

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Illinois Commerce Commission)	
On Its Own Motion)	Docket No. 11-0671
)	
Adoption of 83 Ill. Adm. Code 596.)	

BRIEF ON EXCEPTIONS OF AMEREN ILLINOIS COMPANY

NOW COMES AMEREN ILLINOIS COMPANY d/b/a Ameren Illinois (“Ameren Illinois”), by and through its attorneys, Brown, Hay & Stephens, LLP, and hereby submits this Brief on Exceptions (“BOE”) to the Proposed Second Notice Order (“Proposed Order”) issued by the Administrative Law Judge (“ALJ”) on June 4, 2012 regarding the proposed adoption of 83 ILL. ADMIN. CODE 596. This BOE is filed pursuant to Section 200.830 of the Illinois Commerce Commission’s (“ICC”) Rules of Practice, 83 ILL. ADMIN. CODE 200.830. Ameren Illinois hereby respectfully submits the proposed replacement language which is included in Exhibit A of this BOE.

EXCEPTION NO. 1

In Section D of the Proposed Order, the ALJ rejects Ameren Illinois’ proposed language regarding the removal of inspection information which is not accurate, is incorrect, is confidential, or is proprietary. The purpose of Secretary LaHood’s initiative, the impetus of this rulemaking proceeding, is to make inspection information available for public inspection. Ameren Illinois’ proposed language addition in Exhibit A does not deviate from the Secretary’s goals.

In the Staff Reports of the Commission, dated August 23, 2011, which is attached to the Order dated October 5, 2011, it was acknowledged by the Staff that “Section 5-108 of the Act [220 ILCS 5/5-108] prohibits any officer or employee of the Commission from divulging any

fact or information coming to their knowledge in connection with these inspections – except as may be authorized either by the Commission or a circuit court.” *See* the Order dated October 5, 2011. While Staff acknowledges the risks which it faces with respect to inspection information, Staff fails to account for the legal duty imposed upon persons from the utilities which are linked to the relevant inspections. Section 5-107 of the Public Utilities Act (the “Act”) provides, in part:

Any person who shall willfully make any false entry in the accounts, or in any record or memoranda or by any other means or device falsify the record of any such account, record or memoranda, or who shall willfully neglect or fail to make full, true, and correct entries in such accounts, records, or memoranda of all facts in transactions appertaining to the business of the public utility, or shall keep any accounts or record other than those prescribed or approved by the Commission, shall be guilty of a Class A misdemeanor. 220 ILCS 5/5-107.

Given that a utility has a duty to prevent the willful dissemination of false records and reports, it follows the utility should have the right upon petition to ask such information removed in order to prevent the inference of wrongdoing under Section 5-107 of the Act.

There is also the potential that simple error may result in inaccurate information being posted to the Commission’s website, or some report or other material is errantly attributed to the wrong utility operator. It seems logical that interested members of the public would be seeking accurate information to review when accessing the Commission’s website. Accordingly, providing the safeguards suggested by Ameren Illinois in Exhibit A does not detract from the Secretary’s initiative. In fact, the proposed modifications in Exhibit A serve the public good by assuring that the public receives thorough information which is accurate, correct, and of a nature which can be relied upon.

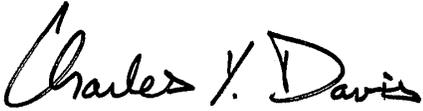
Finally, it should be noted the Company is not asking that the material not the subject of a confidentiality ruling be removed entirely from public review by virtue of its proposed exception, but rather that information or material that is simply incorrect be subject to removal

from the Commission's website upon the grant of a petition by the Commission. Accordingly, Ameren Illinois requests the language provided in Exhibit A be included in the rule and the following change be made to the Proposed Order in Section D(4):

~~The Commission declines to adopt the proposed language offered by Ameren. The Commission believes Ameren's proposed language concerning the removal of inspection information on the basis that it is deemed inaccurate or incorrect will have a chilling affect on the inspection and reporting process. Moreover, the information that will be posted will consist of Staff's reports of its inspections of pipeline operators' facilities, procedures, and compliance history. As such, the reports are essentially summaries of Staff's observations during the course of its inspections and do not constitute Commission conclusions any more than other Staff reports, testimony or briefs constitute Commission conclusions or findings. The Commission also notes that there are already procedures in place to permit jurisdictional entities to request the removal of confidential or proprietary information. Additionally, Section 596.30 provides for such a request in the event confidential and proprietary information is inadvertently made public. Ameren Illinois' recommendation presents good policy and should be approved. Accordingly, the Commission declines to adopt the language proffered by Ameren.~~

WHEREFORE, AMEREN ILLINOIS COMPANY d/b/a Ameren Illinois, respectfully requests that the Illinois Commerce Commission modify the Proposed Order for the proposed Part 596 in accordance with the foregoing BOE.

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

By: 

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PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing instrument was served upon:

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Anna, IL 62906

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Auburn, IL 62615

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Belle Rive, IL 62810

Village of Bluford
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P.O. Box 140
Bluford, IL 62814

Bushnell Municipal Gas Utility
148 East Hail Street
Bushnell, IL 61422

City of Casey
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Houston, TX 77002

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Cisne, IL 62823

Village of Clay City
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Clay City, IL 62824

Village of Grand Tower Municipal Gas System
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Grand Tower, IL 62942

Village of Greenup
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P.O. Box 246
Greenup, IL 62428

Jo-Carroll Energy
103 Chicago Avenue
Savanna, IL 61704

Village of Karnak
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Karnak, IL 62956

Lincoln Generating Facility, LLC
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Cairo Public Utility Company
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Cairo, IL 62914

Center Ethanol Company – Sauget
231 Monsanto Avenue
Sauget, IL 62201

City of Chester Gas Department
1330 Swanwick Street
Chester, IL 62233

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City of Grayville Gas Department
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Grayville, IL 62844

Illinois Gas Company
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Kendall Energy, LLC
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Minooka, IL 60447

Village of Louisville Gas System
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Marathon Pipeline 539 South Main Street Findlay, OH 45840	City of Marshall Gas Department 201 South Michigan Avenue P.O. Box 298 Marshall, IL 62441
City of Martinsville Gas Department 19 West Cumberland Street P.O. Box 340 Martinsville, IL 62442	Massac County Housing Authority Sixth and Yosoda Metropolis, IL 62960
City of McLeansboro Gas System 102 West Main Street McLeansboro, IL 62859	MidAmerican Energy Company 401 Douglas Street Sioux City, IA 51102
Village of Milford Gas System 15 South West Avenue P.O. Box 137 Milford, IL 60953	Village of Morton 120 North Main Street P.O. Box 28 Morton, IL 61550
Mt. Carmel Public Utility Co. 316 Market Street Mt. Carmel, IL 62863	City of Nashville 190 North East Court Street Nashville, IL 62263
City of New Boston Gas Department 405 Main Street Box 266 New Boston, IL 61272	Village of Norris City 406 South Division Street Norris City, IL 62869
North Shore Gas Company 3001 West Grand Avenue Park City, IL 60085	Northern Illinois Gas Company 1844 Ferry Road Naperville, IL 60563
Village of Pawnee Gas System 617 Seventh Street P.O. Box 560 Pawnee, IL 62558	University of Illinois – Lateral 111F Physical Plant Service Building, MC-821 1501 South Oak Street Champaign, IL 61820
University of Illinois – Master Meter 111F Physical Plant Service Building, MC-821 1501 South Oak Street Champaign, IL 61820	University Park Energy LLC 2635 Dralle Road University Park, IL 60466
USDI – Delta Cbm Operating, LLC 1927 Miller Drive Olney, IL 62450	USDI – Grayson Energy 1927 Miller Drive Olney, IL 62450
USDI – Prairieland Pipeline 1927 Miller Drive Olney, IL 62450	USDI – Southern IL Power CO-OP 1927 Miller Drive Olney, IL 62450

USDI – White County Housing Authority
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Olney, IL 62450

City of Vienna Municipal Gas System
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Westville, IL 61883

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via electronic mail, or by enclosing the same in an envelope addressed to such party at the above address, with postage fully prepaid, and by depositing said envelope in a U.S. Post Office mailbox in Springfield, Illinois, at 5:00 p.m. on this 18th day of June, 2012.

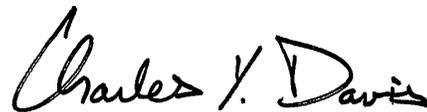


Exhibit A

Section 596.170 Removal of Inspection Information from Commission Web site

A person may file a petition to remove inspection information previously posted to the Commission's web site to the extent that the inspection information is not accurate, incorrect, confidential, or proprietary.