CES Ex. 4.0

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Central Illinois Light Company	:	
d/b/a AmerenCILCO,	:	
	:	**No.05-0160**
Proposal to implement a competitive	:	
procurement process by establishing Rider	:	
BGS,	:	
Rider BGS-L, Rider RTP, Rider RTP-L,	:	
Rider	:	
D, and Rider MV	:	**No. 05-0161**
	:	
Central Illinois Public Service Company	:	
d/b/a	:	
AmerenCIPS	:	
	:	
Proposal to implement a competitive	:	
procurement process by establishing Rider	:	
BGS,	:	**No. 05-0162**
Rider BGS-L, Rider RTP, Rider RTP-L,	:	
Rider	:	
D, and Rider MV	:	
	:	**(Consol.)**
Illinois Power Company d/b/a AmerenlP	:	
Proposal to implement a competitive		
procurement process by establishing Rider		
BGS,		
Rider BGS-L, Rider RTP, Rider RTP-L,		
Rider		
D, and Rider MV		

REBUTTAL TESTIMONY OF
PHILIP R. O'CONNOR, PH.D.
CONSTELLATION NEWENERGY, INC.
ON BEHALF OF THE
COALITION OF ENERGY SUPPLIERS
COMPRISED OF:
CONSTELLATION NEWENERGY, INC.
DIRECT ENERGY SERVICES, LLC
MIDAMERICAN ENERGY COMPANY
PEOPLES ENERGY SERVICES CORPORATION
U.S. ENERGY SAVINGS CORP.

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I. <u>INTRODUCTION</u>

Q. Please state your name and occupation.

A. My name is Philip R. O'Connor and I am employed by Constellation NewEnergy, Inc. ("NewEnergy"), an intervening party in this proceeding, as Vice-President for the Illinois Market. NewEnergy is licensed to operate as an alternative retail electric supplier in Illinois, and is located at 550 W. Washington Blvd. in Chicago.

Q. Are you the same Dr. Philip R. O'Connor who filed direct testimony CES Exhibit 1.0 in the instant proceeding on behalf of the Coalition of Energy Suppliers ("CES" or the "Coalition").

A. Yes. As with the direct testimony submitted by the Coalition, the positions set out in this rebuttal testimony represent the positions of the Coalition as a group, but do not necessarily represent the positions of individual Coalition member companies.

Q. What is the purpose of your testimony?

A. The main purpose of my testimony is to respond to the direct testimony filed by witnesses for intervenors and the Staff ("Staff") of the Illinois Commerce Commission ("Commission") as well as the rebuttal testimony submitted by the Ameren Companies' ("Ameren") witnesses. Specifically, I will respond to the Staff and intervenor direct testimony submitted by the following witnesses: Peter Lazare, Dr. Eric Schlaf, and Dr. David Salant on behalf of Staff; Robert Stephens on behalf of the Illinois Industrial Energy Consumers ("IIEC"); and Dr. Kenneth Rose on behalf of the People of the State of Illinois ("AG"). Additionally, I will respond to the Ameren rebuttal testimony submitted by Craig D. Nelson, James C. Blessing, Dr. Chantale LaCasse, Wilbon L. Cooper, and Robert J. Mill (*See generally*, Ameren Exs. 10.0, 11.0, 12.0, 15.0 and 16.0, respectively.)

Q. Do you have any overall observations regarding the Staff and intervenor direct testimony and Ameren's rebuttal?

A. Yes. I have the following four (4) observations regarding the Staff and intervenor direct testimony and Ameren's rebuttal testimony:

First, Ameren seems unwilling to take steps that, at long last, would foster competitive development in its service territories. In several important respects, Ameren's rebuttal testimony fails to pick up on opportunities to advance open access for customers, reflecting a lack of appreciation of the lessons to be learned from the Commonwealth Edison Company ("ComEd") experience. These opportunities involve the enrollment window, product offerings to customers, and methods of properly recognizing migration propensity in the context of auctions.

Second, there are several suggestions that would tend to have class cross-subsidy implications. Revisions to the methodologies and utility bundled service product offerings that would result in cross-subsidies, intended or not, are out of place in the post-transition environment.

Third, certain intervenors suggest an expansion of the procurement and supply obligations of the utility beyond those proposed by Ameren. For example, the IIEC asks in this proceeding that the Commission designate the utility to continue as a provider of a full menu of products rather than rely on the competitive market, even though such products would be available in the market. Such an approach, if endorsed by the Commission, would slow competitive development in the Ameren service territories.

Fourth, various proposals, including the proposal for a combined Ameren-ComEd auction, would be buttressed by the Coalition proposal for a single-year product for 400 kW to 1 MW customers. The Coalition's proposal to remove the load for 400 kW to 1 MW customers in ComEd and Ameren from the blended auction products ("CPP-B" and "BGS-FP," respectively) and create single-year products for that group of customers provides a market-based solution that addresses cross-subsidies inherent in Ameren's proposal.

Q. What are the key principles that should guide the Commission in this proceeding?

A. Two overriding principles should guide the Commission. **The first principle is "Customer Focus."** That is, the focus of this procurement proceeding must be on customers more than on the institutional considerations or convenience of Ameren or other non-customer market participants. **The second principle is**

"Market Reliance." This principle is succinctly enunciated by Ameren's own witness Dr. LaCasse:

> Regulation has its place. However, it is generally acknowledged that it is a weaker force than competition in terms of achieving an efficient allocation of resources and prices that track economic realities. If a competitive alternative is available, it should be preferred to achieve these goals.

(Ameren Ex. 12.0 at lines 370-73.) These two principles should be at the heart of the Commission's analysis as it approaches each issue in this case and should be adhered to by Ameren in its consideration of proposals made by other parties.

Q. What specific recommendations do you address in your rebuttal testimony?

A. The Commission should:

- Reject Ameren's proposal to establish a post-transition sign-up window of just 30 days for PPO (all eligible customers) and BGS-LP (all customers over 1 MW) service and, instead, approve a 75-day window, consistent with the current, successful enrollment window used for ComEd's Rider PPO;

- Recognize that Staff's suggestion that the initial auction take place in July 2006 is the "next best" alternative to the Coalition's proposal to hold the first auction in May 2006;

- Adopt the Coalition's customer grouping proposal that offers the 400 kW to 1 MW customers a default product based upon a one-year auction product, and recognize that Ameren's reliance on the lack of interval metering for customers in the 400 kW to 1 MW grouping to argue against the Coalition's proposal is actually an argument that supports the Coalition's proposal;

- Recognize that the Coalition's 400 kW to 1 MW customer grouping proposal is compatible with either separate auctions by Ameren and ComEd or Staff's suggestion that there be a combined Ameren and ComEd auction;

- Direct Ameren to adopt appropriate mechanisms, similar in structure to those advanced by ComEd in its post-2006 procurement docket, for allocating migration risk premium across customer groups included in the blended BGS-FP auction product;

- Adopt the Coalition's proposed revisions to Ameren's proposed Prism to (a) include a migration risk premium that properly weighs the switching propensity of PPO load; and (b) accurately reflect forward price volatility, consistent with the Coalition's recommended revisions to ComEd's proposed prism;

- Reject Ameren's anti-competitive and unfairly discriminatory proposal to assess a "Rider D – Default Supply Service Availability Charge – Large" ("DSSAC" or "Rider D") solely on customers of alternative retail electric suppliers ("ARESs") and other retail electric suppliers ("RESs") (collectively "RESs") over 1 MW and recognize that Ameren's analogizing of the DSSAC to insurance is incorrect;

- Recognize that unintended adverse consequences would result from the Staff suggestion (to which Ameren has agreed) that customers in the BGS-LFP class (i.e., customers with demands over 1 MW) default to the annual product rather than be required to affirmatively elect the service; and

- Recognize that progress has been made in the development of competition electric market for commercial and industrial customers.

II. THE COMMISSION SHOULD DIRECT AMEREN TO ADOPT A 75-DAY ENROLLMENT WINDOW FOR THE PPO AND BGS-LFP

Q. What are parties' positions with regard to the BGS-LFP and PPO enrollment windows?

A. The Coalition recommends that the Commission direct Ameren to adopt the 75-day enrollment window that has operated so well for PPO service in the ComEd service territory. Ameren has proposed a considerably shorter 30-day enrollment window for Ameren's BGS-LFP service for customers over 1 MW. Ameren contends that IIEC does not contest the 30-day window.

Q. What is the basis for Ameren's opposition to the 75-day window?

A. Ameren opposes adoption of the current well-tested ComEd 75-day PPO enrollment window on the basis of general assertions about higher price premiums from auction bidders. To support these assertions, Ameren offers no empirical evidence. (Ameren Ex. 11.0 at lines 644-94.) ComEd's reasoning in opposing the 75-day window was equally vague. Neither Ameren nor ComEd has provided any estimates, calculations, or other quantitative evidence to support, oppose, or in any way quantify the implications of any given duration whether it is 30 days, 75 days, or some other length. However, Ameren, like ComEd, ignores the most important empirical referent available: the excellent experience with the current market-tested 75-day enrollment window for the ComEd PPO.

Q. Please discuss the background related to the existing 75-day PPO enrollment window in the ComEd service area.

A. In 2003, the Commission adopted a 75-day sign-up window for the PPO tariff that ComEd proposed to the Commission under the terms of what has often been called the "Global Settlement." The ComEd PPO tariff in-place today contains a Commission-approved 75-day enrollment window that replaced a more complicated enrollment process in the prior PPO-MI tariff, which involved a required letter of intent. When it originally approved the 75-day enrollment window provision, the Commission noted:

> [T]he Commission agrees with Trizec's proposal to allow customers a 75-day window for PPO enrollment, which the Joint Movants also proposed in the March 6, 2003 Motion. **The record evidence supports a finding that the adoption of this proposal will result in tangible benefits to all market participants. One important advantage is that customers will have ample time to make their decisions while suppliers will have time to procure needed supplies.** Therefore, the Commission finds that customers should have a 75-day window to enroll in Applicable Period A PPO service or choose RES-supplied service beginning on the day the MVECs are published.

(*See* Final Order dated March 28, 2005, ICC Docket Nos. 02-0656, -0671, -0672, -0834 (consol.) at 109.) (Emphasis added.) Even in the proceedings referenced above, ComEd originally proposed a 60-day enrollment and then sponsored testimony supporting the Joint Motion, which included support for the 75-day enrollment window; at no point did ComEd or any other party suggest that the window be as short as 30 days.

Q. Is there a specific enrollment window referent in the Ameren service territories?

A. The experience in the Ameren service territories is not especially helpful because, of the three Ameren utilities, only AmerenIP has offered PPO service and its bi-monthly re-pricing scheme has created an experience quite different from ComEd's. Given the more frequent PPO recalculations in AmerenIP's service territory, there has been no occasion to test enrollment windows appropriate for non-frequent pricing situations.

Like ComEd, neither Ameren nor its subsidiary utilities have ever proposed, suggested, supported, accepted, or otherwise entertained any pricing component for calculating PPO charges to account for the enrollment window "option." Ameren suggests now, in the instant proceeding, that an enrollment window, regardless of its duration, will create a pricing premium difference. It would be inappropriate for the Commission to base a decision on this issue based upon nothing more than Ameren's unsupported assertions.

Q. What other "evidence" does Ameren offer for its proposed 30-day window?

A. Ameren witness Blessing offers his "impression" that IIEC is "comfortable" with a 30-day window, apparently based on discussions during the Post-2006 Workshops. (Ameren Ex. 11.0 at lines 679-84.) Whether IIEC is comfortable offers little guidance to the Commission for the simple reason that the small number of IIEC members in the Ameren service territories happen to be very large electric customers with sophisticated energy acquisition operations, consultants, and experienced energy attorneys. It can be easily agreed, then, that the IIEC members, of all customers, may least need an enrollment window longer than 30 days. In any event, Mr. Blessing's general "impression" of the position of a very small group of affected customers is of limited value to the Commission. The needs or desires of a few sophisticated customers should not guide the Commission's decision. Rather, the Commission should be guided by considerations of the general needs of customers and recognition of an enrollment period that has a historic record of success.

Q. Does Ameren address any issues related to the impact of a 30-day window on the ability of non-IIEC type customers to exercise choice?

A. No. Ameren ignores the fact that ComEd's tried and proven 75-day enrollment window is more convenient for customers. Instead, Ameren insists that the Commission approve a short duration for an enrollment window that has never been tested. Ameren witness Blessing does correctly say, however, that "at the end of the day it is the customers that are eligible to take this service who will have to live with the constraints of the open enrollment period and the likely higher prices if the ICC decides to direct the Ameren Companies to increase the duration of the open enrollment period beyond the 30 days included in its proposal" and that "[t]he ICC should base its decisions on how the retail consumers will be affected by potential increases in retail rates." (Ameren Ex.

11.0 at lines 689-94.) In two important respects, however, Ameren does not pursue its own point.

First, Ameren ignores the fact that, if indeed a 75-day enrollment window would adversely affect prices in some significant way (a point for which Ameren provides no support), the competitive market will certainly solve that problem by offering customers in the over-1 MW customer class less expensive alternatives than the auction.

Second, Ameren fails to estimate the magnitude of what these "likely" higher prices might be. Our guide on this point, however, is quite clear. ComEd has never seen the price implications of a 75-day window theoretically large enough as to justify including any cost recovery in PPO pricing. If ComEd had, they surely they would filed revised tariff sheets to capture these implications.

In summary, Ameren's "concerns" about a 75-day enrollment window are not based on any substantive analysis. In fact, an analysis of price-effects shows that Ameren's concerns, as stated above, are illusory. Given this, and the historical evidence that demonstrates the value of the 75-day window, the Commission should direct Ameren to adopt a 75-day enrollment window for its BGS-LP customers similar to ComEd's current PPO enrollment window.

III. WHILE SETTING THE INITIAL AUCTION DATE IN MAY 2006 REMAINS PREFERABLE, STAFF'S PROPOSAL FOR A JULY AUCTION IS THE NEXT BEST OPTION

Q. Please comment on Staff witness Dr. Schlaf's suggestion that the initial auction take place in July 2006. (*See* Staff Ex. 5.0 at lines 402-22.)

A. The Coalition continues to support its proposal, similar to Ameren's original position, that May 2006 is the best time to schedule the initial auction. The reasons cited in our direct testimony remain the same. Ameren has now, in its rebuttal testimony, expressed support for the initial auction in September 2006, in agreement with ComEd.

It is fair to say Staff witness Dr. Schlaf has presented a new alternative that is definitely preferable to Ameren's September proposal. The Coalition can accept Dr. Schlaf's proposal for a July date for the initial auction because it is the next best option.

Q. Does Ameren offer any arguments against Dr. Schlaf's July auction suggestion?

A. Yes. In keeping with its highly general approach, Ameren offers no empirical support for its assertion that a July auction introduces more volatility and, therefore, greater cost to the auction product. (*See* Ameren Ex. 10.0 at lines 339-47.) Ameren witness Nelson does not specify whether the volatility to which he refers is for hourly, real-time, daily forwards or future year forwards, or something else. All Mr. Nelson does is refer to "price peaks in 1998 and 1999." (*See id*. at 341-42.)

The actual test of the Ameren argument favoring September over July is whether forwards for future calendar year periods tend to be more volatile during July than during September. Coalition witnesses Mario Bohorquez and Wayne Bollinger address this matter in their panel rebuttal testimony. (*See* CES Ex. 5.0 at lines 271-337.) Their empirical review of day-to-day volatility in prices for future calendar year peak supplies in July and September reveals that volatility is virtually indistinguishable between July and September – on the order of <u>less than one-tenth of one percent</u> (0.0008) or about 4 cents per MWh. (*See id.*)

The result of the Coalition's analysis reveals that Ameren's unsupported volatility statement finds no support in the data. The infinitesimal differences in volatility revealed in the data had next to nothing to do with Ameren's ultimate wholesale prices. Ameren had it right the first time when it proposed May for the initial auction.

IV. THE COMMISSION SHOULD DIRECT AMEREN <u>TO REVISE THE CUSTOMER GROUPINGS FOR THE AUCTION</u>

Q. Please recap the Coalition's position regarding the customer groupings for the auction. (*See* CES Ex. 1.0 at lines 264-622.)

A. The Coalition quite simply proposed to remove the load of customers with demands between 400 kW and 1 MW from the BGS-FP blended product auction.

Instead, the Coalition recommends that these customers be offered a default product based upon a one-year auction product similar to the BGS-LFP. Customers in the 400 kW to 1 MW grouping who would be served with the one-year product still would be able to migrate to RES service at any time, consistent with the migration rules that Ameren has already proposed for customers under 1 MW. In its rebuttal testimony, Ameren did not accept the Coalition's recommendation to revise the customer groupings.

A. AMEREN FAILED TO PROPERLY CONSIDER THE COALITION PROPOSAL TO INCLUDE THE 400 KW TO 1 MW CUSTOMER CLASS IN THE BGS-FP AUCTION

Q. What basis does Ameren offer in its rebuttal testimony for disagreeing with the Coalition's proposal?

A. Ameren asks the Commission to reject the Coalition's proposal based upon its unsupported contention that the Coalition's proposal would create additional auction costs and complexity. (*See* Ameren Ex. 15.0 at lines 378-437.) In reality, as discussed below, the Coalition's proposal results in less overall complexity, when all factors are considered. Further, Ameren makes no effort to consider the valuable competitive implications of the Coalition's proposal, especially as they relate to residential and smaller business customers.

Q. Does Ameren offer any other basis for arguing against the Coalition's 400 kW to 1 MW proposal?

A. Yes. Ameren witness Cooper corrects my statement at lines 509-517 of my direct testimony that AmerenCIPS customers over 100 kW have been required to install interval meters. (*See* Ameren Ex. 15.0 at line 386-95.) True, I overestimated AmerenCIPS entry into the 21st Century. Ameren's deployment of interval metering is far behind ComEd's. Apparently, about 90% of customers in the 400 kW to 1 MW group have demand, rather than interval, meters. This is Ameren's main argument against accepting our proposal to extract the load of the 400 kW to 1 MW customer group from the blended auction and place that load into a single-year product auction. However, as discussed below, Ameren's information actually supports the Coalition's position.

Ameren worries that the lack of interval meters will make it difficult to advise auction bidders on load profiles of the 400 kW to 1 MW customer group for purposes of a single-year auction product and that this could adversely affect prices. (*See* Ameren Ex. 15.0 at lines 378-419.) Yet, Ameren proposes to lump this load in with all residential and smaller business load, asserting without empirical support that doing so will somehow help to lower overall prices for the blended product auction. Ironically, Ameren backs into this argument without the benefit of the basic information that it would have if these customers had interval meters. In the end, however, Ameren fails to explain why a lack of information makes this group of customers too pricey on its own, on the one hand, but does not make this group too pricey for aggregation with residential customers, on the other hand.

Q. Are there alternatives to the approach Ameren is suggesting?

A. Yes. First, Ameren could develop load profile estimates for the 400 kW to 1 MW customer group based on a 10% sample of such customers with interval meters. ComEd has relied on sample metering for many years and likely could advise Ameren, especially in the event that the Staff proposal for a combined Ameren and ComEd auction is adopted by the Commission. Moreover, auction participants likely will apply their own analytical skills to the matter and look to the load profile information provided by ComEd for the 400 kW to 1 MW customers in its area for assistance.

Second, the inclusion of the 400 kW to 1 MW Ameren load in the BGS-FP auction as part of a combined Ameren and ComEd auction (along with ComEd's CPP-A customer load, including the 400 kW to 1 MW ComEd load) also could largely resolve the issue. That is, once the 400 kW to 1 MW customer group is separated from customers below 400 kW, any migration risk premium that suppliers might include in the blended product auction price would certainly be smaller and easier to handle.

Both of these alternatives have the benefit of isolating the 400 kW to 1 MW customers into single-year auction products rather than including them in the multi-year blended product along with whatever uncertainties Ameren claims exist regarding their load profile.

Q. Do you agree that the Coalition customer grouping proposal would add complexity to the auction process?

A. No. With respect to the question of complexity, the comments of Staff witness Dr. Salant are pertinent:

> At times, getting the best rates for ratepayers can conflict with the goal of maximizing the probability of regulatory approval, especially when obtaining the best rates for ratepayers involves some risks, or involves a procurement process that appears complex.

(ICC Staff Ex. 1.0 at lines 2104-08.) In other words, the Commission should focus not on assertions regarding the complexities associated with competing proposals but, rather, on which structure is most beneficial to customers. The Coalition proposal provides more benefits to customers by properly assigning costs and minimizing the risk of cross-subsidies.

The additional complexity, if it exists at all, is trivial, at best. Quite simply, the only "complexity" is that approximately 6% of total Ameren system load, about 2000 GWh per year, would be shifted from the BGS-FP blended auction product to a BGS-LFP style annual auction product. The only distinction between the over 1 MW customer grouping and the CES's proposed 400 kW to 1 MW group would be that customers in the 400 kW to 1 MW group would not be required to affirmatively elect the service within an enrollment window and they could migrate away from the utility.

Moreover, any asserted "complexity" associated with the implementation of the Coalition customer grouping proposal would be more than compensated for by resolving the debate over whether and how Ameren should include a migration risk premium element in its translation tariff for BGS-FP.

In any event, Ameren wrongly supposes that our modest and straight-forward proposal adds complexity to the auction. The Coalition would be happy to work with Ameren to help it better understand how easily our proposal can be implemented.

Q. Please explain why the Coalition's proposal would resolve the debate over the allocation of migration risk premium in the BGS-FP product.

A. The problem at the moment is that, along with proposing that all customers below 1 MW be included in a single group for the BGS-FP auction, Ameren also refuses to estimate and allocate migration risk premium. (*See* Ameren Ex. 15.0 lines 423-37.) Ameren witness Cooper tries to justify Ameren's view by asserting, without empirical support, that this approach makes sense because "considering the typically better load patterns of the non-residential group, it is reasonable to expect that the resultant prices for the non-residential group will be lower than if they had been bid separately." (*Id.* at lines 429-32.) It is not clear if Ameren is suggesting that a subsidy will flow from residential to non-residential customers in the blended product under its proposal. If so, Ameren is right and, in this respect, there is a point of agreement between the Coalition and Ameren. We explained in our direct testimony that the effect of failing to properly recognize the migration risk premium is to shift cost burdens from larger businesses that have higher migration propensity to the smaller business and residential customers that have a lower propensity. (*See* CES Ex. 1.0 at lines 521-85.)

The Coalition proposal resolves this problem in great part since any resulting migration risk premium in the BGS-FP would only need to be allocated across customer groups under 400 kW. Also, by creating a separate 400 kW to 1 MW customer group in the auction, whatever migration risk premium suppliers priced into their bids would be related to and allocated among customers within that group. The Coalition approach is consistent with the Market Reliance principle advanced by Ameren witness Dr. LaCasse, and at the same time provides a context in which Ameren's lack of interest in a migration risk premium allocation in BGS-FP would likely do less harm to smaller customers, including residential customers.

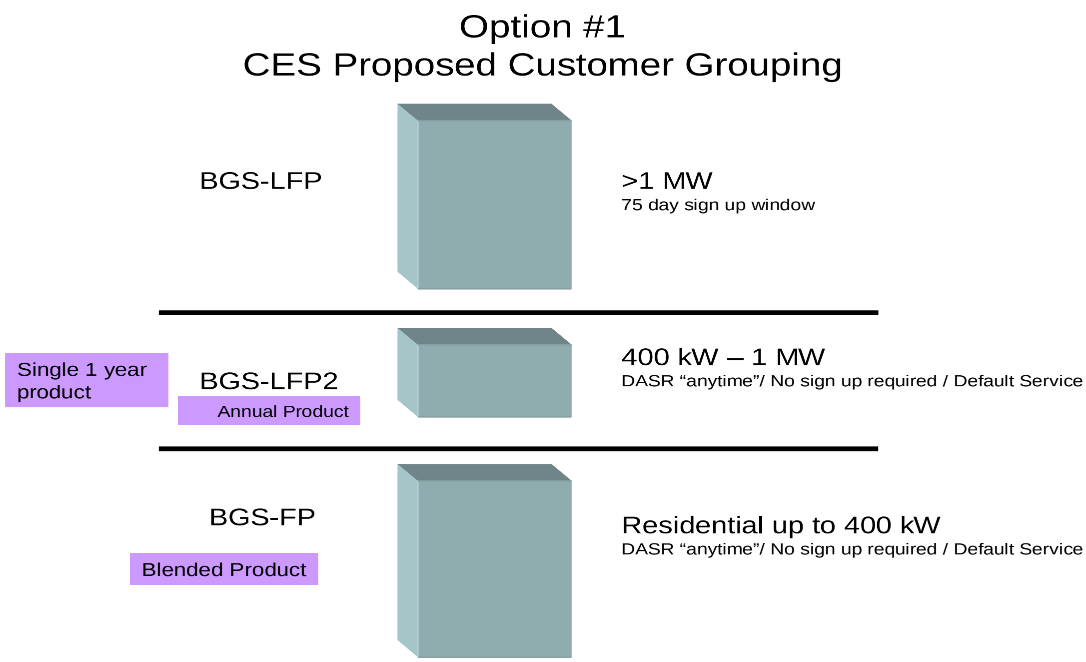
Q. Are there simple ways to address Ameren's concern that the Coalition's customer grouping proposal might bring greater complexity to the auction?

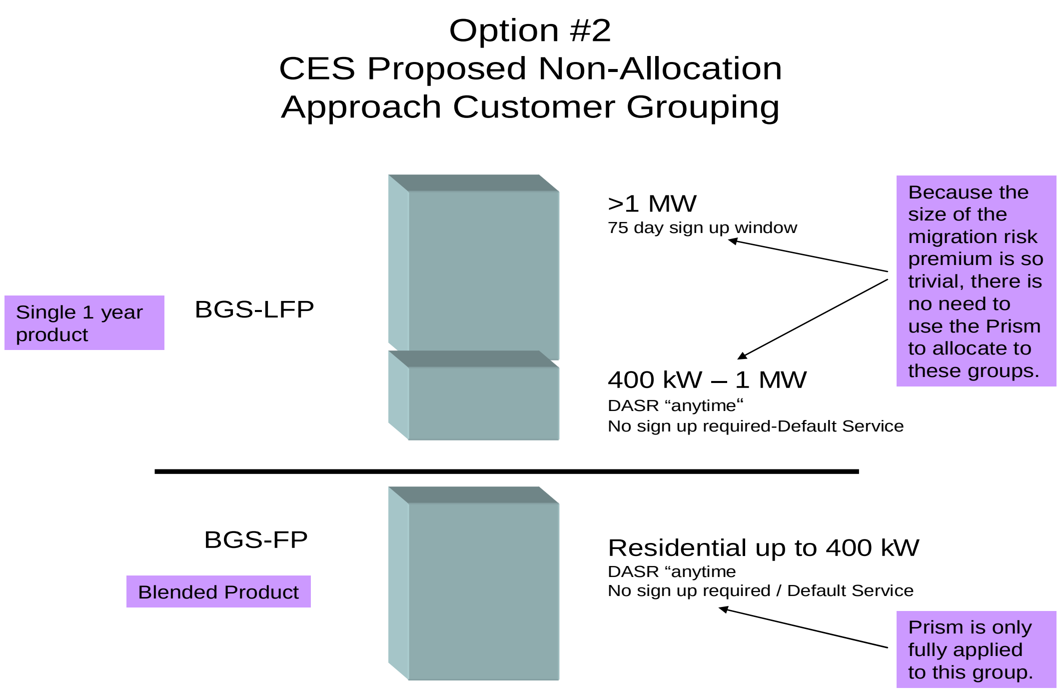
A. Yes. Let us assume, for the sake of argument, that there is no off-setting reduction in complexity and that even this smidgen of additional complexity is more than Ameren may wish to contemplate. There are two fairly simple ways to resolve the problem, both of which would involve simply rolling customers between 400 kW and 1 MW into the one-year BGS-LFP product auction for those customers with demands over 1 MW. Both approaches are consistent with Ameren's proposals to allow customers with demands below 1 MW to migrate away from utility service at any time and to offer the service to those customers on a default basis without the requirement of an affirmative election during a specific enrollment window. Additionally, under each approach, the prices of RES products would act as a safety valve against any untoward effects on both sets of customers.

- The first method is the "**Non-Allocation Approach**." Under this approach, no component for allocating migration risk premium for customers over 400 kW of demand would be included in the Prism. Instead, whatever migration risk premium might be bid into the auction would be managed through the off-setting effects of the enrollment window for customers with demands greater than 1 MW on one hand, and bidder expectations about unrestricted migration by the customers with demands less than 1 MW, on the other hand.
- The second method is the "**Allocation Approach**." Under this approach, the translation tariff would include a component for allocating migration risk premium between those customers in the 400 kW to 1 MW group and the customers in the over 1 MW group.

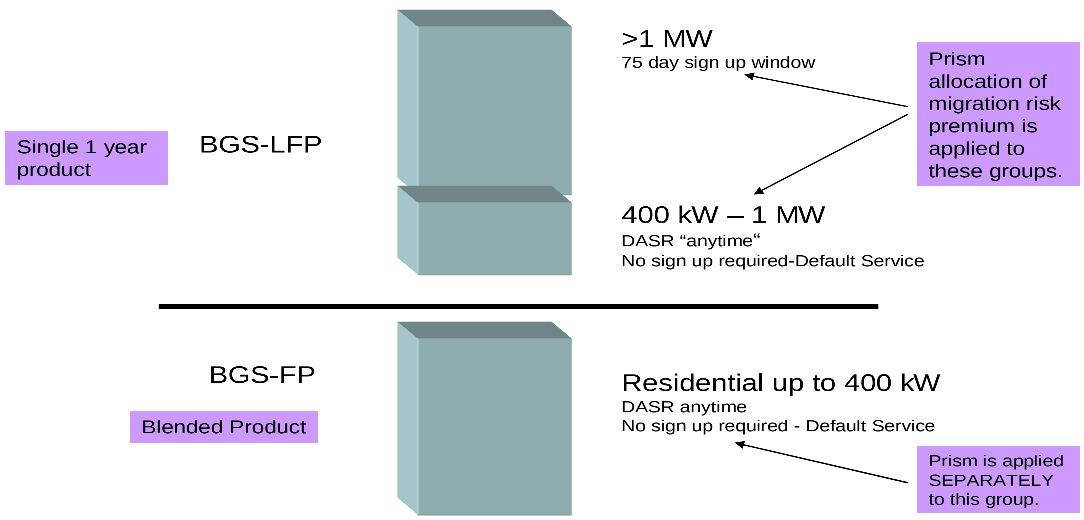
Q. Can you illustrate how these two alternative methods compare to the Coalition's original customer grouping proposal?

A. Yes. In my direct testimony, I provided an illustration that reflected the original Coalition proposal for a single-year default product for the 400 kW to 1 MW group. (*See* CES Ex. 1.2.) Below are three illustrations that reflect both the original proposal and the two alternatives that roll the 400 kW to 1 MW customer group into the same auction as the over 1 MW customer.





Option #3
CES Proposed Allocation
Approach Customer Grouping



For the Commission’s convenience, copies of these illustrations are attached to my rebuttal testimony and can be referred to as CES Exs. 4.1, 4.2, and 4.3, respectively.

Q. How do each of the Coalition proposals discussed above compare to Ameren’s proposed customer grouping?

A. If the Commission were to adopt any of the Coalition’s customer grouping options, as set forth above, in keeping with the two key principles set out earlier, there would be a greater orientation toward the needs of customers and reliance on market mechanisms. First, competitive options are less obvious at this time for smaller customers, and these customers should be the focus of the Commission’s attention. Second, adoption of any of these Coalition proposals would allow the market to largely resolve migration risk premium allocation issues.

Q. Given that the Procurement Working Group relied to some extent on the experiences of New Jersey with its auction model and Maryland with its RFP model, is there current information from those states that the Commission should consider in evaluating the Coalition's proposal for an annual product for 400 kW to 1 MW customers?

A. Yes. Currently, the New Jersey Board of Public Utilities ("NJ Board") places the load of all customers with a peak load of 1.25 MW or greater in the hourly priced auction. This "Commercial and Industrial Pricing" ("CIEP") rate class is only offered an hourly priced utility product. Customers under 1.25 MW are offered a blended product made up of one- and three-year wholesale auction products.

The NJ Board is currently deliberating whether to expand the CIEP rate class to include all commercial and industrial customers over 750 kW. The NJ Board will decide this matter by November 2005, with an effective date of June 1, 2006.

Since June 1, 2005, most Maryland business customers over 600 kW have been only offered an hourly-priced utility product. Starting January 1, 2006, all customers over 600 kW will be offered only an hourly-priced utility product.[1] Business customers less than 600 kW will still be offered a one or two year fixed-price utility product after January 1, 2006. Residential customers will continue to be offered a retail product based on a layered wholesale portfolio that consists of

[1] Allegheny customers switch to hourly priced service on January 1, 2006 – at which time all Maryland electric service customers over 600 kW will be offered only an hourly product from the utility.

one-, two-, and three-year wholesale contracts that are acquired in an annual RFP that is similar in many respects to an auction.

Q. What do the switching statistics for New Jersey and Maryland, respectively, demonstrate for us?

A. In New Jersey, business customers offered the hourly-priced utility product have experienced little difficulty in arranging fixed-price service from RESs. As of June 2005, only 15.62% of peak load in the CIEP rate class is served by the hourly priced utility product. It is my understanding that most of this peak load has been affirmatively placed in the utility's hourly-priced product. In Maryland, 86.4% of all large commercial and industrial customer peak load (over 600 kW) is served by RESs, while 38.9% of all mid-sized commercial and industrial customer (60 kW to 600 kW) peak load is served by RESs. As such, the New Jersey and Maryland experiences, as evidenced by their respective switching statistics, indicate that customers can rely on the competitive market for customized products that address their specific supply needs.

B. THE COALITION'S 400 KW TO 1 MW CUSTOMER GROUPING PROPOSAL IS CONSISTENT WITH STAFF'S PROPOSAL FOR A COMBINED AMEREN AND COMED AUCTION

Q. Is the Coalition's 400 kW to 1 MW customer grouping proposal consistent with the Staff proposal for a combined Ameren and ComEd auction?

A. Yes. The Coalition has proposed that the 400 kW and 1 MW customer grouping be served via an annual auction product for both Ameren and ComEd. We have reiterated our preference for our initial proposal in rebuttal testimony filed last week in the ComEd Post-2006 procurement proceeding, ICC Docket No. 05-0159.

As set forth in my direct testimony, the Coalition recommends separating customers with peak demands between 400 kW and 1 MW from all those below 400 kW and conducting a separate auction for a one-year product. (S*ee* CES Ex. 1.0 at lines 264-622.) In the post-transition world, given the proper rules, the Coalition members believe that competition likely will develop in the Ameren service areas after the transition period to the same extent that it already has developed in the ComEd service area. The end of the transition period should also mean the end of institutional obstacles, intended or inadvertent, that frustrate customer choice in the Ameren service territories.

Q. Suppose the Coalition's customer grouping proposal were adopted for Ameren, but not for ComEd. Would that create incongruities for the combined auction?

A. No. I can understand why, at first blush, one might conclude that, if the Coalition proposal were adopted for Ameren but not for ComEd, it would create some incongruence between the product mixes in the two utility areas in a combined auction. However, even if the Coalition customer grouping proposal were adopted for Ameren but not ComEd, the Coalition's proposal and Staff's proposal could be easily reconciled. We are confident that, with continued Commission oversight and intervention (if necessary), similar switching levels can be achieved in the Ameren service areas as in ComEd. Accordingly, for the reasons cited by the Coalition in support of its 400 kW to 1 MW customer grouping proposal in the first instance, the desire for perfect congruence in auction products should not come at the expense of interfering with the market's role in allocating migration risk premiums. Moreover, the desire for perfect congruence should not come at the expense of inadvertently building incentives into the auction process for continuing utility supply obligations that easily can be met by the competitive retail market.

Q. Assuming that the Coalition customer grouping proposal is adopted only for ComEd and the Commission were to accept Ameren's proposal to keep all customers under 1 MW in the BGS-FP auction, what would be the starting point for reconciling the two proposals?

A. The objective is to assure greater symmetry between the customer population to be served under the CPP-A/BSG-FP and CPP-B/BGS-LFP equivalent products across both ComEd and Ameren service territories. Two points are key. First, the 400 kW to 1 MW customers in ComEd have a propensity to migrate more akin to that of all customers in the Ameren service territories over 1 MW than with their similarly-sized counterparts in the Ameren service territories.

Second, the 400 kW to 1 MW customers in the Ameren service territories would represent a mere 3% of the total load that would be included in a combined blended product auction if Ameren's 400 kW to 1 MW customers were extracted from the blended product auction and served through a one-year auction product. That is, the 400 kW to 1 MW customer load in the Ameren service territories would account for only 2,000 GWh annually in a combined blended annual auction load of 65,600 GWh. As such, the load for Ameren customers between 400 kW and 1 MW would represent an insignificant element in a combined auction.

Q. Please compare the switching and migration propensity characteristics of the 400 kW to 1 MW group in Ameren with that of the 400 kW to 1 MW customers in ComEd.

A. At the end of calendar year 2004, the proportion of switched load for the 400 kW to 1 MW customers in the ComEd service territory was nearly three times that of switched load among the 400 kW to 1 MW customers in the Ameren service territories. That is, in the ComEd service territory, 63% of all load in the 400 kW to 1 MW group was on RES, PPO or ISS service, while the switching rate in the Ameren service territories for this sized customer was shy of 23%.

Q. Is there reason to believe that those figures understate the incongruity?

A. Yes. There are significant differences between the 400 kW to 1 MW customer groupings in the ComEd and Ameren service territories. In Ameren, while almost 23% of total load for the 400 kW to 1 MW customers was on delivery services at the end of 2004, more than three-fourths (78%) of that delivery services load was on the PPO, 11.6% on RES direct service, and 10.3% on ISS. In contrast, in the ComEd service territory, nearly 63% of total load for that same grouping was on delivery service, with less than one-third (32.3%) of the delivery services load on PPO, two thirds on RES service, and about 1% on ISS.[2]

Q. How do the switching patterns of the 400 kW to 1 MW customers in the ComEd service territory compare to the patterns for 1-3 MW customers in the ComEd service territory and all customers over 1 MW in the Ameren service territories?

A. The switching patterns of the 400 kW to 1 MW customers in the ComEd service territory are very similar to those of ComEd's 1-3 MW customers and Ameren's over 1 MW customers. This underscores the rationale for grouping these customers together in a combined auction, even if Ameren's 400 kW to 1 MW customers are not included in the broader, combined auction group. As noted above, the 400 kW to 1 MW customer group in the ComEd service territory exhibits switching patterns much more in common with those of larger customers with which they would be grouped under the Coalition proposals than with similarly-sized customers in the Ameren service territories.

The bottom line here is that the 400 kW to 1 MW customer group in the ComEd service territory has shown greater total switching activity than even the 1-3 MW

[2] Calculations computed based on information provided by ComEd in response to CES Data Request 1.13 and Ameren in response to CUB Data Request 1.04, respectively.

group in the ComEd service territory and considerably more than that for all Ameren customers over 1 MW.

Q. Is there another way to illustrate the similarities and differences in switching propensity among the customer groupings?

A. Yes. One could construct a comparative index for these four customer groups: (1) Ameren 400 kW to 1 MW; (2) Ameren over 1 MW; (3) ComEd 400 kW to 1 MW; and (4) ComEd 1 to 3 MW.

Based on the migration propensity weightings of 50% for PPO and 100% for RES and ISS, Coalition Table 4(A) below helps to illustrate that the ComEd 400 kW to 1 MW customers are more like the larger ComEd and Ameren customers than like the Ameren 400 kW to 1 MW customers.

COALITION TABLE 4(A)
Index of Switch Patterns in Ameren and ComEd Customer Groupings Over 400 kW Demand: Percent of Total Customer Class Load by Type of Switched Service

	Ameren 400 kW-1 MW	Ameren > 1MW	ComEd 400 kW-1 MW	ComEd 1 MW-3 MW
PPO*	8.85% (17.7)	4.15% (8.3)	10.15% (20.3)	14.0% (28)
RES	2.6%	37.0%	42.2%	42.4%
ISS	2.3%	2.1%	0.7%	1.4%
Index	13.75	43.25	53.05	57.8

(Calculations computed based on information provided by ComEd in response to CES Data Request 1.13 and Ameren in response to CUB Data Requuest 1.04, respectively. * PPO Load Percent at 50%.)

Q. So, would it be beneficial to include the 400 kW to 1 MW Ameren load in a combined Ameren-ComEd auction for the blended product offered to residential customers?

A. No. The inclusion of the 400 kW to 1 MW Ameren load in a combined auction for the blended product for residential customers (BGS-FP) would not comport with the two principles of Customer Focus and Market Reliance. A review of switching experience shows that rolling the Ameren 400 kW to 1 MW customers into a combined Ameren-ComEd blended product auction would actually create incongruities, to the detriment of residential and small business customers.

Q. Please summarize your recommendation regarding customer groupings for the auction.

A. There is considerable switching potential of the 400 kW to 1 MW customers in Ameren relative to that of residential customers. But Ameren's reluctance to allocate migration risk premium, even based on historical migration rates, means that, under Ameren's proposed customer groupings, residential customers likely would bear an extra cost burden as a result of being lumped together with business customers under 1 MW in the blended auction. We are confident that similar switching levels in the Ameren service areas in the post-transition period will begin to approach those of customers in ComEd. Thus, if the Commission decides to accept Staff's proposal for a combined Ameren-ComEd auction, the Commission should include the 400 kW to 1 MW Ameren customers in the single-year BGS-LFP auction product, with the application of open ended migration rules as proposed by the Coalition.

V. THE COMMISSION SHOULD DIRECT AMEREN TO INCORPORATE A REASONABLE TREATMENT OF MIGRATION RISK INTO ITS BGS-FP TRANSLATION TARIFF (A/K/A THE "PRISM")

Q. What is the Coalition position relative to Ameren's failure to include an allocation of migration risk premium in its Prism?

A. Ameren is wrong to ignore the necessity of allocating migration risk premium within customer classes to address potential cross-subsidies. If it can be agreed that across classes of customers there are apparent appreciably different levels of migration propensity, even though we may not be able to precisely predict the levels of migration, then there should be an effort to properly price those differences. Doing so will help to prevent cross-subsidies. Coalition witnesses John Domagalski and Richard Spilky further explain how Ameren's proposed translation tariff does not properly reflect migration propensity or the volatility associated with forward contracts. (*See* CES Ex. 6.0 at lines 45-165.)

Q. What is the Coalition's proposed solution?

A. The Coalition has proposed a two-step approach to addressing the migration risk premium issue that is a nearly complete solution. First, the Coalition has recommended separating the customers in the 400 kW to 1 MW grouping from those customers with lower demands. Moreover, under the Coalition's customer grouping proposal, the multi-year blended auction would apply only to those below 400 kW, and the migration risk premium for the 400 kW to 1 MW group would be entirely internalized within that customer group. Under the Coalition's customer grouping proposal, any migration risk premium that suppliers might include in the blended product auction price would certainly be smaller, easier to handle, and less risky.

Second, in the event that the 400 kW to 1 MW customers group remains in the blended BGS-FP product auction, the Coalition has suggested that in estimating migration potential, full weight should be given to load served by the PPO, to better measure migration potential, especially among business customers below 400 kW of demand. It is important to emphasize that failure to properly apportion migration risk premium across customer classes, according to migration potential, would work to the disadvantage of residential and smaller business customers whose migration potential is lower.

VI. THE COMMISSION SHOULD REJECT THE PROPOSAL THAT CUSTOMERS OVER 1 MW AUTOMATICALLY DEFAULT TO THE BGS-LFP PRODUCT

Q. Please address Staff witness Dr. Schlaf's suggestion that customers over 1 MW should default to the annual product rather than be required to affirmatively elect that service. (*See* Staff Ex. 5.0 at lines 156-76.)

A. Ameren witness Cooper has indicated in his rebuttal testimony that Ameren is prepared to agree with Staff witness Dr. Schlaf that the single-year product, BGS-LFP, should be the default service for all customers over 1 MW, rather than the hourly product, BGS-LRTP. (*See* Ameren Ex. 15.0 at lines 438-61.) However, it is unclear that defaulting to an hourly service remains a good approach for customers over 1 MW because they have shown a great deal of sophistication in navigating the market; accordingly, making BGS-LFP the default service for customers over 1 MW likely presents more problems than it would solve.

Q. Do you agree with Dr. Schlaf's premise that customers over 1 MW currently taking bundled service are taking that service because they prefer bundled utility service?

A. No. No credible evidence suggests that any significant population of these customers would fail to contract with a RES or affirmatively elect bundled service within an enrollment window of reasonable duration, such as the Coalition's proposed 75-day window. These customers are not confused or otherwise unfamiliar with the energy market as it has developed since the transition period commenced. To the extent that some customers over 1 MW remain on bundled service today, it should be noted that the variable impact of transition charges and of special rates and contracts have made bundled rates the most attractive option for some customers -- not because bundled utility service is intrinsically preferable but because, in specific instances, it is economically advantageous. This activity indicates that those customers are savvy and sufficiently sophisticated to analyze all options available to them.

Q. What problems could arise if the annual product is made the default product for customers over 1 MW?

A. Its adoption would result in unintended consequences. To the extent that the annual product would be the designated default option for customers over 1 MW, it would be reasonable to expect that these customers also would be able to leave bundled service at any time, rather than be required to stay for the full annual term of a contract that they did not affirmatively select. This condition would substantially complicate migration risk premium considerations for wholesale suppliers in the auction. If, on the other hand, these customers were required to remain on the annual product for the full term after having defaulted to it, there would likely be instances in which the customers would have preferred to be on hourly service for a month or two before entering into a service contract with a RES but, instead, would be forced to continue for many months on this default product. The Coalition's proposal for a 75-day enrollment window for the annual product by customers over 1 MW largely addresses Dr. Schlaf's understandable concerns that these customers might forget or be unable to make a decision.

Q. Are there loose ends or other incongruities arising from Ameren's statement of agreement with making BGS-LFP a default product?

A. Yes. Ameren has not said what it would do about the Rider-D capacity charge that it has proposed imposing on all RES customers over 1 MW if BGS-LFP were the default product. Would Ameren still seek to impose Rider-D charges? Would a charge for BGS-LFP as default be imposed? Ameren does not say. As the

Coalition has explained, the Commission should approve Ameren's original proposal to have customers over 1 MW default to BGS-LRTP while also rejecting Ameren's Rider D proposal.

VII. THE COMMISSION SHOULD RECOGNIZE THAT AMEREN'S PROPOSED RIDER-D IS NOT "INSURANCE," BUT RATHER AN ANTI-COMPETITIVE, UNDULY DISCRIMINATORY UNJUSTIFIED TARIFF

Q. Ameren witness Cooper likens the Rider-D charge to "insurance." (Ameren Ex. 15.0 at lines 320-29) Please comment.

A. I know a thing or two about insurance, having once served as Illinois Director of Insurance. The "insurance" characterization or analogy (it is not clear what Ameren intends) is much misplaced.

First, even if the Rider-D charge were insurance, the idea of mandatory insurance for your own losses as opposed to indemnifying others for losses you cause is a whole new kettle of fish in Illinois. For example, Illinois requires every motorist to maintain automobile insurance to cover damage to other cars, not to pay for repairs to the motorist's own vehicle.

Second, insurance involves transferring risk to a third party. There is no third party here. The wholesale supplier gets the money and, if the service is provided at all, it is the wholesale supplier who provides the service. At most, this is a reservation charge.

Third, insurance involves reimbursement or compensation for a specified loss. Again, this is not the case here. Instead, Ameren's proposed Rider-D merely involves a pre-payment or reservation charge for a service that may never be used. Thus, in this respect, Ameren's proposal is more similar to everyday products like a monthly Chicago Transit Authority fare card allowing unlimited rides, a fee for an un-used hotel or restaurant reservation; however, with these other products people are not required to make such pre-payments.

Fourth, there is no requirement that the “loss” sustained by the “insured” be the result of some incident, accident, or happenstance that is not intentionally self-inflicted. Ameren would have customers who affirmatively elect BGS-LRPT service be treated the same as those who end up on BGS-LRPT because the RES has dropped the customer or otherwise is unable to continue service. It would be an odd sort of insurance that paid for a loss when you had taken the affirmative step of burning down your own house.

Fifth, if indeed Ameren is making the case that the Rider-D charge is insurance, then wholesale suppliers would need to be licensed as insurers in Illinois or find themselves in violation of 215 ILCS 5/121.

Simply put, Rider-D is not an insurance policy, is not like an insurance policy, and the related charges are neither insurance premiums nor are they like insurance premiums.

Q. Does Ameren’s insurance analogy cast any better light on its Rider-D capacity charge proposal?

A. No. No matter how it is dressed, characterized, or analogized, the Rider-D charge is anti-competitive, unfairly discriminatory, and has not been cost-justified by Ameren. Ameren should follow ComEd’s example and simply forget the whole idea.

VIII. <u>PROGRESS HAS BEEN MADE IN THE DEVELOPMENT OF A COMPETITIVE ELECTRIC MARKET FOR COMMERCIAL AND INDUSTRIAL CUSTOMERS</u>

Q. Please address the contentions of AG witness Dr. Rose and IIEC witness Stephens with respect to competitive conditions and implications for an auction. (*See* AG Ex. 1.0 at p. 5-17; IIEC Ex. 1 at lines 71-108.)

A. As set forth in the direct testimony of the various Coalition witnesses, customers in Illinois have seen progress in the development of a competitive market. There is clear evidence that, by year-end 2004, transition period competitive conditions had yielded something on the order of $1 billion in savings to business customers statewide. (*See* CES Ex. 1.0 at lines 1011-89.) Further, residential customers have benefited significantly from rate reductions that, while statutory mandated, were predicated on the well-founded belief that competitive wholesale market conditions were such that prescribing savings relative to embedded costs of generation was justified. It is true, of course, that progress in ComEd has been considerably greater than that in Ameren. However, the Coalition has stated its belief that, with proper post-transition rules of the game, there will be substantial progress in the Ameren territories akin to that in the ComEd area.

Further, IIEC's concerns about the impact of reciprocity conditions at this point appear more academic than practical. Recent decisions by the Commission may prove to have obviated some of the IIEC's concerns. With respect to Dr. Rose's concerns that the wholesale market is somehow insufficiently competitive to support an auction, the auction approach itself is more likely than other methods of utility wholesale supply acquisition to elicit competitive activity among wholesale suppliers and to address various imperfections in the wholesale market that may exist.

IX. CONCLUSION

Q. Please summarize your recommendations in this proceeding.

A. In this proceeding, the Commission is being asked by Ameren to establish the framework for the future of the competitive electric market in Illinois. While the Ameren proposal is a step in the right direction, certain modifications to Ameren's proposal are necessary in order to ensure that all customers reap the benefits of competition. The Coalition recommends that the Commission:

- Reject Ameren's proposal to establish a post-transition sign-up window of just 30 days for PPO (all eligible customers) and BGS-LP service (all customers over 1 MW) and, instead, approve a 75-day window, consistent with the current successful enrollment window used for ComEd's Rider PPO;

- Recognize that Staff's suggestion that the initial auction take place in July 2006 is the "next best" alternative to the Coalition's proposal to hold the first auction in May 2006;

- Adopt the Coalition's customer grouping proposal that offers the 400 kW to 1 MW customers a default product based upon a one-year auction product and recognize that Ameren's reliance on the lack of interval metering for customers in the 400 kW to 1 MW grouping to argue against the Coalition's proposal is actually an argument that supports the Coalition's proposal;

- Recognize that the Coalition's 400 kW to 1 MW customer grouping proposal is compatible with either separate auctions by Ameren and ComEd or Staff's suggestion that there be a combined Ameren and ComEd auction;

- Direct Ameren to adopt appropriate mechanisms, similar in structure to those advanced by ComEd in its post-2006 procurement docket, for allocating migration risk premium across customer groups included in the blended BGS-FP auction product;

- Adopt the Coalition's proposed revisions to Ameren's proposed Prism to (a) include a migration risk premium that properly weighs the switching propensity of PPO load; and (b) accurately reflect forward price volatility, consistent with the Coalition's recommended revisions to ComEd's proposed prism;

- Reject Ameren's anti-competitive and unfairly discriminatory proposal to assess a "Rider D – Default Supply Service Availability Charge – Large" charge solely on customers of ARESs and other RESs over 1 MW and recognize that Ameren's analogizing of the charge to insurance is incorrect;

- Recognize that unintended adverse consequences would result from the Staff suggestion, to which Ameren has agreed, that customers in the BGS-LFP class (i.e., customers with demands over 1 MW) default to the annual product rather than be required to affirmatively elect the service; and

- Recognize that progress has been made in the development of competition electric market for commercial and industrial customers.

Q. Does this conclude your rebuttal testimony?

A. Yes.