

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission)
On Its Own Motion)
) Docket No. 01-0053
Proceeding under Section 16-112(m) of)
the Public Utilities Act to determine)
whether to continue or terminate the)
neutral-fact-finding procedure.)

**REPLY COMMENTS OF
PEOPLES ENERGY SERVICES CORPORATION**

Peoples Energy Services Corporation (“PE Services”) served its Initial Comments on February 23, 2000, for the Illinois Commerce Commission (“Commission”) to consider in determining whether to continue or terminate the neutral-fact-finding (“NFF”) procedure. The Initial Comments of the other parties do not detract from PE Services’ positions taken in its Initial Comments. PE Services files its Reply Comments to reply to positions taken by the other parties that filed Initial Comments: the Staff of the Illinois Commerce Commission (“Staff”), the People of the State of Illinois (“AG”), the Illinois Industrial Energy Consumers (“IIEC”), MidAmerican Energy Company (“MidAmerican”), Ameren Companies (“Ameren”), Commonwealth Edison Company (“ComEd”) and Illinois Power Company (“IP”). PE Services relies on its arguments in Initial Comments and again urges the Commission to continue the NFF procedure because it is in the best interest of the Commission, Illinois electric consumers and the electric market.

In its Initial Comments, Staff did not support termination of the NFF procedure. Staff Init. Com., p.3. The AG and IIEC took positions in their Initial Comments similar to PE Services. They each stated that the Commission should

continue the NFF process regardless of the outcome of the market value index (“MVI”) proceedings in Docket 00-0259, 00-0395 and 00-0461 consolidated. AG Init. Com., p. 2; and IIEC Init. Com., p. 4. The AG specifically detailed its concern that if the Commission imposes a sunset provision in the Docket 00-0259 (cons.) MVI proceedings, terminating the NFF “would be premature and may unnecessarily limit or complicate the Commission’s options.” AG Init. Com., pp. 2-3. IIEC also highlighted the problem of terminating the NFF process prior to the timing of a MVI sunset deadline. IIEC Init. Com, p. 5. Both the AG’s and IIEC’s Initial Comments, particularly where they focus on MVI sunset provisions, strengthen PE Services’ argument that the Commission continue the NFF process.

MidAmerican in its Initial Comments first suggested terminating the NFF “for the time periods that Market Value Indexes are in place” because of its concern with the large amount of resources needed to complete the process. MidAmerican Init. Com., p.1. It then suggested the Commission terminate the process for two years relying on the Hearing Examiner’s Proposed Order (“HEPO”) in the MVI proceeding providing for a two-year sunset on the utility MVI tariffs. Id., p. 2. As PE Services details further below, it is not appropriate for the Commission to “terminate the neutral fact finder procedure for the period covered by such [MVI] tariffs.” 220 ILCS 5/16-112(m). One summer with one utility MVI tariff in place, a MVI tariff being modified by the HEPO in Docket 00-0259, is not enough experience to eliminate the NFF process as an insurance or fallback position.

Ameren, ComEd and IP, in their Initial Comments, recommend eliminating the NFF process. Importantly, IP states it “does not object to the Commission entering

an order suspending the NFF process.” IP Init. Com., p. 2. IP then continues by stating IP “does not believe that process should be continued absent a compelling reason to do so.” Id., p.3. AG, IIEC and PE Services have all offered the Commission compelling reasons to continue the NFF process.

ComEd and Ameren spent most of their Initial Comments arguing in favor of eliminating the NFF process by highlighting the faults that have been revealed by experience utilizing the NFF process. However, Ameren’s and ComEd’s argument that the NFF process’ shortcomings are the reason it should be eliminated unwittingly support the need for maintaining the NFF process. The legislature, with input from many of the parties to this proceeding -- including ComEd, IP, and Ameren -- developed a detailed NFF procedure in Section 16-112 of the Act. 220ILCS 5/16-112. Certainly their intent was to develop an NFF process that could correctly approximate market value. Now Ameren, ComEd and IP have developed MVIs to replace the NFF process. Significantly, none of these MVI tariffs as proposed in the Docket 00-0259 HEPO have been market tested. Until the proposed MVIs have been tested against the market no one knows how accurate the resulting MVIs will be or whether they will suffer from flaws. Importantly, the Commission cannot force any utility to change its MVI tariff if experience shows that the MVI tariff does not accomplish its goal of approximating market value. That is why the Commission must leave the NFF process in place as an insurance or fallback position.

For the reasons above, the Commission should reject the utilities’ arguments in favor of terminating the NFF process. Rather, it should continue the NFF process as supported by the AG, IIEC and PE Services at least for the current year as

an insurance policy until the utility MVIs as proposed in the Docket 00-0259 (cons.)
proceeding have been tested against the market.

Respectfully submitted,

By _____
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NOTICE OF FILING

To: Service List

PLEASE TAKE NOTICE that on this 7th day of March, 2001, I have filed with the Chief Clerk of the Illinois Commerce Commission, the Reply Comments of Peoples Energy Services Corporation, a copy of which is hereby served upon you.

CERTIFICATE OF SERVICE

I, TIMOTHY P. WALSH, hereby certify I served these Reply Comments by United States Mail, personal delivery, or via e-mail on March 7, 2001, upon each of the parties of record in Ill.C.C. Docket No. 01-0053, dated at Chicago, Illinois this 7th day of March 2001.

By _____
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