apply only to RESs serving residential and "small commercial customers" as defined in the Public Utilities Act (those consuming no more than 15,000 kWhs annually).

Further, the ongoing ORMD workshop process will refine those consumer protections for residential and small commercial customers so that RESs that serve or market to those customer segments will have additional procedures that must be followed. As such, consumers will have additional protections and a more refined process for obtaining redress in the event that a RES fails to comply with said requirements. Those workshops are proceeding and the results of those workshops should be in place by the time customers are taking service under the UCB/POR program. There is no reason for the Commission to delay any part of these proceedings, or start the

review of Ameren's UCB/POR tariffs all over again. (Cerniglia Reb, ICEA-RESA Ex. 2.0, 9:2-10.)

Given the consumer protections already in place, and further measures that are being considered in a parallel forum, it should be made clear in the Commission's Order that the UCB/POR should be implemented without delay.

2. Transferred Calls.

The PO agrees with a concern raised by AIU that transferring a customer call to a RES could create a perception that AIU and the RES are affiliated. ICEA/RESA/DRI note that Section 20-130 of the Public Utilities Act calls for the ORMD to consider for implementation customer choice and referral programs ("referral programs"). Such referral programs could conceivably involve AIU transferring a customer directly to a RES or a third party referral program administrator. ICEA/RESA/DRI have not taken a position in this proceeding on the need for, or desirability to have in place, direct transfer of customer complaint calls from AIU to suppliers. ICEA/RESA/DRI are concerned, however, that the language in the PO seems to imply that such direct transfers of customer calls would never be permissible. ICEA/RESA/DRI believe that the direct transfers of customer calls could occur under a referral program envisioned by Section 20-130 of the Act. Further, ICEA/RESA/DRI believe that concerns over customer perceptions as to the affiliation between the supplier and the referring utility could be addressed in the scripting surrounding the transfer of such a call. In any event, ICEA/RESA/DRI believe the conclusion contained in the PO could be drafted to achieve the same result without opining as to the future likelihood of the Commission requiring call transfers. Specifically, ICEA/RESA/DRI suggest the language found on page 48 be revised as follows:

> The Commission will, however, comment on CUB's recommendation that AIU be required to transfer calls from customers with supply complaints to the appropriate RES. ~~AIU is correct to be concerned about customer perception that it and a RES are affiliated. Transferring a call as CUB suggests is apt to promote such a~~

~~perception.~~ The Commission will not now ~~and is unlikely to in the future~~ require AIU to transfer calls from customers with supply complaints to the RES. ~~At most, t~~ The Commission expects AIU to provide a customer with a supply complaint with *the RES' name and telephone number*.

CONCLUSION

It is well documented that competitive markets are the best means to promote efficient products and services and are ideally suited to deliver just and reasonable prices, while also providing customers with the benefit of greater choice, value, and innovation. Robust competitive electricity markets allow consumers to choose from a variety of providers offering an array products and services, including renewable energy and energy efficiency services. The benefits of competitive markets far exceed those that can be achieved by relying on the products and services offered solely by the host utility.

In the instant proceeding, the Commission has the opportunity to advance the opportunities for customers in the Ameren service territories. Based upon the record evidence, the Commission should enter an Order consistent with the MOU and ICEA/RESA/DRI comments above that:

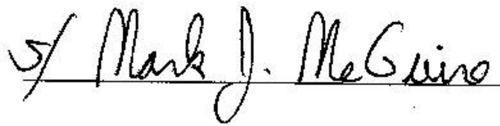
(1) Modifies the proposed "All-In" or "All-Out" approach;

(2) Modifies the definition of Power and Energy so as to not restrict the specific types of costs and charges that RESs are allowed to include under the UCB / POR program, including but not limited to renewable offerings and the ability to recover costs associated with compliance with the RPS requirements;

(3) Adopts a discount rate that does not act as a barrier to the successful utilization of the UCB/POR program; and

(4) Implements the UCB/POR program without further delay and modifies the language of the PO as delineated above.

Respectfully Submitted,



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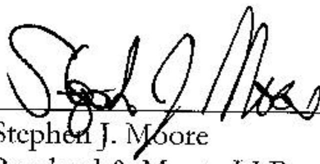

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing documents was served this 15th of July 2009 by electronic mail upon the persons listed this day on the service list for this docket kept by the Clerk of the Illinois Commerce Commission.

s/*Stephen J. Moore*
Stephen J. Moore