

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)	

REBUTTAL TESTIMONY OF BRYAN MCDANIEL
ON BEHALF OF
THE CITIZENS UTILITY BOARD

CUB EXHIBIT 3.0

March 24, 2009

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

2

3 A. My name is Bryan McDaniel. My business address is 309 W. Washington, Suite 800, Chicago,
4 Illinois, 60606.

5 **Q. ARE YOU THE SAME BRYAN MCDANIEL WHO SUBMITTED DIRECT TESTIMONY**
6 **IN THIS DOCKET ON BEHALF OF THE CITIZENS UTILITY BOARD (“CUB”)?**

7

8 A. Yes.

9 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY IN THIS**
10 **PROCEEDING?**

11

12 A. The purpose of my rebuttal testimony is to respond to Ameren Illinois Utilities (“AIU” or
13 “Ameren”) witness Mr. Roger Pontifex.

14 **Q. PLEASE SUMMARIZE YOUR REBUTTAL TESTIMONY.**

15

16 A. AIU’s tariff filing should be rejected because adequate consumer protections are not yet in place
17 and the Office of Retail Market Development (“ORMD”) workshop process, where consumer
18 protection issues are currently being discussed, has not yet concluded. In filing its tariff before
19 these consumer protection issues have been adequately addressed, AIU ignores the negative
20 experiences encountered by consumers in Northern Illinois in regards to natural gas choice, as
21 well as the legislation (SB 171) created specifically to respond to consumers’ complaints
22 regarding alternative natural gas suppliers (“ARGS”). This sets the stage for similar problems on
23 the electric side.

24 **Q. IN AMEREN EX. 7.0 AT 16, LL. 394-398, MR. PONTIFEX STATES “THE GENERAL**
25 **ASSEMBLY INTENDED CHOICE FOR ALL CUSTOMERS IN THE LAW PASSED IN**
26 **1997... GIVEN THAT IT IS NOW 2009, I WOULD SURMISE THAT THE INTENTION**
27 **OF SB 1299 WAS TO ENCOURAGE RESIDENTIAL AND SMALL COMMERCIAL**
28 **CUSTOMER CHOICE, NOT DELAY IT FURTHER.” DO YOU HAVE A COMMENT?**

29

30 A. It is my belief that competition will be better served and more successful if more robust
31 consumer protections are considered and included in any competitive framework, and any delay
32 this may cause would be well worth the wait. Consumer protections were not added in the natural

33 gas market for many years after the approval of the Customer Select and Choices For You choice
34 programs, to the detriment of both the market and consumers. The Electric Competition Act of
35 2006 states the Illinois Commerce Commission (“ICC” or “Commission”) should promote a retail
36 electricity market that operates efficiently and benefits all consumers. These goals will not be
37 achieved if this tariff is allowed to be implemented before adequate consumer protections are in
38 place. CUB is not seeking to delay the implementation of this tariff for any other reason than to
39 promote “fair” competition, as called for in SB 1299.

40 **Q. MR. PONTIFEX REFERENCES CODE PART 451 AT PAGE 16, LL. 399-400 AND**
41 **CLAIMS CODE PART 451 INCLUDES CONSUMER PROTECTIONS. DO YOU**
42 **AGREE WITH HIM?**

43
44 A. Not completely. Code Part 451 consists of rules relating to the financial, managerial and
45 technical certification requirements required of suppliers. Code Part 451 does not address the
46 relationship between the supplier and the customer, with one exception: it requires that suppliers
47 keep customer information confidential.

48 **Q. WHAT DOES CUB’S EXPERIENCE AND KNOWLEDGE IN DEALING WITH**
49 **NATURAL GAS CHOICE IN ILLINOIS REVEAL IN REGARDS TO CODE PART 451?**

50
51 A. First and foremost, CUB’s experience demonstrates that Code Part 451 is not adequate as it is
52 currently written. The 95th Illinois General Assembly passed SB 171 on January 13, 2009, which
53 in my opinion is a good step forward in providing adequate consumer protections in the natural
54 gas choice arena. This bill currently awaits the signature of the Governor. SB 171 specifically
55 addresses and significantly strengthens the certification and managerial requirements pertaining
56 to ARGs in relation to the management of their sales force as well as requires additional
57 statements and facts from the ARGs during the application and certification process. These
58 protections are necessary now and will be necessary in the electric choice arena as well.

59

60 **Q. MR. PONTIFEX ALSO REFERENCES THE CONSUMER FRAUD AND DECEPTIVE**
61 **BUSINESS PRACTICES ACT. DOES THIS ACT PROVIDE “ELECTRICITY**
62 **SPECIFIC” PROTECTIONS?**
63

64 A. Yes, although it is important to note that a significant portion of the section referenced by Mr.
65 Pontifex is already in SB 1299 concerning slamming and third-party verification. As I discussed
66 in my direct testimony, third-party verification is a valuable consumer protection, but does not
67 address many other important consumer concerns. The verification process merely verifies facts
68 and does not address consumer understanding. The Consumer Fraud and Deceptive Practices Act
69 is without a doubt an important protection, but does not address the specific protections needed
70 that I raised in my direct testimony.

71 **Q. MR. PONTIFEX DISCUSSES THE NOTION OF A “DO NOT CONTACT LIST” TO**
72 **ALLEVIATE SOME OF CUB’S CONCERNS. WHAT ARE YOUR THOUGHTS IN**
73 **REGARDS TO HIS OBSERVATIONS?**
74

75 A. CUB appreciates AIU committing to provide a “Do Not Contact List” for its customers. Mr.
76 Pontifex suggested changing the name of the list to a “Do Not Market List.” That is a change
77 CUB would support. However, he is silent about more important consumer protections. The fact
78 that Mr. Pontifex did not address the other consumer protections supports my conclusion that this
79 tariff filing is premature. This tariff should not be filed until more adequate consumer protections
80 are in place.

81 **Q. ON PAGE 16, LINES 286-318 OF HIS REBUTTAL TESTIMONY, MR. PONTIFEX**
82 **CLAIMS THAT THERE IS A CLEAR DISPUTE PROCESS IN PLACE CURRENTLY.**
83 **WHAT IS YOUR OPINION OF THIS DISPUTE MECHANISM DETAILED BY MR.**
84 **PONTIFEX?**
85

86 A. I think the mechanism as outlined by Mr. Pontifex is a good starting point, but requires
87 improvement. The dispute mechanism requires four calls by a consumer in order to dispute a
88 charge, assuming the customer calls the utility first, and then is told to call their supplier, then
89 calls the utility back if they are unhappy with the supplier’s handling of their complaint, and then

90 ultimately is told to call the ICC. It is evident that four calls, at a minimum, to dispute a
91 complaint is not an efficient process.

92 **Q. HOW COULD THIS PROCESS BE IMPROVED?**

93
94 A. One way to improve the process would be for Ameren Customer Service Representatives
95 (“CSRs”) to transfer the consumer’s call to their respective supplier instead of requiring the
96 consumer to make another phone call. The supplier’s number should be given to the customer,
97 but more importantly, AIU should offer to connect the customer with their supplier. Another
98 potential improvement is to place information in the AIU Supplier’s Handbook requiring that
99 suppliers supply the ICC’s Consumer Services Division (“CSD”) number to consumers who have
100 a complaint and would thus not have to call the utility back after an unsuccessful attempt by the
101 customer to work out a complaint with the supplier on their own.

102 **Q. DO YOU BELIEVE THE DISPUTE PROCESS SHOULD BE CODIFIED IN THE AIU**
103 **TARIFFS?**

104
105 A. Yes, absolutely. I agree with Staff witness Clausen that the dispute resolution process should be
106 codified in the AIU tariffs when they are re-filed, in order to ensure transparency and
107 accountability.

108 **Q. OVERALL, HOW SHOULD THE ISSUES RAISED BY YOU IN RESPONSE TO MR.**
109 **PONTIFEX’S TESTIMONY BE ADDRESSED TO ENSURE A SUCCESSFUL**
110 **OUTCOME?**

111
112 A. In order to address the issues raised above, it is imperative that the Commission reject Ameren’s
113 tariff until effective and thoughtful consumer protections are in place.

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

115
116 A. Yes.