May 9, 2019

Senator Don Harmon
JCAR, Co-Chair
329 B State House
Springfield, IL 62706

Representative Keith Wheeler
JCAR, Co-Chair
200-5N. Stratton Building
Springfield, IL 62706


Dear Messrs. Harmon and Wheeler:

The undersigned utilities, along with Advanced Energy Economy (“AEE”), respectfully submit this correspondence in support of the Commission's proposed rule, 83 ILAC Part 289 that is currently before you, which is set to expire on July 6, 2019. See 5 ILCS 100/5-40(e). This proposed rule concerns an accounting treatment issue that is unique to public utilities. In short, the current accounting rules incentivize public utilities to invest in on-premises computing systems, on which they earn a rate of return (as a capital investment), and disincentivize investment in cloud-based systems, on which they do not earn a rate of return (as an operating expense). The purpose of the proposed rule is to change those incentives, and “to provide comparable accounting treatment for cloud-based computing solutions and on-premises computing solutions.” See Proposed Part 289.10 (Purpose).

Proposed Part 289 is important because “the regulatory accounting rules have not kept pace with technological innovation” and “[t]he disparity between on-premise and cloud computing systems create a disincentive for utilities to invest in new technology.” See ICC Docket No. 17-0855, Initiating Order (Dec. 6, 2017) at 1. Proposed Part 289 provides benefits to customers by allowing public utilities to make the most efficient investment choices in conjunction with the pace and direction of technology. It provides “a regulatory accounting alternative that any public utility subject to this Part may utilize in order to minimize differences in regulatory accounting treatment for cloud-based computing solutions and on-premises computing solutions.” See Proposed Part 289.10 (Purpose).

Under Part 289, public utilities will therefore be indifferent to implementing cloud-based solutions – instead of, for example, building more mainframe solutions – which they may have otherwise not selected due to outdated regulatory treatment. Whether a computing solution is cloud-based or on-premises, it must be a prudent investment and its cost reasonable in amount to be recovered in rates. The proposed Part 289 does not change this bedrock principle of Illinois ratemaking. Cloud-based computing solutions provide benefits to customers and can serve the same functions as on-premises computing solutions. Proposed Part 289 simply makes the accounting rules technology-agnostic and removes the disincentive to invest in cloud-based systems as opposed to on-premises systems.
Moreover, for the past 18 months, the Commission has diligently presided over a rulemaking proceeding in order to create a rule that would “level the playing field between on-premise and cloud-based computing systems by clarifying the regulatory accounting rules to provide comparable accounting treatment of on-premise and cloud-based computing systems.” See ICC Docket No. 17-0855, Initiating Order (Dec. 6, 2017) at 1. And for more than a year before that, the Commission engaged in a Notice of Inquiry process involving stakeholder workshops and feedback.

During that time, the Commission thoroughly considered competing positions and a variety of proposals regarding its proposed rule. The Commission considered, for example – and thrice rejected – the Attorney General’s (“AG”) position that the rule is unnecessary. But while the Commission declined “to accept the AG’s contention that no new rules are necessary or that the current accounting rules are sufficient to address any disparity in the treatment of on-premises versus cloud-based computing solutions,” it also found that proposed Part 289 addresses “many of the implementation concerns raised by the AG as regards cancellations, incurred costs and regulatory review for prudence and reasonableness.” See ICC Docket No. 17-0855, First Notice Order (June 1, 2018) at 8-9. The Commission also considered, and ultimately rejected in light of the Illinois Public Utilities Act, 220 ILCS 5/1-101, et seq., the Citizens Utility Board’s proposal that the proposed rule require a “cost-benefit demonstration.” See ICC Docket No. 17-0855, Second Notice Order (January 9, 2019) at 9. (CUB otherwise supported Part 289). Similarly, the Commission considered, and accepted and rejected, various aspects of the undersigned utilities’ and AEE’s positions as well. See, ICC Docket No. 17-0855, First Notice Order (June 1, 2018) at 19 (rejecting utility position on reporting requirements and accepting Staff’s alternative language) and at 34 (rejecting Advanced Energy Economy position on amortization period). This balanced approach resulted in a proposed rule that will accomplish the ultimate goal of the rulemaking while incorporating feedback from all of the interested parties.

The undersigned utilities and AEE are also willing to meet with JCAR Staff informally to discuss the facts and arguments in support of their positions and in favor of adopting the proposed rule, to provide JCAR with the same balanced approach that the Commission employed.
Respectfully submitted,

Advanced Energy Economy
By: [Signature]
Date: May 9, 2019

Northern Illinois Gas Company
By: [Signature]
Date: [Signature]

Ameren Illinois Company
By: [Signature]
Date: [Signature]

North Shore Gas Company
By: [Signature]
Date: [Signature]

Commonwealth Edison Company
By: [Signature]
Date: [Signature]

The Peoples Gas Light and Coke Company
By: [Signature]
Date: [Signature]

Aqua Illinois, Inc.
By: [Signature]
Date: [Signature]

Illinois-American Water Company
By: [Signature]
Date: [Signature]

cc: Jonathan Eastvold, Rules Analyst III, JCAR (via hand delivery)
Attached JCAR Service List (via hand delivery)
Illinois Commerce Commission Docket 17-0855 Service List (via USPS)
Respectfully submitted,

Advanced Energy Economy
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Date: ___________________________

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Date: __________________________

Commonwealth Edison Company
By: ____________________________
Date: 5/4/19

The Peoples Gas Light and Coke Company
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Date: __________________________

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Advanced Energy Economy                                      Northern Illinois Gas Company
By: ______________________________________________________  By: ________________________________
Date: ____________________________________________________  Date: ______________________________

Ameren Illinois Company                                          North Shore Gas Company
By: ______________________________________________________  By: ________________________________
Date: ____________________________________________________  Date: ______________________________

Commonwealth Edison Company                                     The Peoples Gas Light and Coke Company
By: ______________________________________________________  By: ________________________________
Date: ____________________________________________________  Date: ______________________________

Aqua Illinois, Inc.                                               Illinois-American Water Company
By: 5/9/19  By: ____________________________________________
Date: ________________________________

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     Attached JC AR Service List (via hand delivery)
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JCAR, Co-Chairs
May 9, 2019
Page 3

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Date: ____________________________

Illinois-American Water Company
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Date: ____________________________

Aqua Illinois, Inc.
By: ____________________________
Date: ____________________________

Illinois-American Water Company
By: [Signature]
Date: 5/9/19

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