

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Illinois Commerce Commission)	
On Its Own Motion)	
)	
vs.)	
)	Docket No. 04-0677
Illinois Power Company)	
d/b/a AmerenIP)	
)	
Reconciliation of revenues collected under)	
gas adjustment charges with actual costs)	
prudently incurred.)	

**AmerenIP's
Application for Rehearing and Reconsideration**

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Illinois Power Company d/b/a AmerenIP (“AmerenIP”), pursuant to §10-113 of the Public Utilities Act (“PUA”), 220 ILCS 5/10-113, and 83 Ill. Adm. Code 200.880, requests rehearing and reconsideration of the Commission’s Order issued July 11, 2007 and served on July 12, 2007, in Docket 04-0677 (the “2004 Order”). Specifically, AmerenIP seeks rehearing and reconsideration of the Commission’s conclusion in the 2004 Order that AmerenIP acted imprudently in its response to deliverability problems at the Hillsboro Storage Field (“Hillsboro”, “HSF” or the “Field”) and in not beginning to replace the HSF inventory in 2000, and that therefore a total of \$2,979,849 of gas and pipeline costs incurred during the reconciliation year ended December 31, 2004 were imprudently incurred and should be disallowed. (2004 Order, pp. 10-11 and Findings (4), (5) and (6).) For the reasons set forth in this Application, the Commission should grant rehearing and should issue an order on rehearing that (i) reaches the overall conclusion that AmerenIP acted prudently in its investigation, identification and remediation of the HSF deliverability decline and (ii) eliminates the disallowance of \$2,979,849 of gas and pipeline costs related to the Hillsboro issue and includes this amount in AmerenIP’s recoverable gas costs for the 2004 reconciliation year.

The Commission’s conclusion in the 2004 Order adopts the conclusion on the Hillsboro issue from the Order issued in AmerenIP’s PGA reconciliation for 2003, Docket 03-0699 (the “2003 Order”), stating as follows at pages 10-11 of the 2004 Order:

In Docket 03-0699 the Commission found:

In summary, the Commission concludes that all things considered, AmerenIP acted imprudently in its response to the deliverability problems at the Hillsboro Storage Field and agrees with Staff that the Company should have begun replacement of the HSF inventory in 2000. AmerenIP’s repeated failures to properly operate and manage its natural gas storage fields in a prudent manner has resulted in cost increases that the Commission can no longer allow to be passed on to captive customers. While human error is

inevitable, AmerenIP's repeated failures have risen to the level of imprudence. In the Commission's view, repeated human error demonstrates a lack of oversight and attention that constitutes imprudent operation and management of the Hillsboro Storage Field. (Docket 03-0699, Order at 37, September 26, 2006)

While IP continues to argue that it acted prudently, the Commission has already ruled on this issue. The only open question in this proceeding is whether IP's imprudent action resulted in increased costs that were improperly passed along to its customers. Staff has presented two calculations; one assuming IP started replacing the HSF inventory in 2000 and the other assuming IP started replacing the HSF inventory in 2001. As the quotation of the Order above shows, the Commission already found that IP should have started replacing the HSF inventory in 2000. Thus, based upon the record in this proceeding and premised upon the Commission Order entered in Docket 03-0699 on September 26, 2006, the Commission finds that the IP imprudently incurred \$2,979,849 in additional gas costs as a result of the untimely reduction to the seasonal withdrawal capacity of the Hillsboro Storage Field. The Commission hereby adopts Staff's proposed adjustment related to the Hillsboro Storage Field for the reconciliation period in question as shown in Appendix A to this Order.

Because the 2004 Order adopts, without significant analysis or discussion, the conclusions of the 2003 Order on the Hillsboro issue ("based on the record in this proceeding and premised upon the Commission Order entered in Docket 03-0699"), a number of the grounds for rehearing cited in this Application are based on specific assertions that were made in the 2003 Order, but were not expressly repeated in the 2004 Order. The conclusions in the 2003 Order on which the 2004 Order is "premiered" must be supported by the evidence in the record of this 2004 case, but as shown herein, they are not.

The 2004 Order's fundamental conclusion on the Hillsboro issue (adopting the conclusion of the 2003 Order) is that AmerenIP was imprudent because it did not begin to replace the depleted Hillsboro inventory in 2000.¹ (2004 Order, pp. 10-11.). This conclusion,

¹The 2004 Order's conclusion that AmerenIP should have begun replacing the HSF inventory in 2000 is the fundamental conclusion of the 2004 Order on which the disallowance of gas costs is based because without starting to replace the inventory in 2000, AmerenIP could not have restored the full working gas inventory by 2004 and therefore the calculated amount of

and the resulting disallowance of gas costs, is contrary to law, not supported by substantial evidence, and arbitrary and unreasonable, for the reasons set forth in points A through E below.

A. The 2004 Order's overall conclusion on the Hillsboro issue, and the specific points relied on in the 2004 Order (at pp. 10-11) and the 2003 Order (at pp. 35-37) to support the finding of imprudence, do not conform to the standard of prudence that this Commission and the courts have adopted:

Prudence is that standard of care which a reasonable person would be expected to exercise under the same circumstances encountered by utility management at the time decisions had to be made. In determining whether a judgment was prudently made, only those facts available at the time judgment was exercised can be considered. Hindsight review is impermissible.

Imprudence cannot be sustained by substituting one's judgment for that of another. The prudence standard recognizes that reasonable persons can have honest differences of opinion without one or the other necessarily being "imprudent."

ICC v. Commonwealth Edison Co., Docket 84-0395 (Oct. 17, 1987), p. 17. *See also Illinois Power Co. v. Commerce Comm'n*, 245 Ill. App. 3d 367, 371 (3d Dist. 1993); *Business & Professional People for the Public Interest v. Commerce Comm'n*, 279 Ill. App. 3d 824, 831-32 (1st Dist. 1996); *Illinois Power Co. v. Commerce Comm'n*, 339 Ill. App. 3d 425, 428, 435 (5th Dist. 2003).

imprudently incurred gas costs in 2004 (\$2,979,849) due to not having the full working gas inventory of the Field available in 2004 would be smaller than the amount of gas costs disallowed in the 2004 Order. If the 2004 Order had concluded that AmerenIP should have begun to replace the HSF inventory in 2001, the calculated amount of imprudently incurred gas costs in 2004 would be \$2,335,442, as shown on Staff Ex. 2.00, Sched. 2.02. If the 2004 Order had concluded that AmerenIP should have begun to replace the HSF inventory in 2002, the calculated amount of imprudently incurred gas costs in 2004 would be \$1,187,804, as shown on AmerenIP Ex. 2.3. (*See* point E below.) If the 2004 Order concluded AmerenIP was prudent in not beginning to replace the HSF inventory until 2003, there would be no imprudently incurred gas costs in 2004.

The prudence issue presented in this case related to AmerenIP's investigation, identification and remediation of the cause(s) of the decline in deliverability experienced at HSF after its expansion. The record in this case, viewed in its entirety, demonstrates prudence, not imprudence, on the part of AmerenIP in addressing this problem. The record shows AmerenIP worked continuously to try to identify and resolve the cause(s) from the time a potential problem was first identified until the cause was isolated and corrective action began.² AmerenIP considered and investigated multiple possible causes, and expended considerable internal and external resources on finding the cause of the deliverability decline. While AmerenIP focused attention, at least at the outset, on the most likely causes of the deliverability decline – namely, structural causes or other problems with the underground aquifer reservoir – in light of the recent expansion of the capacity of the Field and experience in the gas storage industry, AmerenIP investigated non-structural causes as well. The Staff witness did not criticize as unnecessary or inappropriate any of the areas of investigation and analysis that AmerenIP pursued. Throughout, AmerenIP took a reasonable and conservative approach of not beginning to reinject substantial quantities of replacement gas inventory into HSF to attempt to restore the inventory to its full working gas capacity of 7.6 Bcf, until it was determined that the deliverability decline was not due to structural causes or other reservoir problems that could result in loss of the reinjected replacement inventory.

The 2004 Order's overall conclusion of imprudence, and the specific points the 2003 Order and the 2004 Order cited to support this conclusion, are based on a few isolated facts or observations whose significance (if any) could become apparent only in hindsight and only by one in possession of the knowledge, available only after the fact, that there were no structural or

²The history of AmerenIP's investigation of the cause(s) of the HSF deliverability decline is detailed in §III.B (pp. 14-26) of AmerenIP's Initial Brief.

other reservoir-related problems with Hillsboro that could cause reinjected gas to be lost or to become otherwise unrecoverable. The 2004 Order's overall conclusion of imprudence, and the specific points the 2003 Order and the 2004 Order cited to support this conclusion, constitute *at most* differences in opinion as to what actions AmerenIP should have taken at particular points during the period 2000-2002. Under the legal standard for prudence, however, differences in opinion and judgment are not sufficient to support a finding of imprudence. The Staff's opinion as to the action AmerenIP should have taken, which the 2004 Order adopts as the "prudent" action, was a judgment arrived at by Staff with the benefit of hindsight, *i.e.*, with the benefit of knowing after the fact what the actual cause of the HSF deliverability decline was, and with the benefit of knowing after the fact that the potential structural, geologic and reservoir causes AmerenIP was investigating during the period in question were in fact not the causes of the HSF deliverability decline. The actions AmerenIP took during the period in question were based solely on the circumstances confronting AmerenIP management and the information available to AmerenIP management at the time; whereas the conclusions of the 2004 Order and the 2003 Order as to the actions AmerenIP *should have taken* during the period in question were arrived at with the benefit of hindsight, that is, with the benefit of knowing that potential causes of the HSF deliverability decline that AmerenIP was investigating during the period in question did not prove to be causes of the deliverability decline.³ Under the legal standard for prudence,

³In fact, when the Staff witness first testified concerning the reduction in the HSF deliverability, in testimony filed in July 2002 in Docket 01-0701, he did not recommend a finding of imprudence concerning Hillsboro and testified that "IP has performed studies and completed some capital projects at Hillsboro in an attempt to regain some of the lost deliverability" and that "IP should practice due diligence in its attempts to regain the deliverability of the Hillsboro storage field in the future." (Direct Testimony of Eric Lounsberry, Docket No. 01-0701, July 3, 2002, ICC Staff Exhibit 2.00, pp. 26-27, lines 532-539.) In other words, when Staff reviewed the HSF deliverability decline much closer in time to the events in question, before the cause of the HSF deliverability decline was known and at a time when Staff had access to no more

however, a determination that a utility was imprudent cannot be based on information that is available only in hindsight.

B. The 2004 Order's overall conclusion on the Hillsboro issues is also erroneous, not supported by substantial evidence in the record of this case, contrary to law, and arbitrary and unreasonable because the record in fact shows that AmerenIP prudently and aggressively investigated the cause of the Hillsboro deliverability decline, and acted prudently and reasonably in all respects concerning the investigation of the deliverability decline and the determination that potential reservoir or structural problems had been eliminated, that the cause of the deliverability decline was inventory depletion caused by the main plant injection metering error, and that it was therefore prudent to begin reinjecting substantial quantities of replacement gas inventory into the Field. In support of this ground for rehearing and reconsideration, AmerenIP incorporates herein by reference §III.A and III.B (pp. 12-26) of its Initial Brief and §II.A (pp. 3-16) of its Brief on Exceptions ("BOE") in this docket, and the record citations therein. The 2004 Order's conclusion that AmerenIP did not act prudently violates the legal standard for prudence because it fails to take into account all the circumstances confronting AmerenIP -- which management had to take into account in determining what actions should be taken -- during the period in which, according to the 2004 Order's conclusion, AmerenIP did not act prudently.

C. The 2004 Order's conclusion on the Hillsboro issue is not supported by substantial evidence, is contrary to law, and is arbitrary and unreasonable because the specific points on which the 2004 Order bases its overall conclusion (including those points relied on by virtue of adopting the conclusion from the 2003 Order) that AmerenIP did not act prudently, and

information than AmerenIP knew at the time, Staff did not conclude there was a basis to find AmerenIP had acted imprudently. Review of the Commission's Order in Docket 01-0701, the PGA reconciliation case for 2001, shows that Staff did not at that time recommend the Commission find AmerenIP imprudent due its management of the Hillsboro Field.

should have begun replacement of the HSF inventory in 2000, do not in fact support that conclusion, do not represent proper application of the prudence standard, and are not supported by substantial evidence.

1. The 2003 Order asserted that AmerenIP was imprudent in its operation of HSF in that it “failed to conduct a thorough study of the injection error at the time it was identified” and that “when IP received the Peterson Study with its finding of metering errors, IP should have conducted a thorough review of the meters.” (2003 Order, pp. 35, 36.) These assertions were not supported by substantial evidence in the record of this case. These assertions ignore the facts, among others, that (i) the Peterson Engineering Metering Review, which AmerenIP had commissioned and which identified the injection metering error, was a “thorough study”; and (ii) AmerenIP implemented specific operating and equipment-based corrective actions, based on the results of the Peterson Engineering Study, which corrected the injection meter over-registration. (*See* AmerenIP Initial Brief, §III.B.4 (pp. 19-21).)

2. The 2003 Order also asserted that “it was unreasonable for IP to calculate the overstated injections in 2000 based upon estimated compressor loading levels when it had insufficient information from the compressor logs to make a reasonable estimate of the loading levels.” (2003 Order, p. 36.) This assertion ignored the fact that in 2000, AmerenIP used the best information available to it, including the results of the Peterson Engineering study and the experience of its operating personnel as to how frequently the compressors had operated at various levels, to estimate the amount of the injection metering over-registration. (*See* Ameren BOE, pp. 20-21.)

3. The 2003 Order further asserted that when the injection meter issue was discovered, AmerenIP should have used data from charts at the individual injection/withdrawal

("I/W") wells at HSF for the year 1994 to estimate the amount of the injection meter error.⁴ (2003 Order, pp. 35, 36.) This conclusion is not supported by substantial evidence in the record of this case because there is no evidence that the temperature and pressure data recorded on the charts at the individual I/W wells had ever been used for this purpose in the industry in general or by AmerenIP in particular, or that the instrumentation collecting data at the individual I/W wells was set up to be used for purposes of recording gas injection volumes. Based on the record in this case, this assertion is also arbitrary and internally inconsistent because (i) the 2003 Order stated at page 35 that in 1999-2000, AmerenIP "had in its possession only a small portion of the data (the 1994 well charts) that IP used in 2003 to determine the actual amount of the injection metering error"; and (ii) in Docket 04-0476, AmerenIP's 2004 gas rate case, Staff contended, the Commission agreed, and the Appellate Court (on appeal) affirmed the Commission's conclusion⁵, that data from the charts at the individual I/W wells was not sufficiently accurate and reliable to provide an acceptable estimate of the injection meter over-registration, and therefore of the amount of inventory depletion, at HSF. It is inconsistent, arbitrary and contrary to the prudence standard for the Commission, in Docket 04-0476, to have rejected AmerenIP's estimate of the total injection meter over-registration and inventory depletion at HSF, which was based on the use of data from the charts at the individual I/W wells (for four years rather than just one year, as well as on the use of a reservoir simulation model), but to then conclude in *this* case that AmerenIP was imprudent because in 2000 it did not use data from the individual I/W wells to determine the amount of the injection meter error. In support of this grounds for

⁴The failure to use the data from the individual I/W well charts for the year 1994 was one of the "three specific Hillsboro-related items cited by Staff [that] warrant a finding of imprudence" according to the 2003 Order (p. 35).

⁵ *Illinois Power Co. v. Illinois Commerce Comm'n*, No. 3-05-0479 (3d Dist. May 12, 2006), slip op. at pp. 13-14.

rehearing and reconsideration, AmerenIP incorporates herein by reference §II.C.1 (pp. 28-35) of its Initial Brief, pp. 10-13 of its Reply Brief, and §II.B.1.a (pp. 19-27) of its BOE, and the record citations therein.

4. The 2003 Order's reliance on the points discussed in paragraphs A.1, A.2 and A.3 above to support its overall conclusion (which is also the overall conclusion of the 2004 Order) that AmerenIP was imprudent because it did not begin replacement of the HSF inventory in 2004, is not supported by substantial evidence in the record of this case, and is arbitrary and unreasonable, because it ignores the evidence that even if AmerenIP, in 2000, had more accurately estimated the amount of the injection meter error, it was still prudent for AmerenIP **not** to begin reinjecting replacement inventory into HSF until it had investigated and eliminated other possible causes of the HSF deliverability decline, including reservoir and structural causes. In further support of this ground for rehearing and reconsideration, AmerenIP incorporates herein by reference §III.C.4 (pp. 43-52) of its Initial Brief, §III.B.1 (pp. 13-19) of its Reply Brief, and §II.B.1.d (pp. 35-45) of its BOE, and the record citations therein.

5. The 2003 Order asserted that AmerenIP was imprudent in its operation of HSF in that it "failed to conduct any inspections to assure that the orifice meters were working properly" (2003 Order, p. 35), that it was unreasonable for AmerenIP "not to have inspected the [withdrawal] meters and discovered the incorrectly-sized orifice plate within six years" (2003 Order, p. 36), and that "IP acted imprudently when it failed to inspect its meters over a six-year period." (*Id.*) The 2003 Order further asserted that had AmerenIP followed the practices cited by Staff concerning inspection of the orifice withdrawal meters at HSF, "in all likelihood

[AmerenIP] would have uncovered the underlying problem in a timely fashion.”⁶ (2003 Order, p. 35.) These assertions are not supported by substantial evidence in the record of this case and do not support the ultimate conclusion of the 2003 Order and the 2004 Order that AmerenIP was imprudent in not determining the cause of the HSF deliverability decline, and beginning to replace the HSF inventory, in 2000.

First, the assertions that AmerenIP “failed to conduct any inspections to assure that the orifice meters were working properly” and “failed to inspect its meters over a six-year period” are contrary to the evidence in the record of this case. The evidence in this case showed that AmerenIP had and followed an annual inspection and maintenance procedure for the HSF orifice meters. AmerenIP did in fact “inspect meters on a regular basis to assure that they are clean and functioning properly.” (2003 Order, p. 36.) The record in this docket shows that AmerenIP did not “neglect its orifice meters”, as the 2003 Order asserted at page 36. The record in this case shows that the annual inspection and maintenance procedures AmerenIP followed for the orifice meters were simply different (but with good reason) than the procedures that in Staff’s opinion should have been followed. However, such a difference of opinion cannot provide the basis for a conclusion that the utility was imprudent.

Second, Staff’s opinion that AmerenIP should have conducted different or additional inspections on the orifice meters is based on application of (i) a Commission regulation that the parties agreed is not applicable to storage field orifice metering and (ii) two industry documents that do not create or impose standards for the maintenance of operating storage field withdrawal meters.⁷ It was arbitrary and erroneous for the 2003 Order to conclude that AmerenIP was imprudent for not following a Commission regulation and two industry documents that by their terms were not applicable to storage field withdrawal metering.⁸

⁶The fact that AmerenIP did not use certain inspection practices for the orifice withdrawal meters at HSF that according to Staff were indicated by a Commission regulation and certain industry documents concerning orifice metering, was the second of the “three specific Hillsboro-related items cited by Staff [that] warrant a finding of imprudence” according to the 2003 Order (p. 35).

⁷The 2003 Order acknowledged that “there is no Commission rule mandating inspections of orifice meters on any specific timeline.” (2003 Order, p. 36.)

⁸The 2003 Order stated at page 36 that the reference in the Peterson Study to AGA Report #3 leads to the conclusion that it is necessary to inspect meters on a regular basis. However, as Staff agreed in this case, AGA Report #3 provides specifications for the *installation* of orifice meters, not for their inspection and maintenance. (Staff Ex. 2.00, p. 26.) The record in this case showed that the orifice withdrawal meter station installations at HSF were in conformance with the requirements of AGA Report #3 (which is what the Peterson Report in fact concluded with respect to AGA Report #3). (AmerenIP Ex. 3.0, p. 30; AmerenIP Ex. 3.3, pp. 19-20.)

Third, although Staff contended that the HSF orifice withdrawal meters should have been inspected at least once per year, the record in this case shows that the orifice withdrawal meters only operated on certain days in the winter months when gas was being withdrawn from storage – far less than every day of the year (as would, in contrast, be the case for meters located at customers’ premises to measure the deliveries of gas to the customer). In fact, the record shows that from 1993 to 1999, the HSF orifice withdrawal meter with the mislabeled plate had operated for a cumulative amount of days totaling only about 6-1/2 months of operation. (AmerenIP Ex. 3.0, pp. 10, 32.)

Fourth, the substantial evidence in the record of this case showed that, given the particular location, operation and use of the orifice withdrawal meters at HSF, AmerenIP prudently concluded that these meters did not need to be disassembled and inspected as frequently as Staff contended.

Fifth, the orifice meters at HSF (which the 2003 Order concluded should have been inspected more frequently) are withdrawal, not injection, meters. The record in this case shows the HSF deliverability decline was caused by a measurement error on the main plant injection meters and was not caused by any error on the orifice withdrawal meters.

Sixth, there is absolutely no support in the record of this case for the 2003 Order’s assertions that had “AmerenIP followed such [inspection] practices [for the orifice withdrawal meters], in all likelihood it would have uncovered the underlying problem in a timely fashion.” (2003 Order, p. 35.) The fact that one of the four withdrawal meters at HSF operated for six years with an incorrectly-sized orifice plate (2003 Order, p. 36) had nothing to do with the *injection* meter measurement error that proved to be the cause of the HSF deliverability decline, or with AmerenIP’s ability to determine that the *injection* meter error was the cause of the HSF deliverability decline. The record in this case shows that the measurement error on the HSF injection meters occurred independently of any measurement error on the HSF withdrawal meters, and there is no evidence in the record of this case to support the conclusion that if AmerenIP had followed the inspection practices for the withdrawal meters that Staff contends should have been followed, AmerenIP would have discovered the true extent of the injection meter error sooner.⁹

Seventh, while the 2003 Order stated (at page 35) that “the record shows that IP failed to recognize the true extent of the turbine injection metering error sooner due to its inaccurate estimate of that error,” the 2003 Order did *not* conclude that the “inaccurate estimate of that error” was due to imprudence, and in fact there is no evidence in the

⁹Stated differently, even if the record in this case supported a conclusion that AmerenIP was imprudent in its management of HSF in that it “failed to conduct any inspections to assure that the orifice meters were working properly” (2003 Order, p. 35), that “imprudence” had no causal relationship to the HSF deliverability decline or to the speed or timing with which AmerenIP identified the cause of the HSF deliverability decline. No gas costs were imprudently incurred as a result of AmerenIP “fail[ing] to conduct any inspections to assure that the orifice meters were working properly.”

record of this case to support any conclusion that the “inaccurate estimate of that error” was due to imprudence. Rather, the record in this case shows the estimate AmerenIP made in 2000 of the amount of the injection meter error, while it ultimately proved to be understated, was based on the best information available to AmerenIP at the time.

In support of this ground for rehearing and reconsideration, AmerenIP incorporates herein by reference §III.C.2 (pp. 35-41) of its Initial Brief, §III.B.2 (pp. 19-24) of its Reply Brief, and §II.B.1.b (pp.27-33) and II.B.1.d (pp. 35-45) of its BOE, and the record citations therein.

6. The 2003 Order stated that AmerenIP was imprudent in its operation of HSF in that it “failed to begin returning the inventory to the field when the working gas volumes fell below the pre-expansion volumes of 3.1 Bcf after the 1999-2000 winter season” (2003 Order, p. 35) and that “the Commission agrees with Staff’s assessment that IP failed to recognize or act upon the significance of those reduced inventory volumes.”¹⁰ (*Id.*, p. 36.) These assertions are not supported by substantial evidence, and are contrary to the record, in this docket. The record in this docket showed that in 1999-2000, it was not known that the “working gas volumes” in the Field had fallen below 3.1 Bcf; it was only known that the amount of gas AmerenIP had been able to withdraw from HSF in that winter was less than 3.1 Bcf. More importantly, the record in this case shows it was not known in 1999-2000 what the *cause* was of the inability to withdraw more than 3.1 Bcf of gas from the Field – whether it was due to a breach in, or leakage of gas from, the underground reservoir formation, or some other structural or reservoir-related cause; or, whether the cause was a factor or factors not related to the underground structure. In fact, the inability to withdraw more than 3.1 Bcf of gas from storage in a winter season was consistent with the loss of gas from the Field due to a reservoir or

¹⁰The fact that AmerenIP “failed to begin returning the inventory to the field when the working gas volumes fell below the pre-expansion volumes of 3.1 Bcf after the 1999-2000 winter season” was the third of the “three specific Hillsboro-related items cited by Staff [that] warrant a finding of imprudence” according to the 2003 Order (p. 35).

structural problem. In this docket, the Staff witness **agreed** that in 2000, AmerenIP needed to continue to investigate possible reservoir or structural causes for the HSF deliverability decline. (Staff Ex. 4.00, pp. 7-8.) Therefore, the record in this case shows it **was not imprudent**, but rather **was prudent**, for AmerenIP not to begin replacing the HSF gas inventory in 2000 (or 2001 or 2002) while AmerenIP was still trying to determine if gas was being lost from the underground reservoir due to a reservoir or structural problem. In further support of this ground for rehearing and reconsideration, AmerenIP incorporates herein by reference §III.C.3 and 4 (pp. 41-52) of its Initial Brief, §III.B.3 (pp. 24-25) of its Reply Brief, and §II.B.1.c (pp. 33-35) and II.B.1.d (pp. 35-45) of its BOE, and the record citations therein.

7. The 2003 Order stated at page 36 that after 1993-1994, the Hillsboro Field did not operate at its expected post-expansion levels, that the ability to withdraw gas from the Field declined, and that in 1999 the peak day capacity of the Field was reduced from 125,000 Mcf/day to 100,000 Mcf/day, until it was restored to the former value in 2003. While these are accurately-stated historical facts, under the legal standard of prudence that has been adopted by the Commission and the courts, these facts do not establish that AmerenIP acted imprudently in managing the Hillsboro Field. Similarly, the 2003 Order asserted later on page 36 that “IP acted imprudently because the peak capacity of the Hillsboro storage field was reduced and AmerenIP should have discovered the problem more promptly.” Again, while it is factually accurate that “the peak capacity of the Hillsboro storage field was reduced”, this fact standing alone does not establish that AmerenIP acted imprudently. Additionally, Hillsboro was restored to its full peak day capacity prior to the start of the 2003-2004 winter and operated at its full peak day capacity during the 2004 reconciliation year. (AmerenIP Ex. 2.2, p. 4.) No additional gas costs were

incurred in 2004 due to HSF operating below its full peak day capacity, because HSF operated at its full peak day capacity throughout 2004.

8. The 2003 Order stated that “The Commission is persuaded that Staff’s ‘overall storage concerns’ are an indicator that IP was less than prudent” (2003 Order, p. 36), but the Commission Conclusion sections of both the 2003 Order and the 2004 Order contain no further discussion of Staff’s “overall storage concerns”, let alone any discussion as to why Staff’s “overall storage concerns” are “an indicator that IP was less than prudent.”¹¹ The assertion at page 36 of the 2003 Order is not supported by substantial evidence, and is contrary to the record, in this case.¹² The record in this case showed that (i) none of Staff’s four “overall storage concerns” indicated any imprudence on the part of AmerenIP; and (ii) in any event, there was no causal connection between Staff’s “overall storage concerns” and the HSF deliverability decline or the speed or aggressiveness with which AmerenIP investigated, discovered and remediated the cause of the HSF deliverability decline. Further, in Docket 01-0701, Staff raised virtually all of these same “overall storage concerns” – reduction in peak day capacities of Shanghai and Hillsboro, level of storage field supervisory manpower, level of storage field capital expenditures, and the alleged failure to conduct a proper root cause analysis of the December 2000 HSF incident – but Staff did not recommend that these concerns warranted a

¹¹Staff’s four “overall storage concerns” were (i) the fact that the peak day capacity of HSF had been reduced and that the peak day capacity of one other storage field, Shanghai, had been reduced for one winter season (2000-2001); (ii) the reduction over a period of years in the number of supervisors assigned to the storage fields, and a purported reduction over time in the number of engineering and technical personnel with responsibilities for the storage fields; (iii) a reduction in the level of capital expenditures on the storage fields in 2002-2004 compared to prior years; and (iv) a purported inability (based on just two occurrences) to conduct adequate root cause analyses.

¹²In contrast to the above-referenced assertion on page 36 of the 2003 Order, on page 37 the 2003 Order stated that “the Commission is not willing to conclude AmerenIP was imprudent in its staff reductions at its storage fields”.

finding of imprudence, and the Commission did not make any finding of imprudence on the basis of Staff's concerns.¹³ Neither the 2003 Order nor the 2004 Order provided any explanation as to why the same underlying set of facts should now form part of the basis for a finding that AmerenIP was imprudent – particularly in light of the fact that the time period addressed by Staff's testimony and arguments on “overall storage concerns” in Docket 01-0701, 2000 through 2002, incorporates the same period in which, in the instant case, the Commission found AmerenIP acted imprudently. In support of this ground for rehearing and reconsideration, AmerenIP incorporates herein by reference §III.D (pp. 52-67) of its Initial Brief, §III.C (pp. 32-46) of its Reply Brief, and §II.B.2 (pp. 45-65) of its BOE, and the record citations therein.

9. The 2003 Order stated at page 37 that “the circumstances surrounding Docket 01-0701 and the instant case combine to cross the line of human error and demonstrate a pattern of mistakes that constitutes imprudent oversight and operation of AmerenIP’s gas storage fields”; that AmerenIP has made “repeated claims of human error and that it did everything it could have”; that “AmerenIP has failed repeatedly”; that “AmerenIP either lacked the resources or motivation to properly operate and manage its Hillsboro Storage Field in a prudent manner”; that there was “an ineffective pattern established for the Shanghai Storage Field”; that AmerenIP has had “repeated failures to properly operate and manage its natural gas storage fields in a prudent manner”; that “AmerenIP’s repeated failures have risen to the level of imprudence”; and that “repeated human error demonstrates a lack of oversight and attention that constitutes imprudent operation and management of the Hillsboro Storage Field.”¹⁴ None of these assertions

¹³See Order in Docket 01-0701, Feb. 19, 2004, at pp. 13-16 (Staff’s Position on “Overall Storage Concerns”) and p. 24 (Commission Conclusion).

¹⁴ Several of the quoted assertions from p. 37 of the 2003 Order are included in the excerpt from the 2003 Order that is quoted at p. 10 of the 2004 Order.

are supported by the record in this case, and none of them provide any basis for the overall conclusions in the 2003 Order and the 2004 Order that AmerenIP was imprudent in its management of the Hillsboro Field and that AmerenIP should have begun to replace the HSF inventory in 2000, or for the conclusion that \$2,979,849 of gas and pipeline costs were imprudently incurred in 2004 and should be disallowed. These assertions, and therefore the 2004 Order's overall conclusion that is based on these assertions, are not supported by substantial evidence in the record of this case, are contrary to the legal standard for prudence, and are arbitrary and capricious, for a number of reasons.

First, AmerenIP has not made "repeated claims of human error", nor does the record in this docket show there was "repeated human error," "repeated failures," or a "pattern of mistakes," in AmerenIP's operation of its seven gas storage fields, and neither the 2003 Order nor the 2004 Order stated what it being referred to by these assertions. The only instance of imprudence in AmerenIP's management of its seven gas storage fields alleged by Staff in any other recent PGA reconciliation case, other than the 2003 (Docket 03-0699) case and this 2004 case which raised the HSF issue, was the contention by Staff in Docket 01-0701 that the reduction in the peak day capacity of the Shanghai Field for one winter was due to imprudence.¹⁵ In Docket 01-0701 the Commission found "that IP acted reasonably and prudently with regard to its decision to reduce the peak day deliverability of Shanghai by 25,000 Mcf/d for purposes of its 2001 PGA reconciliation." (Order in Docket 01-0701, Feb. 19, 2004, p. 25.) Therefore, there is no basis for the assertions in the 2003 Order and the 2004 Order that there have been "repeated failures" or "repeated human errors" in AmerenIP's management of its gas storage fields.

Second, there is no basis in the record in this case for the assertion in the 2003 Order (p. 37) that "the circumstances surrounding the problems at the Hillsboro Storage Field bear some striking similarities to those surrounding the Shanghai Storage Field that was the subject of Docket No. 01-0701." The 2003 Order did not state what those "circumstances" or those purported "striking similarities" were, and there is nothing in the record of this docket to indicate that the circumstances surrounding the problems at HSF bear any similarity to those surrounding the Shanghai Field that was the subject of Docket 01-0701. To the contrary, review of the Order in Docket 01-0701 indicates the

¹⁵Further, although the record in this case shows that the amount of working gas AmerenIP was able to withdraw from HSF declined over a period of years, and the 2003 Order's conclusion is that AmerenIP acted imprudently in its management of HSF by not starting to replace the inventory in 2000, Staff did not recommend, and the Commission did not find, any imprudence by AmerenIP in its management of the Hillsboro Field in the PGA reconciliation cases for any of the years 1994 through 2002.

principal cause of the Shanghai capacity reduction was deliverability problems experienced at individual withdrawal wells after 33 years of operation of the Shanghai storage field, and that the principal issue was whether AmerenIP should have engaged in other or different activities or studies that would have delayed or remediated the problems with the individual wells. In contrast, the issue at HSF involved the inability to withdraw the full, increased working gas capacity of the Field after its expansion in 1993-1994, and individual well deliverability problems (although such potential problems were investigated by AmerenIP) were not the source of the deliverability decline at HSF.¹⁶

Third, for the Commission to base its conclusions that AmerenIP acted imprudently in its management of HSF and that \$2,979,849 of gas and pipeline costs related to Hillsboro were imprudently incurred and should be disallowed, on the reduction of the peak day capacity of the Shanghai Field for one winter (2000-2001), which was the subject of a previous reconciliation case, is arbitrary, not supported by the record in this case and contrary to the legal standard of prudence. The circumstances relating to the reduction in peak day capacity of Shanghai for one winter (2000-2001) were thoroughly reviewed by the Commission in Docket 01-0701, and, as noted immediately above, the Commission concluded that AmerenIP had acted reasonably and prudently in connection with the events at Shanghai. It is arbitrary and inconsistent for the Commission's conclusion in this case that AmerenIP was imprudent in its management of HSF to be based on purported "failures" of management at the Shanghai Field, when the Commission has already found, in a fully-litigated proceeding concerning AmerenIP's management of the Shanghai Field, that AmerenIP acted reasonably and prudently. Further, there is no basis in this record (or in the Order in Docket 01-0701) for the assertion in the 2003 Order that there was "an ineffective pattern established for the Shanghai Storage Field." (2003 Order, p. 37.)

Fourth, there is no basis in the record of this case for the assertion in the 2003 Order that "AmerenIP either lacked the resources or motivation to properly operate and manage the Hillsboro Storage Field in a prudent manner." To the contrary, the record in this case shows AmerenIP diligently worked, over a period of years, to investigate and attempt to discover the cause of the HSF deliverability decline. (See §III.B of AmerenIP's Initial Brief and §II.A of AmerenIP's BOE and record citations therein.) Although Staff contended AmerenIP should have taken additional actions or reached different

¹⁶In fact, the same Staff witness who testified in this case concerning Hillsboro testified in Docket 01-0701 that "The circumstances that caused IP to reduce the deliverability of the Hillsboro storage field are somewhat different than those surrounding the Shanghai storage field's reduced deliverability." Direct Testimony of Eric Lounsberry, Docket No. 01-0701, July 3, 2002, ICC Staff Ex. 2.00, p. 26, lines 532-535. In the instant case Mr. Lounsberry did not change his prior testimony and contend the circumstances underlying the reduced peak deliverability at Shanghai and the circumstances underlying the reduced peak deliverability at HSF were similar. To the contrary, in this case he testified: "There are factual differences between the adjustment advocated in regards to the Shanghai storage field in Docket No. 01-0701 and the adjustment offered in this docket. *The context for the reductions of peak day capacity ratings of the two storage fields was different.*" (Staff Ex. 4.00, p. 22; emphasis added.)

conclusions at certain points in this time period, Staff never contended that any of the actions AmerenIP took or studies or analyses it conducted in attempting to determine the cause of the HSF deliverability decline were unnecessary or inappropriate. To the contrary, Staff explicitly testified it was not contending that IP should not have conducted any of the various investigations and analyses it conducted. (Tr. 76-82.) Further, the record in this case shows that AmerenIP's investigation of the cause of the HSF deliverability decline was not constrained at any time by any lack of manpower or capital resources. (See, e.g., AmerenIP's Initial Brief at pp. 56-57 and 60-61 and record citations therein.) More generally, the record shows that over the period 1995-2004, AmerenIP completed a substantial number of capital projects to replace and upgrade equipment at its storage fields, as well as expending substantial amounts each year on operation and maintenance of the storage fields. (See §III.D.2 and 3 of AmerenIP's Initial Brief and §II.B.2.b and c of AmerenIP's BOE and record citations therein.)

Fifth, even if there were any basis in the record of this case for the assertions in the 2003 Order and the 2004 Order that there have been “repeated errors”, “repeated failures” or an “ineffective pattern” in AmerenIP's management of its gas storage fields (and as shown above there is absolutely no basis for these assertions), such assertions do not provide a basis for concluding that AmerenIP was imprudent in its investigation, identification and remediation of the causes of the HSF deliverability decline or that \$2,979,849 of gas and pipeline costs were imprudently incurred in 2004 and should be disallowed. The legal standard for prudence which the Commission and the courts have adopted requires that prudence be determined based on consideration of the actions taken by management in light of the circumstances confronting, and the information available to, management at the time of the specific decisions and actions in question, without the benefit of hindsight – not based on generalized and unsupported assertions as the 2003 Order and the 2004 Order have done.

10. The 2003 Order asserted at page 37, “AmerenIP imprudently selected the easy path when it discovered there might be a problem at Hillsboro. It appears that with inadequate thought, AmerenIP decided the problems at Hillsboro must be structural and began hiring consultants to identify the exact nature of the problem.” This assertion is unsupported by, and has absolutely no basis in, the record of this case.

First, as an initial matter, the assertion that “AmerenIP imprudently selected the easy path” and “began hiring consultants to identify the exact nature of the problem” is contrary to the assertion in the 2003 Order (discussed in point C.9 above) that AmerenIP “lacked the resources or motivation to properly operate and manage [HSF] in a prudent manner.” If AmerenIP were uninterested in expending resources to determine the cause of the HSF deliverability decline, it would not have hired outside consultants and contractors to conduct technical studies and analyses such as vertical seismic profiling (“VSP”), 3-D seismic analysis and crosswell seismic studies and to drill a new well.

Second, the record in this case shows that the characterization that AmerenIP “took the easy path” is the exact opposite of what AmerenIP did. The “easy path” would have been simply to continue to inject as much gas as possible into HSF without regard to whether it may have been migrating off-structure or to areas of the underground formation where the gas could not be recovered through the withdrawal wells. The record shows AmerenIP undertook a number of difficult and technologically leading-edge analyses to attempt to gain better information on the HSF underground structure and thus to discover the source of the deliverability decline. (*See, e.g.*, pp. 17-19 of AmerenIP’s Initial Brief, pp. 26-31 of AmerenIP’s Reply Brief, and pp. 7-9 of AmerenIP’s BOE, and record citations therein.) Further, Staff never criticized the studies or analyses AmerenIP conducted as being unnecessary or inappropriate nor contended AmerenIP should not have conducted them. (*See* Tr. 76-82.)

Third, there is no basis in the record of this case for the assertion in the 2003 Order that “with inadequate thought, AmerenIP decided the problems at Hillsboro must be structural.” To the contrary, the record in this case shows that, based on the circumstances confronting management and the information available at the time, a structural problem or breach of the reservoir occurring as a result of the recent expansion of the Hillsboro Field was the most logical cause of the problem being experienced. (*See, e.g.*, pp. 14-19 of AmerenIP’s Initial Brief and §II.A.1, 2 and 3 and II.B.1.d of AmerenIP’s BOE, and record citations therein.) While it is correct that at the outset of the investigation AmerenIP focused its attention and resources on potential structural or reservoir problems, that approach was prudent based on the circumstances and information available at that time.

Fourth, in this case Staff never criticized AmerenIP for initially focusing on possible structural or reservoir causes when it first began investigating the HSF deliverability decline. To the contrary, Staff testified in this case that even if AmerenIP had found the “inventory shortfall” in a more timely (according to Staff) manner, AmerenIP would still have had to consider potential problems with the reservoir or other structural problems, and should have continued to investigate these potential problems. (*See* Staff Ex. 4.00, pp. 7-8; Tr. 82-83.)

Fifth, the record in this case shows that AmerenIP did not assume the only cause of the HSF deliverability decline could be a structural problem and that AmerenIP did not investigate only potential structural or reservoir causes for the HSF deliverability decline. For example, AmerenIP retained Peterson Engineering to audit the metering at HSF. Additionally, AmerenIP pursued other possible non-structural causes of the HSF deliverability decline, such as possible leakage of gas from above-ground plant equipment and possible deliverability problems with individual wells. (*See, e.g.*, §III.B. 4 and 5 of AmerenIP’s Initial Brief and record citations therein.)

D. The 2004 Order’s overall conclusion that AmerenIP was imprudent because it did not begin replacing the HSF inventory in 2000 and therefore that \$2,979,849 of gas and pipeline

costs were imprudently incurred in 2004 and should be disallowed, is not supported by substantial evidence in the record of this case and is contrary to the legal standard for prudence, and therefore unlawful, because the record in this case showed that *even if* AmerenIP had more accurately determined the scope of the injection meter error in 2000, AmerenIP still would have needed to investigate potential reservoir and structural causes for the HSF deliverability decline, and eliminated these potential causes, before beginning to reinject substantial quantities of replacement gas inventory into HSF. It would not have been prudent for AmerenIP to begin reinjecting substantial quantities of replacement gas inventory into HSF before fully investigating and eliminating potential reservoir and structural problems such as migration of gas to inaccessible areas of the underground formation or to a different underground structure, leakage of gas from the reservoir through breaches in the structure or the caprock, “fingering” or unusual configurations of the gas “bubble” in the underground aquifer reservoir, or formation damage in the area of withdrawal wells, due to the risk that the reinjected gas could also be lost or migrate to inaccessible locations as a result of these potential causes. It was **prudent** for AmerenIP **not** to begin reinjecting substantial quantities of replacement gas inventory until it had completed investigating, and eliminated, potential reservoir or structural causes for the HSF deliverability decline (which AmerenIP did in 2003). Staff agreed that even if AmerenIP had not under-estimated the scope of the injection meter error in 2000, AmerenIP would have still had to consider potential problems with the reservoir or other structural problems. However, in the Staff witness’s opinion, AmerenIP should have begun reinjecting gas inventory to HSF in 2000 while it continued to investigate possible structural problems with the reservoir. (*See Staff Ex. 4.00, pp. 7-8.*) AmerenIP, on the other hand, believes, *based on the information that was*

available in 2000, 2001 and 2002 that the course of action the Staff witness opined should have been followed **would not have been a prudent** course of action.

More importantly, what the record reflects is a *difference of opinion* between AmerenIP and Staff as to whether it would have been prudent to begin reinjecting substantial quantities of replacement gas inventory in 2000. By concluding that Staff's opinion was correct and represented the prudent course of action, and that the actions AmerenIP took based on the information available at the time were imprudent, the 2004 Order misapplied the legal standard for prudence. The legal standard for prudence recognizes that imprudence **cannot** be based on differences in judgment, particularly when one of the opinions (in this case, Staff's opinion that is adopted by the 2004 Order) is rendered with the knowledge, available only in hindsight, but not known in 2000-2002, that there were no reservoir or structural problems at HSF. In support of this ground for rehearing and reconsideration, AmerenIP incorporates herein by reference §III.C.4 (pp. 43-52) of its Initial Brief and §II.B.1.d (pp. 35-45) of its BOE, and the record citations therein.

E. The 2004 Order concludes AmerenIP was imprudent because "it should have begun replacement of the HSF inventory in 2000." (2004 Order, p. 10.) This conclusion is based on agreeing with Staff's argument that AmerenIP was imprudent in not recognizing in 2000 that the amount of the injection meter over-registration was much larger than estimated. However, as discussed in point D above, *even if* AmerenIP had more accurately estimated the extent of the injection meter error in 2000 (as Staff contended it should have), it still would have been prudent, based on the information available to AmerenIP at the time, *not* to begin reinjecting substantial quantities of replacement gas inventory into Hillsboro in 2000 or 2001. Therefore, even accepting the Commission's conclusion (adopted from the 2003 Order) that

AmerenIP should have determined in 2000 that the amount of the injection meter error was much larger than estimated at the time, the Commission's conclusion that AmerenIP should have begun replacing the HSF inventory in 2000 was contrary to the evidence in this case, contrary to the legal standard for prudence, and erroneous. Based on the record in this case, the Commission should have found that AmerenIP acted prudently in not beginning to reinject substantial quantities of gas in 2000 and 2001. The record in this case shows this was a prudent course of action in light of the information available in 2000-2001, even if AmerenIP had known the amount of the injection meter over-registration was much larger.

In particular, the record in this case showed that as of early 2000, AmerenIP had completed the 3-D seismic survey of the HSF reservoir, and that analysis of the 3-D seismic survey results yielded the conclusion that a separate sub-structure existed to the northeast of the known reservoir structure, in an area not accessible by the existing withdrawal wells, to which approximately 3.5 Bcf of gas had migrated. This figure was consistent with the decline that had occurred in the Field's deliverability of about 3.1 Bcf (7.6 Bcf to 4.5 Bcf). Thus, the data and analyses available at that time indicated gas was migrating out of the main reservoir structure to areas that were not accessible by the existing withdrawal wells. Based on this information, AmerenIP was preparing to drill the Furness well in the area in which the separate substructure was located, to confirm (or reject) its existence and recover gas that had migrated to it. Given that, in light of the recent expansion of HSF, a structural problem was potentially a cause of the deliverability decline, as well as the specific results of the 3-D seismic analysis, it was appropriate, based on the information available at the time, for AmerenIP to drill the Furness well to attempt to locate the indicated separate 3.5 Bcf underground formation, before beginning

to replace the depleted HSF inventory. The Furness well was drilled in November 2000, immediately following the 2000 injection season.

The Staff witness recognized that the Commission could conclude it was reasonable and prudent for AmerenIP to follow up on the results of the 3-D seismic analysis by drilling the Furness well, before beginning to reinject substantial amounts of replacement inventory into HSF. He testified that “Since the Furness #1 well was not drilled until November 2000, it does not correspond to my recommendation that the Commission assume injections to replace the inventory shortfall start in the summer of 2000. However, it does mark another milestone for when IP should have discovered it was faced with an inventory problem and not a reservoir problem.” (Staff Ex. 2.00, p. 37.)

Based on the facts described in the preceding two paragraphs, the Commission erred in concluding AmerenIP should have begun replacing the HSF inventory in 2000. Based on the facts described above, the *earliest* that the Commission could have found that AmerenIP should have begun replacing the HSF inventory was the 2001 injection season, and the Commission erred in concluding AmerenIP should have begun to replace the HSF inventory in 2000. As the Staff witness calculated, if the Commission had concluded that AmerenIP should have begun replacing the HSF inventory in 2001, the amount of imprudently-incurred gas costs in the 2004 reconciliation year would have been \$2,335,442 (not \$2,979,849). (Staff Ex. 2.00, Sched. 2.02.)

However, the record in this case shows that even after drilling the Furness well in November 2000 and not locating the separate 3.5 Mcf underground substructure indicated by the 3-D seismic analysis, AmerenIP was not imprudent in not beginning to reinject substantial amounts of replacement inventory during the 2001 injection season. Rather, the record in this case shows it was reasonable and prudent for AmerenIP to continue investigating possible

structural or reservoir causes of the HSF deliverability decline during the 2001 injection season, and to not begin to reinject substantial amounts of replacement inventory in 2001. The record shows that although drilling the Furness well did not locate a separate substructure in the area indicated by the 3-D seismic analysis, this result did not invalidate the possibility of a reservoir or structural cause for the deliverability problems, and it did not even invalidate the possible existence of a separate underground substructure.

The results of drilling the Furness well only confirmed there was not an underground substructure at the specific location indicated by the 3-D seismic analysis. It did not invalidate the more general conclusion developed from the 3-D seismic data that gas was migrating away from the main reservoir to other underground structures. After drilling the Furness well, AmerenIP had conflicting information – the 3-D seismic analysis, which indicated the existence of a substructure to which approximately 3.5 Bcf of gas had migrated, and the results of drilling the Furness well, which did not confirm the existence of the substructure in the anticipated location. It was therefore necessary to have the 3-D seismic analysis results reinterpreted. Based on the information available in late 2000 – early 2001, this re-interpretation could have concluded that there was a separate underground formation in a different location than originally determined. Further, had the general conclusion originally drawn from the 3-D seismic analysis – that there was a separate substructure to which gas was migrating – been correct, then commencing a massive inventory replacement program in 2001 would have only resulted in more gas migration and more losses. In order to have the 3-D seismic analysis reinterpreted and to resolve the conflicting information, it was necessary for AmerenIP to gather additional data, by performing crosswell seismic surveys involving the Furness well and two other wells. A crosswell seismic survey is a higher resolution process than the basic 3-D seismic process and

provides more detailed information on the characteristics of the structure in a specific area of the reservoir. The crosswell seismic surveys were performed in June 2001. Thereafter, with the benefit of the results of the crosswell seismic surveys, the original 3-D seismic data was re-analyzed, and the conclusion was reached that there was not a separate substructure in the area originally indicated. This re-analysis was completed in the Fall of 2001.

Based on the facts summarized in the preceding two paragraphs, therefore, the record shows AmerenIP was not imprudent in not beginning to replace the HSF inventory during the 2001 injection season, even after drilling the Furness Well in November 2000 and not locating a separate underground formation to which gas had migrated. Based on the facts summarized in this point E, the record shows the earliest the Commission could conclude AmerenIP should have begun replacing the HSF inventory would be the 2002 injection season, and that the Commission erred in concluding AmerenIP should have begun to replace the HSF inventory in 2000. If the Commission had concluded that AmerenIP should have begun replacing the HSF inventory in 2002, the amount of imprudently-incurred gas costs in the 2004 reconciliation year would have been \$1,187,804 (not \$2,979,849).¹⁷ (AmerenIP Ex. 2.2, p. 4; AmerenIP Ex. 2.3.)

In further support of this grounds for rehearing and reconsideration, AmerenIP incorporates by reference §II.D (pp. 71-76) of its BOE and record citations therein.

CONCLUSION

For the foregoing reasons, AmerenIP requests that the Commission grant rehearing and reconsideration of its July 11, 2007 order in this docket with respect to the Hillsboro Storage Field issue, and issue an order on rehearing that (i) reaches the overall conclusion that AmerenIP

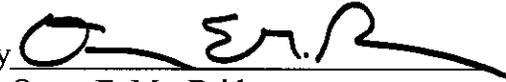
¹⁷ For the reasons discussed under points A, B, C and D of this Application for Rehearing, it continues to be AmerenIP's principal position that the record shows it acted prudently by not beginning to replace the depleted HSF inventory until 2003.

acted prudently in its investigation, identification and remediation of the HSF deliverability decline, and (ii) eliminates the disallowance of \$2,979,849 of gas and pipeline costs related to the Hillsboro issues and includes this amount in AmerenIP's recoverable gas costs for the 2004 reconciliation year.¹⁸

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¹⁸The definition of "Factor O" in 83 Ill. Adm. Code 525.60 states that Factor O refunds ordered by the Commission shall include interest, at the rate established by the Commission under 83 Ill. Adm. Code 280.70(e)(1), on such refunds from the end of the reconciliation year to the date of the order in the reconciliation proceeding. By this Application for Rehearing and Reconsideration, AmerenIP also seeks entry of an order on rehearing eliminating the obligation to refund the portion of this interest that it would otherwise be required to refund, pursuant to the terms of the Order and 83 Ill. Adm. Code 525.60, on the \$2,979,849 disallowance.

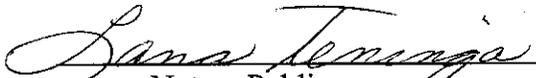
STATE OF ILLINOIS)
)
COUNTY OF COOK) SS.

VERIFICATION

Owen E. MacBride, on oath, states that he is one of the attorneys for Illinois Power Company d/b/a AmerenIP (“AmerenIP”), that he is authorized to make this verification on behalf of AmerenIP, that he is familiar with the contents of the foregoing Application for Rehearing and Reconsideration, and that the facts set forth in the foregoing Application for Rehearing and Reconsideration are true and correct to the best of his knowledge, information and belief.


Owen E. MacBride

Subscribed and sworn to before me
this 31st day of July, 2007


Notary Public



CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that he caused copies of AmerenIP's Application for Rehearing and Reconsideration in ICC Docket 04-0677 to be served on each of the persons on the attached Service List by e-mail on July 31, 2007.

/s/ Owen E. MacBride
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