

January 23, 2002

Ms. Donna Caton
Chief Clerk
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62794

Re: Central Illinois Light Company
Docket Nos. 01-0637, 01-0530 & 01-0465

Dear Ms. Caton:

The Brief on behalf of the Illinois Industrial Energy Consumers has been filed electronically with the Clerk of the Illinois Commerce Commission this date. Copies of the foregoing have been provided to parties on the service list.

Your cooperation and assistance in filing same is appreciated.

Please return one file marked copy in the enclosed stamped and self-addressed envelope.

Sincerely,

Edward C. Fitzhenry

ECF/alc

cc: Service List

Enclosure/34850

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

CENTRAL ILLINOIS LIGHT COMPANY)	
)	
Petition requesting the Illinois Commerce)	Docket No. 01-0637
Commission to enter an order approving delivery)	
services tariffs of Central Illinois Light Company,)	
including revisions to the existing rates, riders, terms)	
and conditions applicable to non-residential delivery)	
services and new rates, riders, terms and conditions)	
applicable to residential delivery services.)	
)	
Petition for Approval of Residential Delivery Services)	Docket No. 01-0530
Implementation Plan Pursuant to Section 16-105 of the)	
Illinois Public Utilities Act.)	
)	
Petition for an Order Concerning Delineation of)	Docket No. 01-0465
Transmission and Local Distribution Facilities.)	

BRIEF ON BEHALF OF THE
ILLINOIS INDUSTRIAL ENERGY CONSUMERS

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STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

CENTRAL ILLINOIS LIGHT COMPANY)	
)	
Petition requesting the Illinois Commerce Commission to enter an order approving delivery services tariffs of Central Illinois Light Company, including revisions to the existing rates, riders, terms and conditions applicable to non-residential delivery services and new rates, riders, terms and conditions applicable to residential delivery services.)	Docket No. 01-0637
)	
Petition for Approval of Residential Delivery Services Implementation Plan Pursuant to Section 16-105 of the Illinois Public Utilities Act.)	Docket No. 01-0530
)	
Petition for an Order Concerning Delineation of Transmission and Local Distribution Facilities.)	Docket No. 01-0465

BRIEF ON BEHALF OF THE ILLINOIS INDUSTRIAL ENERGY CONSUMERS

I. INTRODUCTION; OVERVIEW

Pursuant to the schedule in this proceeding, the Illinois Industrial Energy Consumers (IIEC) consisting of the following industries present their brief for consideration by the Illinois Commerce Commission (Commission): Archers-Daniels-Midland Company, Caterpillar, Inc., Keystone Steel and Wire Company, and Williams Ethanol Services, Inc..

In support for its positions in the proceeding, IIEC submitted the testimonies of Mr. Maurice

Brubaker and Mr. Alan Chalfant. Mr. Chalfant takes issues with Central Illinois Light Company's (CILCO) proposed functionalization that allocates an undue amount of Administrative and General (A&G) expenses and General and Common Plant costs to the distribution function. (IIEC Exs. 1 and 4). Mr. Brubaker takes issue with CILCO's allocation of costs associated with Account 908 Customer Assistance, and proposes an allocation using a different allocator. Mr. Brubaker also argues that costs associated with Black Start service should be allocated based on class demands and not on the basis of class kWh requirements. (IIEC Exs. 2 Rev. and 5). Mr. Brubaker introduced schedules that reflect the class cost of service and rate design resulting from incorporating the changes proposed by Mr. Chalfant, along with the allocation changes he recommends. (IIEC Ex. 3). IIEC also takes positions on certain aspects of CILCO's delivery service tariff filing, as detailed below.

It is critically important that the Commission set just and reasonable delivery service rates for both residential and non-residential delivery service customers. (220 ILCS 5/9-101; 220 ILCS 5/16-108(d)). Not only is this required of the Commission as a matter of law, but is needed in order to promote retail competition. The amount of customer switching has been woeful in Illinois and, in fact, no customers have switched in CILCO's service territory. (IIEC Ex. 5 at 4). No doubt there are a variety of reasons as to why there has been no customer switching in CILCO's service territory. Nonetheless, the Commission must do all that it can in order to ensure delivery service rates are reasonable and that the policies promoting competition are fairly reflected in CILCO's tariffs. (220 ILCS 5/16-101A(d)).

Consider CILCO's proposed rate impact on its largest customers that take current service under Rates 21 and 32 (now Rate N5). Rate 21 customers would, on average, experience **an increase of over 30%**. Also consider the impact to Rate 23 ISO Transmission customers. **According to CILCO, these**

customers would see an increase of approximately 80% in charges! (IIEC Ex. 2 Rev. at 2). These significant and unjustified increases to the larger customers, is contrary to any notion of rate continuity which will surely have a negative impact on competition in the retail electric market in the CILCO service territory.

Regrettably, the Commission's goals towards advancing competition will be thwarted if the filing by CILCO is accepted in full. Among other deficiencies, CILCO has often failed to meet its burden in defending its specific revenue requirement adjustments. Indeed, the record validates the perspective that CILCO views this filing as an opportunity to unduly enrich itself, and we understand why. CILCO's base rates are frozen pursuant to 220 ILCS 5/16-111(a) and so there is no other opportunity but through its delivery service filing to push utility costs and expenses into delivery service rates that are either overinflated, not related to delivery services, not shown to be related to delivery services, or simply have not been justified under any circumstance. Notably, CILCO's proposed delivery service revenue requirement is increasing from approximately \$90 million as found in the 1999 Delivery Service Tariff case,¹ to a proposed revenue requirement of approximately \$112 million, or a 24% increase.

We urge the Commission to consider IIEC's recommendations in this proceeding, and to do what it can in order to advance retail competition in the CILCO service territory.

II. THE BURDEN OF PROOF IN MANY INSTANCES HAS NOT BEEN MET BY CILCO

The burden of proof in substantiating the justness and reasonableness of its proposed delivery service rates rests with CILCO. The burden is not with Staff and intervenors. Yet, time and time again, Staff and intervenors have been compelled to deal with CILCO's filing as a moving target. In many

¹ The 1999 Delivery Service Tariff case, or 1999 DST case, refers to Central Illinois Light Company, Ill. C. C. Dkt. Nos. 99-0119/0131 (Aug. 25, 1999).

instances, needed explanation or detailed information to justify a cost or expense was not provided with the direct filing and still CILCO complains that Staff and intervenors are wrong or incorrect regarding their recommendations and adjustments. We will explain CILCO's failures in regard to the A&G and General and Common Plant and Account 908 issues below, and other deficiencies as noted by the parties.

The Commission should make note that the burden is on the utility to justify its case. The Commission should state specifically its intolerance for a filing that is in many instances inadequate, and note further Staff and intervenors should not be forced to engage in discovery, not for the purpose of clarification or additional explanation, but for the purpose of understanding the utility's proposal in the first instance. (*See Illinois Power Company*, Ill. C.C. Dkt. Nos. 99-0120/99-0134, Order at 62 (Aug. 25, 1999) ("Again, while the Commission is sympathetic to the constraints on Staff's efforts to review the information provided by IP...").

III. ADMINISTRATIVE AND GENERAL EXPENSES AND GENERAL AND COMMON PLANT COSTS

A major controversy between CILCO and the parties involved the functionalization of A&G expenses and General and Common Plant costs. In IIEC's judgement, CILCO has failed to justify its proposed functionalization, which results in an undue amount of these expenses and costs being allocated to the distribution function and, consequently, an overstated delivery services revenue requirement. Both IIEC and Staff share the same views and opinions regarding CILCO's inappropriate treatment of these expenses and costs, and both parties provide the Commission with an appropriate and justifiable allocation method.

A. Description Of A&G Expenses And General And Common Plant Costs

Before proceeding further, it is appropriate to describe the nature of the expenses and costs at issue. A&G expenses are related to the corporate level activities of the utility such as the salaries of corporate officials, pensions and benefits, injuries and damages, office supplies and miscellaneous expenses. General Plant includes investments such as office buildings, office space, land and office equipment used to perform the services associated with A&G expenses. Common Plant is similar to General Plant that is shared between both the gas and electric utilities. (IIEC Ex. 1 at 2-3). These expenses and costs are often referred to as “overhead costs.” (IIEC Ex. 1 at 2).

IIEC does not take issue with the allocation of Common Plant as between the gas and electric sides of CILCO’s utility operations. However, once CILCO has allocated Common Plant costs to the electric side, IIEC does take issue with the next stage in the allocation as between electric generation and electric distribution.

B. Description Of CILCO’s Arguments In Support Of Its Residual Assignment Method

1. CILCO’s Residual Assignment Approach To Allocate A&G Expenses And General And Common Plant Costs Is Totally Unacceptable

CILCO alleges it has in essence directly assigned the subject costs and expenses to the appropriate function. The “direct assignment” label has often been used by utilities in their efforts to overallocate utility costs and expenses to the distribution function. (*See AmerenUE/AmerenCIPS*, Ill. C.C. Dkt. No. 99-0121, Order at 15, 38 (Aug. 25, 1999); *Commonwealth Edison Company*, Ill. C.C. Dkt. No. 99-0117, Order at 11, 27 (Aug. 26, 1999); *Illinois Power Company*, Ill. C.C. Dkt. Nos. 99-0120/99-0134 (Order at 28) (Aug. 25, 1999)). In CILCO’s case, it claims to have allegedly identified the subject costs and expenses as they relate to the generation function and, therefore, all other costs and expenses must be related to the

distribution function.

Mr. Michael Getz on behalf of CILCO testified, “The Company has functionally reorganized the power plants into separate business units and it is currently in the process of legally separating the power plants for the utility.”, and “as a result of this reorganization, most of the administrative and general expenses were allocated based on labor excluding generation.” (CILCO Ex. 10 at 7). This scant description of cost allocation with regard to A&G and virtually no explanation whatsoever with regard to the allocation of General and Common Plant as between the electric generation and electric distribution functions, is but one example of IIEC’s complaint that CILCO made little or no effort to explain its cost allocation methodology.

Mr. Getz, after criticisms from Mr. Chalfant and Staff witness Dennis Sweatman, later explained in his rebuttal testimony with regard to the assignment of vehicles and other property, as follows:

“This enabled CILCO to list and directly assign all vehicles used by the generation personnel and directly assign the remaining vehicles to the delivery service function. Similarly, a review of the property records was performed and the property location codes were utilized to directly assign the property. For example, Duck Creek and Edwards power plant location codes were used to directly assign property to generation. **The balance of the property was directly assignable to the delivery services function...**”
(CILCO Ex. 10.2 at 3-4)(emphasis supplied).

Amazingly, CILCO’s version of “direct assignment” is to decide what costs and expenses should be allocated to the generation function and then assume all other costs and expenses must be attributable to the delivery services or transmission functions! How CILCO could believe this approach would pass muster with the Commission is beyond reason.

An example analogous to what CILCO is expecting the Commission to concede in this proceeding,

would be if CILCO were to determine its Federal Energy Regulatory Commission (FERC) related transmission costs and expenses and then conclude that all other costs and expenses were to be recovered in Commission approved jurisdictional rates. Of course such an approach would never be accepted by this Commission. Yet, that is precisely what CILCO is proposing in this proceeding. Mr. Chalfant's marble analogy places the CILCO approach in the proper perspective - - identify the black marbles and assume all others are white. However, many of the remaining marbles are gray and are incapable of any further description. (*See* IIEC Ex. 5 at 2).

The perverse approach by which CILCO determines delivery service rates is backwards. If CILCO intends for ratepayers to pay certain costs and expenses in the context of delivery service rates, then it is incumbent upon CILCO to determine what are the delivery service costs and expenses. Indeed, the law makes clear CILCO has utterly failed in its obligations: "Charges for delivery services shall be cost based, and shall allow the electric utility to recover the cost of providing delivery services for its charges to its delivery service customers that use the facilities and services associated with such costs. Such costs shall include the cost of owning, operating and maintaining transmission and distribution facilities." (220 ILCS 5/16-108(c)). **CILCO proposes to determine A&G expense and General and Common Plant cost recovery, not by examining how these expenses or costs relate to "providing delivery services", but how they relate to providing generation services and then concludes everything else is assumed to be related to delivery services.**

IIEC witness Chalfant similarly explained CILCO's method is to assign a small amount of costs and expenses to the generation function, and then assume all other costs and expenses are attributable to the delivery services function. This approach results in a near insignificant amount of A&G expenses being

attributable to the generation function, and is demonstrative of the impropriety of CILCO's method. CILCO would only charge approximately \$2.1 million out of more than \$17.9 million to the generation function, or nearly 12%, using its methodology. (IIEC Ex. 1 at 7).² Just two years ago the Commission determined that 55.6% of A&G expenses were attributable to generation. Because CILCO now claims that \$848,000 of A&G expenses is attributable to generation, cannot mean all the other remaining A&G expenses that were attributable to generation have suddenly disappeared. (IIEC Ex. 1 at 6).

In response to a hypothetical question during cross-examination, Mr. Chalfant highlighted the faulty premise associated with CILCO's approach in allocating the subject expenses and costs. He was asked to assume that he could identify as being attributable to a particular function 80% of the A&G expenses, and then whether he contended it was inappropriate to directly assign those identifiable items and use a general allocator for the remainder that cannot be identified with a particular function. Mr. Chalfant responded by stating if 80% of the costs could be identified with a specific function, a substantial portion of that 80% should not have been in A&G expenses to begin with, but rather accounted for or put in the accounts directly related to those functions. (Tr. at 53).

In addition, Mr. Chalfant noted a review of the accounts in question and how these accounts are defined, "cast serious doubt on CILCO's ability to make accurate direct assignments." (IIEC Ex. 4 at 5). Mr. Chalfant examined the largest accounts in which CILCO intended to assign most of the dollars in dispute and testified by their very definition and description, "these accounts are primarily for costs that

² CILCO directly charged to the generation accounts \$848,000 that would otherwise have been recorded to A&G accounts. Even considering these costs to be A&G expenses assigned to generation, the generation percentage is only 16%, a far cry from the amount approved by the Commission two years ago. (IIEC Ex. 1 at 5).

cannot be charged directly to a particular operating function... .” (IIEC Ex. 4 at 6). CILCO’s contention that it can directly assign these costs to the operating functions belies their very nature.

Mr. Getz’s questioning by the Administrative Law Judge was particularly enlightening. Mr. Getz testified that what he did was to first approach the generation personnel and accountants and have them determine what assets were included at the generation facilities, and then relied upon property records and location codes to identify those particular vehicles and assets. Thereafter, he directly assigned those costs to the generation function. (*See* Getz Tr. at 522-523). It is also clear based on the answers provided to the Administrative Law Judge, that the use of the property records and location codes in themselves do not determine whether an asset is used for a particular function - - that determination had already been made at the point in time the property records and location codes were used. The property records and location codes were used to identify the vehicles, for example, already attributable to the generation function, not the distribution function, and only allowed Mr. Getz to determine the original cost. (Tr. at 525).

Ms. Bilslund offers the use of location codes reflects the same methodology to directly assign substation costs for customers served at sub-transmission and transmission levels. (CILCO Ex. 4.5 at 2).³ In response, Mr. Chalfant explained why this is not a “direct assignment” method. Mr. Chalfant argues that identifying the customers served by a substation is entirely different from identifying the system functions that benefit from the activities of a particular employee or office building. There is no reason to expect a

³ Notably, it was rather clear that Ms. Bilslund’s knowledge regarding the allocation of costs and expenses was based on what she was told by Mr. Getz. This is evident in several places in her testimonies where she refers to Mr. Getz’s activities. (Tr. at 350-351, 353). By way of example, though Ms. Bilslund testifies to the use of the location codes, she had no idea how long they had been in existence. (Tr. at 353).

method that works to assign substation costs to customers will provide useful information concerning the functions which benefit from employees or office buildings. (IIEC Ex. 4 at 6-7). Most telling, no CILCO witness responded to Mr. Chalfant's criticisms.

2. The A&G Expenses And General And Common Plant Costs Are Not Amenable To Direct Assignment

A&G expenses and General and Common Plant costs by definition are not amenable to being directly assigned. The Commission has recognized the difficulty in assigning those expenses and costs to specific functions. (AmerenUE/AmerenCIPS, Ill. C.C. Dkt. No. 99-0121, Order at 21, 42-43 (Aug. 25, 1999); Commonwealth Edison Company, Ill. C.C. Dkt. No. 99-0117, Order at 11, 27 (Aug. 26, 1999) "The very nature of these costs suggest that they are not amenable to direct assignment. . . . While direct assignment may be a better method in some cases, the Commission does not believe costs, which include CEO and Executive salaries, are amenable to direct assignment. Were such costs amenable to direct assignment, Edison would have assigned these costs directly to the distribution function in prior cases. Edison did not."; Illinois Power Company, Ill. C.C. Dkt. Nos. 99-0120/99-0134, Order at 16, 30 (Aug. 25, 1999) "The Commission agrees with IIEC that costs associated with A&G expenses may not be amenable to direct assignment. ...adoption of the labor allocator for A&G expenses is consistent with the Commission's determination heretofore that the labor allocator should be approved for general plant.").

Further, CILCO's prior accounting practices demonstrates the correctness of IIEC's positions. In the past, CILCO did not allocate A&G expenses in the manner now proposed, which is understandable due to the fact these are "overhead costs" and are difficult to allocate to specific functions because of their nature. (IIEC Ex. 1 at 5-6). This fact pattern is consistent with the Commission's declaration in the

ComEd case above, in finding against the utility as to its argument regarding direct assignment.

It remains IIEC's contention that CILCO, aside from the self evident failing of its residual assignment approach, has failed to explain in sufficient detail any other justification for its proposed allocation. The fact the utility has reorganized into separate business segments does not aid its cause as Mr. Sweatman later notes. In addition, CILCO has failed to provide the necessary and detailed evidence to prove that its delivery service rates intend to recover delivery service costs and expenses. Mr. Chalfant explains that CILCO witness Getz only provided "a short and very general discussion of the proposed functionalization of A&G costs," and explained further that the underlying workpapers and data request responses needed to be reviewed in order to discover how and why CILCO developed its proposed allocation.⁴ (IIEC Ex. 1 at 3). The same is true with respect to the functionalization of General and Common Plant whereby Mr. Getz only offers that the remaining General and Common Plant is allocated using the amounts identified in Docket No. 01-0465. (IIEC Ex. 1 at 3). This limited information hardly justifies the propriety of the subject delivery service costs being recovered in rates as required by Section 16-108(c).

3. CILCO's Proposed Allocator Of A&G Expenses Should Be Rejected

Aside from the inappropriateness of the residual assignment method, and the conflicts associated with assigning A&G expenses and General and Common Plant costs to specific accounts due to their nature, CILCO's use of the AF2-Payroll Labor allocator to assign A&G expenses is 1) not explained, and

⁴ Contrary to Ms. Vikiren Bilsland's assertions, to which she later admitted were erroneous, Mr. Chalfant did examine CILCO's workpapers as he indicated in his testimony. (Bilsland Tr. 371-374).

is 2) unfair.

The AF1-Payroll Labor allocator from the last case as approved by the Commission, would have allocated 47% of the cost to generation, 46% of the cost of distribution, and the remaining 3% to transmission. In this docket, CILCO set the allocation to generation at zero so that 86% of the costs were allocated to distribution and then 6% to transmission. CILCO did not dispute Mr. Chalfant's observation (and how could it), that CILCO had not actually used the labor allocator from the last DST case. (IIEC Ex. 1 at 4). Once more we see CILCO's intent is only to push more utility costs and expenses into the delivery services function.

4. CILCO's Proposed Allocator Of General And Common Plant Should Be Rejected

IIEC's arguments in support of its allocator and criticisms of CILCO in relation to A&G expenses are much the same with respect to General and Common Plant costs. The one difference, though, is that CILCO did not use a labor allocator to functionalize General and Common Plant costs, but instead used a "net plant" allocator. The difference is material. The net plant allocator excludes generation so that the bulk of all remaining General and Common Plant costs are allocated to the distribution function, in the same manner as did CILCO's use of the AF2-Payroll Labor allocator. Typical of its approach in this proceeding, CILCO never explained why it used the net plant allocator in this proceeding. In addition, CILCO did not explain why it did not use the labor allocator that the Commission had approved in the 1999 DST case. No explanation for either was offered in the context of Docket 01-0465 as well.

CILCO witness Bilsland admits to same: "Yes, it is true that the direct assignment of costs for general plant represents a different methodology as approved under Dockets Nos. 99-0119/99-0131."

(CILCO Ex. 4.5 at 2). Not until cross examination did Mr. Getz also admit CILCO had not used the same allocator. (Tr. at 504).

The dollar impact to ratepayers as a result of CILCO's use of the net plant allocator is considerable. As a result of its proposal, approximately \$52.47 million would be allocated to the distribution function, in comparison to \$20.1 million approved by the Commission in CILCO's last DST case. **CILCO's approach would result in a more than 160% increase in General and Common Plant allocated to the distribution function.** (IIEC Ex. 1 at 9).

5. CILCO's Other Claims Regarding Assignment Of These Expenses And Costs Are Lacking Merit, Misleading, Or Are Untrue

Not only is CILCO's description of its proposed residual allocation method limited, but CILCO's explanation of what it claims to have done is in many instances misleading.

a. CILCO's Claims Regarding Vehicle And Pioneer Park Allocations Are Unreliable

After being criticized by IIEC and Staff regarding its cost allocation of A&G expenses and General and Common Plant costs, CILCO argues in vain that it has been able to properly assign some costs to the delivery function. CILCO focuses mostly on claims regarding the allocation of vehicles and the Pioneer Park facility. (See CILCO Ex. 10.2 at 3, 5-6; CILCO Ex. 10.5 at 8).

The allegations pertaining to vehicles are virtually no different than what CILCO offered in its direct case. Mr. Getz testified that what he did was to speak to the accountants and other personnel assigned to the generation side of CILCO's business and from them obtain the records by which to identify the vehicles they were using at the power plants. (Tr. at 522-523). He stated in rebuttal testimony: "For example, each vehicle that is recorded in general plant and used by generation is directly identifiable by the

code assigned to it. This enabled CILCO to list and directly assign all vehicles used by the generation personnel and directly assign the remaining vehicles for the delivery service function.” (CILCO Ex. 10.2 at 3-4). Once more, we see the theme in CILCO’s approach to determining delivery service rates - - **identify generation related costs and expenses and assume everything else is delivery services related.**

Interestingly, Mr. Getz was asked whether the 396 vehicles he assigned to distribution, were used in the past to support the generation function. (Tr. at 529). He responded that he was not aware, and his answer is telling. First of all, Mr. Getz did not know whether the vehicles were assigned to the generation or distribution functions in the past, because it did not matter. He agreed there never was a concern about allocating these costs to a specific function “i.e. generation or transmission or distribution” because they were all “general plant costs.” (Tr. at 554). In fact, Mr. Getz’s statements in cross-examination were consistent with his testimony: “Prior to the unbundling of electric utility service, the Company had no need to separate general plant assets.” (CILCO Ex. 10.5 at 2). More importantly, though, the **396 vehicles were only assigned to the distribution function because he only looked at the vehicles to be assigned to generation.**

The lack of depth in the CILCO method is exemplified by Mr. Getz’s statement in defense of his vehicle allocation, “The generating plants are stationary, and have little need for vehicles to serve their generation function.” (CILCO Ex. 10.5 at 4). Mr. Getz’s workpapers describe at length delivery service centers and buildings attributable to distribution services which we presume are also not moving. (CILCO Ex. 10.1, Sch. C-1, WPC-1d). The point is, if CILCO truly intended to decipher what were delivery service costs and expenses, CILCO would have examined its delivery service assets and expenses in

making this determination.

Aside from the suspect approach, even then CILCO's results oriented method is lacking merit. Mr. Getz claims the Uniform System of Accounts requires the vehicles to be recorded as A&G expenses. (CILCO Ex. 10.2 at 2). Mr. Chalfant retorted that to describe these as "vehicles" in the common sense, is misleading. Of the approximate \$14 million at issue, \$3.6 million is recorded by CILCO to the account for transportation vehicles and the remaining amount, or nearly \$10.4 million, is recorded as power operated equipment. (Tr. 64). The recording of these A&G expenses is only true of the \$3.6 million of transportation vehicles; it is not true of the \$10.4 million of power operated equipment "vehicles." The power operated equipment includes heavy equipment and this equipment is loosely referred by CILCO as vehicles. Therefore, Mr. Chalfant concludes that much of the \$10.4 million being called "vehicles" is really heavy equipment that could be used in the generating plants. (Tr. at 64-65).

CILCO's stance regarding the Park Pioneer facilities is equally dubious. CILCO witness Getz boldly claimed that none of the Pioneer Park facilities were allocated to generation. In response to the question, "Are any generation functions performed at the Pioneer Park Electric Service Facility?" he responded, "None whatsoever." (CILCO Ex. 10.2 at 11). He similarly stated in his surrebuttal testimony "...the evidence is clear and undisputed that the Pioneer Park facility is not related to the generation function." (CILCO Ex. 10.5 at 3). **Yet, according to the schedules and workpapers upon which CILCO relied upon to support delivery service costs in this proceeding, 6% of these costs should be allocated to generation.** (See CILCO Ex. 10.1, Sch. C-1, WPC-1d, page 5 of 6; Chalfant Tr. at 68). This is not to suggest that CILCO can remedy its deficient allocation method by a simple reassignment. Rather, this example is demonstrative of the overall unreliability of CILCO's cost allocation

method.

Mr. Getz attempted to explain away the discrepancies noted by Mr. Chalfant associated with the schedules relating to the Pioneer Park facility, during questioning by the Administrative Law Judge. He testified there were generation personnel in 1999 assigned to the Pioneer Park facility. (Tr. at 537). However, an examination of the schedules themselves do not support Mr. Getz's contentions. The workpaper describing the allocations for the Pioneer Park building states they are "used to allocate expenses incurred at the Pioneer Park Service Center. The business units and accounts that this table will allocate to are:" (CILCO Ex. 10.1, Sch. C-1, WPC-1d, page 5 of 6).⁵ When one reviews Mr. Getz's workpaper WPC-1c for both FERC Accounts 921 and 935, no allocation of these costs is made to the generation function. In fact, while the allocators in WPC-1d would also support an allocation to Supply and Account Management functions, which are purportedly new functions developed by CILCO (Chalfant Tr. at 51), **CILCO does not allocate any of the Pioneer Park costs to these functions either!** (CILCO Ex. 10.1, Sch. C-1, WPC-1c, page 2 and 5 of 6).

The inappropriateness of what CILCO is proposing in this docket was made further evident during the cross-examination of Mr. Getz. After explaining to the Administrative Law Judge how CILCO proceeded to eventually identify the vehicles in question and Pioneer Park facilities attributable to the distribution function, Mr. Getz admitted that in theory CILCO could have done the reverse. That is, CILCO could have spoken to the accountants and personnel at the delivery service centers and inquired

⁵ During cross-examination Mr. Chalfant explained his understanding of the workpapers identified as WPC-1c, and stated they provide the allocation factors. He testified the workpapers were used primarily in this case for A&G accounts and are also applicable for General and Common Plant accounts. (Tr. at 70-71).

of them as to what vehicles and power operation and transportation equipment they were using, and could have enacted the same process to determine how many dollars should then be assigned to delivery services. (Tr. at 542). As Mr. Getz candidly agreed, though, that undertaking would have required more work because there were more vehicles (he claims) attributable to the delivery services function as compared to the generation services function. (Tr. at 543).

b. CILCO's Comparisons To The 1999 DST Case, And To IIEC And Staff's Recommendations Are Wrong

In his surrebuttal testimony, Mr. Getz attempted to justify the alleged minimal difference in the amount of A&G expense to be recovered by comparing that amount with what was approved in the 1999 DST case (1997 test year), and also compared these amounts to IIEC and Staff recommendations. (CILCO Ex. 10.5 at 6). In many respects Mr. Getz is wrong.

First, to assert that IIEC's recommendation would result in CILCO recovering approximately \$5.8 million in A&G expenses is wrong. Mr. Chalfant's testimony makes clear that the effect of IIEC's recommendation using the AF1-Payroll Labor allocator allows CILCO to recover approximately \$8.79 million. (IIEC Ex. 1 at 7). Mr. Getz admitted this to be true, and he then backtracked and said because Staff had used Mr. Chalfant's number, the Staff adjustments were attributable to IIEC. (Tr. at 485-486, 489). Nonetheless, even the implication that Mr. Sweatman's use of the AF1-Payroll Labor allocator directly limits the A&G expense recovery to approximately \$5.8 million as stated by Mr. Getz, does not tell the whole story. Mr. Getz acknowledged that he did not seek to reconcile the amount he reflected (\$5.8 million) with the amount (\$8.79 million) Mr. Sweatman deduced. (Tr. at 486, 490).

Next, to assert that the amount of A&G expense proposed to be recovered by CILCO is approximately \$11.67 million, is in error. (CILCO Ex. 10.5 at 6). Mr. Getz agreed the amount actually sought to be recovered is the amount noted by Mr. Chalfant, approximately \$13.6 million as shown on IIEC Exhibit 1 at 7, Table 1. Mr. Getz agreed that his own schedules and workpapers supported Mr. Chalfant's contention. CILCO Exhibit 10.1, Schedule C-1 has attached to it a workpaper, WPC-1c. At page 5 of 5 of that workpaper, the A&G expense reflected is in the approximate amount of \$12.54 million. Mr. Getz agreed that if this sum was added with the pro forma adjustment as shown on CILCO Exhibit 10.1, Schedule C-1, in the approximate amount of \$1.096 million, this would result in the total A&G expense number used by Mr. Chalfant in these proceedings. (Tr. at 487-488).

For CILCO to contend that it is only asking for \$13,000 more than what the Commission approved in the 1999 DST case, is a serious misstatement of the facts. Indeed, the amount is several millions of dollars more. Mr. Getz's claim that "there is no justification for penalizing the Company so severely" (CILCO Ex. 10.5 at 6) is nothing more than an over dramatization lacking any factual foundation.

c. CILCO's Representations Comparing The 1999 DST Case With The Test Year Regarding General And Common Plant Are Wrong

Another error in CILCO's filing relates to the delineation of transmission and distribution assets in Docket 01-0465 on which CILCO relies, in part, to justify the functionalization of costs in the context of delivery service rates. CILCO witness Getz sponsored CILCO Exhibit 2.4 in that proceeding for the purpose of showing there is little change between the functionalization of General and Common Plant costs in the 1999 DST case as compared to the functionalization in this case.

The column on CILCO Exhibit 2.4 labeled “1997 Amount” shows the amounts CILCO **proposed** in its prior case, **and not that amount the Commission actually approved**. We know this based on the response by CILCO to IIEC’s Second Set of Data Requests, Item No. 3, whereby CILCO acknowledged the amount the Commission approved to be functionalized as distribution was \$9.1 million, as compared to the \$19.7 million CILCO proposed in the 1999 DST case. Therefore, when CILCO asserts that the 2000 amount of General and Common Plant assigned to distribution was 56% in the 1999 DST case, which purportedly differs little from the 55% it now proposes in this case, the **fact is the Commission allowed only 37% of the total Company (including gas) General and Common Plant to be assigned to distribution in the 1999 DST case as compared to CILCO’s proposed 56% in this case!** (IIEC Ex. 1 at 11).

d. CILCO Is In Error To Suggest The Net Plant Allocator Produces The Same Results As If The Labor Allocator Had Been Used

Another discrepancy or misrepresentation in the CILCO case relates to CILCO’s contention that the use of the net plant allocator to allocate General Plant between the transmission and distribution functions produces the same result as if a labor allocator had been used. (CILCO Ex. 10.2 at 6-7). IIEC had examined the CILCO filing in Docket No. 01-0465 to better understand this contention. Pursuant to a data request as to this issue, Mr. Getz stated after the initial allocation between the electric and gas functions, the allocation of General Plant was 93% to electric distribution and 7% to electric transmission. Yet, according to CILCO Exhibit 10.1, Schedule C-1, WPC-1d, page 1 of 6, the allocation was 86% to electric distribution and 6% to electric transmission! This allocation uses the AF2 - Payroll Labor allocator, which hardly produces the same results as the 93/7 split represented in the exhibits filed in Docket No. 01-

0465. (*See* Getz Tr. at 482-484).

6. The Significant Amount Of Miscellaneous Expense Being Recovered Points To The Superficial Nature Of CILCO's Cost Allocation Methodology

The Commission should be wary of CILCO's cost allocation methods, not only for the reasons stated elsewhere in this brief, but for the undeniable fact that a good portion of the expenses sought to be recovered cannot be allocated to specific descriptions.

With respect to distribution operation expenses, CILCO witness Getz agreed that of the nearly \$7.85 million sought to be recovered, approximately \$2.45 million were deemed miscellaneous distribution expenses, or approximately 1/3 of the expenses sought to be recovered in Account Nos. 580 through 589. (*See* Getz Tr. at 471-473; CILCO Ex. 10.1, Sch. C-1, WPC-1b, page 1 of 1).

Similarly, with respect to the A&G expenses which are hotly debated in this proceeding, of the \$10.58 million sought to be recovered (excluding the pro forma adjustment amount), Mr. Getz agreed that more than \$2.9 million is deemed to be miscellaneous general expenses, again referring to his own workpaper. (Getz Tr. at 474, 481; CILCO Ex. 10.1, Sch. C-1, WPC-1b, page 1 of 1). More than 1/3 of the A&G expenses are, by CILCO's own admission, miscellaneous and cannot be attributable to a specific account.

C. CILCO's Reliance On The Commission's Order In Docket No. 99-0013 Is Misplaced

In an effort to salvage their positions on A&G expense and General and Common Plant cost recovery in this proceeding, CILCO witnesses Getz and Bilsland both offered their interpretation of the Commission's decision in Docket No. 99-0013, Unbundling of Delivery Services, Ill. C.C. Dkt. No. 99-0013 (Oct. 4, 1999). (CILCO Ex. 10.2 at 2; CILCO Ex. 4.5 at 2-3). Ms. Bilsland testified that CILCO's

methodology of directly assigning assets where information supporting that assignment is available is a superior approach. (CILCO Ex. 4.5 at 2-3). Mr. Getz offered a similar observation. (CILCO Ex. 10.2 at 2). Both are wrong in terms of their reliance on the Commission's Order in Docket 99-0013 as it bears on this case.

The quotation from the Commission Order dealt with the functionalization of costs in Accounts 580, 590, and 901, and not A&G or General and Common Plant accounts. The former accounts deal with distribution expense, customer accounting and collecting expenses. The expenses in these accounts are not of the nature at issue in this proceeding which, as we have previously described, are more akin to "overhead costs." (IIEC Ex. 4 at 3). In fact, as we noted elsewhere, the Commission has repeatedly stated that costs and expenses of this nature are not amenable to direct assignment. Neither Mr. Getz or Ms. Bilsland offered any surrebuttal testimony on this topic.

D. CILCO's Reliance On Its Docket No. 01-0465 Filing Is Misplaced

Docket No. 01-0465 was initiated for the purpose of delineating CILCO's transmission and distribution facilities:

"By this petition, CILCO is requesting an Order of the Commission approving a delineation of FERC - jurisdictional transmission facilities and state - jurisdictional local distribution facilities and recommending that the FERC accept such classifications pursuant to FERC Order No. 888. CILCO seeks this Order to delineate the transmission facilities from the distribution facilities for compliance with terms and conditions of CILCO's membership in the Midwest Independent System Operator Organization ("MISO") and in anticipation of the development of its Delivery Service Tariffs to be completed in 2001." (CILCO Petition at ¶ 2).

Later in its petition, CILCO alleges its proposed refunctionalization is to be "incorporated into the design of the Delivery Service Tariffs for residential customers." (CILCO Petition at ¶ 7). But somehow,

someway, CILCO manages to confuse the delineation of transmission and distribution assets with the setting of just and reasonable delivery service rates, which is the subject of Docket No. 01-0637.

Consider that CILCO witness Getz argued in reference to Docket No. 01-0465 that Staff reviewed CILCO's assignment of the 2000 test year General and Common Plant and raised no objection, and that the assignments are exactly the same as the assignments made by CILCO in the delivery services docket. (CILCO Ex. 10.2 at 3). He made the same contention in surrebuttal testimony. (CILCO Ex. 10.5 at 3). Ms. Bilsland also makes similar assertions. (CILCO Ex. 4.5 at 3). There are a number of fallacies associated with CILCO's undue reliance of the information submitted in Docket No. 01-0465 and its bearing upon the Commission's decision regarding the setting of delivery service rates in Docket No. 01-0637.

First, the Commission has rendered no decision with regard to the information and proposal submitted in Docket No. 01-0465. The Commission is free to ignore or reject the information in Docket No. 01-0465, or at least consider same in conjunction with the evidence from Docket No. 01-0637.

Next, as stated above, the purpose of Docket No. 01-0637 is to set just and reasonable delivery service rates. Perhaps this states the obvious, but whatever the delineation of transmission and distribution assets, the Commission has every right and obligation to ensure that the allocation of costs and expenses to the distribution function is proper and just. Deciding what are transmission and what are distribution assets is a far different effort than deciding what are the costs and expenses to be recovered in the context of delivery service rates.

Furthermore, CILCO is the last of the major electric utilities in the State of Illinois to have a proposed delineating transmission and distribution functions. The other utilities did so a few years ago and

never did the Commission find that the proposed delineation of transmission and distribution assets for those utilities would somehow control its decision in setting just and reasonable delivery service rates. In fact, the Commission found that its decision delineating transmission and distribution assets in the ComEd case was limited by the very nature of the case. The Commission held matters of rate design and the charges for delivery service rates would be contemplated in the context of ComEd's delivery service docket, Docket No. 99-0117. (Commonwealth Edison Company, Ill. C.C. Dkt. No. 98-0894, Order at 10, (July 28, 1999). The Commission went on to find the amounts approved in the Docket No. 98-0894 Order are accounting book entries and that nothing stated in the Order constitutes a declaration of an original cost ratebase or constitutes an original cost study for ratemaking purposes. (Id. at 13). Subsequently, as the Commission well knows, the allocation of A&G expenses and General and Common Plant costs was litigated in the context of ComEd's first delivery service tariff proceeding.

E. IIEC's Recommendations Regarding A&G Expenses And General And Common Costs Are Sound And Should Be Accepted

Consistent with the Commission's decision in the 1999 DST case, consistent with the Commission's prior decisions, and consistent with the FERC practice, IIEC recommends the use of a labor allocator, particularly the AF1-Payroll Labor allocator, be used in functionalizing overhead costs. (IIEC Ex. 1 at 6).

In CILCO's 1999 DST case, the Commission accepted the labor allocator recommended by IIEC. The Commission acknowledged that "labor is a widely accepted basis for allocating A&G expenses among the various functions and customer classes. Moreover, the NARUC Manual considers labor a reliable allocation factor. The Commission also finds appealing the consistency of using a labor allocator for general

plant as well as A&G expenses.” (Central Illinois Light Company, Ill. C.C. Dkt. Nos. 99-0119/99-0131, Order at 31 (Aug. 25, 1999)). Given the nature of the expenses and costs at issue, and given CILCO’s woeful failure to justify any other allocation method, IIEC recommends that the Commission find as it did in the 1999 DST case.

Using the AF1-Payroll Labor allocator as recommended by Mr. Chalfant regarding the allocation of A&G expenses would result in approximately \$8.7 million being allocated to the distribution function as compared to CILCO’s proposed \$13.6 million. (IIEC Ex. 1 at 7). IIEC’s recommendation for allocating General and Common Plant costs is consistent with its proposed allocation regarding A&G expenses. Use of IIEC’s proposed labor allocator would actually increase the amount of General and Common Plant allocated to distribution by approximately \$8.6 million, nearly a 40% increase from what the Commission last approved. However, the difference between IIEC’s proposed labor allocator in terms of allocating General and Common Plant costs as compared to CILCO’s proposal, is approximately \$24 million. (IIEC Ex. 1 at 9).

The net effect of IIEC’s overall recommendations regarding the AF1-Payroll Labor allocator would result in a reduction in the delivery service revenue requirements by approximately \$8 million. (IIEC Ex. 1 at 11).

F. Staff’s Recommendations Regarding A&G Expenses And General And Common Plant Are In Accord With IIEC’s Positions

In his rebuttal testimony, Staff witness Sweatman indicated support for IIEC’s recommendations regarding allocation of A&G expenses and General and Common Plant costs. In his testimony, Mr. Sweatman acknowledged the approach he and IIEC were taking was consistent with the methodology

approved by the Commission in Docket Nos. 99-0119/99-0131. (ICC Staff Ex. 16-0 at 7). Mr. Sweatman was also of the opinion that CILCO had not presented any evidence by which to justify a different allocation. (ICC Staff Ex. 16.0 at 2).

More importantly, Mr. Sweatman saw the superficial nature of CILCO's residual assignment method: "...directly assigning costs to generation does not mean that these costs should be excluded when determining the electric distribution percentage of costs." (ICC Staff Ex. 16.0 at 7). Mr. Sweatman was not persuaded by CILCO's claims that because it had segregated its business units, it was somehow able to decide therefrom costs which were no longer amenable to direct assignment, now magically possess that ability.

By way of comparison, Mr. Sweatman acknowledged the comparable generation ownership situation involving the Ameren Operating Companies. He noted that the Commission had approved the same labor allocation method in the delivery service tariff case involving residential delivery service tariffs, as it had in Ameren's 1999 DST case. (ICC Staff Ex. 16.0 at 8). CILCO has no basis to argue that the transfer of the generation assets in itself compels a different allocation method.

IV. ACCOUNT 908 ISSUES

A. Description Of Account 908

Account 908 - Customer Assistance is intended to include the cost of labor, materials used and expenses incurred in providing instructions or assistance to customers, the object of which is to encourage safe, efficient and economical use of the utility's service. (IIEC Ex. 2 Rev., Sch. 1).

In this proceeding, CILCO is looking to increase the amount in this function from its last filing from \$713,751, to \$3,163,783. According to CILCO workpapers, CILCO recorded \$872,775 to Account

908, and now proposes a pro forma adjustment of \$500,000 bringing the account total to \$1,372,775. In the class cost of service study, CILCO adds amounts related to depreciation, other taxes, income taxes and over \$600,000 of A&G expense loading, resulting in \$3,163,783 to be recovered. (IIEC Ex. 2 Rev. at 4-5). IIEC takes issue with the allocation method and the amount being recovered.

B. CILCO's Allocation Method Is Wrong In Several Respects

As to the allocation method, CILCO uses an allocation factor that is weighted 50% on the basis of total energy (kWh) requirements, and 50% based on the number of customers. (IIEC Ex. 2 Rev. at 5). **CILCO did not provide any discussion or supporting rationale for its allocation method of Account 908 costs.** (IIEC Ex. 2 Rev. at 6). Here is but one more instance where CILCO did not offer any explanation or justification in its direct filing to support a changed cost allocation methodology.

CILCO's allocation method is unfair and has no relation to cost causation. As Mr. Brubaker explains, which is not credibly disputed by CILCO in any form or fashion, the number of kilowatt hours of energy has little or nothing to do with the need for customer assistance services. In fact, Mr. Brubaker offers that the larger customers are the least likely to require these services and the least likely to benefit from them. (IIEC Ex. 2 Rev. at 5-6).

During cross-examination, Mr. Brubaker elaborated and stated the costs in Account 908, as well as the related A&G expenses that are included, are not a direct function of customer energy use, rather it is the existence of the customer and the opportunity for the customer to obtain assistance from the utility that drives the expenses. Mr. Brubaker concluded there is no linear relationship in the number of kilowatt hours a customer consumes and the services being provided pursuant to Account 908 (Tr. at 636).

Under the CILCO proposal, the four customers under Rate 23 would be responsible for \$375,779

out of the total Account 908 costs, or nearly 12% of the total amount to be recovered. Yet, these customers represent only four out of approximately 202,000 CILCO customers that could benefit from Account 908 Customer Assistance services, or only about 0.0020% of the total customer count. (IIEC Ex. 2 Rev. at 5).

Another way of looking at the undue cost responsibility to these customers is that under the CILCO allocation, these customers would be charged almost \$41,000 per year per account, as contrasted to less than \$5.00 per year for a residential customer. (IIEC Ex. 5 at 2). (Including the other costs CILCO added to Account 908 to arrive at the total costs for this function for these customers (\$375,779), produces an even more absurd amount of recovery, \$94,000 per customer.)

Not only does the overt kilowatt hour nexus and resulting cost impact demonstrate the inappropriateness of CILCO's cost allocation methodology, but the Commission should note the amount CILCO sought to recover from Rate 23 customers in its 1999 DST filing. **Ms. Bilsland testified on cross-examination the amount recovered from Rate 23 customers for Account 908 Customer Assistance services in the 1999 DST case was \$37,756. (Tr. at 390). Now, CILCO intends to increase this amount by nearly tenfold to \$375,779, with no justification or explanation.** CILCO does not explain why the revenues to be recovered from Rate 23 customers for Customer Assistance should increase by this magnitude - - there has been no evidence or testimony regarding industrial customers' changed needs (if any) or allegedly increased reliance (if at all) upon Customer Assistance services or anything of the kind.

CILCO has not offered nor is there any empirical evidence upon which to defend any claim that these customers are or will be relying upon Customer Assistance services more so than any other customer

group. CILCO witness Bilsland agreed that never in her direct or rebuttal testimonies did she offer any statement as to the manner in which large industrial customers would make use of the Account 908 services. (Tr. at 384). Notably, not one Rate 23 customer has switched to delivery services and so CILCO has no historical basis upon which to draw any conclusion. In fact, the lack of customer switching supports maintaining the status quo.

CILCO's proposal is at odds with other Illinois electric utilities, as well. Mr. Brubaker testified, again unrefuted, that **Illinois Power Company (IP) allocates costs in Account 908 using a factor that closely parallels an allocation based strictly on the number of customers. He also testified in the current delivery service rate case for ComEd, that utility allocates costs using an allocation factor based on the number of customers.** (IIEC Ex. 2 Rev. at 7). These utilities' positions stand in stark contrast to CILCO's position where 50% of the costs are allocated on the basis of energy.

C. IIEC's Recommendation Places A More Than Fair Amount Of Cost Responsibility On Larger Customers

The Commission should adopt IIEC's recommendation which is the only fair proposal offered. IIEC recommends using an allocation method that acknowledges the greater complexity of industrial transactions as compared to those that would involve an individual residential customer. Mr. Brubaker recommended the Commission use the allocation methodology for Account 902 expenses. Mr. Brubaker explained the allocation method for Account 902 expenses better parallels the cost causation features associated with Account 908 expenses. (IIEC Ex. 2 Rev. at 6).

IIEC's recommendation would result in Rate 23 customers paying about 70 times more than they would under a pure customer based allocation methodology, which are the methodologies being supported

by IP and ComEd in their respective pending delivery service tariff proceedings. (IIEC Ex. 5 at 3). Under the IIEC approach, the increase to residential customers above what CILCO would have proposed is approximately \$14¢ per month. ($\$6.69 - \$5.00 = \1.69; $\$1.69 \div 12 \text{ months} = 14¢ \text{ per month}$; See IIEC Ex. 5, Sch. 3; IIEC Ex. 5 at 2).

As stated, IIEC's method allocates to Rate 23 customers an amount equal to approximately 70 times what would be allocated on a pure customer basis (IIEC Ex. 5 at 4). This is in contrast to CILCO's method which allocates to these customers about 6,000 times as much cost. (IIEC Ex. 2. at 6).⁶

D. CILCO's Rebuttal To IIEC's Proposed Allocation Methodology Is Non-Existent

Ms. Bilsland testified that Mr. Brubaker objected to CILCO's allocation allegedly based upon Mr. Brubaker's argument "...that larger customers will not require assistance from the utility." (CILCO Ex. 4.5 at 10). That's not true. In fact, Mr. Brubaker testified in several places that larger customers should share in cost responsibility for Account 908. (IIEC Ex. 2 Rev. at 5-6; IIEC Ex. 5 at 2, 4, Schs. 3 and 4). **And during cross-examination, Ms. Bilsland admitted there was no express statement in Mr. Brubaker's testimonies where he claimed larger customers would not receive any assistance.** (Tr. at 380).

Ms. Bilsland testified CILCO anticipates that the larger customers will be the only ones requiring customer assistance well into the future, and that she does not anticipate many residential customers switching to an alternative supplier. (CILCO Ex. 4.5 at 10). In response, there is no basis in fact for arguing that commercial and industrial customers will have more need for the services than will residential

⁶ Staff did not offer any objection to IIEC's allocation of Account 908 expenses. (Sweatman Tr. at 410).

customers. At this point in time, only commercial and industrial customers have had the right to switch and, in fact, none have done so. The only reason residential customers have not switched to date is because they have not been allowed to do so by law. (IIEC Ex. 5 at 4). More to the point, beyond the speculation by Ms. Bilsland, she offered no evidence (even explanation) as to why she believed that residential customers would not consider taking delivery services in the future.

As a further matter of fact, the evidence in other utility service territories substantiates IIEC's position. Mr. Brubaker testified commercial customers represent the largest number among customers that have exercised choice to date. (Brubaker Tr. at 637). Mr. Brubaker's information came from Commission website data. (Tr. at 651). If this trend is to continue, there will be vastly more residential customers taking delivery services than industrial customers.

Also during cross-examination, CILCO attempted to undermine IIEC's arguments by suggesting that the larger customers were in greater need of customer assistance because of the electric hazards and safety concerns that may be evident at plants or facilities. (Surely CILCO's questions do not rise to the level of evidence.) (*See* Brubaker Tr. at 638-640). In all likelihood, the opposite is more true. These plants and facilities have in place their own safety programs and are subject to numerous rules and regulations, including electric codes and the like. (Tr. at 639).

CILCO's recognition of the limitations to its own cost allocation methodology is made clear in Ms. Bilsland's statement: "The Company does not have a problem utilizing another allocation methodology... ." (CILCO Ex. 4.5 at 10). However, she qualifies her statement by saying that using the Account 902 methodology is not appropriate because meter reading is an optional service. Ms. Bilsland misses the point entirely, and the Commission will understand Mr. Brubaker is in no way equating the functions of meter

reading with customer assistance. Rather, he testified the allocation methodology used for meter reading costs is appropriate because there are comparable complexities for industrial customers in the transactions that relate to customer assistance. (IIEC Ex. 2 Rev. at 6; IIEC Ex. 5 at 2).

Moreover, Ms. Bilslund thwarts her own claim about meter reading being “optional” during her cross-examination by Staff counsel with respect to meter service charges:

“In my opinion, the Company always has to be there, ready to serve the metering function. There is an obligation in my interpretation of delivery services that we always have to provide metering services to that customer so you have to stand there being ready to serve at all times in case a meter service provider is not able to perform their service.”
(Tr. at 344).

Hence, at least from Mr. Bilslund’s view, meter reading may not be an optional service, at least in terms of the expenses CILCO would intend to recover from customers.

In summary, there is no justifiable basis to increase the amount of dollars recovered from large customers for Account 908 services from approximately \$35,000 to nearly \$375,000. There has been no evidence or explanation that from a cost causation standpoint, these customers should be subject to any different allocation of costs than any other customer group, except that which has been offered by Mr. Brubaker. CILCO’s reference to kilowatt hour usage in itself does not explain why that criterion translates into customers needing more in the way of Customer Assistance services. Rather, as did IP and ComEd, and as reflected in Mr. Brubaker’s proposed methodology in this proceeding, these costs are driven most assuredly by the number of customers that need “customer assistance.”

E. IIEC Agrees With CILCO That Account 908 Costs Should Not Be Recovered from Wholesale Customers

CILCO witness Bilslund testified that IIEC’s Account 908 cost allocation methodology recovers

some amount from wholesale customers. (CILCO Ex. 4.6 at 6; Bilsland Tr. at 384-386). IIEC agrees with CILCO's position in this regard. The dollar amounts in question are small. The amounts in question are approximately \$1,800 and are shown in IIEC Exhibit 5, Schedule 3, lines 15-17. This amount should not be recovered from wholesale customers but rather recovered pursuant to the methodology proposed by Mr. Brubaker from those customers identified in lines 1 through 14 of Schedule 3.

F. CILCO'S Pro Forma Adjustment Should Either Be Rejected Or Reduced

CILCO proposes a pro forma adjustment in the amount of \$500,000. One would have thought this significant dollar amount and adjustment relative to the delivery service revenue requirement increase would have warranted some detailed explanation in CILCO's direct case, but here is CILCO's explanation in its entirety: "Additional costs related to functional separation to meet the electric utility deregulation legislation are included as a pro forma adjustment." (CILCO Ex. 10.0 at 6-7).

The Commission must dig through CILCO's workpapers to better understand the nature of the adjustment which is as follows:

"The proposed regulations requiring functional separation (Dockets 98-0147 & 98-0148) will necessitate CILCO to establish a Supplier Services Group. This group will be composed of 6 people currently working in the account management area. Members of this team will serve as the first point of contact for RES entities and as a communications conduit between such providers - including CILCO's own generation services employees - and CILCO's Transmission & Distribution operations. They will provide equal access to information about CILCO's retail customers and CILCO's Transmission & Distribution system, and will assess fees for such information impartially. As the communications "filter" between CILCO's Generation Services employees and the company's Transmission & Distribution Services employees, team members will make sure that the Generation Services employees do not receive unauthorized information."
(CILCO Ex. 10.1, CILCO WPC-2.1a, page 3 of 5).

So, what we have is CILCO's pro forma adjustment based on "proposed regulations." There is

nothing in the record to advise when these regulations will no longer be “proposed” and when they will be “final” regulations. From the record, which is based on a 2000 year test year, we do not know when CILCO will make the compliance filing pursuant to these regulations. According to the proposed rules approved by the Commission on September 12, 2001, CILCO will have to file with the Commission within 30 days after the effective date of the rules, written plans and procedures describing how it will implement and achieve compliance with the said rules. (83 Ill. Adm. Code Part 452.170(a)). Thereafter, the proposed rules provide for 45 day time periods for the Commission’s deliberations, the possibility of a hearing to investigate modifications to the implementation plans, and other procedural matters. (83 Ill. Adm. Code Part 452.170(b)). At the very least, it cannot be said CILCO has provided any evidence to substantiate this adjustment as a known and measurable change outside of the test year, and has left it to the Commission to decide whether or not the pro forma adjustment is justified.

Interestingly, CILCO states in its description of the pro forma adjustment that it will assess fees for the information at issue. CILCO witness Getz was unfamiliar as to the nature of the fees, the manner in which CILCO will seek Commission approval regarding the amount of the fees, and virtually had no knowledge whatsoever with regard to these fees. (Tr. at 496-497). There are many questions associated with the pro forma adjustment that have not been explained and the information provided to date is inadequate at best. It is a dubious proposition for the Commission to accept the adjustment based on this record.

Assuming the Commission can overlook the undeniable fact there has been no credible explanation to substantiate this pro forma adjustment as a known or measurable expense outside the test year, it is abundantly clear on the face of the adjustment as provided by CILCO, and based on the cross-examination

of its witness, these expenses are not entirely related to the distribution function.

The “Supplier Services Group” has as its purpose the filtering of information between CILCO’s generation service employees and transmission and distribution services employees. The expectation that customer information should not flow to distribution company employees is not a one sided proposition; the employees purportedly intend to also ensure the protection of customer information that is being held by generation service employees. (Getz Tr. at 498-499). At the very least, given CILCO’s own description of the pro forma adjustment, the adjustment should be split equally among the functions that benefit from the services such that one-half, or \$250,000, is borne by delivery service customers.

G. Staff’s Recommendation Regarding The Adjustment Is Consistent With IIEC’s Position

Staff witness Bonita Pearce also took issue with the \$500,000 pro forma adjustment being recommended by CILCO witness Getz. She states CILCO “has not provided support that meets the “known and measurable” criteria for such additional costs to be added to test year operating costs.” (ICC Staff Ex. 12.0 at 8). In her direct testimony, Ms. Pearce noted several vagaries with respect to the adjustment, including CILCO responses to Staff data requests indicating the utility was unclear as to whether the people staffing the unit would come from the account management area or would be hired elsewhere, and more importantly, no explanation as to why a six person group was needed. (ICC Staff Ex. 2.0 at 19).

IIEC agrees with Staff. CILCO has not provided justification for the additional costs, and has not met the “known and measurable” criteria for this pro forma adjustment.

V. BLACK START SERVICE

There is no known dispute among the parties regarding IIEC's position addressing how costs associated with Black Start service should be allocated.

Black Start service is a reliability - related function, not an energy - related function. Black Start service relies upon combustion turbine units CILCO has refurbished. CILCO will use these units, not for the purpose of producing energy to be consumed by ratepayers, but as the means to restart the utility system in the event of a widespread loss of generation. (IIEC Ex. 1 at 7). Mr. Brubaker explained further during cross-examination:

“The basic purpose of the Black Start system is to restart the utility's system in the event of a collapse or the inability of a generating system or line segment to come up to voltage on its own. And in that sense it serves a function of making a system reliable. These units are not normally used to supply energy or routinely used to meet peak demand.”
(Tr. at 647)

Based on the unrefuted claim that the costs associated with Black Start service are reliability related and not energy related, IIEC's recommendation to allocate these costs using customer class demands is the only appropriate approach. (IIEC Ex. 2 at 7).

CILCO had no objection to Mr. Brubaker's recommendation. Ms. Bilsland testified as follows:

“The Company does not oppose the use of class demands to allocate the Black Start costs to the rate classes.” (CILCO Ex. 4.5 at 10). As stated, no party has objected to the allocation as proposed by Mr. Brubaker, and the Commission should affirm this approach.⁷

⁷ Staff witness Bruce Larson testified that Black Start costs should not be included in delivery service rates, which is a completely different issue than the manner in which the costs should be allocated. (*See* ICC Staff Ex. 8.0 at 5-6). Obviously, if the Commission agrees with Mr. Larson, it need not address cost allocation of these expenses. If the Commission disagrees with Mr. Larson, then

VI. RESPONSE TO CILCO AND STAFF'S POSITIONS REGARDING TRANSMISSION SERVICE CUSTOMER LIABILITY FOR TRANSMISSION SERVICES

Simply stated, CILCO maintains that retail customers should eventually be responsible for transmission service charges, and Staff contends the opposite. (CILCO Ex. 2.2 DST at 1-2; ICC Staff Ex. 10 at 3). IIEC has several responses.

As a practical matter CILCO is asking the Commission to effectively interpret a FERC rate by placing limitations in the context of a delivery service tariff. IIEC questions the wisdom of this approach under any circumstance.

The reality is that some customers, perhaps many residential customers as Mr. Borden suggests, will not understand the nuances of transmission services and, therefore, should not automatically be held accountable or liable for those charges. They will need to rely upon the RES or the aggregator to provide sufficient guidance in the procurement of power and energy and in the arrangement of transmission services. The reality is also that other customers do have the necessary sophistication and knowledge by which to enter into transmission service arrangements with a transmission provider, and agree to be accountable and liable for those transmission service charges. (ICC Staff Ex. 10.0 at 3; Borden Tr. at 624). Therefore, the best and correct view of both worlds would be, to the extent the Commission was interested in modifying CILCO's delivery service tariffs in the first place, to allow for customers to enter into agreements whereby they would be accountable and liable for transmission service charges. To the extent the customers did not enter into such agreements but instead the RES did so on their behalf and the RES was willing to be

the only credible evidence in the record to support a cost allocation method for the service is that proposed by IIEC.

accountable and liable for transmission service charges, then in that instance only the RES could be pursued for collection of these charges.

Finally, the Commission should not under any circumstances agree to the proposed tariff language offered by CILCO witness Robin Turner in her surrebuttal testimony. (CILCO Ex. 2.13 DST at 2). First, despite the inference, the language is not reflective of Staff's position. (*See* Turner Tr. at 125, 135-137; Borden Tr. at 606). Second, to the extent the language was first proposed in the context of CILCO's surrebuttal case, it is fair to say that neither Staff nor intervenors have had any real opportunity to scrutinize same, whatever its intent. Third, the language of the tariff and its intent is confusing. (Turner Tr. at 138-145).

VII. RATE OF RETURN AND CAPITAL STRUCTURE

After reviewing the positions taken by CILCO and Staff with regard to the return on common equity, IIEC contends the Staff recommendation regarding return on common equity should prevail. IIEC will assume Staff will defend its arguments and positions regarding the proper rate of return for CILCO, and not restate the Staff positions. Nevertheless, IIEC takes issue with certain arguments or positions of CILCO as made evident during its cross-examination of Staff witnesses Michael McNally and Rochelle Langfeldt.

During cross-examination, CILCO's counsel asked several questions of Staff witness McNally as to how his recommendations compared to what other Staff members were recommending in the other pending delivery service tariff proceedings. (*See* Tr. at 257-271). This intent to undermine the Staff position should be rejected. There was no effort by CILCO to examine the underlying bases for the other Staff witness positions and, therefore, there is no credible way in which to impeach Mr. McNally based

on what other Staff members were recommending in other dockets.

The return on common equity is a function of the perceived risk associated with the investment, and a number of variables and factors play into its consideration. The risks and other factors that may determine CILCO's return on common equity may be unique to CILCO. The same is true regarding the business profiles of the utilities. Therefore, comparing CILCO to other utilities in the manner suggested by CILCO, is the proverbial "apples to oranges" comparison.

With respect to the cross-examination of Ms. Langfeldt and her recommendations regarding short-term debt, CILCO attempted to impeach her by referring to ComEd's SEC quarterly reports which were not considered or used by Ms. Langfeldt. (Tr. at 575, 579, 584-586).

The problem with this approach, again, is much like that in the questioning of Mr. McNally. It is disingenuous to simply pull numbers out of different reports and suggest or imply those numbers serve to impeach the witness' position, without any evidentiary explanation as to why the Staff witness should have first considered these other SEC reports. No CILCO witness, despite the fact CILCO had the last say in this proceeding, put forth any evidence to suggest or imply that Ms. Langfeldt should have taken into consideration the other SEC reports for ComEd or that her failure to do so undermines her position. No doubt in brief we can expect CILCO to make these arguments, but we say at the outset the arguments have no basis in the record and should be rejected.

Dated this 23rd day of January, 2002.

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PROOF OF SERVICE

STATE OF ILLINOIS :

: SS

COUNTY OF MADISON :

I, Edward Fitzhenry, being an attorney admitted to practice in the State of Illinois and one of the attorneys for Illinois Industrial Energy Consumers herewith certify that I did on the 23rd day of January, 2002, electronically file with the Illinois Commerce Commission Brief on behalf of Illinois Industrial Energy Consumers, and serve upon the persons identified on the attached service list, by depositing same in the United States Mail, in Granite City, Illinois with postage fully prepaid thereon.

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SUBSCRIBED AND SWORN to me, a Notary Public, on this 23rd day of January, 2002.

Notary Public

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STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

CENTRAL ILLINOIS LIGHT COMPANY)	
)	
Petition requesting the Illinois Commerce)	Docket No. 01-0637
Commission to enter an order approving delivery)	
services tariffs of Central Illinois Light Company,)	
including revisions to the existing rates, riders, terms)	
and conditions applicable to non-residential delivery)	
services and new rates, riders, terms and conditions)	
applicable to residential delivery services.)	
)	
Petition for Approval of Residential Delivery Services)	Docket No. 01-0530
Implementation Plan Pursuant to Section 16-105 of the)	
Illinois Public Utilities Act.)	
)	
Petition for an Order Concerning Delineation of)	Docket No. 01-0465
Transmission and Local Distribution Facilities.)	

NOTICE OF FILING

TO: See Attached Service List

PLEASE TAKE NOTICE that on this 23rd day of January, 2002, we have electronically filed with the Illinois Commerce Commission, 527 East Capitol Ave., Springfield, Illinois, 62794, Brief on behalf of Illinois Industrial Energy Consumers, along with Proof of Service thereon attached.

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SERVICE LIST
CENTRAL ILLINOIS LIGHT COMPANY
DOCKET NOS. 01-0637, 01-0530 & 01-0465

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