

**STATE OF ILLINOIS**

**ILLINOIS COMMERCE COMMISSION**

**AMEREN ILLINOIS COMPANY** :  
**d/b/a Ameren Illinois,** :  
**Petitioner** : **Docket No. 13-0075**  
: :  
**Compliance Filing Per December 5,** :  
**2012 Order in Docket No. 12-0293.** :

**STAFF OF THE ILLINOIS COMMERCE**  
**MOTION TO STRIKE CERTAIN PORTIONS OF AMEREN EXHIBIT 1.0 AND**  
**EXHIBITS 1.2 AND 1.3 IN THEIR ENTIRETY**

NOW COMES the Staff of the Illinois Commerce Commission (“Staff”), by and through its undersigned counsel, and pursuant to Section 200.190 of the Illinois Commerce Commission’s (“Commission”) Rules of Practice (83 Ill. Adm. Code 200.190), respectfully moves to strike certain portions of the direct testimony of Jacqueline K. Voiles (Ameren Ex. 1.0, lines 119-136, line 139 (“and AIC’s response to Staff Data Request KC 17.01”), and lines 186-190), and Ameren Exs. 1.2 and 1.3 in their entirety, filed on behalf of Ameren Illinois Company (“Ameren” or “Company”). In support of this Motion, Staff states as follows:

1. On December 5, 2012, the Commission issued its Order in Docket No. 12-0293 (“12-0293 Order”), Ameren’s first annual update to its formula rate filing, pursuant to Section 16-108.5(d) of the Public Utilities Act (“Act”).
2. In the 12-0293 Order, the Commission found certain Purchase Card (“P-Card”) Expenses to be unreasonable and ordered Ameren to:

[S]ubmit for approval its internal controls on P-Card usage within 45 days of the entry of this Order. Such a filing shall take the form of a petition with the usage limitations and supporting testimony attached. AIC should consider establishing uniform standards for all employees. Such standards should include limitations on meal expenses and identify other ways in which employees will be encouraged to spend wisely. In addition, AIC must provide information on its process for reviewing P-Card expense reports to ensure that they are reviewed in a consistent manner. When expense reports are submitted by employees, it is not unreasonable to expect the employee to report what particular activity he or she was engaged in when an expense was incurred and why that expense was necessary. 12-0293 Order at 69.

3. On January 18, 2013, Ameren submitted a Petition and the Direct Testimony of Jacqueline K. Voiles and three accompanying attachments. Attachment 1.1 is the “Ameren Employee Expense Reporting Policy – Includes Corporate Credit Card and Non-Taxable Out of Pocket Expense Reimbursement.” Attachment 1.2 is Ameren witness Kathleen A. Pagel’s Response to ICC Staff Data Request KC 17.01 from Docket No. 12-0293. Attachment 1.3 consists of Ameren witness Kathleen A Pagel’s Response to ICC Data Request KC 17.02 and 17.02 Attach.

4. Lines 119-136, line 139 (“and AIC’s response to Staff Data Request KC 17.01”), and lines 186-190 of Ms. Voiles Direct Testimony are irrelevant testimony and should be stricken. Additionally, Exhibits 1.2 and 1.3 are also irrelevant and hearsay, and should be stricken.

5. At the lines listed above, Ms. Voiles improperly discusses facts and discovery not in the record of Docket No. 12-0293 to support her testimony.

6. Irrelevant testimony must be stricken. Relevant evidence is evidence that tends to “make the existence of any fact that is of consequence to the determination of the action more probable or less probable . . . .” Fed. R. Evid. 401 (West 2009). The Illinois Supreme Court has explained that evidence is thus relevant if it “tends to prove a

fact in controversy or renders a matter in issue more or less probable.” Voykin v. Estate of DeBoer, 192 Ill. 2d 49, 57 (2000). It is axiomatic that “[e]vidence which is not relevant is not admissible.” Fed. R. Evid. 402 (West 2009). “Relevance is the touchstone of admissibility and [specific evidence is] inadmissible unless [a party] shows that the evidence is probative of a proposition at issue.” People v. Barbour, 106 Ill. App. 3d 993, 1000 (1st Dist. 1982). Thus, relevant evidence in a Commission proceeding must be limited to **matters actually at issue** and before the Commission for determination, and also to evidence that has probative power sufficient to make the Commission’s determination of facts at issue more or less probable. The 12-0293 Order specifically directed Ameren to include “internal controls on P-Card usage” and “information on the process for reviewing P-Card expense reports to ensure that they are reviewed in a consistent manner.” (12-0293 Order at 69.) Ameren was not directed to discuss what it did or did not provide parties during discovery in Docket No. 12-0293 or what those parties did with that information. Ms. Voiles’ testimony on those subjects is outside the scope of the Commission’s directive in the 12-0293 Order and is irrelevant.

7. Furthermore, Exhibits 1.2 and 1.3 are inappropriate hearsay and should be stricken. According to the face of the exhibits, they were not prepared by Ms. Voiles, they were prepared by Ms. Pagel. Ms. Pagel is not a witness in this docket. Nowhere in Ms. Voiles’ testimony does she state that she has knowledge of Ms. Pagel’s responses, or that those responses were prepared under Ms. Voiles’ direction or control.

8. Hearsay is unallowable evidence. While an expert may give his opinion on facts that are not in evidence, the facts must be capable of being tested through

cross-examination, and hearsay statements that an expert witness relies on cannot themselves be admitted as evidence. Here, Ms. Voiles selectively included the opinions of a witness that Staff is not able to cross-examine. Commonwealth Edison Co., 1990 WL 508139 (Ill.C.C.) citing Northern Trust Co. v. County of Cook, 135 Ill. App. 3d 329, 481 N.E.2d 957 (1st Dist. 1985). To the extent that Ms. Voiles has knowledge about the subject matter set forth in Ms. Pagel's data request responses, she should have provided that in her direct testimony.

WHEREFORE, for all the reasons set forth above, Staff respectfully moves the ALJ to strike certain portions of the direct testimony of Ameren witness Jacqueline K. Voiles (Ex. 1.0, lines 119-136, line 139 ("and AIC's response to Staff Data Request KC 17.01"), and lines 186-190) and Ameren Exhibits 1.2 and 1.3 in their entirety.

Respectfully submitted,

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Staff Counsel  
Illinois Commerce Commission

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Counsel for the Staff of the  
Illinois Commerce Commission