

STATE OF ILLINOIS
THE ILLINOIS COMMERCE COMMISSION

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

Direct Testimony of Ron Cerniglia

Director, National Advocacy
Government and Regulatory Affairs
Direct Energy Services, LLC

On Behalf of:

**Illinois Competitive Energy Association
Retail Energy Supply Association**

Dated: February 24, 2009

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1 I. **INTRODUCTION**

2 A. **Identification of Witness**

3 Q. **Please state your name, your business address, and current position.**

4 A. My name is Ronald M. Cerniglia. My primary business office address is 40
5 Columbine Drive, Glenmont, NY 12077. My current position is Director of
6 National Advocacy within the Government & Regulatory Affairs organization of
7 Direct Energy Services, LLC (“Direct Energy”). In that capacity, I serve as the
8 leading advocate for the company’s competitive electricity, natural gas, and demand
9 management markets in the United States, lead Direct Energy’s participation in
10 national organizations, and provide strategic guidance for new business
11 opportunities. I am also responsible for all of Direct Energy’s government and
12 regulatory affairs in Pennsylvania, Illinois, Ohio, and Michigan.

13
14 Q. **Please describe your employer, Direct Energy?**

15 A. Direct Energy is North America’s second largest energy and energy-related services
16 providers with over five million residential and 60,000 commercial customer
17 relationships. Direct Energy provides customers with choice in energy supply and
18 support in managing their energy costs through a portfolio of innovative products
19 and services. Direct Energy is a subsidiary of Centrica, plc, the 7th largest utility
20 company globally as ranked by Fortune Magazine’s 2007 Fortune Global 500 with 32
21 million customer relationships with a Moody’s Investor Service “A3 / Stable” and a
22 Standard & Poors “A-” financial ratings. Direct Energy operates in 22 states and
23 across Canada, owns and operates natural gas production fields and 1260 megawatts
24 (“MWs”) of natural gas-fired generation, has 813 MWs of power purchase

1 agreements for output from wind farms, and provides energy efficiency related
2 services. Since our inception in 2000, Direct Energy has grown into a \$10 billion
3 organization with more than 4,800 employees.

4
5 **Q. Please summarize your professional and educational background.**

6 **A.** I have been working in the energy industry for approximately 20 years. Prior to
7 joining Direct Energy, I was employed by the New York State Public Service
8 Commission (“NYSPSC”) located in Albany, New York from 1990 to 2007. In
9 December 2003, I was appointed Director of the Office of Retail Market
10 Development (“ORMD”), the first office of its kind within a state utility
11 commission. Under my leadership, ORMD successfully focused on the
12 identification and elimination of barriers to retail competition in the electric and
13 natural gas industries, the promotion of competition-related consumer education,
14 and the development of policy initiatives to foster competition in New York’s
15 electric, natural gas, renewable, and convergent technologies industries. From 1996
16 to 1999, I served as Director of the Office of Consumer Education and Advocacy
17 with statewide responsibility for overseeing economic development, business
18 advocacy, residential advocacy, consumer education, and utility compliance in the
19 energy and telecommunications industries. Prior to that post, I was Chief Business
20 Advocate, leading a staff who advocated on behalf of the economic development
21 needs of the state’s business community.

22
23 I began my career in the energy industry with Carolina Power & Light Corporation,
24 currently called Progress Energy, in Raleigh, North Carolina. I was responsible for

1 key account management for commercial and governmental accounts, providing
2 customer as well as engineering services in one of the fastest growing utility
3 environments in the country.

4
5 I am a graduate of North Carolina State University and I hold professional
6 certifications from the American Institute of Industrial Engineers and as a residential
7 and commercial building structure energy analyst. I am also a graduate of the
8 University of Oklahoma's Economic Development Institute's Certified Economic
9 Development Program.

10

11 Lastly, I am currently Vice President of the Retail Energy Suppliers Association, on the
12 Board of Director's of the COMPETE Coalition, I represent Direct Energy at the
13 Edison Electric Institute (EEI), and I am a member of the NY State Association of
14 Energy Engineers, and the Association of Energy Service Professionals.

15

16 **Q. On whose behalf are you testifying?**

17 **A.** I am testifying on behalf of the Illinois Competitive Energy Association ("ICEA")
18 and the Retail Energy Supply Association ("RESA"). The positions set out in this
19 direct testimony represent the collective positions of ICEA and RESA, but do not
20 necessarily represent the positions of individual member companies.

21

22 **Q. Please provide some background on ICEA on whose behalf you are testifying**
23 **in the instant proceeding.**

1 **A.** ICEA was formed as an Illinois-based trade association whose mission is to foster
2 the development of competitive retail energy markets in Illinois in order to bring the
3 benefits of competitive supply to all customers, regardless of their energy supplier.
4 The ICEA is an Illinois not-for-profit corporation organized under the laws of the
5 State of Illinois. The President of ICEA is Kevin K. Wright, a former Chairman and
6 Commissioner of the Illinois Commerce Commission (“ICC” or “Commission”).
7

8 **Q. Please provide some background on RESA on whose behalf you are testifying**
9 **in the instant proceeding.**

10 **A.** RESA is a broad and diverse group of eleven (11) retail energy suppliers who share
11 the common vision that competitive retail energy markets deliver a more efficient,
12 customer-oriented outcome than regulated utility structure. RESA is devoted to
13 working with all stakeholders to promote vibrant and sustainable competitive retail
14 energy markets for residential, commercial and industrial consumers.
15

16 **Q. Why are you submitting testimony on behalf of ICEA and RESA in this**
17 **proceeding?**

18 **A.** Members of ICEA and RESA have been active participants in the collaborative
19 workshop process overseen by the ICC Office of Retail Market Development
20 (“ORMD”) since January 2008 to implement Public Act 95-0700. Those workshops
21 have culminated in the instant proceeding initiated by Central Illinois Light Company
22 d/b/a AmerenCILCO, Central Illinois Light Company d/b/a AmerenCIPS, and
23 Central Illinois Light Company d/b/a AmerenIP (collectively, “the Ameren Illinois
24 Utilities” or “Ameren”). In the interest of administrative efficiency and due to

1 common interests, ICEA and RESA have come together to present testimony
2 regarding Ameren's proposed tariffs.

3

4 **B. Purpose of Testimony**

5 **Q. Please describe the interests of ICEA and RESA in this proceeding.**

6 **A.** The members of ICEA and RESA are extremely interested in this proceeding as
7 many are licensed alternative retail electric suppliers ("ARES") in the State of Illinois.

8 The decisions that the Commission makes in this proceeding will determine whether
9 the benefits of retail competition can be enjoyed by residential and smaller
10 commercial customers as has been enjoyed by medium and large commercial and
11 industrial customers, as envisioned by the General Assembly in enacting Public Act
12 95-0700. The outcome of this proceeding will ultimately determine whether
13 residential and smaller commercial customers will have a meaningful choice of
14 electric power and energy suppliers.

15

16 **Q. Please summarize the issues that you will address in your Direct Testimony.**

17 **A.** First of all, Ameren should be commended for the leadership that they have shown
18 in implementing the directives of the Illinois General Assembly. The level of
19 commitment from a resource and cooperation standpoint has been nothing short of
20 phenomenal.

21

22 In my Direct Testimony, I will address the following policy issues and certain aspects
23 associated with Ameren's proposed implementation of utility consolidated billing /
24 purchase of receivables ("UCB/POR"):

- 1 • Implementation of UCB / POR should enhance competition and customer
2 choice for residential and small commercial customers;
- 3 • Background on the development of competitive markets and customer choice in
4 Illinois;
- 5 • The proposed “All-In or “All-Out” aspect of the availability of Ameren’s
6 UCB/POR program;
- 7 • The need for adoption of an appropriate discount rate; and
- 8 • The proposed definition of costs and charges that can be include din the UCB /
9 POR program.

10

11 As will be discussed below, if the Commission fails to alter Ameren’s proposal, the
12 goals of bringing the benefits of retail competition to residential and smaller
13 commercial customers may not be realized.

14

15 **C. Summary of Recommendations**

16 **Q. Do you have any overarching comments regarding Ameren’s proposed**
17 **UCB/POR program?**

18 **A.** Yes. Ameren should be commended for its commitment and efforts to work with
19 stakeholders over the course of the last year to implement the required UCB/POR
20 tariff offerings. The proposed UCB/POR program coupled with the modifications
21 discussed in my direct testimony, is a workable mechanism that can bring the
22 benefits of retail competition to residential and smaller commercial customers.

23

1 **Q. Do you have any specific recommendations or suggested changes to**
2 **Ameren’s UCB/POR program?**

3 **A.** Yes; there are three (3) main recommendations.

4 First, the Commission should **reject** Ameren’s proposed “All-In” or “All-Out”
5 approach. Second, the Commission should ensure that the discount rate applied by
6 Ameren does not act as a barrier to the successful utilization of the UCB/POR
7 program. Third, Ameren should not be allowed to adopt an overly restrictive
8 definition of the specific types of costs and charges that RESs are allowed to include
9 under the UCB / POR program, including but not limited to renewable offerings
10 and the ability to recover costs associated with compliance with the RPS
11 requirements.

12

13 **II. UCB/POR Should Enhance Competition For Residential and Small**
14 **Commercial Customers**

15

16 **Q. Please provide your perspective on competitive retail energy markets and**
17 **retail choice?**

18 **A.** From my perspective, well-designed competitive markets are the best means to
19 promote efficient products and services and are well suited to deliver just and
20 reasonable prices, while also providing customers with the benefit of greater choice,
21 value, and innovation. Robust competitive electricity markets allow consumers to
22 choose from a variety of providers and value-added products and services, including
23 renewable energy and energy efficiency services. The benefits of competitive
24 markets far exceed those that can be achieved by relying on the products and
25 services offered solely by the host utility.

26

1 **Q. What factors have traditionally hindered the development of a retail market**
2 **for residential and small commercial customers?**

3 A. In general, the principal reasons for the slow growth of the competitive electricity
4 market for residential and small commercial customers are: (1) the high cost of
5 competitive energy services provider acquisition of residential and small commercial
6 customers; (2) the relative advantages that the utility has in minimizing the impacts
7 of slow or non-paying customers among the smaller rate classes; (3) lack of market-
8 reflective default pricing, and (4) the substantial advantages of incumbency still
9 enjoyed by the utilities' generation offerings due, in part, to the inability of small
10 customers to take competitive service from the point-of-service initiation.

11

12 The model adopted by the New York Public Service Commission and its utilities
13 should serve as a guide and assist the Commission as it considers Ameren's proposed
14 UCB / POR program.

15

16 **A. The New York Model**

17 **Q. Please describe the New York Model.**

18 A. New York has paved the way to a well-functioning retail electricity and natural
19 market for residential and small commercial customers. In its "Statement of Policy
20 on Competitive Markets" ("Policy Statement"),¹ the NYSPSC articulated its end-
21 state vision which supported the acceleration of competitive electric and gas retail
22 markets, identified a number of prerequisites that should be implemented

¹ Case 00-M-0504, Competitive Markets, Statement of Policy on Further Steps Toward Competition in Retail Energy Markets, August 25, 2004.

1 throughout New York to achieve that goal, and recommended opening all remaining
2 utility retail functions to competition other than the delivery of electricity and natural
3 gas over local utility systems. The Policy Statement articulated a clear vision to all
4 market participants which helps reduce regulatory uncertainty and provides an
5 incentive for capital investment.

6

7 As part of the Policy Statement, the Commission requested that all of the major
8 utilities submit retail access plans to outline their proposals to promote competitive
9 markets, including addressing the prerequisites, or as the New York Public Service
10 Commission (NYPSC) called them, best practices.

11

12 **Q. Can you please describe the prerequisites that are needed for a successful**
13 **retail energy market for residential and small commercial customers?**

14 A. Yes. There are several prerequisites that will assist in the development of retail
15 markets for the residential and small commercial customer segments, all of which
16 have been implemented in New York. The first and the most important prerequisite
17 from my perspective is the purchase by utilities of supplier accounts receivables
18 (“POR”). This program, when coupled with utility consolidated billing, is a key
19 component in developing a successful retail energy market.

20

21 **Q. Has the non - “All-In” or “All-Out” POR approach, coupled with other**
22 **measures adopted by the NYPSC, been successful in fostering development**
23 **of the residential and small commercial market in New York?**

1 A. Yes. According to recent reports², the New York market is robust. Approximately
2 1.83 million customer accounts are being served by competitive suppliers with
3 approximately 1.45 million of the total representing residential customers. What's
4 more, as of September 2007, 59,000 customers are purchasing renewable generated
5 electricity.³ As you would expect from normal market segmentation where suppliers
6 target the larger non-residential markets first, residential market migration lags the
7 industrial and commercial segments. On average, though, the residential segment
8 that has switched to suppliers is significant and growing. Approximately 16% of
9 residential electric customers in New York are being served by competitive suppliers,
10 increasing 32.5 % in the last year. Residential customer switching in some utility
11 service territories is much higher, with 28% in the ORU service territory and 19% in
12 Rochester Gas & Electric Corporation's service territory

13
14 Another measure to assess the successful development of a retail electric market is
15 the availability of multiple choices for consumers, and the New York market is
16 robust in this area as well. According to a recent NYSPSC Order which calls
17 competitive suppliers "ESCOs," more than 100 ESCOs, including those that are
18 large and well capitalized, are eligible to do business in New York. These suppliers
19 are serving 1.83 million customers, which represent 44% of New York's electric
20 usage and 79% of gas usage. In my utility territory alone, based on the NYSPSC's
21 www.PowerToChooseNY.com web site which was updated for December 2008, I

² NYSPSC August 2008 Electric Retail Access Migration and the NYSPSC August 2008 Gas Migration Reports, located at www.dps.state.ny.us

³ www.PowerToChooseNY.com

1 can choose a rate offering from the local utility, National Grid, or rate offerings from
2 22 electricity suppliers, 12 of whom offer renewable power products.

3

4 A further metric used to determine whether a market is successful is the number of
5 pricing options available to consumers within a market. In its most simplistic terms,
6 a market with many pricing and service options available to a consumer is preferable
7 to a market that has fewer choices. According to the NYSPSC's web site, and
8 utilizing my zip code within National Grid's service territory, there are a total of 41
9 electric rate offerings available to residential customers from competitive suppliers,
10 including green power providers. My local serving utility just offers one option, a
11 monthly variable market reflective default rate. There are also 46 gas rate offerings
12 from suppliers and the utility. The electric and gas offerings include guaranteed
13 savings programs, fixed prices with varying degrees of duration, green power, senior
14 citizen specific offerings, and free home heating repair services bundled into the
15 offering.

16

17 Another metric that is important when measuring the success of a competitive
18 market is the level of customer satisfaction as measured by the number of customer
19 contacts to a regulatory authority expressing concern with their competitive supplier.
20 According to the NYSPSC statistics through the twelve-month period ending
21 November 2008, ⁴ the customer contact rate was 0.11%. Thus, the level of
22 dissatisfaction in real terms and in relation to the overall number of customers with
23 suppliers is extremely small.

⁴ "Monthly Report on Consumer Complaint Activity", New York State Public Service Commission, November 2008.

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Finally, recent independent studies confirm the success of the New York market. The staff of the NYSPSC issued a comprehensive appraisal of the many wholesale and retail metrics used to monitor the New York market, stating in part that, “On the retail side, there has been much progress toward effective competition in New York’s gas and electricity markets.”⁵ In addition, the NYSPSC issued a recent Order assessing the New York industrial, commercial, and residential electric and gas retail markets, stating that residential and small commercial customers are moving to competitive suppliers in increasing numbers and that their statistics “indicate that the retail energy marketplace is established in New York and is continuing to expand.”⁶ On December 10th, 2008, the Annual Baseline Assessment of Choice in Canada and the United States (ABACCUS) was released, and ranked New York’s market development as 2nd best in North America for residential and non-residential electricity market design.⁷

B. Purchase of Receivables Programs

Q. What is a POR program?

A. A “purchase of receivables” or “POR” program is a regulatory program coupled with utility consolidated billing under which a local utility reimburses non-utility suppliers of energy commodity service for their customer charges and assumes

⁵ “Staff Report on the State of Competitive Energy Markets: Progress To Date and Future Opportunities”, New York State Department of Public Service, March 2, 2006
⁶ Case 07-M-0458, Proceeding on Motion of the Commission to Review Policies and Practices Intended to Foster the Development of Competitive Retail Energy Markets, April 18, 2007.
⁷ “New York’s Electricity Market Structure Ranks 2nd Most Successful in North America; Annual Baseline Assessment of Choice in Canada and the United States (ABACCUS) Study Released”, December 10, 2008

1 responsibility for the collection of the charges for commodity service from the non-
2 utility suppliers' customers.

3

4 **Q. What types of customers are included in POR programs?**

5 A. Typically, POR programs include residential and small commercial customers, which
6 otherwise can be very expensive for non-utility suppliers to provide billing service.

7

8 **Q. Under a POR program, how would the customers be billed for electric power
9 and energy that they receive from a competitive supplier?**

10 A. Customers of non-utility suppliers would receive a single bill from their local utility
11 that includes charges for both delivery service provided by the local utility and
12 commodity service provided by their non-utility supplier.

13

14 **Q. What recourse does the local utility have under a POR Program if a customer
15 of a competitive supplier fails to pay charges for the electric power and energy
16 service?**

17 A. In the event a customer of a competitive supplier does not pay charges owed for
18 commodity service provided by the customer's supplier, the local utility would have
19 the same recourse it has where the utility is the provider of commodity service to the
20 customer, i.e., assessment of late fees and disconnection of service.

21

22 **Q. What are the advantages of a POR program from the perspective of
23 competitive suppliers?**

1 A. From the perspective of competitive suppliers, a POR program has several
2 advantages. First, it maximizes the utilization of the existing rate-based utility
3 resources since competitive suppliers avoid duplicative costs associated with
4 customer billing and collection efforts, as well as optimizing overall call center
5 expenses. Second, it ensures that competitive suppliers receive payment for the
6 commodity service they provide to their customers in a timely manner, thereby
7 reducing the suppliers' cash and financing requirements. Third, it allows non-utility
8 suppliers to focus on what they do best: procuring energy at competitive prices and
9 passing on the savings and/or value added services to their customers.

10

11 **Q. From a customer perspective, are there advantages to a POR program?**

12 A. Yes. From a customer perspective, the biggest advantage of a POR program is
13 simplicity. Each month, a customer receives just one bill from their local utility and
14 only needs to make one payment for both delivery and commodity services.

15

16 **Q. What are the advantages from a public policy perspective of having a POR
17 program?**

18 A. There are several advantages to having a POR program from a public policy
19 perspective. POR programs enable competitive suppliers to offer service to all
20 residential customers, regardless of their income level or the size of their load. This
21 results a broader segment of consumers enjoying the benefits of retail competition,
22 including lower prices and the ability to select from multiple renewable energy
23 options. POR programs also promote retail competition by facilitating market entry

1 by competitive suppliers, creating greater choice of rate and service options for
2 customers.

3

4 **Q. Is there any downside to adoption of a POR program from the perspective of**
5 **a utility?**

6 A. No. In order to ensure that the POR program is revenue neutral from the
7 perspective of the local utility, the amounts the local utility reimburses competitive
8 suppliers for commodity charges are discounted at an appropriate rate, typically the
9 class specific uncollectible rate approved by the applicable Public Service
10 Commission. The local utility's costs for collection efforts and customer service
11 associated with the customers of competitive suppliers are rate based the same as the
12 costs associated with the utility's own customers. Alternatively, the local utility's
13 incremental administrative costs for the POR program can be included in the
14 calculation of the discount rate. Both the UCB and utility administrative costs can
15 be adjusted each year to reflect actual experience and reflected in the new discount
16 rate.

17

18 **Q. Have POR programs been successful in other States?**

19 A. Yes. In New York, which has had a flexible POR program for virtually all major gas
20 and electric utilities in place for several years, there has been robust growth in the
21 competitive market in the residential and small commercial sectors. POR programs
22 have also been implemented or are in the process of being implemented in Ohio,
23 Connecticut, Massachusetts, and Pennsylvania.

24

1 **C. Utility Consolidated Billing Programs**

2 **Q. Please describe Utility Consolidated Billing in Illinois?**

3 A. UCB is the provision of a single electric bill by the electric utility to the customer
4 even if that customer is taking electric commodity service from an RES. The utility
5 issues a single bill that contains (i) the electric utility’s delivery service charges; and
6 (ii) the RES commodity and any other related charges. Under UCB, the customer
7 benefits by being able to take advantage of competitive offerings from RES while
8 still maintaining the simplicity of having a single bill delivered and collected by the
9 local utility.

10
11 **Q. What are the benefits of UCB being offered in conjunction with POR?**

12 A. With a UCB / POR program, customers benefit economically and from increased
13 access to competitive choices. By enabling RESs to accept all customers, not only
14 those with good credit scores, UCB / POR programs will facilitate migration of
15 residential and smaller commercial customers to customer choice, avoid the problem
16 of RES’ “cherry-picking” the good credit customers away from utility service, and
17 significantly reduce acquisition costs and the RES’s credit risk associated with serving
18 residential and small commercial customers.

19
20 **III. DEVELOPMENT OF RETAIL COMPETITION IN ILLINOIS**

21 **Q. Before addressing Ameren’s proposed UCB/POR program, please describe**
22 **the major developments in the Illinois regulatory arena since the passage of**
23 **the Electric Customer Choice and Rate Relief Law of 1997 (“Customer Choice**
24 **Act”).**

1 A. Electric restructuring and customer choice for non-residential customers has been a
2 resounding success in Illinois. The most recent switching statistics report published
3 by the Commission, states the following regarding the amount of non-residential
4 load (kWh) that is currently served by retail electric suppliers (“RESs”) like the ICEA
5 and RESA members:

- 6 • 92% of AmerenCILCO’s large C&I Accounts (demand greater than 1 MW);
- 7 • 46% of AmerenCILCO’s small C&I Accounts (demand less than 1 MW);
- 8 • 94% of AmerenIP’s large C&I Accounts;
- 9 • 38% of AmerenIP’s small C&I Accounts;
- 10 • 97% of AmerenCIPS’ large C&I Accounts; and
- 11 • 33.5% of AmerenCIPS’ small C&I Accounts.

12 However, there are only a handful of residential customers taking service from a
13 RES in the Ameren service territories. (*See* Illinois Commerce Commission, Ameren
14 Monthly Reports filed pursuant to ICC Docket No. 03-0303, *available at*
15 <http://www.icc.illinois.gov/en/switchstats.aspx>.)

16

17 **Q. What role has the Commission played in the development of the retail electric**
18 **market?**

19 A. The most important feature of the Illinois regulatory environment has been the
20 Commission’s positive and steady stewardship and implementation of the Customer
21 Choice Act. The Customer Choice Act provided the Commission with considerable
22 flexibility to adapt its regulations to market conditions. The Commission has
23 exercised its authority to foster competitive market development and generally has
24 chosen a progressive path in decisions regarding competitive market implementation.

1 As a result of these actions, the market has shown a considerable ability to serve
2 business customers in Illinois.

3

4 **Q. Please describe how the Commission has fostered such a positive regulatory**
5 **environment.**

6 A. The Commission's leadership has proven to be a steadying force in the evolution of
7 the competitive market in Illinois. The Commission's decisions helped cultivate an
8 atmosphere in which all market participants, including utilities, consumer groups,
9 and competitive RESs were increasingly able to focus attention and effort on
10 improving commercial conditions and conducting business rather than expending
11 resources on contentious regulatory proceedings with uncertain outcomes.

12

13 Over the course of the mandatory transition period and since the end of the
14 mandatory transition period, the Commission demonstrated leadership and concern
15 for customers as the market began to develop. By doing so, the Commission
16 fostered certainty in the energy markets and, in doing so, provided the conditions
17 necessary for businesses to enter into multi-year retail contracts, allowing them to
18 hedge their supply procurement.

19

20 **Q. Have there been any recent developments in the development of retail**
21 **competition in Illinois?**

22 A. Yes. In 2007, reflecting the development of competition for commercial and
23 industrial customers, the Illinois General Assembly enacted legislation ("Retail
24 Competition Act") calling for the creation of the Office of Retail Market

1 Development within the Commission to work to bring competition to residential
2 and smaller commercial customers. In addition, the General Assembly enacted
3 Public Act 95-0700 to remove certain barriers to competition for residential and
4 small commercial customers. Two of the requirements in Public Act 95-0700 were
5 for Ameren and ComEd to offer UCB and POR programs.

6

7 **Q. What steps has the ORMD taken to implement the directives of Public Act**
8 **95-0700?**

9 **A.** The ORMD has overseen a host of workshops to address the issues contained in
10 Public Act 95-0700, with a major focus on the plethora of issues regarding
11 implementation of UCB/POR. The ORMD, under the leadership of Director
12 Clausen, has continued the Commission's strong leadership in fostering the
13 development of retail competition.

14

15 **IV. THE COMMISSION SHOULD REJECT AMEREN'S**
16 **IMPROPER ATTEMPTS TO RESTRICT USE OF UCB/POR**

17 **Q. Please summarize what you have termed Ameren's "All-In or All-Out" aspect**
18 **to the UCB/POR proposal.**

19 **A.** As outlined by Ameren witness Pearson, "A RES must choose to either include all
20 eligible customers within a customer subgroup or exclude all customers within a
21 customer subgroup in the UCB/POR program." (*See* Ameren Ex. 1.0, p. 17.)

22

23 **Q. How many subgroups are eligible for the UCB/POR program?**

24 **A.** Two subgroups are eligible. Subgroup A includes customers served on DS-1
25 (residential), DS-2 (small non-residential with a maximum monthly demand of less

1 than 150kW), and DS-5 (lighting). Subgroup B includes customers served on DS-3a
2 (non-residential customers with maximum monthly demand equal to or greater than
3 150kW and less than 400kW).

4

5 **Q. Are there any affects of Ameren’s All-In or All-Out approach as it relates to**
6 **Ameren’s Single Bill Option (“SBO”) tariff?**

7 **A.** Yes. It is my understanding that RESs using the SBO to serve customers in the DS-
8 2 customer class would be precluded from utilizing the UCB/POR program for any
9 new or future DS-2 customers under Ameren’s proposal. Similarly, under Ameren’s
10 All-In or All-Out approach, RESs using the SBO to serve customers in the DS-3a
11 customer class would be precluded from utilizing the UCB/POR program for any
12 new or future DS-3a. Finally, RESs currently serving accounts in the DS-3a
13 customer class via Ameren’s single-billing option tariff would be prohibited from
14 enrolling new DS-3a accounts on the UCB/POR program.

15

16 **Q. How many DS-3 accounts are curenly being served on Ameren’s SBO?**

17 **A.** Based on Ameren’s response to Constellation NewEnergy, Inc. (“CNE”) Data
18 Request 1.05, across the three (3) Ameren operating utilities, there are 451 DS-3
19 accounts.

20

21 **Q. How many DS-2 accounts are currently being served on Ameren’s SBO?**

22 **A.** Based upon Ameren’s response to CNE Data Request 1.05, across the three (3)
23 Ameren operating utilities, there are 3243 DS-2 accounts.

24

1 **Q. Is adoption of an All-In or All-Out approach fair to all RES?**

2 **A.** No. An “All-In” or “All-Out” approach is arbitrary and exclusionary and should be
3 rejected. Ameren has simply failed to state a legitimate and compelling reason for
4 adoption of such a restrictive term and condition. Moreover, such a restriction has
5 the unintended consequence of essentially punishing RES that have been active in
6 the Ameren or ComEd service territories to date, mandating that they either employ
7 different billing practices for customers, or choose not to provide service to new
8 customers or sign new accounts within particular customer classes. Finally, such a
9 restriction not only unnecessarily interferes with a RES’ decision as to how it wants
10 to run its business and serve its customers, but it has the additional effect of
11 restricting the number of RESs that may choose to serve certain customer segments,
12 which is in direct conflict with the purpose for which the legislature mandated that
13 electric utilities offer UCB and POR programs.

14

15 **Q. Are there other problems that may arise as a result of Ameren’s All-In or All-**
16 **Out proposal?**

17 **A.** Yes. Ameren’s All-In or All-Out proposal would restrict RESs to one method of
18 single-billing method, SBO or UCB, in the provision of service to a large number
19 and wide range of customers. Ameren’s proposed Subgroup B, for example,
20 includes commercial customers with demands as low as 150 KW and as high as
21 400KW. More sophisticated customers in Subgroup B may demand a detailed bill
22 that could not be provided under Ameren’s proposed UCB due to any number of
23 reasons including, but not limited to, restrictions on messaging, a prohibition on the
24 ability to bill for value added services, limitations on the number of lines for charges,

1 issue dates, due dates, and late fees. Other Subgroup B customers may not have
2 specific billing related demands and may be more efficiently served by Ameren's
3 UCB service. To the detriment of customers and the competitive market in general,
4 Ameren's All-In or All-Out would force suppliers to use only one single billing
5 method.

6

7 **Q. What is the basis for Ameren's proposed restriction ?**

8 **A.** According to Ameren witness Pearson, the proposed restriction is designed to
9 minimize risk against RESs adopting marketing strategies that could negatively
10 impact the average Ameren uncollectibles expense. Ameren witness Pearson
11 expresses concern that RES would keep good paying customers and put poor paying
12 customers on the UCB/POR program. Additionally, Ameren cites administrative
13 convenience.

14

15 **Q. Does Ameren cite to any other UCB/POR programs across the country that**
16 **they reviewed in developing their UCB/POR program which have a similar**
17 **"All-In" or "All-Out" restriction?**

18 **A.** No.

19

20 **Q. Are you aware of evidence of such behavior that is reflected in other**
21 **UCB/POR programs that do not have an "All-In" or "All-Out" requirement?**

22 **A.** No, I have not been made aware of studies which show that RESs would keep good
23 paying customers and put poor paying customers on the UCB/POR program. If that
24 were the case for some of the successful programs in New York, such evidence

1 might be found via significantly higher uncollectible rates. However, if you compare
2 the 2008 and 2009 electric uncollectible rate for all residential and commercial electric
3 and gas customers in the Consolidated Edison territory, a territory with a 34%
4 increase in residential migration over the twelve-month period ending August 2008,
5 the uncollectible rate has only increased from 0.78 percent in 2008 to 0.83 percent in
6 2009.⁸ Similarly, in Orange & Rockland territory, with approximately 30%
7 residential and small commercial electric migration, the POR discount rate increased
8 slightly from 0.879 percent in 2008 to 0.885 percent in 2009. Thus, with this flexible
9 POR program approach in these two NY service territories, you do not see a
10 significant measurable increase.

11

12 **Q. Would you expect there to be greater ARES interest in a flexible UCB/POR**
13 **program as opposed to one in which there is an “All-In” or “All-Out”**
14 **restriction?**

15 **A.** While I do not have empirical research, I would expect that there would be much
16 lower switching rates and/or fewer active RES in utility territories offering “All-In”
17 or “All-Out” programs versus flexible POR programs.

18

19 **Q. In your opinion would an “All-In” or “All-Out” requirement protect Ameren**
20 **from being saddled with all of the bad paying customers?**

21 **A.** No. A bad debt customer will be a bad debt customer no matter who serves them.
22 To illustrate my point, assume that Ameren has no POR program and consider Bad
23 Debt Customer A who is served by Ameren default service - Ameren experiences

⁸ Consolidated Edison “ESCO News”, dated December 13, 2007 and December 15, 2008.

1 the bad debt. Now assume that Ameren has an "all in" POR program that won't be
2 used by RESs and consider Bad Debt Customer A who is served by Ameren default
3 service because the RES won't try to serve that customer - Ameren experiences the
4 bad debt. Finally, assume that Ameren has a flexible POR program that will be used
5 by RES and consider Bad Debt Customer A who is served by an RES and is enrolled
6 in the POR program - Ameren experiences the bad debt. If I have this correctly,
7 then it seems that no program design can spare Ameren from the bad debt but at
8 least a flexible POR program will help RES reach other customers that they
9 otherwise would not.

10

11 **V. THE COMMISSION MUST ENSURE THAT**
12 **THE DISCOUNT RATE IS SET AT A LEVEL THAT**
13 **ENCOURAGES PARTICIPATION IN THE UCB/POR PROGRAM**

14

15 **Q. Other than elimination of the "All-In" or "All-Out" restriction, are there other**
16 **ways to address Ameren's concerns about ARES "cherry picking"?**

17 **A.** Yes. Ameren should offer a flexible POR program with a discount factor that
18 mitigates their concerns about "cherry picking." The discount factor should cover
19 bad debt so there would be no reason to demand that RES choose "All-In" or "All-
20 Out." Furthermore, Ameren will always have the right to disconnect a customer for
21 non-payment under applicable Administrative Rules, so they retain the ability to
22 control or stop the risk and recoup their bad debt.

23

24 **Q. Based upon your experience with POR programs implemented in New York**
25 **and elsewhere, what is the typical discount rate for payments made to electric**
26 **utilities?**

1 A. The discount rate varies by utility and whether the POR program is for electricity or
2 natural gas customers, but is usually set at a level comparable to the local utility's
3 UCB percentage rate (typically between .65% and 2%).
4

5 **VI. AMEREN SHOULD NOT RESTRICT**
6 **THE ABILITY OF RES TO COLLECT COSTS**
7 **ASSOCIATED WITH COMPLIANCE WITH PUBLIC ACT 95-1027**

8 **Q. Please describe the types of RES charges that Ameren proposes to allow to be**
9 **included under the proposed tariffs to implement the UCB/POR program.**

10 A. Ameren proposes that RES charges included in purchased receivables include only
11 charges for Power and Energy Service. In the Supplier Terms and Conditions, under
12 the definition of Power and Energy Service, Ameren's proposed tariff states:

13
14 "Such charges for Power and Energy Service shall include only those
15 components the RES is obligated to procure to meet its Customers'
16 instantaneous electric power and energy requirements and may also
17 include charges for Transmission Services and related Ancillary
18 Transmission Services. The accounts receivable for the RES shall
19 not include items such as early termination fees or fees for value
20 added services. (Supplier Terms and Conditions, AmerenCILCO, 3rd
21 Revised Sheet No. 5.018)
22

23 **Q. Is the term "value added service", which appears in the definition of Power**
24 **and Energy Service, defined in Ameren's proposed tariff ?**

25 A. No. However, in response to data request RESA 2.02, Ameren stated, "...value
26 added service would include any service and its related fees that a RES might provide
27 to its customers that would not be included under the purview of "electric power
28 and energy service"". Further, in response to data request RESA 2.04, Ameren
29 stated, "[It] would consider Renewable Energy Credits [RECs] to be a value added
30 service.

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Q. Please explain why Ameren’s responses to RESA 2.02 and 2.04 and the lack of a formal definition of “value added service” in Ameren’s proposed tariff are problematic.

A. In general, the lack of a formal definition of “value added service” creates the potential for significant problems to arise as Ameren rolls out UCB/POR because it puts Ameren in the position of having to determine whether RES charges are for Power and Energy or for “value added service”. Indeed, we believe that the term “value added service” has already been exposed as being vague. As cited above, Ameren has stated that they believe that RECs would be considered “value added service” in its response to RESA 2.04.

Q. Do you agree with Ameren that the cost of RECs should not be recovered through charges associated with the Ameren UCB/POR program?

A. No. First, as a policy matter, Ameren’s proposal to prohibit RESs from recovering the cost of RECs through the UCB/POR program is problematic because it inhibits product innovation, limits the universe of available products, and limits the ability of suppliers to meet their customers’ demand for green energy. Second, and possibly a greater concern, is that under Public Act 95-1027, RESs are obligated to meet a renewable portfolio standard (“RPS”) as a condition of providing service to retail customers in Illinois.

Q. Please explain why you are concerned that Ameren’s proposed tariffs may inhibit the ability of RESs to satisfy the RPS requirements in Public Act 95-1027?

1 **A.** Effective June 1, 2009, RES must meet a RPS requirement. One of the ways that
2 obligation can be met is through the purchase of RECs. While the exact rules and
3 regulations regarding how RESs will be able to demonstrate compliance has not yet
4 been established, great care must be taken to not restrict the ability of RESs to
5 collect their costs with meeting these compliance obligations by way of overly
6 restrictive UCB / POR tariffs. For example, if another way that a RES can
7 demonstrate compliance is by making an alternative compliance payment, a RES will
8 need to be able to collect such costs from their customers. Ameren should not be
9 allowed to prevent RESs from participating in the UCB / POR program due to
10 improper tariff provisions that would prevent RESs from recovering the costs of
11 complying with the State of Illinois' renewable portfolio standard.

12

13 **Q. What costs should be recovered through charges related to receivables**
14 **purchased under the UCB/POR program?**

15 **A.** The universe of costs that can be recovered through charges billed under the
16 UCB/POR program include only Power and Energy, which, again, Ameren defines
17 as "including only those components the RES is obligated to procure to meet its
18 Customers' instantaneous electric power and energy requirements and may also
19 include charges for Transmission Services and related Ancillary Transmission
20 Services." One could argue that Ameren's definition of Power and Energy could
21 prohibit RESs from recovering overhead costs associated with the provision of retail
22 electric service.

23

24 **Q. What is your proposal with respect to the definition of Power and Energy?**

1 A. I recommend that Ameren revise the definition of Power and Energy to specifically
2 include the costs associated with meeting the RPS embodied in Public Act 95-1027
3 as well as any rules and regulations that may be developed to ensure compliance with
4 the RPS. Further, this definition should take into consideration the entire universe
5 of costs that RESs incur in the provision of retail electric service.

6
7 **VII. Conclusion**

8 **Q. Please summarize your recommendations regarding Ameren’s proposed**
9 **UCB/POR program.**

10 **A.** The Commission should take the following actions:

- 11 • Allow a flexible UCB/POR program, rejecting Ameren’s proposed “All-In” or
12 “All-Out” approach;
- 13 • Establish an appropriate discount rate that does not act as a barrier to the
14 successful utilization of the UCB/POR program;
- 15 • Revise the definition of Power and Energy in the Supplier Terms and Conditions
16 to more accurately reflect the costs that RESs incur in the provision of retail
17 electric service, including but not limited to satisfying the RPS requirements.

18
19 **Q. Does this conclude your testimony?**

20 **A.** Yes.