

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Illinois Commerce Commission)	
On Its Own Motion)	
)	Docket No. 11-0341
v.)	
)	
Ameren Illinois Company)	
d/b/a Ameren Illinois)	
)	
Reconciliation of Revenues Collected)	
Under Riders EDR and GDR)	

**REPLY BRIEF ON EXCEPTIONS OF THE CITIZENS UTILITY BOARD AND
THE PEOPLE OF THE STATE OF ILLINOIS**

CITIZENS UTILITY BOARD

Christie R. Hicks
Attorney
309 W. Washington Street, Ste. 800
Chicago, IL 60606
(312) 263-4282
crhicks@citizensutilityboard.org

PEOPLE OF THE STATE OF ILLINOIS
LISA MADIGAN, ATTORNEY GENERAL

Karen L. Lusson
Senior Assistant Attorney General
Public Utilities Bureau
Illinois Attorney General's Office
100 West Randolph Street, 11th Fl.
Chicago, IL 60601
(312) 814-1136
klusson@atg.state.il.us

September 10, 2013

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Illinois Commerce Commission)	
On Its Own Motion)	
)	Docket No. 11-0341
v.)	
)	
Ameren Illinois Company)	
d/b/a Ameren Illinois)	
)	
Reconciliation of Revenues Collected)	
Under Riders EDR and GDR)	

**REPLY BRIEF ON EXCEPTIONS OF THE CITIZENS UTILITY BOARD AND
THE PEOPLE OF THE STATE OF ILLINOIS**

Now come the Citizens Utility Board (“CUB”), through its attorney, and the People of the State of Illinois by and through the Attorney General Lisa Madigan (“the People” or “the AG”); pursuant to the Rules of Practice of the Illinois Commerce Commission (“ICC” or “the Commission”), 83 Ill. Admin. Code Part 200, and the briefing schedule established by the Administrative Law Judge (“ALJ”), and hereby file this Reply Brief on Exceptions in the above captioned proceeding.

Introduction

This docket is a reconciliation of expenses under the Ameren Illinois Company’s (“AIC” or “Ameren”) Rider EDR, Energy Efficiency and Demand-Response Cost Recovery (“Rider EDR”) and Rider GER, Gas Energy Efficiency Cost Recovery (“Rider GER”). Rider EDR is the cost recovery mechanism for the second year of Ameren’s energy efficiency portfolio standard (“EEPS”) programs which ran from June 2009-May 2010 (“PY 2”). 220 ILCS 5/8-103(e). Rider GER is the cost recovery mechanism for Ameren’s voluntary gas energy efficiency

programs approved by the ICC in ICC Docket No. 08-0104, which also covers the time period from June 2009 through May 2010. Ameren Exhibit 1.0 at 2:24-27.¹

The Staff of the Illinois Commerce Commission (“Staff”) filed a Brief on Exceptions (“Staff BOE”) arguing that the Proposed Order (“PO”) erred in determining that the expenses associated with Ameren Illinois Company’s (“Ameren”) Small Business HVAC (“SB HVAC”) Program were prudently incurred. The PO correctly concludes that the “costs at issue were prudently incurred, and the proposed disallowance should not be adopted.” PO at 48. While CUB and the People appreciate Staff’s close examination of Ameren’s expenditures, Staff incorrectly presumes that the cost-effectiveness standard is assessed at the measure level, fails to take into account the modifications Ameren made to increase the program’s cost-effectiveness, and disregards the program’s value beyond cost-effectiveness, including its potential to transform the market and serve a hard-to-reach customer segment. Staff’s recommended changes to the PO should not be adopted.

I. The Proposed Order Is Correct That Cost-Effectiveness Is Assessed At The Portfolio Level

Staff both presumes and argues that the standard for cost-effectiveness is at the measure level. Staff BOE at 2-7. CUB and the People have cited the Public Utilities Act (“PUA”) and multiple Commission orders which explicitly state that cost-effectiveness of energy efficiency programs should be assessed at the portfolio level. 220 ILCS 5/8-103(f); ICC Docket No. 07-0539, Order of February 6, 2008 at 21; ICC Docket 10-0564, Order of May 24, 2012 at 92; ICC Docket No. 10-0568, Order of December 21, 2012 at 30. This legislative and regulatory record establishes that an

¹ Ameren recommended that the Rider GER programs share a reconciliation period with the EEPS programs to increase efficiencies in the review processes, and the Commission adopted Ameren’s proposal. Final Order in 08-0104 at 21-22 (October 15, 2008).

individual measure or program having a low Total Resource Cost (“TRC”) test result is not alone grounds for claiming that a program expenditure is imprudent. Yet Staff repeatedly refers to measure-level cost-ineffectiveness as though that alone is justification for claiming that costs associated with the SB HVAC program were imprudently incurred.

Staff claims “it is fair to conclude that the Commission’s approval of the plan in 08-0104 was based upon its assumption that AIC would continue to promote cost-effective energy efficiency measures.” Staff BOE at 4. Staff bases this claim on the Commission’s directive for Ameren to “market those measures if and when they were projected to become cost-effective.” Staff BOE at 3. The PO correctly finds that “the measures to which the Commission referred were ‘gas griddles and spray valve measures.’ Unlike the gas griddles and spray valve measures, the SB HVAC tune-up program was not identified in that conclusion as being subject to such measure-specific scrutiny.” PO at 89. It is improper for Staff to assume that the Commission adopted a separate cost-effectiveness standard for the Rider GER programs, based on a statement about specific measures – gas griddles and spray valves, which are unrelated to the SB HVAC program -- despite a consistent record of Orders establishing that cost-effectiveness is assessed at the portfolio level.

Staff also cites the Final Order in ICC Docket 09-0436/09-0467 (cons.) to refer to Commission findings related to the flawed assumptions in a Peoples Gas Light and Coke Company (“Peoples Gas”) and North Shore Gas Company (“North Shore Gas”) program TRC test calculation. In that docket, the Commission also found that “the Utilities’ error was not in selecting an efficiency measure with a sub-1.0 TRC result. As we stated above, it was permissible for the Governance Board to evaluate cost-effectiveness at the portfolio level, and it is implicit in that holding that measures with a TRC below 1.0 might be included for sound reasons.” ICC Docket No. 09-0436/09-0437 (Cons.), Order of March 15, 2011 at 19-20. The

Final Order in that docket affirms that the standard for cost-effectiveness is at the portfolio-, and not the measure- or program-, level.

II. Ameren Acted To Increase The Cost-Effectiveness Of The SB HVAC Program

Staff argues that the record shows that Ameren had reason to believe the majority of customers would elect to receive a tune-up, and not install new equipment, and that such a ratio would not lead to the program being cost-effective based on the recommendations of the program implementer. Staff BOE at 4-7. However, Ameren witness Woolcutt testified that the implementer:

did not recommend pulling the plug on the Program, but rather recommended modifying it to include further outreach to program allies and the small business community. As part of these outreach activities, the implementer suggested increasing the incentives for HVAC tune-ups and bundling them with other outreach activities.

Ameren Exhibit 6.0 at 7:146-150. Ameren further stated that the Company followed the implementer's recommendations and "took steps to limit the number of tune-ups and cultivate ally participation and installation of equipment." Ameren Exhibit 4.0 at 10:213-214. Ameren also considered how to improve the program by targeting both gas and electric customers and by looking for ways to bundle the program with other measures that might make it more attractive to Ameren customers. ICC Staff Ex. 2.0 at 17.

In short, contrary to Staff's arguments, it was reasonable for Ameren to believe the SB HVAC could become cost-effective over time as the Company took steps to cultivate ally participation, limit the number of tune-ups, and increase outreach to the small business community.

III. Cost-Effectiveness Is Not The Sole Criteria For Determining Whether A Program Should Be Included In An Energy Efficiency Portfolio

If Staff's recommended disallowance were adopted, it would thwart efforts to design programs that reach hard-to-serve customer sectors and lay the groundwork for market transformation. As Ameren witness Woolcutt testified, small businesses are "a particularly difficult market to penetrate due to the fact that they traditionally have limited funds to spend on energy efficiency investments and the relatively lower savings that can be calculated on the small business scale." Ameren Ex. 4.0 at 4:84-87. Additionally, small businesses have "numerous constraints" that limit their ability to invest in energy efficiency programs, "including shortage of capital, frequently leased physical space, and focus on day-to-day operations." Ameren Ex. 5.0 at 7-8.

Customer sectors that fund energy efficiency programs must be eligible to participate in the portfolio of programs, even if they are a difficult to reach sector. Through the SB HVAC program, Ameren worked to "build capacity among trade allies" serving the small business sector, and "penetrate this market... and increase future participation in the SB HVAC Program and other energy efficiency programs in future plan years." Ameren Ex. 4.0 at 5:89-98. Ameren described the tune-up measure as a means of encouraging ally participation and educating customers on opportunities for improved efficiency. Ameren Ex. 4.0 at 10: 199-202.

As NRDC correctly noted in its Initial Brief, programs add value to a portfolio even if they do not pass the TRC test if they are a trial of emerging technology, reach a market segment not otherwise able to participate in energy efficiency programs, break down market barriers, create some additional value not easily measured by TRC, or take several years to mature. NRDC Initial Brief at 3, citing Ameren Ex. 5.0 at 7-8. The record demonstrates that the SB HVAC program was such a program: it was geared

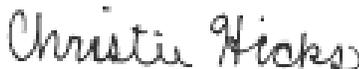
toward a hard-to-reach customer segment that has limited funds to spend on energy efficiency programs. Ameren is required to offer programs to the small business sector, and it was prudent for the Company to continue offering the SB HVAC program with modifications.

Conclusion

The Proposed Order's conclusion rejecting Staff's proposed disallowance should be adopted. The totality of the evidence demonstrates that the SB HVAC program costs were prudently incurred. The PO correctly concludes that the SB HVAC program "was designed and implemented to encourage and develop participation by customers in a hard-to-reach rate class, which is consistent with the policy goals in Section 8-104(f)(5)," and that "the costs at issue were prudently incurred, and the proposed disallowance should not be adopted." PO at 90. Staff's recommended changes to the PO should be rejected by the Commission.

Dated: September 10, 2013

CITIZENS UTILITY BOARD



Christie R. Hicks, Attorney
309 W. Washington, Suite 800
Chicago, IL 60606
(312) 263-4282
(312) 263-4329 fax
crhicks@citizensutilityboard.org

PEOPLE OF THE STATE OF ILLINOIS
LISA MADIGAN, ATTORNEY GENERAL


Karen L. Lussan

Senior Assistant Attorney General
Public Utilities Bureau
Illinois Attorney General's Office
100 West Randolph Street, 11th Fl.

Chicago, IL 60601
Telephone: (312) 814-7203
Facsimile: (312) 814-3212
Email: klusson@atg.state.il.us