

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

REPLACEMENT LANGUAGE 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.

**Table of Contents**

	<u>Page</u>
<b>I. Proposed One-Year Fixed Price Product for 400kW-1MW Customers</b>	
<i>Replacing Text at p. 124</i> .....	1
<i>Replacing Text at p. 125</i> .....	5
<b>II. Nature of Auction Product and Tariffed Services for 1 MW and Over Customers</b>	
<i>Replacing Text at pp. 125-26</i> .....	6
<b>III. Enrollment Window</b>	
<i>Replacing Text at p. 203</i> .....	8
<b>IV. Customer Supply Group Migration Risk Factor</b>	
<i>Replacing Text at p. 210</i> .....	9
<b>V. Rider MV – Supply Procurement Adjustment</b>	
<i>Replacing Text at p. 217-18</i> .....	10

## **I. Proposed One-Year Fixed Price Product for 400kW-1MW Customers**

*The following language should replace the summary of the CES position that appears on page 124 of the Proposed Order.*

### **b. CES' Position**

CES argues that the Ameren Companies' proposed customer grouping for its blended, fixed price auction product is unreasonable and anti-competitive. CES proposes to include the 400 kW to 1 MW customers in the annual product auction with the larger customers. (CES brief at 29-37)

ComEd and Ameren originally proposed virtually identical customer groupings and retail rules. Throughout its procurement proceeding, ComEd repeatedly revised its proposal to establish a more workable structure, which the Coalition now generally supports. Consistent with its history of anti-competitive practices, the Ameren Companies manufactured excuses and failed to consider the same revisions ComEd made to its proposal. To promote the development of the retail electric market throughout Illinois and to further the goal of statewide uniformity, the Commission should order the Ameren Companies to revise their customer groupings and related retail rules to bring them more in line with those presently being advocated by ComEd in its procurement proceeding.

Specifically, CES proposes to include the 400 kW to 1 MW customer group with those customers over 1 MW in the BGS-LFP annual product auction, and establish an enrollment window that is at least 50 days long. In short, CES requests that the Commission direct the Ameren Companies to revise its customer groupings and enrollment window to be similar to those which ComEd presently is advocating.

The CES averred that Ameren's proposal, to include the load of customers with demands of 400 kW to 1 MW together with all residential and small business customer load for procurement purposes, was improper because, according to the CES, Ameren's proposal was detrimental to residential and smaller customers and, if approved, would harm the development of the competitive market. (See CES Ex. 1.0 at lines 530-31; CES Ex. 4.0 at lines 300-06.) Instead, the CES averred that customers with load demands of 400 kW to 1 MW properly should be included in the customer group with those customers with demands over 1 MW in the BGS-LFP annual product auction. (See CES Ex. 4.0 at lines 284-92.)

Consistent with Ameren's stated goal of promoting statewide uniformity in the auction products, the Coalition further revised its proposal to include all commercial and industrial customers with demands greater than 400 kW in the annual auction product. The CES contended that this grouping would better align Ameren's auction products with ComEd's. (See O'Connor Tr. at 250-52.) Moreover, the CES contended that its customer grouping proposal, by separating the 400 kW to 1 MW customer group from

customers below 400 kW, mitigated any migration risk premium that suppliers might include in the blended product auction price. (See CES Ex. 4.0 at lines 347-50.)

The CES stated that, unlike ComEd (which revised its proposal in response to the Coalition's proposal and other feedback), Ameren completely ignored the pro-competitive, pro-consumer aspects of the Coalition's proposal. (See CES Ex. 4.0 at lines 66 to 118.) To justify its customer grouping proposal, the CES stated that Ameren offered three (3) misguided assertions: (1) Ameren lacked the necessary metering to allow for the 400 kW to 1 MW customers to be served under the annual auction product; (2) revision of the customer groupings, as proposed by the CES, added complexity to the auction process; and (3) the 400 kW to 1 MW customers historically have not taken service from RESs. (See Ameren Ex. 11 at lines 482-85; 570-73; Ameren Ex. 15.0 at 390-95.) The CES contended that Ameren's assertions, to the extent they are accurate, did not justify Ameren's anticompetitive, anti-consumer proposal. The Coalition then demonstrated how Ameren's assertions were invalid.

First, regarding Ameren's assertion that it lacked the necessary metering, the CES acknowledged that Ameren's deployment of interval metering woefully lagged ComEd's. (See CES Ex. 4.0 at lines 313-14.) Specifically, the CES repeated Ameren's statement that roughly 90% of Ameren's customers in the 400 kW to 1 MW group possessed demand, rather than interval, meters. (See *id.* at lines 314-15.) According to the Coalition, the lack of internal meters was merely evidence of Ameren's own anti-competitive actions, and, as such, did not provide a justification to reject the Coalition's proposal to extract the load of the 400 kW to 1 MW customer group from the blended auction. (See *id.* at lines 315-18.)

Moreover, the CES contended and Coalition witness O'Connor explained that Ameren's lack of interval metering for customers in the 400 kW to 1 MW grouping actually justified and supported the Coalition's proposal. (See *id.* at lines 318-19.)

Ameren asserted that the lack of interval meters precluded the Companies from providing load profiles of the 400 kW to 1 MW customers and other data to auction bidders in the annual auction. The CES stated that this lack of information, according to Ameren, would adversely affect prices. (See Ameren Ex. 15.0 at lines 379-419.) The CES pointed out Ameren's inconsistent arguments: on the one hand, Ameren argued that lack of information rendered the 400 kW to 1 MW load too pricey to carve out from the blended product, which includes residential and small business customers; on the other hand, Ameren proposed to include the 400 kW to 1 MW load with all residential and small business customers because doing so, somehow, by some unknown way, lowered overall prices for the blended product auction. (See Ameren Ex. 15.0 at lines 429-34. *But see* CES Ex. 4.0 at lines 324-27.) In sum, the CES contended that Ameren failed to explain why this lack of information rendered this group of customers too pricey on its own while, at the same time, did not render this group too pricey for aggregation with residential and small business customers. In short, Ameren's assumption that the 400 kW to 1 MW customers are too pricey to isolate into its own group, if true, merely buttressed the CES's proposal to exclude the 400 kW – 1 MW from the BGS-FP auction.

The CES also pointed out that, to the extent necessary data were missing, data could be developed regarding the 400 kW – 1 MW customers. Specifically, the CES explained that 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. (See *id.* at lines 335-42.) The CES pointed out that ComEd has relied on similar, sample metering for many years and likely could advise Ameren, especially in the event that the Commission adopted Staff’s proposal for a combined Ameren and ComEd auction. (See *id.* at lines 337-39.) Lastly, the CES reckoned that auction participants likely would study and analyze the load profile information provided by ComEd for the 400 kW to 1 MW customers for Ameren’s customers. (See *id.* at lines 339-42.)

Second, to counter to Ameren’s unsubstantiated concerns about “auction complexity,” the Coalition demonstrated how its proposal, which removed non-residential customers with demands between 400 kW and 1 MW from the blended product, actually minimized auction complexity. (See *id.*) According to the CES, Ameren wrongly asserted that the Coalition’s original modest and straight-forward proposal to include an auction for the 400 kW to 1 MW customers added complexity to the auction. (See Ameren Ex. 11.0 (Revised) at lines 482-88. *But see* CES Ex. 4.0 at lines 371-78.) Nevertheless, the CES addressed Ameren’s purported “complexity” assertions by modifying its proposal to include the 400 kW to 1 MW customers with the 1 MW and greater customers in the BGS-LFP product auction. (See CES Ex. 4.0 at lines 300-32.) The CES further refined its proposal to mirror the customer groupings proposed and supported in ComEd’s own procurement proceeding. (See O’Connor Tr. at 250-52.) The CES averred that its revised proposal effectively mitigated any asserted “complexity” by (1) eliminating any unnecessary and unjustified customer grouping differences between Ameren and ComEd; and (2) largely resolving the debate over whether and how Ameren should include a migration risk premium allocation element in its translation tariff for BGS-FP. (See *id.* at lines 392-417.)

The CES noted that, with respect to the question of complexity, the comments of Staff witness Dr. Salant were 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, as explained by Coalition witness Dr. O’Connor, “the Commission should focus not on assertions regarding the complexities associated with competing proposals but, rather, on which structure is most beneficial to customers.” (CES Ex. 4.0 at lines 365-67.)

Third, the CES responded to Ameren’s assertion that the low level of switching activity by the 400 kW to 1 MW customers in the Ameren service territories justified Ameren’s proposal to place these customers in the multi-year product grouping. The CES contended that numerous obstacles to choice in the Ameren service areas during the transition period had rendered Ameren switching data unhelpful for anticipating parallels in post-transition customer behavior between the Ameren and ComEd service territories. (See CES Ex. 1.0 at lines 456-59.) Thus, the CES concluded, the historic switching

figures for the Ameren service territories did not indicate the level of switching that could occur in the post-transition period. (See *id.*) The CES cautioned the Commission from allowing Ameren to use its prior failure to facilitate competition as a reason to prevent a pro-competitive restructuring of its customer groupings in the instant consolidated proceedings.

The CES stated that Ameren switching levels will improve with the end of transition charges, Ameren’s integration into MISO, and continued improvements in the wholesale market, appropriate decisions by the Commission in the instant proceeding, and continued Commission oversight and intervention as necessary. (See Ameren Ex. 2.0 at lines 173-77; Nelson Tr. at lines 135-38; CES Ex. 1.0 at lines 463-67.)

In addition to rebutting Ameren’s assertions, the CES explained why the Coalition’s proposal would provide more **benefits** to customers by: (1) properly insulating residential and small business customers from migration risk premiums properly attributable to larger customers; (2) allowing market principles to properly set the migration risk premium; and (3) promoting the development of a competitive retail market in the Ameren Service territories.

First, consistent with the Customer Focus principle, as advocated by Dr. O’Connor and Ameren witness Dr. Lacasse, the Coalition’s proposal insulated residential and small commercial customers from the migration risk premium associated with the 400 kW – 1 MW customers. (See CES Ex. 4.0 at 408-17. See also Blessing Tr. at 493-94.) According to the CES, Ameren admitted that Ameren’s proposal would create a subsidy, flowing from residential to non-residential customers, in the blended product. The CES stated that Ameren witness Cooper attempted to justify the Ameren proposal by asserting: “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.” (See Ameren Ex. 15.0 at lines 429-32.) The CES averred that, to the extent that this assertion regarding load profiles was true, and in tandem with Ameren’s claims elsewhere that the Companies did not know these customers’ load profiles, Ameren’s assertion actually supported the CES’ conclusion that residential customers’ rates would be lower if fewer non-residential customers were included in the blended product. (See CES Ex. 4.0 at lines 395-406.) Ameren witness Blessing likewise admitted that, following the transition period, the 400 kW – 1MW customer group, rather than the residential customer group, was more likely to migrate to RESs. (See Tr. at 481.) He also admitted that Ameren’s proposal shifted the migration risk premium for the 400 kW to 1 MW customers to residential and small commercial customers for the duration of the blended product’s term. (See Tr. at 483-86.)

Second, in keeping with the Market Reliance policy principle, the Coalition explained that its proposal would allow the market to develop the migration risk premium that should exist for customers with demands greater than 400 kW. (See CES Ex. 4.0 at 410-17.) As Ameren witness Blessing explained, the cost premium associated with the migration risk should follow the customer group that creates that risk. (Tr. at 480.) According to the Coalition, its proposal greatly alleviated migration cross-subsidies

because any resulting migration risk premium included in the BGS-FP would be only as a result of any premium the market attributes to customers with demands under 400 kW. As a result, the Coalition averred that its approach comported with the Market Reliance principle advanced by Ameren witness Dr. LaCasse and supported by Coalition witness Dr. O'Connor (see Ameren Ex. 12.0 at lines 370-73; CES Ex. 4.0 at lines 413-17.)

Third, because the Coalition's proposal would better promote the development of competition in the Illinois retail electric market, the Coalition requested the Commission to order Ameren to include the 400 kW to 1 MW customers in the BGS-LFP annual auction. The CES stated that customers with demands between 400 kW and 1 MW possess load characteristics and migration potential more akin to customers with demands greater than 1 MW. (See *id.* at lines 554-57.) In other words, the CES averred that, throughout the state, customers with demands between 400 kW to 1 MW have demonstrated a greater appetite for choice than have customers below that level. (See CES Ex. 1.0 at lines 359-61.) The CES also opined that the level of competition for the 400 kW to 1 MW customers would likely increase in the post-transition period, but the prospects for competition for the residential and small commercial customers is less clear. (See CES Ex. 4.0 at lines 630-35. See also Blessing Tr. at 481.) The Coalition explained that including the 400 kW to 1 MW customers in the annual auction product would be more conducive to customer switching for this group.

Regarding Ameren's lack of load profile metering, CES suggests, through Dr. O'Connor, that Ameren could develop the requisite load data based on sampling or alternatively, relying on ComEd data. (CES brief at 34; CES Ex. 4.0 at lines 335-342)

In sum, the Coalition asked the Commission to order Ameren to include the 400 kW – 1 MW customer grouping with the over 1 MW customer grouping for procurement purposes. The Coalition maintained that such a grouping properly assigned costs, minimized the risk of cross-subsidies and promote the development of competition. The Coalition requested the Commission to adopt the Coalition's customer grouping proposal for the Ameren service territories because it offered default products consistent with those offered to similarly-sized customers in ComEd's service territory.

*The following language should replace the Commission's Conclusion that appears on page 125 of the Proposed Order.*

#### **e. Commission Conclusion**

Among other things, CES proposes to include the 400 kW to 1 MW customer group with those customers over 1 MW in the BGS-LFP annual product auction. ~~While CES has made some strong arguments in favor of its proposal that deserve close consideration, it appears~~The Commission is persuaded by the CES' testimony and supporting data. The Commission finds that it is incumbent upon this body to eliminate institutional obstacles, intended or inadvertent, that have frustrated customer choice in the Ameren service territories during the mandatory transition period. Ameren's prior failure

to facilitate competition requires the Commission to assume a more active role in the development of competition in the Ameren service territories. The Commission agrees that, contrary to Ameren's assertions, the Coalition's proposal greatly simplifies the auction process. The Commission finds reasonable the Coalition's revised customer groupings that include the 400 kW to 1 MW customers in the annual segment rather than the blended segment. The Commission further agrees that the inclusion of 400 kW to 1 MW customers in the annual segment, rather than the blended segment, provides a logical and reasonable grouping based on statistical switching propensities. The record demonstrates that such a grouping also eliminates the need to utilize a migration risk allocation mechanism in the rate translation mechanism (or rate "prism") for the remainder of the mass market customers in the blended product (i.e., less than 400 kW).

The Commission is not persuaded that Ameren's lack of load profile metering makes CES' proposal problematic from a practical standpoint at this time. The Commission agrees with Staff that given the relatively low cost of installing the necessary metering, the Ameren Companies should be required to begin the process of installing such meters, and to complete that process within one (1) year.

In conclusion, based on the record in this docket, the CES proposal will be adopted with respect to the initial auction.

The Commission agrees with Staff that given the relatively low cost of installing the necessary metering, the Ameren Companies should be required to begin the process of installing such meters, and to complete that process within two years.

In conclusion, based on the record in this docket, the CES proposal will not be adopted with respect to the initial auction. The proposal may appropriately be revisited in subsequent auctions when the necessary data is available by virtue of metering or other means.

## **II. Nature of Auction Product and Tariffed Services for 1 MW and Over Customers**

*The following language should replace the summary of parties' positions and Commission Conclusions that appears on pages 125-26 of the Proposed Order.*

The **Ameren Companies** propose that larger customers (those with loads exceeding 1 MW) be served through BGS-LFP tranches and BGS-LRTP tranches. BGS-LFP tranches represent fixed-price full-requirements service. BGS-LRTP tranches represent full-requirements service with a real-time (hourly) priced full-requirements service. In the first auction, these tranches would be from January 1, 2007 to May 31, 2008. Once the auction terms are harmonized with the MISO planning year, the BGS-LFP and for BGS-LRTP supply period for subsequent auctions would be 12 months, from June 1 to May 31. (Ameren brief at 88)

The Ameren Companies do not believe that customers with peak demands at or above 1 MW should be placed on an hourly rate without a fixed price option. Providing a one-year fixed price option to these customers ensures they will have an opportunity to receive stable rates. (Ameren reply brief at 43-44)

As discussed above, the CES proposed to remove the load of customers with demands between 400 kW and 1 MW from Ameren's blended product auction; instead, the CES proposed that these customers should be offered a one-year retail product, based on a single-year wholesale auction similar to that offered to customers with demands greater than 1 MW. The primary justification for this proposal, according to the CES, is that the switching propensity for 400 kW to 1 MW customers was much more similar to customers in the 1 to 3 MW customer group than to customers with demands under 400 kW. (CES Exhibit 1.0 at lines 593-95) Another advantage, the CES explained, was the reduction of any risk premiums that suppliers providing bids for the BGS-FP product might add to their bids. (CES Exhibit 4.0 at lines 307-310). Moreover, consistent with Ameren's stated goal of statewide uniformity in the auction products, the CES recommended that Ameren refine its default products and related retail rules to mirror those presently advocated by ComEd in its own procurement docket. (See O'Connor Tr. at 250-52.)

As the CES explained, the default products for these customers will vary based upon whether the customer was served by RES supply (default is RES service), PPO or hourly service (default is hourly service), or bundled service (default is the annual product).

**DES-USESC** propose that for customers with demands equal to or over 1 MW that have not been declared competitive, the bundled product should be an hourly energy product. (DES/USESC brief at 22)

According to **IIEC**, the Ameren Companies and IIEC agree that a fixed-price product is needed for customers 1 MW and over because, given the current state of the retail market, customers require this product. (IIEC brief at 29-31) IIEC does not believe that having only an hourly energy price option will be a sufficient utility default option for any customer group. IIEC claims that a single, price-volatile option does not allow customers to enjoy the full benefits of the available competitive markets. Given the importance of a fixed price service to customers in the 1 MW and above group, IIEC recommended that the Ameren Companies' proposal to offer 1 MW and over customers a one-year fixed price product be approved.

Based on a review of the evidence, the **Commission concludes** that the ~~proposal to provide a fixed price product to customers of 1 MW and above is reasonable and should be approved.~~ Coalition's revised customer groupings that include the 400 kW to 1 MW customers in the annual segment rather than the blended segment should be approved. The Commission also agrees that, in order to further the goal of uniformity between the Ameren and ComEd products, Ameren should offer default products similar to those to be utilized by ComEd for customers in its 400 kW to 3 MW customer

grouping to the Companies' customers with demands greater than 400 kW. As indicated in the record, the fixed-price service will provide a desired, and reasonable, level of price stability to customers within that group.

### **III. Enrollment Window**

*The following language should replace the Commission's Analysis and Conclusions that appears on page 203 of the Proposed Order.*

#### *vii. Commission's Analysis and Conclusions*

As discussed above, there are many parties with widely divergent views on the appropriate length of the enrollment window. The positions of the parties are stated in some detail above and will not be repeated here.

In the Commission's view, the length of the enrollment period is a matter of judgment on which reasonable people can have different views. The challenge is to strike the right balance between providing customers with sufficient time in which to make decisions, on the one hand, and on the other, the higher premium that ~~would likely~~ might result if suppliers were forced to hold out fixed price call options for longer periods of time. In addition, the Commission agrees with the CES' observation that the Commission's decision regarding the duration of the enrollment window will have a direct, immediate, and significant impact upon the development of the Illinois retail electric market.

Based on the evidence in the record, the Commission finds that a longer enrollment window will not in all likelihood lead to higher auction prices. The Commission finds that the evidence presented by Staff on this point is not as convincing and unrefuted. ~~While CES' position that customers require sufficient time to make informed decisions has merit, the Commission cannot ignore the fact that the CES members benefit directly and proportionally from higher auction prices and longer enrollment windows. In the Commission's view, the record simply does not support an enrollment period anywhere near 75 days in length. The record shows that the additional cost is simply too great as the evidence that demonstrates customers need more time to analyze, negotiate and execute competitive supply offerings.~~

The Commission notes that if the enrollment window is too short, many customers simply will accept the utility supply option, not because it is the most economical option, but rather because customers simply lack sufficient time within the confines of the enrollment window to implement and complete the decision-making steps necessary to evaluate the available alternatives.

~~Given~~ While the Commission's ~~concern regarding~~ is concerned about the absolute level of retail prices, the Commission concludes that, at this time, the enrollment window

~~should be no longer than 40 days~~50 days for the initial auction, and 45 days for subsequent auctions. In the Commission's view, the record supports a finding that ~~while smaller customers may~~will benefit from an enrollment window somewhat longer than 30 days, ~~larger customers do not need or desire additional time. Therefore, the Commission adopts the recommendation of HEC to adopt a 30-day enrollment window for customers with demands greater than three megawatts. The Commission adopts an enrollment window of 40 days for customers with demands less than three megawatts.~~

~~The Commission understands that Ameren does not like HEC's alternative recommendation, which is adopted herein. Of course, Ameren will face increased administrative activities and costs associated with managing two enrollment periods. However, given that the shorter enrollment period is limited to the relatively small number of the largest customers, the problem of customer confusion should not be significant. The Commission believes the benefits that will be enjoyed by small and large customers of adopting HEC's alternative recommendation outweigh the disadvantages.~~

The Commission agrees with the CES that the competitive market will resolve any legitimate problems (that might arise from higher premiums associated with a longer enrollment window) by offering customers in the 1-3 MW customer class alternatives at a lower cost than the auction price. Competitive activity among RESs also would provide customers with alternatives from any premium unacceptable to customers. As such, customers may find reprieve from prices inadvertently driven higher from a theoretical premium associated with a longer enrollment window; customers have no such reprieve from an enrollment window that is simply too short for customers to evaluate their available supply alternatives. Given the lack of empirical evidence to support the basis for this theoretical premium, the Commission concludes that customers would be better served by paying this theoretical premium and having more time to make supply decisions.

Finally, the Commission adopts Staff's recommendation that Ameren study the appropriate duration of the enrollment period and report on the results of its analysis prior to the next auction.

### **III. Customer Supply Group Migration Risk Factor**

*The following language should replace the Commission's Analysis and Conclusions that appears on page 210 of the Proposed Order.*

#### *iv. Commission's Analysis and Conclusions*

CES contends that Ameren's proposal failed to allocate the migration risk premium in order to recognize differing migration potential across customer classes. CES recommends that the Commission order Ameren to revise its assumptions regarding

customer migration so that it relies upon available empirical data from ComEd service area.

Both Ameren and Staff oppose the application of a migration risk factor for the reasons stated above.

The Commission has reviewed the record, as well as the arguments of the parties, regarding migration risk factors. In the Commission's view, it seems logical that when developing bidding strategies and bid prices, suppliers will consider the likelihood and level of possible customer switching. ~~However, there is not sufficient information in the~~The evidentiary record to supportclearly supports the inclusion a specific migration risk factor at this time.

~~The divergence of opinions regarding the anticipated level of customer switching, and the lack of evidence in this record quantifying future migration, makes an~~customer switching characteristics between the commercial and residential customers within the BGS-FP customer group makes the Commission believe that it is particularly important to administratively established a migration factor~~problematic. Doing so will help ensure that residential customers, with little switching propensity, do not needlessly carry the risk premiums assessed to commercial customers within the BGS-FP customer group whose switching potential is more certain.~~

~~Therefore, for purposes of the initial auction, the Commission finds the better course is to allow suppliers to include in their~~The Commission finds that because suppliers bid for tranches of load that do not distinguish between residential and non-residential customers, suppliers would be unable to differentiate in their BGS-FP bids their expectations of customer migration. At this time, the~~for those customers. The Commission does not adopt the proposals~~adopts the CES proposal to include an explicit migration risk factor in the translation prism for BGS-FP.

With respect to future auctions, the Commission finds that this issue should be revisited so that the migration risk factor again can be quantified and reflected in the prism as appropriate.

#### **IV. Rider MV – Supply Procurement Adjustment**

*The following language should replace the Commission's Analysis and Conclusions that appears on pages 217-18 of the Proposed Order.*

##### **d. Commission's Analysis and Conclusions**

The Ameren Companies propose that the SPA costs be tracked through Rider MV. The Ameren Companies assert that an annual true-up is needed with regard to the collection of the authorized level of SPA costs in order to ensure that the Ameren Companies are not in an over- or under-recovery situation.

While CES generally supported Ameren's proposed allocation method in terms of allocating the SPA on a ¢/kWh basis, CES contends that Ameren failed to provide enough detail to determine how this allocation would be distributed among the various customer classes. CES recommends that the SPA be revised to ensure proper recognition and assignment of costs that are attributable to the Ameren Companies' new procurement model and are intended to be recovered through the SPA. CES supports tracking the SPA in the MVAF.

Staff opposes tracking SPA costs through Rider MV, arguing among other things that it would not accomplish a legitimate true up. Instead, it would isolate a single cost element and force recovery for that cost element to an unchanging, predetermined dollar amount regardless of the level of service provided or amount of cost actually incurred.

Having reviewed the record on this contested and somewhat complicated issue, the Commission first finds that Ameren has adequately identified certain categories of costs that will be necessary to administer the power supply procurement process. Additionally, the Commission concurs with CES that all direct and indirect costs associated with arranging for the supply of electricity are not to be allocated to delivery service customers.

While certainly it is appropriate to set the actual rates within the context of a complete rate case, the Commission believes that a modicum of direction, with respect to the Companies' proposed SPA, is warranted here. While the Commission acknowledges and agrees that the actual charge and the actual allocation of the SPA should be set in the Companies' yet-to-be-filed post-2006 rate case, it is incumbent upon the Commission to ensure that the "placeholder" is properly designed within the instant consolidated proceedings. The Commission finds it proper to address the types of costs that should be included, the proper allocation method, and the manner in which the SPA is to be set in the instant proceeding. After all, as the CES pointed out, the Commission already is addressing the mechanics associated with Ameren's proposed retail tariffs. Ameren has not provided any rationale for delaying consideration of the mechanics of the SPA, and the Commission finds no credible reason to do so in the record.

~~Because the level of cost of administering the power supply procurement will not be established in this proceeding, however, the Commission declines to specify here all of the types of costs to be recovered through this charge. In the Commission's view, CES' proposal in this regard is premature and it would be best to make such a decision with the benefit of a complete evidentiary record. In other words, the Commission will decide the specific categories and associated levels of costs to be recovered through the supply administration charge either in Ameren's next delivery services rate proceeding or another appropriate proceeding.~~

Accordingly, the Commission directs Ameren to ensure that all direct and indirect costs associated with the service of arranging for the supply of electric energy supplied by the utility be allocated taking into consideration the relevant characteristics of the

customers' demands on the electric utility's system. Specifically, the Commission directs Ameren to assure that generation supply costs, both direct and indirect, are not allocated to delivery services for collection. The Commission agrees that an improper allocation of costs will distort the true generation supply costs, distort the market, create false price signals, and act to frustrate customer choice and competition. Ameren is directed to ensure that the SPA, as proposed in any future rate case, is consistent with the parameters outlined herein.

As the Commission understands it, Ameren has proposed a mechanism where certain costs associated with administering the power supply procurement are set in delivery service rate cases but the actual charge will vary depending on kWh sales. Most charges are established in a rate proceeding and do not vary between rate cases.

An alternative to the traditional ratemaking process is the rider mechanism. A rider mechanism may be appropriate for cost recovery when a utility is faced with unexpected, volatile, or fluctuating expenses, among other situations. With a rider mechanism, however, actual costs are typically tracked and there would normally be some sort of true-up mechanism. Under Ameren's proposal, actual costs would not be tracked and it does not appear to true-up actual costs with actual revenues. Instead, actual revenues would be tracked and true-up with the level of costs approved in a rate proceeding.

Ameren has demonstrated that certain costs will be incurred to administer the power supply procurement process, and Ameren is entitled to recover prudent and reasonable costs associated with these activities. ~~However, it is simply not clear to the Commission how~~Given the restructured Illinois electric industry, it is important that Ameren's charges accurately reflect the actual costs associated with procuring and administering the power supply are so fundamentally different from other types of costs that a totally different rate recovery mechanism is warranted. While the Commission understands that Ameren~~the Commission~~is concerned about the possibility of under-recovery or over-recovery due to fluctuating kWh sales, the Commission is not prepared to adopt Ameren's proposed Rider MV tracking mechanism for SPA costs at this time. The Commission agrees with the CES that the SPA should be allocated evenly per kWh, rather than by a fixed-dollar amount per account, per month, and should be tracked in the MVAF to ensure that Ameren neither over- nor under-collects for this expense.