

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

AMEREN ILLINOIS COMPANY)	
)	
Proposed general increase in electric delivery service rates.)	Docket No. 11-0279
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AMEREN ILLINOIS COMPANY)	
)	
Proposed general increase in gas delivery service rates.)	Docket No. 11-0282 (Cons.)
)	

**MOTION TO WITHDRAW ELECTRIC TARIFF SHEETS AND
SEVER AND TERMINATE DOCKET No. 11-0279**

Pursuant to Section 200.190(a), Ameren Illinois Company (“AIC” or the “Company”) respectfully requests issuance of an Order: (1) severing Docket No. 11-0279 from Docket No. 11-0282; (2) granting to AIC authority to withdraw tariff sheets filed on February 18, 2011 for a general increase in electric delivery service rates; and (3) dismissing Docket No. 11-0279.

AIC seeks the requested relief because recent actions by the General Assembly have rendered the tariff schedules filed in Docket No. 11-0279 obsolete and meaningless. Future electric delivery service rates will be set pursuant to the provisions of newly enacted legislation, and the Illinois Commerce Commission’s (“Commission”) approval of new electric delivery service rates in this case can serve no useful purpose. The General Assembly has established a new regulatory regime for electric delivery service rates and service standards, and the Commission should dismiss this proceeding, so that no further effort is expended on the now-superseded regime.

In further support of its Motion, AIC states:

Procedural Status of This Proceeding

1. On February 18, 2011, AIC filed revised electric tariff sheets pursuant to Section 9-201 of the Illinois Public Utilities Act (“IPUA”), 220 ILCS 5/9-201. The revised electric tariff sheets proposed to increase electric delivery service rates in each of its three electric rate zones. On March 23, 2011, the Commission suspended the revised electric tariff sheets for investigation in Docket No. 11-0279.

2. On April 8, 2011, the Administrative Law Judges granted a motion consolidating Docket No. 11-0279 with Docket No. 11-0282, a docket initiated by the Commission to investigate revised gas delivery services tariff sheets filed contemporaneously by AIC with the electric delivery services tariff sheets being reviewed in Docket No. 11-0279.

3. On July 7, 2011, the Commission re-suspended the tariff sheets in consolidated Docket Nos. 11-0279 and 11-0282 to and until January 17, 2012, the maximum period allowed under Section 9-201 of the IPUA.

4. Hearings were held in this consolidated proceeding on September 12-16, 2011. Initial briefs were submitted on October 11, 2011, and Reply Briefs were submitted on October 25, 2011. To date, the record has not been marked, “heard and taken.” However, no further filings of either testimony or briefs have been scheduled, and this matter awaits only a Proposed Order from the Administrative Law Judges.

Enactment of Senate Bill 1652

5. On August 29, 2011, the Illinois General Assembly sent Senate Bill (“SB”) 1652 to the Governor. SB 1652 provides for an electric delivery services performance-based rate (“PBR”) mechanism to be in effect for a 10-year period beginning in 2012. The purpose of SB 1652 is to promote modernization of electric distribution systems through increased investment,

enhancing reliability and other aspects of service, while creating new jobs and promoting fair and timely cost recovery by utilities.

6. SB 1652 establishes a new ratemaking regime for participating electric utilities. SB 1652 provides that a participating electric utility must commit to specified minimum levels of additional infrastructure investment over the next several years that will create jobs. Additionally, the utility must satisfy various service metrics, including several related to reliability. Rates are to be set based on actual costs as reported on FERC Form 1, with certain components, such as return on equity (“ROE”), calculated pursuant to a legislated formula. The revenue requirement is to be reconciled annually using actual FERC Form 1 data. The utilities are subject to financial and ROE penalties for failure to create the required number of jobs or meet the service metrics, as applicable.

7. The intent of SB 1652 is clear: modernize electric distribution systems and overhaul how rates are set. SB 1652 seeks to properly incentivize investment in and operation of electric systems, and thus provides for fair and timely cost recovery, coupled with financial and ROE penalties.

8. On September 12, 2011, the day that evidentiary hearings began in this consolidated proceeding, the Governor vetoed SB 1652.

9. On October 26, 2011, the Illinois Senate and House overrode the Governor’s veto of SB 1652, and the bill became law. SB 1652 has been designated Public Act 97-0616.

10. On November 1, 2011, the Illinois General Assembly sent House Bill (“HB”) 3036, a “trailer bill” to SB 1652, to the Governor. HB 3036, which would amend SB 1652 in several significant ways, was passed by “veto-proof” majorities in both chambers: 91 to 24 in the House, and 37 to 20 in the Senate.

11. HB 3036 would make some significant changes to SB 1652, including changes to the ROE formula and certain service metrics and penalties. Significantly, it would also mandate the dismissal of Docket No. 11-0279, with prejudice, upon AIC's filing of PBR tariffs.

12. If the Governor signs HB 3036, or if he takes no action on it by January 1, 2012, HB 3036 becomes law. If he vetoes the bill in some respect, it will be returned to the General Assembly for action on the veto.

Significance of SB 1652 and HB 3036 for This Proceeding

13. AIC intends to file PBR tariffs pursuant to the provisions of SB 1652, irrespective of whether HB 3036 becomes law. Accordingly, the purpose of Docket No. 11-0279 has been fully superseded by SB 1652. In Docket No. 11-0279, the Commission is investigating the reasonableness of AIC's revised electric delivery services tariff sheets. A filing by AIC under SB 1652 will effectively re-set (by means of a future reconciliation) electric delivery services rates back to a date that precedes the "drop dead" date by which a rate order in this proceeding must be issued.

14. The Commission should honor the new regulatory regime established by SB 1652 by dismissing Docket No. 11-0279. The Commission should not wait to dismiss the docket until HB 3036 becomes law and the Commission is expressly mandated to do so. The General Assembly's intent is clear, and the Commission should not attempt to interfere with that intent by prolonging Docket No. 11-0279.

15. Pursuant to the Commission's Rules of Practice, motions may be presented under Section 200.190(a) requesting "such other relief or order as may be appropriate." It is pursuant to this authority that the Commission regularly permits utilities to withdraw tariffs sheets and terminate related proceedings. See, e.g., New Landing Utility, Inc., Docket 04-0321 (Sept. 28,

2004); Citizens Telecommunications Co. of Illinois, Docket 01-0515 (Jan. 24, 2002); Illinois Power Co., Docket 01-0012 (Apr. 11, 2001); Central Illinois Light Co., Docket 99-0546, 200 Ill. PUC. LEXIS 220 (Mar. 15, 2000); Apple Canyon Utility Co., 1990 Ill. PUC LEXIS 82 (Mar. 7, 1990). The Commission also has allowed utilities to withdraw ratemaking proposals, prior to a Commission ruling, in light of the impact of enacted legislation. See, e.g., Illinois Bell Telephone Co., Dockets 98-0252, 98-0335 & 00-0764 (cons.) (Dec. 30, 2002), pp. 90-92.

16. It would be unreasonable and a waste of resources for all parties to continue to litigate Docket No. 11-0279. No meaningful purpose would be served by any further expenditure of effort on setting new electric delivery services rates.

17. Nothing in the IPUA, the Illinois Administrative Procedure Act or the Commission's Rules of Practice requires the Commission to continue with this proceeding. The Company's current electric delivery services tariffs remain in full force and effect, and will continue to remain so until such time as the Commission approves new tariffs subsequent to the Company's PBR tariff filing under SB 1652. No party other than AIC advocated the specific rates reflected in the suspended tariffs, and AIC no longer seeks approval of those rates, electing instead to make a filing under SB 1652. Thus, no party has an interest in seeing those specific rates adopted. In any event, the reconciliation under SB 1652 would supersede whatever the approved rates would be. There is no valid legal or policy basis for precluding the withdrawal of tariff schedules and dismissal of the related proceeding in such a situation.

18. The unforeseen change in circumstances (the enactment of SB 1652), which occurred after the conclusion of the evidentiary hearings and the parties' briefing, led to AIC's decision to withdraw the currently filed electric tariffs. AIC reasonably could not have filed this motion earlier in this proceeding and saved the Administrative Law Judges and the parties

significant effort. As indicated above, the Governor vetoed SB 1652 on the day hearings began. At that time, and continuing until late October, the fate of SB 1652 was uncertain. Thus, AIC was compelled to pursue this proceeding in order to achieve fuller cost recovery, as both AIC's evidence and the Staff's evidence show that AIC's electric operations are experiencing a revenue deficiency. That veto was not overridden until the day after reply briefs were due. Further, HB 3036 was not sent to the Governor until last week. Accordingly, AIC could not make any reasoned assessment of the viability of this case until just recently.

19. There is, however, work remaining in this proceeding that can and should be avoided. There is no reason for a Proposed Order on electric tariffs to be issued, or for the parties to submit exceptions and replies to such a Proposed Order, or for the Commission to consider any of those items. The Commission should dismiss Docket No. 11-0279 now.

20. Docket No. 11-0282 should continue on its current schedule, and new gas tariffs should be approved by the "drop dead" date of January 17, 2012. The General Assembly did not approve any change to the regulatory regime for gas delivery services rates or service standards.

WHEREFORE, for all the reasons stated herein, Ameren Illinois Company respectfully requests that the Commission sever Docket No. 11-0279 from Docket No. 11-0282, and dismiss Docket No. 11-0279 with prejudice.

Dated: November 10, 2011

Respectfully submitted,

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