

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Illinois Power Company)	
)	
Proposed general increase in natural gas rates.)	Docket No. 04-0476
)	

INITIAL BRIEF OF THE CITIZENS UTILITY BOARD

February 10, 2005

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**CITIZENS UTILITY BOARD’S
INITIAL HEARINGS BRIEF**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

There are three items that the Citizens Utility Board (CUB) will address in this its Initial Hearings Brief. They are:

- The failure of Illinois Power to justify the continued inclusion of 100 percent of the Hillsboro storage facility in rate base.
- The non-cost based proposal by IIEC to allow Rate 76 customers an option to “use” Illinois Power storage facilities.
- The use by Illinois Power Company of an unsupported allocator that distinguishes between the cost between plastic and steel pipe.

Other than the amount of the Hillsboro facility to include in rate base, there are no revenue requirements issues that were not resolved by the stipulation between Illinois Power and the Illinois Commerce Commission Staff. No party has indicated any objection to the Commission entering an order consistent with the revenue requirements outlined in the stipulation, so CUB will not address any revenue requirements issues in this Initial Hearings Brief.

I. Portions of the Hillsboro Storage Field Are Neither Used Nor Useful.

Illinois Power in this docket seeks to continue to include in rate base 100 per cent of the costs associated with the Hillsboro Storage Field. Staff witness Eric Lounsberry recommended that the Hillsboro facility should be treated as only 53.94 per cent used and useful. Taking Mr. Lounsberry's percentage, Staff witness Scott Struck adjusted Illinois Power's rate base along with the associated accumulated depreciation and accumulated deferred income taxes in ICC Staff Exhibit 1.0 Schedule 1.07 showing a total adjustment of \$10.582 million.

In order for an investment to be included in rate base, it must be "both prudently incurred and used and useful in providing service to public utility customers." Sec. 9-211 of the Public Utilities Act, 220 ILCS 5/9-211.

Mr. Lounsberry testified that "the Hillsboro storage field is not currently and has not for some time operated in the manner it was designed to operate." ICC Staff Exhibit 7.0 at Page 22, lines 436-437. Thus, the amount of the Hillsboro facility allowed in rates should be reduced to reflect only that portion that is used and useful as required by Sec. 9-211. Mr. Lounsberry believes that Illinois Power has failed "to maintain its storage fields in an appropriate manner and it is not equitable for ratepayers to continue paying for the Hillsboro storage field as if it were operating at 100% used and useful, when in reality, the Hillsboro storage field is not and has not been so operating for quite some time." ICC Staff Exhibit at 23/453-456.

To determine the percentage of the Hillsboro facility that is used and useful, Mr. Lounsberry first looked at the level of its expected operation found in Docket No. 93-0183 when 100 per cent of the expansion of Hillsboro was included in rate base. He then

compared the projected operation to the actual operation. Not only did he find that the field was not operating as it should but he also found that

when the field did not operate according to its design parameters, the gas costs IP incurred to make up for the problems at Hillsboro were passed through to ratepayers through IP's PGA. In essence, IP's customers have already paid twice for some of the Hillsboro capacity by being charged base rates that include the cost of the system expansion and by having costs caused by the Hillsboro facility derating included in the PGA rates.

ICC Staff Exhibit 7.0 at 22/442-23/447.

Because of the failure of the Hillsboro facility to operate at 100 per cent of its rated capacity, CUB agrees with Staff that a portion of Hillsboro should be excluded from rate base in the amount recommended by Staff.

II. Commission Should Reject IIEC Proposal to Allow Rate 76 Customers to Use Storage For Which They Do Not Pay.

Rate 76 customers currently do not pay for any costs of Illinois Power storage. Rather, the entire cost of storage is paid by Illinois Power's PGA and customers transporting under Rider OT. Rate 76 customers do not transport under Rider OT. In this docket, Illinois Power has proposed that customers who take service under Rate 76 be required to "cashout" daily imbalances caused by the difference between their daily gas nominations and actual usage. Under the IP "cashout" proposal, Rate 76 customers must daily sell back positive imbalances to Illinois Power or purchase gas to cover negative imbalances from Illinois Power as a way to compensate the Company for the "use" of storage when their nominations and usage do not balance.

The Illinois Industrial Energy Consumers (IIEC) opposes the daily balance "cashout." IIEC claims that a monthly balancing is sufficient since over a month, over and under nominations may cancel each other out. Illinois Power disagrees, describing

the IIEC proposal as allowing Rate 76 customers the option to use IP's storage service to balance daily swings without a payment to compensate for the use of storage.

Illinois Power testified that it is more likely that a Rate 76 customer will actually "use" Illinois Power's storage if monthly balancing is used since there is no daily penalty for under nominating gas since the customer could over nominate later in the month to make up for the shortfall. The problem is that if the under nomination occurs on a critical day, Illinois Power will have to provide either gas from storage or purchase more expensive gas on the open market, thereby potentially increasing costs to the PGA customers. Providing payback gas later in the month does not adequately compensate the PGA customers for this "use" of storage. On the other hand, with daily balancing, an under nomination would result in a cashout payment designed to partially compensate Illinois Power for the unauthorized use of storage. Thus, if IIEC's monthly balancing proposal were adopted, there would be no daily cashout compensation giving IIEC's essentially free use of storage since any gas shortfall as a result of an under-nomination would require IP to make up the gas from storage. To avoid this consequence, Rate 76 customers would need to be allocated some of the fixed storage costs, which currently are allocated only to PGA and Rider OT customers. IIEC has not proposed any re-allocation for storage costs if the daily balancing cashout were not adopted, so IIEC's proposal would create an inequity for the PGA and Rider OT customers which means that residential customers would be paying more than their fair share of storage costs. With the record totally lacking in a proper allocation of the costs of storage to Rate 76 customers using IIEC's plan, the IIEC proposal should be rejected.

III. Company's Distinction Between Plastic and Steel Pipes Is Flawed.

Lastly, Illinois Power has proposed an allocation factor based upon whether a customer class receives service with plastic or steel pipe. In the view of ICC Staff witness Peter Lazare, the breakdown of service line costs

by material skews the allocation of services among the rate classes. Specifically, the Company's proposed approach appears to over-allocate costs to the Residential class (SC 51) and under-allocate costs to nonresidential customers.

ICC Staff Exhibit 6.0 at 11/244-12/247.

This conclusion results from the company's estimate of the unit costs for steel and plastic service. For different pipe sizes, Illinois Power estimates a significantly higher unit price for steel than for plastic.

The impact is significant because the Company assumes a much higher proportion of steel service lines for residential customers than nonresidential customers. IP's assumption that steel costs significantly more raises the residential share of overall service costs relative to other classes.

ICC Staff Exhibit 6.0 at 12/262-265

Rather than using steel and plastic as the allocator, Mr. Lazare recommends that the size of the pipe be used to determine the costs.

In response to Mr. Lazare's criticism, Illinois Power modified its allocation in the rebuttal testimony of Karen R. Althoff, IP Exhibit 5.6. Ms. Althoff states that the results using her new allocation factors are closer to those of Mr. Lazare. However, Mr. Lazare does not believe that even with the revisions that the company has justified the allocation methodology. During cross-examination, Mr. Lazare explained:

I have questions about the basis on which those numbers were derived. So I don't feel comfortable supporting an allocator that makes these kind of distinctions between the cost of plastic and steel.

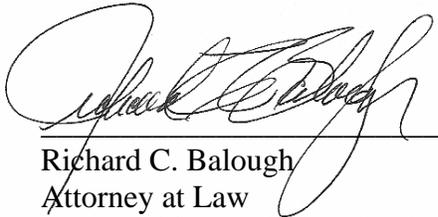
Tr. at 109/13-17.

CUB agrees that even though the revised methodology does not severely affect residential customers, the Commission should base its decision on the soundness of the numbers, so IP's proposal should be rejected and the Staff's methodology for allocating pipe by size should be adopted.

IV. Conclusion.

CUB requests that the Administrative Law Judge adopt the modifications are proposed in this Initial Brief.

Respectfully submitted,



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