

**STATE OF ILLINOIS**  
**ILLINOIS COMMERCE COMMISSION**

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Central Illinois Light Company d/b/a AmerenCILCO	)	
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Proposed general increase in electric delivery and gas delivery service rates.	)	
	)	
Central Illinois Public Service Company d/b/a AmerenCIPS	)	Docket Nos. 09-0306 – 09-0311
	)	(Consolidated)
Proposed general increase in electric delivery and gas delivery service rates.	)	
	)	
Illinois Power Company d/b/a AmerenIP	)	
	)	
Proposed general increase in electric delivery and gas delivery service rates.	)	
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**RESPONSE TO APPLICATIONS FOR REHEARING OF  
STAFF OF THE ILLINOIS COMMERCE COMMISSION**

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Staff of the Illinois Commerce Commission (“Staff”), by and through its undersigned counsel, responds to the Applications for Rehearing filed in this proceeding and respectfully submits this Response.

**I. BACKGROUND**

On May 6, 2010, the Commission entered a Corrected Final Order in the June 5, 2009 requests for general increases in gas and electric delivery services rates pursuant to Article IX of the Illinois Public Utilities Act (“PUA”), 220 ILCS 5/9, filed by the Ameren Illinois Utilities, Central Illinois Light Company d/b/a AmerenCILCO (“CILCO”), Central Illinois Public Service Company d/b/a AmerenCIPS (“CIPS”), and Illinois Power Company d/b/a AmerenIP (“IP”) (collectively, “Ameren,” “Company,” “Companies,” or “AIU”). The Commission subsequently denied Ameren’s Motion for Partial Stay of the

Final Order as Corrected on May 25, 2010. Applications for Rehearing (“Application”) were filed by Ameren, the Illinois Industrial Energy Consumers (“IIEC”), and the Citizens Utility Board with the People of the State of Illinois (“CUB/AG”).

83 Ill. Admin. Code Section 200.880(a) provides that an application for rehearing “shall contain a brief statement of proposed additional evidence, if any, and an explanation why such evidence was not previously adduced.” The Commission should not grant rehearing for a party to now place evidence into the record that was not final or available when the evidentiary hearing in the proceeding had concluded. The purpose of an application for rehearing is not to adduce new evidence that has surfaced after the record is marked Heard and Taken or to adduce evidence that was unavailable at the time the record was marked Heard and Taken. The purpose of rehearing is to hear evidence which was available at the time but which was otherwise not considered or not entered. Allowing parties to bring in new evidence into a proceeding after a Final Order has been entered by way of an application for rehearing is inappropriate.

The Corrected Final Order entered by the Commission on May 6, 2010, should stand, and rehearing should be denied on all issues. None of the Applications has adduced any new evidence which warrant a rehearing. The Commission correctly decided all of the issues based on all the evidence heard in this proceeding.

## **II. ACCUMULATED DEPRECIATION**

The AIU seek rehearing regarding the Accumulated Reserve for Depreciation. Staff understands the AIU’s request to be two-pronged. First, the AIU want the Commission to grant rehearing on whether or not such an adjustment should be made in the first place. Second, the AIU assert that if such an adjustment is made, then the Commission’s Order derives that adjustment improperly. The AIU have not

demonstrated that a rehearing is warranted on this issue. Staff recommends that their Application be denied.

**A. Accumulated Depreciation Technical Corrections**

The Commission should disregard the technical corrections to Appendix G for accumulated depreciation discussed by the AIU on pages 22-23 of their Application. During the pendency of the case, there may have been some merit to the changes the AIU discuss; however, the information supporting those changes is not in record evidence. Furthermore, the information was available to the AIU and they could have entered it into the record if they so chose.

Technical Correction 1 refers to Part 285, Schedule C-1. The level of detail included on Schedule C-1 was not in the record and was therefore unavailable for the Commission's consideration. Thus, this change would be based on information that was previously available but was not included as record evidence and, thus, would not be a "technical correction."

Technical Correction 2 is unclear. While it appears to be based on IIEC's 14-month calculation from an IIEC response to a data request not in the record, it is unclear how it relates to Technical Correction 1 that is based on information that was not available for consideration in the calculation of the adjustment in the Order. Again, this information was not in the record and cannot be the basis for a technical correction.

Technical Correction 3 attempts to incorporate IIEC's 14-month calculation for accumulated depreciation. However, as previously addressed, IIEC did not provide a 14-month calculation that was available in the record.

Technical Correction 4 addresses an internal accounting process for depreciation charged to two specific plant accounts. There is no record evidence to support any type of change for this “correction.”

**B. ADIT Technical Corrections**

Each of the three technical corrections regarding the ADIT calculation refer to information included in the Part 285 Schedules that were not entered into evidence in these proceedings. Once again, these are all included by the AIU as a means of more precisely calculating an adjustment to which they disagree.

**III. COST OF EQUITY**

**A. Response to Ameren**

The AIU argue that the Commission should use the recent Order in the Peoples Gas and North Shore Gas rate cases<sup>1</sup> (“North Shore-Peoples 2010 Order”) as the guide for setting the rate of return on equity (“ROE”) for the AIU in this case. (Co. Application, pp. 26-36) The Companies made these same arguments in briefs and they were properly rejected by the Commission in the Final Order. (Co. Reply Brief, pp. 108-114; Co. BOE, pp. 32-39; Co. RBOE, p. 36) The Commission should deny Ameren’s Application on this issue.

The AIU claim that North Shore Gas and Peoples Gas have higher credit ratings and thus, face lower risk than the Companies. (Co. Application, p. 28) That comparison is misleading since the AIU’s ratings reflect the risk of each company’s total operations, including those of non utility or unregulated affiliates. Section 9-230 of the PUA prohibits relying on such ratings when assessing the risk of a utility’s operations. Hence, as Staff argued, the Commission should not rely on its decision in the North

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<sup>1</sup> Order, Docket Nos. 09-0166 and 09-0167 (Cons.), January 28, 2010, pp. 123-127.

Shore-Peoples 2010 Order in determining the ROE for the AIU in this case. (Staff RBOE, pp. 18-26)

## 1. DCF

The AIU argue that the Commission should rely exclusively on the constant growth DCF model as it did in the North Shore-Peoples 2010 Order. Contrary to the decision in the Peoples case, in several cases over the last two years, the Commission adopted Staff's non-constant DCF analysis and agreed that investors cannot reasonably expect utilities to grow at a faster rate than the economy over the long term. In fact, in the AIU's last rate proceeding, Docket Nos. 07-0585 – 07-0590 (Cons.), the Commission rejected the constant growth model in favor of the non-constant growth DCF model. Since mid-2008, the Commission has accepted Staff's position that analyst growth rates were unsustainable because they were greater than expected growth for the overall U.S. economy and adopted the results of the non-constant DCF analysis. Importantly, the Commission set the investor-required rate of return on common equity using the non-constant DCF analysis and rejecting the constant growth DCF analysis in eight rate cases involving twenty different utilities/service areas over the last two years.<sup>2</sup> The North Shore-Peoples 2010 Order is the exception to the findings of previous Orders that adopted the non-constant growth DCF, and should be viewed as an outlier, rather than as a basis for rejection of the Order's cogent reasoning that application of non-constant DCF is appropriate here. (Staff RBOE, pp. 18-21)

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<sup>2</sup> Order, Docket No. 07-0507, July 30, 2008, pp. 89-90 and 92; Order, Docket No. 07-0566, September 10, 2008, p. 97; Order, Docket Nos. 07-0585 – 07-0590 (Cons.), September 24, 2008, p. 215; Interim Order, Docket Nos. 07-0620/07-0621/08-0067 (Cons.), August 27, 2008, p. 10; Order, Docket No. 08-0363, March 25, 2009, p. 69; Order, Docket No. 08-0549, April 22, 2009, pp. 9-11; Order, Docket No. 09-0312, March 24, 2010, pp. 14-15; Order, Docket Nos. 09-0306 – 09-0311 (Cons.), April 29, 2010, pp. 215-216.

## **2. CAPM**

The AIU asks the Commission to again apply the approach adopted in the North Shore-Peoples 2010 Order and take the average of Staff's CAPM based on spot Treasury yields and forecast yields. (Co. Application, pp. 30-31) Throughout this proceeding, Staff advocated using the current 30-year U.S. Treasury bond yield to estimate the risk-free rate because it reflects all relevant, currently available information, including investor expectations regarding future interest rates. (Staff RBOE, pp. 22-25) The Order correctly concluded that the current yield on long-term Treasury bonds is a more appropriate proxy for the long-term risk-free rate than forecasts of that rate. (Order, p. 214)

There is no valid justification for disregarding the investor expectations directly reflected in objective, observable market data in favor of a proxy for those expectations imbedded in speculative projections. Further, it is critical to synchronize the data inputs in a cost of equity analysis so that all inputs reflect expectations as of the same time. The Commission adopted use of only spot Treasury yields for use as the risk-free rate in the CAPM in the last two rate proceedings for the AIU.<sup>3</sup> In this proceeding, the Commission correctly concluded that Staff's estimate of the risk-free rate based on the 4.40% Treasury bond yield investors were willing to accept on the date of Staff's analysis.

## **3. Uncollectibles Rider**

The AIU argue that the uncollectibles rider adjustment should be consistent with the adjustment made in the North Shore-Peoples 2010 Order. (Co. Application, pp. 32-

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<sup>3</sup> Docket Nos. 02-0798, 03-0008 and 03-0009 (cons.), October 22, 2003, pp. 85-86; Docket Nos. 07-0585 – 07-0590 (Cons.), September 24, 2008, p. 216;

36) The AIU acknowledge that historically, the Companies have consistently under-recovered their uncollectible expense. Now that the General Assembly authorized use of a rider to recover this expense, the Companies are ensured recovery of their actual uncollectibles expenses. Hence, the Companies have greater assurance that they will earn their authorized rate of return and therefore, face lower risk. The adjustments made in the Order are based on Staff's estimate of the effect the riders would have on the Companies' Moody's credit ratings. The 10 basis point adjustment that the Commission adopted in the North Shore-Peoples 2010 Order to reflect the reduced risk related to the implementation of the uncollectibles rider was based on the same approach. In that case, Staff estimated the effect the adoption of an uncollectibles rider would have on the Companies' credit ratings and calculated the adjustment from the resulting change in implied yield spreads. Staff followed that same approach here and the Commission adopted the uncollectibles rider adjustments based on that same approach. Staff assumed a one credit rating upgrade to the credit ratings implied by the level of financial strength implicit in the revenue requirement that Staff recommended for each of the Companies. Due to the differences in the implied ratings of each of the Companies, the yield spreads vary. The Moody's based adjustment should be considered the minimum adjustment that is required to recognize the reduction in risk because the credit ratings directly affect the cost of debt, which is less exposed to revenue variability due to the shield equity provides. Hence, the uncollectibles riders affect the riskiness of the Companies' common equity more than their debt, making the Moody's based adjustment the absolute floor for adjustment to the cost of common equity. (Staff IB, p. 143; Staff RB, pp. 66-67; Staff RBOE, pp. 25-26) Thus, the AIU's

proposed 10 basis point reduction for all of the Companies is inadequate and the Commission should deny rehearing on this matter.

**B. Response to IIEC**

IIEC requests rehearing on the Commission's rejection of IIEC's CAPM estimate in determining the cost of common equity for the AIU. (IIEC Application, pp. 2-7) IIEC argues that since Staff's CAPM reflects an upward bias due to Staff's market return estimate, it should not be solely relied on in determining the cost of common equity for the Companies. Although there is an upward bias in Staff's estimate of the market return, there is no way to know the extent of the bias. Staff did not use a non-constant DCF to estimate the return on the market because of the extreme difficulty of applying the more elaborate model to 500 companies.<sup>4</sup> IIEC witness Gorman's estimate of the required rate of return on the market was 129 basis points below his rate of return on common equity recommendation for the AIU, which implies that the S&P 500 is less risky than the AIU, which is not plausible. (Staff RBOE, pp. 26-27) Hence, the Commission should deny rehearing to consider IIEC's CAPM results since the market return estimate is not logical. IIEC's Application should be denied on this issue.

**C. Response to AG/CUB**

AG/CUB continues to argue for the adoption of their position on the cost of common equity. Specifically, AG/CUB supports the use of unadjusted betas in the CAPM and the use of historical growth rates and expected real growth in the economy in the DCF. The Commission has consistently rejected CUB's position on these issues

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<sup>4</sup> Mr. Gorman's non-constant DCF analysis of the S&P was not applied to each of the companies that comprise the index, but to the index as a whole.

and did so appropriately here. AG/CUB's Application should also be denied on this issue.

#### **IV. PENSION AND OPEB EXPENSE**

The Corrected Final Order correctly accepts Staff's adjustment limiting pension and OPEB costs to the December 2008 level. Ameren continues to raise the same arguments it raised in its Briefs, Exceptions, and Oral Argument regarding the Order's rejection of the pro forma adjustment for Pension and Benefits Expense in its Application.

The paramount point that Ameren continues to make is that the final valuation for 2009 is now available for consideration for a rehearing and would confirm that the Ameren adjustment to Pension and Benefits Expense is known and measurable. The fact is, Ameren made the decision to file its rate cases on the date it did, knowing that the final actuarial report for 2009 would not be available until the first part of 2010. The final report, which could have met the "known and measurable" standard for a pro forma adjustment for 2009 expenses, was not available until after the record had been marked Heard and Taken. As such, the final actuarial report for 2009 is not in the record, is untimely, and should not be accepted.

The time to provide the support for Ameren's adjustment in the rate cases has passed. The Commission should not grant rehearing to allow Ameren to now place into the record evidence that was not final or available when the hearings had concluded. There has been no explanation why Ameren did not wait to file its rate case until such time that a final actuarial report, that might meet the "known and measurable" standard for a pro forma adjustment, would be available to submit into evidence. Without this required explanation by Ameren, it has failed to meet its burden for a rehearing.

Otherwise, this would encourage utilities to disregard the timing of potential evidence it might have when it files a rate case. If unable to get the evidence into the record during the hearing, a utility would simply file an application for rehearing to prolong the proceeding so there would be relevant evidence. This is disingenuous and would unnecessarily prolong rate case proceedings.

Staff has pointed out the difference in other dockets cited by Ameren between the timing of when a utility files its rate case and when Ameren chose to file its rate case. (Staff RBOE, pp. 14-15) Staff has also differentiated the other dockets cited by Ameren that utilized a future test year as opposed to an historical test year that was used in this rate case. (Staff RBOE, pp. 16-17) The remaining arguments that Ameren has made regarding the actuarial valuation have all been previously made and considered by the Commission.

There is no statement of any additional evidence Ameren is proposing that the Commission consider anew in Ameren's Application and as such, the Application should be denied on this issue.

## **V. CASH WORKING CAPITAL**

The AIU requested rehearing on the issue of collection lag associated with Cash Working Capital. Staff did not take issue with the AIU's proposed collection lag during this case. Ameren asserts that the lead lag study provided in support of the CWC proposal included actual customer payment data in support of its 28.13 day collection lag.<sup>5</sup> The Order's conclusion sets the collection lag at 21 days assuming that all customers pay on time. The AIU cannot control when a customer actually remits payment; therefore, it does not seem appropriate to penalize the AIU in this instance for

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<sup>5</sup> Co. Application, p. 48.

something over which it has no control. The CWC allowance is a measurement of cash flows for the Company. The 21 day collection lag approved in the Order does not reflect the actual cash inflows from customer bill payment, but rather reflects the ideal assuming all customers pay on time. Staff supports a technical correction that restates the collection lag to 28.13 days if the Commission believes that is more consistent with its intent. Nevertheless, such a technical correction would not warrant a rehearing.

## **VI. CILCO'S COST OF LONG-TERM DEBT**

Section 10-113 of the PUA (220 ILCS 5/10-113) requires that any issue to be raised on appeal must be included in an application for rehearing or it is deemed waived. *City of Granite City v. Illinois Commerce Comm'n*, 407 Ill.2d 245, 250 (1950) (purpose of statutory requirement that issues be raised in petition for rehearing before Illinois Commerce Commission, for preservation of issue on appeal from Commission order, is to inform Commission and opposing parties of alleged legal and factual errors in Commission's order). Likewise, a party who fails to take exceptions to a finding in a proposed order essentially waives the issue. (See 220 ILCS 5/10-111 (parties permitted by statute to respond to Proposed Order); see also 83 Ill. Adm. Code 200.830(b) (party taking exception to Proposed Order required to provide substitute findings of fact and conclusions of law)) Ameren did not take exceptions to this finding in its Brief on Exceptions, and it is Staff's opinion that Ameren effectively waived this issue by not taking exceptions to it. Only now in its Application is the Company trying to resurrect this issue that it had lost in the Proposed Order. This prejudices the parties from arguing this issue as they could have addressed it in their Replies to Brief on Exceptions. This would essentially allow any party to refrain from taking exceptions to a

proposed order and then to contest every issue it had lost in an application for rehearing.

The Commission's Final Order adopted Staff's proposed 6.69% cost of long-term debt for CILCO, which removed the incremental cost of capital on the 8.875% bonds that CILCO issued during December 2008 resulting from CILCO's affiliation with Cilcorp and AERG. (Order, pp. 148-150) In its Application, the AIU are asking the Commission to reconsider this finding based on their argument that subsequent events (i.e., a credit report issued after the Final Order) proved their position to be the correct one.

AIU's Application argues that Fitch Ratings' decision to downgrade CILCO's issuer credit rating from "BBB" to "BBB-" on May 20, 2010, shows "there is no basis on which the Commission can validly conclude that CILCO could have accomplished the December 2008 debt issue at a lower rate, and this conclusion should be revised on rehearing." (Co. Application, p. 51) The Commission should reject the Company's request for rehearing on this issue for the following reasons.

First, Section 9-230 of the PUA requires the Commission to remove any incremental increase in a utility's cost of capital that is due to the utility's affiliation with unregulated or non-utility companies. (220 ILCS 5/9-230) Fitch Ratings is under no such obligation. Even if the May 2010 Fitch Ratings report was compelling new evidence against Staff's adjustment, which it is not, permitting rehearing under these circumstances would open the door for utilities to request rehearing on cost of capital issues following the Commission's Final Order in every rate case. This is because rating agencies continually monitor utilities and publish reports on various factors that may (or may not) affect utility credit ratings.

Second, AIU mischaracterizes the issue. Staff did not argue, and the Commission did not conclude, that CILCO could have issued the 8.875% bonds at a lower rate, given the time at which the bonds were issued and given the corporate structure in which CILCO resided (and still resides). Rather, the issue is whether that 8.875% interest rate included an incremental premium due to affiliation with non-utility companies. (Order, pp. 149-150) Staff's analysis lowered CILCO's business risk profile to the same level as CIPS and IP using Standard & Poor's ("S&P") and Moody's Investors Service ("Moody's") rating methodologies. Both S&P and Moody's rating reports note that CILCO has a riskier business profile score than CIPS and IP, which are strictly delivery services companies. By assigning CILCO a BBB- rating, Fitch Ratings aligned CILCO's credit rating with its utility affiliates CIPS and IP. In contrast, S&P and Moody's had already assigned the same credit ratings to CILCO, CIPS and IP.

The Company argues, "Staff cannot step into the shoes of the rating agencies and reasonably opine that the credit ratings for CILCO would be any different than they are today if it no longer had an unregulated generation subsidiary." (Co. Application, p. 50) Yet, Staff's analysis thoroughly examined ratings reports and publications regarding the Moody's and S&P rating methodologies. Staff began with the financial metrics that Moody's and S&P publish for CILCO and made no other adjustment except to apply those financial metrics to the same business risk profile that Moody's and S&P assign CIPS and CILCO. (Staff IB, pp. 85-90) Moreover, Staff's analysis was the only attempt by any party to remove the incremental risk premium from CILCO's cost of long-term debt, which CILCO customers would have been required to pay solely due to CILCO's affiliation Cilcorp and AERG. In other words, only Staff performed the analysis

necessary for the Commission to perform its statutory duty under Section 9-230 of the PUA.

CILCO did not perform any analyses regarding the effect of its affiliation with its intermediary parent company, Cilcorp, and its non-utility subsidiary, AERG, on the 8.875% bonds issued during December 2008. (Order, pp. 148) Even after the Proposed Order adopted Staff's proposed debt rate (PO, pp. 148-149), the Company's Brief on Exceptions did not address the issue. (Co. BOE, p. 32) Yet, now the Company requests that the Commission reconsider whether a December 2008 debt rate adjustment is appropriate based on a Fitch Ratings report published 17 months after the fact.<sup>6</sup> The Company's request is absurd because there are different circumstances today than when CILCO issued bonds during December 2008. Further, the May 2010 Fitch Ratings report notes two important aspects of AIU's reorganization that affect CILCO's credit ratings. First, AERG will be transferred to a subsidiary of Ameren Corporation that houses its non-rate regulated operations. Second, CILCO will merge with CIPS and IP. (Co. Application, Exhibit 3) Thus, one cannot conclude from the Fitch Ratings report that the transfer of AERG from CILCO to an affiliate was the cause of CILCO's May 2010 credit ratings downgrade. To the contrary, the pending merger of CILCO with CIPS and IP made Fitch Ratings' downgrade of CILCO inevitable because CILCO's total capitalization comprises only 14% of the combined AIU. (Staff Exs. 19.01 CILCO, 19.01 CIPS and 19.01 IP) Thus, the credit worthiness of IP and CIPS combined will have a far greater effect on the credit ratings of the combined AIU than will CILCO. That is, assuming AERG never existed and Fitch Ratings' assigned CILCO

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<sup>6</sup> If the May 2010 Fitch Ratings report is allowed in the evidentiary record, then Staff would demonstrate that neither S&P nor Moody's joined Fitch Ratings in lowering CILCO's credit ratings. In fact, neither Moody's nor S&P has placed CILCO's ratings on negative watch.

a BBB rating, following a merger of the AIU, Fitch Ratings clearly still would have downgraded CILCO because it comprises a relatively small proportion of the combined entity's total capitalization (*i.e.*, \$572,060,436 vs. \$3,972,760,988).

The Commission should deny Ameren's Application on the issue of the appropriate cost of long-term debt for CILCO.

## **VII. INCENTIVE COMPENSATION EXPENSE AND O&M EXPENSE**

The Corrected Final Order correctly disallowed recovery of Incentive Compensation Expense for AMS and for Capital/O&M Budget Compliance. Ameren continues to raise the same arguments it raised in its Briefs, Exceptions, and Oral Argument regarding the Order's disallowance of incentive compensation expense for AMS and for Capital/O&M Budget Compliance in its Application.

With regard to recovery of incentive compensation expense for AMS, Ameren contends rehearing is required to consider the excluded and additional evidence regarding the AMS KPI's. (Co. Application, p. 52) The information that Ameren did provide regarding AMS in this docket was subject to a Motion to Strike by Staff. (Motion to Strike, December 8, 2009) This issue was thoroughly briefed and argued by Staff, and Ameren filed a lengthy response to the Motion briefing and arguing its position. (Response to Staff's Motion to Strike, December 9, 2009) By way of an Administrative Law Judge's ("ALJ") Ruling dated December 11, 2009, this evidence was properly excluded.

Subsequently, on December 31, 2009, Ameren filed a Petition for Interlocutory Review raising the identical issue on the exclusion of AMS KPI's that it raises in its Application. Ameren fully argued its position on this issue in its Petition. After

thoughtful consideration, the Commission upheld the decision of the ALJ and denied the Petition for Interlocutory Review. (Notice of Commission Action, January 13, 2010)

Ameren has identified no new arguments in its Application that have not already been previously made to the Commission. The evidence presented by Ameren was properly excluded by the ALJ, affirmed by the Commission, and is not now subject to consideration in an Application for Rehearing.

The Order's denial of recovery for O&M and capital budget compliance costs is not contrary to law or the record. Ameren fails to raise any new argument or explain why such evidence was not previously adduced on this issue. As such, Staff continues to rely on the arguments and authority cited in its Briefs and Exceptions that the Commission correctly denied recovery of these O&M and capital budget compliance costs. Ameren's Application should be denied on this issue.

## **VIII. PURA TAX**

### **A. Inconsistency Between Final Order and Appendices**

IIEC's Application complains that the appendices attached to the Commission's Corrected Final Order and the compliance rates filed by Ameren are inconsistent with the language of the Final Order. (IIEC Application, p. 19) Staff agrees that the Commission's Order regarding PURA tax can be read as conflicting language.

On page 10, the Order "finds that the calculation of the PURA tax that AIU and IIEC have agreed to should be used for purposes of this proceeding." However, the amount for PURA tax is removed in its entirety from the revenue requirement Schedules in Appendices A-F. Therefore, it is not clear how the "calculation of PURA tax that the AIU and IIEC have agreed to" is used for the purposes of this proceeding.

On page 244, the Order, in discussing the allocation of the PURA tax, states “AIU should recover PURA tax costs in base rates through the kWh-based Distribution Delivery Charge...” Generally, amounts collected through base rates fall either into the volumetric charge or the customer charge and are not separately listed on the customer bills. The Commission’s conclusion on page 244 indicates the PURA tax should be collected under the volumetric charge.

On page 295, the Order states that “the Commission must also find that AIU should recover the PURA tax through a separate line item on bills.” Items listed separately on customer bills are usually collected under Rider tariffs. As such, the amounts collected under a Rider are not included in the revenue requirement that serve as the basis for base rates. (Other pass-through taxes which appear as separate line items are removed from the revenue requirements.) Thus, the Appendices to the Order removed the amounts for PURA tax in total from consideration, according to the conclusion on page 295. However, since the AIU withdrew their proposal for Rider recovery of PURA tax, this treatment of PURA tax costs was not proposed for consideration in the proceeding.

The language in the Order should be revised so that the intent of the Commission regarding PURA tax is clarified. Clarification of the Commission’s intent based upon the evidence in the record would not warrant rehearing on the issue.

**B. Separate Per kWh Charge for DS-3 and DS-4 Customers**

IIEC’s Application to rehear the conclusion that the PURA Tax be collected through a separate per-kWh charge for DS-3 and DS-4 customers is without merit and should be rejected. IIEC reprises its previous arguments in this case that the tax should be recovered through existing demand charges on these customers’ bills.

IIEC bases its argument on bill impacts, claiming that “[t]he unrebutted evidence in this case is that collection of the PURA Tax as a separate per kWh charge would conflict with the rate moderation approach ultimately approved by the Commission in this case.” (IIEC Application, p. 21) IIEC goes on to note that the tax is allocated to ComEd customers on a per kWh basis but still recovered through demand charges. (Id., p. 22)

IIEC’s position should clearly be rejected. The Commission’s decision to allocate these costs on a usage basis recognizes that they are related to the number of kWhs consumed, not the peak demands of ratepayers. Basic cost principles would argue that the recovery of usage-related costs should be through a usage charge. Recovery through a demand charge would clearly be a less desirable option from a cost standpoint.

IIEC’s argument about bill impacts should be rejected as well. The issue of bill impacts in this case pertained to the allocation of revenues to classes and subclasses. As long as these revenue allocations did not exceed the stated limit, the Commission placed no further bill impacts restrictions that would pertain to the kind of charge used to recover distribution taxes or any other utility costs for that matter. Thus, there is no basis for IIEC’s claim on this matter.

IIEC’s reference to ComEd is problematic. The fact that ComEd recovers these costs through demand charges should not be regarded as a compelling precedent for Ameren. Rather, it suggests that further refinement may be necessary in the design of ComEd’s rates. The ratemaking process would not benefit from adopting this flawed ratemaking approach for Ameren to be consistent with ComEd.

In conclusion, IIEC's Application provides no basis for rehearing to address the Commission's conclusion that the PURA Tax should be collected through a per kWh charge and should be denied.

**C. Other PURA Issues**

IIEC's Application does not state that it will provide additional evidence or explain why the evidence was not previously adduced, regarding the allocation of the PURA Tax or the separate per kWh Charge for the Tax. The Application simply restates the same positions that IIEC has advocated throughout the proceeding. Staff refuted these arguments in testimony and briefs and the Commission adopted Staff's positions. Rehearing should not be granted simply to revisit arguments and evidence already considered by the Commission. There is no reason to grant rehearing on these topics.

**IX. ALLOCATION OF PRIMARY LINES AND SUBSTATIONS**

IIEC's Application concerning the allocation of primary lines and substations lacks foundation and should be rejected by the Commission. (See IIEC Application, pp. 24-28) IIEC merely repeats the arguments that it used in testimony and briefs in support of its position. IIEC does not identify new evidence or argument which would warrant rehearing of the issue. Each of IIEC's arguments have been fully presented and rebutted during the course of this proceeding. Thus, there is no reason to grant rehearing, and IIEC's Application on this issue should be denied.

**X. TECHNICAL CORRECTIONS**

The AIU assert that the Order's Appendix G contains numerous material mathematical errors that must be corrected. (Co. Application, p. 21) These "technical corrections" are based on information not in the record in this proceeding. (See discussion above) Yet, the AIU omit 2 technical corrections for which there is evidence

in the record. The first correction relates to Accumulated Depreciation that was addressed in testimony by Staff witness Ebrey during the hearing. The second correction is a scrivener's error in Appendix C to the Order.

During the continuing review of the revenue requirement schedules in the Final Order (and as corrected) it came to Staff's attention that a correction to accumulated depreciation for plant additions that Staff made during the hearing and that was reflected in the Proposed Order was reversed in the Final Order. Staff witness Ebrey when entering ICC Staff Exhibit 16.0, the Rebuttal Testimony of Mary H. Everson, discussed corrections to be made to Schedules 16.01 for each utility. The Company had no objection to the correction.<sup>7</sup> The revenue requirement schedules in Staff's Initial Brief reflected the corrected adjustment. The correction was also reflected in the Proposed Order. However, the correction was not carried into the Final Order. Staff notes that the corrected adjustment appears counter intuitive, but given the detail behind the adjustment, the correction was necessary. The correction that Staff made on the stand to which neither the AIU, nor any other party, objected should be made to the Final Order. Since this correction is based on record evidence, it is a technical correction.

The scrivener's error appears on page 3 of Appendix C to the Order. The adjustment on line 1, column (g) should be \$(25,057) rather than \$(25,075). The adjustment is to remove the same amount from both the revenue line item and the expense line item. The correct amount appears on line 9, column (g).

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<sup>7</sup> Tr. 797 – 799, December 17, 2009. The correction became evident during the week of the evidentiary hearing. The corrections to Schedules 16.01 were only provided in oral testimony rather than in additional revised Schedules 16.01 for each utility. In retrospect, the record would have been clearer if each Schedule 16.01 had been revised as well.

**WHEREFORE**, Staff respectfully requests that the Commission's Corrected Final Order in this proceeding stand and that all Applications for Rehearing be denied.

June 11, 2010

Respectfully submitted,

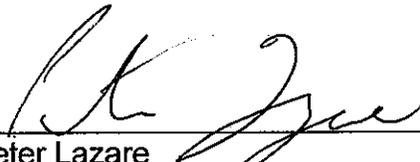
/s/ \_\_\_\_\_  
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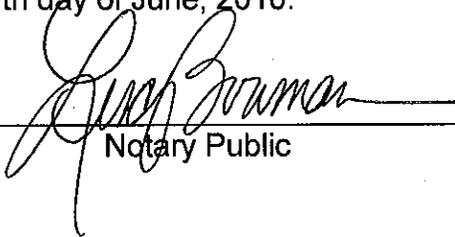
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VERIFICATION

I, Peter Lazare, being first duly sworn, depose and state that I am a Senior Economic Analyst in the Rates Department of the Financial Analysis Division of the Illinois Commerce Commission; that I have personal knowledge of information stated in the foregoing Response to Applications for Rehearing of Staff of the Illinois Commerce Commission; and that such information is true and correct to the best of my knowledge, information and belief.

  
Peter Lazare  
Illinois Commerce Commission

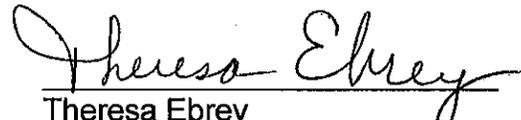
Subscribed and sworn to before me  
this 11th day of June, 2010.

  
Notary Public

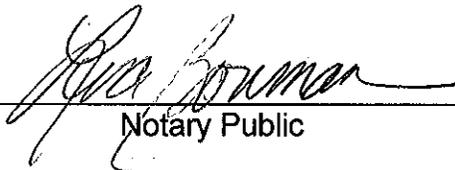


VERIFICATION

I, Theresa Ebrey, being first duly sworn, depose and state that I am an Accountant with the Accounting Department of the Financial Analysis Division of the Illinois Commerce Commission; that I have personal knowledge of information stated in the foregoing Response to Applications for Rehearing of Staff of the Illinois Commerce Commission; and that such information is true and correct to the best of my knowledge, information and belief.

  
Theresa Ebrey  
Illinois Commerce Commission

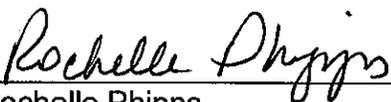
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this 11th day of June, 2010.

  
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Notary Public

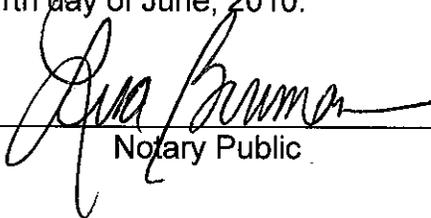


VERIFICATION

I, Rochelle Phipps, being first duly sworn, depose and state that I am a Senior Financial Analyst with the Finance Department of the Financial Analysis Division of the Illinois Commerce Commission; that I have personal knowledge of information stated in Section VI of the foregoing Response to Applications for Rehearing of Staff of the Illinois Commerce Commission; and that such information is true and correct to the best of my knowledge, information and belief.

  
\_\_\_\_\_  
Rochelle Phipps  
Illinois Commerce Commission

Subscribed and sworn to before me  
this 11th day of June, 2010.

  
\_\_\_\_\_  
Notary Public

