

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission)
On Its Own Motion)
Requirements governing the form and content)
of contract summaries for the neutral fact-finder)
process for 2000 under Section 16-112(c))
Public Utilities Act.)

Docket No. 00-0007

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COMMERCE COMMISSION

**REPLY BRIEF
OF
PEOPLES ENERGY SERVICES CORPORATION**

I. INTRODUCTION AND SUMMARY OF POSITION

Peoples Energy Services Corporation ("PE Services") served its initial Brief on March 16, 2000. There is nothing in the Initial Briefs of the other parties that detracts from PE Services' positions taken in its Initial Brief. PE Services relies on its arguments in Initial Brief which were fully supported by the evidentiary record in this proceeding.

PE Services is aware of the serious time constraints facing the Hearing Examiner in this expedited proceeding. Therefore, PE Services is limiting this Reply Brief to two of the three positions PE Services took in its Initial Brief and positions which Staff's Initial Brief shows are clearly supported by Staff. The two specific issues are: 1) unbundling contracts expressed in \$/kWh or other bundled pricing mechanisms; and, 2) providing additional information that may reasonably help the NFF evaluate contracts and come to a more reasoned market value. As to the remaining issue raised in PE Services' Initial Brief -- utilization of a methodology that will not perpetuate the Year 2000 CTC into Year 2001 -- PE Services will stand on its Initial Brief.

II. THE NFF REPORTING PROCESS SHOULD NOT REQUIRE THE ADMINISTRATIVE BURDEN OF UNBUNDLING CONTRACTS EXPRESSED IN \$/kWh.

In its Initial Brief, PE Services stated its belief that the 2000 Neutral Fact Finder Process Instructions for completing the Contract Summary Form and Work Sheet Instructions (hereinafter "Instructions") required reporting entities to unbundle contracts even if they are based only on \$/kWh or \$/mWh. PE Services In. Br., p. 2-3. However, in its Initial Brief, Staff clarified, in refuting ComEd's interpretation of the Instructions allowing contracts based on a set \$/mWh to be reported with varying prices in any of the 8,760 spreadsheet cells, that Staff believes the Instructions clearly require contracts based on a fixed \$/mWh to be reported with the same price for all 8,760 cells in the spreadsheet. Staff In. Br., pp. 14-15. PE Services fully supports Staff's interpretation of the Instructions and continues to believe reporting equal prices for all hours will provide the NFF more accurate information than could any type of artificial manipulation.

III. REPORTING ENTITIES SHOULD BE ENCOURAGED TO PROVIDE ADDITIONAL INFORMATION THAT MAY HELP THE NFF COME TO A MORE PRECISE MARKET VALUE

The NFF process is subjective in nature and will be better served and the resulting market value more accurate if the NFF considers all available information. IIEC in its Initial Brief raises concerns about subjective information. In fact, IIEC states, without citation, that the NFF is not empowered to make subjective determinations and that inserting subjective opinion into the process calls its legality into question. IIEC In. Br., p. 4. However, as it did when cross-examining Ameren witness Miller during the evidentiary hearing, IIEC asks the wrong question. The issue is not whether the Act requires subjective information. Tr. 147. The issue is whether the Act prohibits

additional information. The answer to that question, and the answer Ameren witness Miller provided under cross-examination by PE Services, is clearly no. Tr. 147-48

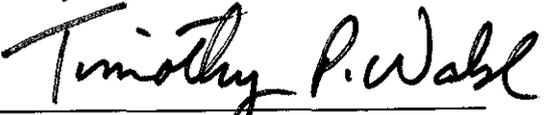
New Energy's Initial Brief offers a cogent explanation for why entities should explain their contracts to the NFF. NewEnergy In. Br., pp. 16-18. IP supports explanations that will assist the NFF. IP In. Br., p. 4.

Nowhere in the Instructions is the word factual inserted between the words additional and information, as inferred by IIEC. See for example, Instruction B(2)(d) in ICC Staff Ex. 3.0, Schedule D and ICC Staff Ex. 1.0, Schedule B, p. 2. More importantly, Staff Witness Bishop in his rebuttal testimony stated Staff was indifferent to adding language to the instructions that would clearly request opinion information. ICC Staff Ex. 3.0, p. 2. But, Staff had removed such language at one party's request. Id. However, Staff also states in its Initial Brief that "the forms and instructions were also intended to permit entities to report **any** additional information which would assist the NFF in understanding the contract." Staff In. Br., p. 13; emphasis added. Furthermore, the NFF can give the reported information the weight the NFF feels the information deserves. PE Services reiterates its recommendation that the Commission allow reporting entities to provide the NFF all information the reporting entity reasonably believes would be helpful to the process.

IV. CONCLUSION

In conclusion, PE Services urges the Hearing Examiner to resolve all three issues it raised in its Initial Brief as set forth therein. The arguments raised in this Reply Brief further support PE Services' positions. PE Services' positions reflect a reasoned and balanced resolution to three difficult issues the Hearing Examiner faces in this proceeding.

Respectfully submitted,

By: 
Timothy P. Walsh
An Attorney for
Peoples Energy Services Corporation

James Hinchliff
Gerard T. Fox
Mary Klyasheff
Timothy P. Walsh
Attorneys for
Peoples Energy Services Corporation
130 E. Randolph
23rd Floor
Chicago, Illinois 60601
(312) 240-4454
Facsimile: (312) 240-4486
e-mail: twalsh@pecorp.com

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NOTICE OF FILING

To: Service List

PLEASE TAKE NOTICE that on this 23rd day of March, 2000, I have filed with the Chief Clerk of the Illinois Commerce Commission, the Reply Brief of Peoples Energy Services Corporation, a copy of which is hereby served upon you.

By: Timothy P. Walsh
Timothy P. Walsh
An Attorney for
Peoples Energy Services Corporation

James Hinchliff
Gerard T. Fox
Mary Klyasheff
Timothy P. Walsh
Attorneys for
Peoples Energy Services Corporation
130 E. Randolph
23rd Floor
Chicago, Illinois 60601
(312) 240-4454
Facsimile: (312) 240-4486
e-mail: twalsh@pecorp.com

CERTIFICATE OF SERVICE

I, hereby certify that I have served this Initial Brief by e-mail and United Parcel Service on March 23, 2000 or by personal delivery on March 23, 2000 upon each of the parties of record in Ill.C.C. Docket No. 00-0007. Dated at Chicago, Illinois this 23rd day of March, 2000.

By: Timothy P. Walsh
Timothy P. Walsh