STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Central Illinois Public Service Company (AmerenCIPS) and Union Electric Company (AmerenUE)	:	
	:	Docket No. 00-0802
Central Illinois Public Service Company and Union Electric Company request for approval of revisions to delivery services tariffs, and for approval of Delivery Services Implementation Plan for Residential Customers.	:	

REPLY BRIEF OF
THE AMEREN COMPANIES

Central Illinois Public Service Company ("AmerenCIPS") and Union Electric Company ("AmerenUE") (jointly, the "Ameren Companies") submit this Reply Brief in response to the Initial Brief of the Commission's Staff.[1]

I. Rider ISS - Interim Supply Service

As discussed in the Ameren Companies' Initial Brief (pp. 1-6), the Staff proposed to cap charges to residential customers under Rider Interim Supply Service ("ISS") at the bundled rate, plus an adder. The Ameren Companies have explained how this proposal would shift price and credit risk from the Rider ISS customer to the Ameren Companies and other customers.

In its Initial Brief (p. 27), Staff indicates that it proposed the rate cap "to reduce the barriers present for residential customers to participate in the competitive market." Staff also characterizes the Ameren Companies' rate proposal as a "high rate."

[1] Attached hereto as Appendix A are the Ameren Companies' final Income Statements and Statements of Rate Base.

The Ameren Companies' rate proposal under Rider ISS presents neither a barrier to the market nor a high rate. To the contrary, the Ameren Companies propose to charge residential customers a market rate plus a capacity adder -- which is what it costs to serve the customer. Customers who wish to be protected from paying market rates that may be higher than the bundled rate should not participate in the competitive market. Normal risk in the market is not a "barrier."

What Staff is trying to do is capture benefits of the competitive market for residential customers with none of the risks. Since Staff cannot make the risks go away, they are shifting those risks to the Ameren Companies and/or other customers. This is not appropriate, and is directly inconsistent with what the Commission has approved for other customers. Staff's proposal should be rejected.

II. Rider SG - Self Generation

Staff dedicates a substantial portion of its Initial Brief to what amounts to a request that the Commission make a substantial reversal of rate design policy and philosophy in order to, Staff hopes, promote the development of self-generation ("SG"). As explained in the Ameren Companies' Initial Brief (pp. 6-12), the Ameren Companies have proposed Rider SG to assess delivery services customers with SG their fair share of the costs of the system that stands ready to serve them when their SG is not in service. The Staff contends that, when customer SG is on-line, it imposes no demands or costs on the delivery system beyond those reflected in the customer and meter charges.

Staff contends first that the Companies' proposal will result in "inconsistent" treatment within rate classes because, according to Staff, non-SG and SG customers will be charged on a different basis. Staff notes that non-SG customers will be charged based on "actual usage," whereas SG customers will be charged based on "the sum of their usage from Ameren's system and from their own generators." (BR, pp. 30-31).

There is no inconsistency in treatment. In each instance, customers are being asked to bear responsibility in proportion to the load Ameren's delivery system must be prepared to serve. For non-SG customers, that load is their actual system usage; those customers generally have no additional load that Ameren must be ready to serve, or at least not the magnitude represented by SG installations. For SG customers, that load is the sum of their "actual" system usage (i.e., what they pull through the Ameren meter) plus what is being served from SG, because Ameren is standing by to serve that load in the event that the SG fails.

In this regard, Rider SG is no different from Ameren's existing electric and gas standby rates that the Commission has approved previously. Under AmerenCIPS' electric Rider 2 (Ill. C.C. Schedule No. 15), for example, customers contract for a level of standby service, and pay a monthly demand charge reflecting the level of standby service, regardless of whether it is ever "actually" used (i.e., pulled through the meter). Similarly, both system gas and gas transportation customers pay monthly charges for contracted standby amounts, regardless of whether the customers make full use of their standby service level (Rider T and Rider S, Ill. C.C. Schedule No. 10F).

Here, however, the Staff seeks to provide SG customers with what amounts to free standby service. Under Staff's proposal, SG customers would have full standby service, at all times, for which these standby customers would pay no demand charges.

This would mark an extraordinary departure from the principles of pricing standby service reflected in the Companies' existing standby service tariffs. Where the Commission has clearly seen it appropriate in the past to require standby customers to bear a portion of the costs of the system prepared to serve them in proportion to their potential load, Staff now sees this as inappropriate, inconsistent and discriminatory.

Staff seeks to justify this abrupt change in policy by stressing both the importance of SG and the "distortion" that would result from implementation of the Ameren pricing proposal. Staff, however, establishes neither point.

Staff's acceptance of the benefits of SG is apparently a matter of faith. Staff provided no cost-benefit analysis, no matter how rudimentary, of SG. Staff merely - and repeatedly - asserted that SG would be beneficial to the Ameren system, if SG could develop in large numbers. As discussed in the Ameren Companies' Initial Brief (pp. 11-12), however, there is no basis for concluding that SG can or will develop in that manner on the Ameren system.

Lastly, it is not distortionary in any respect to charge standby customers an appropriate fee for standby service. If recognition of that appropriate fee produces a different result in the customer's decision-making process with respect to SG, that does not mean that there is something wrong with the fee. An analysis of whether SG is economical should reflect all appropriate costs, including the cost of standby service. It is distortionary to pretend that there are no standby service costs, as Staff apparently does. While such a subsidy may result in the introduction of more SG, it does not follow that either the system or other customers will benefit. One thing, though, is clear -- Staff's proposal will shift costs to non-SG customers in the short run, with no quantifiable benefit to them in the long run.

The Commission should adhere to its existing pricing policy with respect to standby service and price standby delivery services for SG customers in the same manner as proposed by the Ameren Companies.

III. ARES Business Center Labor

In their Initial Brief (pp. 12-13), the Ameren Companies detailed the reasons that their proposed adjustment to the test year to reflect three new positions in the ARES Business Center ("ABC") is both known and measurable. In its Initial Brief (pp. 17-18), the Staff opposes this adjustment. The Staff argues both that the timing of the hirings is uncertain and that the level of compensation is not known, and refers in this regard to the Commission's traditional test year rules.

While the specific timing of the hirings is not fixed, the record reflects that all positions will be filled by May 1, 2002, just a few months after the rates established in this proceeding are expected to become effective, and by the time that residential customers become eligible for delivery services. Accordingly, there is a "reasonable certainty" that the hirings will be made within a reasonable period. The Commission has never, to Ameren's knowledge, required that a utility demonstrate the specific date on which an employee will begin; rather, under traditional test year rules, the Commission has required only that an employee be hired (or that any particular event occur) within a specific period for an adjustment to be accepted.

The Staff also suggests that the level of compensation is unknown because, according to Staff, the salary levels for the three ABC positions have changed three times since the inception of the case. The fact that the salary levels have been refined in the course of the budgeting process should not have a material effect on the Commission's decision. The initial estimate of salary requirements was made nearly a year ago in order to be included in the filing last fall. Since that time, Ameren has refined its plans for the ABC as the date for residential open access has approached. The Companies' final estimate of the labor costs is that reflected in Ameren Ex. 28.0.

What is certain here is that the ABC will experience an increase in the level of activity and that it will hire three new employees by next May 1 to address that increase. The salary levels reflected on Ameren Ex. 28.0 represent the amounts that Ameren is prepared to offer to candidates for the new positions, and thus represent the minimum amounts that Ameren will have to pay. Accordingly, the adjustment is both known and measurable and should be reflected in the rates established in this proceeding.

IV. Employee Benefits Cost Adjustment

Staff offers no reason why the cost of these plans should be disallowed beyond the fact that in certain prior cases, the Commission disallowed them. The Ameren Companies are not litigating prior cases; they are litigating this case. In this case, the Ameren Companies presented a test year that included the cost of executive compensation packages, which, in turn, include certain supplemental benefit plans. The Ameren Companies explained that the supplemental benefit plans are reasonable and necessary components of executive compensation, and that the overall levels of compensation are reasonable and appropriate in the market.

The Staff opposed the inclusion of the cost of these plans in the test year, but never suggested either that the cost of those plans is unreasonable or that the overall compensation packages are themselves unreasonable. Rather, the Staff contended that the supplemental plans are discriminatory (while at the same time readily admitting that there is nothing inappropriate about compensating different employees differently) and relied principally on the Commission's prior treatment of similar plans.

The fact that the Commission previously rejected inclusion of similar costs in a test year does not forever foreclose Ameren from ever proposing their inclusion again. The Companies presented those costs here as a reasonable and necessary element of appropriate compensation packages for executives, and no party has questioned that. Accordingly, the costs should be reflected in the test year.

V. Incentive Compensation

In their Initial Brief (pp. 14-19), the Ameren Companies explained why it is appropriate for the Commission to allow the Companies to include in the test year a reasonable amount for compensation payments made to employees in the form of incentive payments. The Staff opposes the inclusion of incentive payments in the test year, arguing that those payments are incurred principally for the benefit of shareholders and that their inclusion in the test year could enrich shareholders further if the payments are not made.

The Ameren Companies do not deny that they are in business to make money, and that when they make money, Ameren's shareholders benefit. While the Ameren Companies strive to provide quality service to their customers, they admit that their principal motive in doing so is to promote the continued health of their business, which relies in large part on the continued satisfaction of their customers. When the Ameren Companies seek to improve efficiency, they do so to improve the bottom line – which also benefits their customers. Regulatory commissions have long been comfortable with this relationship between the interests of customers and shareholders.

The Staff now displays a good deal of discomfort with the fact that many of the actions that Ameren takes, while benefiting customers, also benefit shareholders. Like many employers, including a large part of the utility sector, Ameren has a detailed incentive plan designed to promote the provision of efficient and quality service. This both improves profits, by reducing costs, and promotes the continued health of the business, by promoting customer satisfaction. Ameren, like many other employers, believes incentive plans to be highly effective tools in drawing out of employees the performance necessary to achieve these goals.

Staff does not disagree that incentive plans can be effective, and that their costs should never be reflected in rates. The Staff does, however, demonstrate a good deal of suspicion with respect to Ameren's plan and its motives. The Staff fears that, through one event or another, Ameren will be in a position not to make the payments, but to collect their cost from ratepayers.

Staff's mistrust is unfounded. One concern that the Staff has is that Ameren will revise or eliminate its plan, and thus not make any payments to employees. This is a highly unlikely result. As the evidence indicates, the use of incentive plans is increasingly common, and at Ameren is an important part of an employee's overall compensation. Ameren would not abandon its incentive plan, and thus a primary tool to control costs and promote quality service, simply to pocket the incentive payments reflected in rates.

Staff is also concerned that, because the payments are funded out of earnings, if earnings are down, payments will not be made. Of course, if earnings are down, that means that expenses are up, or revenues are down, which means that Ameren is not realizing the expected rate of return – in which case shareholders are not being unduly enriched by the absence of incentive payments.

As explained in their Initial Brief, the Ameren Companies believe that the Commission should be encouraging the use of incentive plans. Rate decisions that deny utilities recovery of legitimate and appropriate costs of service do not promote use of these tools. They pressure utilities to abandon what have been recognized as effective management tools that can benefit ratepayers greatly.

Respectfully submitted,

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