

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

**CENTRAL ILLINOIS LIGHT )  
COMPANY d/b/a AmerenCIPS )  
CENTRAL ILLINOIS PUBLIC )  
SERVICE COMPANY d/b/a )  
AmerenCIPS )  
ILLINOIS POWER COMPANY ) **Docket No. 07-0539**  
d/b/a AmerenIP )  
Approval of the Energy Efficiency and )  
Demand Response Plan )  
)**

**NOTICE OF FILING**

PLEASE TAKE NOTICE that we have on this 1st day of February, 2008, filed with the Chief Clerk of the Illinois Commerce Commission, via e-docket, ENVIRONMENTAL LAW & POLICY CENTER'S BRIEF ON EXCEPTIONS, a copy of which is hereby served upon you.



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**Approval of the Energy Efficiency and )  
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**ENVIRONMENTAL LAW & POLICY CENTER’S BRIEF ON EXCEPTIONS**

On January 25, 2008 the Commission issued a Proposed Order in ICC Docket 07-0439 approving Ameren’s Energy Efficiency and Demand Response Plan (“Plan”) subject to conditions set forth in the Order. The Plan, combined with the conditions in the Proposed Order, put Illinois on a positive path towards the state mandated efficiency goals. The Environmental Law and Policy Center’s (“ELPC”) Exceptions attempt to improve on the Proposed Order’s foundation and make the Plan more effective.

The Proposed Order makes two key adjustments to Ameren’s proposed Plan. First, it rejects the deemed Net to Gross ratios. Second, it rejects Ameren’s position that it has authority to hire and fire the independent evaluator. These important findings must remain in the Final Order to ensure objective evaluation of the Plan.

Even with the aforementioned changes to the Plan, the Proposed Order must still adequately address Ameren’s unwillingness to do more to coordinate with ComEd, and to make a better effort to educate the public. As set forth below, the Proposed Order ignores the similarities in the programs that indicate the utilities should pursue a state-wide stakeholder and education process, and it ignores some glaring holes regarding public education.

**1. THE COMMISSION SHOULD ORDER THE UTILITIES TO HOLD ONE STATEWIDE STAKEHOLDER PROCESS**

The Proposed Order states, “The Commission agrees with Ameren that it should establish a stakeholder process to review the Utility’s progress towards achieving the required energy efficiency and demand response goals. All parties involved, with the possible exception of Staff, maintain that a Stakeholder Advisory Committee is essential to the success of the Plan.” 07-0539 Proposed Order at 24. Additionally, the Proposed Order addresses the need for program design workshops addressing issues such as “accounting of funds collected, appropriate measuring savings values, Net to Gross ratios, financial compliance, program information tracking and reporting, and related issues.” Proposed Order at 33.

ELPC strongly agrees with the need for a stakeholder process and the need to address the accounting and financial issues in the program design workshops. However, for the reasons set forth below, there should be one statewide process that combines the program design workshops and stakeholder processes that the Proposed Order addresses separately.

**a. Ameren and ComEd Propose Virtually the Same Programs**

Ameren and ComEd propose virtually the same programs, and same implementation strategies. For example, on the residential lighting program, ComEd states, “This program will initially focus on buying down the cost of compact fluorescent light bulbs (“CFL”) at the retail level. The program will function very much like the seasonal CFL promotions that ComEd has successfully run in 2006 and 2007 as part of the U.S. Environmental Protection Agency’s Change-a-Light campaign.” ComEd Energy Efficiency Plan at 6. Ameren states, “The initial focus will be on buying down the cost of compact fluorescent light (“CFL”) bulbs at the retail

level. The program will function very much like the U.S. Environmental Protection Agency's Change-a-Light Campaign." Ameren Energy Efficiency Plan at 8.

Essentially, the lighting programs constitute approximately 70% of the first year residential programs for both utilities. Both programs will focus on buying down costs of the bulbs at the retail level and will pattern the programs on EPA's Change-a-Light Program. Additionally, both companies will implement HVAC diagnostic & tune-up programs, new HVAC programs, appliance recycling programs<sup>1</sup>, and residential multi-family programs. While there are some minor differences in the programs, the similarities are far more prevalent.

The commercial portions of both utilities' Plans focus the vast majority of savings and expenditures on the Prescriptive C&I program. Ameren Table 1 at 3; ComEd Ex.1.0 at 5. Both utilities place heavy emphasis on trade ally recruitment and training and both strategies are very similar. See, Ameren Plan at 77; ComEd Plan at 77. Most importantly, the more coordination in the programs, the easier it is for trade allies who want to operate in both service territories to participate. Holding separate stakeholder processes discourages the development of any such synergies. Though Ameren does not plan direct outreach to commercial customers and ComEd does, this minor difference should not preclude them from coordinating on the trade and ally part of the program.

As the two utilities move forward with these ground-breaking residential and commercial programs, the ratepayers of Illinois will benefit from the type of information sharing that can only occur with one statewide stakeholder process.

**b. Both Ameren and ComEd Created their Programs Relying on the Same Consulting Firm**

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<sup>1</sup> For the residential appliance recycling program Ameren recycles only refrigerators. Ameren Plan at 66. ComEd will recycle refrigerators, but also freezers and room air conditioners. ComEd at 47.

Not only do both utilities propose virtually the same programs, the primary basis for the programs is work done by ICF and witness Val Jensen. His testimony in both dockets is virtually identical. *See*, Direct Testimony of Val R. Jensen, Docket No. 07-0539; Direct Testimony of Val R. Jensen, Docket No. 07-0540. Mr. Jensen and ICF played the same roles for both Ameren and ComEd, helping them select energy efficiency measures, develop programs, design a portfolio, use the same deemed values for the same variables and comply in the same way with spending screens.

For example, in both ComEd and Ameren’s testimony Mr. Jensen is asked, “Are you recommending that any values used in your analysis be deemed?” The answers for ComEd and Ameren are exactly the same. In fact, all of the answers to the questions in this section are virtually identical. *See*, Ameren Ex. 4.0 at 34-43; ComEd Ex. 6.0 at 36-44.

**c. Ameren and ComEd Participated in Each Other’s Pre-Plan Stakeholder Meetings**

In addition to the similarities in the programs and analysis of the Ameren and ComEd Plans, the Commission should consider the participation by Ameren and ComEd in each other’s initial planning processes. Both Proposed Orders note that Ameren and ComEd held stakeholder meetings in the development of their Plans. 07-0539 Proposed Order at 7; 07-0540 Proposed Order at 7. The fact is that several Ameren employees, including Mr. Voytas, attended and participated in the ComEd meetings and several ComEd employees, including Mr. Brandt, attended and participated in the Ameren meetings. Mr. Jensen attended both utilities’ meetings, and took virtually the same positions on behalf of the utilities. The duplications in the pre-filing meetings demonstrate the inefficiency of having separate stakeholder processes.

**d. Service Territory Differences Not Supported by the Record**

The Proposed Order states, “This Commission does not believe that a statewide committee for both Utilities would be prudent. The differences in the service territories, such as labor costs, housing structure, population density and topography, may prove to make such coordination ill advised. The Utilities should coordinate their efforts as much as possible, but this Commission will not require it.” 07-0539 Proposed Order at 24. The Proposed Order does not cite to the record for support of this statement, although Ameren witness Voytas testifies that such differences make coordination impractical. Ameren Ex. 7.0 at 239-248. However, the ALJ specifically rejects his testimony regarding service territory differences as unsupported conjecture at the hearing. The ALJ stated:

I would also note that although the question there says ‘discuss some of the distinguishing features of the Ameren Illinois service territory,’ not one actual fact is in that paragraph as to what the distinguishing features are. There’s only a general conclusion that the housing stock, et cetera, is different. We don’t know how.

Tr. at 85 Additionally, on cross, Mr. Voytas admitted he has no idea what the population density is in bigger cities such as Peoria, Decatur, Bloomington, Champaign, and St. Louis Metro East, nor how this data would compare to ComEd’s territory. Tr. at 65-66.

Logically speaking, the record in this proceeding does not support the premise that the differences in service territories prevent us from having one stakeholder process. The two utilities submit nearly identical plans based on the same testimony by the same witness. If the differences in the two service territories are that significant, the records in the two cases would not be so similar.

**e. Program Design Issues Should be Addressed in the Stakeholder Process**

The Proposed Order addresses the stakeholder process<sup>2</sup> at p.22-25 of the Proposed Order, and states its purpose is “to review Ameren’s progress towards achieving the desired efficiency and demand response goals.” Proposed Order at 24. Then, much later in the Proposed Order the Commission discusses Program Design Issues separately, stating:

It appears likely to be useful to the Commission Staff, the utilities, and the general public, to develop standards regarding the accounting of the funds collected, the appropriate measure savings values, Net to Gross ratios, financial compliance, program information tracking and reporting, and related issues. We note that the statutory requisites regarding energy efficiency and demand response are new to Illinois and involve many complex issues. Additionally, new technology will emerge regarding energy efficiency and demand response, requiring a flexible approach regarding technology. Staff is directed to conduct workshops on these issues and any related issues. The outcome of these workshops shall be in the form of a Staff report, setting forth Staff’s recommendations regarding what rules, if any, need to be developed.

Proposed Order at 33. While ELPC strongly supports addressing the financial and evaluation issues discussed in the “Program Design” section, we believe that the proper forum for this is as a sub-part of, or working group within, the stakeholder process.

Just as with the general program aspects of the stakeholder process, ELPC urges the Commission to order Ameren and ComEd to participate in one statewide process addressing these issues. It simply does not make sense for the state to move down this path with Ameren and ComEd taking different approaches for measuring savings and tracking results.

**f. A Statewide Process Would be More Efficient (pardon the pun)**

ELPC plans to not only participate in the planning process, but also to work hard to promote energy efficiency programs throughout the state. That work however, takes resources. For the consumer and environmental groups that commit to the stakeholder process, participating in two processes is twice the resources in terms of both work for their staff, and expense for their

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<sup>2</sup> The Ameren Proposed Order refers to the collaborative process, while the ComEd Proposed Order refers to the stakeholder process. The two terms may be interpreted differently and ELPC submits that the term “stakeholder”

experts. Moreover, if the Commission does not order a combined process for the Ameren and ComEd service territories, AND it orders program design working groups separate and apart from the stakeholder process, we will now have four separate processes: ComEd Stakeholder Process; ComEd Program Design Working Group; Ameren Stakeholder Process; Ameren Program Design Working Group.

**g. The Benefits to Consumers Outweigh the Distinctions Between the Plans**

In the final analysis, it makes sense to start with one stakeholder process. While minor differences do exist between the Plans, for example ComEd’s appliance recycling program includes refrigerators, freezers and room air-conditioners, and Ameren’s is limited to refrigerators, the differences are very minor compared to the similarities. If the process becomes unwieldy or unproductive we can always separate them, but it would be much more difficult to go from two processes down to one. Also, as set forth above, one stakeholder process does not mean both utilities have to do everything the same way. There would be ample opportunity in a joint process to address the differences between the two Plans.

**Replacement Language:**

This Commission ~~does not~~ believes that a statewide committee for both Utilities would be prudent. *The similarities in the Ameren and ComEd programs, and the need to have standard evaluation policies for both utilities, outweigh any minor* ~~The differences in the service territories, such as labor costs, housing structure, population density and topography, may prove to make such coordination ill advised.~~ The Utilities should coordinate their efforts as much as possible, but ~~this Commission will not require it.~~ *the coordination in the stakeholder process leaves room for differences in the Plans and programs.*

*In addition to addressing general programmatic and rollout issues, the Commission directs the stakeholders to address the following evaluation issues: accounting of the funds collected, the appropriate measure savings values, Net to Gross ratios, financial compliance, program information tracking and reporting, and related issues. Staff is directed to draft a report, setting forth Staff’s recommendations regarding what rules, if any, need to be developed.*

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should be used rather than “collaborative.”

Additionally at p. 33 delete the following

**I. ~~Program Design Issues~~**

**A. ~~Workshops~~**

~~— The NRDC recommends that the Commission should require its Staff to conduct a rulemaking, which would entail workshops, on various topics, such as the appropriate measure savings values, net to gross ratios, accounting rules for energy efficiency funds, financial compliance, and program information tracking and reporting. (NRDC posttrial brief at 15-16).~~

~~Staff took no position on this issue.~~

**~~Analysis and Conclusions~~**

~~It appears likely to be useful to the Commission Staff, the utilities, and the general public, to develop standards regarding the accounting of the funds collected, the appropriate measure savings values, Net to Gross ratios, financial compliance, program information tracking and reporting, and related issues. We note that the statutory requisites regarding energy efficiency and demand response are new to Illinois and involve many complex issues. Additionally, new technology will emerge regarding energy efficiency and demand response, requiring a flexible approach regarding technology. Staff is directed to conduct workshops on these issues and any related issues. The outcome of these workshops shall be in the form of a Staff report, setting forth Staff's recommendations regarding what rules, if any, need to be developed.~~

**2. THE PROPOSED ORDER FAILS TO ADDRESS THE GAP IN COMED'S PLAN REGARDING INCREASED CUSTOMER USAGE**

In its Initial Brief ELPC argued that under Ameren's Plan customers could participate in a number of effective programs designed to reduce their electricity consumption, and still end up with increases in electricity usage. ELPC raised two main issues. First, Ameren should educate customers on thermostat usage; both setting their thermostats at the proper temperature to maximize savings and comfort and use of a programmable thermostat. Second, Ameren should educate customers regarding the consumption levels of appliances such as plasma televisions (six times as much as a traditional television or as much as a refrigerator), and phantom load (the electricity consumed by appliances when not in use). ELPC Initial Brief at 5-7.

The Proposed Order states:

Ameren is encouraged to include any information in its marketing, or, on its web site, that would enable a consumer to reduce consumption. However, at this point in time, we decline

to “micromanage” Ameren to the point, at which, we determine what information should be in a utility’s customer education program, or, on its web site.

Proposed Order at 35. While ELPC understands the Commission’s desire not to “micromanage” Ameren’s customer education program, ELPC does not believe that directing it to educate customers on usage constitutes micro-management. This issue goes beyond mere education per se and directly to the heart of the energy efficiency plans.

All parties acknowledge the need for comprehensive energy efficiency planning in order in Illinois. In order to achieve our goals we need to create a foundation where consumers understand basic opportunities to save energy and reduce peak demand. The Commission needs to ensure that this foundation is in place by ordering Ameren to include these basics in their public education campaign. If the Commission fails to address this issue we risk creating the scenario where consumers participate in Ameren’s programs while their personal consumption, as well as societal consumption, still increases.

**Replacement Language:**

**Analysis and Conclusions**

Ameren is ~~encouraged~~ *ordered* to ~~include any~~ *promote* information in its marketing material and, ~~or, on its web site, that would enable a consumer to reduce consumption.~~ that provides information on reducing electricity consumption, including *measures such as* proper thermostat settings, programmable thermostats, appliance consumption, and reducing phantom load. ~~However, at this point in time, we decline to “micromanage” ComEd to the point, at which, we determine what information should be in a utility’s customer education program, or, on its web site.~~ *Such education is a critical element in a comprehensive approach to energy efficiency.*

### **3. THE COMMISSION SHOULD REQUIRE A STATEWIDE BRANDING PROGRAM AND WEBSITE**

Consistent with arguments above related to the similarities between the Ameren and ComEd programs, the Commission should require a statewide branding program as part of the public education process. The Proposed Order rejects ELPC's proposal at this time, based on the difficulty of getting such a program operating within a short time frame. Proposed Order at 33. However, the start of the program is exactly the time to get such a statewide branding/education program started. Moreover, while ELPC recognizes the difficulty of getting programs started expressed in the Proposed Order, in the grand scheme of things this would require only marginally greater effort.

ELPC witness Crandall, who participated in a number of energy efficiency initiatives, including the Wisconsin statewide effort testified:

Branding is an important part of the long-term success of this program. Programs such as Wisconsin's *Focus on Energy* or California's *Flex Your Power* campaign enhance consumer awareness of both specific program offerings and the opportunities for energy efficiency in general. Although there are three separate entities running programs in the state (ComEd, Ameren and DCEO), I believe that the programs would be enhanced by a unified brand and marketing campaign supported by all three.

ELPC Ex. 1.0 at 6, line 172. Additionally, Crandall supported the creation of a statewide Web site connected with the branding, where consumers can go for all of their energy efficiency information. He proposed a site similar to the California and Wisconsin sites ([www.fypower.org](http://www.fypower.org) and [www.focusonenergy.org](http://www.focusonenergy.org)). *Id.*, line 178. NRDC similarly supported such a Web site. NRDC EX. 1.0 at 4. The statewide campaign and Web site cut across utility jurisdictions and send the important message that this is a statewide initiative that includes every customer working together across the region. ELPC notes that this does not prevent Ameren and ComEd from

supplementing the statewide effort with their own messages tailored to unique characteristics of their programs.

**Replacement Language:**

~~At some point in time, a uniform energy efficient brand, such as the federal “Energy Star” label, could create easy customer identification of energy efficient items. However, the programs are nascent. We note that the statute has provided the utilities with very little time to devise programs and get them “up and running.” At this point in time, creation of a state wide brand would only divert attention, time and money, from the creation of, and administration of, well run energy efficiency programs. Therefore, we decline to adopt this proposal at this time.~~

*The Commission believes that the utility programs will be enhanced by a statewide public education program that emphasizes the need for all Illinoisans to work together to conserve electricity. Branding is an important part of the long-term success of this program, as is a statewide website. Programs such as Wisconsin’s Focus on Energy or California’s Flex Your Power campaign enhance consumer awareness of both specific program offerings and the opportunities for energy efficiency in general. Although there are three separate entities running programs in the state (ComEd, Ameren and DCEO), the Commission believes that the programs would be enhanced by a unified brand and marketing campaign supported by all three. This effort should be supported by a statewide website.*

*The Commission’s ruling does not prevent the utilities or DCEO from their own individual efforts when unique characteristics of programs dictate. Merely, this requires joint coordination where it makes sense to do so.*

**4. THE COMMISSION SHOULD REVIEW THE FIRST YEAR OF AMEREN’S PLAN IN 2009**

The Proposed Order does not require Commission review of Ameren’s Plan until September 1, 2010. Proposed Order at 19. ELPC believes that such review should take place sooner than the Proposed Order envisions. The Plan goes into effect June 1, 2008. A review that begins on September 1, 2010 would not conclude until well in to 2011, which would be nearly three years after the start of the Plan. Furthermore, it is questionable whether this review would even be completed before Ameren develops its next three year plan.

Given that we are embarking on a new and important initiative, it is important for the Commission to ensure that we are heading in the right direction. Moreover, the Commission needs to clarify that such review is not simply a general review of the Plan, but also a specific review of whether Ameren is meeting the statutory performance requirements. Thus, review of the first Plan should commence on September 1, 2009.

**Replacement Language:**

The dates are as follows for commencement of Commission dockets reviewing Ameren's plan to determine whether ~~it~~ *the plan complied with* ~~meets~~ the statutory energy efficiency and demand response goals- *September 1, 2009*, September 1, 2010, and September 1, 2011. The Commission believes that initiating proceedings on these dates is appropriate to ensure compliance with the Act. On or before each of these dates, Staff is directed to provide with the Commission with draft orders that will initiate docketed proceedings to review the energy efficiency and demand response goals set forth in the statute.

**CONCLUSION**

ELPC respectfully requests that the Commission amend the Proposed Order as set forth above. These changes will improve both utilities' planning processes. Additionally, the changes will provide consumers with better information that will increase energy savings and benefits from the programs for all Illinois consumers.

Respectfully Submitted,



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DATED: February 1, 2008

**CERTIFICATE OF SERVICE**

I, Robert Kelter, hereby certify that I served on February 1, 2008 the attached ENVIRONMENTAL LAW AND POLICY CENTER'S BRIEF ON EXCEPTIONS upon all active parties of record identified on the included service list electronically via e-mail.

A handwritten signature in black ink that reads "Robert Kelter". The signature is written in a cursive style with a large initial "R" and a distinct "K".

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