

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

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ILLINOIS COMMERCE COMMISSION
On Its Own Motion

Requirements governing the form and content
of contract summaries for the neutral fact-finder
process for 2000 under Section 16-112(c) of the
Public Utilities Act.

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Docket No. 00-0007

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

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April 13, 2000

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NOW COMES the Staff of the Illinois Commerce Commission (“Staff”), through its attorneys, and files this Reply Brief on Exceptions in the above captioned proceeding. Brief on Exceptions (“BOE”) were filed by the following: NewEnergy Midwest, L.L.C. (“NewEnergy”), Illinois Industrial Energy Consumers (“IIEC”), Illinois Power Company (“IP”), Commonwealth Edison Company (“ComEd”) and Staff. This Reply Brief on Exceptions is Staff’s response to those exceptions where Staff found a response warranted. The absence of a response by Staff to any particular exception made by any of the parties should not in any way be construed as acquiescence or approval by Staff.

I. ARGUMENT

A. Response to ComEd

1. Level of Firmness

In its BOE ComEd took exception to the Hearing Examiner’s Proposed Order (“HEPO”) conclusions regarding the definitions of firmness (reliability) adopted in the instructions. ComEd recommends that the instructions should be modified to reflect the language adopted by Commission in Docket 98-0769. ComEd BOE, pp 2-4

Previously, Staff stated it would accept the language adopted by the Commission in Docket 98-0769. Staff RB, p. 2 Therefore, Staff would support ComEd’s recommendation to replace the current language in the instructions regarding levels of firmness with the language adopted in docket 98-0769.

2. Line Losses

ComEd took exception to the HEPO's conclusion that line losses should not be subtracted from the energy price in the contract summaries. ComEd BOE, pp.4-5 Staff's position is that market values at the customer meter need to be reduced to account for losses. Staff respectfully agrees with ComEd. The Public Utilities Act requires that the market value should be determined at the point the power and energy enters the utility's transmission system. 220 ILCS 5/16-112(c) This is either at the power plant "busbar" in the case of generating plants in Illinois, or at the transmission interconnection point for generating plants outside Illinois.

The HEPO states as the reason for the denial that ComEd's Mr. Geraghty had not shown that "losses are not already subtracted when the delivery component of a bundled contract is deducted". HEPO, p. 26 The contract prices to be reported on the summary form are, by necessity, stated at the customer's meter. An adjustment is therefore required to translate the at-the-meter price to at the transmission price. This is required because it takes more energy at the transmission level than is ultimately measured at the meter; the difference being the losses from transporting and delivering the energy between the two points. For example, say a customer has a loss factor of 10% between transmission and its meter. If 100 kWh is measured at the meter, there must be 110 kWh supplied to transmission. One way to account for losses is to keep track of the energies. Another way to adjust for losses is to adjust the price. As will be shown below, adjusting price is the preferred method.

The market values produced by the NFF are adjusted to market values to charge customers, at the customer's meter. Each customer class has its own loss factor to adjust from transmission down to the customers meter. Each utility has their own unique loss factors. These adjustments are made pursuant to Section 16-112(k) which are sometimes referred to as translations. Each of the utilities tariffs used to calculate TC show all of the adjustments required to translate the NFF MV to transition charges and the PPO. For the example used above with a 10% loss factor, 110 kWh at the transmission level is required to deliver 100 kWh at the customer's meter. Since every customer class for every utility has it own loss factor, it makes sense to adjust all the contract price information to one convenient point, which is the transmission level.

B. Response to IIEC

In its BOE, IIEC recommends that the Commission delete the last full paragraph of the portion of the HEPO that addresses "Unbundling Transition Charges," and replace it with language that accepts IIEC's proposed instruction concerning the use of contract rates in calculating the transition charge to be used in unbundling bundled contracts for electric service. IIEC's proposed instruction reads as follows:

In unbundling bundled service retail contracts, the transition charge to be deducted shall be calculated on the basis of the contract rate in effect in the year preceding the date of the customer's eligibility for delivery service. If the contract rate was not in effect in the year preceding the customer's eligibility for delivery service the base rate in effect for the customer as of October 1, 1996, as adjusted pursuant to Section 16-102 of the Act, will be used to calculate the transition charge to be unbundled.

IIEC BOE, p. 8

Staff's position continues to be that in deducting transition charges from contract prices for bundled contracts, reporting entities should apply the tariffs that are currently in effect in order to calculate the transition charge to be deducted. In this light Staff notes that Appendix to the HEPO contains the following instruction:

As required by Section 16-112(c), reporting entities are to deduct delivery service charges **(including transition charges as defined and set forth in applicable tariffs that are in effect at the time the reporting entity's data is submitted)**, and charges for services, if any, other than the provision of power and energy or delivery services, from bundled service contract prices reported to the NFF.

HEPO, Appendix B, p. 7 (emphasis added).

Staff thus believes the instructions reflected in the HEPO are appropriate, and should not be supplemented by the IIEC language. This is not to say that Staff is unsympathetic to the concerns expressed by IIEC in its BOE. Staff's understanding of IIEC's position is that at least one utility's tariff providing for the calculation of transition charges "could be illegal" in that it allows for rate contracts that would preclude the use of the contract rate in determining the customer's transition charge, in apparent contravention of the PUA Section 16-102 formula for calculating transition charges.

IIEC BOE, p. 3, footnote 1, citing IP's Rider TC, Sec. 3(b).

Staff's view is that the resolution of this issue is beyond the scope of this docket, which must be completed quickly in order to provide the requisite guidance to electric utilities and ARES for the preparation of contract summaries by June 1, 2000. Staff would not object to including the following language in the Commission's order in this

proceeding, which could be inserted at the end of Section III.B, on page 12, of the HEPO:

In its BOE, IIEC continues to argue for the inclusion of its instruction. Staff's RBOE recommends that the instruction be rejected in view of the instruction language simply requiring the use of applicable tariffs in calculating the transition charge to be used in unbundling bundled contracts. (See Appendix, p. _). Staff further notes that an issue may exist, albeit outside the scope of this proceeding, as to IIEC's claim that certain language in IP's Rider TC might be in contravention of the Section 16-102 requirement that contract rates be used in the calculation of transition charges in certain circumstances. The Commission agrees that this issue is more appropriate for resolution in a tariff investigation either upon complaint or upon the Commission's own motion, and will not include IIEC's instruction.

C. Response to New Energy

NewEnergy continues to argue that the Commission should direct the NFF to make adjustments to ensure that the market values include the unavoidable costs associated with load shaping and load following. NewEnergy BOE, pp. 6-9 Staff continues to opposes NewEnergy's load shaping/load following adjustment. Staff witness Larson testified that the parties already litigated this issue in Docket 98-0769 where the Commission determined that this type of adjustment should be considered in the context of a Section 16-112(k) tariff proceeding. (See Order 98-0769 p.14-15). Mr. Larson further stated that this issue was addressed in the utilities' delivery service tariff cases where the Commission ultimately adopted a method proposed by Staff witness Zuraski for this type of adjustment. Mr. Larson also pointed out that Dr. O'Connor, NewEnergy's witness, has not provided any empirical evidence that the Zuraski method

is insufficient. Finally, Mr. Larson states that utility estimates of marginal costs have been the subject of a never-ending debate. ICC Staff Ex. 2.0, pp. 4-5; Staff IB, p. 13

II. CONCLUSION

WHEREFORE, for the foregoing reasons, as well as those previously set forth in Staff's Briefs, the Staff of the Illinois Commerce Commission respectfully requests that the Commission adopt the Hearing Examiner's Proposed Order with modifications consistent with Staff's clerical corrections and the foregoing arguments made in this Reply Brief on Exceptions.

Respectfully submitted,



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NOTICE OF FILING

TO: Attached Service List

PLEASE TAKE NOTICE that on this 13th day of April, 2000, we have filed with the Chief Clerk of the Illinois Commerce Commission, the Reply Brief on Exceptions of the Staff of the Illinois Commerce Commission, a copy of which is hereby served upon you.



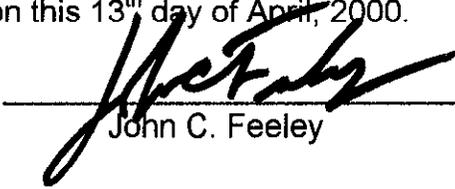
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the foregoing Notice of Filing, together with the documents referred to therein, were mailed to the actual parties on the attached Service List, by messenger, electronic mail, facsimile and/or first-class mail, proper postage prepaid from Chicago, Illinois, on this 13th day of April, 2000.



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