

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

South Austin Coalition Community Council and Community Action for Fair Utility Practice.	:	
	:	06-0202
	:	
Citizens Utility Board and The People Of the State of Illinois	:	06-0379
	:	
	:	(Cons.)
	:	
Petition to Initiate Rulemaking with Notice And Comment for Approval of Certain Amendments to Illinois Administrative Code Part 280.	:	
	:	

**REPLY BRIEF ON EXCEPTIONS OF THE STAFF
OF THE ILLINOIS COMMERCE COMMISSION**

Staff of the Illinois Commerce Commission (“Staff”), by and through its undersigned counsel, pursuant to Section 200.830 of the Illinois Commerce Commission’s (“Commission”) Rules of Practice (83 Ill. Adm. Code 200.830), respectfully submits its Reply Brief on Exceptions to the Exceptions and Brief on Exceptions of the People of the State of Illinois (“AG”) filed on November 21, 2006 (“AG BOE”) in response to the November 6, 2006, Administrative Law Judge’s Proposed Order (“Proposed Order”) issued in the instant proceeding.

The AG argues that two Ordering Paragraphs of the Proposed Order be modified to more accurately reflect the Commission’s Initiating Order in Docket No. 06-0703. (AG BOE at 2-3.) Specifically, the AG suggests that the words “Docket 06-0202 and

Docket 06-0379” be added to the First and Second Ordering Paragraphs¹ to indicate that the Commission will be taking administrative notice of these proceedings and will be placing copies of the Initiating Order and Staff Report from Docket No. 06-0703 into the records of those proceedings. (Id.) Staff has no objection to the addition of this language but believes that “Docket 05-0237” is a typographical error and should be omitted. Therefore, the First and Second Ordering Paragraphs should be modified to read:

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that this proceeding be dismissed but that the Commission, pursuant to 83 Ill. Adm. Code 200.640(a)(2), will take administrative notice of the filings in the proceedings in Docket ~~05-0237~~ 06-0202 and Docket 06-0379.

IT IS FURTHER ORDERED that a copy of the initiating order from Docket 06-0703 and the Staff Report dated October 25, 2006 be placed in the records of Docket ~~05-0237~~ 06-0202 and Docket 06-0379.

Staff notes that its Brief on Exceptions filed on November 21, 2006 (“Staff BOE”) incorrectly stated that the Initiating Order in Docket No. 06-0703 did not suggest taking administrative notice of the four previous proceedings regarding 83 Ill. Adm. Code 280 (“Part 280”). (Staff BOE at 2.) As the AG correctly points out (AG BOE at 2), the Initiating Order contains this language (Initiating Order at 1). Therefore, Staff no longer recommends the two deletions regarding administrative notice suggested in its BOE. (Staff BOE at 3.)

¹ While the heading on page 2 of the AG’s BOE refers to the Second and Third Ordering Paragraphs, the AG’s narrative refers to the First and Second Ordering Paragraphs.

However, as Staff stated in its BOE and in its Staff Report that was the basis of the Commission's Order initiating Docket No. 06-0703, its intention is to repeal the existing Part 280 and replace it with entirely new rules. In fact, Staff plans to begin the workshop process with a clean slate, eliminating all existing sections. As such, the substance of the filings in the four prior Part 280 proceedings will be irrelevant to the new proceeding. (Staff BOE at 2.) While in Docket No. 06-0703 the Commission has taken administrative notice of the filings in the prior proceedings, it has not, and should not incorporate these filings into the record of the new proceeding.

For the reasons set forth above, Staff respectfully requests that the Commission adopt the Administrative Law Judge's Proposed Order issued on November 6, 2006, with the changes indicated in Staff's Reply Brief on Exceptions herein, as its Final Order in this proceeding.

Respectfully submitted,



LINDA M. BUELL
CARLA SCARSELLA
Counsel for the Staff of the
Illinois Commerce Commission

Linda M. Buell
Office of General Counsel
Illinois Commerce Commission
527 East Capital Avenue
Springfield, IL 62701
Phone: (217) 557-1142
Fax: (217) 524-8928
lbuell@icc.illinois.gov

Carla Scarsella
Office of General Counsel
Illinois Commerce Commission
160 North LaSalle Street
Suite C-800
Chicago, IL 60601
Phone: (312) 793-3305
Fax: (312) 793-1556
cscarsel@icc.illinois.gov

*Counsel for the Staff of the
Illinois Commerce Commission*

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