

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Commonwealth Edison Company :  
:  
Proposals to implement a competitive : 05-0159  
procurement process by establishing :  
Rider CPP, Rider PPO-MVM, Rider TS- :  
CPP, and revising Rider PPO-MI. :  
(Tariffs filed on February 25, 2005) :

**Administrative Law Judge’s Report Pursuant to 83 Ill. Adm. Code 200.520**

The instant “procurement” proceeding in Docket 05-0159 was docketed as a “proposal to implement a competitive procurement Process by establishing Rider CPP, Rider PPO-MVM, Rider TS-CPP, and revising Rider PPO-MI.” The riders were filed on February 25, 2005 by Commonwealth Edison Company (“ComEd”). The procurement process proposed by the ComEd utilizes a set of formulas intended to pass through, to customers, market-based procurement costs incurred through an auction process.

There are numerous Intervenors in the proceeding. A schedule is in place, and in progress, pursuant to prior rulings.

On May 17, 2005 a Motion to Dismiss (“Motion”) the portion of above-referenced consolidated dockets relating to Riders CPP, PPO-MVM, TS-CPP and revising PPO-MI (“Proposed Tariffs” or “Proposed Riders”) was filed jointly by the People of the State of Illinois, by Lisa Madigan, Attorney General of the State of Illinois; the Citizens Utility Board, and the Environmental Law and Policy Center (“Movants”), by and through their respective attorneys. A similar motion was filed in the Ameren Companies procurement proceedings in Docket Nos. 05-0160, 05-0161, and 05-0162 (Cons.).

On or about May 25, 2005, responses in opposition to the Motion were filed by ComEd; the Ameren Companies; the Commission Staff; Midwest Independent Power Suppliers; Electric Power Energy Association; Midwest Generation EME, LLC (“MWGen”); the Illinois Energy Association; and jointly by Constellation NewEnergy Inc., MidAmerican Energy Company, Peoples Energy Services Corporation and U.S. Energy Savings Corporation

A response supporting the Motion was filed by Local Unions 15, 51 and 702, International Brotherhood of Electrical Workers (“IBEW”) and the Building Owners and Management Association (“BOMA”).

On May 31, 2005, a reply to those responses was filed by Movants.

On June 1, 2005 a written ruling was issued denying the Motion. A similar ruling was issued in Dockets 05-0160, 05-0161, and 05-0162. Copies of the rulings are available on e-Docket.

On June 22, 2005, a petition for interlocutory review ("IR petition") of the June 1 ruling was filed by Movants pursuant to Section 200.520 of the Commission's Rules of Practice, 83 Ill. Adm. Code 200.520. A similar petition was filed in 05-0160, 05-0161, and 05-0162.

Among other things, Movants continue to argue that the Commission "does not have authority to approve the Riders because the Commission does not have authority to approve market-based rates for customers that have not been declared competitive pursuant to Section 16-113 of the PUA", and they ask the Commission to dismiss the utilities' requests for approval of the Proposed Riders.

On June 28, 2005, the Commission, on its own motion, ordered that oral argument be held.

On June 29, 2005, responses to the IR petition were filed by ComEd, the Ameren Companies, BOMA, IBEW, and MWGen.

In summary, based on the pleadings, parties supporting dismissal of the proceedings are Movants, BOMA, and IBEW.

Parties opposing dismissal are the ComEd; Ameren Companies; the Commission Staff; Midwest Independent Power Suppliers; Electric Power Energy Association; MWGen, the Illinois Energy Association; and, jointly, Constellation NewEnergy Inc., MidAmerican Energy Company, Peoples Energy Services Corporation and U.S. Energy Savings Corporation.

The instant Report is being filed with the Commission in accordance with 83 Ill. Adm. Code 200.520.

It is also noted that under the schedule in the case, Staff and numerous Intervenors, including Movants, filed prepared testimony on June 8, 2005. The ComEd rebuttal filing is due July 6, 2005.