

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

AMEREN ILLINOIS COMPANY )  
 ) Docket No. 16-0262  
 )  
Ameren Illinois Company Rate MAP-P )  
Modernization Action Plan – Pricing )  
Annual Update Filing )

---

**DIRECT TESTIMONY OF MICHAEL L. BROSCH  
ON BEHALF OF THE  
PEOPLE OF THE STATE OF ILLINOIS**

---

**AG Exhibit 1.0**

**June 30, 2016**

ILLINOIS COMMERCE COMMISSION  
DOCKET NO. 16-0262  
DIRECT TESTIMONY OF MICHAEL L. BROSCHE

**TABLE OF CONTENTS**

I. INTRODUCTION / SUMMARY.....1  
II. ADVERTISING EXPENSES.....3

**EXHIBIT LIST**

- AG Exhibit No. 1.1 Summary of Qualifications
- AG Exhibit No. 1.2 Prior Testimony Listing
- AG Exhibit No. 1.3 Summary of AG Advertising Adjustment
- AG Exhibit No. 1.4 Copies of Avian Program Advertisement Nos. 5, 6 and 7.
- AG Exhibit No. 1.5 Copies of Community Support Advertisement Nos. 41, 57, 59, 60, 61, 64, 109, 110, 200 and 201.
- AG Exhibit No. 1.6 Copies of Respect/Diversity Advertisement Nos. 32, 33, 34, 35, 36, 37, 38, 39, 40, 42, 43, 54, 105, 300 and 301.
- AG Exhibit No. 1.7 Copies of Reliability Advertisement Nos. 18.2, 22, 23 and 29.

**I. INTRODUCTION / SUMMARY**

1 **Q. Please state your name and business address.**

2 A. My name is Michael L. Brosch. My business address is PO Box 481934, Kansas  
3 City, Missouri 64148-1934.

4  
5 **Q. By whom are you employed and in what capacity?**

6 A. I am a principal in the firm Utilitech, Inc., a consulting firm engaged primarily in  
7 utility rate and regulation work. The firm's business and my responsibilities are  
8 related to the conduct of regulatory projects for utility regulation clients. These  
9 services include rate case reviews, cost of service analyses, jurisdictional and class  
10 cost allocations, financial studies, rate design analyses, utility reorganization  
11 analyses, the design and administration of alternative regulation mechanisms, and  
12 focused investigations related to utility operations and ratemaking issues.

13 **Q. On whose behalf are you appearing in this proceeding?**

14 A. I am appearing on behalf of the People of the State of Illinois represented by the  
15 Attorney General ("AG").

16 **Q. Please summarize your educational background and professional experience in  
17 the field of utility regulation.**

18 A. AG Exhibit No. 1.1 summarizes my education and professional qualifications. I have  
19 testified before utility regulatory agencies in Arizona, Arkansas, California, Florida,  
20 Hawaii, Illinois, Indiana, Iowa, Kansas, Michigan, Missouri, New Mexico, Ohio,  
21 Oklahoma, Texas, Utah, Washington, and Wisconsin in regulatory proceedings  
22 involving electric, gas, telephone, water, sewer, transit, and steam utilities. A listing  
23 of my previous testimonies in utility regulatory proceedings is set forth in AG Exhibit

24 No. 1.2. As noted in this listing, I have testified in numerous proceedings before the  
25 Illinois Commerce Commission (“the Commission” or “ICC”), including multiple  
26 cases involving The Peoples Gas Light & Coke Company, North Shore Gas  
27 Company, Commonwealth Edison Company (“ComEd”), and the Ameren Illinois  
28 Company (“Ameren,” “AIC,” or the “Company”). Those cases include each of the  
29 past five rounds of formula rate case proceedings for ComEd and Ameren.

30 **Q. What is the purpose of your testimony in this docket?**

31 A. My testimony is responsive to the formula rate and revenue requirement calculations  
32 of Ameren that are sponsored by various AIC witnesses and are summarized in  
33 Ameren Exhibit 1.2.<sup>1</sup> I am sponsoring one adjustment at this time, to eliminate  
34 certain advertising expenses that should not be charged to AIC ratepayers. I propose  
35 that the Company’s recovery of advertising expenses in the 2015 test year be reduced  
36 to remove the costs associated with expenditures that are primarily driven by  
37 Ameren’s desire to enhance its corporate image and promote goodwill for the  
38 Company.

39 **Q. What information have you relied upon in formulating your recommendations?**

40 A. I relied upon Ameren’s pre-filed testimony and exhibits in this docket, as well as the  
41 Company’s responses to data requests submitted by the Commission Staff and the  
42 AG. I also referenced a copy of Sections 9-225 and 16-108.5 of the Public Utilities  
43 Act, as well as Sections 295.10, 295.20 and 295.30 of the Commission’s rules, which  
44 were provided to me by counsel. I also rely upon my prior experience with the

---

<sup>1</sup> Ameren Exhibit 1.2 contains the overall formula rate template calculations and is supported by workpapers contained in Ameren Ex. 1.3 as well as multiple other exhibits.

45 regulation of public utilities over the past 37 years, including significant experience  
46 with alternative forms of regulation for energy utilities in Illinois and other states.

47 **Q. Have you prepared an accounting schedule to summarize the advertising**  
48 **expense adjustment that is described in your testimony?**

49 A. Yes. AG Exhibit 1.3 is a summary of my recommended advertising adjustment. The  
50 amounts set forth in AG Exhibit 1.3 are derived from the workpapers of Ameren  
51 witness Mr. Kennedy, who sponsors the Company's position regarding recoverable  
52 versus disallowed advertising expenses.<sup>2</sup> It should be noted that I have not, with  
53 available time and resources, been able to conduct a complete review of all aspects of  
54 the Company's filing. As a result, I reserve the right to comment on or adopt  
55 recommendations of Commission Staff and other parties' witnesses in rebuttal  
56 testimony.

57

## 58 II. ADVERTISING EXPENSES

59

60 **Q. What amounts of Selling, Advertising and Miscellaneous Sales Expenses have**  
61 **been included by AIC in its asserted revenue requirement?**

62 A. According to Ameren Schedule C-8, the Company incurred \$3.329 million of  
63 jurisdictional demonstration, selling and advertising expenses in 2015, but is seeking  
64 recovery of \$2.559 million of such expenses after making "Ratemaking Adjustments"  
65 to self-disallow \$0.77 million of such expenses.

---

<sup>2</sup> Ameren Exhibit 5.0 at 16-30.

66 **Q Has the Company provided any detailed breakdown of its charges to each of the**  
67 **Accounts that are listed on Ameren Schedule C-8 within workpapers provided**  
68 **with its filing?**

69 A Yes. Company witness Mr. Kennedy provided an Excel file containing a detailed list  
70 of advertising costs charged to Accounts 588, 908, 909, 923, and 930 by vendor,  
71 indicating which of such charges have been self-disallowed by Ameren-proposed  
72 ratemaking adjustments and which remaining charges are included in the Company's  
73 asserted revenue requirement. Mr. Kennedy also provided a PowerPoint file  
74 containing numbered copies of illustrative advertisements related to the costs  
75 itemized within his Excel file. According to Mr. Kennedy's testimony:

76 Section 9-226(a) of the Public Utilities Act and Part  
77 295.40(a) require the utility in any "general rate increase  
78 proceeding" to provide "[c]opies of all advertisements and  
79 scripts included in the operating expense, listing the  
80 production costs for each ad, the publication schedule and  
81 costs for each ad." Pursuant to Part 295.40, these materials  
82 must be "made available to Commission Staff at the time of  
83 the start of the Staff investigation."<sup>3</sup>  
84

85 I relied on the Excel and PowerPoint files associated with these submissions,  
86 captioned "Kennedy DWP 1\_2015 Workpapers Advertising Production and  
87 Publications Costs FINAL.xls" and "Kennedy DWP 2\_Ad Book 2015 Examples  
88 FINAL.ppt", respectively, in my review of Ameren's advertising to support my  
89 recommended adjustment to advertising expenses.

90 **Q Did you recommend any advertising disallowances in the Company's last**  
91 **formula rate case that involved 2014 recorded costs?**

---

<sup>3</sup> *Id.* at 27:583-587.

92 A Yes. In Docket No. 15-0305 I proposed exclusion of four types of advertising  
93 expenses. My adjustment in that case challenged the Company’s “Energy at Work”  
94 TV ads, its EIMA-related Infrastructure ads, Facebook messages, and St. Louis  
95 Cardinals radio ads.

96 **Q. Did the Commission approve the advertising adjustments you proposed in that**  
97 **prior case?**

98 A. Yes, in part. In its Order in that docket, the Commission provided a lengthy  
99 explanation of the applicable legal standards and disputed advertising and ultimately  
100 accepted certain but not all of the adjustments I proposed. The stated rationale for the  
101 Commission’s approval of AG-proposed advertising disallowances can be fairly  
102 summarized from the following excerpts from that Order:

103 The total amount of advertising expenses at issue is  
104 \$716,767. For the reasons discussed below, the Commission  
105 finds that all of these advertising expenses should be  
106 disallowed except for the \$341,228 spent on advertisements  
107 related to EIMA infrastructure improvements.

108 \*\*\*

109  
110  
111 The Commission holds that three of the four disputed  
112 “goodwill” advertisements do not satisfy the criteria  
113 necessary for recovery. The Commission agrees with  
114 Ameren that the \$341,228 spent on EIMA-related  
115 infrastructure improvements advertising qualifies for rate  
116 recovery. These ads, given their educational purpose, are not  
117 designed primarily to improve AIC’s image and are also in  
118 the best interest of the consumer. However, the costs  
119 associated with the remaining three advertisements  
120 identified: the “Energy at Work” television ad, the Facebook  
121 messages and the St. Louis Cardinals radio ads, are not  
122 recoverable.

123 \*\*\*

124  
125  
126 The other three advertising campaigns in question appear to  
127 be designed primarily to improve AIC’s public image. The

128 radio ads are incredibly broad, brief and general; they make  
129 short comments such as “Ameren Illinois is investing in a  
130 smarter, more reliable electric grid” or “Ameren Illinois is  
131 adding new technologies to detect and reduce outages and  
132 option to help you manage your energy use and save  
133 money.” They then direct listeners to visit AIC’s website,  
134 but provide no other educational information or benefits to  
135 listeners. (Ameren Ex. 11.2 at 1-6.) Similarly, the record  
136 does not show any specific educational components to the  
137 Facebook page. The Facebook content is very general and,  
138 again, simply directs visitors only to go to AIC’s website if  
139 they want more information. (Ameren Ex. 11.8.) The  
140 “Energy at Work” ads, include more specifics than the radio  
141 ads and the Facebook page, but they also feature Ameren  
142 employees and jobs sites in such a way that improvement of  
143 public image appears to be the primary purpose of that  
144 campaign. For example, Ameren states, “We will cast [an  
145 Ameren employee] who is likeable, upbeat and has a dose of  
146 Midwestern humility.” (Ameren Ex. 11.3 at 2). Given the  
147 lack of a specific educational message and the clear intent to  
148 portray AIC employees in this way, these ads are not  
149 primarily for the educational benefit of customers. AIC has  
150 failed to show that the expenses associated with the radio  
151 ads, the Facebook page, and the “Energy at Work” ad  
152 campaigns are, in fact, in the be interests of its customers.

153  
154 In contrast to these other three ad campaigns, the EIMA ads,  
155 feature more in depth explanations of specific infrastructure  
156 projects and customer benefits. For example, one EIMA ad  
157 notes that the upgrades have already improved reliability by  
158 20% and saved customers an estimated \$54 million per year.  
159 The EIMA TV ads include both explanations and video  
160 images of improvements being implemented, such as the  
161 installation of smart switching technology, power outage  
162 detection technology, and substation upgrades.<sup>4</sup>

163  
164  
165 **Q Have Ameren and Mr. Kennedy acknowledged the Commission’s Order**  
166 **disallowing recovery of the types of image advertising costs that were disallowed**  
167 **in Docket No. 15-0305?**

---

<sup>4</sup> ICC Docket No. 15-0305, Final Order at 45-48 (Dec. 9, 2015).

168 A Yes. According to Mr. Kennedy's testimony in this case, "[t]he Company has made a  
169 series of self-disallowances to remove Account 909 expenses for advertising that had  
170 content similar to the advertising that the Commission identified for disallowances in  
171 Docket 15-0305. AIC witness Stafford supports the ratemaking adjustment for these  
172 disallowances in the C-2.14 Schedule. The workpaper WPC-2.14a identifies the  
173 broad categories of disallowance: \$33,482 for St. Louis Public Radio advertising;  
174 \$394,207 for various television, digital, radio, and print advertising (including the  
175 "Stronger" and "Preparation" ads); \$4,323 for miscellaneous social media expenses;  
176 \$52,369 for St. Louis Cardinals Advertising; and \$115,311 for other miscellaneous  
177 charges.

178 **Q After the Company's adjustments are made, should the remaining \$2.56 million**  
179 **of advertising costs proposed for rate recovery by Ameren be approved?**

180 A. Not entirely. After the Company's adjustments are made, Mr. Kennedy's workpapers  
181 reveal that most of the remaining advertising expenses are reasonable for rate  
182 recovery. However, Ameren incurred costs in 2015 for certain new and different  
183 types of ads that were not previously considered by the Commission and that appear  
184 to be designed for the primary purpose of improving the public image and reputation  
185 of the Company. In keeping with the Commission's policy determinations made in  
186 Docket No. 15-0305 and prior formula rate proceedings, such image building  
187 goodwill advertising expenses are not needed to provide public utility services and  
188 should not be recovered from ratepayers.

189 **Q What are the categories of advertising that you have concluded are designed**  
190 **primarily to enhance the image and reputation of AIC, and that you propose to**  
191 **eliminate from the distribution revenue requirement?**

- 192 A. The advertising expenses being challenged by the Attorney General at this time are  
193 associated with the four goodwill-related advertising themes:
- 194 ○ Ameren’s Avian Protection Program ads touting the Company’s support for  
195 conservation efforts, depicting certain birds of prey that are being protected by  
196 Ameren whenever the Company installs certain types of distribution equipment;
  - 197 ○ Ads extolling Ameren’s community involvement activities and corporate  
198 generosity in providing charitable donations as well as employee volunteerism  
199 in support of local public events and charitable organizations;
  - 200 ○ Ads describing how Ameren treats people with respect and how the Company  
201 believes in diversity within its employment practices; and
  - 202 ○ Ads that promote, in only broad terms, Ameren’s grid improvement initiatives,  
203 that improve reliability and save people money, including a tag line “So the  
204 power is there when you need it,” while providing no specific information about  
205 new technologies or investments installed to benefit customers.

206 These four categories of advertisements are designed primarily to bring the utility’s  
207 name before the general public in such a way as to improve the image of the utility,  
208 and these types of ads are not needed to provide public utility service. Ameren has  
209 not demonstrated that rate recovery for these ads is in the best interests of its  
210 customers or that these ads satisfy the criteria set forth in Section 9-225 of the Public  
211 Utilities Act, Section 295.30 of the Commission’s rules, or the standards the  
212 Commission adopted in Docket No. 15-0305.

213 **Q Have you prepared an exhibit to summarize the advertising expenses that should**  
214 **be removed from AIC’s asserted revenue requirement?**

215 A Yes. AG Exhibit 1.3 contains a summary of the advertising categories that I propose  
216 to eliminate, showing the costs by FERC Account for each category. Ad number  
217 references are provided that come from Mr. Kennedy's workpapers that assign  
218 numbers to each example advertisement for which the Company incurred costs in  
219 2015.

220 **Q. Please explain how you evaluated the Advertising costs recorded by Ameren in**  
221 **2015.**

222 A I relied primarily upon the ad content and principal message to determine which of  
223 Ameren's 2015 advertising expenses have been supported as reasonable under the  
224 Commission's enunciated standards and should be recoverable from ratepayers. If  
225 the principal message within a particular advertisement is to promote a favorable  
226 public image for Ameren, rather than providing specific, useful information that is  
227 needed by ratepayers, the costs of that advertisement are not necessary and should not  
228 be borne by ratepayers. If the principal message is any of the topics identified as  
229 recoverable within Section 9-225(3) of the Public Utilities Act and the corresponding  
230 Section 295.30 of the Commission's rules, the costs of the advertisement are not  
231 challenged in my adjustment.

232 **Q. Why have you proposed removal of advertising that promotes the Company's**  
233 **Avian Protection Program?**

234 A. This adjustment eliminates from recovery the costs of advertisements numbered 5, 6,  
235 and 7 in Mr. Kennedy's workpapers. Copies of these ads are shown in AG Exhibit  
236 1.4. There is no business purpose, other than image enhancement, served by advising  
237 ratepayers that the Company has installed avian protective equipment within its  
238 distribution facilities or that Ameren is proud to support the conservation efforts of

239 the Illinois Raptor Center, the Treehouse Wildlife Center, and the World Bird  
240 Sanctuary. While certainly admirable, using paid advertising to tell the public that  
241 Ameren cares about the world we live in is not a necessary or appropriate use of  
242 ratepayer provided funds. If the Company wishes to enhance its environmental  
243 reputation through such messaging, it should do so at shareholders' and not  
244 ratepayers' expense.

245 **Q. What Community and Charitable Support ads are included in the second**  
246 **category for which you propose disallowance?**

247 A. This part of my proposed adjustment eliminates from revenue requirement the costs  
248 of advertisements numbered 41, 57, 59, 60, 61, 64, 109, 110, 200, and 201 in Mr.  
249 Kennedy's workpapers. Copies of these ads are shown in AG Exhibit 1.5.

250 **Q Why should AIC not recover advertising costs incurred to proclaim that the**  
251 **Company is a good corporate citizen, supporting events and charitable**  
252 **organizations throughout Illinois?**

253 A. As with the Avian Protection Program, there is no business purpose, other than image  
254 enhancement, served by advising ratepayers that the Company supports local  
255 communities and organizations through its charitable giving and volunteering (Ad 41)  
256 or that it sponsors Junior Achievement and Big Brothers/Sisters organizations (Ad  
257 57). Similarly, advertisements to acknowledge the 50<sup>th</sup> anniversary of the Vietnam  
258 War (Ad 59) or to solicit donations for Toys for Tots (Ad 64) need not be funded by  
259 ratepayers for the Company to provide safe and adequate electric delivery services in  
260 Illinois. Moreover, while Ameren's partnering with local charities and encouraging  
261 employees to donate their time (Ad 109) is laudable, there is no legitimate business

262 need that justifies burdening ratepayers with additional costs to advertise such  
263 initiatives.

264 **Q. In another section of his testimony, Mr. Kennedy explains why Ameren seeks to**  
265 **include charitable contributions totaling \$916,000 within its electric**  
266 **jurisdictional revenue requirement.<sup>5</sup> Do the Company’s community and**  
267 **charitable support advertisements that you have challenged clearly state that**  
268 **Ameren ratepayers are the primary funding source for the Company’s**  
269 **charitable contributions?**

270 A. No. These ads seem designed to create the impression that Ameren’s contributions  
271 reflect a spirit of corporate generosity, without mentioning that the Company  
272 generally seeks rate recovery of its charitable contributions from ratepayers.

273 **Q. Please describe the advertisements included in the “respect for employees” and**  
274 **“diversity” category that you have challenged.**

275 A. This adjustment eliminates from recovery the costs of advertisements numbered 32-  
276 40, 42, 43, 54, 105, 300, and 301 found in Mr. Kennedy’s workpapers. These  
277 advertisements indicate that Ameren treats its employees with respect and that AIC  
278 promotes diversity within its workforce. Copies of these ads are shown in AG  
279 Exhibit 1.6.

280 **Q. Why should Ameren ads proclaiming the Company’s respect for employees and**  
281 **workforce diversity not be funded by ratepayers?**

282 A. As with the prior categories of advertising discussed, Ameren’s “respect” and  
283 “diversity” ads are not needed for any business purpose other than enhancing the

---

<sup>5</sup> Ameren Ex. 5.0 at 5-9.

284 public image of the Company. It should be generally understood that any major  
285 employer such as Ameren treats its employees with respect and does not discriminate  
286 in employment practices. There is no need to burden ratepayers with the costs of  
287 these goodwill-promoting ads that are designed simply to make the Company look  
288 good, while providing no information that benefits its electric customers.

289 **Q. What 2015 advertisements placed by AIC have as a principal message only very**  
290 **generalized claims regarding improvements to the Ameren Illinois grid?**

291 A. This last element of my proposed adjustment eliminates from recovery the costs of  
292 advertisements numbered 18.2, 22, 23, and 29 in Mr. Kennedy's workpapers. These  
293 ads include display ads with the Ameren name and logo stating, "So the power is  
294 there when you need it" (Ad 18.2) and indicating that Ameren is "committed to  
295 improving service reliability" (Ad 22). Copies of these ads are shown in AG Exhibit  
296 1.7.

297 **Q. Why should these very brief and generalized messages about Ameren's efforts**  
298 **toward improving reliability be treated as non-recoverable in setting the**  
299 **Company's rates?**

300 A. It should go without saying that an electric utility is dedicated to providing good  
301 service and is working on improving reliability with its investments. There is no  
302 legitimate business purpose served by placing paid advertising to make such  
303 generalized claims, other than enhancing the public perception and reputation of  
304 Ameren. These are the same types of ads disallowed by the Commission in Ameren's  
305 last formula rate update case. For instance, as quoted above, the Order in Docket No.  
306 15-0305 states, at page 48:

307

308

309                   The radio ads are incredibly broad, brief and general; they  
310                   make short comments such as ‘Ameren Illinois is investing in  
311                   a smarter, more reliable electric grid’ or ‘Ameren Illinois is  
312                   adding new technologies to detect and reduce outages and  
313                   option to help you manage your energy use and save money.’  
314                   They then direct listeners to visit AIC’s website, but provide  
315                   no other educational information or benefits to listeners.<sup>6</sup>

316

317

Applying the same logic to the ads in question this time dictates the disallowance of

318

Ameren’s 2015 generic grid improvement advertisements, which provide no in-depth

319

explanations of specific infrastructure projects or resulting customer benefits.

320

**Q.       Does this conclude your testimony at this time?**

321

A.       Yes.

---

<sup>6</sup> Docket No. 15-0305, Final Order at 48 (Dec. 9, 2015).