

As IBEW correctly points out, the Commission made a similar observation in Docket No. 00-0699. In that case, CILCO claimed that because there were no complaints regarding its tree trimming practices, the Commission had no basis to find the utility's practices inadequate. We held that since CILCO did not keep record of customer complaints about the manner in which it trims trees and lacked complete records of its tree trimming activities, the utility had no basis to assert the adequacy of its practices. We agree with IBEW that the Commission need not wait for injuries or service outages to occur to reject a utility practice when the evidence shows that the hazards are credible.

Ameren's final argument in support of its conduit proposal is that it will inspect customer-installed conduit. Based on the evidence, the Commission finds Ameren's promise of little value. Ameren admitted that it has no documentation of any kind verifying that it currently inspects customer-installed conduit under the program offered in its AmerenCIPS service territory. In addition, we find that the IBEW has offered credible and persuasive testimony that AmerenCIPS does not in fact inspect such conduit. We further find it significant that Ameren made no attempt to refute IBEW's contention that its failure to inspect customer-installed conduit violates Rule 313 of the 2002 National Electrical Safety Code (NESC) under Code Part 305.20 of our rules.

Based on the above findings, the Commission concludes that Ameren's conduit proposal is not "just and reasonable" and orders Ameren to strike it from its proposed tariffs. The Commission has an obligation to ensure that utility practices safeguard employees and customers and promote system reliability under Section 8-101, 8-401, and 8-505 of the Act. Ameren's conduit proposal will achieve neither of these objectives based on the record evidence.

With respect to Ameren's subdivision developer option, the Commission similarly concludes that the option is not "just and reasonable." The evidence shows that Ameren has not developed a complete list of the facilities and equipment developers could install, nor has the Company developed a *pro forma* contract that developers would enter into with Ameren. The evidence also shows that Ameren has not developed any criteria to decide if a developer or its contractors possess the requisite skills to install electric distribution facilities as an "approved contractor." As Ameren's witness admits, the proposal is only a "general concept with the details to be filled in" later.

Given the ambiguity regarding the proposal, the Commission finds that it has no basis for making a determination that the proposal is "just and reasonable" from the perspective of safeguarding system reliability and the health and safety of utility employees, customers, and the public. We agree with IBEW that approval of Ameren's subdivision developer proposal would be tantamount to providing Ameren with unfettered discretion and arbitrary authority to render service under its proposal. This, we may not do. *Bloom Township High School v. Illinois Commerce Comm'n*, 309 Ill App.3d 163, 175 (1<sup>st</sup> Dist. 1999) ("The notion that a public utility might be vested with unfettered discretion and the ability to act arbitrarily in the rendition of service to its

customers is the antithesis of the purposes for regulating utilities.”). It is obvious that if Ameren were to ask the Commission for a rate increase without providing a cost study, the Commission would flatly reject it as insufficient. See *Central Illinois Public Service Co v. Ill. Commerce Comm'n*, 5 Ill.2d 195, 200, 209-211 (1955) (Commission properly canceled a utility’s proposed rate increase where the utility failed to support its proposal with a specific cost study). Accordingly, the Commission rejects Ameren’s tariff proposal because it is wholly undeveloped and Ameren has not met its burden of proof. The Commission hereby cancels the subdivision developer proposal and orders Ameren to strike it from its tariffs.

~~The primary purpose of electric utility tariffs under the jurisdiction of the Commission is to govern the relationship between electric utilities and its customers. Such tariffs are, at most, incidental to governing the relationship between electric utilities and its employees and to safeguarding the safety of utility employees.~~

**The Commission is not convinced that the installation of conduit by a residential customer, or its contractor, constitutes “unbundling.” Ameren’s proposed tariffs offer individual customers a component of a delivery service (i.e., the ability to install their own conduit) in the form of a separately offered option from its standard option. a delivery service and the Commission must evaluate the impact of the proposal under the factors set forth in Section 16-108(a) of the Act. us, a Commission decision regarding unbundling of this service is unnecessary. The installation of conduit is not necessary for residential customers to receive electric power and energy from suppliers other than Ameren. If, however, the Commission were to conclude that the installation of conduit by residential customers, or their contractors, constituted a delivery service, the Commission believes Section 16-108(a) of the Act would apply. In such a situation, tAccordingly, the Commission would rejects Ameren’s argument that Section 16-108(a) unbundling considerations are only applicable to the initial delivery services tariff establishment. That Section explicitly anticipates subsequent modification of delivery services tariffs pursuant to Article IX and the Commission believes the last sentence of Section 16-108(a) would be applicable to any such unbundling.**

The only evidence the Commission received on unbundling for Ameren’s conduit proposal was from the IBEW. That evidence shows that the conduit option will result in a reduction of man-hours for IBEW personnel because these persons would no longer perform trenching when installing line and service extensions for customers installing their own conduit. Tr. 661-663, 665-667. While Ameren’s proposal would afford customers an increase in the available service options, that increase in service options cannot be equated with the “development of competitive markets for electric energy services in Illinois.” The type of development that the Act refers to is the ability of a customer to purchase unbundled service from a third party regulated by the Commission, not through customer self-performance. Both the Act and the Commission’s orders make this clear.

Sections 16-115 and 16-128(a) contemplate that ARES will be installing, maintaining, and operating electric distribution facilities equipment. See 220 ILCS 5/16-115A(a) (subjecting ARES to, among other provisions, Section 8-505 of the Act, which serves as the basis for the Commission's Rules under Code Part 305 governing the construction of electric power lines); 220 ILCS 5/16-128(a).

In addition, in Docket 99-0013, the Commission squarely addressed and rejected the proposition that customers performing their own metering services, including meter installations would promote such market development.<sup>15</sup> The result of that proceeding was to require customers to obtain unbundled metering services from providers certified by the Commission who had demonstrated that its employees and those of its contractors have the same knowledge, skills, and training as electric utility employees. Id. at \*40-\*41. See 83 Ill. Admin. Code § 460.40 (requiring meter service providers to meet the obligations imposed by Section 16-128(a) of the Act). Given these authorities and record evidence, the Commission finds Ameren's conduit proposal to be against the public interest. While the Commission does not believe the installation of conduit by residential customers constitutes a delivery service, the Commission observes that in addition to considering the impact of unbundling on utility employees under Section 16-108(a) of the Act, the Commission must also consider the objective of just and reasonable rates and the development of competitive markets for electric energy services in Illinois. The consideration of these two factors would tend to favor allowing residential customers to install conduit. Such an arrangement would tend to produce lower costs and increase the service options available to residential customers. Thus, even though the Commission does not believe the installation of conduit by residential customers constitutes a delivery service, if it did, the Commission likely would still determine that unbundling of that service is in the public interest. The Commission believes it is just and reasonable to allow residential customers, or their contractors, to install conduit for a service line conductor. This is not to say that this conclusion in any way excuses Ameren from its responsibilities to ensure the safety and reliability of its distribution and transmission system. Nevertheless, the Commission believes that the record supports Ameren's proposal.

**The Commission believes that Ameren's proposal to allow residential developers to install their own underground electric distribution facilities and equipment constitutes an unbundling of delivery services.** Ameren offers subdivision developers one package where the developer installs all the delivery service components or a separate package where Ameren's personnel perform the installation work for the developer. The Commission finds that while the installation of conduit is not necessary for residential customers to receive electric power and energy from suppliers other than Ameren, the installation of underground electric distribution facilities and equipment is necessary and meets the statutory definition of delivery service. As previously discussed, the Commission believes that this proposal is, therefore, subject to the provisions of Section 16-108(a) of the Act.

<sup>15</sup> Investigation concerning the unbundling of delivery services under Section 16-108 of the Public Utilities Act, ICC Docket No. 99-0013, 1999 Ill. PUC LEXIS 915, at \*32-\*33.

As noted previously, there are three criteria the Commission must consider in evaluating a proposal to unbundle delivery services. IBEW expresses concern that Ameren's proposal will have a significant adverse impact on IBEW utility employees. The Commission finds IBEW's objections compelling. Ameren's own documentation discloses that its developer option will result "in significant material and labor dollar savings for the utility since developers will be responsible for the costs of all material and construction labor." Revised IBEW Exhibit 5.0 (lines 100-109) quoting Ameren's Response to IBEW DR 5-5 (IBEW Exhibit 5.02). IBEW explained that the significant "labor dollar savings" Ameren would realize would come at the expense of union members because its members would work fewer man-hours. The proposal would affect all IBEW members because Ameren intends to apply the proposal to its entire Illinois service territory. IBEW convincingly argues that the proposal will also have the secondary effect of creating a disincentive for Ameren to hire replacements for IBEW journeymen linemen who are lost through retirement or attrition.

The Commission finds persuasive IBEW's claim that Ameren has a difficult time performing storm restorations and everyday system maintenance with the linemen workforce it currently has. The Commission believes that Ameren's decision to downsize its workforce since 1999 is largely the reason for its difficulty. As IBEW notes, with fewer linemen, Ameren simply has fewer workers to conduct the everyday system maintenance needed to keep the electric grid operating safely, and restore service outages in a timely manner.

The Commission agrees with Commission Staff that Ameren's cost-cutting choices have caught up with it because the Ameren Companies have the worst performance for company-wide average duration customer interruptions. IBEW Reply Br. at 14. Commission Staff notes that AmerenCIPS under-spent its O&M budget by nearly 20% in 2004 which directly led to a "significant reduction in [its] electric service reliability." ICC Staff Initial Br. at 166. The Commission finds it unsurprising that Commission Staff strongly recommends that each Ameren Company increase its field inspections and not delay corrective action in order to improve reliability and public safety. ICC Staff Initial Br. at 165-166, 168. Because Ameren needs more personnel to ensure system reliability, not less, the Commission believes it is not in the public interest to allow an unbundling proposal that will further cause workforce reductions and impair system reliability. We therefore reject Ameren's subdivision developer option.

~~—however, is not convinced that is true—In its testimony, the IBEW indicates that IP initiated a pilot program to allow residential developers to undertake the same activity that is the subject of dispute here.—After reviewing Ameren's proposed tariffs, the Commission believes that this proposed provision is not likely to be used extensively and is unlikely to have a significant impact on utility employees.—On the other hand the Commission believes this provision could contribute to just and reasonable rates by allowing residential developers to have underground electric distribution facilities installed in a more timely and cost effective manner.—Additionally, allowing residential developers to undertake such activities might enhance the development of the competitive market for such services.—The Commission emphasizes, however, that in~~

An automated meter reading or AMR system, IBEW says is a metering system that does not require metering personnel to physically visit and manually read an electric meter on-site, and is also referred to as an "advanced metering system." Under

obligations. chooses a MSP, IBEW says then the MSP will assume Ameren's metering service all of its meters and all associated equipment for billing purposes. If the customer proposed tariffs state that the utility will own, furnish, install, calibrate, test, and maintain IBEW states that if the customer selects Ameren as its provider, then Ameren's ("MSP") that is certified by the Commission under Part 460 of the Commission's Rules. may obtain metering services either from Ameren or from a meter service provider Ameren's proposed metering service tariffs, IBEW says, provide that a customer

and safety of utility employees, customers, and the public. services that it will offer to Ameren without impairing electric reliability and the health demonstrate that Terasen possesses the requisite qualifications to provide the metering employees, customers, and the public. In IBEW's view, Ameren has failed to Ameren without impairing electric reliability and the health and safety of utility demonstrated that Cellnet possesses the qualifications to provide metering services to Ameren's proposed tariffs. The IBEW also claims that Ameren has not affirmatively Ameren is improper because Cellnet's ownership of AMR modules conflicts with reasonable. IBEW also contends that Cellnet's role in deploying the AMR system for 460, IBEW claims Ameren's actual metering practices can not be considered "just and rules apply and neither contractor is certified as a meter service provider under Part Services ("Terasen") as Ameren contractors providing metering services. Since these that Part 460 applies to Cellnet Technologies, Inc. ("Cellnet") and Terasen Utility to any applicant and Metering Services Provider ("MSP") in this State. IBEW asserts Meter Service Providers" ("Part 460"), sets forth minimum requirements and shall apply 83 Ill. Code 460, "Certification Requirements And Standards Of Service For

1. IBEW's Position

B. Metering Services

approving this tariff provision, Ameren remains responsible for ensuring that its electric distribution system is constructed and maintained in a safe and reliable condition. Thus, as part of the transition from a fully regulated electric services market to a partially competitive market, Ameren's proposed tariff provisions that would allow residential customers or their contractors to install conduit and that would allow developers of residential subdivisions to install conduit and distribution facilities under Ameren's direction is hereby approved as a pilot program. Additionally, the Commission directs CILCO, CIPS, and IP to submit annual reports to the Manager of the Commission's Rates Department listing and detailing the level of participation in this tariff provision. The first such reports shall be submitted by April 30, 2008 for the calendar year 2007 and on April 30<sup>th</sup> of each subsequent year for activity in the preceding calendar year until each company's next distribution rate increase is completed.

Ameren's AMR expansion plan, IBEW indicates that Ameren will exchange the single-phase, self-contained socket type electric meters its residential and small commercial customers currently use with electric meters that contain within it a wireless communications device known as an "AMR module." That AMR module, IBEW states, will record the customer's actual electric meter usage and remotely (or wirelessly) send the data to Ameren.

According to IBEW, Ameren's AMR system requires installation of a complete network of electronic equipment to operate so that the AMR module can remotely transmit data. IBEW states that Ameren has depended upon its IBEW personnel to provide the utility with metering services, including the exchanging and reading of meters. IBEW says its personnel have been providing Ameren with metering services for decades, and no party disputes that IBEW personnel possess the requisite skills and experience to provide the full array of metering services as set forth in Part 460.

To deploy the AMR system, IBEW states that Ameren contracted with Cellnet in January 2006. Cellnet, IBEW says, is a privately-held corporation that provides automated meter reading systems to the utility industry. Under its contract, IBEW says Cellnet will do essentially three things for Ameren: (1) exchange Ameren's single-phase, self-contained socket type electric meters its residential and small commercial customers currently use with electric meters containing AMR modules; (2) install, own, operate, and maintain the AMR modules, wireless communications receivers, and other infrastructure necessary to transmit meter usage data to Ameren; and (3) provide Ameren with automated meter reading services for electric meters equipped with Cellnet's AMR modules. Subsequent to signing its contract with Ameren, IBEW says Cellnet subcontracted with Terasen to perform the actual exchange of Ameren's single-phase electric meters with ones containing AMR modules.

IBEW states that Part 460 of the Commission's Rules requires entities providing metering services to obtain Commission certification and comply with the requirements of these rules before offering service. To obtain certification, IBEW says an applicant must demonstrate that it has the technical, financial, and managerial resources to provide service. In addition, IBEW says the applicant must show that its employees and agents possess certain qualifications to provide certain types of metering service. For the type of meters that Terasen personnel will exchange for Ameren, IBEW asserts that a meter service provider's employees must possess the qualifications of a Class 1 Meter Worker as set forth in Sections 460.500 and 460.510 of Part 460. IBEW alleges that for the type of metering services that Cellnet will be providing to Ameren, the installation and maintenance of an advanced meter reading system, including a remote communications system, a meter service provider's employees must have the skills of a Class 3 Meter Worker as found in Section 460.530.

Section 460.20, however, provides that the requirements of Part 460 do not apply to any electric utility's operation within the utility's service territory. The question, according to IBEW, is whether Cellnet and Terasen are included within Section 460.20's exemption because they are providing metering services as Ameren contractors.

Ameren takes the position that the exemption extends to its contractors. IBEW argues that Cellnet and Terasen do not fall within this exemption even though they are Ameren contractors based on rules of statutory construction and sound policy. According to IBEW, Illinois courts have long held that the party claiming an exemption from a provision of law bears the burden of proof to demonstrate that the exemption is applicable. (AFS Messenger Service, Inc. v. Dept. of Employment Security, 198 Ill. 2d 380, 397-398 (2002)) IBEW also claims that when an administrative agency promulgates a rule with the public interest in mind, much like the Commission has with Part 460, the statutory construction of the rule favors inclusion. IBEW claims that exemptions to the rule are to be strictly construed to protect the public interest.

In Docket No. 00-0182, when the Commission promulgated Part 460 and implemented its MSP Order, IBEW says it exempted utilities from the Part when providing metering services within its service territories, but subjected them to regulation when providing those services outside its service territories. The Commission, IBEW states, took this action because it believed that utilities would not send its own employees to do the work and would contract with a company to perform services outside of its respective service territories. IBEW alleges that the Commission exempted utilities from Part 460 only because it assumed that utilities would continue to use its own employees to provide these services within its respective service territories. IBEW believes this assumption makes sense because utility employees have been doing this type of work for decades and there is no issue with their qualifications to correctly do the job.

With Ameren stating that Cellnet and Terasen personnel will be providing the metering services for the AMR expansion within its service territory, IBEW claims the Commission's foundational assumption for exempting utilities from Part 460 no longer applies. IBEW asserts that there is no longer any assurance that Ameren's metering services will be performed by qualified persons. IBEW concludes that Ameren's contractors will use unqualified employees to perform work that could create a hazard to customers unless Ameren demonstrates otherwise through evidence. According to IBEW, the Commission should find that Ameren's use of Cellnet personnel to provide metering services is not "just and reasonable."

IBEW also alleges that Cellnet's AMR modules constitute "associated equipment," especially when these devices allow Ameren to electronically read its meters and bill customers for electric service. IBEW states that if Cellnet were to continue to own the AMR modules, Ameren's actual metering practices will not be consistent with the terms of its tariff proposal. As a result, IBEW wants the Commission to find that Cellnet's ownership of the AMR modules is inconsistent with Ameren's proposed tariffs, and require Ameren to obtain ownership of the modules.

According to IBEW, the 40 hours of training for Terasen personnel is not enough time, no matter how good the training materials are, the caliber of instructors or the type of instruction personnel receive. The metering work Terasen personnel will perform, IBEW asserts, is a hands on job that requires significant field experience before a

trainee can recognize potential problems and carry out their tasks safely. IBEW alleges that each utility trains meter personnel in very different ways, and uses different installation and work practices in their metering work. In IBEW's view, the Commission should find that Ameren's use of Terasen personnel to provide metering services is not "just and reasonable," and require Terasen personnel to have the same level of training as Ameren's IBEW employees when exchanging meters for the AMR expansion project.

## **2. Ameren's Position**

Ameren's proposed metering services tariffs state that Ameren will "own, furnish, install, calibrate, test, and maintain all Company meters and all associated equipment used for retail billing and settlement purposes in its service area," unless the customer hires a MSP to perform these services. Ameren says IBEW does not specifically object to the metering services tariffs per se. Ameren states that rather, IBEW's complaint centers on Ameren's planned expansion of its AMR system. According to Ameren, an AMR system consists of a module within individual electric meters that transmits data via a wireless communications system. The electric meter, which Ameren says it owns, remains the fundamental measuring device for electricity consumption. Cellnet, Ameren states, owns the module inside the meter that transmits data, as well as the wireless communications system that transmits the meter data to Ameren. The benefits of an AMR system, Ameren claims, include the elimination of estimated bills, less intrusion onto customer property, better outage response, better information for customer service representatives in assisting customers, and special meter readings on the day requested. An AMR system, Ameren asserts, virtually eliminates the need for manual meter reads. Ameren says no IBEW witness challenged or took issue with these customer benefits.

Ameren states that in October 2005, it informed the IBEW of plans to expand the AMR system further into the Illinois service territories. The expansion, Ameren says, will require it to replace existing meters with meters containing an AMR module. Ameren adds that the meter exchange will be performed by Terasen as a subcontractor to Cellnet. The AMR modules and communications system, Ameren says will be owned and operated by Cellnet. According to Ameren, the agreement between Ameren and Cellnet requires Cellnet to comply with Part 410, where applicable. Staff, Ameren claims had recommended a reference to Part 410 be included as a part of the agreement with Cellnet. According to Ameren, IBEW Local 51 has filed a labor grievance over Ameren's use of Cellnet and Terasen for the AMR expansion.

IBEW argues that the activities of Cellnet and Terasen in conjunction with the AMR expansion constitute "metering services" as defined in Part 460 and therefore require these entities to become certified under that rule. Ameren asserts that for the Commission to accept this argument, it would have to write Part 410 off the books. Electric utilities such as CILCO, CIPS and IP, Ameren claims, are exempt from Part 460 when it provides metering services within its own service territory; instead, Part 410 applies. Ameren states that while the IBEW claims that Part 460 applies to utilities when it uses outside contractors, nothing in Part 460 says that. Ameren also asserts

that nothing in Part 410 says that a utility has to use its own employees to perform metering services under that Part.

According to Ameren, Section 460.20 states in part “. . . nor shall it apply to any electric utility’s operation within the utility’s service territory.” Section 460.20 goes on to state that it applies to “. . . an electric utility’s operations when it is providing metering services outside of its service territory.” Ameren claims that nowhere does the word “employee” appear in this section. It is disingenuous, Ameren argues, for IBEW to have misled the Administrative Law Judges and Commission, and even to go so far as to italicize the “with its own employees” phrase in filings in this case.

Cellnet and Terasen, Ameren maintains, are not subject to certification under Part 460 because it will be performing work on behalf of Ameren, and not on its own behalf as MSPs. The work it will perform, Ameren says, will be limited to exchanging single-phase meters and maintaining the wireless communications system. Neither contractor, Ameren adds, will have any direct relationship with customers. Ameren states that instead, CILCO, CIPS, and IP will “own, furnish, install, calibrate, test, and maintain all company meters and all associated equipment used for retail billing and settlement purposes in its service area.” Ameren says it will be providing “metering services” under its tariff, not Cellnet or Terasen.

Ameren asserts that IBEW parses through the specific work activities that Cellnet and Terasen will perform to attempt to show that these activities fall within some of the 16 different activities that Section 460.15 defines as “metering services.” Ameren believes, however, that nothing in Part 460 suggests that any entity that performs any one of these 16 functions under contract with a utility is a “meter services provider” subject to certification under Part 460. Utilities, Ameren says, have hired outside contractors for many years to perform many different kinds of work. Ameren states that when an outside service provider does work under contract with a utility (such as, for example, substation maintenance), nobody would suggest that the outside service provider is engaged in the provision of electric service and therefore subject to Commission regulation as a “public utility.” Ameren maintains that doing work for a utility and being a utility are two different things. Providing a limited number of components of metering service under contract with a utility, in Ameren’s view, does not make the entity providing those services a “meter services provider.” Performing limited subcontractor work at the direction of the utility and providing a competitive metering service are completely different activities, according to Ameren.

Ameren states that the only work associated with the AMR expansion that involves actual meters is the meter exchange service to be provided by Terasen. IBEW, Ameren says, does not dispute that Terasen’s employees will receive an amount of training comparable to what IP’s meter changers receive. The Terasen employees, Ameren adds, are also represented by IBEW Local 702. Ameren contends that IBEW offers no evidence that Terasen employees are, or will, be unqualified.

Under the proposed tariffs, Ameren maintains that it will continue to own electrical meters, just as it always has. Ameren says it will continue to inspect and replace meters as necessary, just as it always has. Ameren adds that it will remain subject to the metering service requirements of Part 410. If IBEW comes to believe at some future time that Ameren or its contractors have violated Part 410, Ameren says it is free to file a complaint with the Commission.

In its Reply Brief, Ameren says the Commission has no authority, statutory or otherwise, to arbitrate labor disputes between utilities and its employees. In Ameren's view, IBEW's Initial Brief confirms that IBEW has a labor dispute. Ameren claims the IBEW does not want non-Ameren personnel to exchange electric meters or allow customers to install their own conduit or line extensions because these practices may result in less work for IBEW members. Ameren concurs that IBEW journeymen are highly qualified individuals who have completed several years of apprenticeship training, and possess the requisite skills and experience to install and maintain these systems. According to Ameren, IBEW concludes that if the tariffs are approved, they will have a significant and detrimental impact on IBEW personnel in the form of lost wages and fewer jobs. Ameren claims these are the very same issues that have already been, or currently are, the subject of labor grievances. Ameren maintains that IBEW's intervention in this case is simply a continuation of the same grievances in a new forum.

Ameren asserts that IBEW's Initial Brief focuses almost solely on labor jurisdictional matters, such as a comparison of qualifications between Ameren and non-Ameren employees; evolution in Ameren practices about who historically has been allowed to do what kind of work; and what kind of work Ameren employees will or will not do under the proposed tariffs. Ameren invites a comparison between the IBEW's arguments in its Initial Brief and its arguments in Docket No. 03-0767. Ameren asserts that a cursory review reveals that IBEW's positions there and its positions here are essentially identical. According to Ameren, that case, like this one, involved what the Commission determined to be a labor jurisdictional dispute and was therefore beyond the scope of the Act. Resurrecting these claims as part of a rate case, Ameren claims, does not change the fundamental character of these claims as labor disputes.

Ameren takes exception to what it describes as the implicit, yet central, theme of IBEW's brief: that the only relevant consideration in determining the justness and reasonableness of the proposed tariffs is the impact those tariffs will have on IBEW members. The IBEW, Ameren states, is not the only stakeholder in this proceeding and the Commission needs to consider the interests of non-union employees, investors, ratepayers, and the public. Ameren asserts that the proposed tariffs benefit ratepayers and the public. Ameren says its proposed line extension tariff was developed over concern about cost and timeliness of new installations and the benefits of AMR expansion include elimination of estimated bills, better outage response and better customer service. The benefits that the tariffs offer to the public, Ameren maintains, far outweigh the speculative harm that IBEW claims will befall its members if these tariffs are approved.

The problem with IBEW's interpretation of the Act, Ameren claims, is that there is more to Section 16-108(a) than just the last sentence. According to Ameren, the first several sentences of Section 16-108(a), as well as the rest of the Customer Choice Law, make it clear that Section 16-108 applies only to the initial delivery service tariffs required by the statute. Utilities, Ameren says, were required to file its initial delivery services tariffs at least 210 days prior to the date that they were required to begin offering delivery services, and under Section 16-104(a)(1), delivery services tariffs had to be in place by October 1, 1999. According to Ameren, the General Assembly further provided that the proceeding for approval of initial delivery service tariffs should also include a review of which services should be offered on an unbundled basis. The unbundling review that the Commission was required to undertake per Section 16-108(a), Ameren says, took place in Docket No. 99-0013. Although IBEW apparently reads Section 16-108(a) as requiring the Commission to consider the criteria for approval of "unbundled" services whenever a utility subsequently modifies its delivery services tariff, Ameren claims nothing in the statute says that. Because the present case does not involve new delivery service rates but instead a change in delivery service rates, Ameren believes Section 16-108(a) does not apply.

Ameren says it only has to demonstrate that this work will be performed by adequately trained personnel. In the case of meter exchange services, Ameren asserts Terasen employees will receive training comparable to what IP's meter changers receive. The AMR expansion will otherwise be performed in compliance with Part 410, Ameren maintains. Ameren also asserts that conduit installations and service extensions must be installed consistent with good engineering practices and are subject to inspection by Ameren before any service inspections are made.

Even if IBEW's labor disputes were the proper subject of a Commission proceeding, Ameren claims several problems with IBEW's arguments remain. Among these, Ameren says, is the claim that allowing non-utility employees to exchange meters or install conduit poses a danger to the public. IBEW, Ameren states, is the party that claims that allowing customers to install conduit or allowing outside service providers to exchange meters will endanger the public. According to Ameren, it is IBEW's burden to present evidence to support this claim. Ameren believes it does not have the burden to prove that what IBEW says isn't true. The same, Ameren maintains, can be said for IBEW's claim that Ameren will not perform inspections of customer-installed conduit or line extensions. Ameren wonders how it can prove that it will do something in the future. If the tariffs are approved and IBEW believes that Ameren is not performing inspections required under those tariffs, or that work is being performed in a slipshod manner, Ameren says the IBEW is free to file a complaint at the Commission.

According to Ameren, IBEW has not tied the AMR expansion to the metering services tariffs. Ameren asserts that its metering services tariffs say nothing about the AMR expansion. Ameren maintains that neither Cellnet nor Terasen are providing metering services. Metering services, Ameren claims, will be provided by it or a MSP. The fact that the meters will contain a module that allows remote reading does not

change this fundamental fact. Ameren believes the IBEW's interpretation of "metering services" under Part 460 renders that term so broad as to be meaningless.

Whether outside service providers working for a utility in the utility's service area are subject to Part 460, Ameren claims is a legal conclusion. According to Ameren, this conclusion should be informed by the purpose of the metering service rules, not by whether Ameren's union employees have more training than non-Ameren service providers. The metering service rules, Ameren claims, have different requirements depending on who is responsible for providing services. Where a utility provides metering services within its own service territory, Ameren says the utility is ultimately responsible for those services and Part 410 applies. (See Docket No. 00-0182, September 20, 2000 Order at 8) Where a MSP provides metering services, however, Ameren claims the MSP, not the utility, is responsible for those services and Part 460 applies. Here, Ameren says it will remain responsible for metering services within its service territory. Because Ameren is the party responsible for providing service, Ameren asserts that Part 410 applies. According to Ameren, the fact that non-Ameren personnel will perform a limited scope of work on behalf of the utilities does not change the fact that it is ultimately responsible for providing metering services. This is no different, Ameren argues, than where Ameren hires outside service providers to perform work on transmission or distribution facilities. No one, Ameren maintains, has ever suggested that such outside service providers have to be certified before performing work for a utility. In Ameren's view, it makes no sense to subject Cellnet or Terasen to Part 460 because Ameren is ultimately responsible for providing metering services under Part 410.

According to Ameren, IBEW also claims that the metering services tariffs are "false" because the plain language of Ameren's proposed tariffs make clear that Ameren must own all meters and associated equipment. Ameren maintains, however, that the metering services tariffs do not address the AMR expansion. The metering services described in the tariff and the AMR expansion, Ameren argues, are completely different activities. Ameren states that the meter is the fundamental measuring device and the AMR modules do not measure consumption. Ameren asserts that, rather, the modules capture data and allow this data to be transmitted wirelessly. The AMR module, in Ameren's view, is not "associated equipment" because the modules have nothing to do with measuring consumption.

### **3. Commission Conclusion**

It appears that IBEW has request two alternative forms of relief with regard to Ameren's AMR program. First, IBEW requests that the Commission find that Cellnet and Terasen are MSPs that must comply with Part 460. Alternatively, IBEW requests that the Commission require Ameren to acquire ownership of the AMR modules owned by Cellnet. With regard to Terasen, IBEW's alternative relief appears to be for the Commission to find that Ameren's use of Terasen personnel to provide metering services is not "just and reasonable," and require Terasen personnel to have the same

level of training as Ameren's IBEW employees when exchanging meters for the AMR expansion project.

The Applicability provision of Part 460, Section 460.20, does not apply to any electric utility's operation within the utility's service territory. The AMR program at issue here is Ameren's program in the service territories of CILCO, CIPS, and IP. There is no prohibition on electric utilities employing contractors or subcontractors to perform meter services and the Commission concludes that Part 460 does not apply in these situations. Throughout these proceedings Ameren has claimed that Cellnet is its contractor and that Terasen is Cellnet's subcontractor. See e.g., Respondents' Revised Exhibit 30.0 at 10 (lines 220-225); Ameren Initial Br. at 158, 160; Tr. 748-49; Ameren Motion To Strike IBEW Testimony at 7. The Commission, therefore, finds that since Cellnet is Ameren's contractor, and Terasen is Cellnet's subcontractor, Part 460 is inapplicable.

~~Specifically, the Commission finds that Part 460 does not apply to Ameren's contractor Cellnet or Cellnet's subcontractor Terasen.~~

The Commission observes that Ameren's tariffs state in part that Ameren "will own, furnish, install, calibrate, test and maintain all Company meters and all associated equipment for retail billing and settlement purposes in its service area." Ameren argues that the AMR modules are not "associated equipment" as that term is used in the tariffs. The Commission disagrees because the AMR modules and wireless infrastructure are an integral part of the metering system used to collect and transmit billing data that is used for retail billing and settlement purposes. ~~The Commission disagrees because the AMR modules are used to transmit billing data that is used for retail billing and settlement purposes.~~ The Commission, however, does not believe the appropriate solution is to require Ameren to acquire the AMR modules from Cellnet. The Commission, instead, directs Ameren to modify its Metering tariff provision to accommodate the situation where meters and associated equipment are owned, may be owned, furnished, installed, calibrated, tested, and maintained by Ameren's contractors, like Cellnet and Terasen—an entity under contract to Ameren such as Cellnet and Terasen.

The Commission also declines to adopt IBEW's recommendation to require Terasen personnel to have the same level of training as Ameren's IBEW employees when exchanging meters for the AMR expansion project. The Commission fully expects Ameren to ensure that all contractors and subcontractors are qualified to undertake activities assigned to them. The Commission does not believe that the IBEW's recommendation is necessary because Ameren must comply with Part 410, which contains the electric metering standards applicable to electric utilities. The Commission emphasizes that Ameren is responsible for all work performed by its contractors and subcontractors as well as for the safety and reliability of its electric transmission and distribution system.