

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Ameren Illinois Company d/b/a Ameren Illinois)	
)	ICC Docket No. 11-0279
Proposed General Increase in Electric Delivery)	
Service Rates)	
)	consolidated with
Ameren Illinois Company d/b/a Ameren Illinois)	
)	ICC Docket No. 11-0282
Proposed General Increase in Natural Gas Rates.)	

REPLY BRIEF

On behalf of

RETAIL GAS SUPPLIERS

Consisting of

**Interstate Gas Supply of Illinois, Inc.
Dominion Retail, Inc.**

Christopher J. Townsend
Christopher N. Skey
Michael R. Strong
DLA Piper LLP (US)
203 N. LaSalle Street, Suite 1900
Chicago, IL 60601
christopher.townsend@dlapiper.com
christopher.skey@dlapiper.com
michael.strong@dlapiper.com

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REPLY BRIEF OF THE RETAIL GAS SUPPLIERS

The Retail Gas Suppliers (“RGS”), consisting of Interstate Gas Supply of Illinois, Inc. (“IGS”) and Dominion Retail, Inc. (“Dominion”), by and through its attorneys, DLA Piper LLP (US), pursuant to Section 200.800 of the Rules of Practice of the Illinois Commerce Commission (“Commission”) (83 Ill. Admin. Code 200.800), respectfully submits its Reply Brief in the instant proceeding addressing the proposed general increase in gas rates of Ameren Illinois Company d/b/a Ameren Illinois (“Ameren”).

IX.

PROPOSED SMALL VOLUME TRANSPORTATION PROGRAM

A. Introduction

RGS has proposed implementation of a mass market natural gas choice program in the Ameren service territory – the only major utility service territory in the State of Illinois on either the natural gas or electric side that currently lacks such a choice program. To facilitate development and implementation of that program, RGS has proposed that the Commission order a collaborative workshop process in which all interested stakeholders would be able to participate in the formulation of the choice program. RGS’s workshop proposal is straightforward and clear, and is entirely consistent with Commission practice and orders in

numerous previous proceedings involving implementation of new programs and improvement of existing programs.

RGS's proposal has been endorsed by the Illinois Competitive Energy Association ("ICEA"), a trade group representing numerous additional competitive suppliers. (*See* ICEA Initial Brief (Revised) at 2, 4-5 ("ICEA strongly supports a collaborative approach such as that proposed and detailed by RGS witness Crist which would allow input from all parties and ensure a wide and full exchange of ideas and specifics.")) ICEA's support of RGS's proposal demonstrates a consensus in the supplier community that a mass market natural gas competitive program in Ameren's service territory is viable and desirable – if it were not viable and desirable, suppliers would not be expending their limited resources to pursue such a program, and would instead dedicate those resources to other existing choice markets.

Similar views on RGS's proposal have been expressed by other parties. The Citizens Utility Board ("CUB") "agrees with [RGS witness] Mr. Crist that 'a properly designed choice program benefits all stakeholders.'" (CUB Initial Brief at 2.) CUB has acknowledged that it does not oppose the development of a mass market gas choice program for Ameren's customers and likewise does not oppose RGS's proposed workshop process. (*See id.* ("a workshop process would be beneficial to the parties to vet the many issues that require resolution..."); *see also* RGS Cross Exhibits 9 and 10, in which CUB confirming CUB's positions.) Except as noted below, neither the Illinois Attorney General, nor any other party to the proceeding has objected to, or even commented upon, RGS's proposal.

Throughout the course of this proceeding, Ameren repeatedly has expressed that it does not oppose implementation of a mass market natural gas choice program. (*See, e.g.*, AIC Ex. 35.0 Rev. at 18:327; AIC Ex. 52.0 at 8:157-159; Tr. 77:1-7, 557:12-19, 564:18-565:1.)

Ameren's position was reiterated at the evidentiary hearing, when counsel for Ameren during a colloquy about the scope of issues in the proceeding stated unequivocally: "[Ameren witness] **Ms. Seckler's position is clear, as is the company's. The companies do not oppose retail gas choice.**" (Tr. 599:2-4 (emphasis added).) Ameren also has recognized the Commission's long-standing policy in favor of expanding customer choice in appropriate ways to benefit Illinois consumers. (*See, e.g.*, Tr. 576:18-577:3, 580:11-582:16, 585:19-586:4.) Ameren has also indicated that it is "not opposed to workshops per se." (Ameren Initial Brief at 190.)

Nevertheless, in its Initial Brief Ameren takes the position that a workshop process now would be "premature and redundant." (*Id.* at 192.) RGS strongly disagrees. For the past decade, residential customer choice has expanded throughout Illinois, in both the gas and electric markets, but has not even been introduced to Ameren's residential gas customers. As discussed herein, a workshop would be an appropriate methodology to implement a consensus-based choice program and would inform rather than hamper any yet-to-be-defined process to be undertaken by the Office of Retail Market Development ("ORMD") pursuant to Section 19-130 of the Public Utilities Act ("Act") to identify and suggest solutions to "barriers" to development of the competitive market.

The Commission Staff similarly has not categorically opposed implementation of a choice program, and has recognized the Commission's pro-choice policies. (*See, e.g.*, Staff Initial Brief at 176-177.) However, Staff's position in its Initial Brief regarding mass market choice issues does not directly address RGS's workshop proposal. In its Initial Brief, Staff refers to an RGS proposal for the Commission to "order [Ameren] to begin a small-volume transportation ('SVT') program ..." (*Id.* at 176.) Although RGS originally made the ambitious suggestion that a choice program could be implemented at the conclusion of the instant

proceeding, that is not RGS's current proposal. Staff then states that "Staff recommends that the Commission not order an SVT program for Ameren in this rate case." (*Id.*) Again, that is not responsive to RGS's current proposal for implementation of a workshop process. In fact, in its Initial Brief, Staff never specifically references the workshop process.¹ Staff does appear to now take what might best be described as a "wait and see" approach, invoking the ORMD report under Section 19-130 of the Act. As discussed further in RGS's Initial Brief and herein, Staff's reliance on Section 19-130 is, respectfully, based on a clear misreading of the language and spirit of that statutory provision.

Although support for RGS's workshop process apparently is not universal, neither Staff nor Ameren (nor any other party) has provided a reason why Ameren residential natural gas customers should continue to be the only energy customers among the four largest Illinois energy utilities to not have the option to choose an alternative supplier. Certainly, Section 19-130 of the Act should not be used to block advancement of choice – that would be directly contrary to the specific point of that statutory provision, which is to identify and *eliminate* barriers to competition.

Initial Briefs have shown that the parties do not dispute several key issues regarding RGS's proposed mass market natural gas choice program. First, no party dispute the Commission's strong and longstanding commitment to and policy favoring competition – nor

¹ Staff's only reference to a workshop process in its Initial Brief is in the discussion of Ameren's large volume customer choice program under Ameren Rider T. (*See* Staff Initial Brief at 152.) In that discussion, Staff acknowledges that in Ameren's last rate case (ICC Docket No. 09-0306), Staff raised an issue about competitive customer access to on-system storage assets associated with Ameren's competitive program. (*See id.*) In response, the Commission decided to send Staff and the parties to a workshop process, and Staff notes that that order "set in motion a process that would enable" the Commission to address competitive issues, including in the current rate case. (*Id.*) This reconfirms the Commission's regular and appropriate use of a workshop process to address competitive market design and implementation issues.

could they. (*See, e.g.*, RGS Initial Brief at 3-5.) No party has proposed an alternative model for mass market natural gas choice in Ameren different than the model proposed by RGS expert witness James Crist. (*See, e.g.*, Staff Initial Brief at 176-177; Ameren Initial Brief at 190-192; CUB Initial Brief at 2.) Finally, if the Commission accepts RGS and ICEA's request to implement a collaborative workshop process, no party has refused to participate in the workshop process.

For the reasons set out in RGS's Initial Brief and further developed in this Reply Brief, RGS continues to respectfully urge the Commission to take the necessary steps to bring a mass market natural gas choice program to Ameren by taking the following steps proposed by RGS expert witness Mr. Crist:

- **Order workshops to begin no later than one month after the Final Order lasting no more than six months to develop a tariff that Ameren will then submit, within 45 days of the conclusion of the workshop process, to the Commission for approval.** The workshops should be open to all interested parties, and include representatives from Ameren and Staff. As both RGS and ICEA point out, this approach satisfies the dual goals of robust stakeholder participation and conservation of stakeholder resources, while also recognizing the Commission's central role in resolving competitive issues. (*See* RGS Initial Brief at 6, 8-9, 12-13; ICEA Initial Brief (Revised) at 4-5.)
- **Set the agenda for the workshops to cover filling in the details of RGS's proposal.** Because RGS was the only party to provide an outline for the necessary components of mass market natural gas choice, the Commission should require RGS's proposal -- as set forth in RGS witness Mr. Crist's testimony and Exhibits RGS 2.2 and 2.3 -- to serve as the starting point for all discussions. (*See, e.g.*, RGS Initial Brief at 6-8, 11-12.)
- **Reject any calls for a delay.** The calls for delay by Staff and Ameren should be rejected. (*See* Staff Initial Brief at 176-177; Ameren Initial Brief at 191-192; *but see* RGS Initial Brief at 13-19.) None of the arguments presented in Staff or Ameren's Initial Briefs were supported by the record or provide reason for the Commission to delay a mass market natural gas choice program in Ameren.

Accordingly, RGS respectfully requests that the Commission direct Ameren to implement a mass market natural gas choice program and order Staff and interested stakeholders

to conduct a workshop process to work out the details of the program, at the conclusion of which tariffs should be submitted to the Commission for approval.

B. The Record Contains Clear Evidence Demonstrating The Benefits Of Choice And Detail On Program Design

RGS established in its Initial Brief the voluminous record evidence of the benefits of mass market natural gas choice. (*See, e.g.*, RGS Initial Brief at 7 (providing citations to the record).) This evidence consisted of both expert witness testimony and the Commission’s own findings in reports and Orders. (*See id.* at 3-5, 7, 13-14.) In its rebuttal testimony, RGS specifically addressed the criticism raised in Staff’s direct testimony that the record lacked sufficient “empirical” evidence of the benefits of choice in its Initial Brief. (*See id.* at 13-14; ICEA Initial Brief (Revised) at 3 (“[Ameren’s] concerns have been fully addressed in Mr. Crist’s testimony”).) As ICEA summarized: “the time is right to provide consumers gas choice in the Ameren Illinois service territory.” (*See id.*)

Nevertheless, Staff asserted in its Initial Brief that there is insufficient evidence of the benefits of choice in the record. Specifically, Staff argued that: “RGS failed to show that customers are better off with a SVT [mass market natural gas customer choice] program.” (Staff Initial Brief at 176.) Staff also contended that: “In Staff’s view, the record in this proceeding does not support a finding regarding the benefits of a SVT program.” (*Id.* at 177.) As an initial matter, this argument incorrectly suggests that the Commission would be looking into expanding customer choice for the first time. However, as Staff witness Dr. Rearden recognized, the Commission repeatedly has adopted policies to expand customer choice without requiring empirical proof of the benefits of choice. (Tr. 611:9-13.)

In any event, RGS and ICEA both provided extensive citations to the record evidence supporting the well-recognized customer benefits of choice -- some of which Staff itself

acknowledged. (See RGS Initial Brief at 3-5, 7, 13-14; ICEA Initial Brief (Revised) at 3-5; Staff Ex. 34.0 at 3:62-65 (Staff witness Dr. Rearden acknowledging benefits of competition); Tr. 612:7-613:7 (same).) Dr. Rearden specifically acknowledged certain customer benefits associated with competition. (See, e.g., Staff Ex. 34.0 at 3:62-65.) On cross-examination, Dr. Rearden confirmed these items:

Q. In your testimony, you do note that there are benefits of competition. For example, you noted in your rebuttal testimony that ARGGS can offer a great variety of pricing plans to customers, right?

A. That's one of the, yes, that's one of the things that ARGGS can do.

Q. And you identify fixed price plans noting that they give customers price certainty, right?

A. That's correct.

Q. And Mr. Crist yesterday – did you hear his testimony yesterday?

A. Yes.

Q. He likewise indicated that there are plans that give price certainty like fixed bill plans, right?

A. I understand that, yes.

Q. And you testified that certainly, success in the marketplace is some evidence that ARGGS are offering services that meet their customers' needs, right?

A. I believe I said success in the marketplace is some evidence that ARGGS are offering services that meet their customer needs.

(Tr. 623:7-613:7.)

Consistent with those statements, Dr. Rearden also acknowledged that in other Illinois utility territories that have mass market natural gas competition, the programs have expanded and amount of customer participation has remained strong:

Q. And in initiating the choice program, the Commission hasn't required any empirical support for customers being able to save money underneath those programs, right?

A. No. When the programs were started, there wasn't any empirical data at all. Since then, we've had ten years of experience in Illinois.

Q. And since then, the programs have continued to expand, correct?

A. They have, uh. I may need to ask my attorney something on the side. As far as I know, the number of customers is staying pretty high. Let me put it that way. That has not gone down a lot.

(Tr. 611:9-22.) Even CUB declared that "CUB agrees with Mr. Crist that '[a] properly designed choice program benefits all stakeholders.'" (CUB Initial Brief at 2 (internal citation omitted).)

Thus, contrary to Staff's contentions, the record contains more than sufficient evidence describing the benefits of a mass market natural gas choice program.

RGS also established the justifications for, and stakeholder support of, the workshop process. (*See, e.g.*, RGS Initial Brief at 10-13, 15.) RGS highlighted that the workshop model has been a useful tool for the Commission in the development of choice programs. (*See id.* at 6, 12-13.) Although Staff's Initial Brief is silent on RGS's specific workshop proposal, Staff's Initial Brief acknowledges the Commission's use of a workshop process to address issues associated with Ameren's large volume competitive natural gas program. (*See* Staff Initial Brief at 152). It is also uncontested that the Commission has often used workshops in other similar contexts to deal with competitive issues. In neither those instances nor the present case have parties suggested that additional details need to be developed prior to beginning workshops, or that workshops would be an inappropriate venue to address the implementation issues.

To the contrary, Staff witness Dr. Rearden testified that "You don't need any details to begin a workshop." (Tr. 610:1-2 (quoted in RGS Initial Brief at 15).) Ameren conceded

virtually all of its concerns about program design would be alleviated by the workshop process. (*See, e.g.*, RGS Initial Brief at 10.) Ameren acknowledged that workshops would be an appropriate setting to explore virtually all open issues, specifically noting that the workshop process would mitigate several concerns that Ameren initially described in testimony. (*See, e.g.*, RGS Cross Ex. 3 (Ameren Response to Data Request RGS 5.01); Tr. 567:13-570:12 (Ameren witness Ms. Seckler noting that addressing items in workshops would address Ameren's concerns); RGS Initial Brief at 9-13, 15 (citing to, among other evidence, Ameren statements).) Ameren repeatedly and enthusiastically emphasized that if the Commission orders workshops, Ameren will participate "wholeheartedly" (*See, e.g.*, RGS Initial Brief at 10 (quoting Ameren witness Mr. Nelson).) CUB also has agreed to participate, concluding that:

[I]f the Commission were to agree with RGS that a choice program should be made a priority in Ameren's territory, CUB would agree that a workshop process would be beneficial to the parties to vet the many issues that require resolution before a choice program is instituted.

(CUB Initial Brief at 2.) ICEA agrees with RGS that a collaborative workshop process would be the best way to develop mass market natural gas choice tariffs. (*See* ICEA Initial Brief (Revised) at 4-5.)

In addition, RGS provided substantial evidence supporting its recommendation for the design of a mass market natural gas choice tariff, to which no other party provided an alternative. (*See, e.g.*, RGS Initial Brief at 7-8, 10-11, 15.) Workshops of limited (six month) duration would balance the dual worthy goals of full discussion of operational issues not covered in the present docket and timely development and implementation of a mass market natural gas choice program in Ameren's service territory. (*See id.* at 12-13; ICEA Initial Brief (Revised) at 4-5.) Similarly, in order avoid undue delay, Ameren should file the mass market natural gas choice tariff with the Commission within 45 days of the conclusion of the workshop process.

In sum, there is substantial evidence in the record about the benefits of choice for Ameren residential natural gas customers, including evidence relied upon (and generated) by the Commission itself. Furthermore, there is substantial evidence -- and, notably, no alternative proposals -- regarding RGS's proposed framework for a mass market natural gas choice program, including specific and detailed proposals set out in RGS Ex. 2.2 and 2.3. RGS respectfully requests that the Commission reject all arguments to delay a collaborative workshop process due to suggestions that the record is insufficient, because the record contains substantial support for the Commission to order Ameren to begin a six-month workshop process to implement the program outlined and detailed by RGS.

C. Section 19-130 Counsels For, Not Against, Adopting RGS's Proposal

Under no legitimate reading of the Act would it be appropriate for the Commission to rely upon Section 19-130 to delay workshops and other development of a mass market natural gas choice program. None of the argument in the other party's Initial Briefs undercuts or rebuts RGS's reading of the Section 19-130; indeed, the other party's statements are simply conclusory statements about a future ORMD report required under the statute, without any specific reference to or discussion of the relevant statutory language or the process which will be used to develop that report.

Section 19-130 of the Act requires the Office of Retail Market Development ("ORMD") to review the retail natural gas market, identify barriers to competition, and propose solutions to the barriers ("ORMD Report"). (*See* RGS Initial Brief at 16-17.) The ORMD Report does not create any legal barriers to the Commission ordering development of a mass market natural gas choice program. (*See id.* at 17.) Nor does it make sense to delay expansion of a mass market natural gas choice program while awaiting the ORMD Report; in fact, to do so would be akin to

creating a “barrier” to the development of competition -- which is exactly contrary to what Section 19-130 seeks to have the ORMD identify and *eliminate*. (*See id.* at 17-18.)

Staff and Ameren both suggest that the Section 19-130 report will somehow resolve or address the issues to be addressed in workshops (*See, e.g.*, Staff Initial Brief at 176-77; Ameren Initial Brief at 190-191.) This position is unpersuasive. Witnesses for both Ameren and Staff admitted quite candidly that they had no idea what was going to occur with respect to the preparation of the ORMD report. The straightforward response was provided by Ameren witness Ms. Seckler during cross-examination:

Q. Do you know what the process is going to be for the Office of Retail Market Development to develop that report?

A. I do not.

(Tr. 574:19-22.)

A similar colloquy occurred during Staff witness Dr. Rearden’s cross-examination:

Q. You don’t know whether or not the Office of Retail Market Development is even going to solicit comments before issuing its report, do you?

A. Well, the law says that the Office of Retail Market Development shall gather input from all interested parties as well as from other bureaus within the Commission. So I don’t know if that means they’ll solicit comments or it will be a workshop. I don’t know.

Q. And you don’t know what information the Office of Retail Market Development is going to generate or rely upon, do you?

A. No.

Q. You don’t even know whether staff is going to file comments with the Office of Retail Market Development?

A. I don’t know how the process will work.

(Tr. 617:10-618:5.) Indeed, Dr. Rearden identified a further fundamental problem with reliance on the ORMD Report process – the date by which the ORMD Report is due is unclear even to Staff, and may not occur until July **2013**. (See Tr. 615:21-616:21.) That chronology means that the ORMD Report is over 20 months away – that totally undercuts Ameren’s suggestion that a workshop process in this proceeding would be “premature and redundant.” (Ameren Initial Brief at 192.)

Furthermore, the quoted statements above, take the wind out of Ameren’s rhetorical statement that “the redundancy is all too obvious.” (*Id.* at 191.) Actually, comparing the specific proposal of RGS with the statements above totally refutes the notion of redundancy.

- RGS outlines with a high degree of detail the particular issues to be addressed in workshops and the presentation of several documents delineating initial proposals for those issues. (See, e.g., RGS Initial Brief at 7-8 (citing to testimony and cross examination of Mr. Crist); RGS Ex. 2.2 and 2.3 (providing detailed proposals).)
- Ameren and Staff make vague statements about the notion that the ORMD may or may not hold a workshop or other procedure (at a future time that no one has been able to confirm) on subject matter that neither the Staff nor Ameren can identify *at all*.

On this record, there is absolutely no reason to *assume*, as Ameren and Staff do, that there will be some material redundancy between the RGS proposed workshop and the procedure the ORMD may undertake in the future with respect to its report under Section 19-130. A review of the statutory language confirms this: the ORMD is charged with identifying barriers to the development of the competitive market, while RGS has proposed a specific workshop process *to implement* a competitive program. The vague assertion that those two processes will be “redundant” completely lacks any evidentiary or statutory basis, and is further refuted by the fact that there are a number of other natural gas and electric choice programs currently operating in Illinois, even before the ORMD report process is to be conducted.

The basic flaw in Staff and Ameren's argument is further highlighted by imagining the content of the ORMD report as it applies to Ameren's residential natural gas customers. Remember that the ORMD report must identify "barriers" to development of the competitive market. Accordingly, at most, with respect to the Ameren mass market natural gas choice program (or lack thereof), the ORMD report could only contain one or more of the following evaluations:

- The primary barrier to competition is the inability of residential natural gas customers to choose a supplier due to the lack of a program allowing those customer to choose an their supplier. (*See, e.g.*, Tr. 554:21:-555:3.)
- One cause of that barrier is Staff and Ameren's requests that the Commission refuse to even begin developing a competitive program until this report had been circulated. (*See, e.g.* Staff Initial Brief at 176-177; Ameren Initial Brief at 190-191 (citing to the testimony of Staff witness Dr. Rearden).)
- It is impossible to further evaluate any barriers to competition for Ameren's residential natural gas customers -- aside from those generally applicable to all residential natural gas customers in Illinois -- unless and until the Commission approves a mass market retail natural gas choice program and the program has functioned long enough to determine what barriers, if any, exist. (*See, e.g.*, Annual Report On The Development Of Natural Gas Markets In Illinois dated July, 2003 at 9-10 (noting that, because mass market choice programs remained in their "infancy", "it would be premature to make an assessment on the level of competition for residential and small volume commercial customers in these service territories".))

Any suggestion from Staff that certain issues will or will not be covered in the ORMD Report should be given particularly little weight by the Commission for an additional reason. Although the Staff member who will be primarily responsible for the ORMD Report, ORMD Director Torsten Clausen, testified in this docket, Staff chose to have another witness, Dr. Rearden, testify regarding the ORMD Report as a Staff alternative to RGS's proposed workshops. (*See, e.g.*, Sept. 16, 2011 Staff Motion in Limine at 2-4.) As noted above, Dr. Rearden was unable to identify with any specificity the timing, procedure, or substance of the ORMD Report. (*See* Tr. 615:21-616:21, 617:10-618:5.) Staff counsel reiterated that point in

oral argument regarding Staff's Motion in Limine. (*See* Tr. 972:21-973:9.) Furthermore, an adverse inference may be drawn from Staff's failure to call ORMD Director Clausen as a witness (and Staff's unwillingness to allow him to be cross-examined) that his testimony would have undercut Staff's position. (*See, e.g., Bauer ex rel. Bauer v. Memorial Hosp.*, 377 Ill. App. 3d 895, 916-917, 879 N.E.2d 478 (Ill. App. Ct. 5th Dist. 2007) (factfinder should have gotten adverse witness instruction when adverse party's employees who could testify to central factual issues were not produced).) In other words, Staff has admitted through its words and actions that nobody -- Dr. Rearden, Mr. Clausen, or any other Staff employee -- would provide evidence about what the ORMD Report will or will not cover. As a result, the Commission is left with the plain language of the statute, which is plainly pro-competitive and which provides no basis to oppose RGS's request for a six-month workshop process for all stakeholders to develop tariffs to be presented to the Commission to implement a mass market natural gas choice program. (*See* RGS Initial Brief at 16-17.) Further, the ORMD Report will best serve its purpose if a mass market natural gas choice program is already running in the Ameren service territory, or at least the workshop process is underway, so the ORMD can study any remaining barriers to competition within that operating program.

To the extent that there are any remaining concerns about "redundancy," RGS agrees with Ameren that stakeholders' valuable resources should not be wasted and development of a mass market natural gas choice program should be as efficient as possible -- a goal RGS demonstrated is best achieved by the Commission ordering workshops of a finite duration that conclude with the presentation of a tariff for Commission approval. (*See, e.g., id.* at 8-9, 12-13 (noting balance between efficiency and breadth of stakeholder input in designing workshop process).) ICEA reached the same conclusion, noting:

None of these items [to be discussed in workshops] are quickly addressed. By the same token, however, **workshop discussions with no intended end-date may be wasteful of time and encourage delay**. As such, ICEA asks that the Commission's order clearly set out both a start date and an end date for the workshops with an ultimate goal to have all parties agree on a functioning gas choice program and with the understanding that any items not agreed-upon will be decided by the Commission.

(ICEA Initial Brief (Revised) at 5 (emphasis added).) The compromise between efficient use of resources, stakeholder input, and advancing the Commission's policy favoring competition is best served by ordering a workshop process with a finite (six month) term that concludes with the presentation of a tariff for Commission approval. (*See id.* at 4-5; RGS Initial Brief at 8-9, 12-13.) As RGS and ICEA have explained, delaying residential natural gas choice in Ameren will render the ORMD Report virtually meaningless for Ameren's residential customers and will ultimately lead to the waste and inefficiency that Ameren properly notes the Commission should seek to avoid. (*See also* RGS Initial Brief at 17-18.)

The ORMD Report, with its unknown timing and undefined process, does not provide a legitimate basis to delay development of a mass market natural gas choice program. Beginning a workshop process of finite-duration without delay is the best use of stakeholders' limited resources. RGS respectfully recommends that the Commission direct Ameren and Staff to initiate this process within a month of the Commission's Final Order in the instant proceeding.

XI.

CONCLUSION

RGS respectfully requests that the Commission begin a six-month collaborative workshop process to develop a mass market natural gas choice program, consistent with RGS's proposed framework and more specific proposals, to end in Ameren proposing tariffs for Commission approval within 45 days of the conclusion of the workshop process. No party has

provided any evidence or arguments that justify a delay in expanding choice to benefit Ameren's residential gas customers.

WHEREFORE, RGS continues to respectfully request that the Commission enter an Order:

1. Requiring Ameren to establish up a mass market natural gas competitive market;
2. Initiating, within on month of the Final Order, a workshop process to last no longer than six months, using as a starting point RGS's outline of the necessary components of competition and RGS's explanation of those elements, including the language in RGS Ex. 2.2 and 2.3 to produce a tariff for Ameren to present for Commission approval at the conclusion of the workshop process, and requiring the filing of that tariff with the Commission within 45 days of the conclusion of the workshop process;
3. Granting any additional relief that the Commission determines to be in the interests of justice.

Respectfully submitted,

THE RETAIL GAS SUPPLIERS

By: /s/ Christopher J. Townsend
One Of Its Attorneys

Christopher J. Townsend
Christopher N. Skey
Michael R. Strong
DLA Piper LLP (US)
203 N. LaSalle Street, Suite 1900
Chicago, IL 60601
christopher.townsend@dlapiper.com
christopher.skey@dlapiper.com
michael.strong@dlapiper.com

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

VERIFICATION

Christopher N. Skey, being first duly sworn, on oath deposes and says that he is one of the attorneys for the Retail Gas Suppliers, that he has read the above and foregoing Verified Petition to Intervene, knows of the contents thereof, and that the same is true to the best of his knowledge, information and belief.

Christopher N. Skey

Subscribed and sworn to me
this ___th day of October 2011.
