

**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
)	

REPLY BRIEF ON EXCEPTIONS OF THE COMMERCIAL GROUP

Now comes the Commercial Group¹ and hereby files its Reply Brief on Exceptions in this proceeding pursuant to Section 200.830 of the Rules of Practice of the Illinois Commerce Commission (the “Commission”).

I. Response to Staff Exception to VII.B.1 (urging an across-the-board approach) and IIEC Exceptions 7 and 8 (concerning phased-in rate moderation at the subclass level)

The Commission should consider the potential impact of the “freezing” in formula-based rates of its class revenue allocation and rate decision decisions

In this reply brief on exceptions, the Commercial Group urges the Commission to consider the requested exceptions for phased-in or across-the-board revenue allocation and rate design in light of Ameren’s expressed intent of moving toward formula-based rates. *See* Ameren’s November 11, 2011 Motion to Withdraw and Terminate Docket. SB 1652 provides generally that the rate design of the last Commission rate case order for a participating utility continue in the formula-based rates until revised in a subsequent rate design proceeding that may

¹ The Commercial Group is an ad hoc association of retail companies that own and operate retail stores within the service territory of the Ameren Illinois Company (“Ameren” or “AIC”). In this proceeding, the Commercial Group is composed of Best Buy Co., Inc., J.C. Penney Corporation, Inc., Macy’s, Inc., Sam’s West, Inc., and Wal-Mart Stores, Inc.

take place only every three years. This in effect would freeze rate design decisions made in the latest rate case order.

Thus, the Commission should not change the Proposed Order's well-reasoned rejection of Staff's across-the-board allocation approach. As the Commission determined in the 2007 ComEd rate case, "an across the board increase not only goes against movement towards cost-based rates, but would exacerbate conflict between the classes and as such is inequitable for setting rates in this proceeding." Docket No. 07-0566, Final Order (September 10, 2008), p. 213. This is even more true where Staff's across-the-board approach in this current case is designed primarily to correct perceived procedural instead of substantive flaws in Ameren's ECOSS and where that deviation from moving toward cost would be frozen in place by the implementation of formula-based rates.²

Similarly, IIEC takes exception with the Proposed Order's class-level rate mitigation approach and urges instead that rate mitigation be considered at the sub-class level and in each phase of moving the PURA tax toward equal per kwh charges for all customers. If Ameren files for formula-based rates (as it has indicated it will do), it is not clear whether the Commission has authority to adjust PURA tax levels beyond any initial move made in this rate case. Assuming this is true, a phased-in approach would not work at all in that Phase 1 of the three-phase PURA adjustment already produces incongruous results, and freezing those incongruous results in place would clearly be unreasonable and unlawful.

As the Commercial Group pointed out in its initial and reply briefs, DS-3 rates are already well-above cost and would need to *decrease* nearly 20 percent in Rate Zone 2 (and decrease nearly 6 percent in Rate Zone 3) just to get to cost. According to AIC Ex. 13.0E (p.

² Rather than repeating its other arguments on this subject, the Commercial Group directs the Commission's attention to the Commercial Group's initial and reply brief in this proceeding and incorporates them by reference.

20), the PURA tax rate for the DS-3 class is substantially equal to the system average for Rate Zone 1 (99.7%), somewhat below average for Rate Zone 2 (69.9%), and above average for Rate Zone 3 (106.7%). AIC proposed the following changes to DS-3 PURA tax rates (*Id.* at pp. 16-22), which the Proposed Order largely accepted:

	Current Rate	Step 1	Step 2	Step 3
Zone 1	\$0.00129	\$0.0017720	\$0.0015328	\$0.0012936
Zone 2	\$0.00090	\$0.0018249	\$0.0015593	\$0.0012936
Zone 3	\$0.00138	\$0.0017181	\$0.0015058	\$0.0012936

Thus, DS-3 PURA tax rates for all three rate zones would soar to well above the average kwh PURA rate³ in Step 1, i.e., the step taken in this rate case. Zone 1 DS-3, which currently is at the average kwh charge, would rise to 37 percent above “cost” in Step 1, Zone 2 DS-3 PURA rates would double to a level 41 percent above “cost,” and Zone 3 DS-3 PURA rates, which currently already are set above the average “cost,” would also increase substantially. Then in subsequent steps, the PURA tax rates would adjust back toward the system average. However, if PURA tax rates are frozen after Step 1 by the implementation of formula-based rates, they would be frozen at these well-above-cost levels. When combined with the fact that DS-3 base rates are also above cost, i.e., subsidizing other rate classes, such a result would be patently unfair and unreasonable.

So also, implementing rate moderation at the sub-class level (including PURA) could exacerbate this unfair result by freezing subsidies also at the sub-class level.⁴ As the Proposed

³ With the caveat that the “cost” of PURA shall be determined based on the outcome of IIEC’s other PURA arguments, for simplicity, the Commercial Group refers to the average PURA rate of \$0.0012936 as the “cost” rate.

⁴ As AIC witness Jones pointed out (Ameren Ex. 31.0 Rev., p. 30), mitigating the +100 kV DS-4 subclass to a 13.5% increase, for example, would only permit the +100 kV PURA tax rate to increase from 7.7% of the “cost” to only 10.9% of “cost.” This would necessitate nearly 28 more iterations of this step for that DS-4 subclass to reach the average rate and greatly extend the subsidy that other customers would have to bear. Freezing the allocation at the very first step would make this approach even more unreasonable.

Order properly determined (pp. 185-186), applying rate mitigation at the class, instead of sub-class, level would result in progress away from intra-class subsidies.

Of course, a better approach would be to set all rates at cost. Alternatively, if the Commission prefers to implement some rate moderation, it should adopt the Proposed Order's method of setting rates at cost with an increase in revenue from any class limited to no more than 150 percent of the average increase, or a total of ten percent, whichever is greater. Given that the Proposed Order would reduce Ameren's revenue requirement in two of the three rate zones, means that rates may move toward a much better cost foundation for formula rates. In any event, the Commission should ensure that the potential impact of the "freezing" in formula-based rates of its class revenue allocation and rate decision decisions does not result in incongruous and unlawful results that the Commission may not intend.

II. CONCLUSION

WHEREFORE, the Commercial Group respectfully requests that the Commission grant the relief requested herein.

Respectfully submitted this 15th day of December, 2011.

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