**STATE OF ILLINOIS**
**ILLINOIS COMMERCE COMMISSION**

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| AMEREN ILLINOIS COMPANY | ) | |
| d/b/a Ameren Illinois, | ) | |
| Petitioner | ) | |
| | ) | Docket No. 15-0142 |
| Proposed general increase in gas delivery | ) | |
| service rates. | ) | |
| | ) | |

# BRIEF ON EXCEPTIONS OF AMEREN ILLINOIS COMPANY


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## I. INTRODUCTION AND POSITION SUMMARY

As set forth below, Ameren Illinois Company d/b/a Ameren Illinois (AIC or the Company) proposes two exceptions to the Administrative Law Judges' Proposed Order (Proposed Order or ALJPO) issued November 3, 2015 and proposes two technical corrections.

AIC appreciates the careful evaluation of the numerous issues in the case contained in the Proposed Order. In particular, AIC appreciates the Proposed Order's consideration of its request for an increased level of charitable contributions expense related to the Low Income Home Energy Assistance Program (LIHEAP). Although AIC will not take exception to the Proposed Order's conclusions regarding charitable contribution expense, AIC offers several comments on this topic. In addition, AIC offers an exception to the Proposed Order's conclusion regarding enrollment rescission for Rider T customers.

## II. DISCUSSION

### A. Comments regarding Charitable Contributions Expense (ALJPO at 23-24).

AIC's request for charitable contributions expense was divided into two components. First, AIC requested approximately $640,000 in general charitable contributions expense. Second, AIC requested approximately $398,000 for donation to LIHEAP organizations. The Proposed Order grants AIC's request to include a donation for gas delivery service rates of $398,000 ($1 million Company-wide) to LIHEAP organizations in the 2016 test year, but adopts an adjustment to decrease the level of AIC's general charitable contributions expense.

Specifically, the Proposed Order adopts a three-year average of AIC's actual charitable spending between 2012 and 2014, with a 2% escalation factor for 2015 and 2016. (ALJPO at 23-24.) Although AIC does not take exception to the amount of charitable contributions approved in the Proposed Order, AIC's position should not be construed as endorsement of the three-year average and escalation factor methodology. AIC reserves the right to challenge that methodology or propose other methodologies in future cases.

The Proposed Order also requires AIC to make annual reports regarding the status of its donations to LIHEAP organizations "until the next gas delivery service rate order takes effect." (*Id.* at 24.) These reports must include information regarding the disbursement status of the contribution, details regarding the recipient organizations, the amount donated to each organization, any agreements with the recipient organizations regarding the use of the funds, and the amount spent by the organizations to avoid disconnection for non-payment. (*Id.*) AIC accepts this reporting requirement.

AIC makes two further observations. First, the "report" to which the ALJPO refers is the report AIC files pursuant to Section 16-108.5(b-10). The next opportunity for AIC to file the Section 16-108.5(b-10) report addressing the contributions will be February 2017. At that time AIC will provide the Commission with the information required by this Order. Second, and so there is no misunderstanding, Section 16-108.5(b-10) describes certain contributions that are not recoverable in rates. AIC understands the filing of the report is not intended to affect the recovery of the LIHEAP charitable contributions.

**B. Exception regarding Enrollment Rescission for Rider T Customers (ALJPO at 112-16).**

The ALJPO's proposal regarding Rider T rescission resolves a majority of the parties' concerns. It does not, however, entirely resolve AIC's concerns regarding difficulty in measuring the usage of a Rider T customer group in the GDS-5 class before the group switches to a new supplier. AIC therefore proposes that the ten-day rescission period be available to all customers in the GDS-2 and GDS-5 classes.

AIC's existing tariffs allow all Rider T customers ten days in which the customer may choose to cancel a pending switch between gas suppliers in AIC's billing system (referred to as "rescission"). (ALJPO at 112.) The Act requires this ten-day rescission period only for small commercial customers, defined as those customers using less than 5,000 therms per year. 220 ILCS 5/19-115(g)(7). However, AIC extended the rescission period to all Rider T customers, regardless of their usage level, so that rescission practices were uniform for all non-residential gas choice customers. (AIC Init. Br. at 130.) AIC explained that this eases administration of the program, and reduces the potential for customer confusion. (AIC Reply Br. at 104-05.)

ICEA/RESA and Staff argued in this proceeding that the ten-day rescission period should apply only to those customers using less than 5,000 therms per year, since application of the rescission period to larger customers could subject suppliers to market volatility and, in turn, raise gas prices. (*See* ALJPO at 114-16.) AIC opposed this proposal, expressing concern that it would be virtually impossible to determine whether a non-residential account consumes 5,000 therms per year at the time of rescission. (*See* AIC Init. Br. at 131-32.) For instance, it is not clear to AIC how entities, accounts, or service points would be grouped together for purposes of determining whether the group's usage meets the 5,000-therm threshold. (*Id.*) AIC argued that it would only become clear whether a group met the threshold *after* the group had been switched to a new supplier. (*Id.*)

The ALJPO states that it "shares the concerns expressed by ICEA/RESA and Staff but … also sees the validity of AIC's concerns." (ALJPO at 117.) The ALJPO devised a solution that it believes would address the concerns of ICEA/RESA and Staff, while also "taking into account AIC's concerns about … identifying whether customers are close to the 5,000 annual therm threshold." (*Id.*) The ALJPO then provides that the ten-day rescission period will apply to GDS-2 customers and those GDS-5 customers that "are eligible for the GDS-2 rate." (*Id.*)

The solution set forth in the ALJPO was not proposed by any party to the proceeding. As such, it was not subject to the full vetting of the testimony and briefing process. This solution does not entirely resolve AIC's concern regarding difficulty in measuring the usage of a Rider T customer group before the group switches to a new supplier. This concern continues to exist because the ALJPO solution would still require AIC to evaluate the usage of each customer that asks to switch suppliers.

AIC's service under its GDS-5 rate is available to all non-residential customers upon request. (Ill. C. C. No. 2, 7th Rev. Sheet No. 15.) AIC provides service under its GDS-2 rate to non-residential customers whose "highest Average Daily Usage is less than 200 Therms per day." (Ill. C. C. No. 2, 5th Rev. Sheet No. 12.) The ALJPO would allow all GDS-2 customers and those GDS-5 customers with usage of less than 200 therms per day (i.e., those eligible for GDS-2 service) to rescind a switch between gas providers within ten days. But the ALJPO would *not* allow GDS-5 customers with usage of *more* than 200 therms per day to rescind a switch between suppliers. AIC does not keep records of what class of service a GDS-5 customer would otherwise be eligible for, if they were not enrolled in the GDS-5 class.

Thus, because some GDS-5 customers would not be eligible for the ten-day rescission period by virtue of their usage, the ALJPO will still require AIC to determine the total usage of a GDS-5 customer group before offering that group the option to rescind. As AIC has discussed throughout this proceeding, it is virtually impossible to determine the volume of a customer group's usage before that customer group switches suppliers. (Ameren Ex. 19.0 at 8; Ameren Ex. 45.0 at 6; AIC Init. Br. at 133-34; AIC Reply Br. at 104-05.)

AIC assumes the ALJPO intended to reduce the number of determinations AIC would be required to make, and thereby reduce the administrative difficulty associated with a usage-based limitation on rescission. Although the ALJPO's solution would decrease the difficulty associated with dividing the GDS-2 class by usage, it would still require AIC to make usage determinations for the GDS-5 class. The GDS-5 class includes more than 200 customers, (*see* Sch. E-5 at 6-7), so the administrative burden associated with dividing the GDS-5 class by usage remains significant.

To resolve this remaining difficulty, AIC proposes that the ten-day rescission period be available to all customers in the GDS-2 and GDS-5 classes. This proposal will still address the concerns expressed by Staff and ICEA/RESA regarding the market effect of the ten-day rescission period as applied to very large customers. But it will also ease the considerable administrative burden and uncertainty associated with dividing customers by usage volume, instead of simply by class.

AIC offers the following exceptions language to resolve all parties' concerns:

The Commission observes that Rider T provides an optional transportation service to non-residential customers that elect to procure gas supply from alternative gas suppliers and have AIC deliver the customer-owned gas. Ill. C. C. No. 2, 3rd Revised Sheet No. 25, (Canceling 2nd Revised Sheet No. 25). The Act requires a ten-day rescission period for transportation customers that use 5,000 or fewer therms annually. 220 ILCS 5/19-105, 220 ILCS 5/19-115(a), 220 ILCS 5/19-115(g)(7). In the fall of 2013, AIC changed its tariffs to extend this ten-day rescission period to all Rider T customers. At issue in this proceeding is whether this rescission period should be limited to only small commercial customers (i.e. customers with usage of 5,000 therms or less annually).

ICEA/RESA are concerned that AIC's Rider T rescission practices increase the risk of significant losses for suppliers if the market gas prices fall after they have signed a contract with a Rider T customer and locked in gas purchases for the customer. Staff agrees with this concern and posits that this risk is likely to result in higher prices for all transportation customers. AIC, however, is concerned that removing the ten-day rescission period for those small customers that are close to the 5,000 annual therm threshold will be impractical given the applicable statutory framework and lead to customer confusion. It is clear that AIC's primary concerns are related to those customers in the smallest non-residential rate class, GDS-2, which contains customers above and below the 5,000 annual therm threshold.

The Commission shares the concerns expressed by ICEA/RESA and Staff but it also sees the validity of AIC's concerns. The Commission notes that transportation customers are not homogenous. Some are very small and relatively unsophisticated customers that need the protection provided by the enrollment rescission period and some are large customers with greater sophistication and the ability to "game" the system. Therefore, the Commission finds that the best solution to address the parties' concerns is to require AIC to amend its tariffs to withdraw the ten-day rescission period for Rider T customers, except those that receive gas in the smallest non-residential rate class, GDS- 2, as well as ~~any small~~ seasonal customers in the GDS-5 class ~~that are eligible for the GDS-2 rate~~. This will address ICEA/RESA's and Staff's concerns while taking into account AIC's concerns about implementing the requested change in its Rider T rescission practices given the challenges of identifying whether customers are close to the 5,000 annual therm threshold.

**C. Exceptions related to the Finding and Ordering Paragraphs (ALJPO at 126-28).**

The Findings and Orderings paragraphs contained in AIC's last gas rate case, Docket 13-0192, included specific findings regarding the Return on Rate Base and Return on Equity percentages, as well as the Delivery Service Operating Revenues and Net Annual Operating Income. *Ameren Ill. Co.*, Docket 13-0192, Order at 252-53 (Dec. 18, 2013). For consistency and clarity, AIC proposes that similar paragraphs be inserted into the current order, and offers the following exceptions:

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

1) Ameren Illinois Company d/b/a Ameren Illinois is an Illinois corporation engaged in the transmission, distribution, and sale of gas to the public in Illinois and is a public utility as defined in Section 3-105 of the Public Utilities Act;

2) the Commission has jurisdiction over the parties and the subject matter herein;

3) the recitals of fact and conclusions of law reached in the prefatory portion of this Order are supported by the evidence of record and are hereby adopted as findings of fact and conclusions of law; the Appendices attached hereto provide supporting calculations;

4) the test year in this proceeding is a future test year consisting of the 12 months ending December 31, 2016; such test year is appropriate for purposes of this proceeding;

5) a just and reasonable return which AIC should be allowed to earn on its net original cost gas delivery service rate is 7.65%; this rate of return incorporates an ROE of 9.60%;

6) the Commission, based on Ameren Illinois Company d/b/a Ameren Illinois' gas Rate Zone I original cost of plant in service as of December 31, 2013, before adjustments, of $451,217,000, and reflecting the Commission's determination adjusting that figure, approves $448,080,000 as the original cost of plant for Ameren Illinois Company d/b/a Ameren Illinois' gas Rate Zone I as of said date;

7) the Commission, based on Ameren Illinois Company d/b/a Ameren Illinois' gas Rate Zone II original cost of plant in service as of December 31, 2013, before adjustments, of $628,131,000, and reflecting the Commission's determination adjusting that figure, approves $623,745,000 as the original cost of plant for Ameren Illinois Company d/b/a Ameren Illinois' gas Rate Zone II as of said date;

8) the Commission, based on Ameren Illinois Company d/b/a Ameren Illinois' gas Rate Zone III original cost of plant in service as of December 31, 2013, before adjustments, of $1,108,946,000, and reflecting the Commission's determination adjusting that figure, approves $1,101,146,000 as the original cost of plant for Ameren Illinois Company d/b/a Ameren Illinois' gas Rate Zone III as of said date;

9) for Rate Zone 1, the ROR set forth in Finding (5) results in base rate gas delivery service operating revenues of $93,237,000 and net annual operating income of $21,260,000 for the test year;

10) for Rate Zone 2, the ROR set forth in Finding (5) results in base rate gas delivery service operating revenues of $101,840,000 and net annual operating income of $21,878,000 for the test year;

11) for Rate Zone 3, the ROR set forth in Finding (5) results in base rate gas delivery service operating revenues of $203,736,000 and net annual operating income of $47,736,000 for the test year;

12) AIC's gas delivery service rates which are presently in effect are insufficient to generate the operating income necessary to permit it the opportunity to earn a fair and reasonable return on net original cost rate base; the proposed tariffs should be permanently canceled and annulled;

13) the rates proposed by AIC would produce a rate of return in excess of a return that is fair and reasonable; the proposed rates should be permanently canceled and annulled consistent with the findings herein;

14) AIC should be authorized to place into effect tariff sheets designed to produce annual gas delivery service revenues as shown in Appendices A, B and C;

the new tariff sheets shall reflect an effective date not less than five working days after the date of filing, with the tariff sheets to be corrected within that time period if necessary, except as is otherwise required by Section 9-201(b) of the Act; and

15) the determinations regarding cost of service, interclass revenue allocations, rate design, and tariff terms and conditions, as are contained in the prefatory portion of this Order above, are reasonable for purposes of this proceeding and are adopted, and shall be incorporated into the tariffs filed by AIC.

**D. Technical Corrections**

Technical Correction No. 1: Appendix C to the Proposed Order shows an adjustment of ($134,000) in Line 12, Depreciation and Amortization. (ALJPO Appendix C, Sch. 1 RZ III, Sch. 2 RZ III.) It appears to AIC that this amount represents the adjustment to charitable contributions expense, discussed above. Charitable contributions expense is a component of Administrative and General Expenses, which appears on Line 11 of Appendix C (not Line 12). Appendix C, Schedules 1 and 2 Rate Zone III should be revised to show the adjustment of ($134,000) in Line 11, rather than Line 12.

Technical Correction No. 2: The Proposed Order adopts the AG's proposal to use the ten-year period 2005-2014 to set the normal heating degree days used in calculating billing determinants, rather than the ten-year period 2004-2013, as AIC had proposed. (ALJPO at 89.) However, this conclusion is not reflected in the Appendices to the Proposed Order. The Appendices should be revised to increase Gas Operating Revenues by the amounts shown on Exhibit 4.1, Schedule DJE C-1, with the revenue adjustments reflected on Schedule 2, Column (d), Line 1 of Appendices A-C, and with corresponding adjustments to uncollectibles on Line 4, based on application of the uncollectible percentages shown on Schedule 7, Column (b), Line 2.

Dated: November 13, 2015

Respectfully submitted,
Ameren Illinois Company

By: *\/s/ Albert D. Sturtevant*
One of their Attorneys

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## CERTIFICATE OF SERVICE

I, Albert D. Sturtevant, an attorney, certify that on November 13, 2015, I caused a copy of the foregoing Brief on Exceptions of Ameren Illinois Company's to be served by electronic mail to the individuals on the Commission's Service List for Docket 15-0142.

*/s/ Albert D. Sturtevant*
Attorney for Ameren Illinois Company