STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Ameren Illinois Company d/b/a Ameren Illinois Petition for Approval of Tariffs Associated with the Small Volume Transportation Program.	: : : :	No. 14-0097

REPLY BRIEF OF PRAIRIE POINT ENERGY, L.L.C.
D/B/A NICOR ADVANCED ENERGY LLC

TABLE OF CONTENTS

Page

I. Introduction 1

II. Procedural History 2

III. Continuation Of SVT Program 2

IV. SVT Programmatic Proposals 4

A. Uncontested Issues 4

1. Uncontested Tariff Proposals by AIC 4

2. Definition of Weighted Average Cost of Gas ("WACOG") to be Used in Rider GTA 4

3. Calculation of Inventory Sales Price 4

4. Price to Compare ("PTC") 4

5. Legal Ownership Concerns 4

B. Contested Issues 5

1. Display of Price-to-Compare ("PTC") on SVT Customer Bills and Tariff Language Regarding Notification of PTC. 5

2. Rescission Period for Non-Residential Customers with Annual Usage >5,000 Therms 5

3. Nomination Schedules 5

4. 200% Penalty for Non-Delivery 5

5. Calculating the Cost for Capacity Release 5

6. Asset Allocation Periods 5

7. Combined Billing / Billing Agents Receiving Gas/Electric Information 5

8. Customer Complaint Tracking and Reporting 5

9. Inclusion of Consumer Protections in Contract Offers 5

10. Requirement to File Tariff Allowing Alternative Gas Suppliers ("AGS") to Issue Single Bills 5

11. Other 6

V. Conclusion 7

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Ameren Illinois Company d/b/a Ameren Illinois	:	
	:	No. 14-0097
Petition for Approval of Tariffs Associated with the Small Volume Transportation Program.	:	

REPLY BRIEF OF PRAIRIE POINT ENERGY, L.L.C.
D/B/A NICOR ADVANCED ENERGY LLC

Prairie Point Energy, L.L.C. d/b/a Nicor Advanced Energy LLC ("NAE"), through its attorneys, Rooney Rippie & Ratnaswamy LLP, pursuant to the schedule adopted by the Administrative Law Judge ("ALJ"), submits this Reply Brief in the above-captioned proceeding.

I. INTRODUCTION

The following parties filed an Initial Brief ("IB") in this proceeding on January 7, 2014: NAE, the Staff of the Illinois Commerce Commission ("Staff"), the Citizens Utility Board ("CUB") and the Attorney General ("AG") (jointly, "CUB/AG"), the Illinois Competitive Energy Association ("ICEA"), the Retail Energy Supply Association ("RESA"), and the Retail Gas Suppliers ("RGS") (jointly, "ICEA/RESA/RGS"), and Ameren Illinois Company ("Ameren" or "Ameren Illinois").

NAE continues to urge the Illinois Commerce Commission ("Commission") to reject proposals that call for rejection, termination, or abandonment of the implementation of a residential gas supply choice program for Ameren Illinois through its Rider Small Volume Transportation ("Rider SVT"). Such arguments are not supported by the record, disregard contrary evidence, and are contrary to the Commission's established policy supporting the implementation and development of competitive markets, on a fair and level basis, for the benefit

of customers. Assuming the Commission does not reverse course and order the abandonment of Ameren's SVT Program, NAE also urges the Commission to direct Ameren Illinois to file a tariff providing alternative gas suppliers with a single billing option that allows them to issue single bills to residential and small commercial customers for both the gas supply services provided by the alternative gas supplier and the delivery services provided by the utility in accordance with Section 19-135 of the Public Utilities Act ("PUA"), 220 ILCS 5/19-135.

NAE has followed the joint agreed briefing outline developed by the parties. NAE supports the positions advocated by ICEA/RESA/RGS in their Initial Brief, but will not duplicate those arguments in this Reply Brief. The absence of a response to an argument or proposal raised in any party's Initial Brief should not be interpreted as NAE's agreement to such argument or proposal unless otherwise indicated in this Reply Brief or NAE's Initial Brief.

II. PROCEDURAL HISTORY

III. CONTINUATION OF SVT PROGRAM

As noted in Section I, NAE continues to urge the Commission to reject proposals that call for rejection, termination, or abandonment of the implementation of a residential gas supply choice program for Ameren Illinois through the SVT Program. The Initial Brief of ICEA/RESA/RGS presents a thorough analysis of the history leading to the current proceeding to resolve the open issues regarding Rider SVT and the evidence and facts alleged to support termination and abandonment of the SVT Program. The Initial Brief of ICEA/RESA/RGS demonstrates in a compelling manner why the various proposals to deny customers the benefit of choice lack merit and must be rejected. In the interest of efficiency and avoiding needless repetition, NAE will not repeat those arguments here.

The Initial Briefs of Ameren Illinois and AG/CUB continue to urge termination and abandonment of the planned SVT Program. Ameren Illinois IB at 8-25; AG/CUB IB at 6-17. As noted previously, NAE supports the arguments presented by ICEA/RESA/RGS in their Initial Brief in opposition to these proposals. NAE will not repeat those arguments here but notes the following. The AG and CUB make clear their opposition to the SVT Program and rely extensively on Ameren Illinois' assertion of additional costs, but do not engage – as does ICEA/RESA/RGS – in a substantive analysis of whether these alleged costs are overstated or whether such costs are properly attributed to the SVT Program. While Ameren Illinois purports to support these costs, they suffer from the deficiencies identified by ICEA/RESA/RGS. Thus, the arguments by AG/CUB and Ameren Illinois should be rejected, *inter alia*, because they are based on overstated costs not properly attributed to the SVT Program. NAE also shares ICEA/RESA/RGS's view that arguments opposing choice based on increased shale gas supplies lack merit and point to facts and circumstances that existed when the original decision to proceed was made. For all these reasons, arguments to abandon the SVT Program should be denied.

Staff's Initial Brief notes its disagreement with Ameren Illinois' testimony and assertions regarding the effect and impact of shale gas supplies and gas municipal aggregation on the viability of retail markets. Staff IB at 4. Staff also recommends that the Commission not approve any cost recovery in this docket. *Id*. NAE concurs. Staff then outlines what it sees as the possible options for the Commission:

> The Commission has three options available to it. One, it can simply reaffirm its previous order. The SVT tariff would continue to be litigated in this docket. [Staff Ex. 3.0(R)] at 4-5. Two, the Commission, if it is concerned that the cost-benefit comparison might be unfavorable given Ameren's revised cost estimates, could request parties provide a record to determine whether SVT remains cost beneficial. *Id*. at 5. Three, the Commission might, if it accepts the revised costs estimates and timelines and believes that SVT is no longer a net benefit to ratepayers, decide to conclude the docket. *Id*.

> With respect to the first option, the SVT tariffs as litigated in this docket are fairly close to being complete, so the Commission could quite readily complete the task it set out to do when it ordered Ameren to file SVT tariffs. (Staff Ex. 3.0(R), 5-6.) Total costs to implement the program would then be subject to a prudence investigation in Ameren's next rate case. *Id*. at 6. With respect to the second and third options, to the degree that Ameren's updated cost estimates are accurate, the cost-benefit comparison may now be unfavorable. *Id*. The greater the Commission's uncertainty about this issue, the more reason it has to pause the docket to more rigorously consider the issue. *Id*.

Staff IB at 4-5. Staff does not take a specific position on the cost estimates provided by Ameren Illinois. NAE recommends that the Commission follow the first option outlined by Staff and proceed with implementation of choice in Ameren Illinois' service territory for the reason that the increased cost estimates asserted by Ameren Illinois contain overstated costs not properly attributable to the SVT Program as described above, and do not provide a reasonable basis for delaying or rejecting implementation of the SVT Program. Also, as Staff notes, the reasonableness and prudence of Ameren's costs to implement the SVT Program would be investigated in Ameren's next rate case.

IV. SVT PROGRAMMATIC PROPOSALS

A. Uncontested Issues

1. Uncontested Tariff Proposals by AIC

2. Definition of Weighted Average Cost of Gas ("WACOG") to be Used in Rider GTA

3. Calculation of Inventory Sales Price

4. Price to Compare ("PTC")

5. Legal Ownership Concerns

B. Contested Issues

1. **Display of Price-to-Compare ("PTC") on SVT Customer Bills and Tariff Language Regarding Notification of PTC.**

2. **Rescission Period for Non-Residential Customers with Annual Usage >5,000 Therms**

3. **Nomination Schedules**

4. **200% Penalty for Non-Delivery**

5. **Calculating the Cost for Capacity Release**

6. **Asset Allocation Periods**

7. **Combined Billing / Billing Agents Receiving Gas/Electric Information**

8. **Customer Complaint Tracking and Reporting**

9. **Inclusion of Consumer Protections in Contract Offers**

10. **Requirement to File Tariff Allowing Alternative Gas Suppliers ("AGS") to Issue Single Bills**

NAE's Initial Brief made the simple and straightforward point that one of the clear statutory requirements applicable to a utility that allows its customers to choose their natural gas supplier (which Rider SVT would allow) is that alternative gas suppliers have the ability to issue a single bill for both their services and the delivery services provided by the utility. NAE IB at 3-5; 220 ILCS 5/19-135. Ameren Illinois clearly grasps the clear and simple legal issue that was identified through NAE's cross examination establishing that Ameren Illinois' Rider SVT does not allow alternative gas suppliers to issue single bills. *See* Ameren Illinois IB at 22 (Identifying issue as whether "AIC's SVT Program would be out of compliance with the legal requirement to allow gas suppliers to issue a single bill reflecting both gas supply and delivery service rates/charges."). Notwithstanding the identification and inclusion of this issue in the agreed briefing outline, Ameren Illinois takes no position and makes no argument on this issue in its

Initial Brief. *Id*. at 59-60. Instead, Ameren Illinois asserts that it "reserves its right to reply to NAE's arguments on this issue." *Id*. at 60.

While NAE is surprised that Ameren Illinois did not address this straightforward issue in its Initial Brief and does not know how Ameren Illinois will reply, NAE notes that it would be an inappropriate strategy, contrary to the spirit and intent of a briefing schedule utilizing simultaneous initial and reply briefs, and deny NAE an opportunity to respond if Ameren Illinois presents a substantive opposing argument for the first time in its reply brief. If and to the extent this occurs, the Administrative Law Judge should strike or disregard such response.

11. Other

V. CONCLUSION

WHEREFORE, for all the foregoing reasons, NAE respectfully requests that the Commission resolve the contested issues regarding Ameren Illinois' SVT Program consistent with the arguments presented in this Reply Brief and NAE's Initial Brief.

Dated: January 23, 2015

Respectfully submitted,

Prairie Point Energy, L.L.C. d/b/a
Nicor Advanced Energy LLC

By: Carmen L. Fosco
One of its Attorneys

Carmen L. Fosco
ROONEY RIPPIE & RATNASWAMY LLP
350 W. Hubbard Street, Suite 600
Chicago, Illinois 60654
(312) 447-2800
carmen.fosco@r3law.com

Attorney for Nicor Advanced Energy

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above Initial Brief of Prairie Point Energy, L.L.C. d/b/a Nicor Advanced Energy LLC has been served upon all parties on the attached service list in Docket No. 14-0097 by electronic mail, on the 23rd day of January, 2015.

Carmen L. Fosco

Carmen L. Fosco