

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Central Illinois Light Company)
d/b/a AmerenCILCO)
) Docket No. 10-0095
Central Illinois Public Service Company)
d/b/a AmerenCIPS)
)
Illinois Power Company)
d/b/a AmerenIP)
)
Petition for Approval of On-bill Financing Program)

AMEREN ILLINOIS UTILITIES’ VERIFIED REPLY COMMENTS

COMES NOW, 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 (collectively, the “Ameren Illinois Utilities” or “AIU”) and submit their Reply Comments. Before proceeding with these comments, the AIU wish to express their appreciation of those parties who took time and thoughtful consideration in responding to our Plan Design Document (“PDD”).

If there is a theme to these Reply Comments, certainly one of them is to stay out of the business of the Financial Institute (“FI”). With all due respect, neither the Commission, the utilities or stakeholders have the expertise and knowledge in managing the consumer loans that are at the heart of this statute. Indeed, a good portion of the On-Bill Financing (“OBF”) law is specific to lender issues. The RFP to lenders is detailed. The lender interaction with the utility is specific. The lender’s role regarding credit checks and the like is explained. The role between the lender and the consumer is highlighted. And while these expectations are set forth in the law,

they are but the outline for end loan program between consumer and lender. Certainly the Commission has a meaningful role in ensuring the success of the program but in the end, let's avoid over regulating this program.

Response to Staff

1. Loan Origination Fees

Staff takes issue with the AIU's proposal to incorporate the loan origination fees as a cost of implementing the measure, and recovering that cost through Rider EDR or Rider GER. Staff opines these fees should be paid by the customers receiving the loans. Staff Comments at 17-10. In support of its position, Staff asserts that Section 16-117.7(c)(1)(B) of the OBF law, requires that the estimated savings be sufficient to cover the cost to implement the measure, which includes finance charges and program fees not recovered pursuant to subsection (f)¹. The Staff has correctly identified the parallel citation in its Comments. Subsection (f) permits the utility to recover all prudently incurred costs including without limitation start-up, administrative, and evaluation costs, In sum, Staff asserts these loan origination fees are not "program" costs. Staff Comments at 17-19.

In response, program costs to implement the measure are not specifically identified or categorized. The criteria is whether they are the costs of implementing the measures. The costs for implementing the measure are appropriately not limited. That being the case, it is not unreasonable to conclude loan origination fees that will be paid by all program participants, would be included as a cost to implement the measure when the totality of the program is being considered. Bear in mind, this program is not generated by market conditions, but comes about

¹ For the sake of brevity and ease of review, the AIU are not providing citations to the parallel OBF law as it applies to gas utilities. 220 ILCS 5/19-140.

by legislative mandate. The end purpose is to have consumers install energy efficient measures. Logic dictates this goal is more readily reachable absent these fees being paid by the individual consumer.

There is another practical argument for consideration. It is anticipated the average origination fee will be approximately \$200. This amount applied to a ten year loan at 5% interest, would result in the individual consumer paying an additional \$55, or a total of \$255. The impact associated with recovering the origination fee in this manner, by definition, would reduce the amount of eligible loan dollars for consumers. The average loan amount is expected to be \$3,000, thus requiring the consumer to bear the additional expense causes participation to be less attractive. Due to the energy savings payback provision of the law, the additional loan cost also reduces the loan amount available to the consumer. In order that the program benefits be maximized, that is, a greater amount of eligible loan dollars be available for consumers, it makes more sense for these fees to be considered as part of the overall costs to implement the measures.

Staff asserts startup and administrative and program evaluation costs as provided for in subsection (f) should not be interpreted so broadly as to include loan origination fees of individual customers. Staff points to the many instances where loan origination fees are charged. Staff Comments at 18. In contrast, the fees Staff identifies are charged in an open market , and where the principles of supply and demand are in play, and more importantly, where the lender sets the terms. In this instance, the program is mandated by law, not the market, and where the goal is not just consumer welfare, but societal benefits.

We agree in the ordinary course of business the consumer is responsible for the origination fees. Nonetheless, we believe the General Assembly intended that these programs

have every opportunity to succeed. If fees are heaped on to the consumer as part of its obligation to repay the loan, it stands to reason that fewer programs will pass muster with a cost effectiveness analysis. This in turn will cause consumer interest to wane, which all things being equal, makes the program's success less likely.

2. \$5 Million Fund

Staff appropriately recognizes there are two different sets of rules pertaining to the gas and electric programs. Staff Comments at 20. And while there are two separate funding pools, there is no prohibition in the law that would prevent a combination utility to combine the funds. As a matter of law, all the statute states is the "total outstanding amount financed under the program shall not exceed \$2.5 million..." 220 ILCS 5/16-111.7(c)(7) AIU does not operate or act as two separate energy utility companies. It operates as one virtual utility providing two forms of energy services. It stand to reason the legislature is well aware of this manner in which the AIU does business and had it decided that the funds could not be commingled, it would have said so.

There are practical problems as well with the fund segregation. The AIU serves approximately 1.3 million electric customers and 822,000 gas customers and currently has a vendor network of nearly 500 participants. At least 50% of the AIU customers are combination service customers and whose bills are consolidated for both energy services. Yet Staff recommends AIU develop *two* screening criteria for measuring eligibility and, therefore, *two lists of eligible measures*: one methodology for electric measures addressing the savings of electric distribution customers and one methodology for gas measures addressing the savings of gas distribution customers. Staff Comments at 21.

The Staff position will cause an undue burden of having to duplicate the program in two separate programs adding unnecessary costs, systems and operations. There will also be an undue burden to monitor funding levels separately and make program adjustments separately. In addition, by forcing the allocation of a measure into one energy savings category, the customer will not receive the benefit of the allowed loan amount resulting from the other energy savings. Though the gas and electric OBF statutes are separate, they both exist in tandem and cannot not be ignored.

An example of the undue impact in segregating the fund amounts is apparent when considering insulation measures which incurs both kWh and therm savings. The standard total cost for installing 2,500 square feet of insulation is \$4,436. As per the energy savings payback provision, to insulate 2,500 square feet, the available loan amount would be \$3,761. If categorized as an electric only savings measure, the electric savings loan amount would be reduced to \$2,672 when only acknowledging kWh savings. (Only \$2,417 would be available if the cost had to include origination fees.) If categorized as a gas only energy savings measure, the gas energy savings loan amount would be reduced to \$1,089 when only allowing for therm savings. (Only \$834 when including origination fees.) However, if the both types of energy savings are allowed to be considered (due to combined loan funds and non-segregation of measures by energy type), the available loan amount would be \$3,761 (as compared to only \$2,672 or only \$1,089 when funds and measures are designated by energy savings type) which more adequately covers the \$4,436 cost of installing the measure, and which more appropriately reflects the total energy savings value.

The AIU recognizes the importance of allocating costs appropriately to each energy type for the purposes of rider reconciliation (for bad debt) and will do so. However, for the reasons

provided, AIU proposes to consolidate the \$5 million outstanding loan pool as available funds for the proposed energy savings measures at all times. The AIU can, and will, keep track of loan funds as they relate to each energy source which, in itself is consistent with the statute as it relates to the amount being finance.

3. Data Collection

With respect to the matter of data collection, Staff seemingly supports the AIU's proposal and then recommends data be collected based on the types and characteristics of both gas and electric measures replaced and installed. Staff Comments at 23. The AIU has no objection to complying with this request.

4. Affiliate Lenders

Staff suggests there might be a potential issue with respect to any transactions as governed by Section 7-101(2) of the Public Utilities Act ("PUA"). 220 ILCS 5/1-101(2) Staff correctly acknowledges should the utility petition the Commission for relief under Section 7-101, that the entire OBF process would be delayed. Staff Comments at 23-25.

The AIU currently has no expectation to use an affiliate lender with regard to its OBF Program; none exist. However, given the time constraints imposed by the General Assembly, and the General Assembly being cognizant of the various provisions in the PUA regarding affiliate transactions, it is reasonable to assume the General Assembly had no objection to the utilities using an affiliate selected as part of the prescriptive RFP process. This is particularly so, since the RFP process is open and transparent, and the concerns regarding the affiliate abuse would be eliminated.

With respect to the RFP process where Staff outlines a number of additional steps necessary in order to permit an affiliate to participate in the program, the AIU have no objection to any of these steps with respect to the RFP process, if affiliates are to be included.

5. Tariff Language

Staff asserts the final order in this docket should include language that requires the utility to provide Rider GER draft changes necessary for compliance with Section 8-104 to the Staff 30 days prior to filing with the Commission. Staff Comments at 30. The AIU has no objection to this request.

The Staff also, while not taking a firm position, seeks confirmation from the Commission that an agreed cost sharing mechanism is in place with other utilities for the shared financial institution RFP process. Staff Comments at 25-26. The AIU acknowledges there is in place an agreed cost sharing mechanism as provided for in response to Staff data request TEE 1.11, which is Attachment A hereto.

6. Cost Allocation

The Staff asks the AIU, that program costs be allocated to each of the individual utilities based on the relative number of total customers at the AIU. Staff Comments at 28. In response, the AIU intend to handle the allocation of program costs in the same manner that it treats energy efficiency portfolio costs, which is consistent with the Staff's request.

Response to the Attorney General

1. Program Cost

The AG recommends the Commission reject the proposed program administrative cost levels as being excessive and recommends a cap. AG Comments at 4-6. The AG asserts the \$5 million dollar loan amount represents “total program dollars” when comparing those amounts with the estimated administrative costs reflected on page 4 of the AG Comments. This is an erroneous assumption leading to an erroneous calculation.

The \$5 million dollar loan amount represents a *revolving* loan amount. This means, in each year of the program, there may be some amount nearing \$5 million dollars being made available to customers. This is so, because from time to time, there will be loan payments replenishing the fund. The revolving loan fund is not static. Funds are loaned and funds are repaid. Instead, it is more accurate to compare the annual estimated administrative costs with the \$5 million dollar revolving loan amount. For example, in 2011-2012, the estimated administrative costs represent roughly 12% of the overall cost. Overall, the annual administrative costs over the three year period are estimated to be approximately 13.6%, not 41%.

Perhaps, due to the AG’s misunderstanding of the appropriate measurement of administrative costs to the revolving loan amount, the AG recommends a cap. Not only is the cap unnecessary, the AG recommendation is contrary to law. Section 16-111.7(f) is plain on its face, and states an electric utility shall recover *all of the prudently incurred costs of* offering a program approved by the Commission pursuant to this Section, including but not limited to, all startup and administrative costs and the cost of program evaluation. No cap is required by statute. Any cap that would cause the utility to not recover its prudently incurred costs, is unlawful. Indeed,

even the AG acknowledges the statute does not establish a fixed dollar or percentage cap on administrative program expenses. AG Comments at 4-5. The AG recommendation is completely at odds with its own understanding of the law.

The AIU understands, as should the AG, the costs incurred in offering the program will be subject to a reconciliation. In the event a utility incurs costs that are not prudently incurred, the Commission has the opportunity to disallow the recovery of those costs. That is the remedy intended by the General Assembly.

2. Customer Acceptance

The AG recommends that the Commission require AIU to state what form of customer acceptance is required and how that acceptance will be communicated to the lender. AG Comments at 6. We agree this information is important, however, the AIU is not the correct entity to make these assessments. The lender is in the far better position to make this assessment. The AG even cites to the statute that makes it abundantly clear this issue "...shall be resolved between the participant and lender." 220 ILCS 5/16-111.7(c)(5). Again, as common with other standard lending practices, the success of the program must rely on the FI to determine the form of customer acceptance as well as how that acceptance will be communicated to the lender.

3. Credit Histories

The AG next recommends the AIU apply a tiered credit check approach that 1) limits the requirements for measurements under \$1,000 to prior bill payment history and 2) apply a specific formula that does not inflate the interest rate or cause additional costs to be socialized to ratepayers for measures greater than \$1,000. AG Comments at 8-9.

The AIU maintain the FI is in a better position than the utility to assess the customer's credit history as it relates to a consumer loan. It could very well be the lender will look at measures such as those recommended by the AG, but certainly there are others in the industry that best serve the purpose of assessing a borrower's credit history.

4. Security Interest

The AG recommends that the Commission disallow any costs associated with obtaining a security interest as not being prudently incurred as a program cost approved by the Commission. AG Comments at 10. The AIU stated it may retain a security interest using a cost effective method. The AG complains the AIU have not explained what is the cost effective method. In response, the cost effective method is self defining. Should the AIU decide to retain a security interest, it will look to a host of factors including the cost of the measure, the cost of obtaining a security interest, the cost associated with taking the action to take possession of the measure and disposition, and so forth. Of course none of this can be accurately predicted at this time as costs will vary by circumstance.

Nonetheless, as a practical matter, the AIU do not intend to obtain a security interest with respect to these loans. The reason being, the loans are likely to be too small to warrant the additional time, effort, and in securing a security interest.

5. Loan Payoff

The AG also requests that the Commission require the AIU to describe in its Program Design Document, the opportunity for the customer to voluntarily pay off a loan early with no penalty, and that the RFP should also state the above-described payout plan to the lender. AG Comments at 11. The ability for a prepayment without penalty is explicit within the Program

Design Document at page 32, as well as the RFP at page 29. Thus, the Commission need not make any findings in this respect.

6. Segregation of Costs

Finally, the AG recommends that the Commission find any program or program related costs that arise from the inclusion of small commercial customers cannot be recovered from residential customers. AG Comments at 11. In response, as currently designed, the On-Bill Financing riders will not recover costs related to small commercial customers from residential customers.

7. AG Reply Comments

The AG late filed reply comments to Staff and CUB comments submitted on March 2. For the most part these comments were only a reaffirmation of these parties' comments. Hence the AIU response is applicable to the AG Reply Comments.

Response to CUB

1. Gross Receipts Tax

CUB argues that the utilities exclude any gross receipts tax from the cost of the measure. CUB Comments at 2. We concur. Attached is a memorandum from the Illinois Department of Revenue indicating the tax is not applicable. See Attachment B.

2. Eligibility Measures

It is requested that the Commission order a workshop once the FI has been selected and a final list of measures proposed for review. CUB Comments at 4. The AIU are not opposed to such a workshop, and in fact, provided for such in our planning document.

3. Program Administrator Rule

CUB requests that the Commission ask for and receive clarification on the role of any contractor hired to oversee the vendor work, along with information on associated costs. CUB Comments at 4. To this, the AIU has no objection.

4. Evaluation Committee

CUB proposes that stakeholders be included as members of the RFP Evaluation Committee. CUB Comments at 5. The AIU opposes this recommendation. CUB, and for that matter the other stakeholders it identifies, do not have the requisite qualifications to participate as part of an RFP Evaluation Committee. While stakeholder input can be valuable at times, at the end of the day, it is the utility that is responsible for managing the program. The utility will need to rely on subject matter experts. The utility's discretion in managing the program should not be affected by others.

CUB is concerned that the AIU's proposed process provides the IEA with veto authority over the final FI selection. CUB asserts it is unclear what additional value IEA brings to the process aside from having all four utilities participating in the RFP as members, and how the Commission or other stakeholders will be informed of IEA's deliberations or decision. CUB Comments at 5.

CUB's concerns are not valid and over reaching. The IEA is acting for the purposes of providing consolidated invoicing and payment. In this respect IEA brings much value.

Additionally, it will be the AIU that has veto power on the FI selection.

CUB would also like to see the RFP evaluation matrix revised to place more emphasis on the first criteria, which is "Loan Pricing; interest rate pricing and fees" as having a low interest rate is possibly the most critical component of the RFP for consumers. See Ameren Ex. 1.1, Annex B, Proposal Evaluation Worksheet. Points could be taken away from "Loan marketing & geographic coverage" and "additional services" and given to "Loan Pricing" in order to make that criteria more heavily weighted vis-à-vis the others.

Loan Pricing already has the highest categorical scoring value with a weight of 25 points (25%) out of 100 points. The reduction of value for the other suggested categories would result in a value less than 10 points (10%) per category. Therefore increasing the scoring value for Loan Pricing would inappropriately severely diminish the value of other categories.

As if the CUB recommendation was not already overreaching and unnecessarily intrusive, the AG in its Reply Comments suggests it and CUB be voting members of the Evaluation Committee. AG Reply Comments at 4. This not acceptable for the reasons stated above. Notably silent from it recommendation, is any discussion of cost recovery. The AG seeks to have voting power but willingly passes along the cost recovery consequences to the utility, which is simply wrong.

5. Program Continuation Pending Evaluation

CUB recommends one statewide evaluator be retained to both facilitate consistent evaluation and comparison, and to lower overall evaluation costs. CUB Comments at 6. In

response, the AIU require flexibility on the selection of evaluators. The AIU experienced an exhaustive bidding and selection process for evaluators of its current energy efficiency programs which made it evident that the evaluator selection pool is small and evaluation contractors are small firms with limited resources. Frequently a single firm does not have the resources to perform a statewide assessment. Even in Illinois, for the two current energy efficiency programs, there are two prime contractors, but there are at least six subcontractors. Using a single contractor potentially dilutes the attention and quality of the evaluation due to the subsequent larger volume of subcontractors.

In addition, the Illinois experience has shown that the use of multiple contractors preserves the integrity of the evaluation process whereby no one evaluator possesses the “monopoly” on the evaluation process, and therefore must conversely continue to prove their value and expertise. However, since this evaluation is for a specialty program there may be a rationale for the use of a single evaluator that can not be fully determined until a bidding process is completed. Therefore the AIU would prefer to have flexibility to determine the most effective and prudent use of evaluation funds at the time of the evaluation selection.

We acknowledge that CUB sees the benefits of the AIUs’ requested early evaluation process. Even though CUB has no opinion as to whether the evaluation should be based on two program years, it does see the benefits of an early course correction if necessary.

CUB then asserts it is unclear as to what would happen to the OBF Program while the evaluation is conducted. In response, pursuant to the statute, the program continues. There is, of course, the third year of the program and the subsequent report to the General Assembly. However, there is nothing in the statute that suggests or infers that the program has a termination

date. We contend it is the General Assembly's prerogative to decide when the OBF Program should be terminated.

In response to CUB's alleged concern that the PDD does not provide for the required feedback from participants and interested stake holders, the AIU contends that this is not required per the legislation. However the AIU will naturally receive feedback from its energy efficiency program implementers, program allies and customers as it does during its natural course of business for its energy efficiency programs and the OBF Program will be considered an integral part of its energy efficiency program.

6. Credit History

CUB raises a concern that the use of credit checks to screen customers for eligibility will add unnecessary cost to the program. As with the AG, CUB also argues that the customer's bill paying history would be prudent in determining the credit worthiness of prospective borrowers. We have answered this proposal in full with respect to the AG. In addition, it must be remembered that these are consumer loans. As such, the regulatory rules by which an applicant's credit is evaluated for public utility service, is not the same in the consumer lending arena. For example, typical consumer loans do not permit budget billing and deposit requirements. CUB rightfully states imprudent loans should be avoided. We believe that the expertise and knowledge of the lender will go far in assuring against that occurring.

7. Reconnection Amounts

CUB recommends that the reconnection amount include only those loan payments missed since the disconnection and not the entire amount due on the loan. CUB Comments at 8. The CUB proposal is not clear in application. The On-Bill Financing statute requires that the loan

payment be treated as a bill for utility services without question. In this respect, the AIU intend to follow existing disconnect and reconnect policies/rules as provided for in Part 280. 83 ILAC Part 280.

8. Cost Cap Clarification

CUB requests that the AIU clarify whether the additional, incremental costs associated with the OBF Program are subject to the cost limitations under the statute and whether any of the savings achieved by the program participants will be counted towards achievement of the statutory energy efficiency goals. CUB Comments at 9.

First, the costs are in fact “incremental” as defined in the proposed changes to Rider EDR and Rider GER. (See Ameren Ex. 2.3 (Redlined), page 2 and Ameren Ex. 2.4 (Redlined), page 2 for proposed tariff language, respectively.) Second, the AIU intend to use the same measures that are contained in the energy efficiency portfolio which has already been screened for cost effectiveness, and will be counted towards the savings under the energy efficiency goals.

Response to BlueStar

BlueStar repeats the same comments as do the other parties. Hence the AIU response to those comments suffice as comments to BlueStar.

WHEREFORE, based on the foregoing, the Ameren Illinois Utilities respectfully request that the Illinois Commerce Commission approve the On-Bill Financing Program, the amendments to Riders EDR and GER, electric and gas Customer Terms and Conditions, and for such other and further relief as deemed equitable and just.

Dated: March 22, 2010

CENTRAL ILLINOIS LIGHT COMPANY
d/b/a AmerenCILCO

CENTRAL ILLINOIS PUBLIC SERVICE
COMPANY d/b/a AmerenCIPS

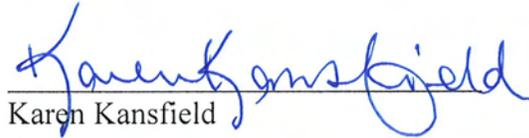
ILLINOIS POWER COMPANY
d/b/a AmerenIP

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VERIFICATION

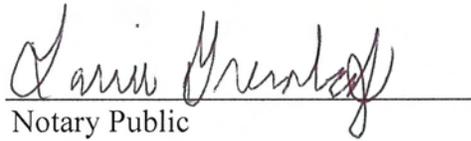
I, Karen Kansfield, certify that: i) I am Consultant for the Ameren Illinois Utilities; ii) I have read the foregoing *Reply Comments*; iii) I am familiar with the facts stated therein; and iv) the facts are true to the best of my knowledge, information and belief.


Karen Kansfield

STATE OF ILLINOIS)
) SS
COUNTY OF PEORIA)



Subscribed and SWORN to before me this 22nd day of March, 2010.

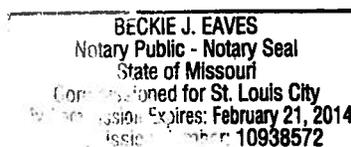

Notary Public

VERIFICATION

I, Leonard M. Jones, certify that: i) I am Manager, Rates and Analysis for the Ameren Illinois Utilities; ii) I have read the foregoing *Reply Comments*; iii) I am familiar with the facts stated therein; and iv) the facts are true to the best of my knowledge, information and belief.


Leonard M. Jones

STATE OF MISSOURI)
) SS
CITY OF ST. LOUIS)



Subscribed and SWORN to before me this 22nd day of March, 2010.


Notary Public

VERIFICATION

I, Ken Woolcutt, certify that: i) I am Managing Supervisor Illinois Energy Efficiency for the Ameren Illinois Utilities; ii) I have read the foregoing *Reply Comments*; iii) I am familiar with the facts stated therein; and iv) the facts are true to the best of my knowledge, information and belief.

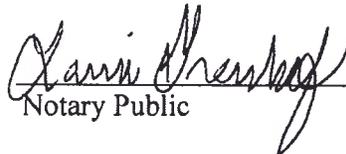


Ken Woolcutt

STATE OF ILLINOIS)
) SS
COUNTY OF PEORIA)



Subscribed and SWORN to before me this 22nd day of March, 2010.


Notary Public

VERIFICATION

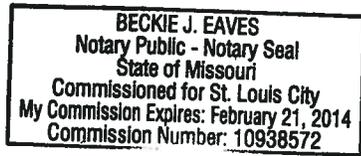
I, Robert J. Cecil, certify that: i) I am Supervisor, Tax Compliance for the Ameren Services; ii) I have read the foregoing *Reply Comments*; iii) I am familiar with the facts stated therein; and iv) the facts are true to the best of my knowledge, information and belief.

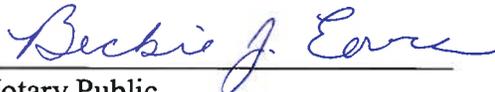


Robert J. Cecil

STATE OF MISSOURI)
) SS
CITY OF SAINT LOUIS)

Subscribed and SWORN to before me this 22nd day of March, 2010.





Notary Public

VERIFICATION

I, Keith A. Martin, certify that: i) I am Manager, Customer Service and Energy Efficiency for the Ameren Illinois Utilities; ii) I have read the foregoing *Reply Comments*; iii) I am familiar with the facts stated therein; and iv) the facts are true to the best of my knowledge, information and belief.

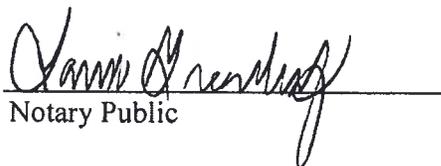


Keith A. Martin

STATE OF ILLINOIS)
) SS
COUNTY OF PEORIA)

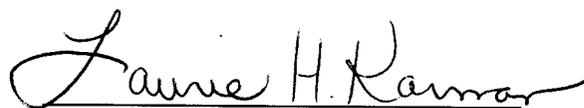


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Notary Public

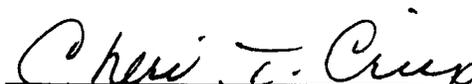
VERIFICATION

I, Laurie H. Karman, certify that: i) I am the Regulatory Affairs Liaison for the Ameren Illinois Utilities; ii) I have read the foregoing *Reply Comments*; iii) I am familiar with the facts stated therein; and iv) the facts are true to the best of my knowledge, information and belief.


Laurie H. Karman

STATE OF ILLINOIS)
) SS
COUNTY OF SANGAMON)

Subscribed and SWORN to before me this 22nd day of March, 2010.


Notary Public



CERTIFICATE OF SERVICE

I, Edward C. Fitzhenry, certify that a copy of the foregoing *Reply Comments* were served on the Illinois Commerce Commission's e-Docket and electrically to all parties of record as of this 22nd day of March, 2010.


Edward C. Fitzhenry