

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

CENTRAL ILLINOIS LIGHT COMPANY d/b/a)

AmerenCILCO)

) Docket No. 08-0619

CENTRAL ILLINOIS PUBLIC SERVICE)

COMPANY d/b/a AmerenCIPS)

) Docket No. 08-0620

ILLINOIS POWER COMPANY d/b/a)

AmerenIP)

) Docket No. 08-0621

Proposal to implement a combined Utility)

Consolidated Billing (UCB) and Purchase of)

Receivables (POR) service)

DIRECT TESTIMONY OF BRYAN MCDANIEL
ON BEHALF OF

THE CITIZENS UTILITY BOARD

CUB EXHIBIT 1.0

February 24, 2009

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is Bryan McDaniel. My business address is 309 W Washington Ste. 800,
3 Chicago, Illinois.

4

5 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

6 A. I am employed with the Citizens Utility Board (CUB) as a Senior Policy Analyst/
7 Government Liaison.

8

9 **Q. WHAT IS YOUR EDUCATION AND WORK BACKGROUND?**

10 A. I have a Bachelor of Business Administration in Economics from the University of Iowa
11 and a Master of Arts in International Studies from DePaul University in Chicago. I have
12 worked for the Citizens Utility Board for three years. I started as a bilingual Consumer
13 Rights Counselor. I am currently responsible for assisting in the development of CUB's
14 policy positions and communicating those positions to those involved in the legislative
15 process.

16

17 **Q. WHAT IS THE PURPOSE OF YOUR DIRECT TESTIMONY?**

18 A. My testimony will identify issues that are of special concern to CUB with respect to
19 consumer protections and the implementation of electric choice in Illinois. I will address
20 the appropriateness of the Ameren Illinois Utilities ("AIU") tariff filing to implement
21 Utility Consolidated Billing ("UCB") and Purchase of Receivables ("POR") programs for
22 use by retail electric suppliers ("RES"). The purpose of my testimony is to explain the
23 reasons why this tariff filing should be rejected.

24

25 **Q. PLEASE SUMMARIZE THE RECOMMENDATIONS YOU ARE MAKING IN**
26 **THIS PROCEEDING.**

27 A. I am recommending this tariff be rejected as premature and that Ameren be directed to re-
28 file its UCB/POR tariffs after the current Illinois Commerce Commission (“ICC” or
29 “Commission”) led workshop process (through the Office of Retail Market Development
30 (ORMD)) addressing consumer protections on UCB/POR in the retail electric market has
31 concluded. The results from this workshop will aid in the creation of potential legislation
32 or help to guide a rulemaking at the ICC.

33
34 **Q. WHAT GENERAL CONCERNS DO YOU HAVE ABOUT AMEREN’S TARIFF**
35 **FILING?**

36 A. My main concern is that Ameren’s proposed UCB/POR tariff will be implemented before
37 the requisite consumer protections are in place. Approval of Ameren’s proposed tariff at
38 this juncture presents a substantial risk that the objectives of SB 1299 or the Retail
39 Competition Act of 2006 will not be fulfilled.

40
41 **Q. DO SB 1299 AND THE RETAIL COMPETITION ACT OF 2006 DESCRIBE THE**
42 **GOALS OF CHOICE IN ILLINOIS?**

43 A. Yes. SB 1299 states: “It is in the best interest of Illinois energy consumers to promote
44 fair and open competition in the provision of electric power and energy...” The Retail
45 Electric Competition Act of 2006 likewise states that the ICC should promote the
46 development of an effectively competitive retail electricity market that operates
47 efficiently and benefits all Illinois consumers. To truly promote fair competition in
48 keeping with the General Assembly’s stated objectives, and to maximize the benefit to
49 consumers, suppliers and utilities, the appropriate rules and protections must be in place
50 before UCB/POR is offered by AIU.

51 **Q. WILL AIU’S PROPOSAL ENSURE THAT CONSUMERS SEE THE BENEFITS**
52 **OF ELECTRIC CHOICE AS CALLED FOR IN THE RETAIL ELECTRIC**
53 **COMPETITION ACT OF 2006?**

54 A. No. Because AIU’s proposed tariff fails to include a dispute resolution process and has
55 been filed before appropriate consumer protections, such as those that address RES
56 pricing, cancellation fees, and other marketing practices, are in place, the risk is
57 substantial that there will be failures in the market and consumers hurt. Consumers
58 should not have to “learn the hard way” about electric choice. Rejecting this tariff until
59 the requisite consumer protections exist will enable a positive electric choice learning
60 experience for consumers.

61

62 **Q. IS IT YOUR UNDERSTANDING THAT AMEREN BELIEVES THE REQUISITE**
63 **CONSUMER PROTECTIONS ARE IN PLACE?**

64 A. Yes. In response to CUB Data Request 1.07, Ameren witness Lynn Pearson states, “The
65 AIU believes that consumer protections measures are in place currently, and do not
66 believe it is appropriate to delay UCB/POR implementation while the issue of more
67 stringent protections is addressed.”

68

69 **Q. HAVE CUSTOMERS IN AIU’S SERVICE TERRITORY EVER HAD THE**
70 **ABILITY TO CHOOSE AN ENERGY SUPPLIER?**

71 A. No. Unlike in Northern Illinois, where residential and small business consumers have
72 had choices in their natural gas supply for about eight years now, customers in AIU
73 territory have not yet had the benefit of experience with choosing an energy supplier.

74

75

76 **Q. HOW SHOULD THE LACK OF EXPERIENCE OF CONSUMERS WITH**
77 **RESIDENTIAL AND SMALL COMMERCIAL CHOICE IN AIU’S TERRITORY**
78 **BE CONSIDERED IN EVALUATING AMEREN’S PROPOSED TARIFF?**

79 A. The Commission should proceed into the energy choice market with extra caution,
80 consumer education, and specific-consumer protections in order to properly safeguard
81 consumers from these examples of market pitfalls. Furthermore, the fact that customers
82 will be subject to disconnection if they do not pay the supplier charges on their bill under
83 UCB/POR removes a safety valve that has been available to customers in Northern
84 Illinois. Customers who choose a gas supplier in Northern Illinois cannot be
85 disconnected for failure to pay a gas supplier.

86

87 **Q. HOW HAS CUB’S EXPERIENCE WITH NATURAL GAS CHOICE IN**
88 **NORTHERN ILLINOIS HELPED DEFINE ITS OPINIONS HERE?**

89 A. CUB has received an unprecedented level of consumer complaints relating to the gas
90 choice market in Northern Illinois. Many of the complaints CUB has received relate to
91 confusing pricing, misleading marketing, difficulty distinguishing unregulated utility
92 affiliates from their regulated parents, and exorbitant supplier cancellation fees being
93 charged for early termination of the contract. These types of customer experiences only
94 detract from the development of the market and consumer education.

95

96 **Q. DO YOU AGREE WITH MS. PEARSON THAT DAILY COMMUNICATION**
97 **BETWEEN THE UTILITY AND THE RES IS IMPORTANT?**

98 A. Yes, Ms. Pearson’s comment that daily communication between the RES and the utility is
99 required to create a positive experience for customers who switch electric suppliers is
100 encouraging, from a consumer prospective. Although Ameren lists a “positive consumer
101 experience” as a goal, its proposed tariff actually undermines such a goal.

102 **Q. WHAT CONSUMER PROTECTIONS DO YOU BELIEVE MUST BE PRESENT**
103 **TO FOSTER A SUCCESSFUL RESIDENTIAL AND SMALL COMMERCIAL**
104 **ELECTRIC CHOICE MARKET IN ILLINOIS?**

105 A. Many different issues are being discussed in the ORMD workshop process, some of the
106 most critical are: developing a fair and clear dispute mechanism; limitations on
107 cancellation fees, and uniform pricing to facilitate an apples-to-apples comparison of
108 ARES product offerings.

109

110 **Q. IS THERE A CLEAR DISUPTE RESOLUTION PROCESS IN PLACE THAT IS**
111 **FAIR TO BOTH CUSTOMERS AND SUPPLIERS?**

112 A. No. AIU acknowledges that the dispute resolution process is still under discussion at the
113 ORMD workshops in response to RESA Data Request 2.05. This is an obvious concern
114 for consumers. An efficient and fair dispute resolution process must be in place before
115 the opening of UCB/POR to retail customers in order to facilitate communication
116 between the customer, the ARES, third parties, and the utility. Because of this, the
117 dispute process needs to be both fair, and crystal clear to all parties.

118

119 **Q. WHAT ISSUES HAVE YOU IDENTIFIED REGARDING THE DISPUTE**
120 **RESOLUTION PROCESS?**

121 A. AIU admits in its response to RESA Data Request 2.05 that the issue of disputed charges
122 and billing inquires “continue to be addressed at the ORMD workshops and the AIU is
123 still developing the dispute resolution process for the UCB/POR Program.” This is
124 problematic for the reasons outlined above.

125

126

127 **Q. DO YOU HAVE ANY ADDITIONAL CONCERNS RELATING TO AMEREN'S**
128 **PROPOSED DISPUTE PROCESS?**

129 A. Yes. In discovery, AIU indicated that it intends to remove the customer's voice from the
130 dispute process by removing the ability of customers to contact AIU and dispute RES
131 charges. AIU states, "The AIU also prefaces this response by noting the intention to
132 revise the proposed Supplier Terms and Conditions tariff to reflect the removal of the
133 following sentence, 'Charges billed by the Company to a Retail Customer for the RES'
134 electric power and energy supply service are deemed to be disputed if such Retail
135 Customer contacts the Company and claims that such charges are not correct.'" It
136 appears Ameren is suggesting that every customer/RES dispute would have to be
137 addressed by the Commission and handled without the cooperation of the utility. I
138 believe this could cause customer confusion and frustration, as well as a potential backlog
139 at the ICC Consumer Affairs Division and is not a prudent or reasonable policy.

140

141 **Q. WHAT DOES THE FACT THAT A DISPUTE PROCESS IS NOT CURRENTLY**
142 **DETAILED OR DEFINED IN A WAY THAT IS FAIR TO CONSUMERS,**
143 **SUGGEST TO YOU ABOUT AIU'S TARIFF FILING?**

144 A. It reinforces my conclusion that the AIU's tariff filing should be rejected. To enable a
145 successful electric choice market for all participants – customers, RES, and utilities -
146 details that will enable a positive customer experience with Retail Electric Choice must
147 first be fleshed out or explained in a way that will assist consumers in their navigation of
148 and participation in the Retail Electric Choice market in AIU territory.

149

150 **Q. WHAT CONSUMER PROTECTIONS HAS MS. PEARSON IDENTIFIED?**

151 A. In response to CUB data request 1.07, requesting AIU's opinion as to whether or not the
152 Companies believe consumer protections should be in place prior to the company

153 implementing its proposed tariff, Ms. Pearson references existing Part 280 regulations,
154 which govern billing, bill payment, collections and disconnections. She also references
155 the ICC complaint process. Ms. Pearson further states there are consumer protections in
156 the Supplier Terms and Conditions section of the proposed UCB/POR tariff. The three
157 additional “protections” referenced are: the ability of the customer to contact the utility to
158 cancel their contract during the enrollment period, requiring the RES to obtain a signed
159 Letter of Agency, and/or the third-party verification process for each customer and
160 provisions regarding the release of customer information.

161

162 **Q. DO YOU BELIEVE THE EXISTING, LIMITED CONSUMER PROTECTIONS**
163 **THAT MS. PEARSON REFERENCES ARE SUFFICIENT TO PROCEED WITH**
164 **THE IMPLEMENTATION OF UCB/POR?**

165 A. No. The Part 280 processes she mentions are “back-end” protections. They do not
166 concern the marketing and sales of RES products or the cancellation fees charged by a
167 RES. The ICC complaint process is certainly an important component to protect
168 consumers, but it should not be a customer’s only outlet to settle a dispute. With regard
169 to the third-party verification process, while it is one important component, it does not
170 ensure that customers understand the product they are purchasing; it merely verifies facts.
171 I believe giving consumers the opportunity to rescind their contract through the utility
172 before the customer is enrolled, as AIU has proposed, is a step in the right direction, but it
173 is not wholly sufficient. This provision would allow customers to be shielded from high
174 pressure sales tactics employed by an ARES to dissuade a customer from cancelling their
175 enrollment. The protection Ms. Pearson references regarding release of customer
176 information has been in place long before SB 1299 became law.

177

178 **Q. DO THE “PROTECTIONS” REFERENCED BY MS. PEARSON ADDRESS THE**
179 **PROBLEMS CUB HAS EXPERIENCED IN NATURAL GAS CHOICE IN**
180 **NORTHERN ILLINOIS AND POSSIBLE PROBLEMS THAT MIGHT ARISE IN**
181 **THE ELECTRIC CHOICE ARENA?**

182 A. No, they do not. There are no consumer protections in place that deal with uniform
183 pricing which would enable consumers to compare RES products on an apples-to-apples
184 basis. Further, the existing regulations do not adequately address potential customer
185 confusion with utility-affiliate use of the utility’s or parent’s, name and logo or
186 cancellation fees. These are protections that I think are necessary based upon my
187 experience with natural gas choice markets in Northern Illinois. Additionally, consumer
188 education on the ICC’s website, as well as other media, is necessary to inform consumers
189 about choice and compare ARES product offerings. I also recommend that a disclosure
190 form be provided to customers by a RES at the time of enrollment, the utility maintain a
191 “Do Not Contact List,” longer cancellation periods should be mandated, rules be
192 developed governing the marketing of “green” products, prohibitions on automatic
193 contract renewals be established, and the requirement of disclosures by a RES if they
194 have filed for force majeure within the last 10 years.

195

196 **Q. HOW SHOULD THE ISSUES YOU RAISE HERE ABOUT CONSUMER**
197 **PROTECTIONS BE CORRECTED?**

198 A. In order to address the issues I have raised above, this tariff should be rejected until
199 effective and thoughtful consumer protections are in place.

200

201 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

202 A. Yes.