

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

AMEREN ILLINOIS COMPANY)	
d/b/a Ameren Illinois)	
Petitioner)	Docket No. 13-0476
)	On Rehearing
Revenue-neutral tariff changes)	
related to rate design.)	

**EXCEPTIONS AND BRIEF ON EXCEPTIONS ON REHEARING OF
THE PEOPLE OF THE STATE OF ILLINOIS**

The People of the State of Illinois

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September 11, 2014

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NOW COME the People of the State of Illinois (“AG” or “the People”), by and through Lisa Madigan, Attorney General of the State of Illinois, pursuant to Part 200.830 of the Illinois Commerce Commission’s (“the Commission” or “ICC”) rules, 83 Ill. Adm. Code Part 200.830, and in accordance with the schedule established in this docket, hereby file their Brief on Exceptions and Exceptions to the Proposed Order on Rehearing (“PORH”) issued by the Administrative Law Judge (“ALJ”) in the above-captioned docket on August 28, 2014, which will establish new revenue-neutral tariff changes related to electric distribution service rate design for the residential class for Ameren Illinois Company (“Ameren” or “AIC” or “the Company”).

I. INTRODUCTION

The People appreciate the PORH’s careful consideration of the record data and the various parties’ arguments in the rehearing phrase of this proceeding. The People take exception to the PORH in two respects: First, while the People do not oppose the Commission’s adoption of the alternative proposal made by Staff witness Harden, the People believe that Ms. Harden’s proposal could be used as the intermediate step in a two-year phase-in to the People’s cost-based proposal without causing undue bill impacts to the high-usage customers. Second, the People

take exception to the portion of the PORH that declined to adopt their recommendation on customer communication.

II. Exception No. 1: Residential Rate Design

The PORH recommends the adoption of the “alternative” proposal made by Staff witness Harden in her direct testimony on rehearing, Staff Ex. 1.0R at 13:282-14:307, to collect 36.4%¹ of residential revenue through fixed charges. As the People stated in their Reply Brief on Rehearing (“RBRH”), the People’s proposal, based on Ameren’s cost-of-service study from Docket No. 14-0317 (its 2014 annual formula rate update proceeding) was to recover 28.03%² of residential revenue through fixed charges, reflecting the percentage of costs that are customer-related. The People take exception to the ALJ’s decision in the PORH at 41 to adopt Ms. Harden’s alternative proposal, to the extent that it stops there. The People propose that, if the Commission adopts the Staff alternative proposal, it order a two-year phase-in of Ameren’s electric residential rate design from the *status quo* design to the People’s design, using Ms. Harden’s proposal as the intermediate step in the first year.

In other words, the People recommend, as they did as an alternative proposal in their Initial Brief on Rehearing (“IBRH”) at 25-26, that the Commission order Ameren to reduce its percentage of residential revenue recovered through fixed billing components to 36.4% in January 2015 and then to 28.03% in January 2016. The original Order in this proceeding indicated that a phased-in approach may be appropriate to address concerns about potential “rate

¹ Ms. Harden’s direct testimony on rehearing originally proposed 36%, but in a discovery response following the filing of her rebuttal testimony on rehearing, Ms. Harden agreed to update her proposal to 36.4% based on figures from Ameren’s 2014 cost of service study. AIC Cross Exhibit 1.

² AG RBRH, August 6, 2014, at page 6, footnote 5.

shock” for electric space-heating customers.³ The People’s proposed phase-in moving from the Staff alternative to the People’s cost-based proposal would address that concern while moving Ameren’s residential rates toward a cost-of-service basis and relieving the burdens that have been placed on low-use customers.

If the Commission adopts the Staff alternative as a phase-in, the bill impact in January 2016 (compared to January 2015) when the fixed component percentage drops from 36% to approximately 28% would be approximately equal to the bill impact in January 2015 (compared to January 2014) when the fixed component percentage drops from approximately 44.8% to approximately 28%), for the reasons shown below. This should allay any concerns that the Commission has regarding the impact upon high users.

Bill Impacts of the People’s Phase-In Proposal

Ms. Harden presented the projected bill impacts of her proposed residential rate re-design⁴ in her Schedule 1.03R, attached to her direct testimony on rehearing, Exhibit 1.0R.⁵ Under her proposal, space-heating customers would see annual total bill impacts of around 8% to 11% in Rate Zone I; 5% to 7% in Rate Zone II; and 10% to 11% in Rate Zone III. In January 2015, space-heating users would see bill impacts (compared to January 2014) of around 5% to 8% in Rate Zone I; 2% to 4% in Rate Zone II; and 8% consistently in Rate Zone III.⁶ If this

³ Order, Docket No. 13-0476, March 19, 2014, at 102.

⁴ Schedule 1.03R to Ms. Harden’s direct testimony was based on her 36% proposal as discussed in footnote 1 above, but the discrepancy between those bill impacts and the bill impacts from a 36.4% proposal are likely small.

⁵ Available at <http://www.icc.illinois.gov/downloads/public/edocket/379481.pdf> (Schedule 1.03R found at 65th through 67th pages of PDF).

⁶ It should also be noted, as the People observed in their IBRH at page 12, footnote 13, that the winter of 2014 was unusually cold, as admitted by Ameren witness Mr. Jones (Tr. at 140:10-13), and so a user who uses any given usage level shown on Ms. Harden’s bill impact study in January 2015 was likely using a *higher* usage level in January 2014 – so the bill impacts shown in Ms. Harden’s analysis are likely *overstated* somewhat, although of course the extent cannot be quantified, as there is no record evidence as to likely future weather.

level of winter impact is acceptable to the Commission for space-heating users, then the *same* level of winter impact in January 2016 (compared to January 2015) should also be acceptable.

In order to project the bill impacts in January 2016 under the People’s phase-in proposal, certain assumptions about future revenue requirement and rates must be made. While Ameren’s proposed net revenue requirement⁷ for 2016, as offered in next year’s formula rate update case, is obviously not known at this time, we do know that Ameren’s net revenue requirement for 2014 included a reconciliation over-authorization balance (in other words, a credit to customers) of approximately \$56.5 million relating to 2012’s actual costs and revenue authorization, as determined in Docket No. 13-0301.⁸ Part of the proposed \$206.4 million net revenue requirement increase for 2015, as proposed by Ameren in Docket No. 14-0317 (AG Cross Exhibit 1 at line 32) thus stems from the *disappearance* from the net revenue requirement of the \$56.5 million over-authorization reconciliation from 2014’s net revenue requirement and the *addition* of the proposed \$70.5 million *under-authorization* reconciliation balance relating to 2013 (AG Cross Exhibit 1 at line 28; Tr. at 106:9-14). It cannot be predicted at this time whether Ameren will allege an under-authorization or over-authorization relating to 2014 in 2015’s formula rate update case. If Ameren alleges a smaller under-authorization than \$70.5 million or an over-authorization relating to 2014, then that component of 2016’s net revenue requirement will *decrease* distribution rates.

The increase in proposed filing year revenue requirement for 2015 compared to the same value for 2014 is \$855.6 million minus \$787.5 million, or an increase of 8.6%. AG Cross

⁷ By “net revenue requirement” the People mean the filing year revenue requirement for the *following* calendar year proposed in a given year’s formula rate update, plus the reconciliation balance (with interest) under Section 16-108.5(d)(1) of the Act relating to the *previous* calendar year. That sum – the net revenue requirement – is implemented in rates in the following calendar year after the formula rate update.

⁸ Order, Docket No. 13-0301, December 9, 2013, Appendix B, page 1, line 26 (available at <http://www.icc.illinois.gov/downloads/public/edocket/364576.pdf>).

Exhibit 1 at lines 22, 23; Tr. at 104:3-106:7. For purposes of this Brief on Exceptions on Rehearing, the People will assume that the increase in filing year revenue requirement for 2016 compared to 2015 will again be 8.5%. Thus, the People will use that percentage value as the projected increase in *net* revenue requirement for 2016 compared to 2015 – assuming that the 2014 reconciliation balance included in 2016’s net revenue requirement would be around the same as the 2013 reconciliation under-authorization balance of \$70.5 million included in 2015’s (proposed) net revenue requirement.

As the People noted in their IBRH at 20, nothing is known about future supply prices past June 2015. Ameren witness Mr. Jones made certain conclusory remarks in his testimony (*e.g.* AIC Ex. 4.0RH at 22:462-463) and during cross-examination (Tr. at 123:18, 124:19-125:5) suggesting power supply prices may increase in 2015, perhaps because certain long-term power supply contracts procured by the Illinois Power Agency (“IPA”) will expire next year and could be replaced by higher prices, but he did not describe the IPA’s procurement strategy or attempt to quantify any possible rise in supply prices in June of next year. He did not present any supporting documents for this contention or explain why supply prices might not *drop* when the IPA contracts expire next year. Ameren counsel introduced a cross exhibit during the evidentiary hearing showing prices offered by alternative retail suppliers that are currently higher than Ameren’s default power supply price (AIC Cross Exhibit 11), but Mr. Jones later admitted that several of those alternative suppliers are offering “green” or “clean” energy that can in some circumstances be above market prices. Tr. at 125:9-126:6. Thus, the best guess as to 2016’s supply prices based on record evidence is the supply prices that are scheduled to take effect in October 2014, shown on the corrected version of AIC Exhibit 2.12RH, page 2. Similarly, the People will assume that the same Rider TS and EDT rates shown on AIC Ex. 2.12RH, page 2

will prevail in 2016, absent any evidence as to their likely future direction. As the People noted at pages 16-17 of their RBRH, there is no record evidence as to the future direction of transmission rates, contrary to Ameren's suggestions in briefing.

In order to project residential distribution rates in 2016 under Mr. Rubin's cost-based proposal, the People will scale up⁹ the proposed rates presented in Mr. Rubin's AG Exhibit 3.01 by 8.5%, and they will also scale up the Uncollectible charge shown on Ms. Harden's Schedule 1.02R, page 2 by 8.5%. Admittedly, it is difficult to predict what may happen in 2016, but with those assumptions stated above in mind, the following table shows the likely total bill impacts of moving from Ms. Harden's proposed rate design to Mr. Rubin's proposed rate design in January 2016, compared to January 2015 bills. The first six numerical rows of the table show rates under Ms. Harden's alternative proposal and rates under Mr. Rubin's proposal, as it would be applied to 2016 using the above assumptions. The last five numerical rows show the same space-heating usage levels for January analyzed in Ms. Harden's Schedule 1.03R, page 2. The calculation for each dollar figure in the last five numerical rows of the table is simple and based on record evidence: it adds (i) the fixed charge, plus (ii) 800 kWh times the "non-summer charge, first 800 kWh", plus (iii) the remaining usage over 800 kWh times the "non-summer charge, over 800 kWh", plus (iv) the usage times the sum of the EDT, Rider TS, and BGS-1 volumetric charges.

⁹ This methodology assumes that the only significant change in the determination of distribution service rates in 2016 would be an increase of net revenue requirement by 8.5% and no change in usage or number of customers. While that precise outcome seems unlikely, there is no information in the record suggesting the direction of change in number of customers or usage in 2016 compared to 2015, so the best guess is no change.

	Rate Zone I			Rate Zone II			Rate Zone III		
	Staff Alt (2015)	AG Prop (2016)		Staff Alt (2015)	AG Prop (2016)		Staff Alt (2015)	AG Prop (2016)	
Fixed charges	15.69	13.40		15.69	13.40		15.69	13.40	
Non-summer charge, first 800 kWh	0.02268	0.027885		0.02268	0.027885		0.02781	0.033646	
Non-summer charge, over 800 kWh	0.00906	0.011143		0.00906	0.011143		0.01945	0.023523	
EDT (per kWh)	0.001464	0.001464		0.001233	0.001464		0.001388	0.001464	
Rider TS (per kWh)	0.00658	0.00658		0.00658	0.00658		0.00658	0.00658	
BGS-1 (per kWh)	0.03746	0.03746		0.03746	0.03746		0.03746	0.03746	
January Usage (kWh)	Jan 2015 bill	Jan 2016 bill	Diff	Jan 2015 bill	Jan 2016 bill	Diff	Jan 2015 bill	Jan 2016 bill	Diff
1,475	\$ 107.07	\$ 110.35	3.1%	\$ 106.73	\$ 110.35	3.4%	\$ 118.07	\$ 123.31	4.4%
2,513	\$ 163.70	\$ 169.15	3.3%	\$ 163.12	\$ 169.15	3.7%	\$ 185.42	\$ 194.96	5.1%
3,777	\$ 232.67	\$ 240.75	3.5%	\$ 231.80	\$ 240.75	3.9%	\$ 267.42	\$ 282.21	5.5%
6,003	\$ 354.13	\$ 366.84	3.6%	\$ 352.74	\$ 366.84	4.0%	\$ 411.84	\$ 435.86	5.8%
8,523	\$ 491.63	\$ 509.59	3.7%	\$ 489.66	\$ 509.59	4.1%	\$ 575.34	\$ 609.81	6.0%

The figures above for 2016 rates under Mr. Rubin’s proposal are, admittedly, based on assumptions for 2016 that cannot be verified as of today, but they are the best available assumptions using record evidence. These calculations show that in Rate Zone I, moving from Ms. Harden’s rate design to Mr. Rubin’s in January 2016 would cause total bill increases just for that month (compared to January 2015) of around 3% to 4%; an increase of around 3% to 4% in Rate Zone II; and an increase of around 4% to 6% in Rate Zone III. These increases are *less* than the January 2015-vs.-January 2014 increases that Ms. Harden calculated for her rate design in Rate Zones I and III, and comparable to the increases that Ms. Harden calculated for her

alternative proposal in Rate Zone II. If the Commission is comfortable with the percentage magnitude of winter 2015 total bill increases (compared to winter 2014 months) that customers will see by moving from the *status quo* rate design to Ms. Harden's proposal, then it should also be comfortable with similar or lesser total winter bill increases in 2016 that would result from moving from Ms. Harden's design to Mr. Rubin's.

In light of the discussion above, the People recommend that the PORH be modified as follows:

Exception No. 1 Proposed Language

The Commission notes the analyses are based upon reasonable assumptions, but that the extent to which weather, energy prices, or other factors affect bill impacts in the future cannot be known with certainty. The Commission takes note that these factors have the potential to produce bill impacts of an unacceptable magnitude for a small number of electric space heating and high-usage customers. The Commission finds that Staff's alternative rate design effectively commences the shift to a rate design that decreases the fixed customer charge and increases the variable charges, while protecting against the potential for significant bill impacts. The Commission further finds, based on record evidence, that a subsequent shift after one more year from Staff's alternative rate design to the AG's proposed rate design would move closer to cost-based rates for the residential class while still protecting against the potential for rate shock to high-usage and space-heating customers. Therefore, the Commission adopts Staff's alternative proposal ~~at this time, effective for calendar year 2015 and then the AG's proposal effective for calendar year 2016.~~

III. Exception No. 2: Customer Communications

The People also take exception to the PORH's finding at page 41 that "the AG proposal for additional customer notice is not supported by the record". The People's proposal on this issue in their briefs was based only on Ameren witness Mr. Nelson's *own rehearing testimony*

that “customers need to be kept well informed of the details of pending rate increases” (AIC Ex. 1.0RH (2nd Rev.) at 7:143-144) and that, back in 2007, “efforts to inform and educate customers about the upcoming rate increases would have benefited from providing residential customers with projected monthly bill impacts, based on estimated usage, for subgroups of the residential class, like electric space-heating customers, prior to the new rates going into effect” (*id.* at 11:250-254). As the People noted in their IBRH at 27, AIC witness Nelson was unable to say during cross-examination whether the Company’s public notices in this proceeding contained any breakdown of bill impacts by usage, as he had previously recommended. Tr. at 14:2-10. He also admitted that a bill insert would be “one effective method” of communicating the pending rate increase or change to customers. Tr. at 12:2-6. It is fully appropriate for the People to respond to a Company proposal or concern and no need to provide affirmative testimony on an issue that involves a matter of policy and does not require expert analysis or fact-finding.

While Ameren complained in its RBRH that “[t]he proper and only time for the AG to propose a bill insert communication in response to [Company] evidence was the AG’s rebuttal testimony, not the AG’s Initial Brief,” any party is free to make arguments to the Commission based on the evidentiary record.¹⁰ The People admit that (as Ameren observed in its RBRH at 16), Mr. Nelson suggested during the evidentiary hearing that they direct additional questions to

¹⁰ This is not the first recent time in an electric distribution rate proceeding at the Commission that Ameren has suggested that parties must originally make proposals in testimony rather than in briefing, *even when the proposals are based on the record evidence*. In Docket No. 13-0301, Ameren filed a Motion to Strike Portions of the Reply Brief of the People of the State of Illinois on October 21, 2013 (available at <http://www.icc.illinois.gov/downloads/public/edocket/360483.pdf>) based on legal arguments found in the People’s Reply Brief that were not mentioned in their testimony, although the legal arguments were *founded upon* record evidence. As the People explained in their Opposition to Ameren’s Motion to Strike, dated October 25, 2013, in that proceeding (available at <http://www.icc.illinois.gov/downloads/public/edocket/361073.pdf>), Ameren’s stance would confine the Commission to accepting proposals and arguments based only on the precise justifications and analyses offered by expert witnesses, and it could chill intervening parties that cannot afford expensive expert witnesses from making proposals or legal arguments to the Commission. The ALJs in that proceeding denied Ameren’s Motion to Strike in a ruling dated November 14, 2013 (available at <http://www.icc.illinois.gov/downloads/public/edocket/362635.pdf>).

Ameren witness Mr. Jones on the topic of customer communications. Irrespective of whether additional questions were asked or answered, Ameren introduced the issue of notice and the People should not be limited in their comment on the role notice to consumers can play in preparing consumers for rate changes and increases.

Several of Ameren's contentions in its RBRH at 17 regarding the alleged inadequacy of the record are plainly false. While it states "[t]here is no testimony from AIC on the contents of prior communications," Mr. Nelson discussed in testimony and through cross-examination (as discussed above) the contents of the Company's communications in 2007 and 2014. While it states "[t]he materials included in the formula rate update filing in Docket No. 14-0317 are not in the record," the principal filing sheet showing the calculation of the proposed 2015 net revenue requirement, Schedule FR A-1, from that proceeding *is* in *this* proceeding's record as AG Cross Exhibit 1. While Ameren argues that the People should not comment on customer notice in briefing, in fact the People's RBRH ultimately *agrees* with Mr. Nelson's testimony that consumers "would have benefited" in 2007 if there had been better customer communications, and the People now seek to offer that benefit to current customers now facing rate increases and changes both due to the formula rate filing and the rate design revisions. While Ameren complains that "[t]here is no evidence on the substance of the content of the monthly notices" and "[t]here is no evidence on required communications already required in monthly bills," the People's proposal already contemplated that if the requested Commission order is redundant to existing planned communications, then Ameren will not need to change anything. AG RBRH at 20.

In any event, regardless of whether the Commission orders Ameren to give customers direct notice of the coming rate redesign and revenue requirement increase, the People urge

Ameren to take its own initiative to keep customers well-informed according to the standards set out in Mr. Nelson's rehearing testimony.

Exception No. 2 Proposed Language

The Commission notes the AG concern that customers be provided adequate notice of rate increases. The Commission but finds that the AG proposal for additional customer notice is not supported by the record evidence, including statements by AIC witness Nelson concerning the need to adequately inform customers of pending rate increases. The deadline for Commission action in Docket No. 14-0317 is December 13, 2014. The Commission directs Ameren to provide direct notice to customers as soon as practicable following the final order in that proceeding regarding the increased revenue requirement and rate re-design scheduled to go into effect in January 2015, including projected monthly bill impacts by usage categories. The Commission further directs Ameren to consult with Staff and AG regarding the content and mode of such notice, and it is not adopted.

IV. CONCLUSION

WHEREFORE, the People of the State of Illinois respectfully request that the Commission enter a final order consistent with the recommendations in this Brief and adopt the Exceptions provided above.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

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