

REDACTED
REBUTTAL TESTIMONY
OF
SHEENA KIGHT

FINANCE DEPARTMENT
FINANCIAL ANALYSIS DIVISION
ILLINOIS COMMERCE COMMISSION

ILLINOIS POWER COMPANY
AND
AMEREN CORPORATION

Confidential Information Identified As

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DOCKET NO. 04-0294

AUGUST 13, 2004

1 **Q. Please state your name and business address.**

2 A. My name is Sheena Kight. My business address is 527 East Capitol
3 Avenue, Springfield, Illinois 62701.

4 **Q. Are you the same Sheena Kight who previously testified in this**
5 **proceeding?**

6 A. Yes, I am.

7 **Q. Please describe the purpose of your testimony.**

8 A. The purpose of my rebuttal testimony is to comment on the rebuttal
9 testimony of Applicants' witness Mr. Jerre Birdsong, who testified on behalf
10 of Ameren Corporation ("Ameren") regarding the acquisition by Ameren of
11 Illinois Power Company ("IP") (Applicants' Ex. 22.0).

12 **Q. Please evaluate Mr. Birdsong's rebuttal testimony.**

13 A. Mr. Birdsong's rebuttal testimony contained no information or analysis that
14 would cause me to change my opinion regarding the termination of the
15 common dividend restriction imposed in Docket No. 02-0561 or the
16 restriction on IP's ability to lend to the Ameren Utility Money Pool ("Utility
17 Money Pool"). However, Mr. Birdsong did provide a unilateral money pool
18 agreement ("Unilateral Money Pool") between Ameren and IP as required
19 under 83 IL Adm. Code Part 340. Accordingly, Ameren should be allowed

20 to provide short-term financing to IP under the terms of the Unilateral Money
21 Pool. Short-term borrowing by IP from the Utility and Unilateral Money
22 Pools should not exceed \$500 million.

23 **RESPONSE TO MR. BIRDSONG**

24 **Termination of Common Dividend Restriction**

25 **Q. Please respond to Mr. Birdsong's assertion that IP will have access to**
26 **over \$1.1 billion in liquidity.¹**

27 A. The basis for the \$1.1 billion figure to which Mr. Birdsong's rebuttal
28 testimony repeatedly refers is unclear since the Applicants proposed to limit
29 IP's short-term borrowing capacity to \$500 million.²

30 **Q. Please respond to Mr. Birdsong's argument that Section 7-103 of the**
31 **Public Utilities Act ("Act") gives the Illinois Commerce Commission**
32 **("Commission") "broad authority over the payment of dividends"**
33 **should it conclude that IP's capital is impaired or would become**
34 **impaired after the closing of this acquisition.³**

35 A. The Applicants wish to have the dividend restriction lifted based on their
36 assertion that after the acquisition, IP will no longer be impaired.⁴

37 Therefore, the Applicants need to prove that IP can resume common

¹ Applicants' Ex. 22.0, pp. 5, 6, and 12.

² *Ibid*, p. 15.

³ *Ibid*, p. 7.

⁴ Applicants' Ex. 22.0, p. 3-4.

38 dividend payments without violating Section 7-103 of the Act. Mr. Birdsong
39 has not demonstrated that one investment grade credit rating is an infallible
40 indicator that IP will be able to resume common dividend payments without
41 violating Section 7-103 of the Act. Given that the success of Ameren's
42 proposed recapitalization of IP is uncertain and that, in any event, it will take
43 time to restore IP's financial health,⁵ the Commission should not lift the
44 common dividend restriction before the Applicants demonstrate that IP's
45 resumption of common dividend payments would not violate Section 7-103
46 of the Act.

47 **Q. Please comment on Mr. Birdsong's argument that the defeasance**
48 **component of your alternative option for lifting the common dividend**
49 **restriction on IP would raise the cost to redeem IP's 11.5% first**
50 **mortgage bonds ("11.5% bonds") because the Applicants will have to**
51 **go to the market to redeem more of that issue.**⁶

52 A. Mr. Birdsong's argument is without merit. The Applicants have already
53 committed to extinguishing IP's 11.5% bonds by December 2006.⁷
54 Defeasance of the 11.5% bonds ensures that the Company will complete
55 this commitment. Further, defeasance should not significantly raise the cost
56 to redeem the 11.5% bonds since Applicants have already stated publicly
57 that they would eliminate those bonds.⁸

⁵ Applicants' Ex. 13.1

⁶ Applicants' Ex. 22.0, p. 8.

⁷ *Ibid*, p. 8.

⁸ *Ibid*, p. 8.

80 A. No. Although the 11.5% bond issue cannot be mandatorily redeemed in its
81 entirety until December 2006, defeasance can be accomplished at any time.
82 Thus, a condition requiring defeasance of the 11.5% bonds need not delay
83 IP's resumption of common dividend payments.

84 **Q. Please comment on Mr. Birdsong's assessment that the logic behind**
85 **your common dividend restriction alternative option, which would**
86 **require Ameren to maintain an investment credit rating for IP to**
87 **resume common dividend payments, would lead to the restriction of**
88 **common dividends on all utility subsidiaries of holding companies**
89 **over which the Commission has jurisdiction "...because no parent**
90 **corporation's financial strength can be guaranteed."**¹¹

91 A. Mr. Birdsong misconstrues my testimony on that subject. The credit rating
92 requirement is specific to this case and is not intended as a general
93 requirement for utility subsidiaries to pay common dividends. Mr. Birdsong
94 incorrectly implies that my alternative option is a basis for restricting
95 common dividends. To the contrary, I have proposed an alternative method
96 for canceling IP's common dividend restriction; IP is already prohibited from
97 paying common dividends. In addition, Ameren will only have to maintain
98 an investment credit rating if IP wants to pay common dividends without
99 having met the requirements imposed in Docket No. 02-0561.

100 My proposed alternative conditions are consistent with Ameren's argument
101 that its credit strength justifies lifting the current prohibition on IP common

¹¹ Applicants' Ex. 22.0, p. 9.

102 dividends. If Ameren's credit ratings fall below investment grade before the
103 Commission permits IP to resume payment of common dividends, then an
104 important part of Ameren's justification for lifting that prohibition is lost.
105 Ameren's role in restoring IP's financial strength is evident in its plans to
106 infuse \$***x x x x x*** through equity contribution into IP.¹² In addition,
107 Ameren will also provide common equity capital and short-term loans to IP.
108 As such, Ameren's maintenance of an investment grade credit rating is an
109 integral part of IP's financial recovery. It would be illogical for the
110 Commission to lift IP's common dividend restriction on the basis of
111 Ameren's financial strength without any provision for the possibility that
112 Ameren weakens financially.

113 **IP's Participation in the Utility Money Pool**

114 **Q. Please comment on Mr. Birdsong's argument that IP should be able to**
115 **lend to the Utility Money Pool because it will have cash surpluses from**
116 **time to time.¹³**

117 A. Although IP may have surpluses from time to time, the Applicants
118 acknowledge that IP will be a net borrower. IP only had cash surpluses on
119 15 days since August 2003.¹⁴ As such, on the few days on which IP has
120 surplus cash, it can use the unilateral money pool instead of the Utility
121 Money Pool to invest those surplus funds.¹⁵ Since both money pools are

¹² Applicants' Exhibit 13.1.

¹³ Applicants' Ex. 22.0, p. 11.

¹⁴ Applicants' response to data request FIN 12.01.

¹⁵ In its present form, the Utility Money Pool agreement would not permit IP to invest its surplus cash in the pool, even if the Commission limited IP to a borrower only status. The current Utility

122 administered by Ameren Services Company, IP's surplus cash will be
123 managed by the same company that provides this service to the other
124 Ameren subsidiaries.

125 **Q. Please respond to Mr. Birdsong's argument that the Utility Money Pool**
126 **agreement should be acceptable since it meets the money pool**
127 **rules.¹⁶**

128 A. The money pool rules set forth minimum requirements governing the
129 operation of, and participation in, money pools. The Commission reserved
130 authority to impose further restrictions it deems necessary. 83 IL Adm.
131 Code Section 340.10(c) states:

132 This part shall not limit the Commission from imposing
133 conditions on its approval of a money pool agreement as it
134 may deem necessary to safeguard the public interest. These
135 conditions include, but are not limited to, imposing higher
136 eligibility requirements for affiliates to borrow from utilities,
137 *further restricting the amount of utility funds available for*
138 *lending*, or requiring repayment of utility funds under specific
139 circumstances. (*Emphasis added*)

140 Clearly, a condition that prohibits IP from lending to other parties to the
141 Utility Money Pool remains within the Commission's authority if it deems it
142 necessary to safeguard the public interest.

Money Pool agreement specifies that only funds not needed for lending or liquidity requirements will be invested. Therefore, IP's surplus cash would first be used for lending before the funds would be considered for investing.

¹⁶ Applicants' Ex. 22.0, p. 11.

143 **Q. Please comment on Mr. Birdsong’s argument that IP should be**
144 **allowed to be a full participant in the Utility Money Pool**
145 **because Ameren has already told rating agencies that IP will**
146 **“...participate in the money pool on the same basis...” as the**
147 **other subsidiaries.¹⁷**

148 A. That is irrelevant. Rating agencies are not responsible for ensuring
149 that Illinois public utilities can provide “...adequate, efficient,
150 reliable, environmentally safe and least-cost public utility services at
151 prices which accurately reflect the long-term cost of such services
152 and which are equitable to all citizens.”¹⁸ Further, the Applicants’
153 premature conveyance to a rating agency that IP will be a full
154 participant to the Utility Money Pool does not obligate the
155 Commission to approve it.

156 **Q. Please comment on Mr. Birdsong’s argument that the SEC**
157 **may not look favorably on IP being restricted to only**
158 **borrowing.¹⁹**

159 A. The Commission should not base its decision on IP’s participation
160 in the Utility Money Pool on Mr. Birdsong’s speculation on what the
161 SEC may or may not decide. Regardless, even if the SEC rejects
162 IP’s request to participate in the Utility Money Pool as a borrower
163 only, then IP may raise short-term debt through the unilateral

¹⁷ *Ibid*, p. 12.

¹⁸ 220 ILCS 5/ 1-102.

¹⁹ Applicants’ Ex. 22.0, p. 13.

164 money pool agreement, which provides IP the same borrowing
165 capacity.

166 **Q. Please comment on Mr. Birdsong's argument that investing in**
167 **the Utility Money Pool typically earns greater returns than**
168 **investing elsewhere, therefore restricting IP from lending**
169 **"would further harm IP's financial condition."²⁰**

170 A. 83 IL Adm. Code Section 340.50 limits the investment of surplus
171 cash not required for lending. Both the Utility Money Pool and the
172 Unilateral Money Pool must comply with that section, as such each
173 money pool has the same investment opportunities. The Utility
174 Money Pool charges borrowers the CD yield equivalent of the 30-
175 day Federal Reserve "AA" non-financial commercial paper
176 composite rate on funds provided by money pool participants.
177 Therefore, any difference in earning potential must be attributed to
178 the difference between the 30-day Federal Reserve "AA" non-
179 financial commercial paper rate and that from investments
180 permissible under Section 340.50. The July 26, 2004, 30-day
181 Federal Reserve "AA" non-financial commercial paper rate was
182 1.33%.²¹ The concurrent rates on two eligible investments under
183 Section 340.50 were 1.38% on 30-day high-grade commercial
184 paper and 1.41% on one-month certificates of deposit.²² The

²⁰ *Ibid*, p. 13.

²¹ The Federal Reserve Board, Economic Research and Data, Statistics: Releases and Historical Data. <http://www.federalreserve.gov/releases/>. July 26, 2004.

²² <http://online.wsj.com/documents/rates.htm>. Money Rates, July 26, 2004.

185 difference in earned returns, if any, would be minimal. In contrast,
186 Mr. Birdsong provides no support for his assertion that IP's failure
187 to lend to the Utility Money Pool would "harm IP's financial
188 condition".²³ The current yields presented above illustrate that
189 prohibiting IP from lending to the Utility Money Pool would have
190 little, if any, effect on its financial condition.

191 **Unilateral Money Pool Agreement**

192 **Q. Have the Applicants supplied any information to change your opinion**
193 **regarding their request for authorization for Ameren to make short-**
194 **term loans to IP?**

195 A. Yes. Mr. Birdsong provided a unilateral money pool agreement (Applicants'
196 Ex. 22.1) between Ameren and IP that meets the requirements of 83 IL
197 Adm. Code 340. Therefore, the Commission should authorize IP to borrow
198 funds from Ameren on a short-term basis in an amount not to exceed \$500
199 million.²⁴

200 **Q. Does this conclude your rebuttal testimony?**

201 A. Yes, it does.

²³ Applicants' Ex. 22.0, p. 13.

²⁴ The \$500 million limit includes the amount IP borrows from the Utility Money Pool.