

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

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

**DRAFT ORDER  
OF  
DIRECT ENERGY SERVICES, LLC  
AND  
U.S. ENERGY SAVINGS CORP.**

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## V. Auction Design Issues

### **Direct Energy and USESC Position**

Under the Direct Energy and USESC proposal, Ameren would hold twelve auctions per year to supply a monthly fixed price product and would hold four auctions per year to supply a quarterly fixed price product. Specifically, residential and small commercial customer supply (customers with annual usage less than 15,000 kWh) would be procured in quarterly auctions; supply for larger commercial customers (with demands less than 1 MW) would be procured in monthly auctions; customers over 1 MW annual peak demand would have a default rate that is hourly. (See DES/USESC Ex. 1.0 at lines 174-83.) Direct Energy and USESC note that if the Commission prefers fewer auctions, it would be possible to create a mechanism that would employ fewer auctions and still yield monthly and quarterly prices. (See Steffes Tr. at 527.)

Direct Energy and USESC contend that monthly and quarterly pricing of utility service is neither novel nor untested. (See Ameren Ex. 11.0 (Revised) at lines 775-84. *But see* DES/USESC Ex. 2.0 at lines 277-304.) They note monthly and quarterly pricing is being used successfully in both the natural gas and electric industries, including by Illinois local distribution companies (“LDCs”) which have been using monthly purchased gas adjustments for many years. (See DES/USESC Ex. 1.0 at lines 452-59.) Ameren itself prices up to 25% of its winter gas supply at daily prices. (See Ameren Ex. 11.0 (Revised) at lines 763-67.)

Direct Energy and USESC observe that Ameren has agreed that in order to promote efficient and effective demand-side response it is necessary to have retail rates that provide “price signals.” (Ameren Ex. 2.0 at lines 751-58.) Direct Energy and USESC explain that monthly and quarterly pricing would more accurately reflect market prices, and thus would provide better price signals than Ameren’s proposed pricing, which relies upon long-term contracts. (See DES/USESC Ex. 1.0 at lines 323-28.) They also maintain a quarterly or monthly auction would eliminate much of Ameren’s concern regarding achieving the most “stable, market-based rates” from the auction. (See Ameren Ex. 2.0 at line 696-97,748.)

Direct Energy and USESC oppose any wholesale supply contract over one year in duration. (See DES/USESC Ex. 1.0 at lines 163-69.) Direct Energy and USESC explain that under Ameren’s proposal consumers would be forced to pay high premiums for long-term, laddered wholesale contracts to insure against a risk (quarterly and monthly price volatility) that is overstated and unsupported by the evidence. (See DES/USESC Ex. 2.0 at lines 55-60.) Because suppliers to the auction would face higher price, counterparty and credit risks with a long-term contract than they would with quarterly or monthly contracts, the wholesale suppliers will include a higher risk premium in their auction bids to account for

this increased risk. According to Direct Energy and USESC, this premium will increase the overall expense to consumers under Ameren's proposal.

Finally, Direct Energy and USESC explain that long-term wholesale contracts discourage fulfillment of the Customer Choice Law's goal of a competitive retail electric market. (See DES/USESC Ex. 2.0 at lines 99-105.) Direct Energy and USESC ultimately oppose Ameren's proposal to incorporate greater than one-year contracts into the auction process, stating that if the Commission fails to take the proactive step of eliminating these products from Ameren's proposed portfolio, it is unlikely that the competitive market will develop for residential and small business customers, thereby denying these customers the opportunity to obtain less costly and more innovative energy products. (See *id.* at lines 196-201.)

### **Commission Analysis and Conclusion**

The Commission agrees that there is nothing novel or untested about utility service priced in monthly or quarterly increments. For example, as Direct Energy and USESC note, millions of Illinois LDC customers already experience a price for natural gas that varies monthly. (See DES/USESC Ex. 1.0 at lines 453-59.) Millions of Consolidated Edison customers in New York receive a price for electricity that varies monthly. (See DES/USESC Ex. 2.0 at lines 196-201.)

While a monthly or quarterly auction price would vary more frequently than an annual rate, the Commission rejects the notion that such pricing is inconsistent with obtaining price stability. As noted by Direct Energy and USESC, the level of variability associated with monthly or quarterly pricing does not expose consumers to undue fluctuations in price. (See DES/USESC Ex. 1.0 at lines 430-50.) To the extent price variability exists in competitive retail electricity markets, competitors have offered consumers choices as to how to manage their bills.

Further, the Commission agrees with Direct Energy that a varying price does not equate to a higher price over the same term. Direct Energy presented convincing evidence that an auction structure that incorporates a monthly or quarterly default service price has the ability to deliver large cost savings over an auction structure that incorporates long term contracts. We are convinced that the Direct Energy and USESC proposal, by eliminating the risk premium associated with long term contract is in the best interest of those customers who would remain with the utility as their source of supply.

The Direct Energy and USESC proposal combines the best features of an auction — prices that are determined pre-delivery and removal of significant prudence review issues for the utility — without requiring a significant increase in metering and telecommunications investments so often associated with real-time pricing. (See DES/USESC Ex. 2.0 at lines 262-66.)

The Commission also agrees with Ameren, Direct Energy and USESC that, without real price signals, consumers are less likely to concern themselves with managing their energy usage. Without these real price signals, consumers generally will not make decisions to reduce their energy usage and, therefore, are less likely to appreciate the environmental impact of their decisions. The Commission finds significant benefits exist for the people of Illinois from increased demand side response including mitigation of generation market power and the reduced demand for costly new infrastructure and power plants.

Further, long-term wholesale contracts discourage movement toward a competitive retail electric market. Wholesale suppliers would be inclined to want to minimize any financial risk incurred as a result of customers moving off of rates tied to the suppliers' long-term contracts. Therefore, these suppliers actually might be motivated to work against any education programs that encourage consumers to make the best possible energy decisions, including leaving default service for a competitive retail offer.

The Commission finds that the Direct Energy and USESC proposal has none of these negative attributes. Rather, the Direct Energy and USESC would promote fair and open competition in the provision of electric power and energy and result in prices that are just and reasonable. Accordingly, the Commission adopts the Direct Energy and USESC auction design.

For the reasons set forth above, the Commission directs Ameren to adopt the auction design advocated by Direct Energy and USESC.

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## **K. Regulatory Oversight and Review**

### **5. Other Processes and Proceedings**

#### **Direct Energy and USESC Position**

Direct Energy and USESC urge the Commission to articulate its vision for the achievement in Illinois of a robust and fully competitive retail electric marketplace. Both companies believe that the Commission actively should seek out opportunities to promote fair and open competition in the provision of electric power and energy.

Direct Energy and USESC note that the end of this initial transition period is only the beginning step in establishing a competitive retail electricity market. (See DES/USESC Ex. 1.0 at lines 709-13.) According to Direct Energy and USESC, the Commission needs to be mindful that nothing it implements in this proceeding unnecessarily delays the day when all Illinois consumers will benefit from a competitive retail electricity market. For that reason, they urge the Commission to be wary of locking Illinois consumers into a series of long-term wholesale

supply contracts that may have the unintended effect of denying them a competitive retail electricity market. (See *id.* at lines 713-18.)

Direct Energy and USESC recommend that the Commission advance retail electric competition by using this proceeding to launch a “Customer Choice” initiative in the form of ongoing collaboratives that the Commission should use to identify and eliminate barriers to the implementation of a competitive retail electricity market for all customers. (See *id.* at lines 692-98.) At the Commission’s direction, Staff would work with all interested parties to further develop the next steps necessary to advance competition in the electric industry in Illinois. (See *id.*) Direct Energy and USESC suggest that the Commission direct Staff to report back specific recommendations by December 31, 2006, with additional collaboratives resulting in specific recommendations every twenty-four months. (See *id.*) In this way, the Commission could regain momentum toward achieving customer choice for all electricity consumers.

Direct Energy and USESC also believe that the Commission should immediately initiate an investigation to determine how advanced metering technology could be deployed more widely, so that all consumers in Illinois can readily obtain real-time pricing information and corresponding demand response benefits. (See *id.* at lines 700-03.) Such an investigation would also allow the Commission to collect additional data to develop and implement retail rates that better reflect the true cost of producing electricity. The Commission should find ways to apply the Center for Neighborhood Technology’s real world experience in this area. (See *id.* at lines 374-418.) As the Commission begins to chart the course for the Illinois retail electric industry of the 21st century, there is no reason why lack of technology should preclude the competitive market from developing. (See *id.* at lines 703-05.)

### **Commission Analysis and Conclusion**

The General Assembly has long ago recognized that “it is in the best interest of Illinois energy consumers to promote fair and open competition in the provision of electric power and energy . . .” (220 ILCS 5/16-118(a) (emphasis supplied).) The Commission has taken steps in the past to carry out the General Assembly’s mandate. The Commission agrees with Direct Energy and USESC that it should continue to actively seek out opportunities to promote fair and open competition in the provision of electric power and energy.

Toward that end, the Commission agrees with Direct Energy and USESC’s recommendation to commence a “Customer Choice” initiative in the form of ongoing collaboratives. The “Customer Choice” initiative will allow the Commission to determine the best avenues to achieve a robust and fully competitive retail electric marketplace as envisioned by the General Assembly. With rapidly rising energy prices, this initiative will also provide the Commission with an opportunity to identify how consumers might better manage their energy budgets through the competitive retail electricity market. The Commission

hereby directs Staff to work with all interested parties to further develop the next steps necessary to advance competition in the electric industry in Illinois. Staff shall report back specific recommendations by December 31, 2006, with additional collaboratives resulting in specific recommendations every twenty-four (24) months. In this way, the Commission will be able to regain momentum toward achieving choice for all electricity consumers.

The Commission also directs Staff to immediately initiate an investigation to determine how advanced metering technology could be deployed more widely so that all customers in Illinois can readily obtain the benefits of real-time pricing information to maximize the benefits of demand response programs. Staff is hereby directed to use such an investigation to collect additional data to develop and implement retail rates that best reflect the true cost of producing electricity.

## **VII. FINDINGS AND ORDERING PARAGRAPHS**

The Commission, having considered the entire record herein and being fully advised in the premises, is of the opinion and finds that:

The recitals of fact and conclusions of law reached in the prefatory portion of this Order are supported by the evidence of record, and are hereby adopted as findings of fact and conclusions of law;

The auction design proposed by Direct Energy and USESC would promote fair and open competition in the provision of electric power and energy and result in prices that are just and reasonable. Accordingly, the Commission adopts the Direct Energy and USESC auction design proposal and directs Ameren to file a tariff employing the approach outlined by Direct Energy and USESC by March 1, 2006.

With entry of this order, the Commission hereby initiates a "Customer Choice" initiative to proactively identify and eliminate barriers to the implementation of a competitive retail electricity market in Illinois. The Commission hereby directs Staff to work with all interested parties in a collaborative process to further develop the next steps necessary to advance competition in the electric industry in Illinois. Staff shall report back specific recommendations by December 31, 2006, with additional collaboratives resulting in specific recommendations every twenty-four (24) months.

With entry of this order, the Commission directs Staff to immediately initiate an investigation to determine how advanced metering technology could be deployed more widely so that all customers in Illinois can readily obtain the benefits of real-time pricing information to maximize the benefits of demand response programs. Staff is hereby directed to use such an investigation to collect additional data to develop and implement retail rates that better reflect the true cost of producing electricity.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the tariff sheets presently in effect rendered by Central Illinois Light Company d/b/a AmerenCILCO, Central Illinois Public Service Company d/b/a AmerenCIPS, and Illinois Power Company d/b/a AmerenIP (collectively "Ameren") are hereby permanently canceled and annulled, effective at such time as the new tariff sheets approved herein become effective by virtue of this Order.

IT IS FURTHER ORDERED that the proposed tariffs, filed by Ameren on February 28, 2005, are permanently canceled and annulled.

IT IS FURTHER ORDERED that Ameren is authorized to file new tariff sheets in accordance with the above Findings in this Order, applicable to service furnished on and after the effective date of said tariff sheets.

IT IS FURTHER ORDERED that any motions, petitions, objections, and other matters in this proceeding which remain unresolved are disposed of consistent with the conclusions herein.

IT IS FURTHER ORDERED that, subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

Respectfully submitted,

**DIRECT ENERGY SERVICES, LLC, and  
U.S. ENERGY SAVINGS CORP.**

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