

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

**Ameren Illinois Company d/b/a Ameren Illinois** )

**Part 280 Rulemaking** )

**Docket No. 06-0703**

)  
)  
)  
)  
)  
)

**REPLY BRIEF OF AMEREN ILLINOIS COMPANY**

**October 7, 2011**

**TABLE OF CONTENTS**

- I. INTRODUCTION ..... 5
- II. ARGUMENT ..... 5
  - A. SUBPART A: GENERAL ..... 5
    - 1. Section 280.05 Policy ..... 5
      - (a) GCI’s Proposal ..... 5
    - 2. Section 280.10 Exemptions ..... 6
      - (a) Staff’s Position ..... 6
      - (b) GCI’s Position ..... 7
    - 3. Section 280.15 Compliance ..... 7
      - (a) Ameren Illinois’ Position ..... 7
      - (b) GCI’s Position ..... 8
    - 4. Section 280.20 Definitions ..... 8
      - (a) Ameren Illinois’ Position ..... 8
      - (b) Staff’s Position ..... 9
      - (c) GCI’s Position ..... 9
  - B. SUBPART B: APPLICATIONS FOR UTILITY SERVICE ..... 10
    - 1. Section 280.30 Application ..... 10
      - (a) GCI’s Position ..... 10
    - 2. Section 280.35 Revert to Landlord/Property Manager Agreements ..... 12
      - (a) Staff’s Position ..... 12
      - (b) GCI’s Position ..... 12
  - C. SUBPART C: DEPOSITS ..... 13
    - 1. Section 280.40 Deposits ..... 13
      - (a) Staff’s Position ..... 13
      - (b) GCI’s Position ..... 13
    - 2. Section 280.45 Deposits for Low Income Customers ..... 15
      - (a) Staff’s Position ..... 15
  - D. SUBPART D: REGULAR BILLING ..... 15
    - 1. Section 280.50 Billing ..... 15
      - (a) Staff’s Position ..... 15
  - E. SUBPART E: PAYMENT ..... 16
    - 1. Section 280.60 Payment ..... 16
      - (a) Staff’s Position ..... 16
      - (b) AARP and GCI’s Position ..... 17
    - 2. Section 280.65 Late Payment Fee Waiver for Low Income Customers... 17
    - 3. Section 280.70 Preferred Payment Date ..... 17
    - 4. Section 280.80 Budget Payment Plan ..... 17
      - (a) GCI’s Position ..... 17
  - F. SUBPART F: IRREGULAR BILLING ..... 18
    - 1. Section 280.90 Estimated Bills ..... 18
      - (a) Staff’s Position ..... 18
      - (b) GCI’s Position ..... 18
    - 2. Section 280.100 Previously Unbilled Service ..... 19
  - G. SUBPART G: REFUNDS AND CREDITS ..... 19
    - 1. Section 280.110 Refunds and Credits ..... 19

	(a)	Ameren Illinois' Position .....	19
	(b)	Staff's Position.....	20
	(c)	GCI's Position.....	20
H.		SUBPART H: PAYMENT ARRANGEMENTS .....	20
	1.	Section 280.120 Deferred Payment Arrangements (DPAs) .....	20
	2.	Section 280.125 Deferred Payment Arrangements for Low Income Customers .....	21
I.		SUBPART I: DISCONNECTION.....	21
	1.	Section 280.130 Disconnection of Service .....	21
		(a) Staff's Position.....	21
		(b) AARP's Position.....	21
		(c) GCI's Position.....	21
	2.	Section 280.135 Winter Disconnection of Residential Heating Services, December 1 through March 31 .....	22
	3.	Section 280.140 Disconnection for Lack of Access .....	22
	4.	Section 280.150 Disconnection of Master Metered Accounts.....	22
J.		SUBPART J: MEDICAL CERTIFICATION .....	22
	1.	Section 280.160 Medical Certification .....	22
		(a) Ameren Illinois' Position.....	22
		(b) GCI's Position.....	23
K.		SUBPART K: RECONNECTION .....	23
	1.	Section 280.170 Timely Reconnection of Service.....	23
	2.	Section 280.180 Reconnection of Former Residential Customers for the Heating Season.....	23
L.		SUBPART L: UNAUTHORIZED SERVICE USAGE .....	23
	1.	Section 280.190 Treatment of Illegal Taps.....	23
		(a) Ameren Illinois' Position.....	24
		(b) GCI's Position.....	24
	2.	Section 280.200 Tampering.....	24
	3.	Section 280.205 Non-Residential Tampering.....	24
	4.	Section 280.210 Payment Avoidance by Location (PAL).....	24
		(a) Ameren Illinois' Position.....	24
M.		SUBPART M: COMPLAINT PROCEDURES.....	24
	1.	Section 280.220 Utility Complaint Process .....	25
	2.	Section 280.230 Commission Complaint Process .....	25
N.		SUBPART N: INFORMATION.....	25
	1.	Section 280.240 Public Notice of Commission Rules .....	25
		(a) Ameren Illinois' Position.....	25
	2.	Section 280.250 Second Language Requirements.....	25
	3.	Section 280.260 Customer Information Packet .....	25
		(a) GCI's Position.....	25
	4.	GCI Proposal to Add Section 280.270: Periodic Data Reporting.....	25
O.		Section 280 APPENDIX A: Disconnection Notice .....	26
P.		Section 280 APPENDIX B: Customer Rights Insert for Disconnection Notice ..	26
		(a) Ameren Illinois' Position.....	26
Q.		Section 280 APPENDIX C: Public Notice .....	26

R. Section 280 APPENDIX D: Disconnection Notice Insert for Residential Gas and Electric Customers ..... 26

III. CONCLUSION..... 26

## **I. INTRODUCTION**

As an initial matter, Ameren Illinois<sup>1</sup> again commends all parties, and particularly Staff, for the hard work put into this rulemaking proceeding, as well as working to narrow the contested issues that require resolution by the Illinois Commerce Commission (“Commission”). In an effort to identify and streamline the final stages of this proceeding, this Reply Brief identifies those issues where other parties have either agreed, or not contradicted, Ameren Illinois’ positions in its Initial Brief; it also replies only to those certain points made in other parties’ Initial Briefs that require further argument.<sup>2</sup> As set forth below, as well as in Ameren Illinois’ Initial Brief, Joint Prehearing Outline and at the evidentiary hearing, its recommended changes to 83 Ill. Adm. Code 280 (“Part 280”) strike an appropriate balance between updating the Commission’s rules with minimizing the impact on both the utilities and the ratepayers of doing so. Ameren Illinois’ recommended changes should thus be approved.

## **II. ARGUMENT**

### **A. SUBPART A: GENERAL**

#### **1. Section 280.05 Policy**

##### **(a) GCI’s Proposal**

The Commission should reject Governmental and Consumer Intervenors’ (“GCI”) proposal requiring Part 280 to control “over any inconsistent utility tariff, unless the conflicting tariff provision has been specifically approved by the Commission as a waiver or exemption

---

<sup>1</sup> Effective October 1, 2010, Central Illinois Light Company d/b/a Ameren CILCO and Illinois Power Company d/b/a Ameren IP merged with and into Central Illinois Public Service Company d/b/a AmerenCIPS, leaving AmerenCIPS as the sole surviving legal entity. Simultaneously, AmerenCIPS changed its name to Ameren Illinois Company d/b/a Ameren Illinois.

<sup>2</sup> As with Ameren Illinois’ Initial Brief, failure to address any party’s position on a particular issue should not be construed as agreement with or acceptance of that position.

from this rule . . . .” GCI Br., p. 5. As noted by MidAmerican Energy Company (“MEC”) and Northern Illinois Gas Company (“Nicor Gas”), policy declarations are nothing more than prefatory; as such, they should not be given precedence over tariffs. MEC Br., p. 4; Nicor Gas Br., p. 8; *see also* ComEd Br., p. 3; *cf.* IAWC Br., p. 3. GCI’s desire for customers to feel they have access to relevant and binding provisions, GCI Br., p. 8, does not change the fact that the proposed language is simply too burdensome. GCI’s proposal requires all existing tariffs to “receive Commission approval to be considered valid” once the revised Part 280 is enacted. GCI Br., p. 9. This would create undue (and unnecessary) work for the utilities and the Commission and, given the lack of any reasonable basis to perform the work, is unreasonable. *See* Nicor Gas Br., p. 10. Further, tariffs approved by the Commission post-approval of Part 280 should clearly be controlling, and a waiver or exemption from the rule should not be required in every post-approval tariff. Ameren Br., p. 7; IAWC Br., p. 4. Moreover, the “Precedence” language creates ambiguity over whether “implicit” inconsistencies give rise to preemption, for example in situations where both Part 280 and a tariff address the same subject matter but do not have explicitly contradicting terms. Ameren Br., p. 7; IAWC Br., p. 5. The “Precedence” language should be rejected flat out and conflicts between Part 280 and tariffs should be dealt with if, and when, they arise.<sup>3</sup>

## **2. Section 280.10 Exemptions**

### **(a) Staff’s Position**

The Commission should adopt Staff’s proposal to Section 280.10 allowing a regulated entity to request a modification of, or exemption from, any section of Part 280 that applies to that

---

<sup>3</sup> Ameren Illinois suspects such instances would be rare; indeed, GCI was not able to identify even one instance where Part 280 conflicted with an Ameren Illinois tariff. TR at 665.

entity. However, Ameren Illinois agrees with Commonwealth Edison Company (“ComEd”) and Nicor Gas that the Commission should eliminate the proposed requirement that utilities show that no “harm” would come to customers, which is an “unduly rigid standard” that does not account for circumstances where there is no net harm. *See* Nicor Gas Br., pp. 14-15; Ameren Br., p. 7; ComEd Br., pp. 3-4. The Commission should instead add an obligation to demonstrate any modification or exemption would be “otherwise just and reasonable under the circumstances.” Ameren Br., p. 7; ComEd Br., p. 4; Nicor Gas Br., p. 15. MidAmerican does not object to Ameren Illinois’ proposed changes in this respect. MEC Br., p. 7.

**(b) GCI’s Position**

GCI’s proposal to require any “entity” to file a petition for exemption “on an individual utility basis” should not be accepted. Staff Br., p. 6; Ameren Br., p. 6. It would create undue confusion as there are numerous entities that are not utilities (and therefore cannot file on an individual utility basis) and no counter-arguments set forth by GCI provide a reasonable basis to create that confusion. Moreover, multiple utilities should be allowed to petition for exemption simultaneously. Notably, CUB did not intend the proposed language to proscribe a multi-party filing, although GCI argues the opposite in its Initial Brief. *Compare* TR at 669 *with* GCI Br., p. 10. The record does not support GCI’s position, which should thus be rejected.

**3. Section 280.15 Compliance**

**(a) Ameren Illinois’ Position**

The Commission should approve a timeline of no less than two years for compliance because utilities need “ample time to allow for implementation” of Part 280. MCPU Br., p. 8; Ameren Br., p. 36; ComEd Br., p. 4; IAWC Br., p. 11; MEC Br., p. 8; Nicor Gas Br., p. 16; PG/NS Br., p. 56. Some parties advocate for timelines as long as four years, MCPU Br., p. 9, but

two years appears to be the reasonable compromise supported by the record. Ameren Illinois has no objection to Nicor Gas' proposal to add an additional section in the rule regarding compliance that provides for two years for compliance. Nicor Gas Br., pp. 16-17.

**(b) GCI's Position**

GCI opposes an allowance of two years but recognized "some latitude is appropriate." GCI Br., p. 13, 18. GCI argues that utilities could have used the time spent on rulemaking to prepare for the revised rules and procedures. *Id.*, p. 16. Such a position suggests that utilities should dedicate precious resources guessing how the Commission will change Part 280. With so many parties offering varying suggestions on numerous issues, a utility cannot (and should not) try to divine the resolution of those issues; to suggest otherwise exhibits a failure to understand the proper implementation process. Ameren Illinois witness Solari testified about the costs and time requirements for implementation, including millions of dollars and thousands of hours to make the necessary IT changes alone. Ameren Br., p. 36. These resources should be dedicated only to implementing known changes after this proceeding has concluded.

Rather than require utilities to submit waiver applications and require the Commission to analyze each utility's position with respect to implementation, as proposed by GCI, the Commission should recognize that utilities will face similar implementation hurdles and allow utilities at least two years to become compliant with the new rules.

**4. Section 280.20 Definitions**

**(a) Ameren Illinois' Position**

In its Initial Brief, Ameren Illinois set forth the reasons why the Commission should add a definition for "Good Faith effort payment" and delete the term and definition for "not sufficient funds" Ameren Br., p. 9. No party set forth a competing proposal in its Initial Brief.

**(b) Staff's Position**

Ameren Illinois and MEC support Staff's proposed definition of "low income customer," which is tied to the eligibility guidelines for the Low Income Home Energy Assistance Program ("LIHEAP"). Staff Br., p. 10; Ameren Br., p. 8; MEC Br., p. 12.

Ameren Illinois described why the Commission should approve Staff's proposed definition of "past due," Ameren Br., p. 9, and no parties have argued otherwise.

**(c) GCI's Position**

The Commission should reject GCI's proposal to eliminate amounts due for greater than two years from the definition of "past due." Ameren Br., p. 11; MEC Br., p. 12; Nicor Gas Br., p. 20. The proposal contravenes the Illinois General Assembly's intent to reduce uncollectibles and would be unfair to ratepayers who would bear the burden of paying for the increased uncollectibles. Ameren Br., p. 11. GCI's contention that the proposal would incentivize utilities to identify and attempt to collect overdue amounts more promptly is specious; utilities have every incentive to collect overdue amounts promptly but cannot control an individual's refusal to pay. Moreover, it is nonsensical that GCI would have utilities continue collection activities for amounts owing more than two years but not allow those amounts to be a basis for disconnecting a customer. *See* GCI Br., p. 25. Threat of disconnection is a motivator for individuals to pay past due amounts. Preventing disconnection on this basis essentially requires utilities to throw good money after bad on a customer who has already demonstrated a refusal to pay and unfairly burdens customers who do pay. Debts older than two years should also be a consideration during the application process as a reason to deny service. It makes no sense to provide service to an individual who owes a debt to the Company that is older than two years.

Likewise, the Commission should reject GCI's proposal to increase the "transfer of service" period from fourteen to thirty days. Staff Br., p. 13; Ameren Br., p. 9; ComEd Br., p. 6;

Nicor Gas Br., p. 22. GCI argues that thirty days is appropriate because customers are often “confused” when ending service at one location and wanting to begin service at another location, GCI Br., pp. 21-22, but offers no explanation for why customers cannot clear up any such confusion within two weeks. Instead, GCI argues falsely that the proposal benefits utilities. GCI Br., p. 22. As addressed in Ameren Illinois’ Initial Brief, collection actions could be pursued even after the close of the fourteen day period in the proposed rule; the added time changes nothing. Ameren Br., p. 10. Instead, the proposal only increases the amount of time an individual can remain a “customer,” despite owing amounts to the utility for services rendered at the previous location, increasing costs to other customers – this harms, not benefits, utilities. *See* Ameren Br., p. 9; ComEd Br., p. 6. Moreover, as written, the proposal would “permit a 30-day transfer of service even when there was an actual disconnection . . . [which] makes no sense.” Ameren Br., p. 10; *see also* ComEd Br., p. 5.

For these reasons, GCI’s proposed changes to the definitions of “past due” and “transfer of service” should be rejected.

## **B. SUBPART B: APPLICATIONS FOR UTILITY SERVICE**

### **1. Section 280.30 Application**

#### **(a) GCI’s Position**

Section 280.30(d)

Staff and multiple parties urge the Commission to reject GCI’s<sup>4</sup> proposed requirement to have customer service representatives list all fourteen forms of identification to prospective applicants. Staff Br., p. 16; Ameren Br., p. 12; ComEd Br., p. 9; Nicor Gas Br., p. 34. Ameren

---

<sup>4</sup> The South Austin Coalition Community Council and Community Action for Fair Utility Practice (“Low Income Residential Customers” or “LIRC”) “support the modifications CGI propose to the Staff rule regarding application.” LIRC Br., p. 3. Therefore, any response to GCI’s proposals in this section is a response to both GCI and LIRC.

Illinois only adds that it makes no sense that customer service representatives should be forced to *repeat* this long list to all applicants because it is a waste of time. Most applicants will not want to produce or even have certain forms of ID handy (for example articles of incorporation). Rather than force the utilities and the customers to go through this unnecessary exercise, the customer service representatives should be allowed to ask for the forms most commonly provided while still accepting any of the fourteen forms provided for in the rule.

Section 280.30(j)(1)

The Commission should also reject GCI's recommendation to shorten the timeline for activation of service to three calendar days and instead approve the four calendar day window proposed by Staff. Ameren Br., p. 12. Staff, ComEd, Illinois-American Water Company ("IAWC"), MEC, Nicor Gas, and Peoples Gas Light and Coke Company and North Shore Gas Company ("PG/NS") all also oppose GCI's proposal. Staff Br., p. 20; ComEd Br., p. 10; IAWC Br., p. 28; MEC Br., p. 19; Nicor Gas Br., p. 35; PG/NS Br., p. 6. In its Initial Brief, GCI offers no credible rationale for its proposal and even fails to contend that customers have an issue with the time for activating service. GCI Br., p. 34. As argued in Ameren Illinois' Initial Brief, utilities have an incentive to activate accounts as quickly as possible, but three calendar days may simply not be enough time to complete the administrative work, credit checks and other steps necessary to complete activation. Ameren Br., p. 13. Indeed, Staff has "not seen any evidence that utilities have ever intentionally delayed activation of service . . . ." Staff Ex. 3.0, p. 11, lines 247-51. GCI's proposal is unsupported by the record and, as noted by PG/NS, has

changed between direct testimony, rebuttal testimony, and surrebuttal testimony.<sup>5</sup> PG/NS Br., p. 14.

Section 280.30(j)(7)

The Commission should reject GCI's proposal to limit what constitutes a "temporary exception" to only matters "due to severe weather or other emergency beyond the control of the utility." Ameren Br., p. 13. ComEd, MEC, Nicor Gas, and PG/NS also agree with Staff's proposal, without change. ComEd Br., p. 12; MEC Br., p. 20; Nicor Gas Br., p. 36; PG/NS Br., p. 18. GCI's concern that utilities could attempt to use "predictable high workloads" during certain seasons as an excuse for delay is belied by the current language, which addresses this concern. GCI Br., p. 35. Adequately "predictable" workloads (the premise of GCI's concern) could not be "unforeseen," as that word is used in Staff's proposal. By limiting the definition, GCI invites unnecessary controversy over what emergency is "beyond the control of the utility."

**2. Section 280.35 Revert to Landlord/Property Manager Agreements**

**(a) Staff's Position**

Section 280.35

The Commission should adopt Staff's proposed rule that gives utilities the discretion to decide when to disconnect for non-payment at a location where there are currently no tenants and there is no prearrangement with the landlord/property manager. Ameren Br., p. 14; IAWC Br., p. 29; Nicor Gas Br., p. 39.

**(b) GCI's Position**

---

<sup>5</sup> The Commission should likewise reject AARP's even shorter proposal of one business day for electric and two business days for gas, which has less support in the record and is even more unworkable. *See* AARP Br., p. 4.

The Commission should reject GCI's proposal, which curiously is not addressed in its Initial Brief, to require the utility to disconnect service within five days when no party will take responsibility for the billing. Staff Br., p. 23; Ameren Br., p. 14; MEC Br., p. 22. As explained in Ameren Illinois' brief, utilities already have incentive to disconnect service where there is no customer. Ameren Br., p. 14. Any additional burden on the utilities is unnecessary as long as no new applicant is charged for the interim usage.

**C. SUBPART C: DEPOSITS**

**1. Section 280.40 Deposits**

**(a) Staff's Position**

Section 280.40(d)(3)

The Commission should approve Staff's proposal, which allows the utility to require a deposit from a residential applicant whose credit score does not meet the minimum standard of the credit scoring system described in the utility's tariff. Ameren Br., p. 15; Staff Br., p. 9. ComEd, IAWC, MEC, Nicor Gas, and PG/NS support Staff's proposal as well. ComEd Br., p. 12; IAWC Br., p. 29; MEC Br., p. 23; Nicor Gas Br., p. 44; PG/NS Br., p. 5.

**(b) GCI's Position<sup>6</sup>**

Section 280.40(d)(3)

GCI opposes Staff's proposal to allow utilities to use credit scores to assess risk and argues the most relevant predictor of payment is a customer's utility billing history. GCI Br., pp. 40, 41. However, new customers would not have utility billing history available for review. *See also* ComEd Br., p. 12. Moreover, credit scores are inherently a measure of risk. GCI witness

---

<sup>6</sup> Again, LIRC "support the CGI modification to Staff's proposal", LIRC Br., p. 3, and so any response to GCI's proposals in this section should be construed as a response to both GCI and LIRC.

Marcelin-Reme admitted credit scores account for debt balance, customer income, lines of credit, and non-utility bill payment history. TR at 676-677. As such, credit scores indicate which customers are likely to fall behind on billing. Staff Br., p. 27; Ameren Br., p. 16; Nicor Gas Br., p. 44. Collection of deposits from such customers minimizes uncollectible losses, in an approximate amount of \$3.7 million in 2010 for Ameren Illinois alone. GCI's proposal to have utilities recover non-payments through uncollectible riders, as opposed to deposits, essentially requires a socialization of the bad debts from customers flagged as a risk prior to service, which is illogical and unfair. *See* PG/NS Br., pp. 21-22.

Section 280.40(e)

The Commission should permit utilities to require deposits from customers who have had service for more than two years (and were late on payments), rejecting GCI's position. Ameren Br., p. 16. Staff, ComEd, MEC, Nicor Gas, and PG/NS agree. Staff Br., p. 27; ComEd Br., p. 12; MEC Br., pp. 27-28; Nicor Gas Br., pp. 45-46; PG/NS Br., pp. 5-6. Staff's proposal would only apply to customers with four late payments *and* an undisputed past due balance for over 30 days. But, notably, GCI witness Alexander's testimony about the increased number of customers required to pay a deposit under the proposal admittedly *did not account* for both requirements. GCI Br., p. 37. In fact, Ameren Illinois expects only a .0073% increase in deposits from Staff's proposal. TR at 228. Moreover, as LIRC admits, the purpose of a deposit is "to protect the utility from losses that could be incurred from nonpayment." LIRC Br., pp. 3-4. Despite GCI's and LIRC's claims to the contrary, GCI Br., p. 36; LIRC Br., p. 3, late payments are necessarily a risk for non-payment. And, "the circumstances that justify a deposit don't change simply because a person has been a customer for the arbitrary period of 24 months." PG/NS Br., p. 23. Despite GCI's claims, late payment charges and inclusion of revenue collection lags in rate cases do not warrant an exemption from deposit requirements. Deposits mitigate risk prior to late

payment and assure the responsible customer bears the financial burden. Where a customer has made four late payments and has an undisputed past due balance for over 30 days, utilities should be allowed to assess a deposit to alleviate the risk of non-payment; Staff's proposal should be approved.

## **2. Section 280.45 Deposits for Low Income Customers**

### **(a) Staff's Position**

Section 280.45(a)(1) and (2)

The Commission should adopt Staff's (now unopposed) position that there should be no waiver of a low income deposit in cases of tampering or disconnection for non-payment. Staff Br., p. 30; Ameren Br., p. 17. Although LIRC originally proposed an exemption for deposit requests from low income customers in all situations, LIRC now supports the current Staff proposal, along with ComEd and Nicor Gas. LIRC Br., p. 4; ComEd Br., p. 14; Nicor Gas Br., p. 48.

Section 280.45(b)(3)

For the reasons set forth in Ameren Illinois' Initial Brief, the Commission should reject Staff's proposed language for Section 280.45(b)(3) that would allow a low income customer who previously left Ameren Illinois with an unpaid final bill to obtain service at a later time without a deposit. Ameren Br., pp. 17-18; *see also* MEC Br., p. 28.

## **D. SUBPART D: REGULAR BILLING**

### **1. Section 280.50 Billing**

#### **(a) Staff's Position**

Section 280.50

As set forth in Ameren Illinois' and GCI's Initial Briefs, the Commission should adopt Staff's proposal to require utilities to include a graphic comparison either in the form of a bar or pie chart of a customer's current usage compared to the customer's previous 12 months of historical usage. Ameren Br., p. 19; GCI Br., p. 43. The Commission should also approve the prudently incurred costs of implementing Section 280.50 as recoverable expenses. Ameren Br., p. 19.

Moreover, the Commission should at least adopt Staff's proposal to add language that will clarify "written confirmation" includes "electronic written acceptance" by the parties. Ameren Br., p. 19. GCI, Mount Carmel Public Utility Company ("MCPU") and Nicor Gas agree with this proposal, and Staff's proposed changes to Section 280.35 to "clarify" that writing may include electronic written communications is also in line with Ameren Illinois' proposal. GCI Br., p. 46; MCPU Br., pp. 5-6; Nicor Gas Br., p. 50; *see* Staff Br., p. 23, 45. However, Ameren Illinois again advocates that the terms "electronic or telephonic acceptance" be considered in lieu of Staff's proposed use of "electronic written acceptance," as those terms would clearly account for current and future technology and allow customers to use a computer or phone when providing confirmation. Ameren Br., p.19.

**E. SUBPART E: PAYMENT**

**1. Section 280.60 Payment**

**(a) Staff's Position**

Section 280.60

Many parties urge the Commission to adopt Staff's proposed Section 280.60 that allows utilities to recover convenience payment fees from the "cost-causers," and it should do so. Staff

Br., p. 38; Ameren Br., p. 20; ComEd Br., p. 16; IAWC Br., p. 31; MEC Br., p. 34; Nicor Gas Br., p. 51; PG/NS Br., p. 27.

**(b) AARP and GCI's Position**

Section 280.60(b)(2)

The Commission should reject AARP and GCI's proposal that "[a]ny costs associated with the promotion or utilization of payment options offered by the utility should be socialized across all utility customers." GCI Br., p. 47. Certain payment options, such as credit cards, are offered for the convenience of the customer. Often, additional costs are imposed by the vendor, not the utility. TR at 680; Nicor Gas Br., p. 51. GCI's argument that vendor fees are often negotiated with the utility misses the point. GCI Br., p. 48. When customers choose a convenient method of payment, such as credit cards, other customers should not bear the financial burden of that choice, even if the charge is discounted. As Ameren Illinois noted in its Initial Brief, "[i]f customers are not forced to take responsibility for their bill-payment choices, such costs will likely increase for all . . . ." Ameren Br., p. 20. Convenience fees already reached \$8.2 million in 2009 for Ameren Illinois, and it is not fair to spread those costs across all customers, including those who already paid for U.S. Postal stamps in order to avoid credit card fees. Ameren Br., p. 20; IAWC Br., p. 32; Nicor Gas Br., p. 52; PG/NS Br., p. 6.

**2. Section 280.65 Late Payment Fee Waiver for Low Income Customers**

**3. Section 280.70 Preferred Payment Date**

**4. Section 280.80 Budget Payment Plan**

**(a) GCI's Position**

Section 280.80(h)

The Commission should reject GCI's proposal to require utilities to review each budget plan at least twice during the term of the plan to ensure against significant shortfalls or credits. Ameren Br., p. 21; Staff Br., pp. 43-44; MEC Br., p. 37. The record supports a finding that Staff's version of subsection (h), in conjunction with subsection (g), provides adequate protection for customers. Moreover, GCI witness Marcelin-Reme admitted the term "shortfall" was not defined and was subjective, *see* TR at 684-85, so the Commission should reject this proposal due to a lack of meaningful parameters.

## **F. SUBPART F: IRREGULAR BILLING**

### **1. Section 280.90 Estimated Bills**

#### **(a) Staff's Position**

Consistent with many parties' Initial Briefs, the Commission should adopt Staff's proposed Section 280.90. Staff Br., p. 45; Ameren Br., p. 21; ComEd Br., p. 18; IAWC Br., p. 37; MEC Br., p. 38 (suggesting only minor caveats); Nicor Gas Br., p. 57; PG/NS Br., p. 6.

#### **(b) GCI's Position**

Section 280.90(b)-(f)

The Commission should reject GCI's proposal regarding bill collection in cases where consecutive meter reads have not been obtained absent Commission approval. Ameren Br., p. 22. As explained in Ameren Illinois' Initial Brief, there are some circumstances beyond the utility's control that prevent utilities from reading a meter. In addition, the failure of two consecutive meter reads does not mean service was not provided. And under GCI's proposal, the cost of service would be borne by customers other than the one at issue. Ameren Br., p. 22. GCI's position is "without merit and should be rejected." PG/NS Br., pp. 6-7.

The Commission should likewise reject GCI's position that actual meter readings be obtained at the time service begins and ends for a customer. GCI Br., p. 55. GCI fears potential subsidization from one customer to another. *Id.* However, it is impractical, if not impossible, to take an actual meter reading at the exact moment of assumption or termination of service. Instead, Staff's proposal for an estimated turn-on or turn-off reading accomplishes the same goal in a workable manner and is supported by other parties. Staff's proposal is fair, reasonably cost-efficient, and would be sufficiently accurate as actual meter readings are required within 60 days of the termination or beginning of service under the proposed rule. Ameren Br., p. 22; *see also* Staff Br., p. 46; ComEd Br., p. 18; PG/NS Br., p. 31.

**2. Section 280.100 Previously Unbilled Service**

**G. SUBPART G: REFUNDS AND CREDITS**

**1. Section 280.110 Refunds and Credits**

**(a) Ameren Illinois' Position**

Section 280.110(d)

The Commission should exempt “[c]redits resulting from energy assistance funds and intentional customer overpayments” from accruing interest. Ameren Br., p. 23; MEC Br., p. 41. Otherwise, the proposed rule would contravene the current Section 280.75 which directs interest to be paid only in cases of utility error, which many parties agree should be the only circumstance when interest is paid. Ameren Br., p. 23; ComEd Br., p. 19-20 (interest should not be required on voluntary overpayments); GCI Br., p. 59; IAWC Br., p. 37; MEC Br., p. 41; PG/NS Br., p. 3-4, 34.

As Ameren Illinois noted in its Initial Brief, the Commission should specify interest should not begin accruing until “the customer’s next bill statement.” Ameren Br., p. 23. None of the parties argued against this in their Initial Briefs.

**(b) Staff’s Position**

Section 280.110(d)

Ameren Illinois set forth why the Commission should adopt a slightly different grace period than that proposed by Staff in its Initial Brief, and none of the parties set forth any countervailing positions in their Initial Briefs.

**(c) GCI’s Position**

Section 280.110(b)(1)

The Commission should reject GCI’s proposal to use the oldest available set of records to calculate a refund. Ameren Br., p. 24; MEC Br., p. 42; Nicor Gas Br., p. 57-58; PG/NS Br., p. 7, 32. Such a proposal would result in statewide inconsistency as different utilities utilize different record retention policies, and GCI offers no justification for mandating this inconsistency. Moreover, as PG/NS notes, the proposal may be based on GCI’s misunderstanding of two issues: the amount of time for which a utility can bill for unbilled service and the amount of time for which it can collect a past due bill. PG/NS Br., p. 32. However, if the Commission adopts GCI’s proposal, it should grant the same extension for amounts owed to the utility. Ameren Br., p. 24. Such a position would be equitable and is supported by GCI. GCI Ex. 2.0 (Corr.), p. 14, lines 374-77.

**H. SUBPART H: PAYMENT ARRANGEMENTS**

**1. Section 280.120 Deferred Payment Arrangements (DPAs)**

**2. Section 280.125 Deferred Payment Arrangements for Low Income Customers**

**I. SUBPART I: DISCONNECTION**

**1. Section 280.130 Disconnection of Service**

**(a) Staff's Position**

Section 280.130(j)(1)

The Commission should approve Staff's proposed replacement of the requirement that utilities contact customers at the time of disconnection with a requirement that utilities call customers prior to disconnection. Ameren Br., p. 25; PG/NS Br., p. 7, 42.

**(b) AARP's Position**

Section 280.130(e)(5)

For the reasons discussed above and in Ameren Illinois' and IAWC's Initial Briefs, the Commission should reject AARP's position with respect to Section 280.130(e)(5) to retain a knock at the door requirement. Ameren Br., p. 26; IAWC Br., p. 46.

**(c) GCI's Position**

Section 280.130(b)(4)

The Commission should reject GCI's proposal to delete, as a reason for disconnection, the failure to provide access to utility facilities after four attempts. Ameren Br., p. 26; Staff Br., p. 62, 69. GCI fails to address this point in its brief, and it is unclear whether it has abandoned this position. Nonetheless, GCI has not offered a credible justification for this proposal during the proceeding, and it should be rejected.

Section 280.130(j)(1)

The Commission should reject GCI's suggestion in Section 280.130(j)(1) that, prior to the day of disconnection, the utility make two telephone calls over a 24-hour period to a

delinquent customer and attempt to make contact with the customer at the premises the day of disconnection. *See* GCI Br., p. 66. As noted in Ameren Illinois’ Initial Brief, customers are already aware of a pending disconnection through notices and subsequent bills, making additional contacts unnecessary. Ameren Br., p. 26. GCI fails to justify the increased costs for its proposal. Moreover, this proposal is outdated, impractical, and unsafe for utility workers. *See* Staff Br., p. 66; MEC Br., p. 52-53; Nicor Gas Br., pp. 72-73. Finally, GCI offers no evidence that additional contacts will actually reduce disconnections. For all of these reasons, many parties recommend rejecting GCI’s proposal. ComEd Br., p. 22; IAWC Br., p. 48; MEC Br., p. 53; PG/NS Br., p. 7.

**2. Section 280.135 Winter Disconnection of Residential Heating Services, December 1 through March 31**

**3. Section 280.140 Disconnection for Lack of Access**

**4. Section 280.150 Disconnection of Master Metered Accounts**

**J. SUBPART J: MEDICAL CERTIFICATION**

**1. Section 280.160 Medical Certification**

**(a) Ameren Illinois’ Position**

Section 280.160

Ameren Illinois suggested four changes to this provision, each of which are supported by the record. First, the Commission should change the word “earns” to “allows” in subsections (e)(1) and (2) and (h)(3) because a medical certificate does not confer compensation. Second, customers protected from disconnection should be required to make a good faith payment within the first 30 days of certification to get sixty days of protection from disconnection. Third, customers should be required to enroll in a utility’s budget billing program. Ameren Br., pp. 27-

29. The reasons for these three proposals are explained in Ameren Illinois' Initial Brief, and no party appears to disagree with these proposals in its Initial Brief. Moreover, Ameren Illinois' fourth suggestion is to delete Section 280.160(i)(2) from Staff's proposed rule, which requires the utility to offer new medical certification every 12 months to a previously certified account, even if amounts from an existing MPA are unpaid. Ameren Br., p. 29. ComEd and IAWC agree that the provision is problematic. ComEd Br., p. 28; IAWC Br., p. 52. Each of Ameren Illinois' proposals should be adopted.

**(b) GCI's Position**

Section 280.160(b)

The Commission should reject GCI's proposal for an additional three day period for customers to obtain medical certification after an oral declaration by the customer as it amounts to a "temporary self-certification." Staff Br., p. 70; Ameren Br., p. 30; MEC Br., p. 56. GCI claims that once a medical emergency arises and customers are informed of their rights, several additional days will be required to obtain a medical certification. GCI Br., p. 79. However, these timing concerns are addressed by Staff's proposal to increase the time to submit written certification from five to seven days and extend disconnection notices from eight to ten days. *See* Staff Ex. 2.0, p. 83, lines 1890-94.

**K. SUBPART K: RECONNECTION**

- 1. Section 280.170 Timely Reconnection of Service**
- 2. Section 280.180 Reconnection of Former Residential Customers for the Heating Season**

**L. SUBPART L: UNAUTHORIZED SERVICE USAGE**

- 1. Section 280.190 Treatment of Illegal Taps**

**(a) Ameren Illinois' Position**

Section 280.190(g)

ComEd and MEC agree with Ameren Illinois' position that the Commission should allow utilities to recover "all related expenses incurred by the utility" caused by an illegal tap. ComEd Br., p. 29-30; MEC Br., p. 58.

**(b) GCI's Position**

The Commission should reject GCI's proposal that in high bill situations, utilities verify landlord/owner contact information, make three contacts with the landlord/owner, and then proceed with investigating the allegation. Ameren Br., p. 31. GCI failed to address this proposal in its Initial Brief, and it is unclear whether it has abandoned its position. Regardless, utilities should not (and cannot be expected to) interject themselves into landlord/tenant disputes over theft of service or incur the additional costs associated with a utility investigation. Ameren Br., p. 31. The Commission should adopt Staff's proposed language.

**2. Section 280.200 Tampering**

**3. Section 280.205 Non-Residential Tampering**

**4. Section 280.210 Payment Avoidance by Location (PAL)**

**(a) Ameren Illinois' Position**

Section 280.210

The Commission should adopt Staff's proposed rule for Payment Avoidance by Location because it will allow utilities to adequately address potential payment avoidance situations, and thus limit uncollectible losses, and is supported by multiple parties. Ameren Br., p. 32; ComEd Br., p. 30; IAWC Br., p. 55; Nicor Gas Br., p. 82; PG/NS Br., p. 53.

**M. SUBPART M: COMPLAINT PROCEDURES**

1. **Section 280.220 Utility Complaint Process**
2. **Section 280.230 Commission Complaint Process**

**N. SUBPART N: INFORMATION**

1. **Section 280.240 Public Notice of Commission Rules**

- (a) **Ameren Illinois' Position**

Section 280.240

Staff agrees with Ameren Illinois that the Commission should require utilities to include an annual bill message on bill statements that would provide information about obtaining the Commission's rules to customers upon request or by viewing the information on the company's website. Staff Br., pp. 79-80; Ameren Br., p. 32.

2. **Section 280.250 Second Language Requirements**

3. **Section 280.260 Customer Information Packet**

- (a) **GCI's Position**

Section 280.261

As Ameren Illinois noted in its Initial Brief, if the Commission adopts GCI's proposal to add three additional items to the Customer Information Packet with respect to customer rights, customer responsibilities should be included as well so customers are given a full picture of their role as ratepayers. Ameren Br., p. 33. No party took exception to this position in the Initial Briefs.

4. **GCI Proposal to Add Section 280.270: Periodic Data Reporting**

Section 280.270<sup>7</sup>

---

<sup>7</sup> As set forth in its brief, "LIRC support the GCI proposal" for a New Subpart O, LIRC Br., p. 6, and therefore any argument against GCI's proposal equally applies to LIRC's support.

Staff, MEC, and Nicor Gas agree with Ameren Illinois that the Commission should reject GCI's proposal to add a new Section 280.270 to require additional data reporting on the effects of Part 280. Staff Br., p. 21, 83; MEC Br., p. 67; Nicor Gas Br., p. 85. LIRC's claims of a lack of information provided in the workshops are unsupported. LIRC Br., p. 6. As GCI admits, Staff is entitled to obtain data and information from utilities, TR at 253-54, and Staff reports on various subjects to the General Assembly. TR 254-56. It would add undue burden to require utilities to create and submit additional records before they are requested. Ameren Br., p. 34. Although GCI claims the reporting could be done at little cost, GCI Br., pp. 103-04, there is no evidence that the additional cost and time justify the benefit. Moreover, as noted by Staff, the consumer complaint process already delivers robust monitoring capabilities. Staff Br., p. 21.

**O. Section 280 APPENDIX A: Disconnection Notice**

**P. Section 280 APPENDIX B: Customer Rights Insert for Disconnection Notice**

**(a) Ameren Illinois' Position**

As noted in Ameren Illinois' Initial Brief, the Commission should revise Appendix B to reflect Ameren Illinois' proposed changes to Section 280.160-Medical Certification.

**Q. Section 280 APPENDIX C: Public Notice**

**R. Section 280 APPENDIX D: Disconnection Notice Insert for Residential Gas and Electric Customers**

**III. CONCLUSION**

As set forth above, as well as in Ameren Illinois' Initial Brief, Joint Prehearing Outline and at the evidentiary hearing, Ameren Illinois' recommended changes to Part 280 are supported by the record and should be approved. Ameren Illinois respectfully requests that the Commission do just that and incorporate the proposed changes into the final version of Part 280.

Dated: October 7, 2011

Respectfully submitted,

The Ameren Illinois Company

By: /s/ Mark W. DeMonte  
One of their attorneys

Edward C. Fitzhenry  
Matthew R. Tomc  
Counsel for Ameren Illinois  
One Ameren Plaza  
1901 Chouteau Avenue  
P.O. Box 66149 (mc 1310)  
St. Louis, MO 63166-6149  
(314) 554-3533  
(314) 554-4673  
(314) 554-4014, fax  
[efitzhenry@ameren.com](mailto:efitzhenry@ameren.com)  
[mtomc@ameren.com](mailto:mtomc@ameren.com)

Christopher W. Flynn  
P.O. Box 11015  
Chicago, IL 60611  
[cwflynnlaw@gmail.com](mailto:cwflynnlaw@gmail.com)  
312-643-0060

Mark W. DeMonte  
Caitlin A. Cline  
JONES DAY  
77 West Wacker Drive  
Chicago, IL, 60601-1692  
Telephone: (312) 782-3939  
Facsimile: (312) 782-8585  
[mdemonte@jonesday.com](mailto:mdemonte@jonesday.com)  
[cacline@jonesday.com](mailto:cacline@jonesday.com)

**CERTIFICATE OF SERVICE**

I, Mark W. DeMonte, certify that on October 7, 2011, I served a copy of the foregoing REPLY BRIEF OF AMEREN ILLINOIS COMPANY by electronic mail to the individuals on the Commission's Service List for the above captioned docket.

By: /s/ Mark W. DeMonte  
Attorney for Ameren Illinois