

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission)
On its own motion)
v.)
Central Illinois Light Company,)
d/b/a AmerenCILCO;)
Central Illinois Public Service Company,)
d/b/a AmerenCIPS;)
and Illinois Power Company d/b/a AmerenIP)
)
Investigation pursuant to Section)
9-250 of the Public Utilities Act of)
Electric Rate Design.)

Docket No. 07-0165

REBUTTAL TESTIMONY

OF

JOHN DOMAGALSKI
AND
KATIE PAPADIMITRIU

On Behalf of
CONSTELLATION NEWENERGY, INC.

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1 I. **INTRODUCTION**

2 A. **Identification of Witnesses**

3 Q. **Ms. Papadimitriu, please provide your name and your current employment**
4 **position.**

5 A. My name is Katie Papadimitriu, and I am employed by Constellation NewEnergy,
6 Inc. (“NewEnergy”), an intervening party in this proceeding, as Manager,
7 Regulatory Affairs, for Illinois.

8
9 Q. **Mr. Domagalski, please provide your name and your current employment**
10 **position.**

11 A. My name is John Domagalski, and I am also employed by NewEnergy. My
12 current position is Director of Pricing, Structuring, Products and Programs for the
13 states of Illinois, Michigan, and Ohio.

14
15 Q. **On whose behalf are you testifying?**

16 A. We are testifying on behalf of Constellation NewEnergy, Inc. (“CNE”).

17
18 Q. **Did you file Direct Testimony in this proceeding?**

19 A. No, we did not.

20
21 Q. **Why not?**

22 A. CNE intervened in the instant docket in order to monitor proposals so that non-

23 residential customers are neither harmed nor impeded from accessing
24 opportunities that are available in the competitive retail market. Our review of the
25 Direct Testimony submitted by Central Illinois Light Company d/b/a
26 AmerenCILCO, Central Illinois Public Service Company d/b/a AmerenCIPS and
27 Illinois Power Company d/b/a AmerenIP (collectively, “Ameren” or “the
28 Companies”), the Staff of the Illinois Commerce Commission (“Staff”), and the
29 Grain and Feed Association of Illinois (“GFAI”) compelled us to respond to
30 certain arguments and proposals. Specifically, we are concerned that the
31 proposals modify Ameren’s underlying rate paradigm by creating significant
32 inter- and intra-class subsidies. This will only serve to distort price signals, create
33 additional customer confusion, and frustrate the development of wholesale and
34 retail competition.

35

36 **B. Purpose of Testimony**

37 **Q. Do you have any overall observations regarding the Direct Testimony**
38 **submitted by Ameren, Staff, and the GFAI?**

39 **A.** Yes. We have the following three (3) general observations regarding the Direct
40 Testimony filed in this proceeding:

41 **First**, we agree with Ameren witness Jones’s general acknowledgement regarding
42 the successful restructuring of the Illinois retail electric market for larger non-
43 residential customers (*See* generally Ameren Exhibit 2.0 at 453 – 461.) We also
44 acknowledge that this docket is focused on mitigating rate impacts to residential
45 space-heat customers and, to a lesser degree, lower-use non-residential customers,

46 such as grain drying and certain pumping districts, who have experienced higher
47 rate increases than other customers as the statutory nine-year rate freeze expired
48 on January 2, 2007. (Ameren Exhibit 2.0 at 487 - 488.)

49

50 **Second**, we urge the Commission to reject the Staff's proposal to abandon
51 Ameren's prism and apply any subsequent supply cost fluctuations in an across-
52 the-board manner rather than striving to see that Ameren's Basic Generation
53 Service ("BGS") products are priced to reflect current market prices.

54

55 **Third**, we remind the Commission that Ameren's rate prism was developed and
56 fully litigated in ICC Docket No. 05-0160c. Moreover, wholesale suppliers,
57 Ameren, RESs, and customers have predicated their business decisions upon the
58 assumptions built into the prism. This is especially true for wholesale bidders
59 who won 29-month and 41-month contracts for the Blended products. In
60 addition, RESs and customers that may have entered into longer term contracts
61 are also facing a fundamental change in the assumptions upon which they relied
62 based on the Commission's previous decision.

63

64 To shift course now, and abandon Ameren's prism, could produce negative
65 consequences for the market and will run counter to the development of robust
66 and liquid competitive wholesale and retail markets.

67 **Q. Based upon those observations, what is the purpose of your Rebuttal**
68 **Testimony?**

69 **A.** Based upon our review of the Direct Testimony submitted by Ameren, Staff, and
70 the GFAI, we will provide a more complete context in which the Commission can
71 evaluate the various proposals presented in the instant docket. At the onset, we
72 strongly urge the Commission to continue to adopt policies aimed at empowering
73 customers and to avoid adoption of unnecessary changes to rules upon which
74 market participants relied. These policies include any proposals that would create
75 cross-subsidies or unduly limit customers' fundamental right to choose an electric
76 supplier other than Ameren. Specifically, we will address the following issues:

- 77 (1) Ameren's Rate Redesign proposals;
- 78 (2) The importance of competitive neutrality;
- 79 (3) Staff's proposal to abandon utilization of Ameren's rate prisms for
80 purposes of translating the wholesale auction prices into retail
81 rates; and
- 82 (4) Staff's recommendation to apply subsequent 2008 Auction supply
83 cost fluctuations in an across-the-board manner.

84
85 Finally, we respectfully remind the Commission to refrain from implementing
86 cross-subsidies. The cross-subsidy question is one that has plagued the Illinois
87 retail electric market, conveying distorted price signals that then inevitably lead to
88 inefficiency and less-than-optimal investment in the electric infrastructure, further
89 complicating policy decisions. To this end, we propose that the Commission
90 adjust rates only such that (i) there is a defined future sunset date that would

91 return rates to their current structure; (ii) these adjustments do not affect the
92 generation or the bypassed portion of the bill; (iii) the prisms are not altered
93 during the term of existing auction supply contracts; and (iv) the adjustments are
94 consistent with the timing associated with future Illinois Auctions.

95

96 Our failure to respond to arguments made or positions taken by any party in
97 Direct Testimony should not be considered endorsement or acceptance of the
98 positions taken and arguments made by those parties, unless otherwise expressly
99 stated herein.

100

101 **C. Summary of Conclusions**

102 **Q. What conclusions do you reach?**

103 **A.** We recommend that the Commission:

- 104 • Modify Ameren’s Rate Redesign Proposals to include a future sunset date
105 upon which the Commission would return rates to their current structure if
106 circumstances permit;
- 107 • Modify Ameren’s Rate Redesign Proposals only to change the non-bypassed
108 portion of the bill and not to change the rate prism during the term of the
109 existing supply contracts;
- 110 • Reject Staff’s proposal to abandon the translation mechanism (“Prism”) for
111 the 2008 Auction;
- 112 • Reject Staff’s proposal to implement subsequent 2008 Auction supply cost
113 fluctuations in an across-the-board manner; and
- 114 • Reject additional regulatory and institutional impediments to the exercise of

115 individual customers' risk preferences.

116 **II. ASSESSMENT OF AMEREN'S POST-TRANSITION PERIOD RATE DESIGN**

117 **Q. Can you please summarize Ameren's assessment of its current rate design?**

118 **A.** Unlike ComEd, who concluded in Docket No. 07-0166 that comprehensive
119 changes to ComEd's current rate design were unwarranted, Ameren proposes
120 wholesale revisions to the Companies' rate design. Before we discuss Ameren's
121 proposed Rate Redesigns, however, a brief summary of the Lazare Rate
122 Mitigation Plan, as mandated in ICC consolidated Docket No. 05-0160c, is
123 warranted.

124

125 **Q. Please summarize the Lazare Rate Mitigation Plan.**

126 **A.** With respect to residential and smaller commercial customers, the Commission
127 adopted the Lazare Rate Mitigation Plan in ICC Docket No. 05-0160c. The
128 Lazare Rate Mitigation Plan applies to residential and commercial customers
129 eligible for Ameren's CPP-FP Auction Product (BGS-FP or Blended Segment).
130 The Lazare Rate Mitigation Plan is applied on top of the retail rates that result
131 from the translation of the auction clearing price through Ameren's Prism. The
132 Lazare Rate Mitigation Plan requires Ameren to determine if the resulting final
133 bundled retail rate of any customer supply group in the Blended Segment
134 increased by a certain threshold percentage. If the retail rate for any such
135 customer group increased by an amount greater than that percentage, the retail
136 rate of that group would be reduced to the threshold amount, and the excess
137 Ameren revenue requirement would be collected by increasing the retail rates of

138 all other Blended Segment customer groups to compensate Ameren for the
139 difference.

140

141 **Q. Do you have any quarrels with the Lazare Rate Mitigation Plan?**

142 **A.** No. From a competitive retail market perspective, the plan treats all customers in
143 an equal manner and does not favor one class over another. In this way, the
144 Lazare Mitigation Plan maintains competitive neutrality, and thereby does not
145 undermine the development of the competitive market in the Ameren service
146 territories. Furthermore, these changes were made prior to setting the initial rates
147 and everyone – including customers, RESs, wholesale suppliers, and all other
148 parties – took this into account when making their business decisions; and the rate
149 configuration was not changed during the supply period.

150

151 **III. AMEREN'S PREFERRED RATE REDESIGN APPROACH**

152 **Q. Please summarize Ameren's Rate Redesign Proposals.**

153 **A.** As we understand it, Ameren's proposal includes changes in both supply and
154 delivery charges. (ICC Staff Exhibit 1.0 at 407 – 408.) Ameren proposes intra-
155 class subsidies within the residential and small commercial customer classes as
156 well as inter-class shifts of Basic Generation Service revenue responsibility from
157 the residential class to the small generation service class. Ameren also proposes to
158 modify all Delivery Services rates by shifting intra-class revenue responsibilities
159 from non-summer to summer billing periods. (Ameren Exhibit 2.0 at 286 – 287.)
160 We will address each of those recommendations below.

161

162 **Residential & Small Commercial Rate Redesign**

163 **Q. Does Ameren propose any revisions to residential and small commercial**
164 **rates?**

165 **A.** Yes. Ameren proposes to create inter-class subsidies by shifting Basic Generation
166 Service revenue responsibility from residential customers (BGS-1) to small
167 commercial customers (BGS-2). Ameren proposes similar inter-class subsidies
168 by shifting Delivery Services revenue responsibility from residential customers
169 (DS-1) to small commercial customers (DS-2).

170

171 “Revenue responsibility” is a fancy way of saying “subsidy.” Ameren
172 acknowledges as much by stating that, “...in each modified analysis, the
173 DS/BGS-2 class was targeted to subsidize other classes. (Ameren Exhibit 2.0 at
174 233 – 234.)

175

176 Given the insistence of Ameren for revenue neutrality, the proposed rate redesign
177 requires that any reduction of the revenue responsibility of a given class be offset
178 by an increase(s) to the revenue responsibility of another class. (Ameren Exhibit
179 1.0 at 125-127.) The net effect of this inter-class subsidy is to decrease the
180 Ameren Illinois Utilities’ BGS-1 rates and increase BGS rates by roughly \$50
181 million. In this way, Ameren would recover the ICC-authorized revenue levels
182 for each Ameren utility – not only from residential customers but from small
183 commercial customers.

184

185 Staff appears to endorse Ameren's inter-class subsidy proposal (ICC Staff Exhibit
186 1.0 at 443-445.)

187

188 **Larger Non-Residential Rate Redesign**

189 **Q. Does Ameren propose any revisions to larger non-residential customers'**
190 **BGS rates?**

191 **A.** No. Ameren witness Jones notes that the vast majority of larger non-residential
192 customers, excluding low-usage customers like grain dryers, have switched from
193 Ameren's service to third-party suppliers such as CNE. Specifically, Mr. Jones
194 notes that roughly 90% of DS-4 energy consumption is served by RESs (Ameren
195 Exhibit 2.0 at 453 – 456.) Mr. Jones avers that roughly one-third of the BGS-3
196 eligible customer load has switched to RES service. (Id. at 472-473.) Given that
197 most of the BGS-3 and BGS-4 eligible load has switched to RES service, Mr.
198 Jones avers that rate adjustments would only serve to accelerate customers'
199 incentives to switch to RES service (if rates are adjusted upward) or create
200 incentives for customers to remain with Ameren's BGS products (if rates are
201 adjusted downward). (Ameren Exhibit 2.0 at 473 – 479.) Either way, Mr. Jones
202 opines that neither outcome is desirable. (Id. at 481-482.) We concur with Mr.
203 Jones' opinion.

204

205 Ameren proposes revisions to the Delivery Services rates by shifting intra-class
206 revenue responsibilities from non-summer to summer billing periods. (Ameren

207 Exhibit 2.0 at 286 – 287.) Below we will discuss the revisions as they pertain to
208 DS-3 and DS-4 customers.

209

210 **DS-3 and DS-4 Rate Limiter**

211 **Q. Please describe Ameren’s proposed Rate Limiter.**

212 **A.** Ameren’s proposal is intended to mitigate rates for larger low-usage customers,
213 such as grain dryers, who establish high kW demands but have little kWh usage.
214 As a result, these customers’ demand-based DS-3 customers over 150 kW to
215 1MW) and DS-4 (1MW+) charges can be relatively expensive. (Jones Ameren
216 Exhibit 2.0 at 487 – 491.) Specifically, Ameren’s proposal imposes a demand
217 limiter of 2 cent/kWh be within DS-3 and DS-4 tariffs for each of the Utilities.
218 The demand limiter would limit the monthly total cost of the Distribution Demand
219 Charge and Transformation Capacity Charge to 2 cents/kWh. (Ameren Exhibit
220 2.0 at 492 – 498.)

221

222 We understand that Ameren’s limiter proposal would only apply to those
223 customers that limit their total kWh consumption during the four summer months
224 to 20% or less of their annual kWh usage. This would ensure that customers
225 receiving the limiter would be those that do not make larger than normal
226 contributions to system costs which are typically driven by summer loads.
227 (Ameren Exhibit 2.0 at 504-509.)

228 **Q. Have you any quarrels with Ameren's proposed Rate Limiter?**

229 **A.** From a policy perspective, we are concerned that Ameren's Rate Limiter proposal
230 violates cost-causation principals and energy-efficiency objectives. We caution
231 the Commission to avoid non-cost-based incentives for customers to remain with
232 Ameren or switch to a RES such as CNE. Given the level of customer switching,
233 we caution the Commission to refrain from artificially increasing BGS-3 and
234 BGS-4 rates because these commodity subsidies will merely serve as incentives
235 for the targeted customer classes to switch to RESs such as CNE. As customers
236 switched away from Ameren, any projected revenue subsidization projected
237 would be at risk of falling back to customers that remain with Ameren and are
238 targeted to receive the subsidy through the automatic over / under cost recovery
239 mechanism within Rider MV (Ameren Exhibit 2.0 at 474 – 476.) This would be a
240 step in the wrong direction.

241

242 Having stated that, however, some of our reticence is mitigated by Ameren's
243 application of DS-3 and DS-4 modifications in a competitively neutral manner.
244 This means that Ameren will be indifferent to customers' supply choices as the
245 Companies will collect the same amount of revenues from the same customers,
246 regardless of whether they are served on Ameren's BGS-3 / BGS-4 or by a RES.

247 **IV. THE COMMISSION SHOULD REJECT STAFF'S**
248 **PROPOSAL TO ABANDON THE PRISM FOR THE 2008 AUCTION**

249
250 **Q. Please explain Staff's Proposal.**

251 **A.** In tandem with Staff's recommendation to apply subsequent Auction clearing
252 price fluctuations on an across-the-board basis, Staff first recommends that the
253 ICC abandon Ameren's Prism and administratively set the 2008 supply charges
254 under Ameren's Basic Generation Service rates. Specifically, Staff complains
255 that Ameren's Prism, which "translates" the Auction clearing prices into rates,
256 caused "inordinate increases" for certain customers. (ICC Staff Exhibit 1.0 at 846
257 – 848.) Staff avers that "potential adverse impacts can be averted by eliminating
258 the role of the [Prism] in the upcoming auction." (Id. at 892 – 893.)

259

260 **Q. What is your position regarding Staff's proposal?**

261 **A.** We can appreciate the motivations upon which Staff predicates its across-the-
262 board application. Certain ratepayers are experiencing much higher rate increases
263 than the average ratepayer, and the Staff is seeking to offer relief to the broadest
264 number of customers as soon as possible. Despite these laudable intentions, the
265 Staff's proposed alterations constitute a step backwards on the road toward the
266 development of competition and run counter to the manner in which retail rates
267 have historically been established in Illinois.

268

269 As the Commission evaluates rate mitigation proposals, the Commission should
270 be mindful to ensure that actions undertaken here do not adversely affect the
271 continuing evolution of electric competition in Illinois. Ultimately, the success of

272 the competitive retail market will be a function of the Commission's ability to
273 establish BGS default rates that accurately track the all-in costs of electricity
274 supply to Ameren's retail customers.

275

276 Staff's proposal would distort customer decision-making, and thereby discourage
277 customers from managing their energy use as wisely as possible. In addition,
278 wholesale suppliers contemplated the Prism's effects while formulating their bids.
279 Alteration or abandonment of the Prism would change the risks inherent to
280 serving tranches that suppliers won under very different assumptions. To alter or
281 abandon the Prism now would be unfair both to wholesale suppliers who would
282 now serve customers under very different terms than those on which they bid and
283 won tranches. Similarly, alteration or abandonment of the Prism may alter
284 customers' decisions to either stay on the default service or leave to go to RESs.
285 Furthermore, Staff's proposal fails to create a platform to promote the sustained
286 interest in conservation, efficiency and demand-response that the Commission
287 desires. Accordingly, the Commission should reject Staff's proposal and retain
288 Ameren's Prism.

289

290 **V. THE COMMISSION SHOULD REJECT STAFF'S PROPOSAL TO**
291 **IMPLEMENT 2008 AUCTION PRICES IN AN ACROSS-THE-BOARD APPLICATION**

292 **Q. How does Staff propose to address the rate design and rate impacts**
293 **associated with the 2008 Auction clearing prices?**

294 **A.** In tandem with the previous recommendation to eliminate the retail rate prisms,
295 Staff proposes that the Commission order Ameren to incorporate any price

296 fluctuations arising from the 2008 Auction by changing all supply charges by a
297 percentage equal to the percent change in supply costs arising from the 2008
298 Auction. (ICC Exhibit 1.0 at 388 - 389.)

299

300 CNE continues to believe that accurate market pricing reduces the possibility for
301 inter- and intra-class subsidies, encourages customers to consider conservation,
302 load management, renewable energy and distributed resource alternatives, and
303 generally provides customers greater control over their energy costs. Staff's
304 across-the-board application violates these goals.

305

306 **VI. THE COMMISSION SHOULD AVOID THE**
307 **IMPOSITION OF REGULATORY AND INSTITUTIONAL IMPEDIMENTS**
308 **TO THE EXERCISE OF INDIVIDUAL CUSTOMERS' RISK PREFERENCES**

309

310 **Q. Why should the Commission resist imposition of these cross-subsidies?**

311 **A.** From a policy perspective, forcing delivery services customers to subsidize
312 bundled services customers would not lower total service costs to electric
313 customers in the Ameren service territory by a single penny but would merely
314 distort the evaluations that customers must make in considering whether to select
315 utility supply or alternative supply.

316

317 The viability of product options available to customers from Ameren is directly
318 affected by the utility's default products and the attendant switching and
319 eligibility rules tied to those products. CNE's goal is to provide customers with
320 opportunities for greater savings on their energy bills and better service than they
321 might otherwise obtain in an environment in which electric supply continued as a

322 monopoly. No customer is ever forced to do business with a RES in the Ameren
323 service territory. One of the clearest ways to mitigate prices is to create and retain
324 a competitive retail market that supports the ability of competitive suppliers to
325 make offerings tailored to meet consumers' needs. By doing so, customers are
326 empowered to create their own solutions. Passing supply-related costs onto
327 delivery service customers undermines this goal.

328

329 **VII. CONCLUSION**

330 **Q. Please summarize your recommendations in this proceeding.**

331 **A.** In this proceeding, the Commission should:

- 332 (1) Modify Ameren's Rate Redesign Proposals to include a future sunset date
333 upon which the Commission would return rates to their current structure if
334 circumstances permit;
- 335 (2) Modify Ameren's Rate Redesign Proposals to impact only the non-
336 bypassed portion of the bill and not to affect the Prism during the term of
337 the existing supply contracts;
- 338 (3) Reject Staff's proposal to abandon the Prism for the 2008 Auction;
- 339 (4) Reject Staff's proposal to implement an across-the-board percentage
340 increase/decrease of the 2008 Auction prices; and
- 341 (5) Reject additional regulatory and institutional impediments to the exercise
342 of individual customers' risk preferences.

343 **Q. Does this conclude your Rebuttal Testimony?**

344 **A.** Yes.