

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

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

**Initial Brief of the
Retail Energy Supply Association
and the
Illinois Competitive Energy Association**

Dated: April 29, 2009

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INITIAL BRIEF

The Illinois Competitive Energy Association (“ICEA”) and the Retail Energy Supply Association (“RESA”)(collectively “ICEA/RESA”), by one of its attorneys, pursuant to Section 10-101 of the Public Utilities Act (the “Act”) and Section 200.800 of the Rules of Practice of the Illinois Commerce Commission (“Commission” or “ICC”), hereby submit their Initial Brief in the instant proceeding regarding the proposal of Central Illinois Light Company, Central Illinois Public Service Company, and Illinois Power Company (collectively “the Ameren Illinois Utilities” or “AIU”) to implement a combined Utility Consolidated Billing (UCB) and Purchase of Receivables (POR) service (“UCB/POR”).

As an initial matter, Ameren should be commended for its commitment and efforts to work with stakeholders over the course of the last year to implement the required UCB/POR tariff offerings. The proposed UCB/POR program, coupled with the modifications discussed below, are a workable mechanism that can bring the benefits of retail competition to residential and smaller commercial customers.

EXECUTIVE SUMMARY

ADOPTION OF THE MODIFIED UCB/POR PROPOSAL WILL BRING THE BENEFITS OF RETAIL COMPETITION TO RESIDENTIAL AND SMALL COMMERCIAL CUSTOMERS

Since the inception of electric restructuring in Illinois, the Commission has provided a positive, steadying force in 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 helped cultivate an atmosphere in which all market participants, including utilities, consumer groups, and competitive retail electric suppliers ("RESs") were increasingly able to focus attention and effort on improving commercial conditions and conducting business rather than expending resources on contentious regulatory proceedings with uncertain outcomes.

Members of ICEA and RESA have been active participants in the collaborative workshop process overseen by the ICC Office of Retail Market Development ("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 have come together to present testimony and the instant initial brief 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 Dominion Retail, Inc. ("Dominion") have entered into a Memorandum of Understanding ("MOU") with the Ameren Illinois Utilities regarding certain disputed issues in this proceeding.

Pursuant to the MOU, RESA, ICEA, Dominion, and the Ameren Illinois Utilities have agreed to resolve the following three (3) 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 executed MOU is attached hereto and made a part hereof as Appendix A.)

Electric restructuring and customer choice for non-residential customers has been a resounding success in Illinois. However, there are only a handful of residential customers taking service from a RES 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/en/switchstats.aspx>.)

Therefore, the decisions that the Commission makes in this proceeding will determine whether the benefits of retail competition can be enjoyed by residential and smaller commercial customers as they have been enjoyed by medium and large commercial and industrial customers, as

envisioned by the General Assembly in enacting Public Act 95-0700. The outcome of this proceeding will ultimately determine whether residential and smaller commercial customers will have a meaningful choice of electric power and energy suppliers. As will be discussed more fully below, and as supported by the record evidence, RESA and ICEA recommend that the Commission enter an Order in the instant proceeding that is consistent with the MOU.

III.

A. THE DISCOUNT RATE SHOULD BE SET AT A LEVEL THAT ENCOURAGES PARTICIPATION IN THE UCB/POR PROGRAM

The Commission should adopt a discount rate that encourages participation in the UCB/POR program. For example, the discount rate should be set in a manner that minimizes concerns about RESs “cherry picking” higher credit-worthy customers for RES or SBO billing and placing higher risk customers on UCB/POR. Additionally, the discount factor should include bad debt; in doing so, there would be no reason to demand that RESs choose “All-In” or “All-Out.” Furthermore, the Ameren Illinois Utilities will always have the right to disconnect a customer for non-payment under applicable Administrative Rules, and thereby retain the ability to eliminate or control the risk and recoup their bad debt. (Cerniglia Dir., ICEA-RESA Ex. 1.0, 24:17-22; Pearson Reb., Ameren Ex. 4.0, 21:487-492.) The MOU accomplishes this goal.

III.

D. THE COMMISSION SHOULD ADOPT THE PROPOSED MODIFICATION OF THE “ALL-IN / ALL-OUT” ELIGIBILITY RESTRICTION

Under the MOU, ICEA, RESA, Dominion, and the Ameren Illinois Utilities agree to resolve the issues surrounding the “All-In” or “All-Out” issue as follows:

- The UCB/POR section of AIU’s proposed Supplier Terms and Conditions tariff should not apply the so-called “All-In or All-Out” provision to the ability of a RES to utilize the UCB/POR program for its non-residential customers in the DS-2 and DS-3 customer classes.
- The UCB/POR section of AIU’s proposed Supplier Terms and Conditions tariff should limit the application of the “All-In or All-Out” provision to the residential rate class.
- 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.

Such an approach is a reasonable solution that is fully supported by the record evidence and should advance the participation of RESs in the UCB/POR program. The compromise solution removes a proposed restriction that would have had the unintended consequence of essentially punishing RESs that have been active in the Ameren service territories to date, mandating that they either employ different billing practices for customers, or choose not to provide service to new customers or sign new accounts within particular customer classes. (*See* Cerniglia Dir., ICEA-RESA Ex. 1.0, 21:1-22:5.) Finally, such a solution will remove a restriction that not only unnecessarily interferes with a RES’ decision as to how it wants to run its business and serve its customers, but it has the additional effect of restricting the number of RESs that may choose to serve certain customer segments, which is in direct conflict with the purpose for which the legislature mandated that electric utilities offer UCB and POR programs (*Id.*).

By eliminating this restrictive provision of Ameren’s tariffs, RESs will no longer be confined to one method of single-billing method - Single Bill Option or UCB - in the provision of service to a large number and wide range of customers. As demonstrated in the Direct Testimony of RESA-ICEA witness Ron Cerniglia, Ameren’s proposed Subgroup B, for example, includes commercial customers with demands as low as 150 KW and as high as 400KW. More sophisticated customers in Subgroup B may demand a detailed bill that could not be provided under Ameren’s proposed

UCB due to any number of reasons including, but not limited to, restrictions on messaging, a prohibition on the ability to bill for value added services, limitations on the number of lines for charges, issue dates, due dates, and late fees. Other Subgroup B customers may not have specific billing related demands and may be more efficiently served by Ameren's UCB service. (Cerniglia Dir., ICEA-RESA Ex. 1.0, 21:7-22:5.)

By modifying Ameren's All-In or All-Out proposal as described above and set forth within the MOU, the Commission will preserve the options that customers taking service from competitive suppliers have come to expect, while providing more benefits of competition to additional customers.

III.

E. THE MOU PRESEVES 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 has not yet been established, great care must be taken to not restrict the ability of RESs to collect their costs with 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.)

By modifying Ameren's proposed tariff definition of the term "Power and Energy," it will remove a potential obstacle to RESs' ability to comply with Illinois law. Senate Bill 2150, which was unanimously passed by the Illinois Senate and now pending before the Illinois House, 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"). While 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 Ameren's proposed definition of Power and Energy exclude RESs from meeting the mandatory RPS requirements through the purchase of RECs, it would also frustrate the efforts of RES 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, Ameren's UCB/POR program should foster rather than inhibit growth in the renewable energy sector. Modifying the proposed definition of Power and Energy in the manner indicated will permit RESs 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.)

V.


Conclusion

It is well documented that well-designed competitive markets are the best means to promote efficient products and services and are well 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 territory. Based upon the record evidence, the Commission should enter an Order consistent with the MOU 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; and
- (3) Adopts a discount rate that does not act as a barrier to the successful utilization of the UCB/POR program.

Respectfully Submitted,



s/ Mark J. McGuire

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APPENDIX A

Memorandum of Understanding

MEMORANDUM OF UNDERSTANDING

Central Illinois Public Service Company d/b/a Ameren CIPS, Illinois Power Company d/b/a AmerenIP, and Central Illinois Light Company d/b/a AmerenCILCO (collectively the "Ameren Illinois Utilities" or "the AIU") and the Illinois Competitive Energy Association, the Retail Energy Supply Association, and Dominion Retail, the parties signing this Memorandum of Understanding ("MOU") (collectively the "Parties" and each individually a "Party") are committed to work together to bring the benefits of customer choice and competition to residential and small commercial retail customers in the services territories of the AIUs as envisioned in Public Act 95-0700.

To that end, the Parties have had substantive discussions about the topics addressed in this MOU. These discussions have led to the development of commitments, and represent a compromise, that the Parties believe will result in achievement and implementation of reasonable and equitable solutions to the Parties respective concerns and interests, but shall not be regarded as a precedent with respect to any future proceedings. The events and circumstances that form the basis for the Parties' determination to enter into this MOU are highly unique and pertain solely to the state of restructuring and regulation in the AIU electricity markets at this time. This MOU is the result of give and take among the Parties, all of whom have been represented by counsel. This MOU is a result of the Parties desire to memorialize those commitments. Thus, the Parties, intending to be bound and acknowledging the benefit to be derived from the mutual commitments contained herein, agree as follows:

The Parties agree to support the positions articulated in the operative numbered paragraphs 1 through 5 of this MOU in the instant UCB/POR proceeding:

1. The UCB/POR section of AIU's proposed Supplier Terms and Conditions tariff should not apply the so-called "All-In or All-Out" provision to the ability of a RES to utilize the UCB/POR program for its non-residential customers in the DS-2 and DS-3 customer classes.
2. The UCB/POR section of AIU's proposed Supplier Terms and Conditions tariff should limit the application of the "All-In or All-Out" provision to the residential rate class.
3. The Parties agree to work through an Office of Retail Market Development 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. AIU, RESA, ICEA, and Dominion agree to initiate discussion of this issue in this stakeholder process. The Parties understand that implementation of any results of this stakeholder process would need to become the subject of a tariff or other Illinois Commerce Commission proceeding, should the Stakeholder group and the AIU jointly agree to pursue implementation.

4. AIU agrees to not object to the recommendation of ICC Staff Witness Clausen that appears on p. 14 of his rebuttal testimony whereby AIU will track the number of commercial SBO accounts and Dual Bill accounts for suppliers that also use the UCB/POR service for a period of twelve months following the effective date of the applicable tariffs and report on how this activity would effect AIU's bad debt for the twelve month period being tracked relative to AIU's average historical bad debt rate.

5. The parties agree that in furtherance of the implementation of both Public Act 95-0700 and 95-1072 in consistent fashion, the proposed AIU tariffs should be revised to reflect the statement below:

Power and Energy Service

Power and Energy Service for purposes of the UCB/POR Program refers to the RES charges included in the receivables purchased by the Company and shall include such charges for Power and Energy Service the RES is obligated to procure to meet its Customers' instantaneous electric power and energy requirements. Such charges may also include charges for Transmission Services and related Ancillary Transmission Services and 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. The accounts receivables purchased for the RES shall not include items such as early termination fees or fees for value added service.

6. 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.

The enumerated covenants and agreements are based upon the record evidence. Except as otherwise provided in the MOU, the Parties reserve all right to take any position concerning any issue addressed in this MOU in any future proceedings and the right to seek appeal of the ultimate decision rendered in ICC Docket Nos. 09-0619 (cons.). The Parties further agree that nothing herein is intended to limit the rights of any Party from advocating any positions regarding the implementation details of the items contained in this MOU to the extent such details are not addressed herein. Likewise, nothing herein shall preclude any Party from taking actions which Party deems unnecessary to fulfill its statutory obligations. In addition, the Parties agree that each Party may advocate or otherwise advance any other position not specifically delineated in the operative paragraphs of the MOU and that this MOU shall not apply positions that Parties may take with respect to any utility other than AIU. If any future law or regulation is enacted that any Party believes, in good faith, has a material impact on the rights and obligations rising under this MOU, the Parties shall meet discuss what action, if any, should be taken.

This MOU may be executed in any number of identical counterparts, each of which when executed and delivered shall be original, but all such counterparts shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the Parties set forth their respective signatures as of the 28th day of April, 2009.

Dominion Retail, Inc.

Retail Energy Supply Association

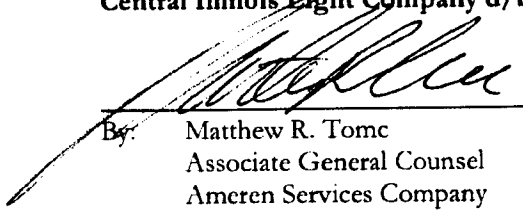
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By: Matthew R. Tomc
Associate General Counsel
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