

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Citizens Utility Board and Environmental Defense Fund :
: **15-0100**
:
Petition to Initiate a Proceeding to Investigate the Adoption of a Utility Time of Use Rate. :

ORDER

By the Commission:

I. PROCEDURAL BACKGROUND

This matter concerns a Verified Petition filed by the Citizens Utility Board (“CUB”) and the Environmental Defense Fund (“EDF”) (jointly “CUB/EDF” or “Petitioners”) with the Illinois Commerce Commission (“Commission”) on February 13, 2015. In the Petition, CUB/EDF propose that the Commission investigate whether electric utilities participating in the performance-based formula rate scheme established by the Energy Infrastructure Modernization Act (“EIMA”) should offer a Time of Use (“TOU”) rate to their customers.

Pursuant to notice given in accordance with the law and the rules and regulations of the Commission, a prehearing conference was held before a duly authorized Administrative Law Judge (“ALJ”) on March 11, 2015 at the Commission’s offices in Chicago, Illinois. At this hearing, the ALJ granted the following Petitions to Intervene: Elevate Energy, Commonwealth Edison Company (“ComEd”), the Illinois Power Agency, the Illinois Competitive Energy Association (“ICEA”), Ameren Illinois Company d/b/a Ameren Illinois (“Ameren”) and the Retail Energy Supply Association (“RESA”). The Staff of the Commission (“Staff”) also participated in this proceeding.

On April 10, 2015, Motions to Dismiss were filed by ComEd, Ameren, Staff and RESA. ICEA filed a Motion to Dismiss or Amend the Scope of the Investigation. On April 24, 2015, CUB/EDF filed a Response to the Motions. On April 29, 2015, ComEd, ICEA, Ameren, Staff and RESA filed Replies to CUB/EDF’s Response.

On June 25, 2015, a proposed order was served on the parties. CUB/EDF filed a Brief on Exceptions on July 9, 2015. On July 16, 2015, Reply Briefs on Exceptions were filed by Staff, Ameren, ICEA, ComEd and RESA.

II. THE PETITION

CUB/EDF filed their Petition pursuant to Section 10-101 of the Public Utilities Act (“Act”) (220 ILCS 5/10-101) and Part 200.100 requesting an investigation into the adoption of a utility TOU rate (83 Ill. Admin. Code 200.100). CUB/EDF further request

that the Commission direct the utilities to file a non-suspended tariff complying with the final order in this case to adopt TOU rates within 90 days conforming to certain design principles, and to report in their annual tariff filings certain metrics pertaining to TOU deployment efforts and outcomes.

III. THE MOTIONS

Generally, movants argue that the Commission does not have the authority to grant the requested relief.

Staff and Ameren note that CUB/EDF rely on Section 10-101 of the Act and Staff argues that this provision does not provide a legal basis for an investigation. Staff notes that Section 10-101 empowers the Commission to hold investigations over any matters covered by the PUA or any Act relating to public utilities, but does not itself provide an underlying legal basis for an investigation. Ameren argues that the Petition states no facts which support any argument that it is necessary or proper for the Commission to exercise its Section 10-101 authority. Staff avers that Part 200.100, also cited by Petitioners, provides no legal basis for an investigation.

Staff argues that EIMA also does not provide a legal basis for a party to request an investigation. In particular, RESA states that EIMA neither requires nor authorizes electric utilities opting to institute formula rates to make a TOU rate filing. Staff and Ameren note that EIMA contains several provisions that allow for Commission proceedings to investigate the utilities participating in EIMA, but EIMA makes no mention of TOU rates. See e.g. Section 16-108.5(d) and 16-108.6(e). RESA and Staff note that while EIMA expressly requires the filing of a Peak-Time Rebate tariff, it does not require the filing of TOU rates.

In addition, Ameren argues that the Petitioners fail to allege a violation of any rate, charge, classification, contract, practice, rule or regulation, as required for this Petition to be considered a complaint under Section 9-201 of the Act. 220 ILCS 5/9-201. Also, RESA states that under Section 9-201 of the Act, utilities are given the discretion whether to file proposed tariffs. ComEd similarly states that the Petition seeks to usurp the statutory prerogative of ComEd to propose new and revised rates in the first place.

In response to the Petitioners' statement that the Commission has general regulatory authority over public utilities, ComEd states that Illinois law is clear that such power does not override utility management's discretion to manage its business. *Lowden v. Illinois Commerce Comm'n.*, 376 Ill. 225, 231 (1941).

ComEd, RESA and Ameren argue that Section 16-103 of the Act bars the Commission from requiring new tariffed services not required by statute. 220 ILCS 5/16-103(e). Staff points out that the Commission raised this very concern in Docket 12-0298. See *Commonwealth Edison Company*, Docket 12-0298, Order at 44 (June 22, 2012). Ameren further points out that Section 16-103 of the Act prohibits the Commission from requiring that an electric utility offer any competitive service. Thus, Ameren asserts that the CUB/EDF Petition is in contradiction of existing Illinois law and should be dismissed.

Staff and Ameren state that the Commission also expressed concern over whether a TOU rate is permissible under Part 452, Standards of Conduct and Functional Separation, the Commission's rules for integrated distribution companies. Docket 12-

0298, Order at 44. Staff argues waivers of these rules have only been allowed when the programs at issue were statutorily required, i.e. real-time pricing (“RTP”) and peak time rebate (“PTR”). See 220 ILCS 5/16-107; 220 ILCS 16-108.6(g).

Various movants point out that the Commission has previously declined to direct that each utility adopt a TOU rate. In a ComEd docket, Staff notes that the Commission expressed concern regarding its authority to direct a utility to offer a TOU tariff. Docket 12-0298, Order at 44. ComEd notes that rather than require ComEd to offer a TOU tariff, the Commission accepted ComEd’s voluntary commitment to work with interested stakeholders, including the Smart Grid Advisory Council (“SGAC”), to examine TOU rates and other dynamic pricing mechanisms. Similarly, in Docket 13-0285, the Commission again declined to require a utility TOU offering. *Illinois Commerce Comm’n On Its Own Motion v. Commonwealth Edison Co.*, Docket 13-0285, Order at 15 (June 26, 2013). ComEd asserts that conditions have not changed to warrant the Commission to reverse course and the relief sought in the Petition threatens to prematurely short-circuit the ongoing stakeholder discussions.

Also, in Docket 12-0244, the Commission declined to require that Ameren offer a TOU rate and encouraged Ameren to participate in the dialogue at SGAC. *Ameren Illinois Company d/b/a Ameren Illinois*, Docket 12-0244, Order on Rehearing at 26 (Dec. 5, 2012). RESA asserts that CUB/EDF seek to short circuit the stakeholder process envisioned by the Commission and instead ask that changes be made without stakeholder involvement.

Ameren notes that if Ameren and ComEd were to offer a TOU rate, it could give the utilities a competitive advantage over retail electric suppliers (“RESs”) in the power supply market. According to Ameren, this runs contrary to the text and spirit of Section 16-119A of the Act and Part 452. 220 ILCS 5/16-199A, 83 Ill. Adm. Code Part 452.

Moreover, RESA argues that the Petition is premature because, in Docket 12-0298, the Commission directed ComEd to work with the SGAC and other stakeholders to develop a proposal to increase the availability and participation in dynamic pricing programs by either ComEd or RESs. Ameren notes that SGAC has issued the SGAC Guidance, in which it recommended that the Commission consider a utility TOU offering only after (1) the utilities work with the RES community to design and implement the billing, electronic data exchange and other necessary utility infrastructure to support TOU rate offerings, and (2) completing development and implementation of necessary systems and reaching a threshold level of AMI deployment. Attachment A to the Petition, SGAC Guidance at 6. RESA states its belief that a marketplace that has ARES offering TOU rates, with the electric utilities offering default supply service and deliver service, will be in the best interests of Illinois consumers. Ameren asserts that its deployment of AMI technology is not at a stage which would render the offering of a TOU rate beneficial. ComEd further states that the “Enabling the Market” workshops have resulted in significant progress toward the goal of enabling RESs to offer TOU supply prices and demand response offerings.

Similarly, Ameren points out that various Commission dockets are addressing the barriers to development of TOU rates by the RESs. See *Illinois Commerce Comm’n On Its Own Motion Investigation of Standard Terms for Customer Authorization of Access to*

Interval Usage Data for Non-Billing Purposes, Docket 14-0701, Final Order (April 1, 2015) and *Illinois Commerce Comm'n On Its Own Motion Investigation into the Customer Authorization Required for Access by Third Parties Other Than Retail Electric Suppliers to Advanced Metering Infrastructure Interval Meter Data*, Docket 15-0073. Also, Ameren states that the infrastructure and systems needed to support TOU offerings by RESs and to facilitate the exchange of data are currently being discussed and developed. Ameren asserts that CUB/EDF's efforts would be better spent working with the RES community to ensure that the systems set up to support TOU offerings by RESs are sufficient to offer a set of TOU rate options that adequately serve the public interest.

ComEd currently offers Rider RMUD, which allows RESs to offer their customers a TOU rate. RESA points out that while Rider RMUD was offered on a pilot basis, ComEd intends to modify or replace it with a permanent tariff once its new meter data management system is in place. Thus, RESA maintains that CUB/EDF's attempts to bypass the stakeholder process and litigate this issue will interfere with the stakeholder progress that has been made to date and will be made in the future.

ICEA urges the Commission to first investigate and consider any barriers to the competitive retail market offering more dynamic rate products and what further actions, if any, the Commission can take to eliminate such barriers. ICEA states that such an investigation should be a necessary prerequisite to the Commission ordering that utilities offer TOU rates, which will significantly harm the ability of the competitive retail market to offer similar products. ICEA urges the Commission to dismiss, or in the alternative modify the scope of CUB/EDF's Petition to instead investigate the barriers to the competitive retail market offering dynamic rates in the Ameren and ComEd service territories.

Ameren asserts that TOU rates are properly discussed in the context of AMI Plan Annual Updates. Ameren points the Commission to its AMI Plan Annual Update Reports, in which Ameren discusses TOU rates.

Staff argues that it would be an inefficient use of Commission resources to implement the proposed investigation because customer interest in these types of rates is low. According to Staff the costs involved in offering a TOU rate is unclear. Staff also calls the proposed cost recovery mechanism problematic. Staff says cost recovery for the marketing of the program is not statutorily mandated. Staff states that CUB/EDF's solution for this problem is to include the marketing for TOU with the RTP and PTR customer education efforts, but Staff asserts that there exists no statutory authority for allowing this. In Staff's view, it would be inefficient to conduct the proposed investigation when the recovery of costs is unclear.

IV. CUB/EDF RESPONSE TO MOTIONS

In response to arguments that there is no legal basis for the proposed investigation, CUB/EDF state that the Act itself provides for Commission investigations (220 ILCS 5/10-101) and provides specific objectives for investments to be met by participating utilities (220 ILCS 5/16-108.5, 16-108.6). CUB/EDF argue that nothing in the Act bars a third party from filing a petition to request an investigation into an aspect of a utility's service, operations, or rates. CUB/EDF maintain that their request, that the Commission open an investigation into whether these investments are in fact enabling

customer participation in dynamic pricing programs such as TOU, is proper. According to CUB/EDF, the Commission can direct ComEd and Ameren to offer a TOU rate if after an investigation the Commission concludes that it is appropriate to do so. CUB/EDF state that nothing in the Act bars this action. CUB/EDF posit that the only way the Commission can determine if a TOU is appropriate and can be implemented to the benefit of ComEd and Ameren customers is to open an investigation into: the benefits of a TOU, how a TOU would affect the development of a competitive market, and utility concerns regarding marketing and cost recovery.

In response to arguments that the Petition does not provide sufficient legal grounds for the Commission to initiate an investigation, CUB/EDF point out that Section 16-108.6 of the Act provides that “the Commission shall have the authority, either upon complaint or its own initiative, but with reasonable notice, to enter upon an investigation regarding the utility’s progress in implementing the AMI Plan.” 220 ILCS 5/16-108.6(e). Because the Commission can open an investigation into whether a utility participating in the Act’s formula rate scheme is properly progressing in its deployment of AMI, CUB/EDF aver that their petition for an investigation is appropriate.

CUB/EDF further argue that the law allows the Commission to direct changes to utility service. See e.g. *In re Municipality of Princeton v. Illinois Commerce Comm’n*, 17 Ill.App.3d 812, 821, 308 N.E. 2d 625, 632 (1974). They also note that courts have found that where a complaint is based upon an allegation concerning ComEd’s infrastructure and its provision of electrical services, including seeking relief based upon “system defects in the provision of electrical services or the repair of those services,” such a complaint is squarely within the jurisdiction of the Commission. *Sheffler v. Commonwealth Edison Co.*, 2011 IL 110166 ¶ 53, 955 N.E.2d 1110, 1125. CUB/EDF assert that if a complaint under Section 9-250 of the Act can examine “systemic defects in the provision of electrical services,” the fact that Section 16-108.5 provides for an investigation into the reasonableness of expenses related to investments in Section 16-108.6 does not bar a request for an investigation. CUB/EDF conclude that the law is clear that where a service is provided, a rate charged, or a Commission investigation provided for, a Commission investigation can be had.

CUB/EDF point out that under Section 16-108.5, electric utilities participating in the formula rate scheme must make investments that produce certain goals, in particular that consumers must have “timely information and control” options, demand response, and peak-shaving technologies, all of which can be achieved by TOU rates and services. CUB/EDF note that nothing in the Act forbids a Commission investigation into whether or not a utility TOU should be adopted. They argue that the Commission has wide authority to consider public utilities’ actions beyond any specific conduct questioned in a docket, even a rate case filed under Section 9-201. *Illinois Power Co. v. Ill. Commerce Comm’n*, 382 Ill.App.3d 195, 203 (2008).

In addition, CUB/EDF state that the Commission can direct ComEd and Ameren to file a TOU rate if it determines that a TOU rate is appropriate. They assert that under Section 9-201, the Commission can order a change in a rate, a rule, a regulation, or a practice concerning or affecting any rate or other charge, service or classification. According to CUB/EDF, this section speaks more to how rates, charges, classifications,

rules, regulations, services are to be changed; it does not address who may make filings to change them.

In response to arguments that Section 16-103 prohibits the Commission from requiring an electric utility to offer any competitive service or any additional tariffed service other than those required, CUB/EDF assert that the residential class has not been declared competitive and there is nothing that classifies a TOU rate for delivery service a “competitive service.” Also, CUB/EDF indicate ComEd did offer a seasonal rate prior to 1997 (Rider 30) which differentiated prices for electricity based on the season. CUB/EDF argue that if it were true that only a utility could initiate a rate, there would be no need for Section 16-103 of the Act at all.

CUB/EDF maintain that an investigation into a utility TOU is appropriate and timely, contrary to assertions in the motions to dismiss. They assert that the time is right for an investigation into essential questions to be considered now, while utility AMI deployment is ongoing, so that if either changes to the competitive marketplace are needed or a utility TOU is appropriate there is a record on these questions.

With respect to Ameren’s assertion that a TOU rate would be more properly considered in its AMI Plan filing, CUB/EDF point out that Ameren took the position that the sole question to be discussed as part of that proceeding was whether the plan was cost-beneficial. According to CUB/EDF, Ameren rejected any proposal made by an intervenor to discuss any other aspect of the plan. Docket 12-0244, Order on Rehearing at 5-9.

Furthermore, CUB/EDF assert that meter deployment is progressing and ComEd has accelerated its deployment so much that ComEd will deploy almost a million meters in 2015 alone. CUB/EDF state that an investigation would address questions from the Commission, the parties, and CUB/EDF. CUB/EDF claim it would not conclude quickly and a full evidentiary record would be developed. For that reason, CUB/EDF believe it is important to begin that process now rather than later.

In response to arguments regarding development of a competitive market for RES offered TOU rates, CUB/EDF state that the concerns raised by ICEA and RESA are appropriate for investigation by the Commission. CUB/EDF further state that if the Commission agrees it is premature to investigate a TOU offering by utilities, the scope of this proceeding should be amended to include investigation into the barriers to the competitive retail market offering a TOU.

For these reasons, CUB/EDF recommend that the Commission deny the Motions to Dismiss or, in the alternative, broaden the scope of the requested investigation to include discussion and investigation of any barriers to RES TOU offerings. CUB/EDF also recommend that if the Commission is concerned regarding the question of its legal authority to direct the utilities to adopt a TOU, they recommend that this question be briefed separately.

V. THE REPLIES

Staff states that the CUB/EDF response to the motions fails to remedy the deficiencies in its Petition identified by Staff and other parties. In response to the CUB/EDF statement that Sections 9-244(d) and 16-108.6(e) of the Act provide a basis

for the Petition, Staff states that both Sections, when considered alone and in combination, fail to provide a basis for a utility TOU rate. Section 9-244(d) pertains solely to investigations into alternative regulation programs proposed by the utility and previously approved by the Commission. Section 16-108.6(e) pertains solely to investigations into a utility's progress in implementing an AMI Plan initiated in response to a utility's AMI Plan Report. Staff argues that the Petition involves neither a Section 9-244 alternative regulation program nor an AMI Plan or AMI Plan Report.

In response to CUB/EDF's reliance on the definition of "Smart Grid" contained in Section 16-108.6(a) of the Act, Staff and ComEd point out that these are goals and are not required by the statute. Staff states that Section 16-108.6(a) provides that for purposes of defining Smart Grid, the investments and policies in question promote one or more goals which may or may not include those emphasized by CUB/EDF. ComEd further argues that Petitioners' reliance on legislative objectives in an attempt to establish the legal basis for their Petition simply falls short.

Staff, ComEd, and Ameren reiterate that CUB/EDF fail to identify a legal basis for CUB/EDF to request an investigation into, and adoption of, a utility TOU rate. Staff states that Section 16-108.6 provides for two possible AMI Plan proceedings: the first under Section 16-108.6(c) addresses the approval of the initial AMI Plan; the second under Section 16-108.6(e) is in response to a utility's annual AMI Report and addresses the progress of that utility's AMI Plan. See 220 ILCS 16-108.6(c) & 16-108.6(e). According to Staff and Ameren, nowhere does Section 16-108.6 provide for a separate proceeding addressing any aspect of an AMI Plan, let alone a utility TOU rate. Ameren states that the scope of the proposed investigation exceeds that permitted by Section 16-108.6(e) and CUB/EDF's Response fails to make any connection between the Petition and Subsection (e)(1) at all.

In response to CUB/EDF's argument that a TOU rate is not or will not be a competitive service, Ameren states that is irrelevant because it has never offered a TOU rate. Ameren argues that, therefore, the Commission cannot order Ameren to offer a TOU rate. ComEd states that no authority exists to compel a utility to provide the new service sought by the Petition. 220 ILCS 5/16-103(e). Similarly, RESA states that CUB/EDF's argument attempts to bypass a clear prohibition in the statute.

In response to CUB/EDF's argument that seasonal rates from the 1980's avoid the Section 16-103 prohibition, ComEd states that those seasonal rates and the proposed TOU rates are not comparable. Also, ComEd argues that to the extent that Petitioners rely on time variant rates instead of their TOU proposal, the General Assembly has already weighed in and elected to require utilities to offer hourly real-time pricing. 220 ILCS 5/16-107. ComEd argues that Petitioners' references to billing experiments are similarly unavailing.

In addition, Staff maintains that statements regarding the Commission's general supervisory powers over public utilities and matters covered by the Act, as well as the power to hold investigations, inquiries and hearing related thereto, are not relevant. Staff avers that it is not the Commission's authority that is at issue here; it is whether CUB/EDF has articulated a proper legal basis for its request to open an investigation into and adoption of a utility TOU rate.

Similarly, Staff and ComEd argue that CUB/EDF's right to file a complaint has no relevance to the entirely separate issue of whether it has articulated a proper legal basis to request an investigation into, and adoption of, a utility TOU rate.

RESA notes CUB/EDF's argument that it is asking for an investigation into TOU rates and not necessarily asking that utilities be required to offer a TOU rate. RESA and ComEd state that this is a distinction without a difference. RESA responds that because the Commission does not have the authority to order Ameren and ComEd to file TOU Rates, there is no reason to conduct an investigation into such rates and this proceeding should be dismissed.

In response to CUB/EDF's argument that there has not been a docket regarding Ameren's AMI Plan update since 2012, Ameren points out that there is collaborative process with SGAC, of which CUB is a member. Ameren asserts that this litigation disrupts that collaborative process. ComEd points out that a litigated investigation would require considerable expenditure of stakeholder and Commission resources. Further, ComEd states that the prudent policy choice for the Commission would be to allow the stakeholders' multi-year efforts to begin to take effect at the end of this year.

Ameren asserts that CUB/EDF's Response fails to address the fact that the electronic data exchange and other necessary utility infrastructure to support TOU rate offerings have neither been fully designed nor implemented. In a similar vein, RESA asserts that the end result of the collaborative process should be the electric utilities' development and implementation of the necessary processes to allow RESs to offer dynamic pricing programs, including TOU Rates. Also, ICEA enumerates several harms that a utility TOU product would have on the competitive retail market.

With respect to the request to amend the scope of the investigation, Ameren argues that ICEA fails to provide a statutory basis for opening the investigation even with an amended scope.

With respect to CUB/EDF's proposal that the Commission direct the parties to brief the question as to whether or not it could order a utility to file a TOU rate, ComEd states that this is one of the specific issues raised by ComEd's Motion and additional briefing would be inappropriate.

VI. COMMISSION ANALYSIS AND CONCLUSION

It is unnecessary to address many of the objections to the Petition raised in the motions to dismiss, because it is clear to the Commission that the Petition is premature and unnecessarily disrupts the process previously adopted by the Commission. For both ComEd (Dockets 12-0298 and 13-0285) and Ameren (Docket 12-0244), the Commission has not required that a utility TOU rate be offered. Rather, the Commission outlined a process that would ensure that a competitive market for dynamic pricing products would be allowed to develop.

In ComEd's AMI Plan Approval Docket, the Commission stated that it:

orders the Company to work with the Smart Grid Advisory Council and other stakeholders to develop a proposal regarding increasing the availability and participation in

dynamic pricing programs offered by either the Company or alternative retail electric suppliers.

Docket 12-0298, Order at 44. Consistent with the Commission decision regarding ComEd, the Commission encouraged Ameren to participate in the dialogue on TOU and dynamic pricing. Docket 12-0244, Order on Rehearing at 26.

The SGAC was established pursuant to EIMA (220 ILCS 5/16-108.6(b)) to advise public utilities investing in matters relating to smart grid electric system upgrades, including the deployment of appropriate technology, pursuant to Section 16-108.5 and 16.108.6 of EIMA. In its written guidance offered on March 14, 2012, the SGAC clearly supported that stakeholders first work to enable RES TOU offering, and to consider utility-offered TOU rates afterwards. It stated:

Once the infrastructure and systems are in place to support TOU offerings by ARES, the initial question before the Illinois Commerce Commission ("ICC") will be how to determine whether the offerings of Illinois' alternative retail electric suppliers ("ARES") include a sufficient set of TOU rate options to adequately serve the public interest.

Guidance Regarding Implementation of Time of Use Rates, Smart Grid Advisory Council at 5-6 (March 14, 2012), Attachment A to the Petition. The competitive RES market has not had an opportunity to develop and, thus, based on this SGAC Guidance, the Petition is premature.

The Commission notes that the Petition states that SGAC's guidance recommended that ComEd and Ameren consider the best options for a utility-provided TOU rate if such a rate was found to be cost-beneficial by the Commission and that ComEd and Ameren design their electric data exchange processes and meter data management systems to enable ARES to offer TOU rates. Petition at 3. The Petition also indicates that the SGAC stated its belief that both ComEd and Ameren have offered to work with the Commission to make TOU rates available if the retail market does not develop competitive TOU rate structures within a reasonable time after AMI deployment. *Id.* This also leads the Commission to find the Petition to be premature. AMI deployment has not been completed and neither ComEd nor Ameren has designed its electric data exchange processes and meter data management to enable the RES community to offer widespread TOU products. The Commission finds compelling that ComEd currently offers Rider RMUD, which allows ARES to offer their customers a TOU rate and that while Rider RMUD is offered on a pilot basis, ComEd intends to modify or replace it with a permanent tariff once its new meter data management system is in place. To initiate an investigation at this stage in time, before the stakeholder process is complete, would be inappropriate and wasteful.

The Commission agrees with ICEA that before requiring utilities to offer a TOU rate, it would be more appropriate to investigate competitive barriers that RESs face in offering a TOU rate. This proposal, however, is also premature. Still pending and recently completed dockets are addressing these pertinent questions. Dockets 13-0057 & 14-0701 (Order entered April 1, 2015) address the manner in which to allow a RES to request interval data for non-billing purposes, which will facilitate the ability to price individual

customers and develop products. If barriers to the development of a competitive market become apparent, the Commission encourages and expects that this will be brought to our attention. In this instance, the Commission is reluctant to require utilities to make service offerings before allowing the competitive market an adequate opportunity to develop.

The Commission encourages the Petitioners, intervenors, and stakeholders to continue the dialogue and work that is being accomplished with SGAC regarding the feasibility of TOU rates and dynamic pricing. The Commission affirms its conclusion from Docket 13-0285 that, “the wiser course of action would be to allow those workshops to continue so that a [TOU] methodology can develop that does not disrupt the competitive market.” *Illinois Commerce Comm’n On Its Own Motion v. Commonwealth Edison Co.*, Docket 13-0285, Order at 15 (June 26, 2013).

In their Brief on Exceptions, CUB/EDF make several new recommendations that would also disrupt the ongoing SGAC process. These proposals are untimely and unsupported and, thus, not adopted by the Commission.

VII. FINDINGS AND ORDERING PARAGRAPHS

The Commission, having considered the entire record and being fully advised in the premises, is of the opinion and finds that:

- (1) the Commission has jurisdiction over the subject matter herein;
- (2) the recitals of fact and conclusions of law reached by the Commission are hereby adopted as findings of fact and conclusions of law for purposes of this Order;
- (3) ComEd, Ameren, and interested stakeholders should continue the collaborative process previously adopted by the Commission; and
- (4) this matter should be dismissed as discussed herein.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that this matter is dismissed.

IT IS FURTHER ORDERED that, subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By Order of the Commission this 16th day of September, 2015.

(SIGNED) BRIEN SHEAHAN

Chairman