

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

Illinois Commerce Commission	)	
On Its Own Motion	)	
	)	Docket No. 10-0684
vs.	)	
	)	
Ameren Illinois Company	)	
d/b/a Ameren Illinois	)	
f/k/a Central Illinois Light Company	)	
d/b/a AmerenCILCO	)	
	)	
Reconciliation of revenues collected under	)	
gas adjustment charges with actual costs	)	
prudently incurred	)	

**DRAFT PROPOSED ORDER**

By the Commission:

**I. PROCEDURAL HISTORY**

On December 2, 2010, the Illinois Commerce Commission ("Commission") entered an Order Commencing PGA Reconciliation Proceedings ("Initiating Order") directing Ameren Illinois Company d/b/a Ameren Illinois f/k/a Central Illinois Light Company d/b/a AmerenCILCO ("AIC" or the "Company") to present evidence in this docket at a public hearing showing the reconciliation of revenues collected under its purchased gas adjustment ("PGA") tariff with the actual cost of gas supplies prudently incurred and recoverable under said PGA tariff for the period for the twelve months ending December 31, 2010 ("Reconciliation Period").<sup>1</sup>

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<sup>1</sup> Effective October 1, 2010, Central Illinois Light Company d/b/a AmerenCILCO and AmerenIP merged with and into Central Illinois Public Service Company d/b/a AmerenCIPS, resulting in AmerenCIPS being the sole surviving legal entity. Simultaneously, AmerenCIPS' name was changed to Ameren Illinois Company d/b/a Ameren Illinois. Herein, the term AmerenCILCO will refer to Ameren Illinois Company d/b/a Ameren Illinois.

Pursuant to proper legal notice, hearings were held in this matter before a duly authorized Administrative Law Judge of the Commission at its offices in Springfield, Illinois on August 25, 2011, April 19, 2012, September 26, 2012, December 5, 2012, March 19, 2013, June 26, 2013, and August 20, 2013. Appearances were entered by counsel for Commission Staff ("Staff") and counsel for AIC. The Citizens Utilities Board filed a Petition to Intervene on December 6, 2012, which the Administrative Law Judge granted. At the time of filing, Ryan B. Risse, Supervisor of Fuel and Gas Accounting for Ameren Services Company, an affiliated service company of Ameren Corporation ("Ameren"); and Cynthia A. Foerstel, Lead Gas Supply Executive in the Gas Supply department of AIC, testified on behalf of the Company. Burma C. Jones, an Accountant in the Accounting Department of the Financial Analysis Division of the Commission's Bureau of Public Utilities, and Mark Maple, Senior Gas Engineer in the Energy Engineering Program of the Safety and Reliability Division of the Commission, testified on behalf of Staff. At the conclusion of the August 20, 2013 evidentiary hearing, there still remained one contested issue so the record was left open to allow for the filing of post hearing briefs by the parties. Staff and AIC both filed Initial and Reply Briefs on October 8, 2013, and October 29, 2013, respectively.

Notice of the filing of AIC's testimony and exhibits with the Commission was posted in the Company's business office and was published in newspapers having general circulation in AIC's service territory, in the manner prescribed by 83 Ill. Adm. Code 255, "Notice Requirements for Change in Rates for Cooling, Electric, Gas, Heating, Telecommunications, Sewer or Water Services," in compliance with the Commission's Initiating Order.

## II. APPLICABLE AUTHORITY; LEGAL STANDARDS

In accordance with Section 9-220 of the Act, the Commission may authorize an increase or decrease in rates and charges based upon changes in the cost of purchased gas through the application of a purchased gas adjustment clause. Section 9-220(a) requires the Commission to initiate annual public hearings “to determine whether the clauses reflect actual costs of . . . gas . . . purchased to determine whether such purchases were prudent, and to reconcile any amounts collected with the actual cost of . . . gas . . . prudently purchased.”

For gas purchases, the provisions of Section 9-220 are implemented in 83 Ill. Adm. Code Part 525, “Uniform Purchased Gas Adjustment Clause.” Section 525.40 of Part 525 identifies gas costs which are recoverable through PGA. Adjustments to gas costs through the Adjustment Factor are addressed in Section 525.50. The gas charge formula is contained in Section 525.60. Annual reconciliation procedures are described in Section 525.70.

The legal standard for the Docket is well established. Most recently with regard to AIC, the Commission stated its prudence standard in an Illinois Power Company Docket 07-0572, as follows:

...that standard of care which a reasonable person would be expected to exercise under the same circumstances encountered by utility management at the time decisions had to be made.” [Citations Omitted] In determining whether a judgment was prudently made, only those facts available at the time judgment was exercised can be considered. [Citations Omitted]"  
(Final Order dated January 5, 2012, Docket No. 07-0572, p. 2.)

### **III. INSTANT PROCEEDING**

#### **A. Direct Testimony**

Mr. Risse sponsored direct testimony identified as Ameren Exhibit 1.0 and 1.1, the schedules that identified and reconciled all components of AIC's gas costs and recoveries. He testified that an independent auditor, PricewaterhouseCoopers LLP, audited the revenue and cost data presented in Ameren Exhibit 1.1. A copy of the audit report was submitted as Ameren Exhibit 1.2, and an Officer Verification was submitted as Ameren Exhibit 1.3.

Ms. Foerstel sponsored a public and proprietary version of direct testimony, identified as Ameren Exhibit 2.0, in which she testified regarding AIC's general purchasing policy for acquiring gas supply services, transportation and storage capacity. Ms. Foerstel also testified regarding the changes made to AIC's pipeline capacity and storage service contracts, including outlining what steps the Company took during the Reconciliation Period to minimize its pipeline capacity costs. She identified the steps taken to determine the appropriate level of capacity resources required to meet the needs of its system supply customers and end user transportation customer bank requirements; explained how AIC holds firm capacity to provide for End User Banks for transportation customers; described the steps AIC took in 2010, to determine the appropriate level of capacity resources required to meet the needs of its firm customers; explained how AIC determines the proper amount of leased storage for its supply portfolio; and discussed why leased storage is important to providing high reliability. Ms. Foerstel described how AIC's on-system storage fields are used to supply gas to its distribution system, and explained what efforts the Company pursued in 2010, to ensure

optimal use of its owned storage facilities. Ms. Foerstel explained the Company's strategy to minimize interstate pipeline over-run and scheduling charges, and the measures implemented by the Company to help reduce the potential of incurring unauthorized use charges. She testified as to AIC's general price hedging strategy and the purpose thereof, and discussed the AIC Commodity Risk Management Policy ("Policy"), to which AIC's gas supply activity is subject. Ms. Foerstel testified that managing price volatility is the primary goal of the gas supply hedging strategy and that this goal was incorporated into the Policy. Ms. Foerstel explained, in detail, how the Policy affects natural gas supply procurement, and the type of price forecasts AIC employs for its gas supply purchasing and hedging horizon. She described the process the Company uses to purchase reliable natural gas supply at a reasonable cost, and what steps AIC takes on peak days when the daily demand level exceeds the available supply. Ms. Foerstel identified the sources of supply used to meet the sales demands on the peak day, and testified that it was not necessary to declare a system Critical Day in 2010. She testified regarding AIC's procedures for monitoring natural gas from its interstate pipeline suppliers, and that the Company's gas purchases during 2010 were consistent with its procurement policies. Ms. Foerstel testified that AIC's procurement of natural gas was prudent during 2010 and also sponsored Ameren Exhibit 2.1.

Ms. Jones testified that she reviewed AIC's PGA reconciliation and the underlying documents that support the calculations. She proposed an adjustment to recoverable commodity gas costs resulting in a Factor O refund of \$38,147. Ms. Jones explained that the adjustment disallows over-run charges billed by Panhandle Eastern Pipeline Company ("PEPL") in February 2010. She recommends the Commission

accept the PGA reconciliation as reflected on Staff Exhibit 1.0, Schedule 1.01, page 1 of 2. Ms. Jones further recommends the Company implement a Factor O refund in the amount of \$38,147 in the first monthly PGA filing after the date of the order in this proceeding.

Mr. Maple testified regarding the results of his review of AIC's PGA reconciliation. He reviewed the direct testimonies of AIC witnesses Mr. Risse and Ms. Foerstel, as well as data request responses that directly addressed issues related to the prudence of the Company's natural gas purchasing. Using the Commission's criteria for prudence, Mr. Maple found over-run charges which he found to be imprudent, incurred by the Company from PEPL in February 2010. Mr. Maple testified that AIC operates its own storage fields, but that the volume of that storage isn't large enough to give AIC the peak day deliverability and flexibility it desires. Thus AIC contracts leased storage capacity from several interstate pipelines, one of which is PEPL. Mr. Maple explained that the Company contracts for a certain total volume of storage, although only a fraction of that is available for AIC to inject or withdraw on a given day. The lease contract specifies the maximum daily quantities the Company can inject or withdraw on any given day. Additionally there are monthly and seasonal parameters that constrain the way AIC can inject or withdraw the gas in the PEPL storage service. Mr. Maple testified that the Company's contract with PEPL specifies that AIC must draw its stored inventory down to at least 20% of its maximum contracted inventory by the end of the withdrawal season. The season ends the last day of March, and any stored quantity above the 20% of its maximum contracted inventory, is subject to a 0.25% penalty. Mr. Maple explained that in its response to Staff data request ENG 1.60, AIC stated the

inventory must be below this 20% threshold before the end of March to avoid the penalty.

Mr. Maple explained why AIC incurred the over-run charges. He stated that on 20 days in February 2010, AIC exceeded the maximum amount of gas it was allowed to withdraw, and that while the Company had authorization from PEPL to withdraw more than its allowed quantity it was still subject to over-run penalties totaling \$38,147 for the month. Mr. Maple explained AIC's reasoning for exceeding the allowed withdrawals on these 20 days. In response to Staff data request ENG 1.60, the Company stated that coming into February 2010, AIC was behind on its winter plan and had now withdrawn as much gas as it had intended from either the PEPL storage or its Company-owned storage. AIC wanted to get below the 20% inventory level in February to avoid losing any gas to PEPL and then would concentrate on catching up on withdrawals from Company-owned storage in March.

Mr. Maple testified that he believes it was not prudent for AIC to incur these over-run charges for several reasons. First, by exceeding its allowed withdrawals on 20 days, AIC not only caught up to its end of February storage plan goal, but actually far surpassed its goal. Second, the over-runs caused AIC to be ahead of the planned schedule at the end of February. Mr. Maple testified that the over-runs were unnecessary and that even if AIC wanted to get ahead of the plan in February for fear of a warm March, it would have been possible without incurring these over-run charges. Mr. Maple opined that it did not make economic sense to pay over-run charges because AIC would have gotten far below the 20% threshold by the end of March even without any over-runs. Mr. Maple testified that if the Company hadn't withdrawn all the over-run

gas and instead at the end of March the 20% threshold was exceeded by that amount, the worst case AIC would have faced by not taking the over-run gas in February was \$3,531. Mr. Maple proposed the Commission disallow the entire \$38,147 from the February 2010 over-run charges imposed by PEPL because AIC did not need to incur over-run charges to maintain its winter storage plan or to meet the 20% inventory threshold, and the cost over-runs were not economically prudent when compared to the potential PEPL penalty AIC would have incurred for failing to meet the 20% threshold.

#### B. Rebuttal Testimony

Ms. Foerstel explained why the Company utilized PEPL's authorized over-run ("AOR") service during February 2010, and why the Company believes it was prudent to do so. Ms. Foerstel also explained the Federal Energy Regulatory Commission-approved ("FERC") tariff provisions governing PEPL's firm storage service under Rate Schedule FS-Flexible Storage ("FS") including those provisions that relate to the AOR of injection and withdrawal contract quantities which AIC utilizes on certain occasions. Ms. Foerstel further testified that three (3) critical factors known at the time the AOR charges were incurred were the basis of prudent management to exercise its right to AOR services; those factors include: potential PEPL gas retention penalties, weather, and aquifer storage operation characteristics.

Ms. Foerstel described the leased storage contract between AIC and PEPL. The contract has a Maximum Storage Quantity ("MSQ") of 3,665,000 Dth that can be injected and withdrawn seasonally. The contract provides for a Maximum Daily Injection Quantity ("MDIQ") of 23,240 Dth, and a Maximum Daily Withdrawal Quantity ("MDWQ") of 28,500 Dth. Injections into and withdrawals from PEPL's FS storage

require the use of PEPL transportation capacity which the Company has under firm contract. Ms. Foerstel explained that PEPL's FS tariff has a seasonal inventory cycling requirement that must be met and that there are penalties for failing to meet those requirements. The FS tariff states that PEPL will retain 0.25% of the excess Stored Volume over 20% of the Maximum Daily Storage Quantity on March 31 of each calendar year.

Ms. Foerstel described the winter season prior to the Reconciliation Period (2008-2009), as being unusually warm in February and March 2009. Ms. Foerstel testified that the 2009-2010 winter season began with a very warm November (24% warmer than normal), and although December 2009 and January 2010 helped with slightly colder than normal temperatures, the Company's storage withdrawal at the end of January 2010, was slightly behind for the season. According to the Company, colder than normal temperatures during mid- to late-February 2010, provided the Company with an opportunity to get back on plan and actually get ahead of plan in case the weather turned significantly warmer as it did the prior winter in February and March 2009. Ms. Foerstel testified that February turned out to be 9% colder than normal but March 2010, was dramatically 21% warmer. Ms. Foerstel explained the Company's plan was to end the season at 13%, not the 20% as indicated by Staff witness, Mr. Maple. She also explained why the Company did not withdraw its MDWQ every day in February 2010. She contends that, in order to keep Company-owned storage assets on plan, protect field integrity and allow for flowing baseload supply, PEPL withdrawals were reduced below the MDWQ for a number of days in February 2010. Ms. Foerstel explained that the contracted storage service with PEPL is a no notice service, allowing

for swings on the volumes needed without nominations. The Company contracts, and pays, for a MDWQ under PEPL's FS tariff. In February 2010, the Company was able to use a higher MDWQ without committing to that higher volume and additional charges under a long term FS agreement. The Company views AOR as another valuable tool for balancing its system.

Ms. Foerstel explained how the on-system storage assets affected the Company's decision to exceed PEPL storage withdrawals. AIC establishes storage withdrawal plans in advance but at times has to adjust the monthly activity based on many factors such as weather, market prices and unplanned pipeline maintenance or outages. The Company-owned storage fields, Lincoln and Glasford, were behind plan heading into February 2010. Ms. Foerstel testified that there is less flexibility to deviate from plans with these company-owned fields than with leased storage assets. Both Lincoln and Glasford are aquifer fields. Aquifer fields need to be cycled each season to maintain performance, retain field integrity and prevent gas migration. Getting leased storage withdrawals back on scheduled plan allowed Lincoln and Glasford's March withdrawal plans to be met. Therefore, cycling these aquifer fields was a critical factor weighed by the Company at the time the decision was made to incur the AOR charges. Ms. Foerstel testified that being behind on storage withdrawals for the season impacted the Company's purchasing decision. She stated the Policy establishes a six-year planning horizon for gas supply purchases and hedging. Most of the baseload gas for the next injection season had already been purchased and no additional baseload purchases were executed after December 2009, because of the potential overhang of storage due to the warmer than normal weather. She stated the Company's summer

purchasing decisions are based on storage withdrawal plans for the previous season. The original plan was to empty PEPL leased storage to 13% of MSQ.

Ms. Foerstel argues Staff witness Mr. Maple's analysis of AIC's storage withdrawal plan fails to support his imprudence allegation. Ms. Foerstel maintains that she believed Mr. Maple's analysis at line 123 of his direct testimony does not adhere to the prudence standard, and would constitute a hindsight analysis. She stated that at the time the AOR charges were incurred, management simply could not predict the future, only manage the risks it foresaw based upon the facts known at the time of the decision which included actual historical weather patterns from the previous winter. According to the Company, purchased gas and gas management decisions are made with the information known at the time and the decision to utilize AOR was reasonable given the known information at the time. Ms. Foerstel testified that the AOR charges were prudent and that by taking the AOR withdrawals on PEPL, it allowed the Company to end the withdrawal season on target, retain its storage fields' integrity, and start the 2010 injections schedules as planned. It is the opinion of AIC that the use of AOR was critical to accomplish the above while avoiding long term reservation changes on additional MDWQ and potential excess inventory retention penalties under PEPL's Rate Schedule FS.

Mr. Maple testified that Ms. Foerstel's testimony offered virtually no rebuttal in response to Staff's arguments and adjustments. Mr. Maple argued there are two (2) factors which explain that AIC had enough information at the time to avoid AOR charges. First, Mr. Maple claimed the Company hit its target on February 21, 2010 and yet it continued to withdraw gas beyond its maximum daily limits on six (6) of the

remaining seven (7) days of the month, incurring more penalties. Second, the harm of withdrawing over-run gas outweighed the benefits. Mr. Maple explained that a simple calculation which could have been computed at the time the Company was making its decisions, would have showed the Company that customers were paying \$38,147 to potentially save \$3,531 in PEPL inventory penalties.

### C. Surrebuttal Testimony

Ms. Foerstel continues to assert that the AOR charges incurred by the Company in February 2010 were prudent. Ms. Foerstel testified that Mr. Maple bases his imprudence claim on the comparison of only one cost and one benefit (or avoided cost in this case). It is true that the avoided penalty could never justify the expense of an AOR charge when considered in isolation. Ms. Foerstel argues it is only when you factor in all the other benefits of the AOR storage withdrawal activity that it's prudence become obvious. Ms. Foerstel explained another benefit the Company considered when making its decision to incur the AOR charges. The AOR withdrawals allowed the Company to over 256,000 Dth of PEPL storage capacity available for summer injections. On February 1, 2010 the NYMEX gas pricing for the 2010 summer injection season was \$5.586/Dth, while gas for the following winter season was priced at \$6.468/Dth. Thus the storage capacity made available by the AOR storage withdrawals (256,000 Dth) had the potential to capture that price savings of \$0.882/Dth, which is far more than \$0.1485/Dth AOR charge from PEPL. Mr. Foerstel stated that if the price savings is applied the volume of over-run gas, AIC customers had the potential to save over \$225,000 based on the pricing at the time the decision was made to utilize AOR storage withdrawals on PEPL.

#### **IV. CONTESTED ISSUE**

##### **A. Over-run Charges**

## **V. COMMISSION ANALYSIS AND CONCLUSIONS**

## **VI. FINDINGS AND ORDERING PARAGRAPHS**

The Commission, having considered the entire record and being fully advised in the premises, is of the opinion and finds that:

- (1) AmerenCILCO n/k/a AIC is a corporation engaged in the distribution of natural gas to the public in Illinois, and, as such, is a public utility within the meaning of the Public Utilities Act;
- (2) the Commission has jurisdiction over AmerenCILCO n/k/a AIC and of the subject matter of this proceeding;
- (3) the statements of fact set forth in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact;
- (4) [ALTERNATIVE 1] the evidence shows that for the 2010 Reconciliation Period, AmerenCILCO n/k/a AIC acted reasonably and prudently in its purchases of natural gas, and that Staff's recommended disallowance of \$38,147 is hereby rejected;

[ALTERNATIVE 2] the evidence shows that for the 2010 Reconciliation Period, AmerenCILCO n/k/a AIC acted reasonably and prudently in its purchases of natural gas, with the exception of certain PEPL authorized overrun charges cited by Staff in the amount of \$38,147;

- (5) the reconciliation of revenues collected under AmerenCILCO n/k/a AIC's PGA tariff with the actual costs prudently incurred for the purchase of gas supply during the Reconciliation Period, as reflected in the Appendix {Alternative 1 [Ameren Ex. 1.1 attached to Mr. Risse's direct testimony] Alternative 2 [Appendix A to the Staff IB]} attached hereto, should be approved;
- (6) Section 7(1)(g) of the Illinois Freedom of Information Act, 5 ILCS 140/1 et seq., exempts from public disclosure:

Trade secrets and commercial or financial information obtained from a person or business where the trade secrets or commercial or financial information are furnished under a claim that they are proprietary, privileged or confidential, and that disclosure of the trade secrets or commercial or financial information would cause competitive harm to the person or business, and only insofar as the claim directly applies to the records requested;
- (7) the specified information contained in the proprietary version of Ameren Exhibit 2.0, and the confidential versions of Staff Exhibits. 2.0 and 3.0 fall within this exemption and should be afforded proprietary treatment until April 12, 2014; and
- (8) all motions, petitions, objections, or other matters in this proceeding that remain unresolved should be resolved consistent with the conclusions contained herein;

**IT IS FURTHER ORDERED** that the proprietary versions of Ameren Exhibit 2.0 and the confidential version of Staff Exs. 2.0 and 3.0 are afforded proprietary treatment and are exempt from public disclosure, and will only be accessible to the Commission

and the Commission Staff until April 12, 2014, after which it shall be available to the public.

**IT IS FURTHER ORDERED** that all motions, petitions, objections, or other matters in this proceeding that remain unresolved are hereby resolved consistent with the conclusion contained herein.

**IT IS FURTHER ORDERED** that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By order of the Commission this \_\_\_\_\_ day of \_\_\_\_\_,  
2013.

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DOUGLAS P. SCOTT, Chairman