

ILLINOIS COMMERCE COMMISSION

DOCKET No. 12-0001

SURREBUTTAL TESTIMONY

OF

STAN E. OGDEN

Submitted on Behalf Of

**AMEREN ILLINOIS COMPANY
d/b/a Ameren Illinois**

JUNE 13, 2012

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7 **I. INTRODUCTION**

8 **Q. Please state your name and business address.**

9 A. My name is Stan E. Ogden. My business address is 300 Liberty Street, Peoria, Illinois.

10 **Q. Are you the same Stan E. Ogden who submitted direct and rebuttal testimony in**
11 **this proceeding?**

12 A. Yes, I am.

13 **II. PURPOSE OF TESTIMONY**

14 **Q. What is the purpose of your surrebuttal testimony in this proceeding?**

15 A. My surrebuttal testimony responds to (i) the rebuttal testimony of Illinois Commerce
16 Commission (Commission) Staff (Staff) witness Mr. Scott Tolsdorf (ICC Staff Ex. 15.0) on the
17 2010 charitable contributions that Ameren Illinois Company d/b/a Ameren Illinois (AIC or the
18 Company) included in its formula rate revenue requirement; and (ii) the rebuttal testimonies of
19 Citizens Utilities Board (CUB) witness Mr. Ralph C. Smith (CUB Ex. 3.0), and the People of the
20 State of Illinois through the Office of Attorney General (AG) and AARP joint witness, Mr.
21 Michael L. Brosch (AG/AARP Ex. 3.0) on the expenses AIC charged to FERC Accounts 909

22 and 930.1 in 2010 that were allocated to AIC's electric operations and included in the formula
23 rate revenue requirement.

24 **Q. Are you sponsoring any exhibits with your surrebuttal testimony?**

25 A. Yes. I am sponsoring the following exhibits:

- 26 • Ameren Exhibit 26.1: AIC Revised Response to Staff Data Request ST 2.07
- 27 • Ameren Exhibit 26.2: AIC Support for 2010 Account 909 Expense
- 28 • Ameren Exhibit 26.3: ST 6.04 Invoices (excerpts)

29 **III. SECTION 9-227 DONATIONS – RESPONSE TO STAFF**

30 **Q. Does Staff in its rebuttal testimony still propose an adjustment to remove certain**
31 **donations from the formula rate revenue requirement?**

32 A. Yes. Mr. Tolsdorf still proposes an adjustment to disallow certain donations to
33 community and economic development organizations, athletic events and teams, and animal and
34 wildlife wellness or preservation groups. To Mr. Tolsdorf's credit, as in his direct testimony, his
35 rebuttal schedules clearly identify the individual donations he seeks to exclude. As explained
36 below however, the basis for his proposed disallowances has changed somewhat on rebuttal.

37 **Q. What appears to be Staff's primary rationale on rebuttal for disallowing donations?**

38 A. In his direct, Mr. Tolsdorf proposed disallowances based on his interpretation of what
39 donations were allowable under Section 9-227 of the Public Utilities Act (the Act). On rebuttal,
40 Mr. Tolsdorf has changed gears and is no longer entirely focused on statutory interpretation.
41 Instead, he is considering the tax-exempt status of the organization receiving the donation. He

42 now appears to be advocating a new bright line test for recovery: whether the donation was made
43 to an organization considered tax-exempt under Section 501(c)(3) of the Internal Revenue Code.

44 **Q. What is the total amount of contributions Staff now proposes to disallow on**
45 **rebuttal?**

46 A. According to ICC Staff Ex. 15.0, Schedule 15.01, Page 3 of 3, the total disallowed
47 contributions now amount to approximately \$111,000. The large part of Mr. Tolsdorf's proposed
48 disallowance (\$95,000) is for donations to community and economic development organizations.
49 Once adjustments are made to remove portions allocated to gas and electric transmission, Staff's
50 adjustment to the electric delivery revenue requirement approximates \$72,000.

51 **Q. Are there any donations that Mr. Tolsdorf opposed in his direct testimony that he is**
52 **no longer opposing on rebuttal?**

53 A. Yes. In his direct testimony, Mr. Tolsdorf opposed cost recovery for donations to
54 organizations that promote the arts, arguing that such donations are not for the public welfare or
55 for charitable scientific, religious or education purposes and thus, do not satisfy the requirements
56 of Section 9-227 of the Act. (Ameren Ex. 16.0, p. 10; ICC Staff Ex. 6.0, ll. 103-105.) Mr.
57 Tolsdorf, however, does not continue to propose disallowance of these donations on rebuttal. He
58 does not state why he is no longer seeking disallowance of these donations. Presumably, he
59 believes either that donations to arts organizations are allowed under Section 9-227 of the Act or
60 that the tax-exempt status of these organizations qualifies the donations for cost recovery.

61 **A. Donations to Community and Economic Development Organizations**

62 **Q. What reasons does Mr. Tolsdorf give in his rebuttal testimony to support**
63 **disallowance of community and economic development organizations?**

64 A. Mr. Tolsdorf gives two reasons why the Commission should disallow donations to
65 community and economic development organizations: (i) the Commission's history of excluding
66 donations to these groups, including AIC's most recent electric rate case; and (ii) AIC's internal
67 policy of considering whether the organization is considered tax-exempt under Section 501(c)(3)
68 of the Internal Revenue Code. As discussed below, neither reason justifies the exclusion of
69 donations to community and economic development organizations in this proceeding.

70 **Q. Regarding Mr. Tolsdorf's first reason, has the Commission recently approved cost**
71 **recovery in formula rates for donations to community and economic development**
72 **organizations?**

73 A. Yes. In ICC Docket No. 11-0721, the Commission proceeding concerning inception
74 formula rates for Commonwealth Edison Company (ComEd), the Commission approved cost
75 recovery in rates for donations to community and economic development organizations. May
76 29, 2012, Order, pp. 95-99. Mr. Tolsdorf specifically contested recovery of these donations in
77 that case. The Commission, however, found "many organizations, including . . . those that
78 promote community and economic development, contribute to the general good of the public."
79 Order, p. 98. Notably, the Commission's order in Docket No. 11-0721 was issued before Mr.
80 Tolsdorf filed his rebuttal testimony.

81 **Q. In his direct testimony, Mr. Tolsdorf provided a list of dockets, including AIC's**
82 **most recent electric rate case, ICC Docket Nos. 09-0306 – 09-0311, in which he claims the**

83 **Commission excluded donations to community and economic development organizations.**

84 **Did you review all of these prior Commission dockets while preparing your testimony?**

85 A. No, I did not. I am not a lawyer. My focus is on the business reasons underlying AIC's
86 donations, whether they were made for the public welfare, or for some charitable scientific,
87 religious or educational purpose. I will let lawyers argue the legal effect of prior Commission
88 orders. As stated in my rebuttal testimony however, the Commission did not specifically find in
89 AIC's most recent gas rate case, ICC Docket No. 11-0282, that dollars for donations like these
90 should be excluded, and excluded them in AIC's last electric rate case, ICC Docket Nos. 09-0306
91 – 09-0311, only based on the parties' agreement. (Ameren Exhibit 16.0, pp. 7-8.) More
92 importantly, Mr. Tolsdorf fails to mention the Commission's most recent decision on this issue,
93 in ICC Docket No. 11-0721, in which the Commission specifically included donations like these
94 in ComEd's formula rates. Although, as I said, I am not a lawyer, I would think the most recent
95 pronouncement on this issue would be the most relevant Commission proceeding to consider.

96 **Q. Regarding his second reason, Mr. Tolsdorf claims "the Company's internal policy**
97 **[is] to only recover from ratepayers those donations made to [Section 501(c)(3)] tax-exempt**
98 **organizations." (ICC Staff Ex. 15.0, ll. 48-49.) Is that correct?**

99 A. No. Mr. Tolsdorf mischaracterizes my rebuttal testimony and the Company's policy for
100 seeking cost recovery of donations under Section 9-227 of the Act. In my rebuttal, I stated that,
101 in determining whether to seek cost recovery from ratepayers for donations, "AIC considers
102 whether the organization or program receiving the contribution is a Section 501(c)(3) tax-exempt
103 organization." Whether an organization is tax-exempt under Section 501(c)(3) is a factor we

104 consider, but it is not the only factor that the Company considers when seeking cost recovery for
105 those donations in rates pursuant to Section 9-227 of the Act.

106 **Q. So by seeking cost recovery of donations to community and economic development**
107 **organizations, AIC did not violate any internal policy?**

108 A. No, it did not. As Mr. Tolsdorf notes, AIC sought cost recovery of donations like these
109 in its last electric rate case. There is no internal policy that prohibits AIC from seeking cost
110 recovery in delivery rates of these donations. The standard that AIC applies when seeking cost
111 recovery is whether AIC believes that the donation in question falls under one of the statutory
112 categories set forth in Section 9-227 of the Act, not the tax-exempt status of the organization. As
113 shown on Ameren Exhibit 16.1, attached to my rebuttal testimony, AIC listed, among other
114 things, the PUA Section 9-227 Categories and the use of the donation for these donations.

115 **Q. Do you know what types of organizations are tax-exempt under Section 501(c)(3) of**
116 **the Internal Revenue Code?**

117 A. I am not an expert in the Internal Revenue Code or federal taxation exemptions. The IRS
118 website, however, describes the exempt purposes for Section 501(c)(3) organizations.

119 The exempt purposes set forth in section 501(c)(3) are charitable,
120 religious, educational, scientific, literary, testing for public safety,
121 fostering national or international amateur sports competition, and
122 preventing cruelty to children or animals. The term charitable is
123 used in its generally accepted legal sense and includes relief of the
124 poor, the distressed, or the underprivileged; advancement of
125 religion; advancement of education or science; erecting or
126 maintaining public buildings, monuments, or works; lessening the
127 burdens of government; lessening neighborhood tensions;
128 eliminating prejudice and discrimination; defending human and

129 civil rights secured by law; and combating community
130 deterioration and juvenile delinquency.¹

131 In addition, it is my lay person's understanding that a section 501(c)(3) organization must not be
132 organized or operated for the benefit of any private shareholder or individual.²

133 **Q. Why doesn't the IRS generally consider community and economic development
134 organizations tax-exempt under Section 501(c)(3)?**

135 A. Again, I am not an expert in federal taxation issues, but it is my understanding that
136 community and economic development organizations are considered tax-exempt under a separate
137 section of the Internal Revenue Code. Section 501(c)(6) provides for exemption for: "Business
138 leagues, chambers of commerce, real-estate boards, boards of trade, or professional football
139 leagues (whether or not administering a pension fund for football players), not organized for
140 profit and no part of the net earnings of which inures to the benefit of any private shareholder or
141 individual." I am not familiar with all of the nuances of Section 501(c) of the Internal Revenue
142 Code, or the purpose for enacting this separate subsection, but it appears the non-profit
143 community and economic organizations at issue here are still considered tax-exempt.

144 **Q. Should the tax-exempt status of an organization according to the IRS be the basis
145 for the Commission to disallow contributions?**

146 A. No. The federal tax code should not be the standard for determining what contributions
147 to include in rates under Illinois law. Section 9-227 of the Act is the standard. The Commission
148 should not limit cost recovery of contributions to only donations made to organizations that are

¹ Exempt Purposes - Internal Revenue Code Section 501(c)(3), *available at*
<http://www.irs.gov/charities/charitable/article/0,,id=175418,00.html> (page last reviewed or updated: Jan. 10, 2012).

² Inurement/Private Benefit - Charitable Organizations, *available at*
<http://www.irs.gov/charities/charitable/article/0,,id=123297,00.html> (page last reviewed or updated: Feb. 6, 2012).

149 tax-exempt under Section 501(c)(3) of the Internal Revenue Code. Section 9-227 of the Act does
150 not limit cost recovery based on the recipient's tax-exempt status, and as explained in my rebuttal
151 testimony and in the Commission's recent decision in Docket No. 11-0721, economic
152 development organizations benefit the public and the communities AIC serves. Section 9-227
153 allows cost recovery of donations made for the public welfare, or for charitable religious,
154 educational or scientific purposes. Donations to non-profit organizations whose purpose is to
155 nurture the development of communities in the AIC service territory are made for the public
156 welfare and should be a recoverable operating expense.

157 **Q. In your rebuttal testimony, you provided an example of how economic development**
158 **organizations benefit and enhance the public welfare of communities that AIC serves. Mr.**
159 **Tolsdorf suggests the example is not relevant to the discussion of whether contributions to**
160 **these organizations should be recovered in delivery rates. Please respond.**

161 A. Mr. Tolsdorf is correct that AIC has not included any donations to the Macomb Area
162 Economic Development Corporation (MAEDCO) in its revenue requirement in this proceeding.
163 But the point of my example was not to defend the cost recovery of any specific donations. The
164 point was to demonstrate that groups like MAEDCO provide a benefit to the communities in
165 AIC's service territory and thus donations to these groups that support initiatives to attract new
166 industry and jobs to these communities should be recoverable expenses.

167 **Q. What is an example of a contribution to an economic development organization that**
168 **Mr. Tolsdorf seeks to disallow that benefits communities in the AIC service territory?**

169 A. An example would be the contribution to the Economic Development Council for Central
170 Illinois, Inc. (\$30K) that Mr. Tolsdorf seeks to disallow. This type of contribution benefits the

171 public by allowing a non-profit organization to serve businesses and communities by
172 strengthening local business structure and assisting companies in relocating or expanding in the
173 central Illinois region.

174 **Q. So in summary, you still believe contributions to community and economic**
175 **development organizations should be recovered in rates?**

176 A. Yes. The contributions to community and economic development organizations included
177 in AIC's revenue requirement were made for the public welfare and/or for charitable scientific,
178 religious or education purposes. The Commission has allowed ComEd to recover such
179 contributions in formula rates. It should similarly allow AIC to recover such contributions.

180 **B. Donations to Athletic Events/Teams and Wildlife Conservation Groups**

181 **Q. Besides contributions to community and economic development organizations, what**
182 **other donations is Mr. Tolsdorf proposing to disallow?**

183 A. Mr. Tolsdorf proposes to disallow donations to the Illinois High School Association,
184 National Wild Turkey Federation, Quincy Gems Baseball and Taylorville Optimists. His basis
185 for disallowance is the same as it was on direct: he does not believe the donations are
186 recoverable under Section 9-227 of the Act. With one exception (the Illinois High School
187 Association), the donations proposed for disallowance are also to non-501(c)(3) organizations.

188 **Q. In response to Mr. Tolsdorf's rebuttal, has AIC reconsidered whether any of these**
189 **four contributions should not be recovered under Section 9-227 of the Act?**

190 A. Yes. After further review, AIC considers the 2010 contributions to Quincy Gems
191 Baseball and Taylorville Optimists to be corporate sponsorships, not Section 9-227 donations.

192 The contribution to the Quincy Gems in 2010 helped to sponsor a “corporate night” at QU
193 Stadium with the Quincy Gems in support of the Quincy Civic Center. The contribution to the
194 Taylorville Optimists was to help sponsor the Illinois District of the Optimist International Junior
195 Golf Championship tournament. This tournament is for boys and girls from ages 10 through 18
196 and seeks to build positive values in youth as a result of their participation.

197 **Q. Does AIC agree that either contribution should be disallowed?**

198 A. Yes. AIC agrees to disallow the corporate sponsorship costs for the Quincy Gems ball
199 game as expenses for athletic events and tickets. However, AIC considers the contribution to the
200 Taylorville Optimists to be a recoverable corporate sponsorship expense, given that communities
201 that AIC serves benefit from events such as this that AIC sponsor. To the extent however the
202 Commission agrees with Mr. Tolsdorf that AIC should not recover the corporate sponsorship
203 costs it incurred in 2010, AIC agrees the portion of the contribution it has included for recovery
204 in this proceeding should be removed from the revenue requirement.

205 **Q. Does AIC agree with Mr. Tolsdorf's disallowance to remove the contribution to the**
206 **Illinois High School Association?**

207 A. No. The donation to the Illinois High School Association supported the state’s high
208 school football championship program. Programs and scholastic activities such as this
209 interscholastic event promote leadership, healthy competition, and good sportsmanship among
210 individuals – both the competitors and the spectators. As identified in Ameren Exhibit 16.1, this
211 donation was made for the public welfare and for charitable educational purposes. This specific
212 donation benefits the public because it provides the leadership for the development, supervision
213 and promotion of good sportsmanship in interscholastic competition and other activities in which

214 its member schools choose to engage. Participation in such interscholastic activities offers
215 eligible students experiences in an educational setting which provide enrichment to the
216 educational experience.

217 **Q. Does Mr. Tolsdorf give any specific reason that this donation should be disallowed?**

218 A. No, he does not. He suggests that contributions that provide for disadvantaged youth to
219 participate in sports events would be one type of athletic-related donation that is recoverable.
220 But he fails to explain why the donation to the Illinois High School Association does not deserve
221 similar treatment or why this specific donation should be disallowed.

222 **Q. Does AIC believe cost recovery for athletic-related contributions should be limited
223 to organizations that provide for disadvantaged youth to participate in sports events?**

224 A. No. Contributions that allow disadvantaged youth to participate in sports events are only
225 one example of how the communities that AIC serve benefit from AIC's donations to athletic
226 events and teams. The Company believes this particular contribution supports leadership, good
227 sportsmanship and group activities among high school students and should be allowed.

228 **Q. Does AIC agree with Mr. Tolsdorf's disallowance to remove the contribution to the
229 National Wild Turkey Federation?**

230 A. No. As identified in Ameren Exhibit 16.1, the donation to the National Wild Turkey
231 Federation was made for conservation efforts. This specific donation benefits the public because
232 it allows for the support of scientific wildlife management on public, private and corporate lands
233 including recommendations on research, management, restoration and educational programs for
234 wildlife habitat.

235 **Q. Does Mr. Tolsdorf give any specific reason that this donation should be disallowed?**

236 A. No, he does not. Nor does he explain why donations that support wildlife conservation
237 groups should be disallowed.

238 **Q. So in summary, you still believe three of the four other contributions are still**
239 **recoverable as either Section 9-227 donations or Account 930.1 expense?**

240 A. Yes. The donations to the Illinois High School Association and National Wild Turkey
241 Federation are recoverable donations under Section 9-227 of the Act for the reasons I indicate
242 above, and the contribution to the Taylorville Optimists is a recoverable sponsorship expense.

243 **IV. ACCOUNT 909 – RESPONSE TO STAFF, AG/AARP AND CUB**

244 **Q. Does Staff in its rebuttal testimony still propose adjustments to Account 909?**

245 A. Yes. Mr. Tolsdorf still proposes disallowances to Account 909 in the amount of \$1.380
246 million. His rebuttal schedules specifically exclude costs incurred on (i) updating signage
247 following the AIC merger (\$5K); (ii) brand recognition following the AIC merger (\$431K); and
248 (iii) merchandise for the employee e-store (\$95K). In addition, his adjustment to calculate an
249 allowable amount of advertising expense (rather than a disallowable amount) effectively
250 excludes other Account 909 costs (\$850K) without explanation that AIC identified in discovery
251 and supported with invoices.

252 **Q. Does the AG/AARP and CUB also still propose adjustments to Account 909?**

253 A. Yes. Both Mr. Brosch and Mr. Smith propose to disallow the costs for brand recognition
254 and e-store merchandise that Mr. Tolsdorf seeks to disallow. Neither witness, however, joins in
255 Mr. Tolsdorf's adjustment to remove signage costs. Neither witness calculates an allowable

256 amount of Account 909 expense. Rather, they disallow specific amounts from revenue
257 requirement for the two costs they find objectionable.

258 **Q. Does AIC oppose the proposed adjustments to Account 909 expense?**

259 A. Yes. AIC continues to believe the costs that AIC incurred on signage, brand recognition
260 and employee e-store merchandise in connection with the AIC merger are recoverable costs.
261 AIC also continues to oppose Staff's method of calculating an allowable amount of expense and
262 disallowing other supported advertising costs charged to Account 909 without an explanation.

263 **A. Account 909 – Signage Costs**

264 **Q. What signage costs does Mr. Tolsdorf still oppose?**

265 A. As I explained in my rebuttal testimony (Ameren Ex. 16.0, pp. 18-19), the approximately
266 \$5,000 in signage costs that Mr. Tolsdorf seeks to disallow from the electric revenue requirement
267 were to (i) update a lobby sign in AIC's Peoria office to reflect the Company's new name after
268 the merger (\$600); (ii) update vehicular magnets, which are distributed to Safety Specialists,
269 Tree-Trimming Contractors and Storm Responders, to reflect the Company's new name and logo
270 after the merger (\$3,400); and (iii) replace AmerenCILCO artwork with Kids Act on Energy
271 artwork on billboards at the East Side sports park in East Peoria (\$1200).

272 **Q. Why does Mr. Tolsdorf still oppose recovery of these signage costs?**

273 A. On rebuttal, Mr. Tolsdorf does not give a specific reason why these costs should be
274 disallowed. Presumably he still considers them promotional, goodwill or institutional
275 advertising costs that should not be recovered under Section 9-225 of the Act.

276 **Q. Mr. Tolsdorf suggests that any costs incurred to update or replace signs with the**
277 **Company name and Company logo are not allowable advertising. Do you agree?**

278 A. No. As explained in my rebuttal testimony, these dollars were not spent to encourage
279 consumers to choose AIC as their service provider or to improve the image of the utility. These
280 dollars were spent to update an office lobby sign and vehicular magnets to change the name of
281 the Company following the merger of AmerenIP, AmerenCILCO and AmerenCIPS. These costs
282 thus were necessary to correctly identify AIC as the new provider of electric service in the
283 service areas of the former legacy utilities. The alternative would have been to continue to use
284 outdated signs and vehicular magnets with the names and logos of the old providers. That
285 alternative would not have been a prudent business decision or of benefit to AIC's customers.

286 **Q. Does AIC still believe that the amounts expended on Kids Act on Energy artwork**
287 **should be recoverable in rates?**

288 A. Yes. As explained in my rebuttal testimony, the Kids Act on Energy "signage" dollars
289 provided valuable information to consumers about energy efficiency and safety. The Company
290 does not consider those dollars to be promotional, goodwill or institutional advertising.

291 **B. Account 909 – Brand Recognition Costs**

292 **Q. What specifically are the brand recognition costs that Mr. Tolsdorf, Mr. Smith and**
293 **Mr. Brosch continue to seek to disallow?**

294 A. As explained in my rebuttal testimony (Ameren Ex. 16.0, pp. 21-21), the brand
295 recognition dollars (\$431,000) at issue supported a communications effort in 2010 to understand
296 AIC's customers' perception of their service provider following the merger of the legacy utilities.
297 This effort included the use of analysis of focus groups and surveys to address concerns with

298 employee communications with customers and assess the effectiveness of customer education
299 services. This effort was intended to investigate whether our customers were receiving accurate
300 information regarding AIC as the provider of their delivery service.

301 **Q. Why do they still oppose recovery of these costs?**

302 A. Mr. Tolsdorf, Mr. Smith and Mr. Brosch all broadly suggest that any costs associated
303 with brand recognition are promotional, goodwill and institutional advertising expenses that are
304 not allowed under Section 9-225 of the Act. (ICC Staff Ex. 15.0, p. 12; CUB Ex. 3.0, pp. 30-31;
305 AG/AARP Ex. 3.0, p.32.) We feel such costs should not be categorically excluded.

306 **Q. Mr. Smith suggests these costs are not necessary to the provisions of safe and**
307 **reliable utility service. Do you agree?**

308 A. No, I do not. As I noted in my rebuttal testimony, in the past, there have been instances
309 of customer confusion over which Ameren Corporation (Ameren) subsidiary was the customer's
310 service provider or which Ameren subsidiary was being discussed by the media. The point of
311 the "brand recognition" costs incurred in 2010 was to examine how to best educate customers in
312 the service territories of the legacy utilities about the new consolidated service provider. This
313 was not a study intended to determine how better to promote or improve the image of the
314 Company or its services. It was a study intended to assist customers in understanding that the
315 merger of operations would not impact the performance, reliability or safety of their service.

316 **Q. Mr. Brosch suggests, because of customer contacts through billings, signage,**
317 **websites, and call centers, there was no need for additional expenditures. Do you agree the**
318 **"brand recognition" costs at issue were superfluous?**

319 A. No, I do not. Constant and consistent communications are needed to inform and instruct
320 customers on safety, storm preparation, electric supply choice and energy efficiency. This effort,
321 as I explained, was tailored to improve customer education services across-the-board. It was not
322 intended to promote AIC's unregulated affiliates. Nor has any witness provided any evidence,
323 other than speculation, that these brand recognition costs only benefited unregulated affiliates.

324 **Q. Both Mr. Smith and Mr. Tolsdorf cite the Commission decision in Northern Illinois**
325 **Gas Company, ICC Docket No. 04-0779. In your lay opinion, is that decision on point?**

326 A. No. Based on my review of the Commission's decision in ICC Docket No. 04-0779, it
327 appears the Commission was concerned that Northern Illinois Gas Company (Nicor) did not
328 demonstrate adequate ratepayer benefit from the market intelligence gathering and other
329 branding expenditures at issue in that rate case. Order, pp. 37-38. The Commission apparently
330 was also concerned the branding expenses at issue chiefly benefited the products and service of
331 Nicor's unregulated affiliates. As I explained in my rebuttal and again here, the AIC
332 communications effort in 2010 benefited delivery service customers by allowing AIC to improve
333 its customer education services after the consolidation of the operations of the legacy utilities.

334 **Q. Are you aware of whether the Commission has previously disallowed similar**
335 **customer education costs in a prior AIC rate case?**

336 A. No, I am not, and no witness advocating the removal of these costs has identified a prior
337 instance where the Commission removed similar costs from AIC's revenue requirement.

338 C. Account 909 – E-Store Costs

339 Q. What specifically are the e-store costs that Mr. Tolsdorf, Mr. Smith and Mr. Brosch
340 continue to seek to disallow?

341 A. As I stated in my rebuttal testimony, these costs (\$95,000) were incurred to purchase
342 inventory for the online employee e-store. Much of the cost for the e-store related to this invoice
343 was for stocking of AIC merchandise after the merger of the legacy utilities.

344 Q. Mr. Smith argues that expense for corporate branded merchandise is not necessary
345 for the provision of safe and reliable utility service and therefore should not be borne by
346 ratepayers. Please respond.

347 A. As mentioned in my rebuttal testimony, branded merchandise allows for customer
348 recognition of company representatives. Branded merchandise from the e-store (i.e., shirts, hats)
349 is used to ensure customers are able to recognize employees representing the company when they
350 are working in the field, or at community functions and events. Also, with the merger, the use of
351 branded merchandise at these events allows customers to become more readily familiar with the
352 new consolidated company name.

353 Q. Mr. Tolsdorf claims promoting employee morale through advertising is goodwill or
354 institutional advertising. Do you agree?

355 A. No. Informational advertising is supported by employees instructing customers regarding
356 services offered by AIC. Moreover, employees inform customers visually by wearing branded
357 clothing and using branded items (pens, tablets, business cards). As I explain above, branded
358 items more easily allow customers to recognize representatives of the company, not improve the

359 image of the company. Employee morale and pride are promoted through better
360 communications with our customers.

361 **Q. Was benefiting employee morale the only reason you offered in your rebuttal in**
362 **support of recovery of these costs?**

363 A. No. I also explained in my rebuttal testimony that the e-store merchandise served as a
364 depository for branded items to be utilized by employees in the field or at community events, and
365 for awards to recognize exceptional employee performance.

366 **Q. Mr. Smith also argues that revenue from the sale of the merchandise should offset**
367 **the expense, or if it does not, ratepayers should not subsidize the sale of merchandise.**
368 **Please respond.**

369 A. Most merchandize sales are not offset by revenue, but rather are used by internal
370 departments for recognition of exceptional safety records and performance and for community
371 events. In these cases, the expenses are for a safe and reliable utility through safe work and
372 recognition of company representatives. In addition, as noted above, much of the costs in 2010
373 were used to restock inventory following the Company name change after the merger.

374 **D. Other Account 909 Costs**

375 **Q. Has Staff effectively disallowed an additional amount of Account 909 expense other**
376 **than the specific costs it discusses in testimony?**

377 A. Yes. As mentioned above, approximately \$850,000 of Mr. Tolsdorf's adjustment to
378 Account 909 pertains to expenses that he does not discuss in testimony.

379 **Q. Please explain Staff's proposed allowable expense adjustment.**

380 A. It appears Mr. Tolsdorf calculated an allowable amount of expense for Account 909 that
381 he believes AIC should recover, rather than propose disallowances to the total expense charged
382 to the FERC account and included in the electric formula rate revenue requirement. In addition
383 to the costs that he specifically excludes and discusses in testimony, his allowable amount also
384 does not include this additional \$850,000 in costs booked to Account 909. He does not give an
385 explanation why this additional amount is not a recoverable advertising expense.

386 **Q. Did AIC submit documentation in support of this additional amount of Account 909**
387 **expense it included in the revenue requirement.**

388 A. Yes. At the time the Company filed its rebuttal testimony, AIC provided Staff with a
389 workpaper (ST 2.07R Attach) that had been revised to reflect only the electric amounts charged
390 to Account 909 and included in the revenue requirement. That workpaper which is also attached
391 in support of this testimony as Ameren Exhibit 26.1, shows a detailed breakdown by subject
392 matter area of the electric expenses included in the FERC Form 1 data for 2010 for this account.
393 In addition to including only the electric amounts (rather than total electric and gas amounts), the
394 revised response to ST 2.07 identifies some additional expenses that were booked to this account
395 in 2010.

396 **Q. In addition to AIC's revised response to Staff Data Request ST 2.07, what other**
397 **documentation did AIC produce to support the costs in Account 909?**

398 A. In response to Staff Data Request ST 6.04, AIC provided additional invoice
399 documentation by subject matter area in support of the additional costs identified in the
400 Company's revised response to Staff Data Request ST 2.07.

401 **Q. Did Mr. Tolsdorf review AIC's revised response to ST 2.07 and response to ST 6.04?**

402 A. Based on his rebuttal, it appears Mr. Tolsdorf reviewed the Company's responses, but he
403 did not include any additional amounts in his proposed allowable adjustment that were included
404 in the Company's revised response to ST 2.07. He only used AIC's revised response to ST 2.07
405 to properly reflect the electric portion of costs he had previously reviewed.

406 **Q. What does Ameren Exhibit 26.2 show?**

407 A. Ameren Exhibit 26.2 demonstrates that AIC identified and supported with documentation
408 the \$850,000 in electric costs charged to Account 909 that Mr. Tolsdorf's schedules effectively
409 disallow. On the summary Page 1, Column C identifies the portion of costs by subject matter for
410 which AIC provided invoice support in its response to Staff Data Request ST 6.04. The subject
411 matter tabs (Pages 2 – 6) list the supporting invoices that were produced in the order they were
412 produced. Column D on Page 1 identifies non-invoiced costs that AIC also included in its
413 revised response to ST 2.07. As Ameren Exhibit 26.2 shows, AIC's revised response to ST 2.07
414 and response to ST 6.04 identified and supported the additional \$850,000 in Account 909
415 expense that Staff's schedules disallow.

416 **Q. What does Ameren Exhibit 26.3 show?**

417 A. Ameren Exhibit 26.3 contains copies of just a few examples of the invoices that are listed
418 in the subject matter tabs in Ameren Exhibit 26.2 that were produced to Mr. Tolsdorf in the
419 Company's response to Staff Data Request ST 6.04. As Column C of Page 1 of Exhibit 26.2
420 shows, the Company provided invoice support for nearly \$600,000 of the \$850,000 in additional
421 Account 909 costs that Mr. Tolsdorf's schedules effectively disallow.

422 **Q. Does the Company also consider the costs identified in Column D (Ameren**
423 **Additional Support) of Page 1 of Exhibit 26.2 recoverable expenses under Section 9-225 of**
424 **the Act?**

425 A. Yes. These costs (approximately \$250,000) reflect Account 909 charges in 2010 for
426 internal design services, AMS contracted print production costs, freight expenses, internal
427 printing and IT support and Pcard charges. These charges are properly recoverable advertising
428 expenses.

429 **Q. In sum, what adjustment should the Commission make to Account 909 expense?**

430 A. The Commission should not make any adjustment to the Account 909 expense that was
431 included in the revenue requirement. The signage, brand recognition and e-store costs are all
432 recoverable expenses. To the extent the Commission finds that any of these specific costs should
433 be removed, it should deduct the expense from the total amount AIC has proposed for inclusion
434 in rates. It should not disallow the additional amount that AIC supported with documentation,
435 which Staff's schedules seek to remove without explanation.

436 **V. ACCOUNT 930.1 – RESPONSE TO STAFF, AG/AARP AND CUB**

437 **Q. What Account 930.1 costs are Mr. Tolsdorf, Mr. Smith and Mr. Brosch still seeking**
438 **to disallow on rebuttal?**

439 A. It appears that Mr. Tolsdorf, Mr. Smith and Mr. Brosch all are still seeking to disallow
440 costs (\$263K) associated with corporate sponsorships for events and organizations in 2010.
441 (ICC Staff Ex. 15.0, pp. 14-15; CUB Ex. 3.0, p. 32; AG/AARP 3.0, p. 33.) Mr. Smith argues
442 such costs are for corporate image building and should not be charged to ratepayers. Mr.
443 Tolsdorf argues such costs put AIC's name in a good light and represent goodwill advertising.

444 Mr. Brosch does not address my rebuttal testimony, but appears to still seek disallowance of
445 these costs.

446 **Q. Has AIC sought to recover all of the expenses charged to Account 930.1 and**
447 **allocated to AIC's electric operations?**

448 A. No. As explained in my rebuttal testimony and the rebuttal testimony of Mr. Stafford,
449 AIC selectively removed certain corporate sponsorships costs that were in Account 930.1 from
450 the revenue requirement that were expenses for athletic events and tickets.

451 **Q. Did any witness proposing an adjustment to remove these costs conduct a detailed**
452 **review of the expenses charged to Account 930.1 and included in the revenue requirement?**

453 A. No. To my knowledge, Mr. Tolsdorf, Mr. Smith and Mr. Brosch did not conduct a
454 detailed review of specific Account 930.1 expenses. Rather they argue for wholesale exclusion
455 of the costs.

456 **Q. To your knowledge, has the Commission previously disallowed corporate**
457 **sponsorship costs?**

458 A. Not to my knowledge. No witness has cited any prior Commission docket where such
459 costs were disallowed. I also am personally not aware of any prior Commission orders that have
460 removed such costs from the revenue requirement as not allowed under Section 9-225 of the Act.
461 It is my understanding that the Commission did not remove these costs from the revenue
462 requirement proposed by ComEd for its formula rates.

463 **Q. What are examples of events that AIC sponsors in its communities?**

464 A. AIC supports the Peoria Citizens for Economic Opportunity Mitchell JJ Anderson
465 Basketball Camp. The Peoria Citizens for Economic Opportunity is a community action agency
466 whose focus is on raising the quality of life for the economically disadvantaged residents of the
467 community. Annually this organization hosts the Mitchell JJ Anderson Basketball Camp. This
468 is a week-long camp for underprivileged children between the ages of 8 and 18. The event brings
469 in speakers to teach about life lessons, the importance of education, hygiene and good nutrition.
470 The children also receive free physicals and eye screenings. Because of sponsorships, there is no
471 cost to the children attending the camp.

472 AIC also supports the Heart of Illinois Fair. This sponsorship allows for the
473 maintenance and operation of a cooling station located on the fairgrounds. The cooling station
474 allows for individuals to rest and get out of the hot weather. This is particularly important for
475 elderly and disabled who may otherwise find it challenging to visit the fair.

476 AIC also supports the Decatur Park District Singers and First Tee. The Decatur Park
477 Singers celebrate the arts with uplifting music and lively choreographed shows free of charge to
478 the community. The group appears nearly sixty times each summer at community events across
479 the state. The availability of these shows in local parks throughout Decatur and Illinois provide
480 access to meaningful social gatherings for the young and old.

481 These are examples of events that AIC sponsored in 2010 for which it seeks recovery of
482 costs in its inception formula rates.

483 **Q. Why is it appropriate for AIC to recover these costs in rates?**

484 A. As explained in my rebuttal testimony, these costs support our community outreach
485 efforts and provide venues to inform customers about electric safety, electric supplier choice,

486 storm preparation and energy efficiency practices. We do not believe that costs associated with
487 being a good corporate citizen should be automatically and entirely excluded. That AIC may
488 receive some public recognition in the communities it serves by virtue of the events it sponsors
489 does not mean that corporate sponsorship dollars constitute disallowable promotional goodwill
490 or institutional advertising, as Staff, AG/AARP and CUB propose.

491 **VI. CONCLUSION**

492 **Q. Do you have anything further to add at this time?**

493 A. No. This concludes my surrebuttal testimony.