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2004 NOV 12 P 3: 26

BLUESTAR ENERGY SERVICES, INC.,)
)
Complaint requesting ICC to order Ameren)
Corporation to disclose terms of agreement)
with certain unregulated utility affiliates to)
encourage development of the competitive)
retail market in Illinois.)
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CHIEF CLERK'S OFFICE
Docket No. 04-0692

VERIFIED COMPLAINT OF BLUESTAR ENERGY SERVICES, INC.

BlueStar Energy Services, Inc. ("BlueStar") files this Complaint requesting that the Illinois Commerce Commission (the "Commission") order Ameren Corporation to disclose the terms of its agreement with certain unregulated utility affiliates that purportedly encourages the development of a competitive retail market in Illinois. In support of this Complaint, BlueStar states as follows:

BACKGROUND FACTS

1. Ameren Corporation ("Ameren") is the parent company of three Integrated Distribution Companies, AmerenCILCO, AmerenCIPS, and AmerenIP (collectively, the "Ameren utilities").
2. BlueStar is an Alternative Retail Electric Supplier authorized to serve retail customers in the Commonwealth Edison service territory, as well as in the Ameren utilities' service territories.
3. In docket number 04-0294, the reorganization of the Illinois Power Company as an affiliate of Ameren Corporation was approved. During the pendency of that matter, the

Coalition of Retail Energy Suppliers (the "Coalition"), comprised primarily of unregulated affiliates of utilities, submitted direct testimony relating to barriers to the development of a competitive retail market in the Ameren utilities service territories. *See* Direct Panel Testimony of Mario A. Bohorquez, Wayne Bollinger, and Philip R. O'Connor, Ph.D., submitted on July 9, 2004 (attached as Exhibit A).

4. Among the concerns raised by the Coalition testimony include, *inter alia*, the Ameren's unreasonable reservation of transmission service policies, unduly burdensome and arbitrary tariff provisions and business practices, questionable handling of energy imbalances, and deficient handling of transmission invoicing.

5. BlueStar shares these concerns regarding the operation of a free and competitive market in Illinois, and the extremely tardy development of competitive markets in the Ameren utilities' service areas *vis-à-vis* Commonwealth Edison.

6. Subsequent to the filing of the aforementioned testimony, Ameren and the unregulated utility affiliates of the Coalition reached a secret agreement purportedly designed to "benefit the development of the competitive wholesale and retail electric markets in Illinois." *See* Notification of Withdrawal of Direct Testimony of the Coalition of Retail Energy Suppliers, attached as Exhibit B.

7. Although the parent company of three Illinois utilities (Ameren) reached an agreement with the unregulated affiliates of three other utilities (Baltimore Gas & Electric, Mid-American Energy Company, and Peoples Gas) that allegedly will encourage the development of a competitive retail market in Illinois for all suppliers and consumers, Ameren and the Coalition refuse to make public the terms of that agreement.

8. Specifically, on November 1, 2004, BlueStar wrote to both Ameren and the Coalition, requesting that they disclose the terms of the “agreement” to BlueStar and all other affected parties (attached as Exhibit C).

9. BlueStar’s letter was not responded to by Ameren. Counsel for the Coalition refused to release the information, citing “confidential” concerns. A copy of the Coalition’s response is attached as Exhibit D.

**SECRET AGREEMENTS BETWEEN UTILITIES IS NOT CONDUCTIVE TO THE
DEVELOPMENT OF A COMPETITIVE MARKET**

10. In passing the Electric Service Customer Choice and Rate Relief Law Of 1997, the Illinois Legislature established as the policy of the State the encouragement of competitive retail electric markets benefiting all consumers equally. *See* 220 ILC 5/16-101A(e). To carry out the mandate of the Legislature, the Commission has developed detailed rules and procedures meant to ensure that information was fairly distributed to all market entrants, and not hoarded by utilities or their unregulated affiliates. *See, e.g.*, 83 Ill.Adm.Code 450.20.

11. The striking of a secret deal between regulated utilities and the unregulated affiliates of several other utilities, which all parties explicitly acknowledge will have significant impact on the development of a competitive retail market in Illinois, does not serve to carry out the State’s policy. The secretive, paternalistic posture assumed by these utilities is anathema to the development of a vibrant and transparent marketplace.

12. Ameren’s problematic business practices identified by the Coalition testimony also inhibit BlueStar’s efforts (and other ARES not party to the secret agreement) to develop a competitive presence in the Ameren utilities’ service territories. To the extent that Ameren has made any commitments to institute new policies and procedures that may serve to open the

territories to real competition, such information should be freely disseminated, and not secreted away from those directly impacted by it.

13. In addition to other ARES and power marketers being denied this vital information, Ameren's behavior similarly denies retail customers this information. How can these secret deals be scrutinized if there is no disclosure? How can anyone determine if the agreement between Ameren and the unregulated utility affiliates of the Coalition will serve the interests of the market, and not their own narrow financial interests? Until the exact terms of the agreement are known, no one can perform this analysis.

14. Development of competitive markets in the Ameren utilities' service territories is a priority of this State. Secret plans formulated and carried out by the affected utilities and the unregulated affiliates of other utilities are not the way to reach that goal.

Conclusion

WHEREFORE, Plaintiff BlueStar requests that the Commission take the following action:

(a) Order Ameren to divulge the exact terms of any agreements with any utility or unregulated utility affiliate relating to tariff, policy, or procedural changes intended to enhance or encourage the development of competitive electric markets in Illinois; and

(b) Order Ameren to file its Answer to the complaint within 21 days of receipt, per 83 Ill. Adm. Code 200.180.

Respectfully submitted,

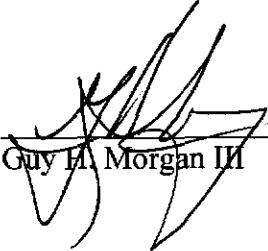
BLUESTAR ENERGY SERVICES, INC.



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VERIFICATION

I, Guy H. Morgan III, as Chief Executive Officer of BlueStar Energy Services, Inc., hereby affirm that I have knowledge of the contents of this Complaint and that the Complaint is true and accurate to the best of my knowledge.



Guy H. Morgan III

SUBSCRIBED AND SWORN TO
before me this 10th day
of November, 2004.



NOTARY PUBLIC

