

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Central Illinois Light Company d/b/a AmerenCILCO)	Docket No. 09-0306
)	
Proposed general increase in electric delivery service rates.)	
)	
Central Illinois Public Service Company d/b/a AmerenCIPS)	Docket No. 09-0307
)	
Proposed general increase in electric delivery service rates.)	
)	
Illinois Power Company d/b/a AmerenIP)	Docket No. 09-0308
)	
Proposed general increase in electric delivery service rates.)	
)	
Central Illinois Light Company d/b/a AmerenCILCO)	Docket No. 09-0309
)	
Proposed general decrease in gas delivery service rates.)	
)	
Central Illinois Public Service Company d/b/a AmerenCIPS)	Docket No. 09-0310
)	
Proposed general increase in gas delivery service rates.)	
)	
Illinois Power Company d/b/a AmerenIP)	Docket No. 09-0311
)	
Proposed general increase in gas delivery service rates.)	
)	

**REPLY TO THE PEOPLE OF THE STATE OF ILLINOIS’ RESPONSE
TO THE AMEREN ILLINOIS UTILITIES’
MOTION FOR ENTRY OF A PROTECTIVE ORDER**

Illinois Power Company (“AmerenIP”), Central Illinois Light Company (“AmerenCILCO”) and Central Illinois Public Service Company (“AmerenCIPS”) (together, the “Ameren Illinois Utilities” or “AIUs”), pursuant to 83 Ill. Adm. Code Section 200.190, hereby reply to the People of the State of Illinois’ (“AG”) Response to the Ameren Illinois Utilities’

Motion for Entry of a Protective Order (“Response”). The AG’s proposed changes to the AIUs’ proposed protective order (“Proposed Protective Order”) should be rejected. Contrary to the AG’s assertion, the language of the Attorney General Act, 15 ILCS 205/6.5(a)-(d), does not govern the AG’s access to all confidential information, only to information “in possession or control of the [Illinois Commerce] Commission.” 15 ILCS 205/6.5(d). Other information, for example in the possession of the AIUs, would not necessarily be covered. Therefore, the Proposed Protective Order’s language is appropriate to ensure protection of confidential information not covered by the Attorney General Act. Moreover, the language in the Proposed Protective Order regarding the Attorney General Act is *exactly the same* language previously approved for the Protective Order in the prior AIU rate case docket (over the same objection by the AG). *See* Docket 07-0585 (cons.) Protective Order entered January 30, 2008. Language similar to the Proposed Protective Order has also been approved in numerous other Illinois Commerce Commission (“Commission”) dockets. *See, e.g.*, Dockets 05-0681 (cons.), Protective Order entered May 2, 2006 (Tr. at 6); Docket 05-0597, Protective Order entered December 7, 2005; Docket 05-0160 (cons.), Protective Order entered April 26, 2005; Docket 05-0159, Protective Order entered April 26, 2005; Docket 07-0507, Protective Order entered November 30, 2007.

The Proposed Protective Order does not, as the Response (p. 3) asserts, fail to conform to the Attorney General Act. Paragraph 4 of the Proposed Protective Order makes specific reference to the Attorney General Act:

4. The Office of the Attorney General is governed by the Attorney General Act, 15 ILCS 205/0.01 et seq., and will receive information in this proceeding on behalf of the People of the State of Illinois. The office of the Attorney General shall treat confidential information in accordance with the terms of this document and shall file and distribute pleadings or testimony in accordance with the terms contained herein.

The AIUs's proposed language in Paragraph 4 provides a clear delineation of the AG's obligations with respect to receipt of confidential information in this proceeding, as it confirms that the AG is governed by the Attorney General Act and must treat confidential information in accordance with the terms of the Proposed Protective Order. Conversely, as described below, the AG's proposed language creates the possibility of confusion about the extent of the AG's obligation to protect confidential information received from the the AIUs.

The AG's proposed language does not clearly define the AG's responsibilities with regard to the protection of confidential information. First, the AG's language is internally inconsistent: as modified by the AG, Paragraph 4 states that the AG "shall treat confidential information in accordance with the terms of this document," but then says the AG "is not subject to this Order except that:..." . Moreover, the AG's proposed language states that the AG "is not subject to" the Protective Order except with respect to disclosure to retained experts and the filing of pleadings and testimony. Where these circumstances do not apply, the AG is apparently governed only by the Attorney General Act. However, the extent of the AG's obligation under the Attorney General Act to protect confidential information produced by the AIUs may not be clear. The Attorney General Act provides:

Upon request, the Office of the Attorney General shall have access to and the use of all files, records, data, and documents in the possession or control of the Commission. The Office of the Attorney General may use information obtained under this Section, including information that is designated as and that qualifies for confidential treatment, which information the Attorney General's office shall maintain as confidential, to be used for law enforcement purposes only, which information may be shared with other law enforcement officials.

15 ILCS 205/6.5(d). This section is limited in its scope – it grants the AG access to “files, records, data, and documents in the possession or control of the Commission.” If the AG obtains information from the AIUs in a manner other than “under this Section,” (i.e., information not in

the possession or control of the Commission), there would be no requirement that the AG protect information designated as confidential by the AIUs.

The AG's rationale for its proposed modifications to the Proposed Order is that the Attorney General Act "governs the Office of the Attorney General's access to and use of confidential information in connection with ICC proceedings." (Response, p. 3.) This claim is not supported by the plain language of the statute. Section 205/6.5(d) of the Attorney General Act provides the AG with access to *the Commission's files*. 15 ILCS 205/6.5(d). It does not provide the AG or the AG's expert witnesses direct access to *the Ameren Illinois Utilities' files* (or any other party's files) or address what protective treatment should be given to a utility's (or any other party's) information in Commission cases. It does not preemptively exempt the AG and its experts and consultants from the Proposed Protective Order

The AG claims that if the Proposed Protective Order is not modified, the AG would have to request documents from Commission Staff in order to review confidential documents, thus placing "an unnecessary burden" on both Staff and the AG. (Response, p. 4.) This statement ignores the fact that the AG can obtain and review confidential information from the AIUs under the terms of the Proposed Protective Order. Under the terms of the Proposed Protective Order, there is no requirement that the AG make special requests to the Commission for information. Moreover, the Response's assertions (pp. 4-5) that the Office of the Attorney General has policies and procedures to address protection of confidential information does not support language in the Proposed Protective Order that the AG would not be subject to the order. These policies and procedures do not provide the legally binding protection for confidential information that the Proposed Protective Order does.

In conclusion, the AG's proposed language does not address situations where the AG requests information from the AIUs that is not in the Commission's possession. Such information does not appear to be covered by the Attorney General Act. As a result, the AG's proposed language creates the possibility of disputes regarding the AG's handling of confidential information, in contrast to the AIUs' proposed language, which is clear in its requirement that the AG follow the Proposed Protective Order. The AIUs's proposed language in Paragraph 4 offers a more reasonable approach, in that it (i) acknowledges the provisions of the Attorney General Act but eliminates any uncertainty about when the AG must follow the Proposed Protective Order; and (ii) it represents language commonly used in protective orders in other proceedings.

WHEREFORE, for all the reasons set forth above, the Ameren Illinois Utilities each respectfully moves for entry of the Proposed Protective Order.

August 5, 2009

Respectfully submitted,

CENTRAL ILLINOIS LIGHT COMPANY
d/b/a AmerenCILCO, CENTRAL ILLINOIS
PUBLIC SERVICE COMPANY d/b/a
AmerenCIPS, ILLINOIS POWER
COMPANY d/b/a AmerenIP

By: /s/ Niloy Ray

One of its attorneys
Christopher W. Flynn
Laura M. Earl
Albert D. Sturtevant
Niloy Ray
JONES DAY
77 W. Wacker, Suite 3500
Chicago, Illinois 60601
(312) 782-3939 (voice)
(312) 782-8585 (fax)
cflynn@jonesday.com
learl@jonesday.com
adsturtevant@jonesday.com
nray@jonesday.com

Edward C. Fitzhenry
Matthew R. Tomc
Ameren Services Company
One Ameren Plaza
1901 Chouteau Avenue
St. Louis, Missouri 63166
(314) 554-3533 (voice)
(314) 554-4014 (fax)
efitzhenry@ameren.com
mtomc@ameren.com

Phillip A. Casey
Stephanie R. Glover
Sonnenschein Nath & Rosenthal LLP
233 South Wacker Drive, Suite 7800
Chicago, Illinois 60606
(312) 876-8000 (voice)
(312) 876-7934 (fax)
pcasey@sonnenschein.com
sglover@sonnenschein.com

PROOF OF SERVICE

I, Niloy Ray, an attorney, hereby certify that on August 5, 2009, I served a copy of the foregoing REPLY TO THE PEOPLE OF THE STATE OF ILLINOIS' RESPONSE TO THE AMEREN ILLINOIS UTILITIES' MOTION FOR ENTRY OF A PROTECTIVE ORDER by electronic mail to the individuals on the Commission's Service List for Dockets 09-0306 – 09-0311.

/s/ Niloy Ray

Niloy Ray
Attorney for the Ameren Illinois Utilities

CHI-1715667v1