

March 28, 2001

Ms. Donna Caton  
Chief Clerk  
Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield, IL 62701

Re: WPS Energy Services, Inc.  
Docket No. 00-0199

Dear Ms. Caton:

Enclosed please find WPS Energy Services, Inc. Motion to Set Aside Order Reopening Proceeding and Memorandum of Law in Support of Motion to Set Aside Order Reopening Proceeding, which has been filed electronically with the Clerk of the Illinois Commerce Commission this date.

Sincerely,

Edward C. Fitzhenry

ECF/alc

cc: Service List

Enclosure/30864

IN THE STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

WPS ENERGY SERVICES, INC. )  
 )  
APPLICATION FOR CERTIFICATE OF ) Docket No. 00-0199  
SERVICE AUTHORITY UNDER SECTION ) (Reopened)  
16-115 OF THE PUBLIC UTILITIES ACT )

**MOTION TO SET ASIDE ORDER REOPENING PROCEEDING**

NOW COMES WPS Energy Services, Inc. (WPS Energy), by its attorneys, Lueders, Robertson & Konzen, and for its Motion to Set Aside Order Reopening Proceeding, states as follows:

1. On March 16, 2001, the Illinois Commerce Commission (Commission) entered its Order Reopening Proceeding (2001 Order) in this matter. The Commission reopened this proceeding, “to consider and determine, on an expedited basis, whether it should rescind, alter or amend the Order it entered in this proceeding on April 18, 2000, with the scope of the reopening limited to further consideration of whether WPS Energy meets the standards set forth in Section 16-115(d)(5) of the Act”. (2001 Order at 6). In conjunction therewith, the Commission directed its Staff to prepare and file a report to discern whether “there are any other sets of assumptions (and if so, what those assumptions are) which would assist the Commission in determining whether either of WPS Energy’s retail affiliates serves a defined geographic area to which electric power and energy can be physically and economically delivered by the four electric utilities in whose service areas WPS Energy sought to provide ARES service.” (2001 Order at 5). The Commission also now contends the input of other entities is allowed in the certification process. (2001 Order at 3-4).

2. Curiously, the impetus for the 2001 Order is not explained. There was no complaint filed by any party, and no appellate court decision that rendered an interpretation of Section 16-

115(d)(5). Equally curious is the unexplained timing of the 2001 Order. Pursuant to 83 Ill. Adm. Code Part 451.730, WPS Energy was required to certify compliance with Section 16-115(d)(5). It did, and did so before January 31, 2001, as the rule requires. Only now, almost a year after the time period for rehearing or appeal of the Commission's 2000 Order, does the Commission decide to reopen WPS Energy's certification.

The Commission's 2001 Order is illegal. The Commission does not have the authority to enter the 2001 Order, nor does the Commission have the authority to revisit or question the certification of WPS Energy in the manner proposed. The 2001 Order is also tantamount to illegal rulemaking. The 2001 Order and the procedure contemplated therein is an affront to WPS Energy's property interest in the certification. If the 2001 Order is not set aside, WPS Energy may be forced to consider state and federal court actions to protect its property interests in the certification.<sup>1</sup>

4. In support of its arguments, WPS Energy submits its Memorandum of Law contemporaneous with this Motion.

5. WPS Energy does not in this Motion and accompanying Memorandum of Law respond to the Commission's inquiries as to its purported interpretation of Section 16-115(d)(5), whether other entities may participate in an ARES certification proceeding, or Staff's Report. WPS Energy reserves the right to respond to these and other related contentions in the course of this proceeding, in the event the Commission does not set aside the 2001 Order.

Wherefore, WPS Energy Services, Inc., respectfully request that the Illinois Commerce Commission set aside its Order Reopening Proceeding, and for such other, different and further relief

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<sup>1</sup> The Commission's precipitous and unjustified actions also raise the specter of a constitutional challenge to the reciprocity clause itself.

as deemed equitable and just.

Respectfully submitted,

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30864

IN THE STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

WPS ENERGY SERVICES, INC. )  
 )  
APPLICATION FOR CERTIFICATE OF ) Docket No. 00-0199  
SERVICE AUTHORITY UNDER SECTION ) (Reopened)  
16-115 OF THE PUBLIC UTILITIES ACT )

**MEMORANDUM OF LAW IN SUPPORT OF  
MOTION TO SET ASIDE ORDER REOPENING PROCEEDING  
ON BEHALF OF WPS ENERGY SERVICES, INC.**

NOW COMES WPS Energy Services, Inc. (WPS Energy), by its attorneys, Lueders, Robertson & Konzen, and for its Memorandum of Law in Support of its Motion to Set Aside Order Reopening Proceeding, offers the following argument and discussion.

I. **INTRODUCTION; BACKGROUND**

A. **Discussion of 2001 Order**

On March 16, 2001, the Illinois Commerce Commission (Commission) entered an Order Reopening Proceeding (“2001 Order”) in this docket. The subject of the Commission’s 2001 Order is the order it entered on April 18, 2000 (“2000 Order”), granting WPS Energy a Certificate of Service Authority to operate as an ARES within the service territories of Commonwealth Edison Company, Central Illinois Public Service Company, Illinois Power Company, and Central Illinois Light Company.

In its 2001 Order the Commission states it is concerned it may have erred in construing Section 16-115(d)(5) of the Public Utilities Act (Act) (220 ILCS 5/16-115(d)(5)). The Commission questions the interpretation of Section 16-115(d)(5) it made in the 2001 Order, and states, “there may be in fact another reading of the language” of that section other than originally interpreted.” (2001

Order at 2). The Commission also asserts it may have erred in precluding input from other entities as to the merits of WPS Energy's application. ( 2001 Order at 3). Based on the foregoing considerations, the Commission entered its Order Reopening Proceeding and cites as its authority for doing so Section 10-113 of the Act (220 ILCS 5/10-113), and 83 Ill. Adm. Code Part 200.900 of the Commission's Rules of Practice.

The Commission directed its Staff to prepare a report, supported by affidavit, to state whether there are any other sets of assumptions which would assist the Commission in determining whether either of WPS Energy's retail affiliates serves a defined geographic area to which electric power and energy can be physically and economically delivered by the four electric utilities in whose service areas WPS Energy sought to provide ARES service. The Commission directed the Staff to consider the possibility that Illinois utilities could sell power and energy from generating sources located outside of Illinois. (2001 Order at 5).

The Commission reopened the docket to consider and determine, on an expedited basis, whether it should rescind, alter or amend the 2000 Order , with the scope of the reopening limited to the further consideration of whether WPS Energy meets the standards set forth in Section 16-115(d)(5) of the Act. (2001 Order at 5).

B. Discussion of WPS Energy Certification

As was noted in the 2001 Order, WPS Energy received its certification to operate as an ARES on April 18, 2000. In deciding that WPS Energy was entitled to a certificate, the Commission considered analyses for the purpose of assessing the economic delivery standard in Section 16-115(d)(5). The Commission concluded that it would not be economical under any of the analyses presented for Illinois electric utilities to deliver electric power and energy to the service areas of WPS

Energy affiliates at this time. (2000 Order at 9). As a result of the Commission's action and the issuance of a certificate to WPS Energy, WPS Energy has a property interest in the certificate of service authority. See Quantum Pipeline Company et al vs. Illinois Commerce Commission, 304 Ill. App. 3d 310, 709 N.E. 2d 950, 954 (Ill. App. 1999).

Pursuant to 83 Ill. Adm Code Part 451.730, WPS Energy certified compliance with the requirements of Section 16-115(d)(5) and provided other requisite information, prior to January 31, 2001. The Commission makes no mention of this factual occurrence in its 2001 Order.

Nowhere in the 2001 Order does the Commission state that WPS Energy has violated any rule or regulation. Nowhere in the 2001 Order does the Commission state WPS Energy is in violation of any statute. All that is stated, is some claimed doubt on the part of the Commission "that it may have erred in several respects in construing Section 16-115(d)..." (2001 Order at 5).

## II. REVIEW OF THE COMMISSION'S AUTHORITIES

The law is settled as to the nature and extent of the Commission's authorities. An administrative agency is created by statute and has no general or common law powers. The authority of an agency must either arise from the expressed language of the enabling statute, or devolve by fair implication and intendment from the express provisions of the statute as an incident to achieving the objectives for which the agency was created. The Commission has no authority except that expressly conferred upon it and is without a power to extend its jurisdiction, as that is a legislative prerogative. Peoples Gas Light and Coke Company v. Illinois Commerce Commission, 165 Ill. App. 3d. 235, 520 NE 2d 46, 54 (Ill. App. 1987). The Commission's only powers are that conferred upon it by the General Assembly, and it has no arbitrary powers. Illinois Commerce Commission v. New York Central Railway Company, 398 Ill. 11, 75 N.E. 2d 411, 414 (1947).

In summary, the Commission is not entitled to freelance the exercise of its authorities under the Act, and must act in accordance with the authorities and duties delegated to it by the General Assembly.

III. THE COMMISSION'S RELIANCE ON SECTION 10-113 AND ITS RULES ARE INAPPLICABLE

The Commission states clearly it relies upon Section 10-113 of the Act to justify reopening the certification of WPS Energy. (2001 Order at 4). Section 10-113 of the Act, as relied upon by the Commission, provides in part as follows:

“Anything in this Act to the contrary notwithstanding, the Commission may at any time, upon notice to the public utility affected, and after opportunity to be heard as provided in the case of complaints, rescind, alter or amend any rule, regulation, order or decision made by it. Any order rescinding, altering, or amending a prior rule, regulation, order or decision shall, when served upon the public utility affected, have the same effect as is herein provided for original rules, regulations, orders or decisions.”

(220 ILCS 5/10-113)

WPS Energy is not a public utility; it is an ARES. An ARES is a “alternative retail electric supplier” and is defined to mean:

“...every person, cooperative, corporation, municipal corporation, company, association, joint stock company or association, firm, partnership, individual, or other entity, their lessees, trustees, or receivers appointed by any court whatsoever, that offers electric power or energy for sale, lease or in exchange for other value received to one or more retail customers, or that engages in the delivery or furnishing of electric power or energy to such retail customers, and shall include, without limitation, resellers, aggregators and power marketers, that shall not include (i) electric utilities (or any agent of the electric utility to the extent the electric utility provides tariffed services to retail customers through that agent), ...”

(220 ILCS 5/16-102)

Section 3-105 of the Act defines a public utility, and specifically excludes from the definition of public utility “alternative retail electric suppliers as defined in XVI”. (220 ILCS 5/3-105(c)(9)).

Under Section 10-113, the Commission’s authority to rescind, alter or amend a prior rule, regulation, order or decision is limited or applies to a “public utility”. WPS Energy is not a public utility. It is an ARES and, therefore, Section 10-113 does not apply to WPS Energy. The Commission cannot deviate from the plain and unambiguous reading of the statute.

The Commission also cites as authority Section 200.900 of its Rules of Practice, which governs the reopening of proceedings on the motion of the Commission. (2001 Order at 4). The Commission cannot bootstrap by rule what it cannot do by statute. That is, Section 200.900 of the Commission’s Rules of Practice can only have applicability if the Commission can point to some enabling authority that would permit it to reconsider WPS Energy’s certification under these particular circumstances. To the extent the Commission relies upon Section 10-113 for this authority, its consequent reliance upon Section 200.900 of its Rules of Practice is equally flawed.

There is no dispute that an administrative agency such as the Commission cannot effectively alter or change statutes by the exercise of its power to make rules and regulations. Harton v. City of Chicago Department of Public Works, 234 Ill. Dec. 632, 703 N.E. 2d 493, 501-502 (Ill. App. 1998). Therefore, the Commission cannot rely upon Section 200.900 of its Rules of Practice to apply to the provisions of Section 10-113 to an ARES.

IV. THE COMMISSION AUTHORITIES REGARDING CERTIFICATION OF ARES ARE LIMITED TO SECTIONS 16-115, 16-115B, AND 16-115B; THE COMMISSION IS ENGAGING IN ILLEGAL RULEMAKING

The General Assembly delegated to the Commission the authority to certify ARES pursuant to Section 16-115. (220 ILCS 5/16-115). The General Assembly also delegated to the Commission “the authority to promulgate rules and regulations to carry out the provisions of this Section.” (220 ILCS 5/16-115(f)). The Commission has, indeed, in three separate dockets promulgated rules

pertaining to the certification of ARES. (Illinois Commerce Commission - Implementation of Section 16-115(f), Ill. C.C. Dkt. No. 98-0544 (Dec. 16, 1998); Illinois Commerce Commission- Certification of ARES Not Seeking Expedited Treatment, Ill. C.C. Dkt. No. 98-0649 (June 30, 1999); and Illinois Commerce Commission - Amendment of Part 451, Ill. C.C. Dkt. No. 99-0614 (Aug. 15, 2000)).

In 1997, the General Assembly passed into law the Electric Service Customer Choice and Rate Relief Law of 1997 (Customer Choice Law). Prior to the effective date of the Customer Choice Law, there was no such entity as an “ARES”. ARES only came about as a result of the Customer Choice Law and the Commission’s authority with respect to ARES is set forth in Sections 16-115, 16-115A, and 16-115B.

Section 16-115 outlines the certification requirements to be met by an ARES, and it is here the Commission’s authority to promulgate rules and regulations is noted. (220 ILCS 5/16-115(f)). In accordance with this statutory provision, the Commission promulgated 83 Ill. Adm. Code Part 451.

Section 16-115A outlines the obligations of an ARES, and Section 16-115B provides for the Commission’s oversight of services provided by ARES. Section 16-115B specifically states the Commission does have the authority, after notice and hearing held on complaint or on the Commission’s own motion, to take action against an ARES for any violation of or non-conformance with the provisions of Section 16-115 or 16-115A. The Commission is also able to revoke or suspend the certificate of service authority of an ARES for substantial or repeated violations of or non-conformance with the provisions of Section 16-115 or 16-115A. (220 ILCS 5/16-115B(b)).

The Commission’s authority over ARES is not under Article X of the Act, but only in the limited manner as prescribed by Sections 16-115, 16-115A, and 16-115B as described above. The Commission has not indicated in its Order Reopening Proceeding that WPS Energy has violated or

is in non-conformance with the provisions of Sections 16-115 or 16-115A, nor has it suggested or implied that WPS Energy has made substantial or repeated violations of or non-conformances with the provisions of these sections.

Moreover, the 2001 Order makes evident that the Commission by its action intends to effectuate a change in 83 Ill. Adm. Code Part 451. The Commission makes clear its intent to reconsider the means by which an applicant would comply with Section 16-115(d)(5) namely: what is meant by “electric power and energy [that] can be physically and economically delivered by the electric utility or utilities from whose service area or areas the proposed service will be offered...”. (2001 Order at 1-2).

The Commission also states it will consider permitting input from other entities other than the applicant in a certification proceeding. (2001 Order at 3-4). In the original case, the Commission did in fact allow several parties to intervene, in one instance over the objection of WPS Energy, and even allowed the application for rehearing of one of those parties. (2000 Order at 1). To the extent the Commission wishes to change a policy it did not announce or even follow in the case at bar, it must do so as a rulemaking.

The Commission’s rulemaking authorities pertaining to ARES are specified in the Act at 220 ILCS 5/16-115(f). To the extent the Commission intends to effectuate a change in its certification rules, the Commission must abide by the procedural requirements. The Illinois Administrative Procedure Act details the statutory provisions governing rulemaking procedures. (5 ILCS 100/5). The Commission must provide notice to the public of its intention to consider changes to its rule. (5 ILCS 100/5-40).

The Illinois Administrative Procedures defines “rule” as follows:

“Rule means each agency statement of general applicability that implements, applies, interprets, or prescribes law or policy, but does not include (i) statements concerning only the internal management of an agency and not affecting private rights or procedures available to persons or entities outside the agency, (ii) informal advisory rulings issued under Section 5-150, (iii) intra-agency memoranda or (iv) the prescription of standardized forms.”  
(5 ILCS 100/1-70)

There is no question that the Commission is contemplating a new procedure or means by which evaluate the reciprocity provision:

“...it is important to remember that the primary means for any prospective ARES to satisfy the reciprocity test is simply to offer delivery services within its service area which are reasonably comparable to those required of electric utilities under Article XVI of the Act. ...it is reasonable to believe that the General Assembly’s overall intent in enacting Section 16-115(d)(5) was to ensure any entity which availed itself of the newly created business opportunities provides for the creation of similar opportunities to those it enjoys under the new law.”  
(2001 Order at 2)

Clearly, the aforesaid statements are statements of general applicability, that would be considered in relation to an ARES like WPS Energy. In fact, WPS Energy understands the Commission is applying these same tests or considerations to Blackhawk Energy Services LLC in its pursuit for ARES certification. The Commission intends to implement a policy that defines reciprocity as the ability of an ARES “to offer delivery services within its service ARES which are reasonably comparable to those required of electric utilities”. Unquestionably, this now rule of the Commission would effect the rights and procedures available to prospective ARES.

The Commission must provide the opportunity for views and comments, and not just to only those parties participating in the current docket, but to all those persons and entities who have an interest in the matter. Reopening this docket does not suffice to meet the procedural safeguards to which the public is entitled.

V. THE COMMISSION'S 2001 ORDER REOPENING THE PROCEEDING IS PROCEDURALLY DEFICIENT

The Commission's 2001 Order denies WPS Energy procedural due process, even in the limited way viewed by the Commission. At the outset it should be stated again that WPS Energy does not hold to the Commission's belief that the Commission has authority over it under any of the statutory provisions in Article X of the Act. Apparently the Commission believes it does by virtue of its reference to Section 10-113. Assuming arguendo the Commission's reliance on Section 10-113 has some basis in law, even then the Commission's Order Reopening Proceeding denies WPS Energy procedural due process. The appellate court decision in Quantum Pipeline Company et al v. Illinois Commerce Commission, 304 Ill. App. 3d 310, 709 N.E. 2d 950 (Ill. App. 1999) is insightful, to the extent the Commission believes it can rely on its Article X authorities in its oversight of ARES.

In Quantum Pipeline, the Commission entered an order rescinding the petitioners' certificate of public convenience and necessity in a proceeding where the petitioners sought eminent domain power from the Commission. After concluding that petitioners had a property interest with respect to the certificate, as would be equally true with respect to WPS Energy in terms of its certification as an ARES, the court considered what procedure the petitioners were entitled to under the law. The Quantum Pipeline court found that Section 200.900 of the Commission's Rules of Practice did not describe what process is due when a certificate proceeding is reopened. Therefore, the court declared the next step was to consider what other statutes may provide a due process procedure. (Id. at 954).

The court considered the power granted by Section 10-113 and concluded that it must refer to Section 10-108, the statute on complaints, for the statutory due process procedure required when

rescission is possible. (Id. at 956). As explained above, Section 10-113 is inapplicable to an ARES but, nevertheless, even if the statute applied, WPS Energy has yet to afforded the procedural due process to which it is entitled.

The Quantum Pipeline court's reliance upon Section 10-108 offers an additional reason for an appellate court to set aside the Commission's 2001 Order. Section 10-108 provides that the Commission can file a complaint setting forth anything allegedly done or admitted to be done in violation, or claim to be in violation, of any provision of the Act, or of any order or rule of the Commission. (220 ILCS 5/10-108). The Quantum Pipeline court held, "that section 10-113 in conjunction with section 10-108 makes clear that the Commission's power to rescind, alter, or amend its own order can only be exercised after providing notice by means of a written complaint setting forth an alleged violation of the Act, order or rule..." (Id. at 956). The court went on to note, "The Commission did not issue a written complaint charging any act or omission in violation of its prior order granting the petitioners' certificate, or any change in the law, or any factual change constituting a violation." (Id. at 956).

In addition, an appellate court that would follow the Quantum Pipeline decision would consider Section 16-115B and find, once more, the Commission did not file a complaint as is required. At the very heart of due process is the need to know what is being charged. The Commission has failed to abide by this very rudimentary procedural due process requirement. It has not filed any kind of a petition or complaint alleging WPS Energy has violated the certification rules or Sections 16-115 and 16-115A. Instead the Commission offers an order that is devoid of any allegations of wrongdoing or violation but rather is replete with vagaries concerning the Commission's interpretation of Section 16-115(d)(5):

“The Commission is concerned **that there may be in fact, another reading...**”  
(2001 Order at 2)

\* \* \*

“The General Assembly **may well have believed** that a business entity which is affiliated with an electric public utility should not be allowed to purchase delivery services for electric power and energy...”  
(2001 Order at 3)

\* \* \*

“The reciprocity requirement **might thus properly** apply in all instances except those involving an affiliate of a utility...”  
(2001 Order at 3)

\* \* \*

The Commission is concerned that **this may not be a correct construction** of the language decided.”  
( 2001 Order at 3)

In the end, there is no legal basis for the Commission to rely upon statutory provisions in Article X as it appears to do, because these statutes only pertain to public utilities. Article XVI, conversely, includes those statutes that explain the Commission’s limited jurisdiction or authority over ARES. It is a limited jurisdiction and authority as, for the most part, ARES are basically unregulated entities and are free to charge unregulated prices and act much like any other private business. Therefore, the Commission can only look to Article XVI for its authority over ARES, and its authority or role as outlined in Sections 16-115, 16-115A, and 16-115B.

Further, the Commission does have rulemaking authorities as noted above in Section 16-115 and has, in fact, promulgated rules pertaining to the certification in the form of Part 451. However, nowhere in the certification rules are there any provisions that address the physical or economical constraints in the reciprocity statute. Nor are there any provisions that govern, first, whether other

entities may participate in the certification process and, second, the manner and means in which they may participate. To the extent the Commission would now through in an adjudicatory process construct new or different rules as part of Part 451, it has acted illegally.

Finally, what authority the Commission has to revoke a certification is limited. Section 16-115B(b) of the Act does give the Commission the authority, but only after notice and hearing held on complaint or on the Commission's own motion, to alter, modify, revoke or suspend the certificate of service authority of an ARES for substantial or repeated violations of or non-conformances with the provisions of Section 16-115 or 16-115A. The Commission can also order an ARES to cease and desist, or correct any violation of or non-conformance with the provisions of Section 16-115 or 16-115A. In the instant proceeding, though, the Commission has not filed a complaint nor has it indicated in the context of a motion, that WPS Energy has violated Section 16-115 in any manner.

Wherefore, WPS Energy Services, Inc., respectfully request that the Illinois Commerce Commission set aside its Order Reopening Proceeding, and for such other different, and further relief as deemed equitable and just.

Respectfully submitted,

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Eric Robertson  
Edward C. Fitzhenry  
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Attorneys for WPS Energy Services, Inc.

30864

STATE OF ILLINOIS,                   :  
  :  
  :  
COUNTY OF MADISON,               :  
  :  
  :

VERIFICATION

I, Edward C. Fitzhenry, being duly sworn, depose and state that I have read the foregoing Motion to Set Aside Order Reopening Proceeding and Memorandum of Law in Support of Motion to Set Aside Order Reopening Proceeding on behalf of WPS Energy Services, Inc., and state the contents therein are true and accurate to the best of my belief and knowledge.

---

Edward C. Fitzhenry  
Lueders, Robertson & Konzen  
1939 Delmar Avenue  
P. O. Box 735  
Granite City, IL 62040  
618-876-8500

SUBSCRIBED AND SWORN to before me, a Notary Public on this 28<sup>th</sup> day of March, 2001.

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Notary Public

IN THE STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

WPS ENERGY SERVICES, INC. )  
 )  
APPLICATION FOR CERTIFICATE OF ) Docket No. 00-0199  
SERVICE AUTHORITY UNDER SECTION ) (Reopened)  
16-115 OF THE PUBLIC UTILITIES ACT )

NOTICE OF FILING

TO: See Attached Service List

PLEASE TAKE NOTICE that on this 28<sup>th</sup> day of March, 2001, we have electronically filed with the Illinois Commerce Commission, WPS Energy Services, Inc. Motion to Set Aside Order Reopening Proceeding and Memorandum of Law in Support of Motion to Set Aside Order Reopening Proceeding, along with Proof of Service thereon attached.

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Edward C. Fitzhenry  
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30864

PROOF OF SERVICE

STATE OF ILLINOIS        )  
  )  
COUNTY OF MADISON    )

SS

I, Edward C. Fitzhenry, being an attorney admitted to practice in the State of Illinois and one of the attorneys for WPS Energy Services, Inc., herewith certify that I did on the 28<sup>th</sup> day of March, 2001, electronically file with the Illinois Commerce Commission, WPS Energy Services, Inc. Motion to Set Aside Order Reopening Proceeding and Memorandum of Law in Support of Motion to Set Aside Order Reopening Proceeding, and serve upon the persons identified on the attached service list, both electronically and by depositing same in the United States Mail, in Granite City, Illinois with postage fully prepaid thereon.

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Edward C. Fitzhenry  
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(618) 876-8500

SUBSCRIBED AND SWORN to me, a Notary Public, on this 28<sup>th</sup> day of March, 2001.

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Notary Public

WPS ENERGY SERVICES  
ICC Docket No. 00-0199  
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