

**STATE OF ILLINOIS**

**ILLINOIS COMMERCE COMMISSION**

Ameren Illinois Company )  
d/b/a Ameren Illinois )  
Petition for Approval of Tariffs ) Docket 14-0097  
Associated with the Small Volume )  
Transportation Program )

**REPLY BRIEF OF  
THE ILLINOIS COMPETITIVE ENERGY ASSOCIATION,  
THE RETAIL ENERGY SUPPLY ASSOCIATION,  
AND THE RETAIL GAS SUPPLIERS**

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Pursuant to Section 200.800 of the Rules of Practice of the Illinois Commerce Commission (“Commission”) and the Administrative Law Judge’s Ruling, the Illinois Competitive Energy Association (“ICEA”), the Retail Energy Supply Association (“RESA”)<sup>1</sup>, and the Retail Gas Suppliers (“RGS”)<sup>2</sup> submit this Reply Brief in this proceeding. ICEA, RESA and RGS submitted an Initial Brief in this proceeding on January 7, 2015. Initial Briefs were also

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<sup>1</sup> RESA’s members include AEP Energy, Inc.; Champion Energy Services, LLC; ConEdison *Solutions*; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; Dynegy Energy Services; GDF SUEZ Energy Resources NA, Inc.; IDT Energy, Inc.; Interstate Gas Supply, Inc. d/b/a IGS Energy; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions LLC; Nordic Energy Services, LLC; NRG Energy, Inc.; PPL EnergyPlus, LLC; Stream Energy; TransCanada Power Marketing Ltd.; and TriEagle Energy, L.P.. The comments expressed in this filing represent the position of RESA as an organization but may not represent the views of any particular member of RESA.

<sup>2</sup> On September 17, 2014, Dominion Retail, Inc., a member of the RGS, filed its motion to withdraw from this proceeding.

submitted by Ameren Illinois Company (“Ameren” or “AIC”), the Commission Staff, Prairie Point Energy LLC d/b/a Nicor Advanced Energy LLC (“NAE”), and the Citizens Utility Board and the Attorney General of Illinois (“CUB/AG”).

## **I. INTRODUCTION**

In general, the Initial Briefs of all parties reflect the two major issues in this proceeding, Ameren’s compliance filing to implement the small-volume transportation (“SVT”) Program, approved by the Commission in Ameren’s last gas rate case, Docket 13-0192. First, should the Commission reverse its approval of the SVT Program and its directive to Ameren to implement that program? Second, should the SVT Program be modified as proposed by the Intervenors in this proceeding?

With respect to the first question, ICEA, RESA and RGS, along with NAE, urge the Commission not to reverse its approval of the SVT Program because the program will benefit customers and arguments against implementation are without merit. The Commission Staff continues to propose three options for the Commission to consider, including staying the course and implementing the SVT Program. Ameren requests that the Commission direct it to stop implementation, which is an interesting position since it already stopped implementation, without Commission authorization. (TR. 304) However, Ameren’s arguments in support of its position are without merit and have already been completely rebutted in the Initial Brief of ICEA, RESA and RGS. CUB/AG also argues against implementation; however, for the most part CUB/AG’s arguments rely on the discredited arguments of Ameren. The Commission has already decided this issue and should reject any attempts to relitigate the need for an SVT program in this tariff compliance proceeding.

With respect to the second issue, the Initial Briefs of ICEA, RESA and RGS and NAE demonstrate that their proposals should be adopted. The Initial Brief of ICEA, RESA and RGS also demonstrates that the proposals of CUB/AG should be rejected or, at least, modified.

## **II. PROCEDURAL HISTORY**

The procedural history set forth in the Initial Brief of ICEA, RESA and RGS sets forth an accurate description of the lengthy process which should result in the implementation of an SVT Program for Ameren's customers. In contrast, Ameren's revisionist history would suggest that Ameren's reversal of its neutral position regarding the SVT Program and its unilateral decision to stop implementing the SVT Program in late April 2014 were simply natural steps along the continuum of the development of the Program. However, they were not. They were abrupt and inexplicable departure from the years of cooperative efforts of the Commission Staff, Ameren and suppliers to put an SVT Program in place.

## **III. CONTINUATION OF SVT PROGRAM-THE ARGUMENTS THAT THE COMMISSION SHOULD REVERSE ITS APPROVAL OF THE SVT PROGRAM ARE WITHOUT MERIT AND SHOULD BE REJECTED.**

RGS, ICEA and RESA continue to support the SVT Program, as does NAE. The record shows that there is still value in the Program and Ameren's customers will benefit by its implementation. The arguments of Ameren and CUB/AG that the Commission should reverse its approval of the SVT Program are without merit and, for the most part, were anticipated and fully rebutted in the Initial Brief of ICEA, RESA and RGS. Thus, there is no need to repeat those arguments in their entirety in this Reply Brief. Rather, we will address some of the more egregious statements of Ameren and CUB/AG. Instead of reversing its approval of Ameren's SVT Program, the Commission should, in its Order in this proceeding, direct Ameren to

minimize its costs as much as possible and to accelerate the implementation of the SVT Program as much as it can.

**A. THE SVT PROGRAM WILL BENEFIT CUSTOMERS.**

According to Ameren, “The Commission should order AIC to stop implementation of the SVT Program because...the evidence does not support spending an additional \$21 million on a program that may have limited enrollment and may not benefit customers”. (AIC IB, pp. 9) Similarly, CUB/AG claim that the benefits of Ameren’s SVT Program are “either undefined, unlikely, or non-existent”. The questionable nature of Ameren’s revised estimates will be address, *infra*, in Section III (C). However, the many benefits of an SVT Program were demonstrated in detail in the Initial Brief of ICEA, RESA and RGS at pages 7-9.

Briefly, it cannot be legitimately questioned that customers will benefit from an SVT Program. Choice, in itself, is a benefit. There is no guarantee—indeed it is unlikely—that Ameren will manage its gas procurement more efficiently than all other suppliers in the market. Choice insulates customers from being captive to Ameren’s gas procurement decisions. Given the opportunity for Choice, customers will benefit from the opportunity to select the price and product structure that meets their needs.

One of the major benefits of an SVT Program is the ability of suppliers to offer a diverse range of products and services that Ameren cannot offer. Such products can better meet the needs and preferences of customers, and can also help customers consume energy more efficiently. Probably the most common example of products offered by suppliers is fixed rate products. While fixed price products are important products offered by competitive suppliers, they certainly are not the only products. Mr. Crist provided a lengthy list of products offered by competitive suppliers including those that are bundled with gas commodity. (AIC Cross Ex. 11)

Mr. Crist also testified to wholesale benefits of an SVT Program. Those benefits include increased liquidity at the Ameren trading hubs, greater reliability of supply, and downward price pressure on wholesale prices. (RGS Ex. 3.0, at 27-28)

Finally, ICEA/RESA Witness Teresa Ringenbach demonstrated the opportunity of customers to save money at the retail level by purchasing their supply from AGS rather than utilities. In her rebuttal testimony to the supplemental direct testimony of Ameren, she testified that then current supplier offers in both Nicor Gas' and Peoples Gas' service territories were 10%-20% below those utilities' gas charges as of August 2014. (ICEA/RESA Ex. 3.0, pp. 9-10) Contrary to the baseless criticism of CUB/AG (CUB/AG IB, p. 13), Ms. Ringenbach did not "cherry-pick" the month of August 2014—it was the most recent month for which information was available when her Supplemental Rebuttal Testimony was submitted. CUB/AG apparently wanted Ms. Ringenbach to analyze similar data for a period of "more than a decade" that Choice Programs have been in existence in the service territories of Nicor Gas and Peoples Gas. (*Id.*) However, CUB/AG are ignoring the fact, as they do elsewhere in their Initial Brief, that the Commission has already found, in approving the SVT Program, that the potential benefits of an SVT Program in Ameren's service territory are likely and that it is in the public interest to approve the SVT Program. (Order in Docket 13-0192, p. 246)

**B. CONTRARY TO THE IMPLICATIONS OF CUB/AG, THIS IS NOT A SECTION 9-201 PROCEEDING.**

CUB/AG devotes many pages of its Initial Brief to ill-founded concerns that the Commission will approve recovery of Ameren's cost overruns in this proceeding. (CUB/AG IB, pp. 11-17) For example, CUB/AG cites Section 9-201 of the Public Utilities Act for the principle that if the Commission initiates a hearing concerning the propriety of any tariff change,

it can only approve those changes which it finds to be just and reasonable. (*Id.*, p. 11) However, this is not a Section 9-201 proceeding. Ameren's last gas rate case, Docket 13-0192, was a Section 9-201 proceeding and, in fact, in that case, the Commission granted Ameren a rate increase, which included recovery of Ameren's costs of implementing the SVT Program. Indeed, the Commission allowed Ameren full recovery of its updated cost estimate for implementing the SVT Program--\$10.6 million.

If Ameren incurs costs in excess of what was approved in the Docket 13-0192 proceeding, Ameren can seek recovery in its next base rate case. Ameren will need to show the prudence of its expenditures in its next rate case. (RGS Ex. 3.0, pp. 6-7) At that point, Ameren's investment will be reviewed and considered with other plant additions to its rate base. (*Id.*, pp. 19-20)

The position of Commission Staff Witness Dr. Rearden is in agreement with the position of ICEA, RESA and RGS on this issue. Dr. Rearden testified that it is not appropriate in this case to determine whether Ameren's SVT projects are used and useful. The costs of such projects should be subject to litigation in Ameren's next rate case, not here. (Staff Ex. 3.0, p. 5) In its Initial Brief, Staff recommends that the Commission not approve any cost recovery in this docket. (Staff IB, p. 4)

**C. AMEREN'S INCREASE IN ESTIMATED COSTS FOR SVT IMPLEMENTATION DOES NOT JUSTIFY A REVERSAL OF THE COMMISSION'S APPROVAL OF THE SVT PROGRAM.**

Ameren now estimates that what it misleadingly refers to as "Phase 2" of the SVT Program will cost approximately \$21 million. (AIC IB, p. 16). However, Ameren's estimates are disingenuous in the following respects. First, Ameren's "Phase 1" activities were not necessary

for implementation of the SVT Program and should not be attributed to the SVT Program. Second, the \$21 million figure is suspect.

The seven programs or functionalities which Ameren Witness Mr. Glaeser describes as SVT Phase 1 appear to simply be general system enhancements which provide benefits for all customers in absence of SVT. (RGS Ex. 3.0, p. 17) Moreover, these enhancements were demonstrated, by the rebuttal testimony of RGS' Witness Mr. Crist and by cross-examination, to be unnecessary for the successful operation of an SVT Program. In fact, Mr. Glaeser admitted, during cross-examination, that Ameren's revised SVT Program is more sophisticated than what Ameren proposed in Docket 13-0192 and the Commission ordered implemented. (TR. 212)

In Docket 13-0192, the Commission approved Ameren's recovery of \$10.6 million in SVT Program implementation costs. Moreover, the \$10.6 million represented an increase in Ameren's original estimate of \$7 million. Ameren Witness Ms. Seckler explained that the "original projection has been upgraded to ensure the complex systems needed in the compressed timeframe are ready by November 2014. The most recent estimates also include a forecasting and aggregation solution which is a critical component to the system since the electric settlement system did not include these components." Ms. Seckler emphasized that the increased estimate to \$10.6 million would cover additional systems (forecasting and aggregation solution) that would "ensure the complex systems needed in the compressed timeframe are ready by November 2014." (Docket 13-0192, Exhibit 26.0, pp. 28-29) Those costs were included in the rate base and O&M expenses used to determine the rates currently charged to Ameren customers. (RGS Ex. 3.0, pp. 11-12)

In the testimony filed in this proceeding Mr. Glaeser described the SVT work in two phases; however, there is no reference of this two phase approach made by Ameren in its

previous base rate case. (RGS Ex. 3.0, p.13) In fact, it is clear that Phase 1, described in detail in Ameren's Initial Brief at pages 14-16, is not necessary for the SVT Program.

- **Daily load forecasts:** any benefit provided by the daily load forecasts would accrue to the entire system and is not required for a SVT program. (*Id.*, p. 14)
- **Backcasting:** Ameren does not do backcasting now to manage its system and therefore does not require it to manage its system after an SVT program has been initiated. (*Id.*)
- **Independent data source from CSS for Smart Meter applications:** this data is not necessary for the provision of an SVT program; most choice programs were initiated before smart meters were available and most are currently operating in environments that lack smart meters. (*Id.*) (Ameren witness Glaeser testified that he is not an expert on smart meters. (TR.281-282) In fact, Ameren did not offer any witness who was an expert on smart meters.)
- **Gas load research:** this is not critical for offering choice; the benefit of this functionality is better ascribed to Ameren's entire system. (RGS Ex. 3.0, p. 15)
- **Class load profiles:** this information is customarily used to determine revenue allocations by customer class and distribution rate design. However, it would not be necessary for SVT offerings, as admitted by Mr. Glaeser who stated that "it's not necessary for SVT, but it's a benefit for our regulatory function". (TR. 234).
- **Hourly gas day data:** this is not critical for offering choice. Further, if there is a new gas day implemented by FERC this upgrade will be required regardless of whether Ameren has an SVT program. (RGS Ex. 3.0, p. 15)

- **The Gas Utilization System:** this will benefit the entire Ameren system and is not necessary for the purpose of an SVT program. Further, this is a replacement for an existing system that would be required regardless of whether an SVT program was implemented. (*Id.*) In fact, Mr. Glaeser admitted this when he answered “Yes” to the following question on cross-examination: “Would you agree that you can have a choice program without the gas utilization system replacement?” (TR. 235)

The first five components discussed above are related to Ameren’s ability to forecast load requirements. (Tr. 236; *see generally Id.* at 225-226) However, Ameren conceded during cross-examination that it is currently capable of forecasting the load requirements and maintaining reliability on Ameren’s system and that these components merely improve that ability. (TR. At 231, *see generally* TR. 225-234; TR. 342-342) Ameren failed to provide credible testimony that the SVT Program would undermine its ability to maintain reliability. Indeed, Ameren conceded that it could implement Choice—albeit expensively—without any modifications to its systems whatsoever. (TR. 292-293; RGS Ex. 2.0, p. 3) And Ameren also admitted during cross-examination that the last three components are not necessary to support the SVT Program (TR. 232, 234, 235)

In summary, none of the seven components or functionalities that Mr. Glaeser described is necessary for launching an SVT Program. They are all system improvements that Ameren chose to do, apparently to generally upgrade its IT capabilities by using the funds approved for SVT implementation rather than actually working on the functionality necessary for the SVT Program. Thus the \$11.6 million that Ameren has spent on “Phase 1” was clearly not spent on the components necessary to launch a SVT Program and the costs to develop those “Phase 1”

improvements are not part of SVT Program costs. Therefore, the \$10.6 million approved by the Commission in Docket 13-0192 should still be available for SVT implementation. (RGS Ex. 3.0, pp. 16-17)

While the current estimate of \$21 million that Ms. Heger identifies as the remaining amount necessary to launch SVT is greater than \$10.6 million, the \$21 million estimate is suspect. The most suspicious aspect of the revised estimate is that the cost of Phase 2 testing (\$14.5 million) is greater than the entire, updated estimated SVT implementation cost in Docket 13-0192:

Phase 2 Testing Costs

Build/Test	\$2.5 million
System Test	\$2.0 million
Test Planning/Prep. Data Construction	\$1.5 million
Integration Testing	\$4.0 million
Regression Testing	\$1.5 million
UAT Testing	<u>\$3.0 million</u>
TOTAL	\$14.5 million

Additionally, the record demonstrates that Ameren's projection of SVT expenditures may include costs related to upgrading its electric systems—Ameren did not present a witness with actual knowledge regarding its allocation of these costs. (See RGS Ex. 3.0; TR. 347-349; TR. 325-327; TR. 330-331) The Commission will have an opportunity to explore Ameren's allocation of expenditures more fully in Ameren's next rate case.

In summary, Ameren's estimated costs for implementation of the SVT Program appear to be overstated in two ways. First, Ameren attributed costs to the SVT Program that

were actually extended for general improvements to its existing transportation system. Second, Ameren's estimated costs appear overstated, especially its testing costs which, by themselves, far exceed the entire amount for which Ameren was granted recovery in Docket 13-0192.

**D. ARGUMENTS THAT NATURAL GAS MARKETS HAVE CHANGED ARE WITHOUT MERIT.**

Despite the inability of its witness to defend his position, Ameren continues to claim that, "at the time the initial SVT program was contemplated, natural gas markets were much different than they are today." (AIC IB, p. 17) This argument was demonstrated to be without merit in the Initial Brief of ICEA, RESA and RGS at pages 24-26.

Briefly, the basic fundamentals of the gas market have not changed. The same processes employed by pipelines are still in place. The increase of shale supply is not a novel concept as the "boom" and its impact on gas markets started years ago – well before Ameren's first filing for approval of its SVT Program and certainly well before December 2014 when the Commission approved Ameren's SVT Program in Docket 13-0192. Natural gas remains a volatile commodity where customers benefit from the options of fixed prices. (ICEA/RESA Ex. 3.0, p. 5) Moreover, products such as a flat bill where a customer pays the same total amount regardless of usage, products designed to lower overall bill usage for savings, and dual fuel discounts are options to customers beyond relying on large market swings. (ICEA/RESA Ex. 3.0, pp. 6-7)

The Commission Staff also disagrees with Ameren on this issue, stating that it is not clear why the change in volatility eliminates retail profit opportunities. Retail profit is the margin between the wholesale price and the retail price. That margin is a function of many variables. A lower wholesale cost does not, by itself, change the margin between wholesale and retail prices.

Ameren did not provide any concrete evidence that gas retail market participation has fallen off.  
(Staff IB, p. 4)

**E. THE SO-CALLED SHALE GAS “REVOLUTION” IS NOT A VALID REASON FOR THE COMMISSION TO REVERSE ITS APPROVAL OF THE SVT PROGRAM.**

Ameren continues to argue that there has been a shale gas “revolution”, which apparently manifested itself in April 2014 when Ameren filed its motion for leave to submit additional testimony in this proceeding (AIC IB, pp. 18-19), despite the fact that the proponent of that argument, Mr. Glaeser admitted during cross-examination that major impacts of the “Shale Gas Revolution” have been occurring since 2009, before an SVT Program was even proposed for Ameren and four years before the Commission approved the SVT Program in Docket 13-0192. (TR. 215)

The simple fact is that other markets with gas choice programs have not seen a decline in switching despite any impact that shale gas has had on volatility. Gas choice programs in Ohio and Pennsylvania have not declined since 2012. (ICEA/RESA Ex. 3.0, p. 7) In states with gas choice where POR has been included, the switching levels are much higher and have remained consistent. Here in Illinois, Nicor Gas’ Customer Select program increased to the current customer count of over 260,000 from approximately 200,000 in 2007. (*Id.*)

The Commission Staff also rejects Ameren’s argument that shale gas has reduced the ability of marketers to take advantage of low price opportunities and entice customers to switch, noting that both before and since the “shale gas revolution”, the wholesale market has been and remains very liquid and very competitive. (Staff IB, p. 4)

It appears that only CUB/AG accepts Mr. Glaser’s prophecies regarding future gas prices. (CUB/AG IB, pp. 7-9) In contrast, ICEA and RESA, RGS and the Commission Staff all found

Mr. Glaeser's graph on page 13 of his Supplemental Direct Testimony to be without any value. Ms. Ringenbach, referring to that graph, testified that Mr. Glaeser's own graph does not support his position that there will be no volatility in the price of gas over the 2015-2025 timeframe. The only portion of the graph that shows stability is the portion of the red line which is based on Ameren's estimates. (ICEA/RESA Ex. 3.0, p. 8) Dr. Rearden noted the same problem with Mr. Glaeser's graph, stating that it could be misleading if not carefully interpreted for two reasons. First, the red line showing the NYMEX future prices beginning in the fall of 2013 appears to show price volatility that is much lower than observed prices. However, if one examines futures prices starting at almost any actual price on the chart, futures prices generally look much less variable than actual prices. Second, Dr. Rearden noted that Mr. Glaeser's actual price graph ends prior to the price spike that occurred during the winter of 2014. (Staff Ex. 3.0, p. 3) Mr. Crist testified that NYMEX future prices are not an appropriate means of predicting gas volatility over the next six years. The simple fact is that if you go back in time and attach a futures curve to any chart showing historic pricing, you will almost always see reduced volatility when you transition from historic pricing to futures pricing. (*Id.*)

In brief, Ameren's new found discovery of a shale gas "revolution" fails to justify its reversal of its position regarding the SVT Program. Ameren's arguments should be rejected.

**F. AMEREN'S CLAIM THAT THE ELECTRIC RETAIL MARKET HAS REVERSED IS INACCURATE AND, AT ANY RATE, WOULD NOT IMPACT NATURAL GAS MARKETS.**

Ameren's claims that with the change in electric switching, it is concerned that the SVT Program would be used by a "very small portion" of its gas customers. (AIC IB, p. 20) This argument was fully refuted in the Initial Brief of ICEA, RESA and RGS at pages 31-32. However, we wish to emphasize one fact here. Ameren continues to ignore the fact that it is a dual fuel utility with many customers who are now familiar with choice and will likely exercise

the option on the gas side as they do with electricity. Ameren has roughly three-quarters of a million customers on electric choice and there is a high probability that a large number of these customers who have already availed themselves of electric choice will be approached with offers from their current suppliers for gas choice products. Thus, Ameren has a huge built-in market of potential customers for its SVT Program. (TR. 198) In short, if Ameren truly implements a correctly run program which includes a Purchase of Receivables Program, it should expect significant customer participation as has been seen in other gas markets with POR.

ICEA, RESA and RGS note also that Ameren has apparently abandoned its position that it was very likely that **no** customers would sign up for its SVT Program, a suggestion made by Mr. Glaeser during redirect examination. (TR. 280) This ludicrous suggestion was rebutted completely in our Initial Brief at pages 37-38 and deserves no further response.

**G. MUNICIPAL AGGREGATION FOR NATURAL GAS IS NOT “DEAD” IN ILLINOIS, BUT, AT ANY RATE, IS NOT NECESSARY FOR A ROBUST SVT PROGRAM.**

Ameren continues to believe that that implementation of an SVT Program requires municipal aggregation legislation (AIC IB, pp. 19-20) However, this belief has no merit, as demonstrated in our Initial Brief at pages 32-34. Briefly, the record shows that the recent growth in the retail electric market in Illinois has not come from municipal aggregation, but from organic growth, *i.e.* one-on-one marketing. (TR. 197)

ICEA, RESA and RGS feel compelled to respond to Ameren’s suggestion that Dr. Rearden agreed with its position on municipal aggregation. (AIC IB, p. 19) In fact, Ameren took Dr. Rearden’s statement out of context. Dr. Rearden clearly disagreed with Mr. Glaeser’s analysis of the impact of municipal aggregation, stating that he is skeptical of Mr. Glaeser’s apparent conclusion that municipal aggregation is a necessary condition for a viable retail

market. Although municipal aggregation is more likely to “jump start” the market, he noted that none of the other gas SVT programs in Illinois rely upon it. While it is impossible to predict the course that retail market penetration will take, it is certainly possible to have an active market without municipal aggregation. (Staff Ex. 3.0, p. 4)

#### **H. AMEREN’S COST-BENEFIT ANALYSIS IS FLAWED AND SELF-SERVING.**

Interestingly, CUB/AG put more weight on Ameren’s purported cost-benefit analysis (AIC Ex. 4.1) than Ameren itself and implies that this analysis was effectively unrebutted. (CUB/AG IB, pp. 7-17) On the contrary, after demonstrating the substantial flaws of Mr. Glaeser’s AIC Exhibit 4.1, which basically demonstrated it to be worthless, the Initial Brief of ICEA, RESA and RGS pointed to Mr. Crist’s corrected version of that exhibit. However, before addressing the flaws of AIC Exhibit 4.1, we note that, in Docket 13-0192, CUB took the position that a cost-benefit analysis was needed for the Commission to approve the SVT Program. The Commission disagreed with CUB and ordered Ameren to implement the SVT Program. (Order in Docket 13-0192, pp. 245-246)

Briefly, Mr. Glaeser’s Exhibit 4.1 suffers from the following flaws:

- Mr. Glaser based his assumptions on a certain level of participation initially and ignores potential savings and benefits in later years once the program is fully paid for. Alternatively, Mr. Glaeser’s numbers would change dramatically if an amortization period longer than five years, a time period chosen by Ameren that is not based on the expected life of the SVT Program, were used.
- Mr. Glaeser’s analysis is based on his estimates of future gas prices, which have already been demonstrated to be of little value.

- Mr. Glaser also ignores that current offers in both Nicor Gas Company and The Peoples Gas Light and Coke Company's service territories are 10% - 20% below those utilities' gas charges as of August 2014. (ICEA/RESA Ex. 3.0, pp. 9-10)
- An appropriate analysis would divide the total cost of SVT implementation over all Ameren customers, as was done in Docket 13-0192.
- The costs of \$21 million on the SVT Program reflected in AIC Ex. 4.1 are extraordinarily high compared to Ameren's original estimate of \$7.0 million or its revised estimate of \$10.6 million which was accepted by the Commission and currently being recovered by Ameren through rates.
- During cross-examination, Mr. Glaeser agreed that if Exhibit 4.1 were based on the annual consumption of small commercial customers instead of just residential customers, the annual revenue requirement would decrease. (TR. 220-221)
- During cross-examination, Mr. Glaeser admitted that his analysis does not reflect benefits from bundled products that do not directly affect the commodity price. (TR. 198-199)

Mr. Crist prepared RGS Ex. JC6 to correct the flaws of Mr. Glaeser's analysis. While RGS Ex. JC6 only assigned costs to SVT customers (in order to track Mr. Glaeser's Ex. 4.1), if those costs were spread over all eligible customers, recovering \$10.6 million from the approximately 800,000 Ameren customers over 10 years would only add approximately \$1.30 per year to each customer's bill. When asked on cross-examination if he believed that \$1 per year was significant, Mr. Glaeser responded, stating "I wouldn't consider it a meaningful or

significant amount.” (TR. at 248). Thus, the investment necessary to provide customers the option of taking service from a retail supplier is quite reasonable. (RGS Ex. 3.0, p. 26)

**I. AMEREN’S GAS PRICE CHOICE PROGRAM IS NOT A REAL CHOICE PROGRAM AND IS NOT AN ACCEPTABLE ALTERNATIVE TO THE SVT PROGRAM APPROVED BY THE COMMISSION IN DOCKET 13-0192.**

Ameren continues to put forth Mr. Glaeser’s Gas Price Choice (“GPC”) program as an alternative to the SVT Program approved by the Commission in Docket 13-0192. It is not. As demonstrated in our Initial Brief at pages 38-41, Ameren’s proposed GPC Program was criticized and rejected by ICEA and RESA, RGS and the Commission Staff.

Briefly, the Gas Price Choice program is simply the utility attempting to maintain its supplier role. The Gas Price Choice program eliminates the possibility of suppliers bringing customers new and innovative options for their gas pricing and appears to be another way for Ameren instead to maintain assets by forcing them onto all customers. (ICEA/RESA Ex. 3.0, p. 12) RGS also rejected AIC’s proposed GPC program, stating that AIC appears to simply want to maintain the days where the Company is the only entity that can procure gas supply for small customers, thus denying them the ability to choose. This proposed program does not allow RGSs to take advantage of any of their gas procurement expertise. Moreover, the GPC would severely restrict the diversity in pricing available to customers. In addition, the GPC Program would restrict product innovation. Furthermore, the GPC Program would be difficult for customers. Finally, all the wholesale benefits gained from choice would be lost with the GPC. (RGS Ex.3.0, p. 26-28) The Commission Staff also recommends that the Commission reject Ameren’s GPC Program. Noting that there is nothing in the record that could justify approving the proposal, Staff concludes that the Commission has few options in this docket besides rejection. (Staff IB, p. 5)

In summary, Mr. Glaeser's idea for the GPC is not a substitute for offering a real Choice program, in particular, the SVT Program approved by the Commission in Docket 13-0192.

#### **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**

In its Initial Brief, Ameren states its proposed new procedure for handling changes in ownership on gas accounts, as explained by Ameren Witness Mr. Millburg at the hearings in this proceeding. (AIC IB, pp. 28-30) ICEA, RESA and RGS accept this proposal.

##### **B. CONTESTED ISSUES**

1. **Display of Price-to-Compare ("PTC") on SVT Customer Bills and Tariff Language Regarding Notification of PTC—CUB's proposals should be rejected.**

CUB/AG proposes that Ameren's "Customers Terms and Conditions" in its tariff, be revised to require Ameren to include the applicable Purchased Gas Adjustment ("PGA") on Ameren's consolidated bill "as a notification to customers of suppliers of the rate they would be paying if they were a utility customer." According to CUB/AG, the PGA price is the only reasonable number to be used as the PTC and allows customers to make informed decisions about the economic advantages and disadvantages of buying from a supplier. (CUB IB, pp. 18-19)

The CUB/AG proposal was fully refuted in the Initial Briefs of ICEA, RESA, and RGS (ICEA/RESA/RGS IB, pp. 42-44), Ameren (AIC IB, pp. 33-35), and the Commission Staff (Staff IB, p. 6). Briefly, the PGA is a variable price, changing monthly and subject to an annual reconciliation. Adding this to a customer's bill is not an accurate comparison for future PGAs nor would it highlight for customers where to find other options in the market. The Commission Staff offers a much better alternative—the Commission's natural gas choice web page posts AGS offers along with a history of the PGA rates of the utilities which offer SVT programs. The web page also provides plenty of information on how to proceed with purchasing gas from unregulated suppliers. (Staff IB, p. 6)

2. **Rescission Period for Non-Residential Customers with Annual Usage >5,000 Therms—The 10 day rescission period should be limited to residential and small commercial customers.**

Ameren continues to propose to use the same rescission period for all gas transportation customers regardless of annual usage, in both the SVT and Rider T – Transportation Service (“Rider T”) programs, a period of 10 days. (Ameren IB, pp. 35-40) However, all of Ameren's arguments in support of its proposal were anticipated and fully rebutted in the Initial Brief of ICEA, RESA and RGS (ICEA/RESA/RGS IB, pp. 44-48) and Staff's Initial Brief. (Staff IB, pp. 6-7) Briefly, most gas distribution companies do not impose a rescission period on large customers. Rescission periods are not good for either the customer or the supplier in that the supplier would have to increase prices in order to reflect the risk that a customer will back out of a contract after the supplier has arranged for supply for that customer. In the case of large transportation customers, there could be a cost of potentially millions of dollars for a single rescission. In contrast, suppliers are not likely to hedge gas for residential customers on an individual basis (unlike larger customers), therefore, they are less likely to be harmed when a

residential customer rescinds within the 10 day period. For this reason, the ten day rescission period should be limited to residential and small commercial customers (those with annual usage of 5,000 therms or less) as contemplated by Section 19-115 of the Public Utilities Act. Moreover, there is no reason why a commercial customer larger than 5,000 therms would need a rescission period. These customers actively negotiate and understand their contracts. These are large users who are market savvy. The purposed of the rescission period is to allow smaller, less sophisticated customers to understand they are about to enroll and have a breather to change their mind, not for a large business which had lawyers going back and forth in negotiations to rescind.

Finally, ICEA, RESA and RGS have to respond specifically to one claim in Ameren's Initial Brief. Ameren argues that ICEA and RESA have not undertaken an analysis of how much it would cost Ameren to adopt their position, nor how much time would be added to any implementation period if the Commission adopted their position. (Ameren IB, p. 40) Ameren's argument stands the burden of proof on its head. While Ameren claims that a change to rescission periods would increase its costs and delay implementation of the SVT Program, Ameren never provided any calculation of such costs, nor impacts of such a change on the timing of implementing the SVT Program. (TR. 101) ICEA, RESA, and RGS do not understand how they were supposed to provide such an analysis for Ameren.

While ICEA, RESA and RGS agree with Ameren that there should not be separate rescission periods for Rider T and Rider SVT, they disagree on the solution. ICEA and RESA recommend that Rider T and proposed Rider SVT should be revised to limit the ten-day rescission period to residential and small commercial customers per the statutory requirements. The Commission Staff agree with this position, concluding that Staff recommends that the

Commission reject Ameren's proposal to have identical rescission periods for large and small volume customers. (Staff IB, p. 7)

### 3. **Nomination Schedules**

In response to ICEA's and RESA's concerns regarding nomination schedules, Ameren offered to reinstate the best efforts same day language that is currently in effect for Rider T customers. The following language would be added for the SVT Program:

Customer desiring a change after 6 p.m Central prevailing time of the delay before gas flow shall notify the Company by 7:30 a.m. Central prevailing time of the business day on which the Nomination is to take effect, subject to confirmation by the Pipeline. Company may accept such a change to Customer's Nomination if the Company determines in its sole discretion that such a change to Nomination will not adversely impact the operation of the Company's gas system or adversely impact Company's purchase and receipt of gas for other Rates or Riders.

(AIC IB, p. 42; AIC Ex. 2.0, p. 20)

While Ameren's offer is acceptable to ICEA, RESA, and RGS as a fallback position, they continue to support the nomination proposal set forth in their Initial Brief at pages 48-49.

Ameren's proposed tariffs (Ameren Exhibit 1.2, Page 12 of 32) state "For the months of May, June, July, and August the most recent (three days') estimated Delivery Profiles will be used as Delivery Requirements for weekends and holidays". However, for the other eight months of the year Ameren requires suppliers to complete the nominations process to match the Delivery Requirement every day.

ICEA, RESA and RGS oppose this daily requirement for the eight months of September through April as unnecessary. In most other choice programs the weekend and holiday nominations are submitted as part of a three-day nomination. Suppliers would find it difficult to purchase small amounts of gas on a weekend. (RGS Ex. 1.0, p. 13) Most gas utilities do not require daily nominations on weekends or holidays. In Illinois both Nicor Gas and Peoples Gas

accept a three-day nomination. Similar examples of multiple-day nominations from other states would be Dominion East Ohio and Columbia of Ohio in Ohio and Peoples Natural Gas and Equitable Gas in Pennsylvania. (*Id.*)

4. **200% Penalty for Non-Delivery-Ameren's 200% penalty for non-delivery should be rejected.**

Ameren's SVT Supplier Terms and Conditions contain the following provision: By 8 a.m. Central prevailing time the day of gas flow, the Company shall match the Delivery Requirement to the Pipelines final DCN. If the Pipelines final DCN is less than the Delivery Requirement, the Supplier shall be charged 200% of the Chicago Citygate Price for the Nomination shortfall. (AIC IB, p. 44; AIC Ex.1.3, page 14) Ameren continues to support this 200% penalty claiming that it is both in line with the market and serves an important deterrent purpose. (AIC IB, p. 46)

Ameren's arguments in support of the 200% penalty were fully refuted in the Initial Brief of ICEA, RESA and RGS at pages 50-52. Briefly, Ameren's proposed penalty should be rejected because it is unjust and unreasonable. It is not designed to make Ameren whole for delivery shortfalls—rather, it is punitive. Moreover, Ameren's proposed penalty could result in suppliers being subject to a penalty that Ameren itself is not subject to. Under Ameren's tariff that supplier would be charged a 200% penalty even though there was absolutely no impact to reliability and the supplier was never short. Moreover, a supplier and therefore its customers could have a 200% penalty while the utility in the exact same situation would have no penalty.

Contrary to Ameren's claim that its 200% penalty is in line with the market, ICEA and RESA are not aware of any utility with a penalty of this type that occurs before intraday. Most other utilities allow for an intraday nomination before a penalty would be applied or, if there is a limit, it is only that intraday cannot be used to increase amounts but only to ensure the nominated

amount is matched. Staff Witness Dr. Rearden agreed with ICEA and RESA and RGS that a penalty should not be imposed until the supplier has a chance to remedy a shortfall. (Staff Ex. 2.0, pp. 7-8) Thus, Ameren's penalty charge of 200% is excessive and not appropriate. The 200% penalty should be eliminated, or at a minimum, there should be an allowance of intraday nominations for the ability to cure a shortage when there is no impact to the system before a penalty is applied.

**5. Calculating the Cost for Capacity Release-RGS' position on calculating the cost for capacity release should be accepted.**

Ameren's SVT Supplier Terms and Conditions (Ameren Exhibit 1.3, Page 10 of 32) states, "The release price for both allocation periods will be the weighted average of all Pipeline capacity associated with the SVT Group based on the cost of the Company's assets." Ameren continues to support its proposed cost for capacity release in its Initial Brief. (AIC IB, pp. 48-51) Ameren's arguments in support of its position were fully refuted in the Initial Brief of ICEA, RESA and RGS at pages 52-54. Briefly, Mr. Crist testified that this method is less desirable than Ameren assigning pipeline specific costs for those assets that are released. Ameren can release an applicable pro-rata share of its capacity holdings to suppliers by posting those assets on the pipeline electronic bulletin boards ("EBB") via a pre-arranged capacity release and the suppliers can pay the pipeline directly for the released capacity. This is administratively easy and many choice programs have pro-rata releases of capacity. (RGS Ex. 1.0, p. 10; TR. 141)

For small releases less than 100 MDQ the supplier should have the ability to reject that capacity and Ameren would then release it to the marketplace. The supplier would be charged the price of the capacity, and not "be charged two times the release price." (*Id.*) The supplier

would also be credited with any revenues received by Ameren for the released capacity that is picked up by the market. This is fairer to suppliers. (*Id.*)

**6. Asset Allocation Periods-RGS' proposal for monthly asset allocations should be accepted.**

Ameren continues to object to RGS' proposal to allow for monthly allocations of capacity. (AIC IB, pp. 52-54) However, Ameren's arguments in support of opposition to RGS' proposal were fully rebutted in the Initial Brief of ICEA, RESA and RGS at pages 54-56. Briefly, in those cases where there is market growth above the suppliers' allocated MDQ, having Ameren force suppliers to purchase the extra gas needed at the PGA price is a barrier to supplier participation and could create a situation where suppliers are subsidizing system supply customers. Other Choice programs have a threshold for Supplier growth that would trigger a monthly re-allocation of capacity. (RGS Ex. 1.0, pp. 11-12) Moreover, such a system would not pose an administrative burden on Ameren. (*Id.*, p. 12) Ameren should conduct asset allocations in its SVT Program on a monthly basis and suppliers would view that as an improvement. Neighboring utility NIPSCO is similar to Ameren in that it is served by the same pipeline companies and is a multizonal system. NIPSCO reallocates capacity on a monthly basis. (*Id.*, pp. 12-13)

The Commission Staff agrees with RGS, noting that Ameren's tariffs, as currently written, only allow capacity reallocations once a year, in November, and that this seems overly restrictive since other gas utilities can provide reallocations more frequently without serious consequences. Furthermore, Staff notes that early in the SVT Program, market shares might change relatively rapidly, which could exacerbate any mismatch between original allocations and MDQs over time. (Staff IB, pp. 7-8)

7. **Combined Billing / Billing Agents Receiving Gas/Electric Information- Ameren should be required to revert to its former practice of sending out bills for gas service to the customer's AGS and bills for electric service to the customer's ARES.**

Previously, if an Ameren customer were buying gas supply from an AGS and electric supply from an ARES and those suppliers were billing the customer, Ameren would send the bill for gas supply to the AGS and the bill for electric supply to the ARES. Ameren changed this practice and sends only a combination bill. Ameren continues to support its changed practice. (AIC IB, pp. 55-57) However, Ameren continues to ignore the real problems created by its decision to change its practice by claiming that the decision to designate a billing agent “lies solely with the customer” and that ICEA’s and RESA’s position “would ultimately limit customers’ rights”. (*Id.*, p. 55)

On the contrary, it is Ameren’s changed practice which limits customers’ rights because it results in customers only being able to choose their AGS or ARES for a single bill but not two separate bills. Customers must then choose who will bill them, their AGS or their ARES, but not both. Moreover, this change has serious market repercussions because it allows competing ARES and AGS doing supplier consolidated billing behind Ameren to have visibility into their competitors’ prices. Furthermore, Ameren’s changed practice limits the ability of suppliers to offer different payment terms which are more flexible in order to win a customer’s business and to design products that are not typically billable on a utility system. (ICEA/RESA Ex. 1.0, pp. 13-14)

While the Commission Staff did not address this issue in its Initial Brief, Staff Witness Dr. Rearden agreed with ICEA’s and RESA’s concerns about Ameren insisting that only one bill be sent to a customer buying electric commodity from an ARES and gas commodity from a gas

marketers. He concluded that there does not seem to be a strong reason why each supplier cannot send its own bill. (Staff Ex. 2.0, pp. 8-9)

#### **8. Customer Complaint Tracking and Reporting**

During the proceeding, CUB proposed to add a requirement that Ameren advise the Commission if it observes high levels of customer complaints about a particular supplier or if it observes a pattern of customer complaints from a particular supplier relating to a specific issue.” (CUB Ex. 1.0., p. 8) However, in their Initial Brief, CUB/AG stated that they were amenable to the following modification proposed by ICEA and RESA: the Commission should impose a requirement that monthly complaint reports be provided by Ameren to suppliers and to the Commission’s Office of Retail Market Development. (CUB/AG IB, p. 21) This is agreeable to ICEA, RESA and RGS.

#### **9. Inclusion of Consumer Protections in Contract Offers-CUB’s proposal on including customer protections in contract offers should be rejected or modified.**

With respect to the issue of how consumer protection adopted in the Commission’s Order in Docket 13-0192 should be enforced, CUB/AG proposes that marketers include language in their contract offers that enumerate these protections to consumers. (CUB/AG IB, pp. 22-23) For the reasons stated in the Initial Brief of ICEA, RESA and RGS at pages 60-61, RGS opposes the CUB/AG proposal in its entirety. ICEA and RESA do not completely agree with CUB/AG’s proposal that certain language should be included in suppliers’ contracts with their customers. ICEA and RESA oppose prescriptive language or mandating that these be included if the contract contains no termination fees. If a contract does not contain termination fees it seems

confusing to add this language and overly complicates the contract with irrelevant information.  
(*Id.*, pp.61-62)

**10. Requirement to File Tariff Allowing Alternative Gas Suppliers (“AGS”) to Issue Single Bills—NAE’s proposal should be adopted.**

The Initial Brief of NAE demonstrates in detail that Ameren’s SVT Program does not comply with the statutory directive of Section 19-135 of the Public Utilities Act, which clearly requires gas utilities offering choice programs to offer a single billing option to allow suppliers to bill their customers both for their supply and the delivery services provided by the gas utility.

(NAE IB, pp. 3-5) ICEA, RESA and RGS agree with NAE.

**11. Other**

**V. CONCLUSION**

In conclusion, the Commission should direct Ameren to implement the SVT Program that the Commission approved in Docket 13-0192 as economically and as quickly as possible. None of the arguments raised by Ameren or CUB/AG in their Initial Briefs in their attempts to get the Commission to reverse its approval has any merit.

With respect to the issues regarding specific parameters of the SVT Program, ICEA, RESA and RGS recommend that the Commission adopt their recommendations as set forth in Section IV of this Reply Brief.

Respectfully submitted,

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**NOTICE OF FILING**

Please take note that on January 23, 2015, I caused to be filed via e-docket with the Chief Clerk of the Illinois Commerce Commission, the attached Reply Brief of the Illinois Competitive Energy Association, the Retail Energy Supply Association and the Retail Gas Suppliers in this proceeding.

/s/GERARD T. FOX  
Gerard T. Fox

**CERTIFICATE OF SERVICE**

I, Gerard T. Fox, certify that I caused to be served copies of the foregoing Reply Brief of the Illinois Competitive Energy Association, the Retail Energy Supply Association and the Retail Gas Suppliers upon the parties on the service list maintained on the Illinois Commerce Commission's eDocket system for Ill. C. C. Docket 14-0097 via electronic delivery on January 23, 2015.

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