

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

AMEREN ILLINOIS COMPANY)	
d/b/a Ameren Illinois)	
Petitioner)	
)	Docket No. 12-0089
Approval of Multi-Year Performance Metrics)	
pursuant to Section 16-108.5(f) and (f-5) of the)	
Public Utilities Act)	

INITIAL BRIEF OF THE CITIZENS UTILITY BOARD

Now comes the Citizens Utility Board (“CUB”), pursuant to Rules of Practice of the Illinois Commerce Commission (“ICC” or “the Commission”), 83 Ill. Admin. Code Part 200, and pursuant to the briefing schedule established by the Administrative Law Judges (“ALJs”) on February 21, 2012, to hereby file this Initial Brief in the above captioned proceeding. This proceeding was initiated to evaluate the Multi-Year Performance Metrics Plan (“Plan”) filed by Ameren Illinois Company (“Ameren” or “the Company”) pursuant to Section 16-108.5(f) of the Public Utilities Act (“PUA”). *See* 200 ILCS 5/16-108.5(f). This section implements the Energy Infrastructure Modernization Act (“EIMA” or “the Act”).¹ The purpose of the EIMA, as described by the General Assembly, is to ensure that the State’s electric utility infrastructure will promote future economic development in the State and that the State's electric utilities will be able to continue to provide quality electric service to their customers, including innovative technological offerings that will enhance customer experience and choice such as smart meters that are dependent on a modernized smart grid. Public Act 97-0616 at 69.

The EIMA mandates that electric utilities, such as Ameren, who opt to recover their delivery services rates through a formula make mandatory infrastructure investments. In Ameren’s case, those investments include \$265,000,000 in electric system modernization

¹ The EIMA is found in Public Act 97-0616, as modified by Public Act 97-0646.

upgrades and \$360,000,000 to upgrade the transmission system and distribution infrastructure and Smart Grid electric system upgrades. 220 ILCS 5/16-108.5(b). These investments are in turn directly linked to the EIMA's implementation of a multi-year performance metrics plan for each utility that elects to take part in the formula rate process. 220 ILCS 5/16-108.5(f). In fact, the EIMA specifies that the "metrics and performance goals set forth . . . are based on the assumptions that the participating utility may fully implement the technology described in subsection (b) of [the EIMA]." *Id.*

Because of the magnitude of the investment Ameren is about to make, the Commission should carefully consider how it can ensure that this enormous investment best serves Ameren's customers. The Commission should establish additional metrics, beyond those explicitly listed in the Act and proposed by Ameren, that measure whether Ameren has created a logical, ten-year plan to accomplish the broader objectives central to the EIMA.

I. CUB PROPOSED ADDITIONAL METRICS

The EIMA creates an alternative to the way rates for electric utilities have traditionally been set in Illinois. The Act includes performance metrics to "further ensure that reliability and other indicators and not just maintained but improved over the next decade," when Ameren will be making \$625 million in investments including Smart Grid electric system upgrades. 220 ILCS 5/16-108.5(b). Within the EIMA is an emphasis on aligning the interests of the utility with those of its customers. A main objective of the new legislation is to "mutually benefit the State's electric utilities and their customers, regulators and investors" and to "promote prudent, long-term infrastructure investment." 220 ILCS 5/16-108.5(a). Because the utility will significantly increase spending, the Act provides clear expectations for performance that benefits customers,

and the Act also imposes financial penalties if the utility fails to improve its performance. 220 ILCS 5/16-108.5(f).

CUB believes that type of “smart grid” investments described in the EIMA, such as Advanced Metering Infrastructure (“AMI”), distribution automation and other improvements, hold great potential for delivering improved service and lower customer bills. Through the investments contemplated by the Act, customers could see new opportunities for savings through demand response and energy efficiency programs as well as improvements in reliability and billing accuracy. CUB Ex. 1.0 at 3. Most importantly, this legislation for the first time recognizes that a utility’s performance in delivering improved customer service should be measured and evaluated over time. *Id.* This new emphasis on performance means the Commission can strategically evaluate how these new investments and new performance expectations can best serve Ameren customers.

These investments, however, are not without risks to Ameren’s customers. The EIMA could potentially result in an emphasis on investment dollars instead of investment outcomes. *Id.* at 4. Given the breadth and length of investment planning required, the Commission needs to make sure it has appropriate benchmarks to monitor Ameren’s performance and to ensure that these investments – and this new performance-based formula rate structure – deliver a better quality of service at a lower cost with greater flexibility in managing energy usage.

Ameren witness Michael Abba addresses the specific performance metrics outlined by the Act. 220 ILCS 5/16-108.5(f); Ameren Ex. 1.0 at 2-3. These metrics focus on improvements in customer reliability, billing accuracy and collection as well as on improved opportunities for minority-owned and women-owned businesses:

- *System Average Interruption Frequency Index (“SAIFI”)*: Ameren must improve system-wide SAIFI (“System SAIFI”) by 20%, ratably over the 10-year period.

- *Customer Average Interruption Duration Index (“CAIDI”)*: Ameren must improve system-wide CAIDI (“System CAIDI”) by 15%, ratably over the 10-year period.
- *Service Reliability Targets*: Ameren must improve the total number of customers who exceed the service reliability targets by 75%, ratably over the 10-year period.
- *Estimated Electric Bills*: Ameren must reduce the number of estimated electric bills by 56%, ratably over the 10-year period.
- *Consumption on Inactive Meters (“CIM”)*: Ameren must reduce CIM by 56%, ratably over the 10-year period.
- *Uncollectible Expense*: Ameren must reduce uncollectible expense by \$3.5 million, ratably over the 10-year period.
- *Opportunities for Minority-Owned and Women-Owned Business Enterprises (“MWBE”)*: Ameren must create opportunities for minority-owned and female-owned business enterprises. Ameren’s goal is to increase contracting with minority-owned and female-owned businesses by 15% over a 10-year period, to \$17 million annually. Ameren Ex. 3.0 at 2.

By themselves, however, these metrics do not deliver a better customer experience since performance is defined not just only by competently keeping lights on, but also through innovation and creativity. CUB Ex. 1.0 at 7. It is certainly true that improvements in reliability and billing accuracy will benefit customers. *Id.* As CUB witness Christopher Thomas pointed out, reducing the amount of uncollectible expense and lost energy (CIM and UFE) will benefit customers, perhaps even more directly than improvements in reliability since these improvements have a direct dollar value associated with them. *Id.*

While the Act lays out goals related to improved reliability and reduced system energy consumption, the Act fails to specify how those goals can be achieved. *Id.* at 8. For example, higher power quality will result in money saved from outages, because smart grid investments can – and should – create and provide more stable and reliable power to reduce down time. *Id.* at 8. The Commission can address this issue by requiring Ameren to perform a voltage optimization study of their distribution system and implement a voltage optimization plan. *Id.*

The bottom line, as Mr. Thomas explained, is that the Commission should add metrics that ensure customers see material benefits. CUB Ex. 1.0 at 8. The simplest way to do that is to make sure customers are empowered to control their energy usage – and by extension their relationship with the utility. Additionally, a smarter grid should increase the potential for viable alternatives to the utility to emerge and compete to provide new services, such as promoting distributed generation. *Id.* These additional benefits should be tracked over time to maximize the consumer and environmental value of the smart grid.

Additional Areas of Customer Value

To meet the requirements of the Act and maintain its participation in a formula rate structure, Ameren is about to undertake a ten-year investment program that positions the Commission, the utility and stakeholders to identify new technologies, new service offerings and new providers, facilitated by these investments, that will empower customers to make efficient decisions. *Id.* at 9. No infrastructure investment program, much less one on the scale required by the Act, can be successful unless customers see material benefits of them. *Id.* at 7. Customers should see operational benefits through improvements in Ameren’s operational efficiency and system reliability, including reduced metering costs through automated metering and improved asset life through improved information on maintenance of wires or substations before equipment failures or outages even occur. Customers should also realize benefits through improved usage information and ability to manage energy usage through energy efficiency, demand response and distributed generation investments. Customers can leverage these tools through expanded rate options that provide money saving opportunities from energy conservation, load shifting, and new technologies made practicable by smart grid investments. Ameren should ensure environmental benefits through smarter long-term generation and

transmission investments and more efficient resource utilization, avoided greenhouse gas (“GHG”) emissions associated with peak energy usage and meter reading, and improved renewable resource interconnection. *Id.*

These are benefits that the Commission can measure, and in measuring, ensure that Ameren’s investments are focused directly on returning value to the customers who are funding the investments. For example, with respect to the customers’ ability to understand and manage energy usage, the Commission can evaluate whether Ameren has introduced any new pricing rates which will induce efficient consumption. *Id.* at 7. The Commission can require Ameren to survey the best practices in the design of customer rates and set forth a schedule for piloting and assessing those practices in Illinois. *Id.* Since customer education is the first step to customer adoption of any rate, the Commission should also include a metric to measure how Ameren performs in teaching customers about how their energy usage affects their bills and the environment, such as using surveys to measure customer comprehension before and after Ameren undertakes a customer education campaign. *Id.*

The Commission should establish metrics for determining whether consumers have increased their understanding of (a) ways to lower their bills; (b) ways to consume more efficiently; (c) how bills are computed (so that they understand their responsibility to pay off sunk costs even as they reduce future costs); and (d) ways in which third parties, who are not the utility, can enter the marketplace to provide enhanced services to customers. *Id.* at 9.

In turn, whether or not third parties enter the marketplace depends upon the design of the smart grid. A smart grid should create an open marketplace where alternative energy sources from geographically distant locations can easily be sold to customers wherever they are located. *Id.* at 9. Intelligence in distribution grids should enable small producers to generate and sell

electricity at the local level using alternative sources such as rooftop-mounted photo voltaic panels, small-scale wind turbines, and micro hydro generators. *Id.* The Commission should set as its goal that Ameren's investments must enable maximum access by third parties to the grid, creating a welcoming platform for deployment of a wide range of clean energy technologies and energy management services. *Id.* at 10. Potential metrics would include whether or not Ameren has established a platform for maximum access by third parties to data such that they can participate competitively in energy markets, or how long it takes Ameren to demonstrate full compliance with NIST interoperability standards. *Id.*

With respect to the distributed generation program, the Commission should adopt the goal that Ameren's investments must accommodate all generation and storage options. *Id.* Ameren's investments must then reduce traditional power loads, and also seamlessly interconnect with renewable energy, micro-turbines, and other distributed generation technologies at local and regional levels. *Id.* The Commission can require Ameren to measure and report how long it takes its customers to interconnect a distributed generation system and require Ameren to put in place a program for the promotion of energy storage, including possible rebates, incentives and/or tariffs. *Id.* A plan like this could also address how Ameren will enable integration of intermittent power sources, including energy storage, energy efficiency, distributed generation and utility scale renewable energy. *Id.* at 10-11. As climate change and environmental concerns increase, the demand for renewable energy resources will also increase. Since these are for the most part intermittent in nature, a smart grid system should enable power systems to operate with larger amounts of such energy resources. *Id.*

The Commission should also consider what the broader implications of Ameren's long-term investments will be. The types of investments required by the Act will allow Ameren to

develop the infrastructure and policies necessary to enable and support the sale of demand response, energy efficiency, distributed generation, and storage into wholesale energy markets as a resource. *Id.* at 11. The Commission should require Ameren to take advantage of these opportunities, for example, by requiring Ameren to have a certain percentage of their total capacity in demand response by a certain time, including requiring Ameren to have a certain percentage in automated demand response.² *Id.*

These investments will also enable new options for customers to lower their bills and manage their energy usage. A smarter grid will enable consumers to change their behavior around dynamic prices or to pay vastly increased rates for the privilege of reliable electrical service during high-demand conditions. *Id.* at 11-12. This is only possible, however, if customers have access to their energy usage and pricing information. The Commission can encourage customers to manage energy more efficiently by requiring Ameren to make such information available to all customers through a web portal, by requiring that AMI investments are done with an eye towards supporting the use and adoption of Home Area Networks (“HANs”) to manage energy usage, and by requiring Ameren to establish an ongoing energy meter calibration program. *Id.* at 11-12.

These types of metrics are being used in other jurisdictions that are evaluating smart grid investments. For example, the California Public Utilities Commission led a planning process that included the discussion of smart grid metrics. *Id.* at 12. The investor-owned utilities in California, along with the Environmental Defense Fund, presented the CPUC with a report outlining ideas for metrics that can guide the first smart grid deployment plans filed by the

² Automated demand response that is enabled through a variety of technologies that are automatically activated upon receiving a demand response event notification or price trigger. The Commission should also measure the cost savings these investments produce for customers using them.

utilities. *Id.* The following metrics were adopted by consensus, meaning the Commission will measure changes in:

- Load impact from smart grid-enabled, utility administered demand response;
- Demand response program size, both in total megawatts and customer class enrollment, to the extent available;
- Number of customers that are on a time-variant or dynamic pricing tariff (by customer class and climate zone, to the extent available);
- Number and percentage of customers with advanced meters to access energy usage information or to enroll in utility energy information programs;
- Number of customers enrolled in time-variant electric vehicles tariffs;
- MW and MWh of grid connected energy storage interconnected at the transmission or distribution system level;
- System load factor and load factor by customer class;
- Number of and total nameplate capacity of customer-owned or operated, grid-connected distributed generation facilities; and
- Total annual electricity deliveries from customer-owned or operated, grid connected distributed generation facilities.

Id. at 12-13. California also addressed how the total environmental footprint of the current electric generation and delivery system can be evaluated, and created specific metrics to track cost savings and avoided GHG emissions associated with smart-grid enabled improvements. *Id.*

at 13. The metrics measured:

- Intermittent renewable integration that reduces the need for spinning reserves and other ancillary services;
- Line loss reductions in the transmission and distribution system;
- Residential automated demand response programs and energy efficiency programs; and
- Energy storage.

Id.

CUB witness Mr. Thomas provided many suggestions of additional metrics that would help ensure that customers see the maximum potential benefit from upcoming smart grid investments. *See Id.* at 9-12.

How to Incorporate Additional Metrics

The Commission should consider the metrics proposed by Mr. Thomas and should, in its final order, direct Ameren to:

- Convene stakeholders to discuss and recommend specific metrics based on the objectives Mr. Thomas identified;
- Collect data regarding past performance of those metrics;
- Publish a report detailing the Company's methodology and results for measuring past performance and for measuring new activities;
- Hold a workshop to review the report; and
- Propose a plan to measure and improve performance going forward.

Id. at 14. The Commission can use the resulting plan as a baseline for its review of Ameren's investments in the annual proceedings laid out by the Act, and by doing so, have a means to monitor and evaluate Ameren's improvement every year. *See* 220 ILCS 220 5/16-108.5(f).

The Commission should also require Ameren to modify its plan with respect to AMI investment to include the following metrics:

- Ameren must use AMI technology to reduce the amount of uncollectible expense and lost energy, and pass those savings directly onto its customers.
- Ameren must survey the best practices in the design of customer rates and create a schedule for piloting and assessing those practices in Illinois, including the residential real-time pricing plan and the Peak Time Rebate already authorized by the PUA. *See* 220 ILCS 5/16-107 and 5/16-108.6(g). Ameren should be required to introduce new, optional rates which are designed to induce efficient consumption.
- Ameren must teach customers about how their energy usage affects their bills and the environment. Ameren should use surveys to measure customer comprehension before and after Ameren undertakes the customer education campaign.

- Ameren must perform a voltage optimization study of their distribution system and implement a voltage optimization plan. Higher power quality will result in money saved from outages, and Ameren’s smart grid investments should provide more stable and reliable power.
- Ameren must have a distributed generation program in place that demonstrates ease of connection for customers and includes net metering. Ameren must also include a program for maximizing wholesale market access from distributed generation. The Commission should require Ameren to measure and report how long it takes its customers to interconnect a distributed generation system. The plan should also address how Ameren will enable integration of intermittent power sources, including energy storage, energy efficiency, distributed generation and utility scale renewable energy. To do this, Ameren shall put into place a program for the promotion of energy storage, including possible rebates, incentives and/or tariffs.
- Ameren must encourage customers to manage energy more efficiently. To accomplish this, Ameren must make available to all of its customers access to each customer’s energy usage and pricing information through a web portal. Ameren must also establish a platform for maximum access by third parties to data such that they can participate competitively in energy markets. Along with customer access to energy usage data, Ameren must also examine how to best measure whether customers have increased understanding of (a) ways to lower their bills; (b) ways to consume more efficiently; and(c) how bills are computed. Ameren must also establish an ongoing energy meter calibration program.
- Ameren must develop a plan to increase the amount of their total capacity that is fulfilled by demand response, including automated demand response.
- Ameren must examine ways to capture the environmental benefits associated with changes in utility operations and pricing through avoided greenhouse gas emissions, and include in its AMI plan and annual performance filings additional metrics which track such environmental benefits.

The Commission should order workshops over the next six months to identify any other potential customer benefits, and to develop specific metrics for these areas, as well as the areas described above.

The ICC Has Already Recognized the Importance of Additional Metrics

ICC Docket 11-0772 addressed Commonwealth Edison Company’s (“ComEd’s”) Multi-Year Performance Metrics Plan filed pursuant to Section 16-108.5(f) of the EIMA. As with the instant docket, CUB offered testimony from Mr. Thomas addressing the need for metrics similar

to those discussed here for ComEd's proposed AMI deployment in order to ensure that ComEd's customers would benefit from the investments prescribed under the EIMA. ICC Docket 11-0772, CUB Ex. 1.0. The Commission's considerations in that docket were substantially similar to those of the instant case, and the Commission concluded that Mr. Thomas' testimony contained "good ideas concerning important additional metrics." ICC Docket 11-0772, Final Order at 29 (Apr. 4, 2012). Though the ICC concluded that the EIMA's scope and the limited time period available in the case made inclusion of additional requirements not feasible, the Commission expressed particular concern about how the EIMA framework would impact its ability to adequately review a utility's performance. Taking note of the disjointed nature of the many separate filings a utility must make under Public Acts 97-0616 and 97-0646, the Commission expressed concern "there is no natural home for the overlapping big-picture issues that CUB/City has raised." *Id.* Even though the ICC concluded that Docket No. 11-0772 was not the appropriate docket for addressing those issues, the Commission encouraged all parties to work together to ensure maximum customer benefits, including consideration of applicable metrics in the upcoming AMI docket for ComEd. *Id.* The Commission held that at the conclusion of the AMI docket, the Commission shall request a "Staff Report to review the metrics approved in both that docket and in the AMI deployment docket," and stated that "[b]ased on that Report, the Commission may initiate an investigation to consider any appropriate actions to ensure the full realization of the consumer, environmental, and societal benefits of the grid modernization programs." *Id.*

CUB agrees that the disaggregate filings required by the EIMA could lead a utility to spend millions or billions of dollars without the ICC having an overall view of how those monies will be spent to ensure maximum customer benefits. In this case, CUB has offered twelve

performance metrics that the Commission can require in this docket, and additional suggestions for a workshop process to follow. The EIMA does not impede the Commission's authority to ensure that a regulated utility is making wise investments and to ensure maximum customer benefits from those investments. The time frame of a docket should have no bearing on the benefits and protections consumers require while a regulated utility undertakes millions or billions of dollars in investments over the next ten years. Customers should not be deprived of the benefits of additional metrics simply because of the statutory deadlines in a case. The ICC can use its authority to require additional metrics now, so that Ameren's customers do not pay for multi-million dollar investments with only limited performance returns.

II. THE ICC HAS AUTHORITY TO ORDER ADDITIONAL METRICS

The General Assembly clearly intended to condition this massive utility investment on providing equally significant benefits to ratepayers, (220 ILCS 5/16-108.5(f)) and just as clearly stated that this "regulatory reform" would not limit the existing ICC authority over regulated public utilities. 220 ILCS 5/16-108.5(c).

The ICC is still required to ensure rates are just and reasonable, and that utility investments are prudently made. 220 ILCS 5/16-108.5(c)(6). The EIMA makes clear that the performance-based formula rate tariff filed by a participating utility should be consistent with the provisions of Article IX of the Act. 220 ILCS 5/16-108.5(c). All of these references to the Commission's authority to require prudent investments and to set just and reasonable rates, consistent with the other provisions of Article IX of the PUA, show that the General Assembly intended for the ICC to continue to exercise its broad authority under the PUA.

This authority is inherent in the ICC's creation by statute with the express duty to exercise general supervision over all Illinois public utilities in accordance with the provisions of

the PUA. *Sheffler v. Commonwealth Edison Co.* 399 Ill. App. 3d 51, 60 (1st Dist. 2010), *citing* 220 ILCS 5/4–101. The Public Utilities Act specifically provides that the Commission “shall have general supervision of all public utilities” including,

the manner in which their plants, equipment and other property ... are managed, conducted and operated, not only with respect to the adequacy, security and accommodation afforded by their service but also with respect to their compliance with this Act and any other law, with the orders of the Commission and with the charter and franchise requirements.

Sheffler, 399 Ill. App. 3d at 60.

Courts have recognized that within this supervisory framework, the ICC has “broad ratemaking authority” which includes Commission discretion to “formulate reasonable methods of achieving stated legislative objectives.” *Abbott Laboratories, Inc. v. Ill. Commerce Comm'n*, 289 Ill. App. 3d 705, 712 (1st Dist. 1997), *citing Lake County Bd. of Review v. Property Tax Appeal Bd.*

The additional performance metrics proposed by CUB are entirely consistent with the ICC’s grant of authority under the PUA and under the new EIMA performance-based formula rate provisions. The strong emphasis placed on utility performance, on creating new investment opportunities, and on integrating new grid resources, such as distributed generation and net metering, make clear that the ICC has a role to play in making sure that this new structure provides benefits to customers. See, *e.g.* 220 ILCS 5/8-103A; 220 ILCS 5/16-108.6; 20 ILCS 3855/1-56.

The Commission should make this emphasis an explicit obligation of Ameren by setting standards that provide maximum customer benefits. Doing so would fulfill the EIMA’s intended purpose of modernizing the State’s electric grid while promoting only prudent expenditures. Public Act 97-0616 at 69.

What CUB proposes is an extension of the inherent authority of the ICC—authority the Commission has used in the past to order workshops on topics such as smart grid investments and the development of natural gas choice programs for small retail customers. In 2007, the ICC used a proposal from ComEd for a large-scale system modernization rider as an opportunity to create not only a pilot of advanced metering infrastructure technology, but an entire statewide collaborative planning process for smart grid investments. The Commission concluded that ComEd’s proposal was premature because

[T]he Commission believes that it must first determine how smart grid should be deployed in Illinois, and then determine whether and to what degree it is necessary to approve a particular cost recovery mechanism. Lacking an overall goal for Illinois, Rider SMP simply promotes a project by project approach. Further, although ComEd has agreed to a workshop process, it would still retain sole discretion in determining what projects are ultimately proposed to the Commission.

Similarly, without an overall plan for smart grid deployment and without any specific projects being proposed, the Commission does not know the extent of the costs and benefits involved, with the possible exception of Phase 0. The estimates of costs in the record have varied greatly and the estimates of benefits have been sporadic at best. This lack of cost and benefit information is a problem that is not overcome by the process proposed for Commission pre-approval of specific projects. Our hope is to have a better grasp of costs and benefits once Phase 0 is implemented and analyzed, as discussed below.

ICC Docket No. 07-0566, Final Order at 138 (Sept. 10, 2008).

Though the Commission was convinced that the potential benefits of smart grid investment must be considered, in that case the Commission was not certain what the best process was for doing so. *Id.* at 140. Noting that it was obliged by federal legislation to open proceedings to consider smart grid ratemaking standards, the Commission nonetheless concluded that instead “a Statewide Smart Grid Collaborative process” should be instituted to “consider the costs and benefits of smart grid implementation and develop a strategic plan for such

implementation for presentation – upon completion and in a docketed proceeding – to the Commission.” *Id.* at 141.

More recently, the ICC opened workshops to examine whether or not it was appropriate for the Ameren Illinois Company to institute a retail gas choice program for its small customers. ICC Docket No. 11-0282, Final Order at 194 (Jan. 10, 2012). The scope of the workshops will be whether there would be any benefit to customers from such a program; whether the costs of implementing such a program would be reasonable; whether there is utility support for the competitive market; whether there will be full utility cost recovery for the utility; and what price is a properly adjusted price-to-compare. *Id.* The Commission noted it had “used a workshop process in numerous other instances involving both choice issues as well as other more complex issues,” in part because the process “provides flexibility and open access” for stakeholders. *Id.*

Both Docket 07-0566 and Docket 11-0282 were general rate cases brought under Section 9-201 of the Act. Section 9-201 of the PUA does not include language authorizing the Commission to order workshops or to order a statewide investigation regarding the merits of smart grid technologies. Nor does Section 9-201 explicitly state that the Commission has authority to initiate workshops to investigate the appropriateness of retail gas programs for low-use customers. Despite the lack of specific authority in Section 9-201, the Commission nonetheless ordered these investigations under its general authority to regulate public utilities. No party, including ComEd in Docket 07-0566 or Ameren in Docket 11-0282, challenged the Commission’s decision on this point, as it is clearly understood that the Commission has authority to conduct such investigations. The same is true here.

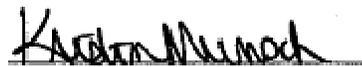
Within the framework of the EIMA, the General Assembly gave the ICC express authority to modify Ameren’s Plan. 220 ILCS 5/16-108.5(f-5). Additionally, when approving or

modifying utility proposals, the ICC has authority under the PUA of the Act to impose additional obligations on the utility even where those obligations are not enumerated within the statute. *See, e.g.* 220 ILCS 5/16-105 (“approving, or approving as modified” a utility’s delivery services implementation plan); ICC Docket 01-0530, Final Order at 97-101 (considering Staff proposal to add electronic signature capability to utility’s proposed plan and ordering workshops); 220 ILCS 5/16-111.5 (“approve or modify” utility procurement plan) ; ICC Docket 07-0527, Final Order at 44 (considering AG proposal to require utility to acquire additional forward contracts); ICC Docket 07-0527 Final Order at 59-61 (considering CUB proposal to require utility to procure energy efficiency and demand response in addition to the statutorily required minimum). Although EIMA lists certain performance criteria that participating utilities must meet, that does not limit the Commission’s authority to establish additional criteria or ordering workshops to consider additional metrics, which complement and ensure the goals of the EIMA are fully realized.

Conclusion

The Commission should consider the performance metrics proposed by Mr. Thomas and should require Ameren to abide by the additional metrics identified above and those recommended by stakeholders following a workshop process.

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