

**OFFICE OF RETAIL MARKET DEVELOPMENT  
ILLINOIS COMMERCE COMMISSION**

**2012 ANNUAL REPORT**



**Submitted Pursuant to Section 20-110 of the  
Illinois Public Utilities Act**

**June 2012**



## ILLINOIS COMMERCE COMMISSION

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June 30, 2012

The Honorable Pat Quinn  
Governor

The Honorable Members of the Illinois General Assembly

The Honorable Members of the Illinois Commerce Commission

Please find enclosed the ICC's Office of Retail Market Development's annual report. This report is submitted in compliance with Section 20-110 of the "Retail Electric Competition Act of 2006" [220 ILCS 5/20-110]. Section 20-110 requires the Director of the Office of Retail Market Development to annually report specific accomplishments in promoting retail electric competition.

Sincerely,

A handwritten signature in cursive script that reads "Torsten Clausen".

Torsten Clausen  
Director, Office of Retail Market Development

**Annual Report to the General Assembly, the Governor,  
and the Illinois Commerce Commission**

**Submitted pursuant to Section 20-110 of the  
Illinois Public Utilities Act**

**Office of Retail Market Development  
Illinois Commerce Commission**

**June 2012**

## **I. Introduction**

Section 20-102 of the Retail Electric Competition Act of 2006 (“Retail Competition Act”) states that

“a competitive wholesale electricity market alone will not deliver the full benefits of competition to Illinois consumers. For Illinois consumers to receive products, prices and terms tailored to meet their needs, a competitive wholesale electricity market must be closely linked to a competitive retail electric market. To date, as a result of the Electric Service Customer Choice and Rate Relief Law of 1997, thousands of large Illinois commercial and industrial consumers have experienced the benefits of a competitive retail electricity market. Alternative electric retail suppliers actively compete to supply electricity to large Illinois commercial and industrial consumers with attractive prices, terms, and conditions.

A competitive retail electric market does not yet exist for residential and small commercial consumers. As a result, millions of residential and small commercial consumers in Illinois are faced with escalating heating and power bills and are unable to shop for alternatives to the rates demanded by the State's incumbent electric utilities. The General Assembly reiterates its findings from the Electric Service Customer Choice and Rate Relief Law of 1997 that the Illinois Commerce Commission should promote the development of an effectively competitive retail electricity market that operates efficiently and benefits all Illinois consumers.”

To further the goal of developing an effectively competitive retail electricity market, the Retail Competition Act created the Office of Retail Market Development (“ORMD”) within the Illinois Commerce Commission (“ICC”). Section 20-110 of the Retail Competition Act provides that on or before June 30 of each year, the Director of the ORMD submit a report to the Commission, the General Assembly, and the Governor, that details specific accomplishments achieved by the Office in the prior 12 months in promoting retail electric competition and that suggests administrative and legislative action necessary to promote further improvements in retail electric competition.

## **II. Recent competitive activity**

### **A. Number of certified and registered suppliers**

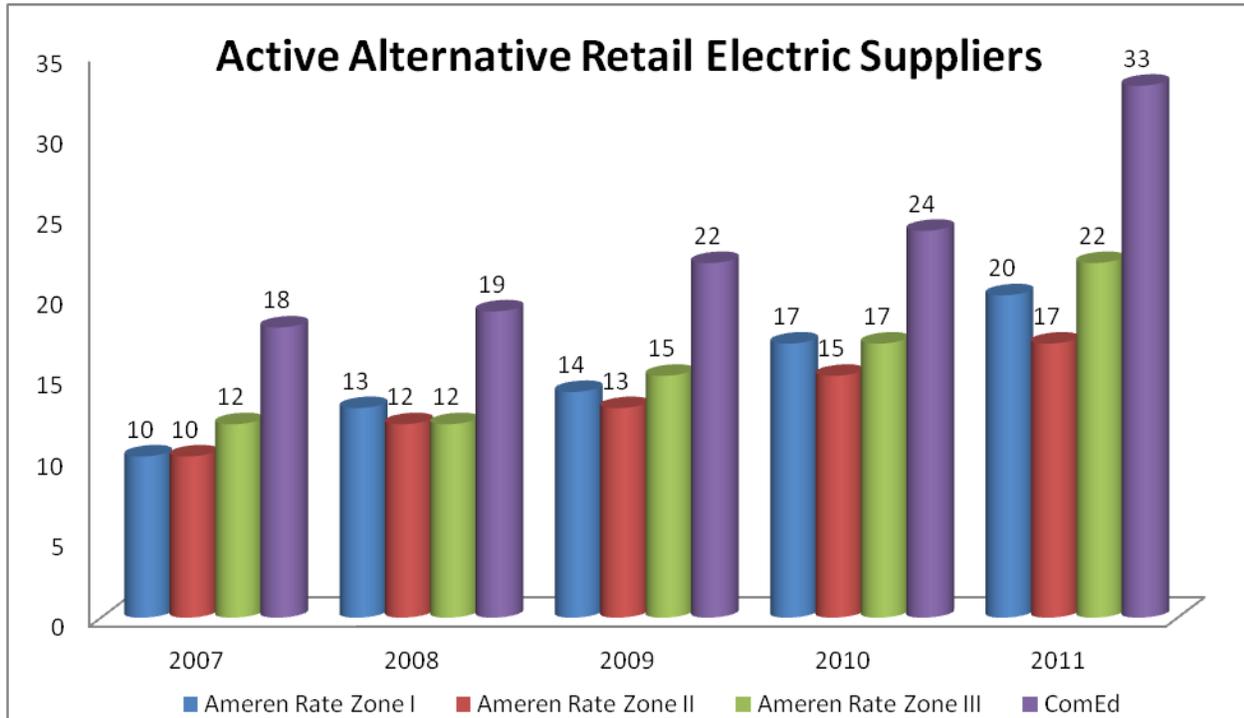
Statewide, there are currently 70 alternative retail electricity suppliers (“ARES”) that have obtained ICC certification pursuant to Section 16-115<sup>1</sup>. This is up from 54 suppliers at the same time last year. Forty ARES have obtained certification to serve residential and small commercial customers, which is up from 22 as of last year. Aside from receiving a certificate from the Commission, suppliers must also register with the electric utility and complete certain technical testing before they can start offering retail electric service in Illinois. Twenty-six suppliers have completed the registration process with Ameren Illinois, compared to 18 at the same time last year. Twenty-four of those suppliers were actively selling electricity in the territory as of December 2011, up from seventeen as of December 2010. In Commonwealth Edison’s (“ComEd’s”) territory, forty-four suppliers have completed the registration process, which is almost double the number from last year (there were 24 suppliers last year). Thirty-five of those suppliers were actively selling electricity as of December 2011, compared to 24 as of December 2010. Four of the active suppliers are either electric utilities or affiliates of electric or natural gas utilities.

The following shows the number of active ARES from 2007 to the end of 2011 by utility service territory:<sup>2</sup>

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<sup>1</sup> Twelve of the 70 suppliers are certified to serve only themselves or their affiliates.

<sup>2</sup> In order to maintain consistency with the reporting of previous years, the graph includes ARES providing power to themselves or their subsidiaries for the Ameren Illinois territories. Also, several suppliers operate in more than one utility service territory.



### B. Customer switching to alternative electric suppliers

For the past few years, more than half of the total electric consumption of ComEd's and Ameren Illinois's customers has been provided by alternative retail electric suppliers. However, this year marks the first time that more than 60% of the total electric usage of ComEd customers as well as the customers of all three Ameren Illinois rate zones has been provided by retail electric suppliers. Looking specifically at ComEd, February 2008 marked the first time more than 50% of the total electric usage was provided by competitive suppliers and October 2011 was the month that the number had crossed the 60% mark for the first time. Given the recent substantial increase in residential usage provided by the suppliers, it is likely that the 70% mark will be reached fairly soon.

Also worth pointing out is that the amount of ARES-provided electric usage to the 0-100 kW customer class has crossed the 50% mark in both ComEd and Ameren Illinois' territories for the first time this year.

One additional indicator of competitive activity is the steadily rising number of Agents, Brokers, and Consultants (“ABCs”) seeking a license pursuant to Section 16-115C of the Public Utilities Act (“PUA”). There are currently 211 licensed ABCs, up from 133 reported in June 2011. There are eight additional license applications currently pending at the Commission.

The following provides detailed non-residential usage information for the four utility service areas.

### **1. ComEd**

As of May 31, 2012, 64% of the total electric usage of ComEd’s customers was provided by alternative retail electric suppliers (up from 58% a year ago). Breaking it down further, about 52% of the electric usage of ComEd’s small commercial customers<sup>3</sup> (up from about 40% a year ago) and almost 76% of its medium commercial and industrial customers<sup>4</sup> (up from about 72%) was provided by ARES. For large customers<sup>5</sup> it was 91% (up from 89% last year), and about 97% of customers with a demand of over 1MW received service from an ARES (the same as last year). Together, 83% (up from 79.5%) of all non-residential load was provided by alternative retail electric suppliers as of May 31, 2012. The following shows the electric usage provided by ARES for the various commercial and industrial customer classes for the past four years<sup>6</sup>.

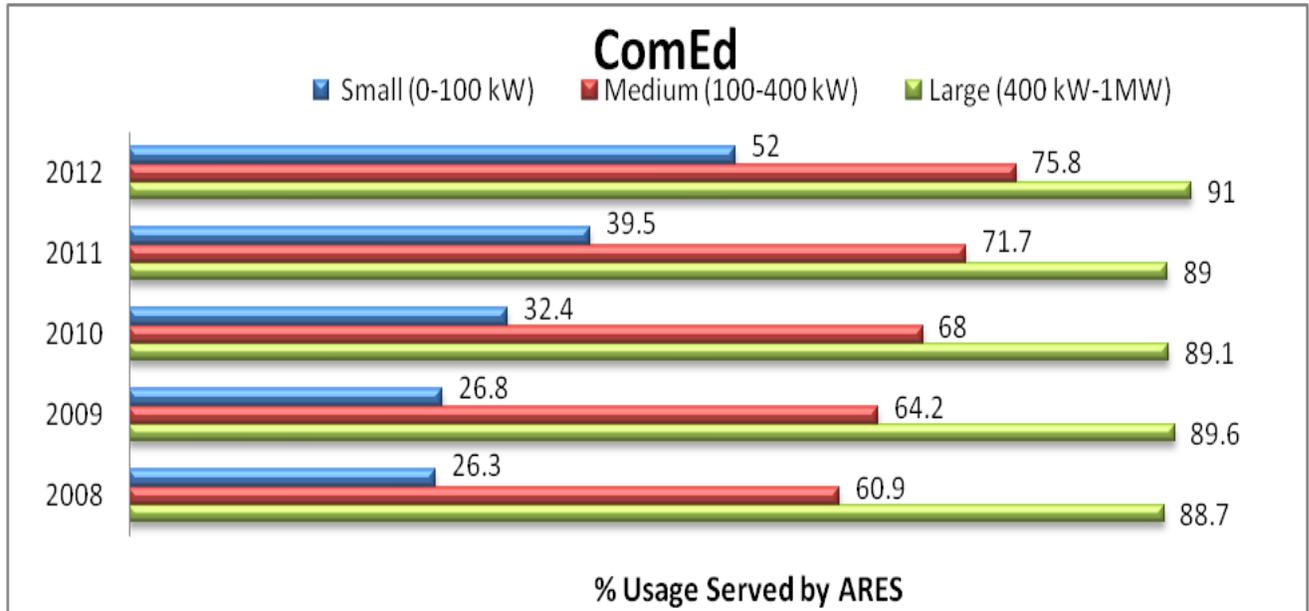
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<sup>3</sup> Non-residential customers with demand up to 100kW.

<sup>4</sup> Non-residential customers with demand between 100kW and 400kW.

<sup>5</sup> Non-residential customers with demand between 400kW and 1MW.

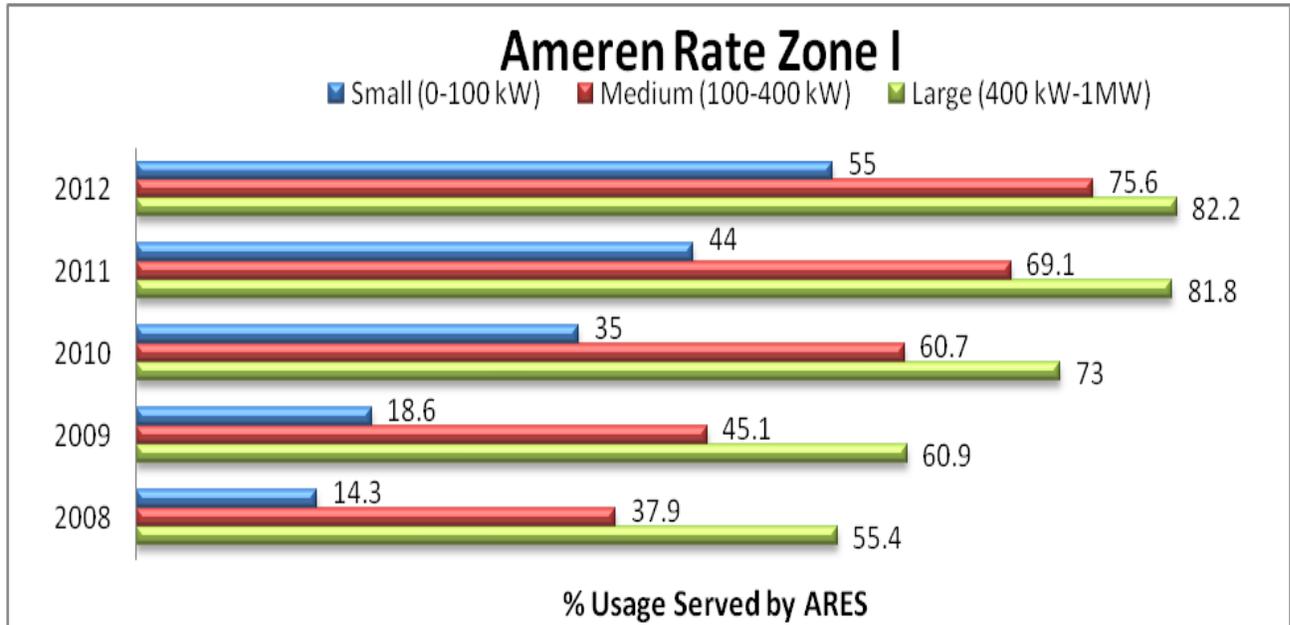
<sup>6</sup> Data as of May 31 of each year.



## 2. AIC Rate Zone I (formerly AmerenCIPS)

As of May 31, 2012, 60% of the total electric usage of Rate Zone I customers was provided by alternative retail electric suppliers (up from 54% a year ago). Fifty-five percent of the electric usage of small commercial customers in Rate Zone I (up from 44% a year ago) and approximately 76% of electric usage of its medium commercial and industrial customers (up from 69%) was provided by ARES. For large customers it was 82% (about the same as last year), and for customers with a demand of over 1MW, 80% of the usage was served by alternative electric suppliers (unchanged from last year). Together, 76% of all non-residential load was provided by alternative retail electric suppliers as of May 31, 2012 (up from 73%). The following shows the electric usage provided by ARES for the various commercial and industrial customer classes for the past four years<sup>7</sup>.

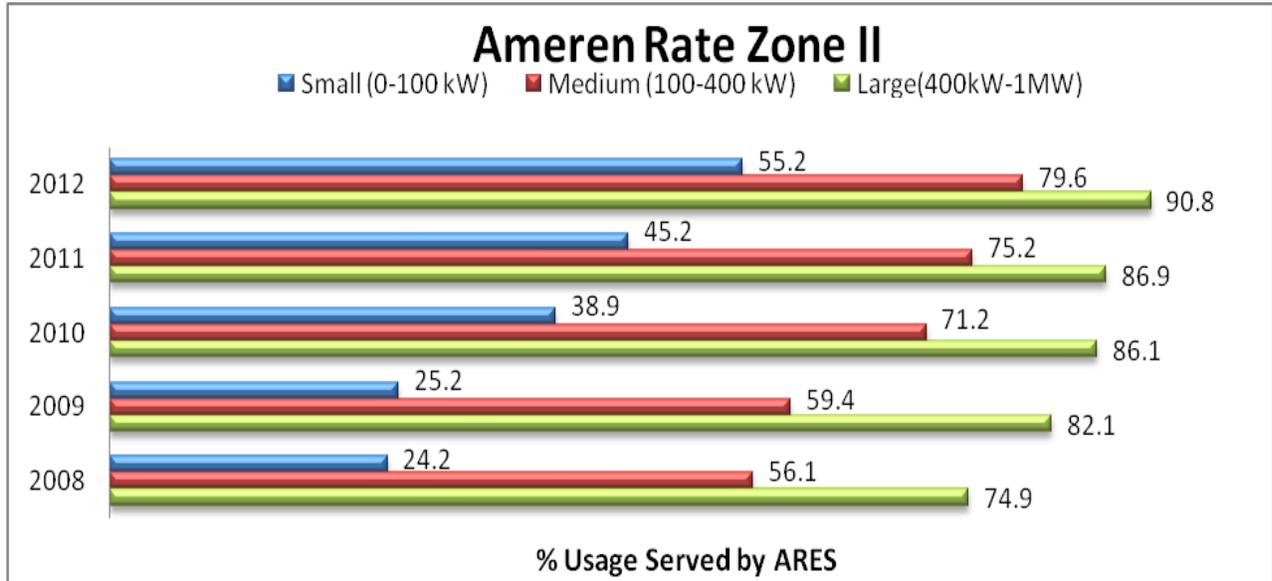
<sup>7</sup> Data as of May 31 of each year.



### 3. AIC Rate Zone II (formerly AmerenCILCO)

As of May 31, 2012, 65% of the total electric usage of Rate Zone II customers was provided by alternative retail electric suppliers (up from 60% last year). About 55% of the electric usage of small commercial customers in Rate Zone II (up from 45%) and approximately 80% of electric usage for its medium commercial and industrial customers (up from 75%) was provided by ARES. For large customers it was 91% (up from 87%), and for customers with a demand of over 1MW, over 93% of the usage was served by alternative retail electric suppliers (about the same as last year). Together, 86% of all non-residential load was provided by alternative retail electric suppliers as of May 31, 2012 (up from 83%). The following shows the electric usage provided by ARES for the various commercial and industrial customer classes for the past four years<sup>8</sup>.

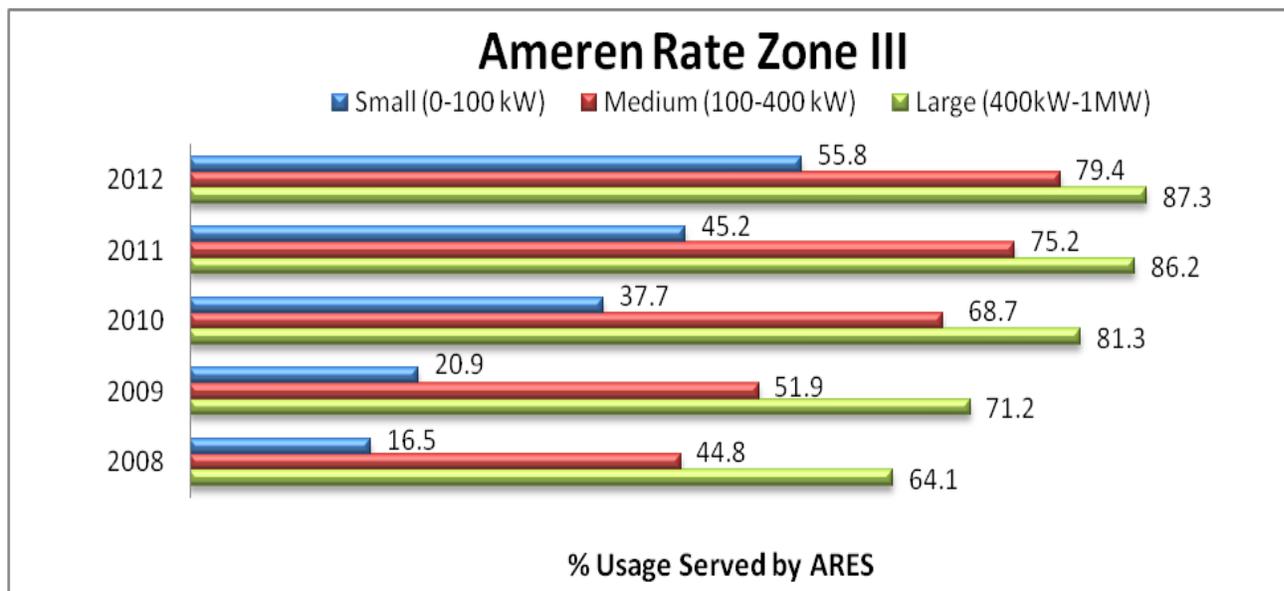
<sup>8</sup> Data as of May 31 of each year.



#### 4. AIC Rate Zone III (formerly AmerenIP)

As of May 31, 2012, 68% of the total electric usage of Rate Zone III customers was provided by alternative retail electric suppliers (up from 63% last year). About 56% of the electric usage of small commercial customers in Rate Zone III (up from 45%) and approximately 79% of electric usage for its medium commercial and industrial customers (up from 75%) was provided by ARES. For large customers it was 87% (up from 86%), and for customers with a demand of over 1MW, about 94% of the usage was served by alternative retail electric suppliers (down from about 96%). Together, about 87% of all non-residential load was provided by alternative retail electric suppliers as of May 31, 2012 (up from 85%). The following shows the electric usage provided by ARES for the various commercial and industrial customer classes for the past four years<sup>9</sup>.

<sup>9</sup> Data as of May 31 of each year.



## 5. Competitive Declarations

As of August 2007, Section 16-113(f) of the Act declared the provision of electric power and energy to retail customers of ComEd and Ameren Illinois with peak demands of at least 400 kilowatts to be a competitive service. The legislation resulted in ComEd's discontinuation of providing fixed-price bundled service to those customers after the end of the May 2008 billing period. The law similarly provided that Ameren Illinois does not need to provide fixed-price bundled service to that class of customers after the end of the May 2010 billing period.

In addition, Section 16-113(g) gives both ComEd and Ameren Illinois the ability to declare the provision of power and energy to customers with peak demands of at least 100 kilowatts but less than 400 kilowatts to be competitive if certain conditions are met. In 2007, ComEd filed a petition for competitive declaration and the Commission found that ComEd had satisfied the statutory requirements and therefore the provision of power and energy to those customers has been declared competitive as of November 2007<sup>10</sup>. As a result of the competitive declaration, after the end of the May 2010 billing period, all customers in the 100-400kW class, with the exception of some statutorily exempted condominium

<sup>10</sup> ICC Docket No. 07-0478.

associations, are taking supply service from the utility on an hourly-pricing basis or they receive service from an alternative retail electric supplier.

On March 1, 2011, Ameren Illinois filed a petition for competitive declaration of its customers with peak demands above 150 kilowatts but less than 400 kilowatts<sup>11</sup>. Ameren's petition stated that 67% of its customers with peak demands between 150 and 400 kilowatts were currently being served by an ARES. The Commission approved Ameren's petition on March 23, 2011 with the competitive declaration to be effective on May 1, 2011. Customers in this class will continue to receive fixed-price bundled utility service until May 2014 unless they elect to receive service from a retail electric supplier before that date. Going forward, the only non-residential customers still receiving a fixed-price supply service from the utility are ComEd customers with demand below 100kW and AIU customers with demand below 150kW. All other non-residential customers will receive their power from a competitive supplier or they will be on the utility's hourly-pricing option.

## **6. Market concentration**

Until the 2010 annual report, we had only reported on the share of electrical usage that is not provided by the utilities. Until then, we had looked exclusively at the usage provided by ARES as a whole. While those numbers show that more and more of the total non-residential consumption is being provided by retail electric suppliers, it does not tell us whether that usage is provided by a few dominant providers or whether that usage is more evenly divided among many providers competing in that market.

Similar to the last two reports, this year's report again analyzes the non-residential market shares of the individual ARES by looking at the share of electric usage provided by an ARES instead of the share of customers served by individual ARES. We believe either approach would be informative but we assume the amount of kWh served might be more closely related to an ARES' financial success than the number of customers it serves. In addition, when calculating market shares based on customer counts, we did not find significant differences from the values derived from using ARES-provided usage. We again used the Herfindahl-Hirschmann index, or HHI, which is a common indicator to measure

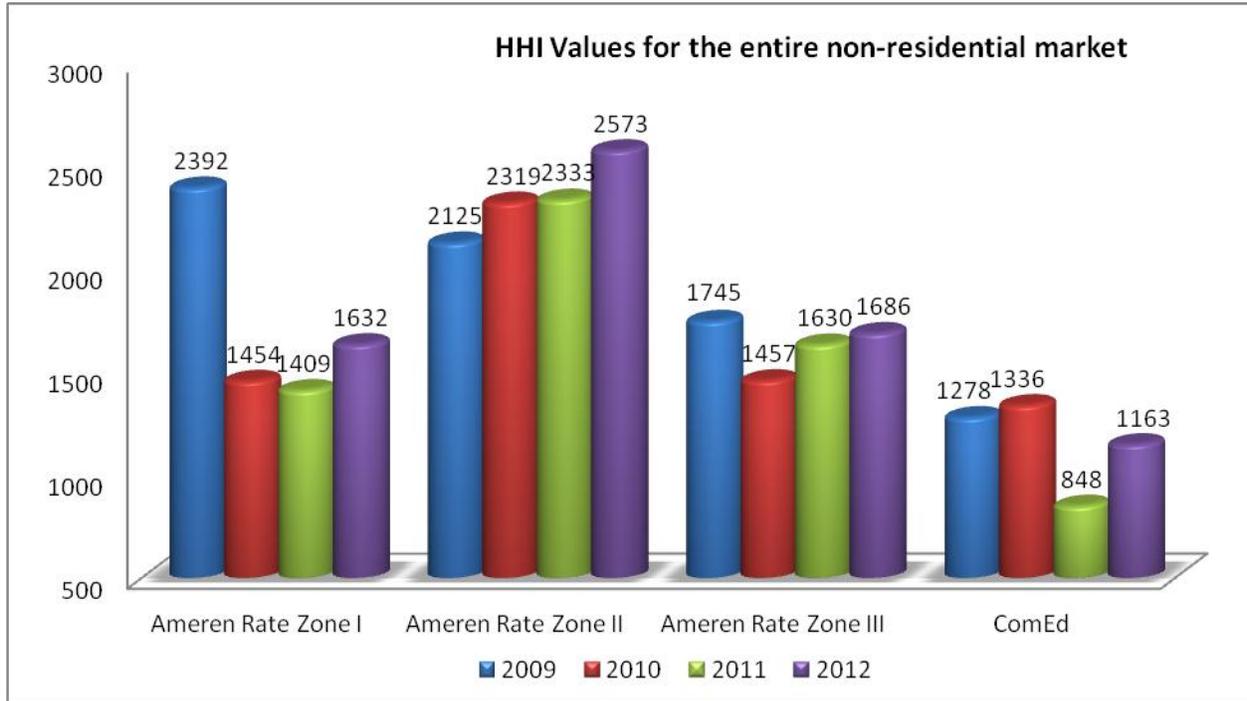
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<sup>11</sup>ICC Docket No. 11-0192.

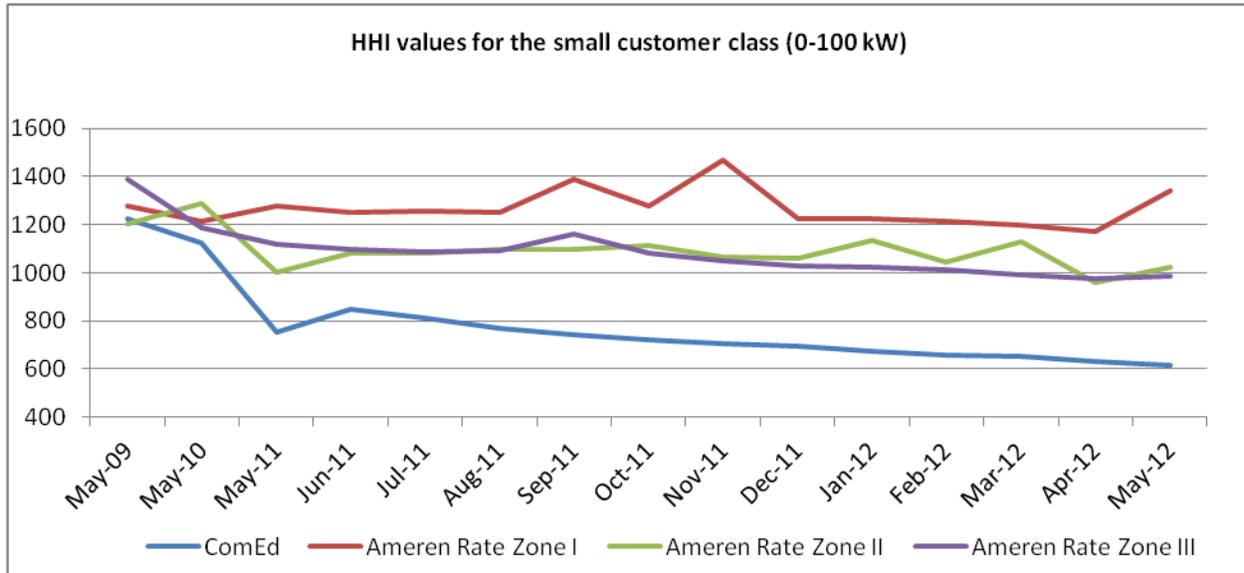
competition among firms in a defined market. In order to put the resulting numbers into perspective, we looked at the revised 2010 Horizontal Merger Guidelines by the Department of Justice (“DOJ”) and the Federal Trade Commission (“FTC”), which divide the spectrum of market concentration into three regions. Generally speaking, the revised guidelines state that the DOJ and the FTC view a market with an HHI below 1,500 as unconcentrated (meaning many similarly sized firms compete for the same customers), a market with an HHI between 1,500 and 2,500 as moderately concentrated, and a market with an HHI above 2,500 as highly concentrated (very few firms dominating the market).

For this exercise, we again excluded retail electric suppliers that provide electric supply only to themselves or their subsidiaries or affiliates. We also need to emphasize that the numbers below reflect only the segment of the non-residential market that has already switched to a competitive supplier. In other words, the market concentration analysis shown here does not include the customers on utility fixed-price service (where available) or utility-provided hourly service.

The first graph shows the HHI values for the total non-residential market among the four utility service areas. While it is unreasonable to assume that all non-residential customer classes are considered to be part of the same market, the overall HHI values shown here display the trend in market concentration from May 2009 to May 2011. The values also allow a relative comparison among the utility service territories. As the graph shows, the ComEd non-residential market is generally less concentrated than the three Ameren Illinois markets. It also shows that ComEd’s total non-residential market has been unconcentrated for all four years shown here. Ameren Illinois’s Rate Zones are generally in the moderately concentrated range of 1,500 to 2,500, with the exception of the 2012 value for Rate Zone II. Overall, the HHI values have gone up from 2011 to 2012. Even though the biggest increase in HHI values occurred in ComEd’s total non-residential market, the 2012 numbers still show it to be a relatively unconcentrated market.



Turning to the individual non-residential customer classes, our analysis shows that the small and medium non-residential customer segments are the least concentrated. This is true for all four utility service areas. The following graph shows the HHI values for the small commercial class, with customers of demand up to 100kW. While the three Ameren Illinois areas show overall higher HHI values than the ComEd area, all of the HHI values are below 1,500, with most values well below that threshold. The graph starts with May 2009, jumps to May 2010, then to May 2011, and then shows the monthly HHI values for the past 12 months.



The next two larger customer segments (customers with demand between 100 and 400kW and customers with demand between 400kW and 1MW) showed somewhat higher market concentration but most HHI values were still below 1,500. Additionally, the HHI values generally declined over the same period (May 2009 to May 2012) and the Ameren Illinois values were usually higher than the corresponding numbers for the ComEd area.

The situation changed more markedly, however, in the market for the largest commercial and industrial customers. While the HHI values for ComEd's 1-10MW demand class as well as the over 10MW demand class have been generally in the 1,400 to 1,800 range, some customer segments in the Ameren territory, however, showed significantly higher HHI values. Most HHI values for the over 1MW demand classes in Ameren Illinois's territory have been in the 2,000 to 2,500 range, with the over 6MW demand class in Ameren Rate Zone II showing HHI values above 4,000.

In sum, according to the revised guidelines by the DOJ and FTC, most non-residential customer segments exhibit HHI values that would classify them as unconcentrated or moderately concentrated markets. The data also reveals that market concentration increases with the size of the non-residential customer and that the Ameren Illinois markets are generally more concentrated than the ComEd market. There appears to be effective competition among the active retail electric suppliers in almost all non-

residential customer segments at this time. The following section on residential activity will provide a residential market share analysis for the first time.

## **7. Residential activity**

In last year's report, we stated that, starting in January 2011, several additional suppliers began offering residential service in the ComEd territory. The report also noted that the ORMD was aware of ten suppliers offering residential service in the ComEd area and a total of at least 22 different service offerings by those suppliers. By the end of May 2011, about 21,000 residential ComEd customers were taking service from a competitive supplier. For Ameren Illinois, the number of residential customers receiving ARES service was less than 200 at that time.

One year later, the residential landscape in Illinois looks quite different. In this year's report, we will attempt to capture the residential activity by looking at four different indicators. We will start by looking at the number of residential customers switching away from the utility supply service in each of the previous twelve months and for each of the utility areas. We will then look at the increase in the number of certified and active suppliers and the number and types of residential offers that those suppliers have posted on our website, PlugInIllinois.org. Third, we will provide a market-share analysis of the residential ComEd market over the last twelve months. Lastly, we provide an estimate of savings (in dollars) realized by the residential customers that have switched from ComEd to an ARES over the last year.

### **a) Customer switching**

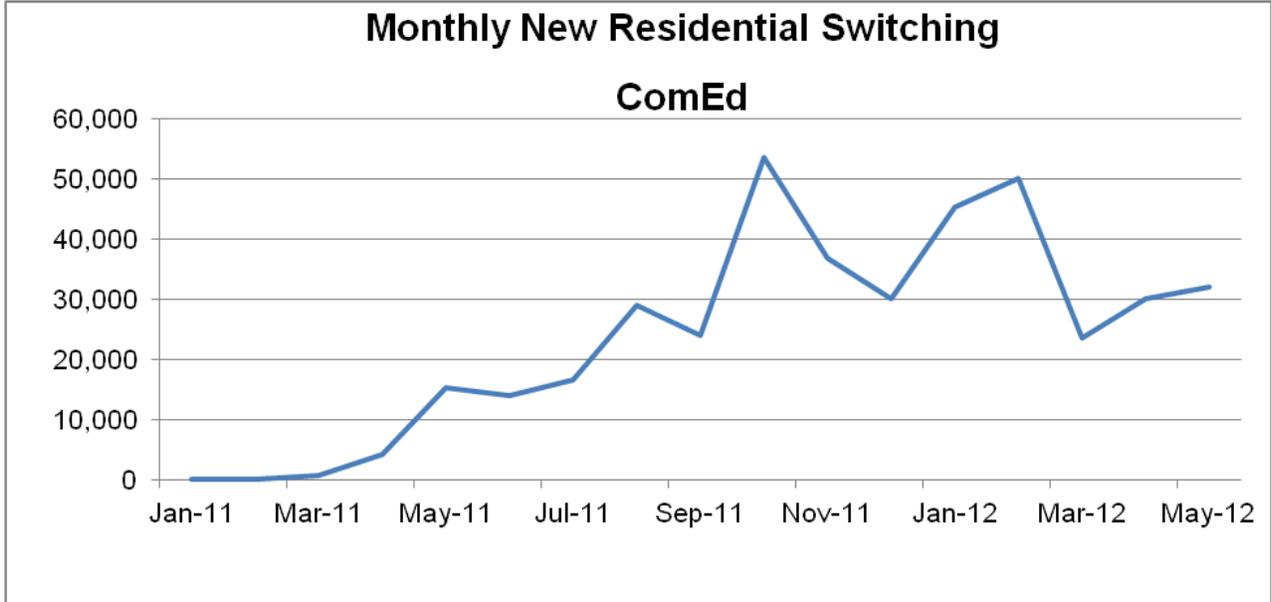
As of the end of May 2012, almost half a million residential customers had switched away from the utility. The following table shows the substantial increase in residential ARES customers over the last twelve months. It shows the number, as well as the percentage, of residential customers who are receiving supply from a competitive supplier.

### Residential Customers on Competitive Supply

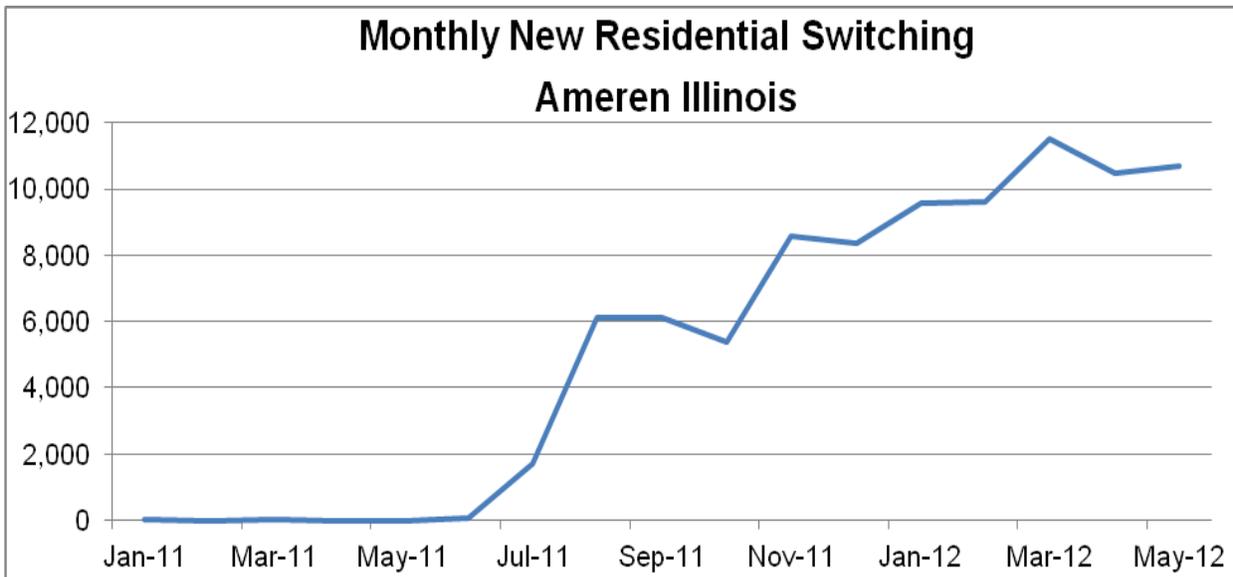
	May 2011	May 2012
Ameren Illinois Rate Zone I:	78	28,459
Ameren Illinois Rate Zone II:	23	12,752
Ameren Illinois Rate Zone III:	72	47,124
ComEd:	21,276	406,144
Total:	21,449	494,479
Ameren Illinois Rate Zone I:	0.02%	8.7%
Ameren Illinois Rate Zone II:	0.01%	6.8%
Ameren Illinois Rate Zone III:	0.01%	8.7%
ComEd:	0.63%	11.9%

Whereas just over half of a percent of ComEd's residential customers had been with a supplier as of May 2011, almost 12% are receiving service from a supplier one year later. Approximately 70,000, or about 17%, of the 406,144 residential ARES customers are part of a municipal aggregation. The number of Ameren Illinois's residential customers on competitive supply increased from negligible numbers to almost 90,000 over the same time period. To look at these numbers in a different way, the switching pace increased from about 58 residential customers per day between May 2010 and May 2011 to about 1,300 residential customers per day between May 2011 and May 2012.

The following two graphs show the monthly residential switching numbers for ComEd and the combined Ameren Illinois service areas.

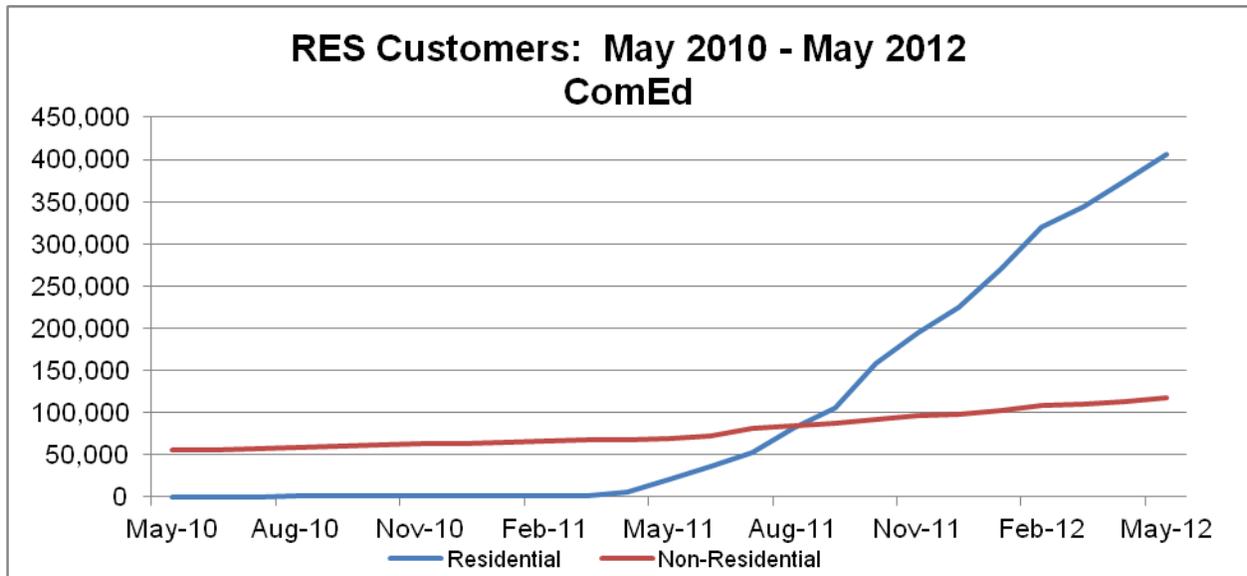


ComEd’s numbers show that since August 2011, the monthly switching rates have consistently been above 20,000 and have reached more than 50,000 in October 2011 and February 2012. The average monthly switching rate for the past twelve months has been approximately 32,000 residential customers.

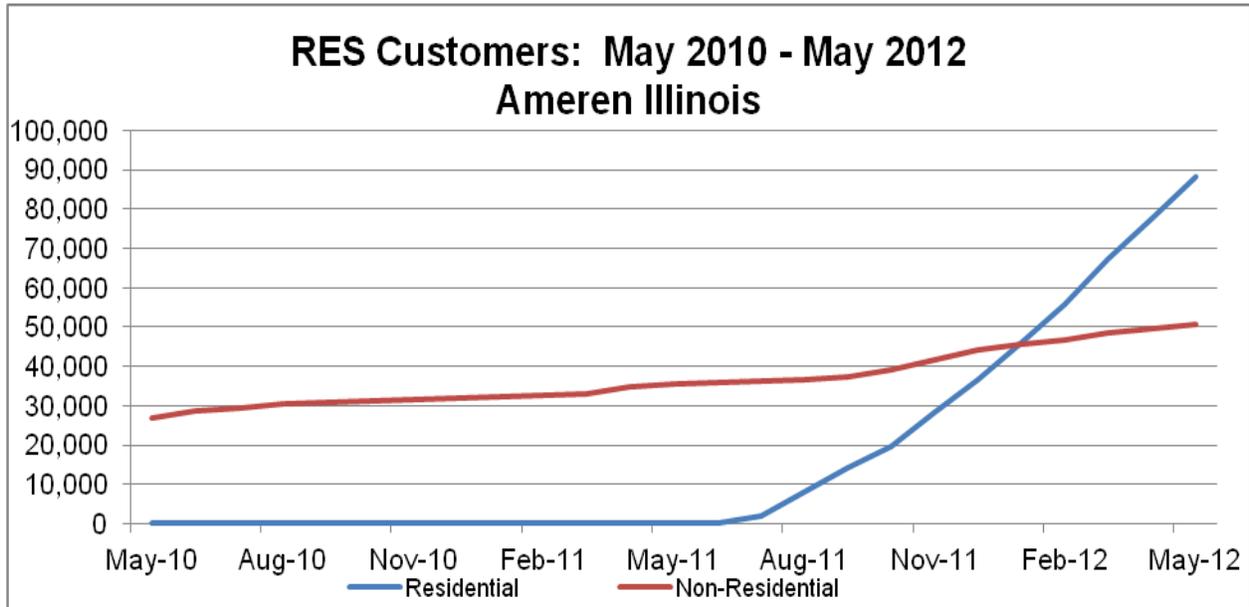


For Ameren Illinois, the residential switching activity started later than in ComEd’s service territory and began in earnest in July 2011. The switching levels generally trend higher from month to month and have been near or above 10,000 customers for every month in 2012 so far. The average monthly switching rate for the past twelve months has been approximately 7,300 residential customers. Compared to ComEd’s monthly switching levels, there has been less variation from one month to the next. This is likely the result of several communities in ComEd’s service area implementing municipal aggregation during the twelve-month period. As is discussed below, there was municipal aggregation activity in Ameren Illinois’s service areas following the March 2012 election, but it is unlikely that any aggregation customers had been switched as of the end of May 2012. As of May 2012, almost 9% of residential customers in Rate Zones I and III, and slightly less than 7% in Rate Zone II, have switched to a competitive supplier.

To demonstrate the substantial increase in residential activity from a different angle, the following graphs show the suppliers’ total non-residential customers in relation to the suppliers’ total residential customers. Depicting the customer levels for the past 24 months, the graphs show that suppliers, in the aggregate, now have more residential than non-residential customers.

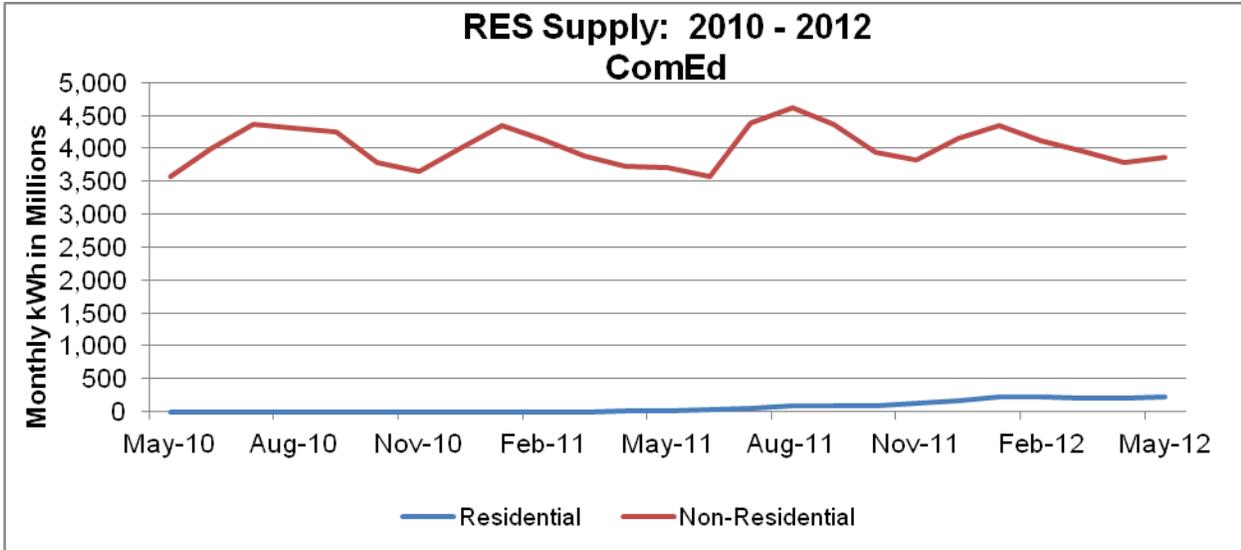


While the number of non-residential customers on competitive supply has been steadily increasing over the two-year period, the number of residential ARES customers has gone from almost zero to about four times the number of non-residential ARES customers. It was during the month of September 2011 when, for the first time, there were more residential than non-residential ComEd customers on competitive supply.

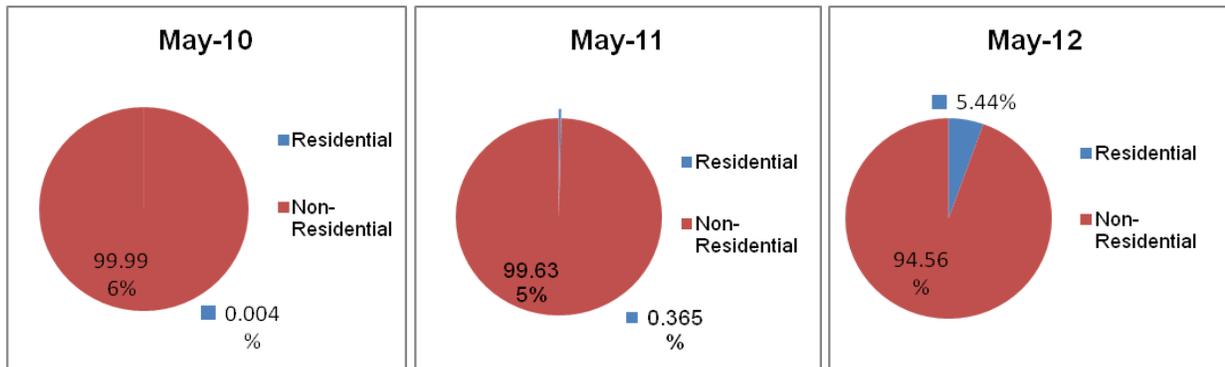


Looking at the same data for the three Ameren Illinois Rate Zones combined reveals the gradual increase in non-residential ARES customers over the last two years in Ameren Illinois’s service territory as well. And while September 2011 saw more residential than non-residential ComEd customers on competitive supply for the first time, January 2012 was the month the number of residential ARES customers had passed the number of non-residential RES customers in the Ameren Illinois service areas.

Of course, looking at the number of customers gives us only a portion of the overall picture. The following charts show that even the recent substantial increase in residential customers has barely made a dent in the competitive residential/non-residential mix when it comes to the amount of electricity (in kilowatt hours (“kWh”)) that is being provided by the suppliers.



### Residential and Non-Residential Share of RES Supply



In terms of monthly kilowatt hours, the active suppliers in ComEd’s service territory have been providing upwards of 3.5 billion kWh per month to their non-residential customers for several years. Even though the number of residential ARES customers is now four times the number of non-residential ARES customers, residential ARES customers made up only 222 million kWh, or less than 6% of the total electricity provided by the competitive suppliers in May 2012.

## b) Active suppliers

Having looked at the customer switching numbers, the following table shows the increase in residential supplier activity over the last twelve months.

<b>Residential Suppliers</b>		
	May 2011	May 2012
ComEd - ICC certified	22	40
ComEd -- active	8	27
Ameren IL - ICC certified	16	26
Ameren IL -- active	3	10

The table above shows that a large number of suppliers that had already received residential ICC certification by May of last year did not actively seek residential customers until recently. Also, eighteen additional suppliers applied for and received a residential certification in the past twelve months. Of note, all suppliers that have (a) a residential ICC certificate and (b) residential customers in the Ameren Illinois areas, also have residential customers in the ComEd area.

An additional indicator of the surge in supplier activity is the number of residential offers posted on PlugInIllinois.org. The "Compare Offers Now" portion of the website went live in July 2011 and has seen a steady stream of additional suppliers and residential offers since that date. The table below shows that the number of suppliers as well as the number of offers by these suppliers has multiplied from July 2011 to May 2012. Most of the activity has been in the ComEd area but customers of Ameren Illinois are starting to get the benefit of being able to choose from a host of residential offers as well.

## Residential Offers Posted on PlugInIllinois.org

Utility Area	# of Suppliers posting in July 2011	# of Suppliers posting in May 2012	# of Offers in July 2011	# of Offers in May 2012
ComEd -- Total	9	20	31	61
Ameren IL - Total	3	6	3	11

Given the large number of residential offers for ComEd customers, we decided to take a closer look at the type of offers posted so far. The following table compares the type of offers posted in July 2011 to the type of offers posted in May 2012.

Type of Residential Offer	# of Offers in July 2011	# of Offers in May 2012
Total	31	61
Fixed	28 (90%)	51 (84%)
Variable	3 (10%)	10 (16%)
Fixed with Early Termination Fee	20 (71%)	34 (67%)
Fixed without Early Termination Fee	8 (29%)	17 (33%)

< than 12-month Term	1 (4%)	6 (12%)
12-month Term	16 (57%)	26 (51%)
13-23 month Term	2 (7%)	3 (6%)
24-month Term	8 (29%)	16 (31%)
> than 24-month Term	1 (4%)	1 (2%)
Green/Renewable	9 (29%)	21 (34%)

The table allows us to make several observations. First, a substantial majority of the offers are fixed price offers. Second, more than eight out of ten fixed offers have either a one-year or two-year term. Merely one offer out of the 61 offers posted in May 2012 has a term longer than two years. Third, about two thirds of the fixed offers have an early termination fee. Fourth, about a third of all offers have a “green”/renewable content higher than what is required by the state’s renewable portfolio standard. Fifth, while the number of offers almost doubled between July 2011 and May 2012, the share of the individual types of offers has generally not changed significantly during that time. The exception is the share of offers with a term of less than one year, which has increased from 4% to 12%.

Besides analyzing the *type* of offers, we thought it would be informative to take a look at the prices for the various posted offers and how those prices might have changed during that same time period. The following table shows the average prices for the different types of offers posted on PlugInIllinois.org. The bottom of the table shows ComEd’s fixed-price supply service rate for the two months in question. The ComEd rates shown include the Purchased Electricity Adjustment (“PEA”).

Type of Residential Offer	July 2011 Average Price (in cents/kWh)	May 2012 Average Price (in cents/kWh)
Fixed	6.81	6.37 (-6%)
Variable	7.67	7.00 (-9%)
Fixed with Early Termination Fee	6.64	6.35 (-4%)
Fixed without Early Termination Fee	6.64	6.32 (-5%)
< than 12-month Term	6.98	6.14 (-12%)
12-month Term	6.65	6.52 (-2%)
13-23 month Term	6.80	6.33 (-7%)
24-month Term	6.57	6.15 (-6%)
> than 24-month Term	6.30	6.30 (no change)
Green/Renewable	7.47	6.98 (-7%)
ComEd Price-to-Compare, incl. PEA	8.42	8.23

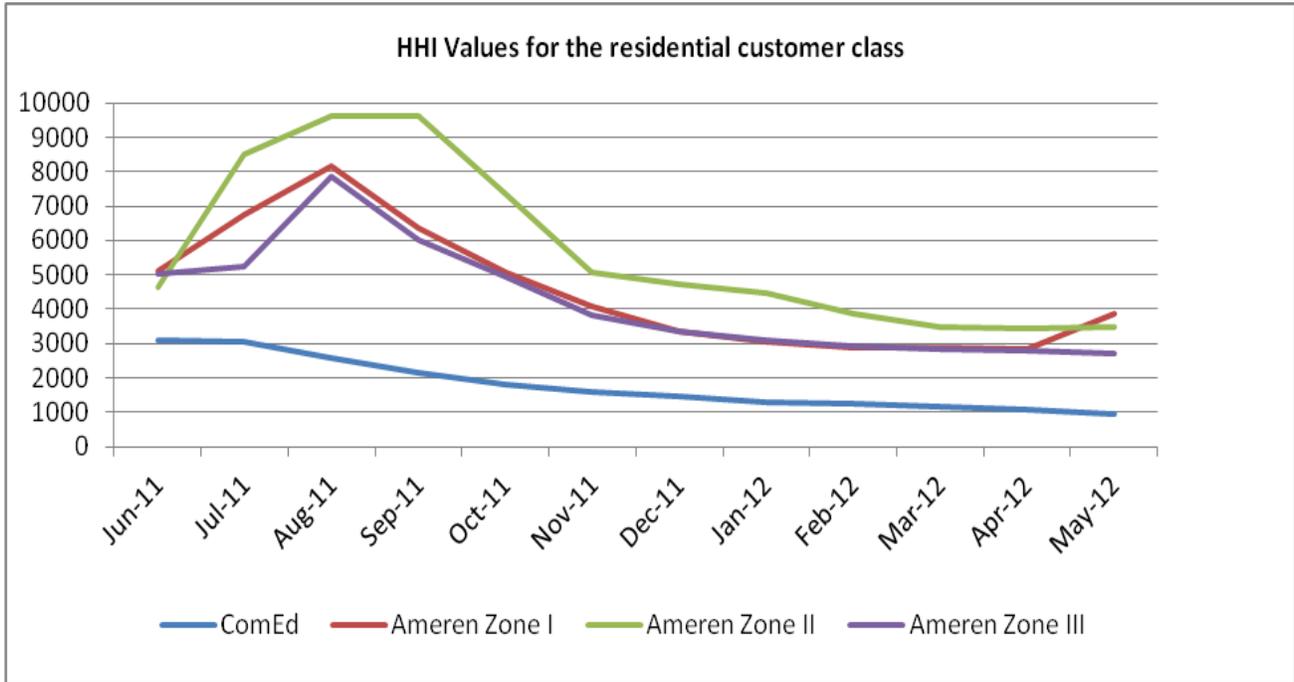
Such a comparison reveals that the average posted price of the various types of offers was well below ComEd's then-effective fixed price bundled service rates. Moreover, the average prices of the posted ARES offers decreased across the board between July 2011 and May 2012. The biggest drop in average prices occurred for offers with a term length of less than twelve months. In addition, the table shows that the average posted price for an offer *without* an early termination fee was not significantly different from the average posted price for an offer *with* an early termination fee. Finally, looking at the average prices for the different term lengths, it shows that the average price for a twelve-month fixed offer was higher than the average price for a 24-month fixed offer. This was true both in July 2011 and in May 2012, with a larger gap in average prices in May 2012.

c) Residential market concentration

As the previous section on supplier activity suggests, currently there is significantly less market concentration in the ComEd residential market than in the Ameren Illinois residential market. However, looking back at the last twelve months, the data also shows that the increased supplier interest in Ameren Illinois' residential market has led to a less concentrated market over time. The following graph shows the monthly HHI values for the residential class in both ComEd and Ameren Illinois' areas from June 2011 to May 2012.<sup>12</sup> Besides revealing that the ComEd residential market is substantially and consistently less concentrated than Ameren Illinois' market, it shows that, with few exceptions, the three Ameren Illinois Rate Zones exhibited lower concentration from one month to the next. While the HHI values were well above 5,000 for all three Rate Zones in 2011, the concentration levels have come down considerably in the first part of this year. In addition, the graph shows that Rate Zones I and III are generally less concentrated than Rate Zone II.

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<sup>12</sup> The HHI values are based on residential usage, rather than number of customers. However, there is not a substantial difference between using number of customers and amount of usage for the market share calculation.



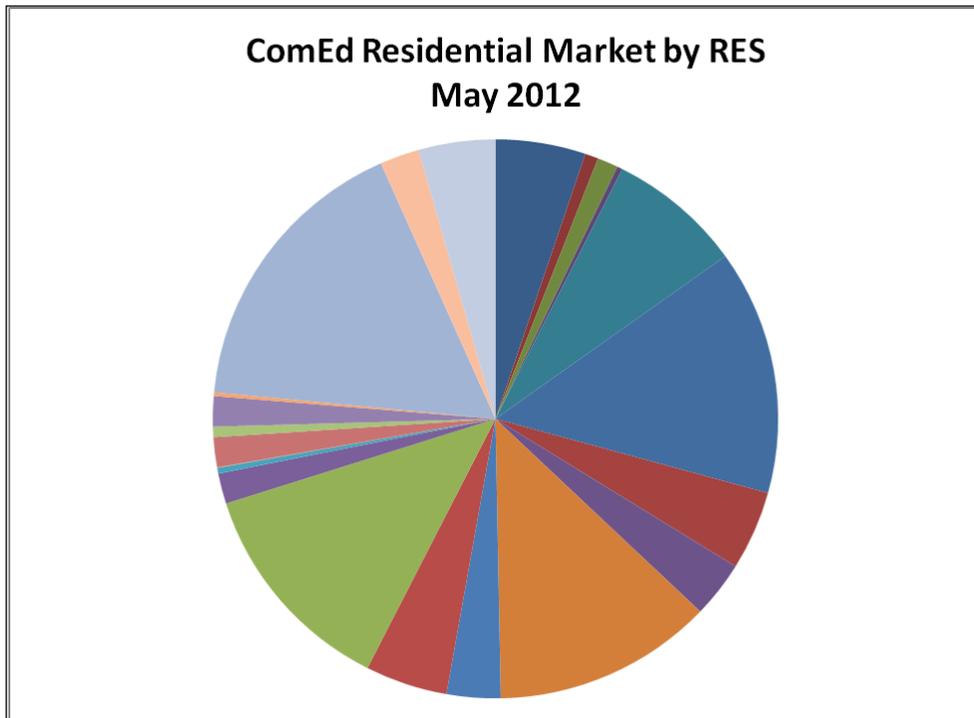
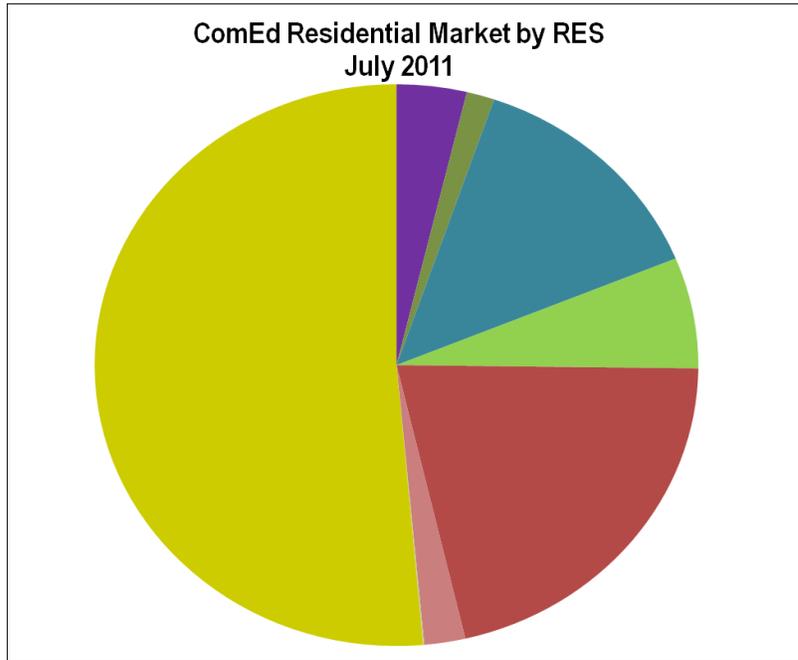
Having looked at the HHI values for the different utility service areas, we decided to take a closer look at the heavily competitive ComEd residential market. The HHI values shown above already tell us that the current market would be considered “unconcentrated” per the DOJ and FTC’s Merger guidelines. The next table amplifies this assessment:

## ComEd Residential Market Shares by Customers

	June 2011	August 2011	October 2011	December 2011	February 2012	May 2012
Share of largest 3 suppliers	86%	72%	66%	57%	53%	44%
# of suppliers with customers	8	12	16	18	20	27
# of suppliers with >15% share	2	1	2	2	3	1
# of suppliers with >5% share	2	3	3	5	4	5
# of suppliers with <5% share	4	8	11	11	13	21

It shows that the market share of the three suppliers with the highest market share (in terms of residential customers) basically halved between June 2011 and May 2012 (decreasing from 86% to 44%). What the table does not show, however, is that the three “largest” suppliers in a particular month were not always the same suppliers during this time period. What the table does show is that, as of May 2012, a large majority of the suppliers had individual market shares of less than 5% (21 out of 27 suppliers). Only one supplier had a market share above 15% and five suppliers had a market share between 5% and 15%. Finally, the table reveals how the market saw the number of suppliers with residential customers increase from eight to 27 over the course of twelve months.

The two pie charts below are the most striking visual representation of this increased supplier diversity. The first chart shows the make-up of ComEd’s residential market in July 2011 and the second chart shows the composition as of May 2012.



**d) Residential Savings Estimate**

While there are probably a variety of reasons residential customers switch from a utility's default supply service to a supplier's offering, it is likely that the opportunity to save money is a primary reason for many residential customers. In order to calculate how much residential customers have saved by switching away from the utility, one needs at least three different sets of data: 1) the rate the customers would have paid under the utility's default rate, 2) the rate the customers actually paid under the supplier's rate, and 3) the amount of electrical usage each supplier provided to their customers. Monthly reports from ComEd and Ameren Illinois provide us with the necessary usage information, and the utilities' default rates, also called the Price-to-Compare ("PTC"), are tariffed rates. As for the suppliers' prices, simply looking at the various posted offers will not be sufficient because most suppliers have multiple offers for residential customers, even for the same utility service territory. Responding to a Staff Data Request, most suppliers provided us with monthly average residential rates for the past twelve months.

In order to keep this initial savings estimate fairly straight forward, we decided to limit it to residential customers in the ComEd area. Ameren Illinois's rate structure, while more streamlined as a result of recent tariff changes, contains non-summer rates that vary with a customer's usage. This would have necessitated further average usage assumptions and we decided against doing so for this year's report.

The following table shows the results of our residential savings estimate for ComEd customers:

	<b>Monthly Savings compared to ComEd's PTC</b>	<b>Monthly Savings inclusive of the PEA Impact</b>	<b>Monthly PEA Impact</b>	<b>Monthly Average Savings compared to ComEd's PTC (in cents per kWh)</b>	<b>Monthly Average Savings inclusive of the PEA (in cents per kWh)</b>
June 2011	\$255,293	\$349,039	\$93,746	0.882	1.206
July 2011	\$502,260	\$778,145	\$275,885	0.910	1.410
August 2011	\$956,507	\$1,429,718	\$473,211	1.011	1.511
September 2011	\$884,986	\$1,331,358	\$446,371	0.991	1.491
October 2011	\$844,688	\$1,309,784	\$465,096	0.908	1.408
November 2011	\$1,048,318	\$1,293,767	\$245,449	0.769	0.949
December 2011	\$1,502,112	\$1,285,104	-\$217,008	1.045	0.894
January 2012	\$2,247,509	\$3,226,106	\$978,597	1.079	1.549
February 2012	\$2,240,491	\$3,360,753	\$1,120,261	1.000	1.500
March 2012	\$2,193,423	\$3,249,138	\$1,055,715	1.039	1.539
April 2012	\$2,178,678	\$3,176,113	\$997,435	1.092	1.592
May 2012	\$2,365,072	\$3,453,785	\$1,088,713	1.086	1.586
<b>Totals</b>	<b>\$17,219,337</b>	<b>\$24,242,809</b>	<b>\$7,023,472</b>		
<b>Average</b>	<b>\$1,434,945</b>	<b>\$2,020,234</b>	<b>\$585,289</b>	<b>0.984</b>	<b>1.386</b>

For the twelve-month period from June 2011 to May 2012, it is estimated that the total savings amount to approximately \$24 million. As the table shows, most of the savings occurred in the first five months of 2012, with all of these months showing aggregate savings of \$3 million or higher.

To break down the total savings estimate further, the data shows that about \$17 million of the \$24 million in savings result from comparing the suppliers' average rate to ComEd's Price-to-Compare, as it is described on PlugInIllinois.org. The ComEd PTC is comprised of the Electric Supply Charge and the PJM Transmission Services Charge. The remaining \$7 million in savings result from the application of the Purchased Electricity Adjustment for ComEd supply customers. During the twelve months from June 2011 to May 2012, the Purchased Electricity Adjustment was a credit for one month (in December

2011) and a charge for eleven months. In eight of those eleven months, the Purchased Electricity Adjustment was a charge of 0.5 cents per kWh.

Lastly, the calculations show that the average savings per kWh during this one-year period was close to 1 cent when compared to ComEd's Price-to-Compare and close to 1.4 cent when taking into account the Purchased Electricity Adjustment.

Given the recent substantial municipal activity and some announced residential rates of well-below 5 cents per kWh (see next Section below), it is likely that the total residential savings for the June 2012 to May 2013 period will dwarf the savings estimate shown here.

### **C. Municipal Aggregation**

Effective January 1, 2010, Public Act 96-0176 amended the Illinois Power Agency Act ("IPA Act") by allowing municipalities and counties to adopt an ordinance under which it may aggregate electrical load. Specifically, it allows municipal corporate authorities or county boards to adopt an ordinance under which it may aggregate residential and small commercial retail electrical loads located within their jurisdiction and solicit bids to enter service agreements for the sale and purchase of electricity and related services and equipment.

The law requires the corporate authorities of a municipality or county board to submit a referendum to its residents to determine whether or not the aggregation program shall operate as an opt-out program for residential and small commercial customers prior to the adoption of an ordinance for the aggregation of these loads.

Effective August 12, 2011, Public Act 97-0338 amended Section 1-92 of the IPA Act, the section that implemented municipal and county authority to aggregate and discussed above, to add a requirement that the customer account number be provided by the electric utility to the corporate authority or county board.

Municipal aggregation activity increased dramatically this year, with 306 communities placing an opt-out aggregation referendum on the March 20, 2012 election ballot and 245 of those referendums passing. The pace with which the aggregation programs are being implemented has also picked up compared to last year. Whereas only one community had selected a supplier as of the time of last year's annual report, about

eight out of ten communities with a March 20, 2012 referendum have announced the aggregation terms and the selected supplier. Many of these communities are hoping to see their residents' electric supply savings on the June or July 2012 monthly bills. The following table compares the municipal aggregation activity from this year to last year:

### Municipal Aggregation Statistics

	April 2011	March 2012
Referendums Passed	20	245
Aggregation Programs Announced or Implemented	19	200*
# of "winning" suppliers -ComEd	4	7*
# of "winning" suppliers -Ameren Illinois	N/A	3*
Average Rate - ComEd	5.81	4.87*
Average Rate - Ameren Illinois	N/A	4.10*

\* As of June 29, 2012

The table above shows that the number of communities passing an opt-out aggregation referendum in 2012 is more than twelve times the number of communities that did so in 2011. The number of different "winning" suppliers, meaning the aggregation suppliers being selected by the community leaders, has increased from four last year to eight this year. Two of the three selected aggregation suppliers in the Ameren Illinois areas have also been selected in ComEd's service area. The data gathered from publicly available information shows that the simple average electric supply rate of the communities with announced or implemented aggregation programs has decreased from 5.81 cents per kWh to 4.87 cents per kWh between 2011 and 2012.<sup>13</sup> While the aggregation rates associated with

<sup>13</sup> The information for the 2012 aggregation programs is reflective of data that was available as of June 29, 2012. Updated information can be found at <http://www.icc.illinois.gov/ORMD/MunicipalAggregation.aspx>.

the March 2012 referendums are generally lower than the individual retail offers by the suppliers, it is worth noting that there are currently some individual ARES offers with rates that are lower than some of the 2011 opt-out aggregation rates following the April 2011 referendums. This general downward trend in supply prices is also described in Section II.7.b above.

Immediately before and after the March 20, 2012 referendum date, the ORMD, the IPA, Ameren Illinois, and ComEd jointly hosted a series of webinars for leaders of communities that are pursuing opt-out aggregation. The webinars, which can be found on the ORMD's webpage at <http://www.icc.illinois.gov/ORMD/ORMDWebinars.aspx>, were aimed at informing community leaders, consultants and suppliers about the statutory requirements for municipal aggregation as well as the utilities' operational procedures for releasing customer information. Three webinars were held for communities in the ComEd territories and two webinars were held for communities in the Ameren Illinois territories.

On the regulatory side, ComEd had filed a tariff to establish its Government Aggregation Protocols ("Rate GAP") in March 2011. On April 12, 2011 the Commission voted to not suspend ComEd's filing and the tariff took effect on April 17, 2011. However, during the 45-day period between ComEd's filing of the tariff and its effective date, the Commission received a number of comments concerning the proposed filing.

As a result of these stated concerns, on May 18, 2011, the Commission ordered an investigation of ComEd's tariff. The tariff investigation, ICC Docket No. 11-0434, concluded with a final Order issued on April 4, 2012. Among other things, the final Order directed Staff to present its findings with respect to the Commission's rulemaking authority regarding additional municipal aggregation issues. Subsequently, Staff did present the Commission with a memo that (a) finds that the Commission has authority to promulgate further rules and (b) that commits Staff to present the Commission with a Staff Report and draft Initiating Order by August 1, 2012.

On March 1, 2012, Ameren Illinois filed a tariff, similar to ComEd's Rate GAP tariff, that describes the process by which Ameren Illinois provides the required information to the requesting community pursuant to Section 1-92 of the IPA Act. The Commission did not suspend the tariff and it became effective on April 15, 2012.

### III. Public Act 95-0700

In 2007, the Illinois General Assembly passed a law designed to remove certain barriers to competition for residential and small commercial electric customers in Illinois. The provisions of this law, Public Act 95-0700, require ComEd and Ameren Illinois to offer utility consolidated billing (“UCB”) and the purchase of receivables (“POR”). Under UCB, an ARES electronically submits its monthly customer charges for power and energy to the utility which then places those charges, along with its delivery charges, on one single bill to the customer. Under POR, an ARES is able to sell its receivables (the amount that customers owe to that ARES) to the utility at a discount. The POR requirement encourages alternative suppliers to offer their services to every utility customer rather than serve only those above certain credit thresholds, thereby furthering the statutory goal of an “effectively competitive retail electricity market that operates efficiently and benefits *all* Illinois consumers.”

While Sections 16-118(c) (POR) and 16-118(d) (UCB) appear to be separate and distinct requirements, the utilities have so far focused on an offering that would combine the purchase of receivables with the provision of utility consolidated billing. That is, if a supplier enrolls a customer with utility consolidated billing, the supplier then also has to sell the corresponding receivables to the utility at a discount. Because the POR provision in Section 16-118(c) is limited to customers with a demand of less than 400 kilowatts, this combination of utility consolidated billing with the purchase of receivables is therefore also limited to customers with a demand of less than 400 kilowatts.

Ameren Illinois filed tariffs in September 2008 to effectuate the offering of a combined UCB/POR service per Sections 16-118(c) and (d) of the Act. The Commission approved Ameren Illinois’s modified tariffs on August 19, 2009 and UCB/POR service was available to suppliers in Ameren Illinois’ service territory in October 2009. As of May 31, 2012, seven suppliers were using Ameren’s UCB/POR service for residential customers and eight suppliers were using UCB/POR for non-residential customers. ComEd filed its tariffs on January 20, 2010, offering a combined purchase of receivables with consolidated billing service and the Commission approved ComEd’s modified tariffs on December 15, 2010. As of May 31, 2012, 26 suppliers were using ComEd’s UCB/POR service for residential customers (up from five at the time of this report last year) and 25 suppliers were using

UCB/POR service for non-residential customers (up from 12 at the time of this report last year).

According to ComEd's first annual report on the usage of its UCB/POR offering, close to one million utility consolidated bills have been issued in calendar year 2011. Given the \$0.50 per bill charge to suppliers for using this option, close to \$500,000 in revenues have been collected from participating suppliers in 2011. Approximately \$61 million in total discounted receivables have been purchased by ComEd during this time period, with an average amount of \$67 per purchased monthly receivables.

While virtually all suppliers are currently using UCB/POR for their residential customers, it is worth noting the widespread use of UCB/POR in the non-residential classes as well. By reviewing ComEd's monthly data, we are able to compare the number of new UCB/POR customers in a particular customer class to the number of total new ARES customers for that customer class. Analyzing the June 2011 to May 2012 time period, it shows that suppliers are using UCB/POR for all non-residential customers for which it is available, meaning the Watt-Hour<sup>14</sup>, the 0-100kW, and the 100-400kW customer class. For the Watt-Hour class, the ratio of new UCB/POR customers to total new ARES customers has generally been in the 60-80% range, with the ratio being over 100% in some months. A monthly ratio exceeding 100% means that existing ARES customers have been converted to utility-consolidated billing during that month. For the 0-100kW class, the ratio of new UCB/POR customers to total new ARES customers has generally been, with a couple of exceptions, 80% or higher, with the ratio exceeding 100% in a few months. Even for the 100-400kW class, usually considered medium-sized customers, the ratio of new UCB/POR customers to total new ARES customers has been, on average, around 40% during the past twelve months.

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<sup>14</sup> The Watt-Hour class consists of small commercial customers for which no metering equipment or only watt-hour metering equipment is installed at the customer's premises. Generally, a customer in this supply group uses less than 2,000 kWh during a monthly billing period.

## **IV. Additional Consumer Protections and Education**

### **A. Plug In Illinois**

PluginIllinois.org is the Commission's electric choice education website aimed at providing residential and small commercial customers with a better understanding of their electric supply options. Public Act 97-0222, which became effective in July 2011, amended Section 16-117 of the Public Utilities Act, requiring the Commission to maintain a consumer education information program to help residential and small commercial customers understand their service options in a competitive electric services market. This legislation required the ORMD to review the existing consumer education information available and consider whether updates are necessary. As a result, the ORMD sought input from interested parties, including the suppliers, electric utilities, the Attorney General, and the Citizen's Utility Board, to further its review of the consumer education materials and possible proposed changes. Additionally, Public Act 97-0222 required Ameren Illinois and ComEd to include the PluginIllinois.org internet address on its monthly bill. In May 2012, both ComEd and Ameren Illinois started sending out monthly bills with this new information. The law also requires all suppliers to provide the PluginIllinois.org website address to residential and small commercial customers.

As a result of the feedback from the interested parties, the ORMD recently implemented several updates to PluginIllinois.org. These changes include updated information about the Low Income Energy Assistance (LIHEAP) and Percentage of Income Payment Plan (PIPP) programs, and how switching to a supplier might affect benefits under these programs. Further, updated and expanded information was added to better explain the residential real time pricing programs (RRTP) offered by both Ameren Illinois and ComEd.

With the substantial increase in the number of communities passing referendums to implement opt-out aggregation programs, the ORMD added a new list of frequently asked questions about municipal electric aggregation. This list of FAQs aims to answer basic questions for customers in communities pursuing aggregation, including what action a person must take in the case of either opt-in or opt-out programs in order to affirm their choice of energy supplier. The list of FAQs also contains links to two separate lists of communities. The first list includes communities that have chosen an aggregation supplier and have implemented the aggregation program. This list shows the chosen supplier, the

aggregation rate in cents/kWh, and the term of the contract. The second list includes communities that have passed a referendum to authorize an opt-out aggregation but for which no aggregation program has been announced yet.

Also, the ORMD added a new section to PlugInIllinois.org, entitled “Customer Complaint Statistics”. This section provides so-called complaint scorecards, which rank suppliers by their rate of complaints compared to the average rate of complaints for the entire residential market. ARES are grouped into three groupings of approximately equal size (lower than average complaint rate, average complaint rate, higher than average complaint rate), based on a six-month rolling average of complaint rates per 1,000 customers.

In addition to the recent updates to PlugInIllinois.org, the ORMD maintains the Price to Compare information for customers of Ameren Illinois and ComEd. The Price to Compare for ComEd combines ComEd’s Electric Supply Charge with the Transmission Services Charge to provide customers a price (in cents per kWh) to compare with ARES offers. Similar to ComEd, Ameren Illinois’ Price to Compare combines Ameren Illinois’ Electricity Supply Charges, including the Supply Cost Adjustment, with the Transmission Service Charge to come up with a price Ameren Illinois customers can compare to supplier offers. PlugInIllinois.org also provides a Price to Compare for Ameren Illinois’s and ComEd’s designated space heat customers to clearly demonstrate the difference in the rates and the fact that space heat customers may not always save money by switching to a supplier offer.

## **B. Offer Comparison Matrix**

In July 2011, the ORMD added an offer comparison matrix to PlugInIllinois.org. The offer comparison matrix, available through the “Compare Offers Now” link, prompts customers to select their utility service area to see the suppliers’ offers available in their area, and it allows them to compare the offers to their utility rate as well as to each other. For each offer posted, the offer comparison matrix displays the supplier’s logo, which is also a link to the supplier’s website, as well as the particular offer name, which links to further offer-specific information on the supplier’s website. The offer comparison matrix lists the price in cents per kWh, any potential additional monthly fees, the term in months, any

possible early termination fees, and a brief description of the offer. It also lists the offer's cost for monthly usage levels of 500, 1,000 and 1,500 kWh. Customers are also able to sort the offers by supplier, by price, or by the length of the term. As of June 29, 2012, there are six to nine supplier offers for Ameren Illinois residential customers (depending on the Rate Zone) and 63 supplier offers for ComEd residential customers.

#### **V. Suggested Administrative and Legislative Action**

As mentioned in the Municipal Aggregation section above, Staff anticipates a new Commission rulemaking that addresses additional municipal aggregation issues. Such a rulemaking is a great venue to provide all interested parties with an opportunity to discuss policy and legal issues surrounding municipal aggregation and to propose solutions to those issues. If however, for whatever reason, the rulemaking is not able to fully address all items that, in the ORMD's judgment, deserve resolution, the ORMD will work with interested parties and the General Assembly to resolve any remaining issues legislatively.