

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

<b>ILLINOIS COMMERCE COMMISSION</b>	)	
<b>On Its Own Motion</b>	)	
	)	<b>Docket No. 13-0506</b>
<b>Investigation of Applicability of</b>	)	
<b>Sections 16-122 and 16-108.6 of the</b>	)	
<b>Public Utilities Act.</b>	)	

**AMEREN ILLINOIS COMPANY'S  
VERIFIED SURREPLY COMMENTS REGARDING THE  
APPLICABILITY OF SECTIONS 16-122 AND 16-108.6 OF  
THE PUBLIC UTILITIES ACT**

COMES NOW Ameren Illinois Company d/b/a Ameren Illinois (“Ameren Illinois,” “AIC,” or “Company”), by and through counsel, and respectfully submits to the Illinois Commerce Commission (“ICC” or “Commission”) its verified comments in surreply to certain reply comments offered by stakeholders on November 5, 2013.<sup>1</sup> Failure to address a particular point, argument or interpretation offered by another should not be construed as to signify concurrence with the same. As an additional preliminary note, Ameren Illinois has elected to respond to select reply comments on a topic-by-topic, as opposed to party-by-party basis. We believe the issues have evolved such that presentation in this manner is more efficient and easier to follow.

**I. INTRODUCTION AND SURREPLY TO GENERAL PRELIMINARY ISSUES**

Ameren Illinois believes that this docket was initiated primarily in an effort to define the parameters around certain information release prohibitions contained in the Public Utilities Act (“PUA”), namely Sections 16-122 and 16-108.6. We do not believe this docket was intended to establish affirmative mandates expanding the scope of information an electric utility need provide upon request, or at least not to the extent such mandates cannot be read in PUA

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<sup>1</sup> And, to the extent applicable, to the AG's reply comments received on November 7, 2013.

provisions at issue. In other words, Ameren Illinois believes the fundamental question presented in the docket is "what information can an electric utility lawfully provide within the confines of Sections 16-122 and 16-108.6" and not "what information must an electric utility provide." These are fundamentally different questions, especially as applied to entities not referenced in the PUA sections at issue (i.e. those other than RESs or units of local government).

Ameren Illinois has expressed its agreement with other parties that Sections 16-122 and 16-108.6 should be interpreted as "non-exclusive" with respect to the entities referenced therein. (Ameren Illinois' Verified Reply Comments, p. 7.) Several parties touch on this issue in their respective reply comments. (See e.g., Verified Reply Comments of CUB, p. 2 ("[r]eading Section 16-122 as an exclusive list of situations when data may be exchanged would eliminate important customer benefits..."). To be clear, by expressing our agreement in this regard, we mean that we do not interpret Sections 16-122 and 16-108.6 as prohibiting the release of certain types of information to entities other than RESs or units of local government, subject to certain additional protections afforded "customer-specific" and "personal information." This should not be interpreted as an agreement that the provisions at issue mandate any additional disclosure requirements. To the extent this docket results in additional affirmative mandates or obligations, Ameren Illinois notes that those requirements, mandates or obligations will likely carry additional costs. Ameren Illinois reserves the rights to seek recovery of those increased incremental costs from third-party requestors and/or customers.

## **II. DISTINCTIONS IN AGGREGATION AND "DE-IDENTIFYING"**

After reading the reply comments filed in this docket, Ameren Illinois agrees that there appears to be a lack of clarity (for which the Company may be equally culpable) around distinctions in providing data that is aggregated (i.e. summed) and data that is not aggregated, but

rather provided on an anonymous, individual customer level. (See CNT Energy's Verified Reply Comments, pp. 3-4; Verified Reply Comments of the City of Chicago, pp. 9-11 ("aggregation versus anonymity")). To the extent there is any confusion, it is Ameren Illinois' position that data may legally be provided on an anonymous, individual customer level, but that such data should be grouped together by geographic locale in order to promote efficiency in processing requests for information and as another layer of customer protection.<sup>2</sup>

For this reason, Ameren Illinois continues to support the recommendation again presented in Staff's Verified Reply Comments (and again supported by ComEd and ICEA) that would establish that anonymous data could<sup>3</sup> be provided on a Zip + 2 – 4 basis, subject to a 30 customer floor. Ameren Illinois does not dispute CUB's contention that the 15/15 Rule discussed in its Reply Comments and adopted in states such as Colorado and California may have certain benefits with respect to balancing granularity and anonymity, but the Company has reservations about the added complexity and increased costs of providing data in such a manner. (See Verified Reply Comments of CUB, p. 7). Ameren Illinois believes that in this case, those potential detriments may outweigh any additional benefits obtained in "shrinking" the geographic area (and providing the data subject to the additional provisions of the 15/15 Rule discussed by CUB). Ameren Illinois has similar concerns about lowering the floor even further, to the level of 5 or more de-identified consumers suggested by CNT Energy or the level of 4 or more de-identified customers suggested by the City of Chicago. Ameren Illinois believes that lowering the threshold to these levels may substantially increase the likelihood that individual

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<sup>2</sup> Ameren Illinois does not believe this docket needs to address questions related to the release of aggregated (summed) data. For this reason, Ameren Illinois does not focus its surreply comments on responding to the City of Chicago's and CNT Energy's concerns related to "aggregated" (summed) data, but rather on the arguments specific to what those parties often refer to as "de-identified" (anonymous, granular) data. Also covered by this omission is any discussion of the City of Chicago's "Building Energy Use Benchmarking" ordinance, which Ameren Illinois understands to require tracking of summed tenant usage data.

<sup>3</sup> Staff uses the word "should". See Ameren Illinois' opening discussion regarding mandated versus optional productions.

consumers could be identified, even if only inadvertently, through examination of usage trends or consumptions patterns within the smaller sample.

In addition, while sympathetic, Ameren Illinois continues to harbor concerns about CNT Energy's proposed use of de-identified data even under what looks to be a hybrid of Staff's Anonymous Data Protocol. CNT Energy appears to be arguing (or offering as a compromise position) that for purpose of benchmarking building usage information, individual usage information could be "merged" with a "building-specific field, such as an address" and then later de-identified to a group of 30 or more customers. (See CNT Energy's Verified Reply Comments, p. 5). Once data is linked to an address (which Ameren Illinois believes to be generally accepted as "customer-specific" and/or "personal information") is it hard for Ameren Illinois to understand how any later de-identification could cure the initial coupling. That said, there may be practical distinctions between addresses that contain units numbers and those that do not (the later meaning that "building-specific", but not "address- specific" information may be able to be provided under some circumstances such as a minimum customer requirement) and we are open to further discussions on the topic.

Ameren Illinois also understands the desire expressed by ELPC and CNT Energy to segregate data by usage class in order to provide meaningful bases of comparison for the data provided. Again, though, we observe that adding levels of granularity to usage data such as customer class segmentation makes it more difficult to provide customers with the confidential treatment of their data. That said, Ameren Illinois is simply looking for additional clarity and direction from the Commission on this issue, along with assurances that prudent expenditures associated with providing customer data to external entities will be recoverable.

### **III. ABILITY TO IDENTIFY PTR AND NM CUSTOMERS**

There appears to be some confusion around Staff's position on the ability of an electric utility to identify NM and PTR customers and about whether the utilities (or at least Ameren Illinois) agrees or disagrees with Staff comments on the topic. (See generally, Verified Reply Comments of CUB, pp. 8-9; Verified Reply Comments of ICEA, p. 4; Reply Comments of ELPC, p. 2). To be clear, based on Staff's Verified Reply Comments, Ameren Illinois does not perceive there to be disagreement between Staff and the Company on this topic. Ameren Illinois agrees that outside the confines of a municipal aggregation setting, a utility should not be required to (nor should they voluntarily) provide list of individually-identifiable NM or PTR designations to an entity that does not have customer authorization to access the same. (See Verified Reply Comments of Staff, p. 6).<sup>4</sup> We are of the same opinion with respect to Qualifying Facilities ("QF") designations.

As indicated in Staff's reply comments, the bigger question is perhaps whether authorization should be deemed to exist in situations where an entity can and does provide a customer account number. Ameren Illinois will address this topic in the following section.

### **IV. SHOULD PROVIDING AN ACCOUNT NUMBER BE CONSTRUED AS A DEMONSTRATION OF CUSTOMER CONSENT TO ACCESS NM DESIGNATIONS, PTR DESIGNATIONS, QF**

### **DESIGNATIONS, MONTHLY HISTORICAL AND/OR INTERVAL USAGE DATA?**

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<sup>4</sup> Ameren Illinois is frankly unsure whether or not it agrees or disagrees with ELPC on the topic. ELPC states that "a customer's mere participation in a utilities' PTR or net metering program, without more, presents none of the consumer privacy issues that Sections 16-122 and 16-108.6 were intended to address." (Reply Comments of ELPC, pp. 2-3). We are unsure what they reference in their use of the word "more". As reflected in our Initial Verified Comments, "[t]o the extent the NM or PTR designation is coupled with information that would identify the customer or could reasonably be linked back to an identifiable consumer, Ameren Illinois does not read Sections 16-122 or 16-108.6 of the Act to provide this flexibility [to disclose], absent authorization or consent from an end user. Ameren Illinois views an NM and/or PTR designation to constitute "billing, usage or load shape data" as those terms are used in Section 16-122 and "information about a customer's electric usage" as used in Section 16-108.6 to the extent it is coupled with customer-specific identifiers." (Ameren Illinois' Initial Verified Comments, pp. 6-7).

In Staff's Verified Reply Comments, Staff argues that possession of a customer's account number should be considered customer consent to access an [identifiable] individual's NM or PTR status. (See Verified Reply Comments of Staff, p. 6). ComEd states that they do not oppose this suggestion, subject to ongoing general concerns about expanding the universe of information available by virtue of producing an account number. (See Verified Reply Comments of ComEd, p. 3). Staff also supports ICEA's position that possession of a customer's account number is sufficient for the utility to release historical monthly usage data.

As for access to interval usage data upon production of an account number, it appears as though the recommendations are a bit more divergent. Generally, ComEd argues that providing an account number does not sufficiently demonstrate customer consent to access interval usage data. (See Verified Reply Comments of ComEd, p. 2). ICEA appears to argue the opposite. (Verified Reply Comments of ICEA, p. 4 (agreeing with an interpretation of Staff's position that Ameren Illinois does not share)). Staff argues that such information should be provided on what is essentially a need-to-know basis or subject to heightened authorization requirements. (See Verified Reply Comments of Staff, pp. 7-8 (emphasis added)).

As for Ameren Illinois, the Company supports a process that would permit a RES in possession of an account number to access an identifiable customer's NM designation, PTR designation, QF designation and/or any historical monthly usage data associated with that account. These designations and this historical usage data is relevant to the charges that will be paid by the customer and is either necessary to prepare an accurate bill or to provide an accurate quote for supply services similar to those currently received by the customer. For these reasons, consent to access this information would appear to be at least implied, if not expressly provided to an entity seeking to avail itself of this information.

With respect to access to interval data, Ameren Illinois finds Staff's arguments persuasive. As a practical matter (and one that is cognizant of the consumer protection intent evident in the PUA), it would seem would seem that perhaps the best way to resolve interval data access concerns would be to require RESs to solidify the scope of authorization received during initial customer sign up and/or requiring RESs to obtain a separate, verifiable customer authorization sufficient to meet the requirements of the Consumer Fraud and Deceptive Business Practices Act.<sup>5</sup> To the extent this does not relieve concerns tied to municipal aggregation (see Verified Reply Comments of ComEd, p. 4), Ameren Illinois, like ComEd, would be interested in further exploring these issues in future discussions.

## V. CONCLUSION

In conclusion, Ameren Illinois closes comments in the docket expressing the same principles with which it opened. Heading into large scale AMI deployment, Ameren Illinois has two related goals, which it hopes the Commission shares. First, although as evident by the comments provided below we believe the Act offers relatively clear guidance in respect to the questions thus far posed in this docket, whether the Commission agrees or disagrees with Ameren Illinois' interpretation of those provisions, what we ultimately seek is clarity with respect to the conduct that is expected of us in conducting business, and facilitating services offered by others, in an AMI-enabled world. Second, we strive for this clarity with an eye toward creating a marketplace that, subject to the statutory framework in which it operates,

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<sup>5</sup> In the Verified Reply Comments of ICEA, ICEA maintains that "Ameren agreed with ICEA's legal argument that an ARES may access a customer's billing and usage data when there is a signed contract between the customer and the ARES." Verified Reply Comments of ICEA, p. 5. That's based on a true story. But the Company also stated, consistent with its recommendation above, that if the current documents are not sufficiently clear, "Ameren Illinois suggests that the way to confirm and/or clarify the scope of consent would be through an amendment to the LOA to more clearly capture the intent of the consumer with whom the RES is contracting. Utilities should not bear the burden of interpreting this consent on a piecemeal or ad hoc basis." (Ameren Illinois' Initial Verified Comments, pp. 9-10).

functions in a manner that takes full advantage of AMI deployment and operates in a way that allows consumers to obtain the benefits contemplated by stakeholders.

**WHEREFORE**, Ameren Illinois Company d/b/a Ameren Illinois respectfully submits these comments for consideration and requests relief consistent with the opinions expressed herein.

**Dated: November 19, 2013**

Respectfully submitted,

AMEREN ILLINOIS COMPANY  
d/b/a Ameren Illinois

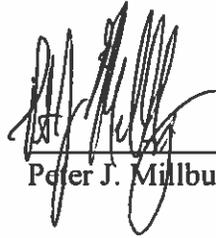


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**VERIFICATION**

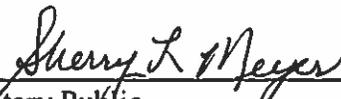
I, Peter J. Millburg, being first duly sworn, hereby state that: i) I am the Managing Supervisor of Regulatory Compliance for Ameren Illinois Company d/b/a Ameren Illinois; ii) I am authorized to make this verification on its behalf; iii) I have knowledge of the facts therein; and iv) the facts as stated are true and correct to the best of my knowledge, information and belief.

  
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Peter J. Millburg

STATE OF ILLINOIS                    )  
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COUNTY OF SANGAMON            )

SUBSCRIBED and SWORN to before me this 19 day of November, 2013.

  
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Notary Public



**CERTIFICATE OF SERVICE**

I, Eric Dearmont, Counsel for Ameren Illinois Company, hereby certify that a copy of the foregoing *Verified Surreply Comments Regarding the Applicability of Public Utilities Act Sections 16-122 and 16-108.6* was filed on the Illinois Commerce Commission's e-Docket and was served electronically to all parties of record in Docket No. 13-0506, on this 19<sup>th</sup> day of November, 2013.



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Eric Dearmont