

**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.)	
)	

**AMEREN ILLINOIS UTILITIES’ REPLY IN SUPPORT OF ITS MOTION FOR A
CASE MANAGEMENT ORDER AND COORDINATED SCHEDULE**

Central Illinois Light Company (“AmerenCILCO”), Central Illinois Public Service Company (“AmerenCIPS”), and Illinois Power Company (“AmerenIP”) (together, the “Ameren Illinois Utilities” or “AIUs”), reply as follows to the responses by Illinois Commerce Commission Staff (“Staff”), the Office of the Illinois Attorney General (“AG”), and the Citizens’

Utility Board (“CUB”) to the AIUs’ motion seeking entry of a case management order and coordinated schedule.

INTRODUCTION

The AIUs filed a motion for entry of its proposed Case Management Plan (“CMP”) on July 24, 2009. Staff, the AG, and CUB filed responsive briefs on August 3, 2009. Staff proposes a schedule that is more burdensome than the Ameren Illinois Utilities’ proposals, and that conflicts with other Illinois Commerce Commission (“Commission”) dockets. In an effort to accommodate the interests of all parties, the AIUs proposed two schedules, referred to in briefing as “primary” and “alternate” schedules. Following consideration and review of the parties’ positions, the AIUs believe the alternate schedule is responsive to the requests, concerns and requirements of all parties involved proposed. The alternate schedule is also endorsed by the AG.

The AIUs are aware of Staff’s scheduling concerns. In recognition of the same, the AIUs agreed to an expeditious turnaround of numerous and detailed data request responses. In the previous case the AIUs agreed to a 21 day turnaround, which time period was in effect for some number of months until the ALJs ordered a 14 day turnaround. In these proceedings, and within less than 30 days of the instant rate case filings, the AIUs had agreed to a 14 day turnaround.

With respect to the other CMP provisions, Staff raises several separate additional discovery-process issues. The AIUs agree with some of the modifications to the CMP proposed by Staff, and reflect these agreements in this brief and the attached CMP. However, the AIUs do not agree to certain of Staff’s suggestions, which, we believe, introduce inefficiency into the discovery process.

REPLY TO STAFF

I. The Ameren Illinois Utilities' Proposed Alternate Case Schedule

The AIUs share the concern that Staff witnesses who are assigned to multiple cases should not be overstretched in their responsibilities. The AIUs are aware that in addition to this rate proceeding, Staff's schedule identifies pending cases filed by Verizon (Docket 09-0268), MidAmerican (Docket 09-0312), and Illinois-American (Docket 09-0319). However, until its response to the instant motion, Staff had not shared the various specific scheduling proposals in those dockets with the AIUs. It is entirely possible that Staff only recently became aware of the specific proposed schedules in those dockets. Unlike Staff, the AIUs were not privy to the proposed schedules in those dockets. Having now had an opportunity to review these other proposed schedules, the AIUs find that its proposed Alternate Case Schedule is responsive to the requests, concerns and requirements of all parties involved.

The Alternate Case Schedule provides more time to file testimony, compile discovery responses, and prepare for hearing. In contrast to Staff's proposed schedule, the Alternate Case Schedule provides eight additional days for Staff and Intervenor direct testimonies, and four additional days for Staff and Intervenor rebuttal. As a balance, the schedule provides the AIUs with six extra days for rebuttal, and two extra days for surrebuttal. All parties then get 20 days to prepare for hearing, rather than 12 (as in Staff's schedule).

The Alternate Case Schedule is supported by the AG. Contrary to the claim that the AG "has expressed support" for Staff's proposal (Staff Resp., p. 7), the AG actually endorses the AIUs' Alternate Case Schedule. (AG Resp., p. 2.) The AG notes that the Alternate Case Schedule, even compared to the AIUs' Primary Case Schedule, is "much more reasonable in allowing the Commission, Staff, the AG and other intervenors more time to review the six separate filings" in this proceeding. (*Id.*)

The Alternate Case Schedule eliminates a potential logjam with regard to the Verizon proceeding as well. The key difference with regard to the alternate schedule is that the hearing is set for mid-January, rather than mid-December as Staff proposes. In the Verizon proceeding, the petitioners have recently requested a mid-December hearing, starting on either December 7th or December 14th. (Docket 09-0268, Joint Applicants' Memorandum in Support of Proposed Schedule, filed, August 3, 2009.) Staff, meanwhile, has agreed to a December 8th start-date for the Illinois American (Docket 09-0319) hearing. Staff's proposal for the AIUs thus conflicts with the only remaining start-date proposed by Verizon. While Staff's proposed December hearing dates conflict with Verizon's request, the AIUs' Alternate Case Schedule avoids this logjam, leaving December 14th free for Verizon.

In addition, shifting the instant hearing to January benefits Staff resources assigned to the Illinois-American case. According to Staff's Response, Staff witnesses Lazare, Rukosuev and Boggs are working on both matters. (Staff Resp., Ex. 1, p.2.) Staff's proposal would commit these witnesses to two consecutive hearings – Illinois-American starting December 8th, then the AIUs starting December 14th – with zero business days in between. The AIUs' Alternate Case Schedule, on the other hand, would provide these witnesses one full month – December 11th to January 11th – between cases. This is the most concrete and immediate alleviation of Staff's resource allocation concerns.

Staff claims that the Alternate Case Schedule does not provide sufficient time for briefing. (Staff Resp., p. 4.) However, the only significant difference in briefing date spreads between the alternate schedule and Staff's proposal is that Staff's proposal provides three additional days for initial post-hearing briefs. If a three-day reduction is truly problematic, the AIUs suggest waiving the filing of replies to parties' briefs on exceptions. This would allow

seven additional days for Commission deliberation, while maintaining the more beneficial dates of the alternate schedule.

Since the AIUs' Alternate Case Schedule: (i) best distributes the various filing, hearing and briefing responsibilities of the parties; (ii) is supported by the AG; (iii) is cognizant of Verizon's request for a December hearing; and (iv) avoids imposing adjacent hearings on Staff witnesses, it should be adopted by the Commission.

II. Staff's Proposed Schedule vs. the AIUs' Proposed Primary Case Schedule

Should the ALJs find reason to reject the Alternative Case Schedule, we note that the Primary Rate Schedule is the second best alternative. A careful review of Staff's proposal exposes its deficiencies. Staff's proposal shortchanges the AIUs on time for its testimony filings (particularly on rebuttal) and unnecessarily varies from the prior Commission-approved AIU rate case schedule.

Staff's proposal leaves the AIUs only 25 days to draft and file rebuttal testimony, and 12 days to draft and file surrebuttal testimony. Yet Staff proposes that it would have 26 days to file rebuttal testimony, filing just prior to a holiday, and reduce the AIUs surrebuttal filing by 2 days with this period extending over a holiday. In contrast, the AIUs' Primary Case Schedule gives the utility 32 days for rebuttal and 13 for surrebuttal. This is consistent with the Commission's own schedule in the AIUs' previous rate case (Docket 07-0585c), where the Commission granted the utility 30 days for rebuttal and 13 days for surrebuttal. Where Staff's proposal would permit it to file rebuttal testimony on a Friday (November 20), the November 24th filing occurs at least where a business day follows.

Staff's concern about stretching its resources to handle all of its ongoing and upcoming cases is addressed by the AIUs' Primary Case Schedule. The Primary Schedule eases the burden on Staff by providing three additional days for Staff rebuttal testimony (28 days vs. 25). As the

remainder of the two schedules consist of identical hearing and post-hearing dates, the AIUs' Primary Schedule better accommodates resource concerns by providing all parties additional time to prepare and file their testimony.

Staff seeks to defend its proposal, in part, by noting that the AIUs should be essentially granted no deference in the scheduling because the AIUs had control over when the rate cases were filed. However, the date on which rate cases are filed are not a matter of whim and take a great deal of time and preparation. Moreover, the AIUs have no control over when other utilities file matters before the Commission, and how Staff intends to manage its resources. To suggest a punitive schedule as a response to the AIU's filing date is irrational. While the AIUs are sympathetic to Staff's concerns, the Commission should give the scheduling proposal of the party who bears the burden of proof meaningful deference, especially in this instance where the AIUs' proposals makes the most sense and offers a pragmatic solution to all parties' concerns.

III. Responses To Discovery Requests

The AIUs and Staff agree that to facilitate an efficient exchange of information between parties, data request ("DR") responses will be published via the AIUs' extranet, with Staff receiving copies electronically. (Staff Resp., pp. 2-3.) Staff and the AIUs also agree to the DR response times laid out in the AIUs' proposed CMP (Staff Resp., p. 3), and the AIUs note that it has worked to accommodate Staff's preferences on these response timings from July onwards, even before the proposed CMP had been filed with the Commission or circulated to the parties.

Staff proposes that only witnesses sponsor data responses, justifying its recommendation on the grounds that Staff is seeking information that is within the subject matter of a particular witness's testimony. This proposal should be rejected on several counts. First, it is not true Staff is only seeking information that is germane to a specific testimony. While it may be the case that a witness covers a subject matter generally, it is not the case that every witness will have

personal knowledge of every piece of information provided Staff. (To date nearly 500 hundred data requests have been submitted, with hundreds and hundreds of subparts.) Second, to date, some responses have been proffered by individuals who are not witnesses. Third, as explained below, the AIUs have conceded that an individual who has sponsored a DR response appear and be available for cross-examination. Thus, the AIUs agree with Staff's alternate position, that non-witnesses who provide data responses should, upon notice, be available for cross-examination at hearing. (Staff Resp., p. 4.) This alternative suggestion was already reflected in the proposed CMP.

Staff disagrees with the AIUs' proposal that data requests identify the witnesses to whom they are directed to the extent possible, because they do not want that identification to limit the response, or misdirect a request. (Staff Resp., p. 3.) However, Staff's argument assumes that the AIUs are mandating that each DR be directed to a specific witness or witnesses, and this is a mistaken assumption. The AIUs merely propose that data requests be specifically directed "to the extent possible." (AIU Mot., attached Case Management Plan, p. 3.) Such directed submission benefits all parties by saving time in assigning, and thus answering, data requests. The AIUs note that it, and other intervenors, already extend this courtesy to either Staff or other parties, by requesting information in the same manner. Obviously, if an identified witness is not the appropriate witness to respond to the request, AIU will re-direct the request to the appropriate witness; thus, there is no concern of a misdirected request. Accordingly, the AIUs request that the Commission approve the AIUs' request for directed data request submissions.

IV. Discovery Response Verifications

The Public Utilities Act requires regulated utilities to provide truthful information to the Commission, and the AIUs take this responsibility seriously. The Commission's Rules of

Practice (Part 200) require verification in certain enumerated instances - for example, in Section 200.130, which provides as follows:

The contents of all formal complaints, petitions, applications, petitions to intervene, supplemental formal complaints and supplemental petitions shall be verified by the filing party before a notary public.

83 Ill. Admin. Code § 200.130. However, the Commission's Rules regarding discovery do not require verification of data responses. Section 200.340, stating the Commission's policy on discovery, encourages the “voluntary exchange of all relevant and material facts to a proceeding through the use of requests for documents and information.” More formal discovery procedures are expressly discouraged “unless less formal procedures *have proved to be unsuccessful.*” *Id.* (emphasis added). The data response verifications sought by Staff are quite simply not mandated by statute, regulation, or Commission rule. In addition, the Commission's Rules expressly prohibit unduly burdensome discovery requests or requests that would prejudice any party or delay the proceeding:

It is the policy of the Commission not to permit requests for information, depositions, or other discovery whose primary effect is harassment or which will delay the proceeding in a manner which prejudices any party or the Commission, or which will disrupt the proceeding.

83 Ill. Admin. Code § 200.340.

Despite the fact that there is no rule or statute to support the need of, or benefit from, verification of data responses, the AIUs provided such verifications to Staff in the last rate case, on or about the time of hearing. Although this process was time-consuming and burdensome for the AIUs and likely somewhat inconvenient to Staff as many verifications were sought and provided near the time of hearings, and although there is no rule that would require such affidavits, the AIUs have again agreed to provide such affidavits to Staff, solely as a courtesy

and because Staff has requested them. The AIUs further agree with Staff's proposal that data response verifications be submitted at the end of each month. (Staff Resp., p. 4.)

Staff's further proposal of a 3-day turnaround on data response verifications during the rebuttal phase and a contemporaneous-to-1-day turnaround during the surrebuttal and pre-hearing phase is, however, unreasonably burdensome on the utility. This proposal requires the AIUs to generate multiple additional documents in the short period during which it is putting together rebuttal and surrebuttal testimony, and preparing for hearings. Staff's proposal requires each verification to be signed and notarized, which in turn requires the utility to track down each witness on short notice. Several of the AIUs' witnesses are out-of-state employees; others are non-employees and may be out in the field on a given day. Accordingly, coordinating signature and contemporaneous notarization by members of either group is more onerous than Staff perhaps imagines.

Moreover, the scope of discovery is much broader than the scope of evidence relevant to the proceeding. Thousands of data responses will be exchanged during discovery that may ultimately bear little relevance to any issue arising in this case. Staff's requested verification process would thus unnecessarily burden AIU with additional procedures to process data responses that may not be relevant or admissible at hearing. This is contrary to the letter and spirit of the Commission's rules regarding discovery, which encourage a voluntary and non-burdensome exchange of information.

The AIUs recognize Staff's criticism of the verification process in the previous AIU rate case, (Staff Resp., p. 4), but note that the prior case was the first time the AIUs were asked to provide these verifications. The AIUs had no prior, tested process for handling these new requests, and so the process this time around will be an improvement. However, increasing the

burden on the utility by imposing more strict deadlines will not help improve the process, but rather, will likely reduce efficiency by creating more new demands for the process.

Staff cites no rule or statute to support their proposed, burdensome discovery verification process in the time period immediately preceding hearing. Nor has Staff explained the purpose behind its request. Staff's current verification proposal's primary effect is to prejudice the utility by requiring it to devote valuable resources to an administrative process when it has limited time to prepare surrebuttal testimony and to prepare for hearing. The Commission should therefore reject Staff's request for 3-day and shorter verification deadlines during the rebuttal phase onwards .

Accordingly, the AIUs propose that the end-of-month submission schedule be followed, and that the utility be required to provide all outstanding verifications no later than the date 2 business days before the start of hearings. This ensures that verifications will be available before, and for, the hearing, and thus satisfies what the AIUs perceive as the purpose of these documents.

REPLY TO AG

The AIUs acknowledge the AG's endorsement of the AIUs' proposed Alternate Case Schedule.

REPLY TO CUB

CUB proposes the same schedule as does Staff, and the Ameren Illinois Utilities therefore proffer the same responses as in Sections I and II of the Reply to Staff above.

CONCLUSION

WHEREFORE, for all the reasons set forth above, the Ameren Illinois Utilities respectfully move for entry of the proposed Case Management Plan attached as Exhibit A to this Reply.

August 5, 2009

Respectfully submitted,

ILLINOIS POWER COMPANY d/b/a
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VERIFICATION

I, Niloy Ray, certify that: (i) I am an attorney for the Ameren Illinois Utilities; (ii) I have read the foregoing Reply in Support of Motion; (iii) I am familiar with the facts stated therein; and (iv) the facts are true and correct to the best of my knowledge.

Niloy Ray 

Niloy Ray

SUBSCRIBED and SWORN to before me this 5th day of August, 2009.



Notary Public

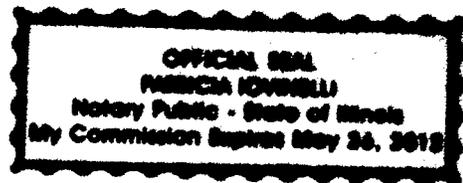


EXHIBIT A

PROPOSED CASE MANAGEMENT PLAN

**STATE OF ILLINOIS
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Central Illinois Light Company d/b/a AmerenCILCO)	
)	Docket No. 09-0306
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CASE MANAGEMENT PLAN

On June 5, 2009, Central Illinois Light Company d/b/a AmerenCILCO, Central Illinois Public Service Company d/b/a AmerenCIPS, and Illinois Power Company d/b/a AmerenIP (the “Ameren Illinois Utilities”) filed with the Illinois Commerce Commission (the “Commission”) new and amended tariffs establishing revised rates and other terms and conditions of service, testimony and other required information, pursuant to Section 9-201 of the Public Utilities Act

(“Act”), 220 ILCS 5/1-101 et seq., and Sections 285.305 and 285.310 of 83 Ill. Admin. Code 285, “Standard Information Requirements for Public Utilities and Telecommunications Carriers in Filing for an Increase in Rates.” In accordance with Section 10-101.1 of the Act, the Administrative Law Judges (“ALJs”) hereby establish the following Case Management Plan.

1. Form Of Pleadings

Recognizing that the electronic filing of documents promotes efficiency in practice, parties are authorized to file electronically pleadings and supporting documents. 5 ILCS 175/1 – 105(3), 83 Ill. Adm. Code 200.1000 *et seq.* Service of paper copies of pleadings, formal filings or pre-filed testimony is not required and is in fact generally discouraged. Filed documents shall be served electronically on parties in accordance with Section 200.1050 of 83 Ill. Adm. Code 200 (“Part 200”), “Rules of Practice.” Unless otherwise specified, service must be received electronically no later than the date of the filing deadline at the same time that the documents are filed on e-Docket or as soon as practicable thereafter. All items served via e-mail shall contain the docket number within the subject line. The ALJs must be served an electronic copy of all pleadings and testimony in Microsoft Word format.

2. Discovery Requests & Responses

A. Electronic Discovery

The discovery process is more efficient through the electronic exchange of information between and among parties to matters pending before the Commission. Accordingly, data requests shall be sent electronically, in Microsoft Word (“.doc”) format. The Ameren Illinois Utilities’ data request responses will be made available on a private extranet network, securely accessible using a password provided by the Ameren Illinois Utilities; delivery of specific data request responses will not be required except to the Party that is sponsoring the data request. However each response shall be served upon Staff. Documents provided in response to data requests shall be made available in the native format of the document if the document was created in Microsoft Word (“.doc”), Microsoft Excel (“.xls”), or in searchable Adobe Acrobat (“.pdf”) format. Where material is available in Microsoft Excel, the material shall be made available electronically in native format, unprotected, and with working formulae intact. Data requests and responses thereto shall not be filed or sent to the ALJs.

B. Discovery Parameters

Notwithstanding Section 200.410 of Part 200, Staff and each party shall have 14 calendar days to respond to data requests issued through the filing of Staff and intervenor direct testimony; 7 calendar days, to respond to data requests issued thereafter until the filing of the Ameren Illinois Utilities' surrebuttal testimony, and 4 calendar days thereafter through the close of discovery. In the event that the recipient of a data request believes that additional time is necessary to respond to the particular request, the concerned parties shall attempt to negotiate a mutually agreeable alternative response time. Staff and each party shall, in good faith, attempt to respond to data as responses are prepared. To facilitate an efficient discovery process, care should be taken to avoid duplicative data requests.

Each data request response shall clearly identify the individual or individuals who prepared the response. The telephone number and job title of the individual(s) shall also be provided. In the event more than one person assists in the preparation of the response, each person shall be identified with a clear indication of what portion of the response he or she prepared. The individual(s) identified as having prepared the response shall be knowledgeable about the response and competent to respond to questions regarding the response. All individuals who prepare data request responses shall be available to respond to inquiries regarding the response. At the request of Staff or any party made no later than the hearing regarding prehearing motions [DATE TBD], any individual identified as having prepared any data request response shall be made available for cross-examination at the evidentiary hearing in this proceeding. ~~A verification(s) for each such data request may be requested, and provided in a manner that is mutually agreeable between the Party providing the responses and the Party requesting same.~~ Verifications to data request responses should be provided at the end of each month, and all outstanding verifications should be provided no later than two business days before the commencement of hearing.

Each data request, if it contains subparts, shall specifically identify and number or label the subpart. Further, to the extent known, each data request should identify the witness to whom it is being directed

In the interest of resolving discovery issues, within ten (10) days after entry of this Order, each Party will designate an individual(s) who will serve as the primary point of contact for any discovery issue. This designee is not intended to interrupt the free flow of communication as may otherwise be agreed to by the Party and Staff. Section 200.350 of Part 200 remains applicable.

When information or material provided has been identified as confidential, such information shall be made available to another party in accordance with the Terms Governing Protection of Confidential Information in this proceeding. Ameren Illinois Utilities shall make its Confidential Information available to Staff directly and on a private extranet network, securely accessible by use of a password provided by the Ameren Illinois Utilities.

3. Testimonial, Hearing and Briefing Schedule

The Ameren Illinois Utilities propose the following Primary Case Schedule, which was the Alternate Case Schedule in the AIUs' initial proposed Case Management Plan. Numbers in parentheses are the date spread of this schedule versus the spread of the 07-0585c schedule.

Current Proposed Case Schedule (Former Alternate Case Schedule)

Staff and Intervenor Testimony – October 9 (*126 days vs. 133 in 2007*)

Companies' Rebuttal – November 9 (*31 days vs. 31*)

Staff and Intervenor Rebuttal – December 8 (*29 days vs. 30*)

Companies' Surrebuttal – December 22 (*14 days vs. 13*)

Pre-trial Motions – January 7

Evidentiary Hearings – January 11-15 (*20 days from surrebuttal, including holidays, vs. 13*)

Initial Briefs – February 8 (*24 days vs. 20*)

Reply Briefs/Draft Orders – February 22 (*14 days vs. 12*)

ALJ Proposed Order – March 15 (*21 days vs. 27*)

Brief on Exceptions – March 29 (*14 days vs. 9*)

Reply Brief on Exceptions – April 5 (*7 days vs. 7*) ALJs to consider waiver by parties' consent.

Post Exceptions Proposed Order – April 12

Final Order – May 2010

The Ameren Illinois Utilities propose the following Alternate Case Schedule, which was the Primary Case Schedule in the AIUs' initial proposed Case Management Plan. Numbers in parentheses are the date spread of this schedule versus the spread of the 07-0585c schedule.

Current Alternate Case Schedule (Former Primary Case Schedule)

Staff and Intervenor Testimony – September 25 (*112 days vs. 133 in 2007*)

Companies' Rebuttal – October 27 (*32 days vs. 31*)

Staff and Intervenor Rebuttal – November 24 (*28 days vs. 30*)

Companies' Surrebuttal – December 7 (*13 days vs. 13*)

Pre-trial Motions – December 8, with motions *in limine* by December 10

Evidentiary Hearings – December 15-18, with December 21 as a fall-back date (*8 days from surrebuttal filing vs. 13*)

Initial Briefs – January 14 (*24 days v. 20*)

Reply Briefs/Draft Orders – January 28 (*14 days vs. 12*)

ALJ Proposed Order – February 25 (*21 days vs. 27*)

Brief on Exceptions – March 11 (*14 days vs. 9*)

Reply Brief on Exceptions – March 18 (*7 days vs. 7*)

Post Exceptions Proposed Order – March 25

Final Order – May 2010

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