

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Illinois Commerce Commission :
On Its Own Motion :
 : **Docket No. 06-0703**
Revision of 83 Ill. Adm. Code 280 :
 :

Proposed Draft Order

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I. PROCEDURAL BACKGROUND

On October 31, 2006, the Illinois Commerce Commission (Commission) issued its Initiating Order directing the revision of 83 Ill. Adm. Code 280 (Part 280). The following parties filed Entry of Appearances, American Association of Retired Persons (AARP), City of Chicago, Government and Consumer Interveners (GCI), Low-Income Residential Customers (LIRC), International Brotherhood of Electrical Workers, Local 15 (IBEW), Ameren Illinois Company (Ameren), Commonwealth Edison Company (ComEd), Illinois American Water Company (IAWC), Mt. Carmel Public Utility Company (Mt. Carmel), Nicor Gas Company (Nicor), People's Gas Light and Coke Company and North Shore Gas Company (PGL/NS), Constellation Energy Group, Inc. (CNE), Nicor National (NAE), Retail Gas Suppliers (RGS); Dynegy Inc. (Dynegy), collectively (the Parties).

In March of 2007, Commission Staff (Staff) began a series of monthly workshops in an effort to gain an understanding of industry conditions and practices. The workshops continued until 2009. On September 11, 2009, Staff filed its direct testimony in this docket. The Parties filed direct testimony on January 15, 2010. Staff filed rebuttal testimony on July 21, 2010, and the Parties filed rebuttal testimony on October 12, 2010. All parties filed surrebuttal testimony on February 25, 2011.

Evidentiary hearings were held on May 25, 2011, and June 7 through 9, 2011. On June 9, 2011, the Administrative Law Judge (ALJ) marked the record "Heard and Taken." A briefing schedule was set and subsequently amended. Initial briefs were due August 4, 2011, with reply briefs due on October 7, 2011, and Position Statements or draft Orders due on October 14, 2011.

REVISION OF 83 ILL. ADMIN. CODE 280 - PROCEDURES FOR GAS, ELECTRIC, WATER AND SANITARY SEWER

II. SUBPART A: GENERAL

A. Section 280.05 Policy

1. *Staff and GCI's Position*

In its direct testimony, GCI highlighted that Staff's proposed rules omitted a policy section, which is included in the current Part 280. GCI Ex. 2.0 at 4, lines 89-95. In its rebuttal testimony, Staff adopted the policy statement proposed by GCI. Staff Ex. 2.0 at 3, lines 44-52. GCI's proposed policy section includes a statement that the Part 280 rules should take precedent over contrary tariff provisions. GCI Ex. 2.0 at 5, lines 112-113.

2. *MidAmerican's Position*

MidAmerican does not oppose the addition of a policy section in the Part 280 rules. MidAmerican, however, argues the policy statement, as proposed by GCI and supported by Staff, is overly broad and goes beyond the purpose of presenting the general policies intended for the customer service rules. MidAmerican urges the Commission to reject Section 280.05 as proposed by GCI and supported by Staff and adopt MidAmerican's proposed revisions, which omits the "hierarchy" language.

MidAmerican points out that the purpose of a policy section is to provide prefatory language to the rule and it is not designed to be an operative part of the rule. See e.g. *Monarch Gas Company v. the Illinois Commerce Commission*, 261 Ill.App.3d 94 at 99, 633 N.E.2d 1260 at 1264, 199 Ill.Dec. 269, *appeal denied* 157 Ill.2d 505. Moreover, such prefatory language may not be used to create ambiguity in other substantive provisions. *Id.* GCI's proposed policy section, however, adds language designed to be an operative part of the rule and the language is ambiguous. GCI's proposed language specifically states: "[t]he policies and procedures outlined in this rule shall take precedence over any inconsistent utility tariff, unless the conflicting tariff provision has been specifically approved by the Commission as a waiver or exemption from this rule, and shall be viewed as the minimum standards applicable to gas, electric, water and sanitary sewer utilities." GCI Ex. 5.1 at 3. This language provides a specific legal requirement that the rule take precedence over any inconsistent utility tariff. GCI, however, did not provide one example where a tariff provision conflicted with the current Part 280, or point to where a customer complaint led to a Commission investigation of the tariff provision. In endorsing GCI's policy section, Staff supported "establishing hierarchy whereby the rule shall take precedence over any tariff." Staff Ex. 2.0 at 3, lines 49-50.

MidAmerican argues that the proper place to establish the "hierarchy" is not in the policy section because the "hierarchy" language becomes an operative part of the rule. The proper time and place to establish the "hierarchy" is during the tariff review process prescribed in Section 9-201 of the Public Utilities Act (Act). Consequently, if the purpose of the precedence language is to ensure, absent a Commission granted waiver, that the rule prevails when there is "conflicting information in the utility tariffs and Part 280," then the time to take that up concern is upon review of the tariff, not in the policy section of the rule.

Analysis & Conclusions

The Commission observes, Part 280 is not new in Illinois, and utilities already have tariffs in place regarding the current Part 280 rules. Once Staff's proposed rules are adopted by the Commission, the utilities will have to revise portions of their tariffs to comport with the changes to the existing rules and file the revisions with the Commission. Pursuant to Section 9-201, the Commission may enter upon a hearing concerning the propriety of such rule or regulation, and shall be able to suspend the

effect of the revision for 105 days. Moreover, the Commission has the discretion to change the tariff language so that it is either clarified or comports with Commission rules. Section 9-201 also does not preclude the Commission from revising an existing “regulation” in the tariff if it does not comport with the Commission rules. Consequently, the operative part of the rule that Staff and GCI would like to include, is already given to the Commission under the Act. The time to determine the appropriateness of whether tariff language comports with Part 280 is at the time the tariff is revised and filed with the Commission. Therefore, GCI’s proposed language is unnecessary. The “hierarchy” GCI and Staff are attempting to create in the policy section already exists in authority given to the Commission under the Act. Therefore, to keep the policy section clear and true to the purpose of providing prefatory language, GCI’s “hierarchy” language is rejected.

B. Section 280.10 Exemptions

1. *Staff’s Position*

Staff proposed an exemption section in Section 280.10. Staff replaced the existing “Saving Clause and Waiver” section of the current rule with the “Exemption” section to clarify the meaning of the section. Staff Ex. 2.0 at 3, lines 58-61. Staff retained much of the current Part 280 “Saving Clause” text, but added a waiver description that echoes the condition found in Article XIII of the Act. Staff Ex. 1.0 at 5, lines 106-111. Staff noted Article XIII requires a waiver petition to include a demonstration that the waiver will not harm consumers. *Id.*

2. *GCI’s Position*

GCI proposes adding additional language which prescribe what a utility must put in an exemption petition and limit the Commission’s approval of the waiver to one year. GCI Ex. 5.1 at 4. GCI also attempts to limit the Commission’s ability to change any provisions of Part 280 without a formal rulemaking proceeding. *Id.* GCI further complains that consumer advocates will not know where to look for such waivers. GCI Reply Brief at 12.

3. *MidAmerican’s Position*

MidAmerican supports Staff’s proposed exemption section in Section 280.10.

Analysis & Conclusions

The Commission finds Staff’s section is reasonable and consistent with the intent and meaning of the existing Commission rules. In its rebuttal testimony, Staff correctly pointed out that GCI’s proposed language addresses what should go into a petition for exemption and what the Commission should require a utility to report in its decision granting exemption. Staff Ex. 2.0 at 3-4, lines 65-67. These additions go beyond the purpose of the section and are unnecessary. Additionally the Commission’s

responsibility is to determine what is in the public interest and will make a determination of how long the waiver will be in effect based on the record and not on an arbitrary time line set by GCI. Moreover, GCI's argument about not knowing where to look for such a waiver provision is baseless. GCI has taken advantage of the e-docket system and are savvy in using the system and tracking current Commission dockets.

Accordingly, the Commission rejects GCI's changes and adopts Staff's proposed language.

C. Section 280.15 Compliance

1. *Staff's Position*

Nicor Gas proposed adding a new Section 280.15 that would allow each utility two years after the effective date of the revised rules to comply with all the sections. Nicor Gas Ex. 4.0 at 17, lines 372-379. Staff indicated that it did not sponsor or agree to Nicor Gas's proposed compliance section. In its initial brief, Staff acknowledged it may take some time to implement some of the changes and additional requirements of the draft rule, but Staff lacked IT expertise and did not have a timeline. Staff Initial Brief at 7. Staff indicated that it would not agree to any timeline that would allow a utility to implement those benefit the utility first, while waiting longer to implement the provision that would benefit customers. Tr. at 791, lines 11-22. In its reply brief, Staff then argued that six months is a reasonable amount of time to allow the utilities to implement the rules. Staff Reply Brief at 14.

2. *MidAmerican's Position*

MidAmerican supports the inclusion of this section or a Commission order allowing utilities a two year implementation period to comply with the changes to the rules.

In its direct testimony, MidAmerican outlined the costs to implement significant system changes and a large number of operational changes necessary to implement the proposed rules. MidAmerican Ex. 1.0 at 34-35, lines 758-779. MidAmerican explained these operational changes would include updates to all procedural documents, training of all personnel, and a potential need to increase the number of field resources. In addition to these changes, MidAmerican completed a high level estimate of required system changes necessary to its customer service system to comply with proposed changes at approximately \$2.4 million. *Id.* at 35, lines 765-767; as updated in MidAmerican Ex. 2.0 at 49, line 1090. MidAmerican explained proposed changes would require major architectural and functionality changes within the Company's customer service system. Extensive testing would be required to maintain data integrity and billing accuracy within the Company's customer service system. For

example, it would cost approximately \$1.5 million to implement new timelines for disconnection notices and concurrent collection activity. Other high cost items include changes to the Company's customer service system for service process and deposit functionality. MidAmerican Ex. 1.0 at 35, lines 773-779. If rules are adopted as proposed, MidAmerican estimates system changes to take a minimum of 18 to 24 months. *Id.* at 36, lines 781-783. MidAmerican's timeline is based on analyzing, coding, testing and implementing system changes concurrently. Numerous parties have proposed several revisions; therefore, given the fluidity of the proposed rules, MidAmerican has not begun work on system changes. It is not cost effective for MidAmerican to do so until final rules are adopted. MidAmerican, however, indicated it is willing to provide the Commission with a compliance plan and updates on compliance progress.

Analysis & Conclusions

The Commission finds the utilities have provided specific evidence indicating that there will need to be an eighteen to twenty-four month "grace period" to implement the new rules. Both Staff and GCI recognized that "instantaneous compliance may not be possible for all utilities, and where a need for delay is shown, some latitude is appropriate." GCI Brief at 18; *see also* Staff Brief at 7. However, all the parties vary on how long this "grace period" should continue. The Commission notes that Staff has suggested six months would be adequate and GCI suggests that utilities file a compliance report on the Part 280 provisions that cannot immediately be implemented.

The record reflects that the information technology changes that are needed to implement many of the rules will take up to twenty-four months. Therefore, Staff's proposed six months is not adequate enough. The Commission agrees with GCI that the utilities should be required to file a compliance report regarding the progress made toward compliance. Consequently, based on the amount of system and operational changes needed to implement Staff's proposed rules, it is reasonable for the Commission adopt Nicor Gas's proposed language and provide a two year implementation date for the new rules. Utilities, however, are required to file a compliance report every six months until the utility is in compliance with all the rules.

D. Section 280.20 Definitions

1. *Staff's Position*

Much of Staff's original draft language in this section was met with no controversy, and remains unaltered in the most recent version sponsored by Staff in its surrebuttal testimony. The following definitions were contested.

2. *Contested Definitions*

“Applicant” and “Customer”

GCI also seeks the deletion of the final sentence in the definition, “Successful applicants immediately become customers.” MidAmerican supports GCI’s changes to “Applicant” and “Customer,” while Staff does not. While Staff accepted GCI’s change to the definition of “Applicant,” Staff did not accept GCI’s suggestion that the last sentence be stricken. MidAmerican agrees with striking this sentence, since service is not activated immediately upon a successful application. MidAmerican also agrees with the additional language GCI added to the definition of “Customer.”

Analysis & Conclusions

The Commission finds GCI’s proposed changes to the definitions for “Applicant” and “Customer” are reasonable and adopts the language as revised.

“Past Due”

GCI proposes changes be made to the definition of “Past due” that would place a two-year limit on the past due amount. GCI Ex. 1.2 at 6.

Analysis & Conclusions

The Commission finds GCI’s proposed two year limitation on past due amounts is arbitrary. The limit on collecting past due amounts should be based upon the statute of limitations and not an arbitrary length of time as GCI suggests. Accordingly, the Commission rejects GCI’s proposed changes to the definition of “Past Due.”

“Low-income Residential Customer”

LIRC proposed a definition for “Low-income Residential Customer.”

Analysis & Conclusions

The Commission agrees with Staff’s that eligibility guidelines for Low-Income Home Energy Assistance Program (LIHEAP) are appropriate for the proposed rules since LIHEAP funds are tied to utility service. Staff Ex. 2.0 at 7, lines 153-156. Accordingly, the Commission adopts Staff’s proposed definition of “Low-income Residential Customer” because it is clear and reasonably tied to the guidelines already established for LIHEAP funding.

“Written”

MidAmerican pointed out that Staff's proposed rules refer to "written" in nineteen different sections,¹ yet in only nine of the nineteen sections is it clear what is meant by "written." For example, in subsection 280.50 d)3), customers may choose to have bills delivered by electronic means, but in subsection 280.70 b)2) requires separate "written communication" with no qualification of "written." Subsection 280.120 e)2)B) does not qualify what is meant by "written," yet subsection 280.160 c)2) does qualify that "written" certification can be mailed, faxed or delivered electronically. Staff's goal in re-writing the rules was to make the rules clearer and apply to futures technologies that may arise, and many future technologies will be advances in electronic communications. Given the ambiguity with the use of "written" in some sections of the rules, MidAmerican proposed to define "written" in the definition section:

"Written" means either a hard copy or electronic copy, unless it is specifically stated a hard copy must be placed in the U.S. Mail. Where a rule requires information to be "written" or in "writing," an electronic record satisfies that requirement. 5 ILCS/5-105.

MidAmerican recognized it did not propose the definition in written testimony, but did explore the issue on cross-examination. Tr. at 327. GCI witness Alexander agreed that "written communication" was not included in the definition section. *Id.* at lines 6-9. Ms. Alexander also indicated she did have an objection to including some clarification to the term "written communication." *Id.* at lines 10-13. Staff also indicated it would review and consider adding a definition to clarify the use of "written communication." Tr. at 823. Accordingly, MidAmerican offers this definition to provide further clarification to the rules.

In reviewing Section 5-115 of the Electronic Commerce Security Act, it appears further clarification is warranted. 5 ILCS 175/5-515. Section 5-115(a) provides, in part:

(a) Where a rule of law requires information to be "written" or "in writing," or provides for certain consequences if it is not, an electronic record satisfies that rule of law.

5 ILCS 175/5-515(a).

MidAmerican pointed out, under Illinois law, unless otherwise specified by the rule, "written" can be satisfied by providing electronic record of the communication. At hearing, Staff indicated that there are certain sections that they would have to consider allowing electronic "written" communication. Tr. at 820, lines 12-17. MidAmerican

¹ See Section 280.30 i)2), 280.35 b), 280.40 b)2), 280.50 d)3), 280.70 b)2), 280.80 g)2), 280.90 b)2) 280.120 e)2)B), 280.130 f), 280.135 j)1)A), 280.140 c)4), 280.160 c)2), 280.180 f), 280.210 d) 2), 280.230 b)2), 280.230 c)1) and 2); f)1), 280.240, 280.260 c), and 280 Appendix B.

raised this issue so that all parties understood what type of communication can be provided to customers, and to allow utilities flexibility in communicating with customers. MidAmerican will still provide hard copy written communications to customers, but recognizes that there are customers who prefer paperless communications. In reply briefs, no party objected to the inclusion of this definition.

Analysis & Conclusions

The Commission finds the proposed definition for “Written” as recommended by MidAmerican is reasonable and adopts the language as revised.

III. SUBPART B: APPLICATIONS FOR UTILITY SERVICE

A. Section 280.30 Application

1. Staff’s Position

Staff supports its original proposed language for this subsection. Staff Ex. 1.0 at 7; Staff Ex. 2.0 at 16-17.

2. MidAmerican’s Position

MidAmerican generally supports Staff’s proposed changes to the application section. MidAmerican recognized Staff’s re-write brings consistency to the application process and describes the rights and responsibilities of both applicants and utilities under the process. Staff Ex. 1.0 at 7, lines 144-146. To add further consistency, MidAmerican proposed additional revisions to subsections 280.30 d), 280.30 i)2), and 280.30 k). MidAmerican argues its proposed changes do not change the intent behind Staff’s proposed language, but merely allows more flexibility to implement the rule given operational constraints.

Subsection 280.30 d) – Application Content

Subsection 280.30 d) 1) and 2)

1. Staff’s Position

Staff supports its originally proposed language for these subsections, with the exception of the minor correction of changing “customer” to “applicant” in subsection 280.30 (d)(2). As long as the identification provided by applicants is valid and accurate, utilities should not be allowed to compel applicants to provide certain forms of ID in favor of all others. Staff Initial Brief at 16-17; Staff Ex. 1.0 at 7; Staff Ex. 2.0 at 18-20.

2. MidAmerican's Position

MidAmerican does not object to providing a list to customers; however, MidAmerican pointed out it has operational constraints and are obligated under the Federal Trade Commission's (FTC) "Red Flag Rules" to develop and implement a written Identity Theft Prevention Program to detect, prevent and mitigate identity theft in connection with the opening of new accounts or maintaining existing accounts. MidAmerican Ex. 1.0 at 6, lines 114-119.

MidAmerican contends Section 280.30 d)2) limits a utility's ability to prevent fraud, since it forces the utility to assume that the identification that the applicant chooses to provide belongs to that applicant, is valid and accurate. MidAmerican Ex. 2.0 at 7, lines 138-142. Staff believes the phrase "so long as the identification provided is valid and accurate" is sufficient for utilities to address identity theft protections. Staff Ex. 2. at 18, lines 414-415. MidAmerican contends that while Staff recognizes it does not expect utilities to accept invalid and inaccurate identification, its reasoning for rejecting changes proposed assumes that the identification a customer chooses is valid.

MidAmerican recognized in its direct testimony, Staff's proposed language allows for forms of identification that are easily manipulated and therefore makes it difficult to verify that the person using the identification is not using someone else's personal information. MidAmerican Ex. 1.0 at 6, lines 119-122. Although MidAmerican understands Staff's concern that a utility should not deny or delay service if a customer does not have one particular form of identification, utilities have a responsibility to verify the identity of an applicant and should have policies in place that minimize the risk of a consumer falling victim to identity theft. See *also* Nicor Ex. 1.0 at 10-11, lines 218-232.

MidAmerican noted in its direct testimony that it is not trying to make the rules more difficult for applicants to receive service. In order to strike a balance between the need to verify the identity of an applicant and the need to grant utility service as quickly as possible, MidAmerican suggests that an applicant choose from the list of identification so long as one of those forms includes government issued photo identification. MidAmerican also notes that it agrees with Nicor's proposal and rationale to strike credit card from the list of required identification. *Id.* MidAmerican's changes to subsection 280.30 d)1) make the requirements in subsection 280.30 d)2) unnecessary, and MidAmerican proposed striking that section in its entirety.

Analysis & Conclusions

The Commission agrees with MidAmerican and Nicor that Staff's proposed identification list does not allow utilities the opportunity to verify a customer's identity. The Commission finds it is reasonable for an applicant to provide a government issued photo identification. The Commission adopts MidAmerican and Nicor's proposed revisions in Appendix A.

Subsection 280.30 d)3)

1. Staff's Position

Staff supports the retention of its original proposed language for this subsection. Section 280.30 d) 3) requires that if the applicant is non-residential, then the utility shall request information to determine if the applicant is a small business as defined by the number of full time employees being 50 or less.

2. MidAmerican's Position

MidAmerican proposed striking subsection 280.30 d)3). Staff argues that subsection 280.30 d)3) supports subsection 280.40 (i) (1), which is based on the Small Business Utility Deposit Relief Act. 220 ILCS 35/4. MidAmerican agrees with Staff in this regard, but notes that Staff adopted changes to subsection 280.40 (i) (1) that allows utilities to offer budget billing plans to all non-residential customers. If a utility offers budget billing to both residential and non-residential customers, it is not necessary to track the "small business" subset of its non-residential customers. Moreover, Section 280.40 i)3) requires that *any* former customer be issued a separate refund check for a deposit, rendering it unnecessary to track the specific subset of non-residential or residential customers. MidAmerican also indicated that it is currently in compliance with the Small Business Utility Deposit Relief Act even though it does not track "small business" customers. There is no requirement in the Small Business Utility Deposit Relief Act for utilities to "track" whether a customer is a "small business," a utility must simply comply with the deposit requirements for "small businesses." MidAmerican contends if utility offers budget billing to all non-residential customers, it is not necessary to track the "small business" subset of its non-residential customers.

MidAmerican concluded there is no need to have the added requirement of tracking which customers meet the definition of "small business," since utilities can offer budget billing to all non-residential customer and are required to issue separate refund checks to all customers.

Analysis & Conclusions

The Commission agrees with MidAmerican that there is no need to have the added requirement of tracking which customers meet the definition of "small business," since utilities can offer budget billing to all non-residential customer and are required to issue separate refund checks to all customers. Further, the Small Business Utility Deposit Relief Act does not require utilities to "track" whether a customer is a "small business." Since this law has been in place for several years, it is reason to presume that the utilities have developed operational plans to comply with the statute. Therefore, the Commission finds it is reasonable to strike this requirement and adopts MidAmerican proposed revision in Appendix A.

Subsection 280.30 d) 4)

1. Staff's Position

Staff supports the retention of its original proposed language for this subsection. Staff Ex. 2.0 at 20.

2. MidAmerican's Position

MidAmerican argued subsection 280.30 d) 4) is confusing. Subsection 280.30 d)4) lists information that is required from applicants; yet , in subsections C) D) E) and F), the parenthetical implies that items are optional for the applicant to provide. MidAmerican Ex. 1.0 at 7, lines 143-145. Based on Staff's response it is clear that the items listed are optional for the company to request. If it is optional, either for the applicant to provide or for the utility to request the information, then it is unnecessary to spell this out in a rule. Therefore, MidAmerican proposed to strike this section.

Analysis & Conclusions

The Commission agrees with MidAmerican, if information is optional for the utility to request, then it is not necessary to spell the information requirements out in a rule. The Commission appreciates Staff's intent to simplify the rules and excluding extraneous information will stay true to that intent. Therefore, the Commission will strike this subsection in the final rule.

Subsection 280.30 i)2) – Timeline for Application Processing

1. Staff's Position

Staff proposes language that would require utilities to notify an applicant of a rejected application for service, and supports its original proposed language for this subsection.

2. MidAmerican's Position

MidAmerican argues, however, that Staff's proposed language can be construed as requiring utilities to make duplicative contact with a customer. MidAmerican testified that the vast majority of rejected applicants are notified immediately of the rejected application while they are on the phone with company associates, in the office with company representatives, or through an e-mail when an online application for service is submitted. MidAmerican Ex. 1.0 at 8, lines 154-158. Attempting to mail notifications regarding rejected applications for service is not only unnecessary, it is impractical since there would be no customer of record or mailing address to send a notification. *Id.* at lines 158-162. In situations where applicants are asked to prove their identity by visiting a customer office, MidAmerican accepts or rejects the application immediately. If identification is faxed to MidAmerican, customers are notified of acceptance or rejection

of the application within two hours after receipt of the applicant's fax. *Id.* at lines 162-166. MidAmerican pointed out that sending a notification letter under these requirements places undue burden on the utility as well as increasing costs for paper, envelopes, postage and staffing to handle any returned mail that results from undeliverable notices. *Id.* at lines 166-169.

Staff indicated that the proposed language does not require utilities to make duplicative contact with an applicant for service whose application was rejected at the initial point of contact. Staff Ex. 2.0 at 22-23, lines 503-511. MidAmerican, however, argues the plain language, as written, implies additional contact must be made with the applicant. MidAmerican contends it is reasonable for the Commission to specify additional contact is not necessary in its final rule, since this is consistent with the intent Staff expressed in rebuttal testimony.

Analysis & Conclusions

The Commission finds that it is reasonable to add clarifying language that notification need not be provided if direct contact has already been made with the customer.

Subsection 280.30 k) – Data Collection

1. Staff's Position

Staff's proposed subsection 280.30 k) introduces a limited set of data tracking and retention requirements for utilities that Staff believes will enable both Staff and the utilities to monitor the success of the application process. Staff Ex. 1.0 at 7-8, lines 160-162. Staff asserts that the data will allow both the Commission and utilities to better monitor the often contentious application process, identify problems and work together toward correcting any issues that arise. Staff Ex. 2.0 at 26, lines 592 and 594.

2. MidAmerican's Position

MidAmerican contends Staff has not established any benefits to collecting and tracking this data. Additionally, MidAmerican points out the costs to track that data would be significant, and the information may result in data that is subject to misinterpretation. MidAmerican points out Staff's testimony highlights that the information reporting requirements are not clearly defined and mean something different to each utility. MidAmerican noted Staff explains that Ameren considers an application as "incomplete" rather than "rejected," yet IAWC considers the same application as "rejected." Staff Ex. 2.0 at 25, lines 568-581. MidAmerican then points out Staff disagrees with Ameren's label as "incomplete," since the customer has to take affirmative steps to obtain service. *Id.* at lines 576-577 and 582-584. On the other hand, MidAmerican notes, depending on the circumstances, it might consider this example as a customer inquiry about what is required to obtain service and not an "incomplete" or a "rejected" application. MidAmerican Ex. 2.0 at 10, lines 210-219.

MidAmerican contends the end result is that Staff is not going to obtain consistent data from all the utilities due to operational differences, and this will render the data meaningless. Therefore, the purposed data requirements will not allow Staff to “monitor” the application process as intended and Staff has not established how this information will indicate whether a company is adhering to the requirements of Part 280.

MidAmerican also argues Staff’s proposed language operates under the false premise that utilities do not want to provide service, and that utilities’ reluctance to connect service causes the application process to be contentious. Staff Ex. 2.0 at 26, lines 586-587. MidAmerican points out it is not aware that the application process is contentious, and Staff does not provide any evidence that the application process is a contentious. Consequently, Staff’s proposed subsection 280.30 k) is a solution in search of a problem and may have the unintended consequence of creating additional costs to implement data reporting requirements that neither provide an accurate picture of the utility application process nor provide any measurable benefits, to consumers, Staff or utilities. MidAmerican Ex. 2.0 at 11, lines 233-237.

Analysis & Conclusions

The Commission finds that there is nothing in the record that establishes that the application process is contentious in Illinois. The Commission also finds that the data requirements are not clearly defined and there is no evidence that Illinois utilities have identical application processes. If utilities report different information that is not comparable, then the information is not going to be useful for Staff to determine if the application process is contentious in Illinois. Therefore, the Commission finds it reasonable to strike this subsection in the final rule.

B. Section 280.35 Revert to Landlord/Property Manager Agreements

1. Staff’s Position

Staff supports its original proposed language as modified in testimony and in its briefs.

2. MidAmerican’s Position

MidAmerican generally supports Staff’s proposed Section 280.35 – Revert to Landlord/Property Manager Agreements. However, MidAmerican argues in order to provide flexibility to manage these agreements it is reasonable for the Commission to adopt MidAmerican’s proposed deletion of the annual update requirement. MidAmerican agrees that requiring written arrangements ensures all parties agree to what action will be taken should a tenant no longer want gas or electric service.

In light of the number of agreements MidAmerican manages,² Staff's requirement to update the agreement annually is unreasonable and attempts to micromanage the administration of the agreements. Staff indicated that the intent behind this section was to minimize disputes between parties. Staff, however, did not explain how annual updates would contribute to reducing the numbers of disputes. Staff's prescribed annual update undermines MidAmerican's current process, which offers landlords more flexibility with their agreements. For example, MidAmerican offers all property owners that have written agreements the option of receiving a summary statement of all properties and the details of their agreements. This summary statement can be sent to a landlord upon request, any time a change is made to their agreement, monthly or annually depending on what the landlord prefers. This service is offered on the original landlord agreement, it is covered in MidAmerican's landlord brochure, and associates verbally offer to update information when a landlord calls with questions regarding the agreement. MidAmerican Ex. 1.0 at 10-11, lines 212-219. Landlord or property owners who manage many properties may not have time to renew each agreement annually. MidAmerican's summary statement, however, offers the landlord or property owner a better tool to manage the agreement and the property without the hassle of an annual renewal. Additionally, since Staff's proposed rule already prescribes many of the terms and conditions, there is no need for an annual update since those conditions will not change.

IV. SUBPART C: DEPOSITS

A. Section 280.40 Deposits

1. Staff's Position

Staff's revised deposit section gathers and combines the treatment of deposits from the old rules to make the deposit section more consumer-friendly. Staff Ex. 1.0 at 8 lines 181-183. Staff's proposed language in subsection 280.40 b) requires utilities to make the initial deposit request in writing and disclose prescribed information. Staff supports the proposed language set forth in its Attachment A of its Reply Brief.

2. MidAmerican's Position

MidAmerican indicated it agreed with Staff's intent for the changes in the deposit section and that the utility should have the option of collecting deposits in order to secure against potential unpaid debts. MidAmerican, however, noted some practical concerns regarding implementation of the changes as proposed. MidAmerican's practical concerns not only stem from system changes that will need to be made, but

² MidAmerican indicated in its direct testimony, MidAmerican has active agreements with nearly 24,000 property owners throughout its service territory. These agreements dictate actions to be taken in between parties on over 172,000 properties. MidAmerican Ex. 1.0 at 10, lines 207-209.

also from operational differences. MidAmerican suggested changes to Staff's proposed subsections 280.40 b), c), d) e) and g) that re-organized Staff's proposed language so the deposit section reflects the chronological order of how and when deposits are determined and assessed. Additionally, MidAmerican suggested clarifications to subsection 280.40 e)1), e)2), i)1) and i)2). MidAmerican Ex. 2.0 at 12, lines 251-253.

Subsection 280.40 b)

MidAmerican proposed changes that move Staff's original subsection 280.40 d) to subsection 280.40 b), as the right to collect deposits lays the foundation for the deposit requirements.

Subsection 280.40 c)

MidAmerican proposed changes that move Staff's original subsection 280.40 f) to subsection 280.40 c), as present customers may be assessed deposits if certain conditions occur.

Subsection 280.40 d)

MidAmerican proposed changes that move Staff's original subsection 280.40 f) to subsection 280.40 d), as the requirements for deposit payments would occur after it is established that the utility has the right to collect a deposit.

Subsection 280.40 e)

MidAmerican proposed changes that move Staff's original subsection 280.40 b) to subsection 280.40 e), since certain conditions must occur before a utility can assess a deposit.

Staff accepted GCI's recommendation to add "[a] deposit shall not be assessed until the initial notice is given" to the end of 280.40 b)1). Staff Ex. 2.0 at 28-29, lines 646-650. MidAmerican indicated it does not oppose this language applying to current customers, but does not believe initial notice is appropriate for an applicant for service since a customer will be told during the application process a deposit will be assessed for service. MidAmerican Initial Brief at 24-25. MidAmerican proposed moving Staff's and GCI's recommended language in 280.40 b)1) to MidAmerican's revised 280.40 e)2) to clarify that this requirement only applies to current customers.

Staff's proposed language in subsection 280.40 b) also requires utilities to make the initial deposit request in writing and disclose prescribed information. While MidAmerican noted it agrees with Staff and some interveners that deposit disclosure is necessary, the proposed rules are not practical and costly to implement. See

MidAmerican Ex. 1.0 at 11-13, lines 239-266. Instead, MidAmerican argues it is reasonable to allow alternative means to disclose deposit requirements.

For example, MidAmerican explains it will cost as much as \$100,000 in changes to add logic to its customer service system that would identify the proposed eight items in Section 280.40 b) 2). *Id.* When a customer applies for service by phone or in person, a MidAmerican associate explains the reason for the deposit request during the application process. A discussion between the customer and the associate is more effective and timely than a written notification, as it allows the customer the opportunity to ask any additional questions. In contrast, Staff's proposed rules would require the MidAmerican associate to manually enter the reason for the deposit in the customer service system so the reason would be included in the notification. Staff's proposed rules would not require an associate to disclose the reason for the deposit during the application process, instead, a customer would have to wait for the "written" notification to arrive. Practically speaking, MidAmerican recognizes Staff's rules does not preclude oral disclosure for the reason behind assessing a deposit, and requiring customers to wait for the written notification would frustrate customers. Therefore, the practical implication of Staff's proposed rule is that MidAmerican associates would be duplicating work since logic would dictate that the associate would continue to provide an oral explanation, followed up by a written explanation.

Additionally, MidAmerican indicated displays the deposit amount due as a line item on the customer's billing statement. *Id.* at 250-251. MidAmerican contends displaying the deposit on the customer's bill is the most clear and concise method to record it because it allows the customer to see it in relation to the rest of their utility bill. Having the total amount due, including the deposit, makes the bill easier to understand. *Id.* at 251-254. MidAmerican also indicated it sends customers a deposit certificate once the deposit is paid in full, and explained this certificate serves as notification of the total amount of the deposit being held and the terms for refund.

MidAmerican proposed to strike Staff's proposed disclosure requirements because they prescribe customer communication and take away the flexibility to communicate with customers. MidAmerican indicated that over the past three years, it has not received any complaints regarding deposit requests from Illinois customers. MidAmerican argues that this demonstrates that current practices already contain effective communication of the deposit requirements. MidAmerican also noted that customers can find additional details regarding deposits in the Customer Information Packet as required in proposed section 280.60, and the Customer Information Packet is a more appropriate method of communication. Moreover, offering the information in the Customer Information Packet is more cost effective and ensures customers will have information related to their utility service in one place.

Subsection 280.40 i)

This subsection sets out different refund criteria for small business customers. MidAmerican points out that the Small Business Utility Deposit Law does not require a

utility to track the size of a business, or treat small businesses differently from other non-residential customers. Tracking specific customers is irrelevant as long as the utility is in compliance with 220 ILCS 35. Subsection 280.40 i)3) as proposed by Staff already requires that a separate payment be issued to any former customer and the requirement for small business customers in Staff's proposed subsection 280.40 i)1) is unnecessary.

Analysis & Conclusions

The Commission finds that MidAmerican's re-organization of this section is reasonable and incorporates the changes in Appendix A. The Commission agrees with Staff that deposit disclosure is important and that customers should understand the reasons a utility will assess a deposit. The Commission, however, finds Staff's proposed rules prescribe how utilities must communicate deposit disclosures. The Commission finds it reasonable to require that utilities disclose deposit information, but allow utilities to develop how that disclosure will be made. The Commission also finds that it is not necessary to require utilities to track which customers are considered small businesses. It is not relevant how small businesses are tracked by each utility as long as the utility is complying with the Small Business Utility Deposit Law. The Commission observes this law has been in place for several years and that utilities have already developed operational changes to comply with the law. If a utility's compliance is achieved by offering all non-residential customers the same deposit requirements as small business customers, then the Commission should allow this practice to continue and not place restrictions that prescribe how a utility must comply with an existing law.

B. Section 280.45 Deposits for Low Income Customers

1. Staff's Position

Staff proposed language that exempt low income customers from some deposit requirements. Staff contends its language is balanced and appropriate in that it considers both the economic hardships of Low Income Customer status, while recognizing that certain, more serious indicators of risk cannot be excused from deposits by the proposed rule. Staff IB, Pages 30-31.

2. MidAmerican's Position

Generally, MidAmerican agrees with recommended changes to Section 280.45. MidAmerican suggests striking subsection a) of 280.45, as it is redundant and already required in Sections 280.40 d) 1) and 5). MidAmerican also recommends that the language in subsection 280.45 b) 3) be revised to allow for collection of a deposit for any unpaid final bill. Current language will force the utility to treat customers differently simply based on the time of year they incurred the debt. For example, a two-month winter gas bill left unpaid could easily be greater than 20% of the average annual billing,

while a two-month summer gas bill would not. MidAmerican Ex. 1.0 at13-14, lines 282-290. MidAmerican argues Staff has not presented a rationale basis for the Commission to determine why customers with a higher unpaid bill are treated differently than customers with a lower unpaid bill. The unintended consequence to Staff's proposed language is that customers are treated differently and Staff has not presented any reasons for why its proposed language does not violate Section 9-241 of the Act.

Analysis & Conclusions

The Commission finds that it is reasonable to revise subsection 280.40 b) 3) so that a deposit may be collected for any unpaid bill. Staff has failed to provide the Commission a rationale basis for why the Commission will be allowed to treat customers differently and thus, this requirement violates Section 9-241 of the Act.

V. SUBPART D: REGULAR BILLING

A. Section 280.50 Billing

1. Staff's Position

Staff supports its proposed language and indicated it maintains a neutral position regarding MidAmerican changes to subsection 280.50 b) 3).

2. MidAmerican's Position

In general, MidAmerican agrees with the proposed language in this section. MidAmerican suggested the Commission adopt the following changes to clarify portions of Staff's proposed rule.

Subsection 280.50 b) 3)

Subsection b) of Section 280.50 outlines requirements regarding the billing cycle. MidAmerican recommends this rule also allow for more frequent billing. In its initial brief, Staff indicated it did not directly oppose the language, but Staff argued the language would need further clarifications to limit the billing to large commercial customers and specify the goals. Staff Brief at 32. MidAmerican indicated it appreciated Staff's willingness to keep an open mind and accept further language modifications. To address Staff's concerns, MidAmerican proposed the following language:

- 3) Bills to large, non-residential customers may be rendered more frequently than monthly when agreed to by the utility and customer. More frequent billing may be offered if the customer is subject to disconnection or payment of a deposit. The more frequent billing

shall not extend more than six months, at which time monthly billing shall resume.

MidAmerican argues that the revised language in Section 280.50 b) as outlined above is reasonable and the Commission should incorporate the change in its final rule.

Analysis & Conclusions

Staff indicated that it could support MidAmerican's proposed changes if the language limited the billing to large commercial customers and specified the goals. The Commission notes that MidAmerican's additional changes does limit the billing to large customers and specifies the intent to allow more frequent billing if the customer is subject to disconnection or payment of a deposit. Therefore, the Commission finds that it is reasonable to include MidAmerican's proposed revisions.

Subsection 280.50 c) 1) H)

Subsection c) 1) H) of Section 280.50 requires that accumulated interest on the deposit be displayed on the bill. MidAmerican argues including the accumulated interest on the bill will confuse customers because they may believe they are entitled to that interest at that point in time. MidAmerican Ex. 1.0 at 15, lines 309-312. MidAmerican indicated its goal is to provide bills that are easy to read and understand, and to strike a balance between providing important information on the bill and providing so much detail that the bill becomes difficult for a customer to read and understand. MidAmerican is not opposed to a requirement for periodic customer notification regarding deposits that are being held; however, the method of communication should be left up to the utility. MidAmerican Ex. 2.0 at 19-20, lines 422-427. MidAmerican concludes it is reasonable for the Commission to exclude this requirement from its final rules.

In response, Staff indicated that consumers are often unaware that deposits are being held or how much more deposit money is being required of them after paying one or more installments on the deposit.

Analysis & Conclusions

The Commission observes that Staff proposed new rules that specify deposit disclosure requirements in Section 280.40, and finds Staff's argument perplexing. Staff's proposed changes to Section 280.40 require utilities to disclose deposit requirements to customers, so customer will be aware deposits are assessed. Further, Section 280.260 requires that deposit requirements be spelled out in the customer packet. Therefore, it is unclear why accumulated interest must be provided on the bill. The Commission agrees with the utilities that this information is more likely to confuse customers rather than provide them beneficial information regarding the deposit

requirements, including interest accumulation. Accordingly, it is reasonable for the Commission to exclude this provision from its final rule.

Subsection 280.50 c) 1) I)

Subsection c) 1) I) of Section 280.50 requires gas and electric companies to provide a graphic comparison in a bar or pie chart of the current usage and the customers previous 12 month usage. MidAmerican noted ComEd pointed out that the requirements proposed by Staff in Section 280.50 c) 1) I) are inconsistent with Part 410 and 500 and should be stricken.

Analysis & Conclusions

The Commission agrees with ComEd that Staff's proposed language in subsection 280.50 c)1) I) is beyond the scope of this proceeding and conflicts with Part 410 and 500 and should be stricken.

Subsections 280.50 e) 2) and 3)

Subsections e) 2) and 3) of Section 280.50 require different due dates depending on the state where the bill is issued. Extending the due date assumes additional delays if not mailed within Illinois or a bordering state. Even though MidAmerican's bill print operation is currently located in a bordering state to Illinois, this requirement is arbitrary, as all first class mail delivery within the continental United States typically arrives within two to three days regardless of where the mail originates. MidAmerican Ex. 1.0 at 15, lines 320-326.

MidAmerican testified that as part of its disaster recovery plan, it ran a test in 2008 to determine delivery time for bills mailed from a facility in Pennsylvania. All bills were received throughout varying locations in its service territory within two days of mailing. Additionally, MidAmerican has received no complaints regarding the number of days to receive or pay a bill in the past 3 years. Therefore, the current due date guidelines provide ample time for a customer to receive and pay a bill regardless of where the bill originates. MidAmerican Ex. 1.0 at 15-16, lines 327-333. Staff did not to refute this evidence in testimony.

Analysis & Conclusions

Staff did not present any evidence supporting its restriction on mailing bills. Without any evidence supporting evidence, Staff's proposed requirement is arbitrary. Consequently, the Commission finds it reasonable to strike subsections e) 2) and 3) of Section 280.50.

Subsection 280.50 f)

In rebuttal testimony, MidAmerican supported ComEd's recommended changes to 280.50 f) that would allow a utility to note the place from which the debt was last transferred and not where the debt originated. MidAmerican Ex. 2.0 at 18, lines 388-399. See also ComEd Ex. 1.1, Section 280.50 f) at 21 of 70. Staff's proposed rule limits the ability to transfer a debt until a customer has left a final bill unpaid. Not only is a customer given ample time to pay the final bill prior to the transfer, the final bill, as well as the initial transfer information, provides a record for the customer should a question arise at a later date. Coding a system to track multiple transfers of the same amount would not be cost-effective, as the number of times a transfer occurs multiple times for the same amount is infrequent. *Id.* Therefore, it is reasonable for the Commission to adopt MidAmerican's and ComEd's proposed change in its final rule.

Analysis & Conclusions

The Commission finds that it is reasonable to adopt ComEd's and MidAmerican's proposed changes.

VI. SUBPART E: PAYMENT

A. Section 280.60 Payment

1. Staff's Position

Staff supports its language as proposed in its Appendix A of its Reply Brief. MidAmerican supports Staff's language.

2. AARP's and GCI's Position

AARP and GCI recommend that the Commission prohibit utilities from charging a fee for approved payment methods promoted by the utility. GCI Ex. 3.0 at 11-13, lines 249-288. AARP Direct Testimony at 12, AARP Rebuttal Testimony at 6. GCI proposes revisions to Section 280.60 b)2) prohibiting these costs. Like many other utilities, MidAmerican pointed out it offers customers a variety of free payment options and customers have the option of choosing a cost-free option over a payment method where a fee is incurred. Staff points out in its testimony, that the payment methods where a fee is incurred this is an instance where the cost-causer covers an expense, rather than have the utility and other rate payers absorb such costs. See Staff Ex. 2.0 at 44, lines 1005-1007.

The fact that utilities are allowed to charge the cost-causer for certain payment methods is the primary reason a utility is able to make a wide variety of payment options available. GCI argues that Staff is incorrect in assuming that a fee is independent of a

utility. GCI Ex. 3.0 at 11, Lines 256-285. Yet, GCI also recognizes the “fee is a function of the market.” *Id.* at 12, Lines 265-266.

GCI contends the issue before the Commission is “whether a utility should be able to charge those customers who use a specified method of payment fees that other customers do not incur even though all payment options reflect increments costs.” GCI Brief at 47. To support its position GCI argues that “[a]ny fees or expenses incurred by the utility should be included in a future revenue requirement proposal . . . , rather than shifting that cost of the essential business of paying for the utility bill onto customers through transaction fees.” GCI Brief at 48. However, when GCI witness, Ms. Marecelin-Reme was asked on cross-examination whether as a matter of policy she wants customers or MidAmerican’s shareholders to pay for these fees, she answered:

. . .my thought would be that it would be absorbed by the company.

Tr. at 723, lines 5-9 and 13-14.

Consequently, it is clear that GCI would rather have shareholders absorb these costs. The impact of GCI’s suggested language will force utilities to stop offering alternative payment methods that require a fee and only allow traditional, non-fee related payment methods – especially if shareholders are forced to absorb these costs. GCI’s proposal will leave customers with fewer payment options. GCI, however, also recognized at hearing that it did not want to have utilities withdraw the option to pay by credit card. Tr. at 723, lines 21-22. GCI cannot have it both ways. Utilities must be allowed to recover costs of doing business, and third-party processing fees for payments made by credit cards is a real cost of doing business. Staff summed up the issue best when it pointed out in its brief that customers “have traditionally been responsible for the cost of affixing postage stamps to mailed bill statements or paying for the transportation associated with traveling to a utility’s local office to deliver payment.” Staff Brief at 39. Consequently, it is reasonable for the Commission to reject GCI’s proposed language eliminating third party processing fees.

Analysis & Conclusions

The Commission finds that it is reasonable to adopt Staff’s proposed language.

B. Section 280.65 Late Payment Fee Waiver for Low Income Customers

1. Staff’s Position

Staff believes it is now necessary to expand upon these rights. In addition, a preference for aiding Low Income Customers is documented throughout the Public Utility Act. See 220 ILCS 5/8-103(f)(4); 220 ILCS 5/8-103(i); 220 ILCS 5/8-104(f)(4); 220 ILCS 5/8-104(i); 220 ILCS 8-403; 220 ILCS 5/8-105; 220 ILCS 5/13-301.1, etc.

Staff argues that these current rights for low income customers show that the Commission has recognized the need to provide certain rights to low income customers.

2. *MidAmerican's Position*

Staff's proposed language includes a waiver of late fees to low income customers. Staff Ex. 1.0 at 13, Staff Ex. 2.0 at 47-48, lines 1076-1093. However, the inclusion of this section raises a question as to whether the mandatory waiver for low income customers violates Section 9-241 of the Act. 220 ILCS 5/9-241. Since Staff did not present any testimony as to why the proposed section does not violate Section 9-241 of the Act, there is no rational basis for the Commission to determine that low-income customers should be treated differently from other customers. Granting a waiver of these charges only to low income customers could be construed as granting a preference to these customers, while all other customers would incur late charges. Therefore, MidAmerican recommends deleting this section in its entirety as noted in Attachment A.

Analysis & Conclusions

While the Commission understands Staff's intent to expand more rights to low-income customers, the Commission finds that Staff's proposed language is discriminatory. Absent explicit statutory authority, the Commission cannot grant preferential treatment to one group of customers over another group of customers. Staff has not established a rationale basis for exempting low-income customers from late fees.

C. Section 280.70 Preferred Payment Date

1. *Staff's Position*

Staff supports its originally proposed language on this topic. Staff Ex. 2.0 at 48-49.

2. *MidAmerican's Position*

MidAmerican does not oppose Staff's proposed requirement to offer preferred payment dates to customers. Staff's proposed language in 280.70 b), however, is prescriptive and makes it a requirement that a customer who makes two late payments must receive notification of a preferred payment date. Staff Ex. 1.0 at 13-14, lines 291-299. The rules would be more effective if they required utilities to offer preferred payment dates and allowed utilities to manage how this option will work best to meet customer needs.

MidAmerican argues Staff's proposed rule requires a utility to offer a preferred due date to a specific subset of residential customers; for example, customers whose primary source of income is social security benefits, and that benefit is received ten days after the customer's due date. The proposed rule also requires a utility to notify eligible customers who pay late twice in a twelve month period that a preferred due date is available. A utility company does not know what the primary income source is for its customers so it is unreasonable to expect a utility to notify eligible customers of this option. MidAmerican proposes striking proposed language in Section 280.70 b). MidAmerican argues that utilities need the flexibility to determine how best to communicate the availability of a preferred payment date to its customers.

Analysis & Conclusions

The Commission finds that it is reasonable to adopt MidAmerican's and Mt. Carmel's proposed change to Section 280.70.

D. Section 280.80 – Budget Billing Plan

1. Staff's Position

Staff supports its originally proposed language on this topic. Staff Ex. 2.0 at 50.

2. MidAmerican's Position

Staff made modifications to its original proposed language that allows MidAmerican to offer budget billing to residential and non-residential customers. MidAmerican supports Staff's proposed Section 280.80.

3. GCI's Position

GCI proposes language to Section 280.80 h) that requires utilities to review the budget billing payment plan on a quarterly basis. GCI 5.0 at 79. GCI's proposed language, however, is too restrictive and eliminates flexibility in administering the budget billing payment plan and must be rejected by the Commission.

As Staff stated in its testimony, its proposed language "will result in periodic adjustments any time the budget billing plan for a specific customer is moving out of line with expectations, thus lessening the impact of reconciliation true up." Staff Ex. 2.0 at 50, Lines 1145-1147; see *also* Staff Ex. 1.0 Attachment A at 25. MidAmerican currently offers customers review options on a quarterly, semi-annual and annual basis so they can select a plan that works best for them in planning their finances throughout the year. A customer can also request a review at any time and adjust their budget billing amount. MidAmerican Ex. 2.0 at 24, lines 525-534. The adoption of GCI's proposed language would prohibit these customer options. Staff's proposed rules are reasonable

and allow utilities the flexibility to manage Budget Billing Plans based on individual customer circumstances.

Analysis & Conclusions

The Commission finds that it is reasonable to adopt Staff's proposed Section 280.80.

VII. SUBPART F: IRREGULAR BILLING

A. Section 280.90 Estimated Bills

1. *Staff's Position*

Staff altered its originally proposed language on this topic to allow for a utility that employs remote meter reading devices to deliver written notice of a failed reading by means other than a personal visit to the customer's premises. Staff Ex. 2.0 at 52, Lines 1183-1195.

2. *MidAmerican's Position*

In surrebuttal testimony, Staff added a new subsection 280.90 g). MidAmerican generally supports this section, but suggests the trigger be three or more consecutive estimated bills. MidAmerican notes that utilities with automated meter reading devices may not be aware the device failed until the first estimate is issued, and then it may take another 30-days to resolve the problem.

Analysis & Conclusions

The Commission finds that it is reasonable to allow for three estimated reads in subsection 280.90 g). Therefore, the Commission adopts Staff's proposed Section 280.90 as modified by the Commission.

B. Section 280.100 Previously Unbilled Service

1. *Staff's Position*

Staff supports its originally proposed language on this topic. Staff Ex. 2.0, Page 54. Staff's proposed language contains requirements to ensure clear itemization of any amount on a bill that is a markup for previously unbilled service and defines the payment process that should be extended to customers who find themselves with a makeup bill. Staff Ex. 1.0 at 15, lines 328-334. Staff specifically wanted to ensure that

customers are afforded reasonable time to pay the makeup bill without exhausting their right to a deferred payment plan. *Id.*

2. *MidAmerican's Position*

In general, MidAmerican has no concerns with the intent of this Section and associated timeframes. MidAmerican argues, however, the new language in subsections b) 1) and 2) is not written as clearly and concisely as the current language Section 280.100 a) 1) and 2). MidAmerican Ex. 1.0 at 19, lines 399-405. Therefore, MidAmerican urges the Commission to adopt its revisions to Section 280.100, which incorporates the language in the current Part 280.

Analysis & Conclusions

The Commission finds it reasonable to adopt MidAmerican's suggested changes to Section 280.100.

VIII. SUBPART G: REFUNDS AND CREDITS

A. Section 280.110 Refunds and Credits

1. *Staff's Position*

Staff supports modifications to its originally proposed language in this subsection for two purposes: first, to not require a utility to pay interest on overpayments until the actual money is in the utility's possession; and second, to not require a utility to pay interest on a budget payment plan credit balance unless the budget plan is cancelled. Staff Ex. 3.0, Pages 19-20, Lines 426-458; Staff Ex. 3.0, Attachment A at 31.

2. *MidAmerican's Position*

In general, MidAmerican supports Staff's changes to Section 280.110. MidAmerican, however, argues Staff's proposed language in subsections 280.110 c) 2 and d) is vague and could be interpreted that once a payment has posted to an account, a refund must occur within 10 days. MidAmerican contends it can take longer than 10 days for a payment to clear a financial institution. Consequently, MidAmerican concludes it is unreasonable that a utility be required to refund a payment that has not cleared the customer's financial institution.

MidAmerican is also concerned with the requirement that interest be paid on all overpayments. MidAmerican argues a utility should not have to pay interest to a customer who intentionally overpays for services rendered or has a credit as a result of a Low Income Home Energy Assistance Program (LIHEAP) grant or other assistance

payment. In MidAmerican's case, the contract with the state of Illinois requires that the customer's account be credited when the company is notified the grant amount is approved, not when the grant is actually received. MidAmerican Ex. 2.0 at 27, lines 599-604. In fact, LIHEAP customers are already getting the benefit of the funds before they are received and avoid late-payment fees. The end result is that the proposed rule penalizes a utility for being flexible by crediting an account prior to receiving the funds. Additionally, MidAmerican noted that it incurs a significant amount of administrative fees associated with the LIHEAP process that is not taken into consideration. *Id.* at 606-611.

Staff argues that it is not trying to transform the utilities into banking institutions, yet its recommended language does just that. MidAmerican contends Staff has not presented an adequate reason why this requirement is necessary. If Staff's intent is to ensure timely refunds for overpayment, Staff has addressed it in its proposed language in 280.110 c)2), which requires a refund be issued within 10 days of a customer's request. As noted above, utilities should only be required to pay interest if the utility incorrectly overcharged the account.

Analysis & Conclusions

The Commission finds it is reasonable to adopt Staff's proposed language with the modifications to subsections 280.110 c) 2 and d) as suggested by MidAmerican.

IX. SUBPART H: PAYMENT ARRANGEMENTS

A. Section 280.120 Deferred Payment Arrangements (DPAs)

1. Staff's Position

The current Part 280 provides a detailed description of deferred payment arrangements ("DPA"). Staff's revision has maintained much of the same structure from the current DPA Section. The major change in Staff's proposed rule is the removal of the reinstatement limit of one per DPA. The current rule allows for a customer to reinstate a defaulted DPA just once. After a second default on the reinstated DPA, the customer is subject to disconnection unless the entire amount owing is paid. Staff Ex. 1.0 at 16, lines 349-355. Staff believes an additional DPA will allow customers to catch up on their accounts and avoid disconnection. *Id.* at 356-358.

2. MidAmerican's Position

MidAmerican generally supports Staff's revisions, but MidAmerican initially expressed concern regarding concurrent DPAs. Staff addressed MidAmerican's concern in its revised Section 280.120. Staff Ex. 2.0 at 68-69, lines 1564-1590. MidAmerican stated it works in good faith with its customers and is not opposed to automatically reinstating customers' defaulted payment arrangements when they are

making genuine efforts to pay off their past due debt each month in addition to current bills. MidAmerican contends that there are practical concerns with implementing rules as currently proposed. MidAmerican suggests the Commission adopt the following changes to improve or clarify portions of Staff's proposed rule.

280.120 2)A) and B)

Section 280.120 2)A) and B) requires utilities to notify the customer of the default by providing the reinstatement amount for the DPA. MidAmerican argues providing the reinstatement amount on the next bill or by written notice would confuse customers because it implies a specific amount is needed to reinstate the DPA. However, this amount could change by the time the next bill is issued or written notification is sent. For example, under Staff's proposed language, a customer who had a total amount due of \$300 on the current bill and paid only \$200 would be notified that he or she needed \$100 to reinstate the payment agreement on the next bill. If the customer's initial \$200 payment was returned, the \$100 would no longer be accurate. Since transactions do occur between billings, notification to the customer that a payment agreement may be reinstated without displaying the reinstatement amount is more reasonable because it allows an opportunity for the customer to call the utility and ask questions about the terms and conditions of reinstating a DPA. See Staff Ex. 2.0, at 67, lines 1530–1540.

Section 280.120 f) 1)

MidAmerican proposes deleting Section 280.125 and including the requirements for low-income customers into the DPA Section in 280.120. Therefore, MidAmerican included the down payment requirements for low-income customers to this section.

Section 280.120 j) 2)

Section 280.120 j) outlines DPA reinstatement guidelines. Subsection 280.120 j) 2) implies a customer will be disconnected immediately following the default of a payment arrangement. MidAmerican noted it is not unusual for a customer to maintain service for several months after defaulting an arrangement, most commonly due to temperature restrictions that delay disconnection. MidAmerican contends automatically reinstating defaulted payment arrangements after subsequent billings will require extensive customer service system changes, as the utilities will need to constantly calculate and track the reinstatement amount. To resolve this issue, MidAmerican contends it is more efficient to implement and more clear to a customer if the automatic reinstatement was limited to a timeframe prior to the next billing statement.

Section 280.120 k) 3)

In response to MidAmerican's concern regarding the extension of renegotiated agreements, Staff's proposed additional revisions to Section 280.120 k)3). Staff Brief at 60. MidAmerican agreed with Staff's revisions. MidAmerican Reply Brief at 33-34.

Section 280.120 n)

As noted above, MidAmerican proposes to combine Section 280.125 with Section 280.120. MidAmerican suggests that the language from Section 280.125 e) be moved to Section 280.120 n).

Analysis & Conclusions

The Commission finds it is reasonable to adopt Staff's proposed language with the modifications to subsections 280.120 2)A) and B), f)1), j) 2), and n) as suggested by MidAmerican.

B. Section 280.125 Deferred Payment Arrangements for Low Income Customers

1. *Staff's Position*

Staff supports its proposed language for this Section and argues the Commission should adopt its proposed language. Staff Initial Brief at 60-61.

2. *MidAmerican's Position*

In its initial testimony, MidAmerican recommended combining the low-income DPA section with the DPA section in Section 280.120. Staff Ex. 2.0 at 70, lines 1594-1603. Staff asserted MidAmerican's changes are broad, and MidAmerican respectfully disagrees. Other than incorporating the majority of Section 280.125 into Section 280.120, the changes were minimal and the intent was to incorporate the low-income section into the existing payment arrangement section to make the rules more concise and easier to follow.

MidAmerican recognizes that it excluded the reinstatement fee waiver clause for low-income customers. MidAmerican observed that Staff did not provide a rationale basis for excluding the reinstatement fee waiver clause for low-income customers. MidAmerican stated it did not object to adding this requirement in Subsection j)3) if the Commission makes a specific determination that the reinstatement fee waiver does not violate Section 9-241 of the Act.

Analysis & Conclusions

The Commission finds it reasonable to adopt MidAmerican's changes.

X. SUBPART I: DISCONNECTION

A. Section 280.130 Disconnection of Service

1. Staff's Position

Staff modified its originally proposed language in this section to more accurately reflect the requirements of the proposed Section 280.140. Staff Ex. 3.0, Attachment A at 37. Staff's revision of the Section 280.130 contains several updates to the procedures and requirements for disconnection. For example, the current rules requires that a utility representative first knock on a customer's door before disconnecting service and Staff noted that the requirement is outdated and removed the requirement from its proposed rules. Additionally, Staff's made modifications to subsections 280.130 b) and c) in its final draft.

2. MidAmerican's Position

In general, MidAmerican supports the intent behind Staff's revisions to Section 280.130. MidAmerican also suggested additional revisions to further clarify disconnection requirements as explained further below.

Section 280.130 e) 1) and 2)

Section 280.130 e) sets forth requirements for disconnection notices. Staff argues disconnection represents such a serious escalation that it must be accompanied by a physical notice. Staff Ex. 2.0, at 73, lines 1685-1686. MidAmerican agrees that disconnection is a very serious matter, but respectfully disagrees that it requires a physical notice in all instances. MidAmerican's revisions allow the flexibility to use electronic communications to customers, and MidAmerican offers language that is specifically requires the customer must indicate electronic communication is its preferred method of delivery.

MidAmerican recognizes that historically, sending a paper notice of disconnection through the mail was the preferred method of communication. MidAmerican Ex. 2.0 at 35, lines 765-767. However, mailing a notice takes longer for a customer to receive it compared to electronic communications, and technology has made electronic options reliable and secure. *Id.* at 767-769. Consequently, customers are increasingly more interested in receiving communications in an electronic format rather than by mail. Customers are not only interested, but some customers expect companies they do business with to provide electronic communications for all business dealings. *Id.* at 770-774. There are a number of reasons a customer may not want paper mail, and a customer should have that choice. Staff's proposed rules take

flexibility away from customers and dictate the type of information they must receive from their service providers.

Section 280.130 g) 2)

MidAmerican maintains the term “effective date” is confusing since customers are generally accustomed to the use of the term “due date.” MidAmerican understands Staff’s position that the disconnection notice is not about money due, but rather another problem that needs remedy. MidAmerican argues that there is a date by which action must be taken to remedy the problem and avoid disconnection. Most customers understand that date for the remedy to be a “due date,” not an “effective date.” Therefore, to eliminate customer confusion, MidAmerican recommends the Commission revise its final rules to reflect “due date” instead of “effective date.”

Section 280.130 i)

Section 280.130 i) outlines the notification required for a disconnection notice when there is not a customer at the premises. MidAmerican argued for more flexibility in communicating the disconnection notice to customers. MidAmerican suggested changes that included “delivery” of the notice. MidAmerican Revised Attachment A at 76. Staff contends it does not object to utilities making occupants aware of the need to apply for service by means other than a written letter, Staff, however, noted it was uncertain as to what those other means would be. Staff Brief at 65. MidAmerican noted earlier that it obtains a final read of its meters, so it would be effective for MidAmerican to also leave a door tag instead of a notice on its intent to disconnect the property. Consequently, it appears Staff would not have an objection to a door tag, and MidAmerican’s revisions to Section 280.130 i) are reasonable and should be adopted by the Commission as reflected in Attachment A.

Section 280.130 i) also requires the utility to send a duplicate warning to the landlord or property manager prior to disconnection. MidAmerican contended that Section 280.35 sets forth a comprehensive plan for landlords or property owners to manage their accounts. MidAmerican argued the utility should not have additional requirements beyond those set forth in Section 280.35 for landlords/property owners who choose to not have a landlord agreement. MidAmerican revisions to Section 280.130 i) are reasonable and should be adopted by the Commission.

Analysis & Conclusions

The Commission finds it is reasonable to adopt Staff’s proposed language with the modifications to subsections 280.130 e)1) and 2, g)2) and i) as suggested by MidAmerican.

B. Section 280.140 Disconnection for Lack of Access

1. *Staff's Position*

Staff supports its most recent proposed language of the Section attached to Staff's surrebuttal testimony. Staff Ex. 3.0, Attachment A at 46-47.

2. *MidAmerican's Position*

MidAmerican agrees with Staff's proposed language and supports the Commission's adoption of the Section 280.140 in the final rule.

3. *City of Chicago's and GCI's Position*

The City of Chicago and GCI propose deleting Section 280.140 in its entirety. In its brief, GCI argues that Section 280.140 should be restricted to situations where the utility has verified that paying tenants in a building may provide access to the meter that would save them from disconnection. GCI Brief at 75-76. GCI has also offered language in subsection 280.140 f) that would allow for the same day reconnection to the premises if access is provided. MidAmerican does not object to this language. Since Staff's rules are reasonable and contain customer safeguards, it is reasonable for the Commission to adopt Staff's proposed language.

Analysis & Conclusions

The Commission finds it is reasonable to adopt Staff's proposed language with the modifications suggested by GCI in subsection 280.140 f).

C. Section 280.150 Disconnection of Master Metered Accounts

Staff's proposed Section 280.250 was not opposed by any party. Accordingly, the Commission adopts Section 280.250.

XI. SUBPART J: MEDICAL CERTIFICATION

A. Section 280.160 Medical Certification

1. *Staff's Position*

Staff made revisions to the current rules temporarily protecting a customer's service from disconnection when a medical condition is certified. Staff noted many flaws the current rule has and its revision proposed to correct all of the problems Staff identified in testimony. Staff Ex. 1.0, at 20-22; Staff Ex. 2.0, at 81-82, 85.

2. *MidAmerican's Position*

MidAmerican agreed with Staff that the existing Part 280 rules contain a variety of flaws and that rather than offering renewals, a flat 60-day certification period would be clearer and requires less work from all parties. Staff Ex. 2.0 at 82, lines 1868-1874, MidAmerican Ex. 2.0 at 40, lines 885-887. MidAmerican suggested additional revisions to further clarify disconnection requirements as explained below.

Section 280.160 a)

MidAmerican pointed out Staff's language is confusing because the certification period is 60 days while a customer is required to set up a medical payment arrangement (MPA) within 30 days. MidAmerican advocates that a customer should be allowed to set up a MPA within the 60 day certification period. Therefore, MidAmerican suggests the Commission clarify that a customer must enter into a payment agreement to retire the past due debt during the 60 day certification period.

Section 280.160 h)

Section 280.160 h) sets forth the requirements and timelines for establishing a MPA. MidAmerican suggested minor changes to clarify that customers have more flexibility to make a payment or enter into a MPA within the 60-day certification period. Accordingly, it is reasonable for the Commission to accept MidAmerican's revisions.

Section 280.160 i)

Staff's proposed Section 280.160 i) allows for a customer to seek a new medical certificate after previous 60-day certificate expires. MidAmerican concurs with the concerns expressed by utilities and agrees that the proposed rules already offer a great deal of flexibility to customers with medical conditions. MidAmerican argues Staff's proposed language may lead to customers abusing the purpose of the medical certification. The medical certification is intended to extend service in the event of a medical emergency. Staff's proposed language, however, allows a customer to continually avoid paying the utility bill due to a medical condition.

MidAmerican proposed striking Subsection 280.160 i)2) to limit recertification only when a customer's total account balance is brought current. This revision balances a customer's need for more flexibility to pay its utility bill with the utility's right to collect payment for services. Accordingly, it is reasonable for the Commission to adopt the revisions.

Analysis & Conclusions

The Commission finds it is reasonable to adopt Staff's proposed language with the modifications suggested by MidAmerican in subsection 280.160 a), h) and i).

XII. SUBPART K: RECONNECTION

A. Section 280.170 Timely Reconnection of Service

1. *Staff's Position*

Staff supports its originally proposed language in Section 280.170. Staff structured this proposed section to mirror the timing requirements found in Staff's proposed Section 280.30 Applications for Service. Staff Ex. 1.0 at 22-23.

2. *MidAmerican's Position*

MidAmerican agrees with Staff's proposed language and supports the Commission's adoption of the Section 280.170 in the final rule. Staff's proposed timelines are fair and achievable and should not be modified. Staff Ex. 1.0 at 22-23, lines 491-510. Staff's language is reflected in Attachment A.

3. *GCI's Position*

GCI proposed to reduce the required calendar days to reconnect service. GCI Ex. 1.2 at 52. Additionally, GCI proposed to strike subsection 280.170 f), which allows for a temporary exception for unforeseen circumstances.

Analysis & Conclusions

It is unreasonable to strike language that allows for a temporary exception for unforeseen circumstances, as the rules require a utility to demonstrate that it is taking diligent action to remedy the overload. Therefore, Commission finds Staff's proposed timelines and exemptions are fair, achievable and reasonable. The Commission adopts Staff's Section 280.170.

B. Section 280.180 Reconnection of Former Residential Customers for the Heating Season

Staff's proposed Section 280.250 was not opposed by any party. Accordingly, the Commission adopts Section 280.250.

XIII. SUBPART L: UNAUTHORIZED SERVICE USAGE

A. Section 280.190 Treatment of Illegal Taps

1. *Staff's Position*

Staff supports its originally proposed language for this topic that requires notice to property owners when a utility discovers an illegal tap. Staff Reply Brief, Attachment A at 56. Staff made minor changes to the language and structure to the section regarding illegal taps. In its testimony, Staff explained that these policies are not new and utilities should have most of the processes in place to comply with them. Staff Ex. 2.0 at 87, lines 1995–1997. The requirements of current Part 280.105 mirror Section 8-303 of the Act.

2. *MidAmerican's Position*

MidAmerican agrees with Staff's addition of titles and the creation of smaller paragraphs. In some instances however, Staff's proposed language goes beyond the requirements prescribed in the Act. For example, a utility has no authority to require a property owner to rewire or re-pipe. MidAmerican offers a revision to Section 280.190 c) that clarifies that a utility is not required to instruct the property owner to remove the tap.

Additionally MidAmerican agrees with ComEd's suggested language that allows a utility to recover "all related expenses incurred by the utility."

Analysis & Conclusions

The Commission finds it is reasonable to adopt Staff's proposed language with the modifications suggested by MidAmerican in subsection 280.190.

B. Section 280.200 Tampering

1. *Staff's Position*

Staff supports its originally proposed language that provides for recovery of any unauthorized usage by a customer who tampers. Staff Reply Brief, Attachment A at 57.

2. *MidAmerican's Position*

MidAmerican generally agrees with Staff's proposed language in Section 280.200 and 280.205. MidAmerican argues Staff's proposed Section 280.200 does not allow utilities to disconnect service for residential customers. Section 280.205 allows utilities to disconnect for non-residential service. Staff Ex. 1.0 at 24-25; Staff Ex. 2.0 at 88.

MidAmerican notes Staff recognizes that utilities may disconnect for safety issues as a result of tampering. Staff Initial Brief at 75. MidAmerican points out Staff is making a distinction where there are no differences. Disconnection of service is appropriate when a customer has tampered with a utilities service, regardless of the class of service. This is an unsafe and illegal act, and Staff has provided no rationale for leaving service on for a person who has tampered with a utility's property.

To remedy this discrepancy between Section 280.200 and 280.205, MidAmerican proposed moving Staff's subsection f) from 280.205 and placing it in a new subsection f) in 280.200. Re-organizing Section 280.00 makes Section 280.205 unnecessary. Therefore, MidAmerican struck section 280.205. MidAmerican argues its proposed changes treat customer classes equally and are reasonable and should be adopted by the Commission.

Analysis & Conclusions

The Commission finds it is reasonable to adopt the modifications suggested by MidAmerican in subsection 280.200.

C. Section 280.205 Non-Residential Tampering

1. Staff's Position

Staff supports its originally proposed language.

2. MidAmerican's Position

MidAmerican proposed to combine Section 280.205 with Section 280.200.

Analysis & Conclusions

The Commission finds it is reasonable to delete subsection 280.205.

D. Section 280.210 Payment Avoidance by Location (PAL)

1. Staff's Position

Staff revised its original proposed language of Section 280.210 in its surrebuttal testimony. Staff Ex. 3.0 at 21-22. Staff argued its language proposed earlier in rebuttal testimony was too complicated and therefore, aimed to simplify the language without allowing for the involuntary reassignment of debt responsibility from one person to another. Staff contends the proper way to look upon the problems caused by individuals who engage in this behavior is one of risk assessment rather than shared culpability.

Therefore, Staff proposed that a simplified standard of proof of PAL should be co-habitation of the former customer and the new applicant during both the accrual of the former customer's debt and the new application for service. Staff contends its proposed language allows for a single remedy in this occurrence which consists of a refundable deposit that must be paid in full before service is granted to the new applicant. Staff Ex 3.0 at 21- 22, lines 477-496.

2. *MidAmerican's Position*

MidAmerican noted it accepts the language in Section 28.210 proposed by Staff in its surrebuttal testimony.

Analysis & Conclusions

The Commission finds it is reasonable adopt Staff's proposed subsection 280.210.

XIV. SUBPART M: COMPLAINT PROCEDURES

A. Section 280.220 Utility Complaint Process

1. *Staff's Position*

Staff supports its originally proposed language on this topic. Staff Ex. 2.0 at 90.

2. *MidAmerican's Position*

Section 280.220 sets forth the general steps that a utility should follow when it receives a customer complaint. MidAmerican generally agrees with Staff's proposed language with the exception of Section 280.220 i)1).

Section 280.220 i)1) requires a utility representative to advise the customer that if they do not accept the resolution they have the right to escalate the complaint to supervisory personnel for further review and response. MidAmerican agrees with Nicor that this requirement undermines the utility representative's ability to resolve an issue. See Nicor Ex. 2.0 at 6, lines 128-132. MidAmerican argues this requirement is prescriptive and micromanages a utilities operations, and, as Nicor pointed out, this requirement may have the unintended consequence of increasing the number of customers seeking an escalation of the matter. The escalation may ultimately frustrate the customer when they receive the same response from the supervisor. *Id.* at 6-7, lines 132-135. Nicor also argued it is unreasonable to require a company to incur expenses to revise its processes and systems as well as increase staffing to meet these proposals." See Nicor Ex. 2.0 at 7, Lines 140-143.

Analysis & Conclusions

The Commission finds it is reasonable to adopt the modifications suggested by Nicor and supported by MidAmerican in subsection 280.220 i).

B. Section 280.230 Commission Complaint Process

Staff's proposed Section 280.250 was not opposed by any party. Accordingly, the Commission adopts Section 280.250.

XV. SUBPART N: INFORMATION

A. Section 280.240 Public Notice of Commission Rules

1. Staff's Position

In its Initial brief, Staff found Ameren's changes acceptable, and MidAmerican agrees with those changes. Staff Initial Brief at 79, Ameren Ex. 4.1 at 65.

Analysis & Conclusions

The Commission finds it is reasonable to adopt Staff's language in subsection 280.240.

B. Section 280.250 Second Language Requirements

Staff's proposed Section 280.250 was not opposed by any party. Accordingly, the Commission adopts Section 280.250.

C. Section 280.260 Customer Information Packet

1. Staff's Position

Staff supports its originally proposed language on this topic. Staff Ex. 2.0 at 93-94.

2. MidAmerican's Position

Staff revised Section 280.260 to outline specific information utilities must provide in Customer Information Packets, and MidAmerican generally agrees with Staff's proposed language and supports the clarifications to this section. MidAmerican, suggested a few clarifications be added to Section 280.260 b)2 A) and B), along with modification to Section 280.260 d) as explained further below.

Section 280.260 b) 2) A)

In Staff's direct testimony, it indicated that it was including "standardized consumer information content and distribution requirements." Staff Ex. 1.0 at 30, lines 669-670. Staff's proposed "procedures for billing" and "estimated bill process" requirements are overly broad, and Staff did not provide any explanation of the level of detail they expect. On cross-examination, Staff clarified that it did not intend for utilities to include the billing logic used to determine an estimated bill. Tr. at 806, lines 1-4.

In its reply brief, Staff noted that MidAmerican's modification for 280.260 b) 2) A) was acceptable, but unnecessary. Staff Reply Brief at 135. Staff, however, indicated that it did not support MidAmerican's revision to 280.260 b) 2) B). Staff indicated it anticipated that the utility would at least explain briefly the general components (past usage, weather, etc.) that go into its estimating process without diving into detailed economic formulas. *Id.*, see also Staff Initial Brief at 80-81.

Staff also added a new requirement that adopts GCI's suggestion that Low-income customer rights and the method to qualify for those rights be described in the customer information packet. Staff Initial Brief at 81-82. MidAmerican does not support including this requirement in the customer information packet since MidAmerican is already required to send out customer notices with this same information on a yearly basis. The requirements for low income eligibility change from year to year and MidAmerican sends out updates to notify customers of those changes. Including this information in the customer information packet will lead to outdated information in a customer information packet over a year old. Utilities are only required to send a customer information packet when a customer begins service. If the customer then refers back to that customer information packet a year later, the information will have changed, and the customer may then become confused and frustrated. MidAmerican does not dispute that this information is important to communicate to customers. However, utilities are already providing the information to customers in accordance with the contracts they have with the community action agencies who administer the funds.

Section 280.260 d)

Section 280.260 d) requires utilities to provide a copy of the Customer Information Packet to the Commission's Consumer Services Division each time it is revised. MidAmerican agrees with this requirement. Staff's proposed language, however, also places an arbitrary requirement that the revision be provided at least 45-days in advance of a customer being provided a copy. This implies that Staff would be making suggested revisions. In Staff's testimony, it is noted that they will need to work with utilities to ensure that the Customer Information Packets are accurate and useful. Staff Ex. 2.0 at 93-94, lines 2138-2142. MidAmerican is not opposed to suggestions and would welcome input. MidAmerican argues Staff has not provided any justification why this review is necessary.

Analysis & Conclusions

The Commission finds it is reasonable to adopt the modifications suggested by MidAmerican in subsection 280.260.

D. Section 280.APPENDIX A: Disconnection Notice

1. Staff's Position

Staff's proposed Appendix A prescribes information and terms for utilities to use when sending disconnection notices.

2. MidAmerican's Position

MidAmerican argues the information and terms proposed to Appendix A – Disconnection Notice (Notice), is confusing and in some cases irrelevant. Specifically, the “Issuance Date” may be confused with the ten-day “Due Date.” Staff's proposed changes to Appendix A also require utilities to list an “effective date,” which may be easily mistaken for the due date. Therefore, MidAmerican recommends minor changes to clarify the proposed Notice. The proposed changes to Appendix A do not change Staff's objectives in providing relevant information regarding disconnection and merely clarifies the reasons for disconnection. Accordingly, the Commission should incorporate MidAmerican's changes into its final rule.

E. Section 280.APPENDIX B: Customer Rights Insert for Disconnection Notice (Appearing on the reverse side of disconnection notices sent to residential customers)

Staff's proposed Appendix B was not opposed by any party. Accordingly, the Commission adopts Appendix B.

F. Section 280.APPENDIX C: Public Notice

1. Staff's Position

Staff supports its proposed Appendix C.

2. MidAmerican's Position

MidAmerican generally supports Staff's proposed language. However, as noted in comments to Section 280.240, MidAmerican requests that the requirement to send a

written notice annually be deleted and reworded to only require information be posted on a utility's Web site. MidAmerican argues the requirement to send a written notice annually is redundant since utilities are required to send identical information in other sections of Staff's revised Part 280, and it is reasonable for the Commission to omit this requirement from its final rules.

Analysis & Conclusions

The Commission finds it is reasonable to adopt Staff's Appendix C as modified by MidAmerican.

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

1. Staff's Position

Staff supports its proposed Appendix D.

2. MidAmerican's Position

MidAmerican suggested made minor changes to clarify this Insert.

Analysis & Conclusions

The Commission finds it is reasonable to adopt Staff's Appendix D as modified by MidAmerican.

XVI. GCI's Proposed Subpart O

1. Staff's Position

Staff did not propose or support a separate and expanded reporting Section. Staff Ex. 2.0 at 96-97.

2. GCI's Position

GCI proposed a list of 21 data requirements, with 13 sub-requirements, and GCI explained that this information would be valuable in formulating utility service access and bill collection policies. GCI Ex. 1.0 at 16, lines 404-405. GCI, however, has not explained how this specific data would be put to use or how the information requested is relevant to access to utility service. GCI has indicated that its goal is to require uniform definitions and formats so that the information can be compared across Illinois utilities. *Id.* At 17, lines 435-436. However, many of GCI's information reporting requirements are not clearly defined and may mean something different to each utility. The end result

is that GCI is not going to obtain consistent data from all the utilities due to size, and operational differences, and these differences will render the data meaningless.

Moreover, GCI's data requirements completely ignore the fact that Illinois utilities already work with Staff and the Commission to respond to information requests. As Nicor pointed out in testimony, to the extent any party seeks relevant information in connection with a Commission proceeding, there are procedural processes in place to address the exchange of information. Nicor Ex. 3.0 at 55, lines 1279-1282. Moreover, utilities provide Staff with various data that are rolled up into annual reports and are made available to the public.

Nicor also noted that the National Association of Regulatory Utility Commissioners' (NARUC) Consumer Affairs Subcommittee report recommended the survey as a tool to gather data. *Id.* at 1286-1291. Yet, the information GCI recommends that the Commission collect is much different from the data requirements outlined in the NARUC report. Consequently, GCI has not demonstrated a need for these reporting requirements.

Analysis & Conclusions

The record reflects GCI's request is simply unreasonable, overly burdensome and does not provide any customer benefit. Therefore, Commission rejects GCI's proposed data requirement section.

XVII. Conclusion

The Commission, having considered the entire record and being fully advised in the premises, is of the opinion and finds that:

- (1) the Commission has jurisdiction over the parties hereto and the subject matter herein;
- (2) the recitals of fact set forth in the prefatory portion of this order are supported by the record and are hereby adopted as findings of fact;
- (3) the proposed amendment 83 Ill. Adm. Code Part 280, as reflected in the attached Appendix A, should be submitted to the Joint Committee on Administrative Rules to begin the second notice period.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the proposed amendment to 83 Ill. Adm. Code Part 280, "PROCEDURES FOR GAS, ELECTRIC, WATER AND SANITARY SEWER UTILITIES GOVERNING ELIGIBILITY FOR SERVICE, DEPOSITS, BILLING, PAYMENTS, REFUNDS AND DISCONNECTION OF SERVICE," as reflected in the attached Appendix, should be

submitted to the Joint Committee on Administrative Rules, pursuant to Section 5-40(c) of the Illinois Administrative Procedure Act.

IT IS FURTHER ORDERED that subject to the provisions of 83 Ill. Adm. Code 200.880, this Order is not final; it is not subject to the Administrative Review Law.

By Order of the Commission this - ____ day of _____, 20__.

(SIGNED) CHARLES E. BOX
Chairman