

February 21, 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 Exceptions 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/35327

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 EXCEPTIONS ON BEHALF OF THE
ILLINOIS INDUSTRIAL ENERGY CONSUMERS

Edward Fitzhenry
Lueders, Robertson, Konzen & Fitzhenry
1939 Delmar Avenue - P.O. Box 735
Granite City, IL 62040
(618) 876-8500

Attorneys for the Illinois Industrial Energy

February 21, 2002

Consumers

TABLE OF CONTENTS

PAGE

V.	<u>GENERAL AND COMMON PLANT AND A&G EXPENSE</u>	1
A.	<u>Introduction</u>	1
B.	<u>The Proposed Order Will Not Withstand Appellate Review</u>	2
C.	<u>The Proposed Order Results In Significant Dollars Wrongfully Being Recovered From Ratepayers</u>	4
D.	<u>The Proposed Order's Allocation Of Certain General And Common Plant Costs To The Delivery Service Function Is In Error, Specifically Account 396 And A Portion of the Pioneer Park Facility</u>	5
E.	<u>The 56% Composite Allocator Is Illegal</u>	8
F.	<u>The Allocation Of Any Portion Of The Pioneer Park Facility Costs To The Delivery Service Function Is In Error</u>	11
G.	<u>Proposed Modifications</u>	13
VII.	<u>OPERATING REVENUES AND EXPENSES</u>	15
8.	<u>Account 908 Pro Forma Adjustment</u>	15

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 EXCEPTIONS ON BEHALF OF THE
ILLINOIS INDUSTRIAL ENERGY CONSUMERS

Come now the Illinois Industrial Energy Consumers (IIEC), by their attorneys, Lueders, Robertson, Konzen & Fitzhenry, and pursuant to 83 Ill. Adm Code Part 200.830, offers the following brief on exceptions to the Administrative Law Judge’s Proposed Order (Proposed Order) dated February 14, 2002.

V. GENERAL AND COMMON PLANT AND A&G EXPENSE

A. Introduction

This section of the Proposed Order addresses the allocation of General and Common Plant costs and Administrative and General (A&G) expenses. The Proposed Order correctly finds that Central Illinois Light Company (CILCO) utilized a residual assignment approach to allocate the subject costs and expenses

to the delivery services function. (Proposed Order at 30). The Proposed Order also generally supports the allocator being proposed by both IIEC and Staff, the AF-1 Payroll labor allocator (*See* Proposed Order at 32) and uses this allocator in the allocation of “General Transportation Equipment” among other delivery service costs and expenses. The AF-1 Payroll labor allocator had been approved by the Illinois Commerce Commission (Commission) in the utility’s last DST case. (IIEC Ex. 1 at 4).

However, in what might be viewed as an effort to promote a compromise of the parties’ positions, the Proposed Order stumbles badly in certain of the conclusions finally reached. In these respects, the Proposed Order is wrong:

- Allocating Account 396 “General Power Operation Equipment” expenses to the delivery services function in the manner proposed by Central Illinois Light Company (CILCO), and rejecting the AF1-Payroll labor allocator for this account.
- Rejecting the AF1-Payroll labor allocator for A&G expense.
- Concluding that any portion of the Pioneer Park facility should be allocated to the delivery service function.

B. The Proposed Order Will Not Withstand Appellate Review

Frankly, this portion of Proposed Order if adopted by the Commission will be subject to reversal by an appellate court. IIEC does not make this claim as some sort of implied threat, but as will be demonstrated the analysis put forth to justify recovery of certain General and Common Plant costs and A&G expenses is illegal.

Section 16-108(c) explicitly addresses the recovery of costs associated with the provision of delivery services:

“Charges for delivery services shall be cost based, and shall allow the electric utility to recover the cost of providing delivery services through its charges to its delivery service customers that use the facilities and services associated with such cost. Such costs shall

include the cost of owning, operating and maintaining transmission and distribution facilities.”
(220 ILCS 5/16-108(c)).

From a plain and unambiguous reading of the statute, the utility has the burden of proving the existence of delivery costs and expenses associated with delivery services in order for it to be entitled to recover same in delivery service rates. Did CILCO comply with the statute? No.

CILCO did not put forth any investigation or analysis of “delivery service costs and expenses”, that is, CILCO did not examine the accounts or records associated with the delivery services function and then from this information deduce what are the delivery service costs and expenses to be recovered. (*See* IIEC Br. at 5-9). **Section 16-108 (c) cannot be read or interpreted in such a way that would allow the utility to investigate and examine other utility costs and expenses and then deduce what are the delivery service costs and expenses to be recovered.** The statute is very specific in describing the “costs” at issue as the costs associated with “owning, operating and maintaining transmission and distribution facilities” and the “cost of providing delivery services”. The residual assignment approach of CILCO which only includes an examination of the costs associated with the generation services function is by definition contrary to Section 16-108(c). Therefore, to allow the recovery of delivery service costs on this basis is contrary to law.

In a later section of this brief IIEC explains another illegality in the Proposed Order. The Proposed Order unfairly shifts the burden of proof to Staff and intervenors with regard to the allocation of A&G expense.

Another illegal finding is with regard to the A&G expense allocation. The Proposed Order develops an arbitrary composite allocator that is not only unsupported by substantial evidence in the record,

it never existed in any form and is an artifact of the Proposed Order.

C. The Proposed Order Results In Significant Dollars Wrongfully Being Recovered From Ratepayers

The undue impact to ratepayers as a result of the Proposed Order is significant. Because the Proposed Order erroneously permits the recovery of an undue amount of Account 396 and Pioneer Park facility costs from ratepayers, and because the Proposed Order employs the erroneous and illegal 56% composite allocator instead of the 46% allocator that would be used with the AF-1 Payroll labor allocator, ratepayers are being forced to pay more than they otherwise should.

If IIEC and Staff's provisions prevail in terms of General and Common Plant, CILCO will be able to recover costs associated with approximately \$28.8 million. (IIEC Ex. 1 at 9). Under the Proposed Order, CILCO would recover costs associated with approximately \$35.01 million, or \$6.3 million more than is otherwise justified. (Proposed Order, App. A, Schs. 8 and 9). As to the Pioneer Park facility costs which fall within the General and Common plant costs just described, CILCO would recover costs associated with approximately \$4.2 million, or approximately \$1.8 million more than is justified. (Proposed Order at 32).

With respect to the 56% composite allocator, as a result of its employment CILCO recovers a total of \$10.5 million in A&G expense as compared to the \$8.79 million being recommended by IIEC. (Proposed Order at 33-34).

There is also a logical fallacy in the mixed allocation adopted in the Proposed Order. The use of

a labor allocator to functionalize costs reflects a development of reasoned judgement applied to this question over many years by many regulatory bodies, including this Commission, as well as the National Association of Regulatory Commissioners. (IIEC Br. at 22). The method is grounded in the recognition that total General and Common Plant costs are reasonably apportioned between the various functions in proportion to the labor costs incurred by a utility in those functions. It is not intended to be an account by account allocation. Yet, the Proposed Order deviates from this fundamental principle driving the use of a labor allocator. Bear in mind, the AF-1 Payroll labor allocator being recommended by both IIEC and Staff apportions a very healthy 46% of these costs to the delivery services function. To separately assign the costs of the accounts that CILCO claims to be highly distribution related without reducing the allocation for the remaining accounts to reflect that assignment, is just another way to overallocate these costs to the distribution function.

D. The Proposed Order's Allocation Of Certain General And Common Plant Costs To The Delivery Service Function Is In Error, Specifically Account 396 And A Portion Of The Pioneer Park Facility

The Proposed Order correctly acknowledges the arguments put forth by IIEC and Staff complaining that "CILCO has identified only the costs and expenses related to the generation function, and then assumed all other costs and expenses must be related to the delivery function." (Proposed Order at 30). This is precisely what CILCO did and to this there is no dispute.

Notwithstanding the Proposed Order's finding, "Based on the record, including evidence as to the nature of these assets and the type and scope of the activities for which they are utilized, the Commission finds that the amount of Account 396 equipment assigned by CILCO to delivery services is appropriate, and that the equipment so assigned is not being used at the generating facilities." (Proposed Order at 31-

32). Despite this conclusion, **there is no evidence that CILCO identified any of the vehicles in Account 396 as being attributable to the delivery services function. All CILCO did, and this is uncontested, is to identify the vehicles in Account 396 attributable to the generation services function, and decide all other expenses in this account were attributable to the delivery services function.** The following excerpt from the testimony of CILCO witness Michael Getz describes the residual assignment analysis:

“...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. 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).

During cross-examination, the CILCO witness further explained:

“A. They gave me the vehicle count [generation vehicles]. I found the dollar amount for those vehicles. I found the vehicles in the property record. They identified which vehicles they had.

Q. Right. Then you assumed all of the dollars under the accounts for vehicles and power operation equipment were delivery service costs, correct?

A. That’s correct.”

(Getz Tr. at 541).

The above question and answers are the sum and substance of what CILCO did in regard to “proving” delivery service costs to be recovered in delivery service rates. CILCO did not bother to do even a random check of the vehicle costs associated with the delivery service accounts to discern whether

its residual assignment analysis was remotely accurate. Particularly troubling and most revealing, is CILCO's awareness of what it could have done to determine which vehicles served the delivery services function and the reason why it did not pursue that course of action. When asked whether CILCO could have reversed the work order and interviewed the delivery service accountants and required information regarding the vehicles used for delivery services function, and then determine how many dollars should be assigned to delivery services, the witness candidly answered the work could have been performed in that manner. When asked whether that would require more work, he answered "Yes." (Getz Tr. at 542).

Because CILCO allegedly "provided specific information as to the nature and characteristics of the facilities [Account 396 vehicles] in question, and the activities associated with it" (Proposed Order at 31), does not carry the day for CILCO. CILCO witness Getz, during the examination by the ALJ, was asked to explain the first step of the process. He responded by stating as follows:

"The first step was I approached the power plant accountants and had them determine the vehicles that were utilized at those [generation] facilities. They produced an inventory back to me. I found those vehicles in the property records and identified those vehicles and their costs, and directly assigned them to generation."
(Tr. at 522-523).

The witness then identified 34 vehicles being assigned to the generation function (Tr. at 524) and restated the use of property numbers and vehicle numbers in the generation accounts. (Tr. at 524-525). **He took the 34 vehicles "out of the vehicle total and the remaining dollars were assigned to delivery services..."** (Tr. at 526). Thereafter the witness claimed there were 396 vehicles assigned to distribution, and then described the vehicles in question. (Tr. at 528). The witness only offered conclusory remarks about his belief the 396 vehicles in the distribution accounts only served the distribution services function. (Tr. at 529-531).

There is no evidence put forth by CILCO in its direct, rebuttal or surrebuttal filings, that explains specifically what are the delivery service vehicles in Account 396, nor is there any evidence that explains the delivery service function associated with these vehicles. This is so because CILCO only intended to define the vehicles in Account 396 attributable to the generation services function, and then assume all other vehicles were attributable to the delivery services function. Describing then the vehicles and their functions because they are now in delivery services accounts and have been included as delivery service costs and expenses during questioning by the ALJ, is a *fate accompli*.

The Proposed Order, while acknowledging the unsuitability of General Plant and Common Plant costs being subject to direct assignment, disregards this finding for Account 396. The Proposed Order also ignores the undenied fact that these vehicles had never been directly assigned in the past. The CILCO witness testified there never was a concern about the allocation of these costs to specific functions because they were considered “general plant costs.” (*See* also CILCO Ex. 10.5 at 2).

Moreover, apparently the wording or understanding of what are “vehicles” has been confused by CILCO and now in the Proposed Order. Of the \$14 million at issue, \$3.6 million is recorded by CILCO to account for transportation vehicles. The remaining amount, however, or nearly \$10.4 million, is recorded as power operated equipment. (Chalfant Tr. 64). As IIEC witness Alan Chalfant explained, much of the \$10.4 million being called “vehicles” is actually heavy equipment used at the generating plants. (Chalfant Tr. at 64-65). Yet, the Proposed Order would allocate a great majority of these costs based on an assumption that these vehicles are only serving the distribution function.

E. The 56% Composite Allocator Is Illegal

Turning to the allocation regarding A&G expense, the Proposed Order once more looks to a

“compromise” to satisfy the disputes among the parties. IIEC for the several reasons expressed in its initial brief and in testimonies, argued for the AF1-Payroll labor allocator which would allocate 46% of these costs to the delivery services function. (IIEC Ex. 1 at 6; IIEC Br. at 22-23). Use of the AF1-Payroll labor allocator allows CILCO to properly recover approximately \$8.79 million in A&G expense.

Without any logical explanation or rationale, the Proposed Order raises the concern that the \$8.79 million in A&G expense allowed in comparison to what was approved in the last delivery service tariff case, \$11.67 million, represents a decrease and concludes that “neither Staff or IIEC has explained why this result is reasonable.” (Proposed Order at 34). This finding is illegal and cannot serve as the basis to justify a Commission decision. The Proposed Order’s conclusion is completely at odds with Illinois law.

CILCO’s burden of proof cannot be met in the manner suggested in the Proposed Order. The burden cannot be met by simply arguing the dollar amount in question should be in near proximity to what was last allowed.

In any utility rate case, it is not for Staff and intervenors to establish the unreasonableness of the utility’s filing. Illinois courts have held that Staff and intervenors are not required to establish the unreasonableness of the utility’s filing as a substitute for requiring proof of reasonableness. Citizens Utility Board v. Illinois Commerce Commission, 276 Ill. App. 3d 730, 658 N.E. 2d 1194 at 1206 (1st Dist. 1995). It is CILCO that has the burden of justifying the amount of A&G expenses it expects to recover. Because IIEC and Staff have justified the use of the AF1-Payroll labor allocator, and the resulting amount is less than what CILCO recovered in a prior rate case, are insufficient grounds to dismiss IIEC and Staff’s positions.

The Proposed Order truly contradicts itself. On the one hand the Proposed Order acknowledges

that the Commission previously expressed concern about the suitability of assigning A&G expenses on a direct assignment basis, and expresses disagreement with the residual assignment method, but then allows CILCO to recover an additional 10% in A&G expense -- only because the correct application of the AF-1 Payroll labor allocator results in an expense level less than 1999 DST case! In this regard, the Proposed Order not only contradicts its own stated findings and, of course, the evidence in the record, but also the Commission's prior declaration in the 1999 DST case regarding the inappropriateness of directly assigning A&G expenses.

The next fault in the Proposed Order is the creation of a 56% allocator based on a composite allocator reflecting the respective ratios of electric distribution General and Common Plant to total electric General and Common Plant. (Proposed Order at 34). No party has put forth testimony, evidence, or even an argument that it is appropriate to take the aforesaid ratios and convert them into an allocator for the allocation of A&G expenses. There simply is no evidence in the record to justify using the ratios associated with General and Common Plant in the manner suggested, to develop an allocator for A&G expense. No party has endorsed this as an acceptable allocator. While the "numbers" exist from which the composite allocation was developed, it is impermissible to choose bits and pieces of a record to come up with a position not being advocated by any party and for which there is no substantial evidence in the record for its support.

The Commission is bound to justify its decisions based on substantial evidence in the record. 220 ILCS 5/10-201(e)(iv)(A). To develop a composite allocator by piecemealing the record, and promoting a position not being advocated by any party, can hardly rise to the level of substantial evidence. A similar approach had been rejected by the Illinois Supreme Court several years ago in Business and Professional

People for the Public Interest v. Illinois Commerce Commission, 136 Ill. 2d 192 555 N.E. 2d 693 (1989).

In BPI, the Staff developed a rate range analysis by determining a low end and high end rate. From this the Staff selected a midpoint for the present value increase in rates. The Supreme Court held Staff “arbitrarily selected the midpoint of the rate range and made arbitrary assumptions on the success of the various positions of the parties in the intervenors.” The Supreme Court concluded “such considerations clearly are not findings based on the record.” (Id. at 712). The court explained that the Commission, in relying upon the Staff midpoint rate range analysis, made its decision backwards and that it chose the rate increase and then relied on the evidence which substantiated the rate it decided upon.

The Proposed Order engages in a similar exercise. No party had endorsed a 56% composite allocator and there is no evidence or record to support a 56% composite allocator. There is no substantial evidence in the record to support this finding and, therefore, it must be rejected. The 56% composite allocator for allocating A&G expense is illegal and not supported by the evidence in the record.

The Commission should affirm the use of the AF-1 Payroll labor allocator in allocating all A&G expenses.

F. The Allocation Of Any Portion Of The Pioneer Park Facility Costs To The Delivery Service Function Is In Error

With respect to the Pioneer Park facility, the Proposed Order concludes that despite CILCO’s representations to the contrary, some amount of the Pioneer Park facility should be allocated to the generation services function. This conclusion comes about as a result as IIEC’s investigation and review of CILCO workpapers in support of its direct filing. (Proposed Order at 32).

During cross examination it was made evident that CILCO’s own workpapers would not support

a 100% allocation of the Pioneer Park facility to the delivery services function as CILCO proposed. CILCO witness Getz testified on several occasions that no amount of the Pioneer Park facility should be allocated to the generation service function. Indeed, he once testified that “None whatsoever.” should be recovered from the generation services function and later stated, “...the evidence is clear and undisputed that the Pioneer Park facility is not related to the generation function.” (*See* IIEC Br. at 14-15).

IIEC noted that CILCO’s own workpapers suggested a 6% allocation of the Pioneer Park facility to the generation function, among other allocations to functions different than delivery services, but in brief stated, “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.” (IIEC Br. at 15). Regrettably, the Proposed Order relies upon a workpaper and a cost allocation analysis that has been shown to be unreliable, time and time again. Why should the Commission believe only 6% of the Pioneer Park Facility is attributable to the generation services function when in fact, on several occasions, CILCO boldly stated that none of the facility was attributable to the generation services function, and where over and over its cost allocation methodology has been shown to be deficient. (*See* IIEC Br. at 16-22).

IIEC reminds the Commission of its decision in Central Illinois Light Company, Ill. C.C. Dkt. No. 00-0579 (Mar. 14, 2001), 2001 Ill. PUC LEXIS 269, * involving the elimination of CILCO’s fuel adjustment clause. In the course of the proceeding it was discovered that CILCO had been less than candid regarding the termination of a coal contract. The Commission, in its Order dismissing the CILCO filing, stated “CILCO’s conduct in this proceeding calls into question whether it takes its responsibilities to the Commission seriously. Specifically, the Commission is disturbed by CILCO’s lack of candor

regarding its intention to terminate its contract with Freeman.” (Id. at * 16). The Commission also went on to indicate its concern with CILCO offering witnesses who testify they knew nothing about CILCO’s dispute over coal costs yet at the same time feeling competent enough to testify about CILCO’s cost of coal. (Id. at * 18).

Similarly, we have in the instant proceeding a witness who swears that no generation costs should be assigned to the Pioneer Park facility, despite discovering a CILCO workpaper that suggested otherwise. While we understand the Proposed Order’s fallback position and reliance upon the workpaper to allocate 69% of the facility to the delivery services function, we raise the more poignant question as to whether the workpaper and attendant cost allocation analysis is reliable under any circumstance.

G. Proposed Modifications

Based on the foregoing arguments, IIEC recommends deleting the second paragraph and remaining portion on page 31, page 32 and the concluding paragraph beginning at page 33, page 33 and the first and second paragraphs at page 34, and insert the following:¹

“In addition to the above considerations, the Commission is cognizant of the statutory mandate at issue. The Commission can only approve the recovery of delivery service costs and expenses incurred in providing delivery services. Therefore, it is incumbent upon the utility to present a persuasive case as to what are the delivery service costs and expenses to be recovered in delivery service rates. The Commission recognizes

¹ IIEC agrees with the conclusions reached in this section of the Proposed Order that would apply the AF-1 Payroll labor allocator to General and Common Plant costs and A&G expenses as indicated. For purposes of readability and continuity, however, IIEC has rewritten the identified portions of the Proposed Order.

there is no prescribed manner by which the utility must meet this burden. However, the Commission finds the analysis put forth by CILCO in this proceeding is deficient and that CILCO has not met its burden in substantiating its proof regarding the allocation of General and Common Plant costs and A&G expenses.

In particular, the Commission disagrees with the CILCO approach to identify generation service costs and expenses and then deduce all other costs and expenses in these categories are attributable to the delivery services function. The Commission agrees with the analogy put forth by IIEC, that the CILCO approach is tantamount to, say, the FERC having approved certain costs and expenses to be recovered in the context of FERC approved transmission rates, and then conclude all other costs and expenses must be recovered in rates over which this Commission has jurisdiction. This approach would be wrong, as is CILCO's residual assignment approach.

The Commission is not persuaded by CILCO's witness identification of the various vehicles and equipment for which it intends to recover associated costs in delivery service rates. The fundamental flaw in the CILCO analysis is the manner in which it sought to determine what vehicles should be considered in the delivery service function. CILCO witness Getz testified that what he did was to speak to the accountants and other personnel assigned to the generation side of CILCO's business, review the records maintained by the generation function, and identify what vehicles were being used at the power plants. (Tr. at 522-523). Thereafter, he concluded that all other vehicles must be assigned to the delivery services function. Describing in a hearing what is a line truck, where it is parked, and what is its function does little in the way to convince the Commission as to its proper cost allocation.

The Commission is also alarmed not only in the "analysis" under taken by CILCO, but in its somewhat cavalier approach to this very important issue. According to the CILCO witness, CILCO proceeded in the way it did because it was less time consuming. CILCO admits it could have interviewed the various delivery services personnel and considered the records within the context of the delivery services function, to identify the vehicles attributable to the delivery service function, but chose not to pursue this route. CILCO did so because of the additional time required. (Tr. at 548). In the Commission's judgement, this is an inadequate excuse.

For General and Common Plant assets the Commission finds that using the AF1-Payroll labor allocator should be used in allocating costs to the distribution function.

With regard to A&G expenses, CILCO claims, except for pension and post retirement benefits, the overhead activities to support the generation function are now conducted in their entirety at the generating plants, and the related costs are recorded

directly in the plant accounts. As was true with General and Common Plant costs, CILCO has identified the A&G expenses it believes supports the generation services function, and then has concluded all other A&G expenses are to be assigned to the delivery services function. The Commission rejects this residual assignment approach for the reasons discussed throughout. The Commission finds that using the AF1-Payroll labor allocator, CILCO should assign \$8.79 million as proposed by IIEC and Staff, to the electric distribution delivery services function.

The intended allocation of the Pioneer Park facility is questionable and raises again this Commission's very real concern as to the representations being made by CILCO before this Commission. CILCO was adamant in its contention that no portion of the Pioneer Park facility should be allocated to the generation function. Yet, only through an examination of CILCO's workpapers does the Commission learn that some portion of the Pioneer Park facility should have been allocated to the generation services function - - according to CILCO. The Commission reminds once more that it is not for Staff and intervenors to prove the unreasonableness of utility filing, but that the utility has the obligation to prove its case. Given the unreliability of the CILCO filing in contrast to its workpapers, and given our findings above in terms of the applicability of the AF1-Payroll labor allocator, the Commission disagrees with CILCO's contention that none of the Pioneer Park facility should be allocated to the generation function. Its costs are to be assigned consistent with the AF-1 Payroll labor allocator."

VII. OPERATING REVENUES AND EXPENSES

8. Account 908 Pro Forma Adjustment

Beginning at page 30 of its brief IIEC explained why CILCO's pro forma adjustment regarding Account 908 costs should be rejected or reduced. The Staff had also taken issue with the \$500,000 pro forma adjustment explaining that CILCO had not provided support that meets the known and measurable criteria for such additional costs to be added to test year operating costs.

As was explained by IIEC in brief, the pro forma adjustment relates to the hiring of six people

working in the account management area to facilitate functional separation. There was no evidence provided by CILCO to explain whether the individuals would actually be hired and why they would be working in the account management area. It was also noted that CILCO had not made a compliance filing with respect to the functional separation rules, nor had it provided any evidence as to when it may make the filing. It was also noted that CILCO claims it will require fees of some sort, but no information as to the nature or extent of these fees was provided by CILCO. In summary, there simply was no evidence beyond the description of the pro forma adjustment in the utility's initial filing to explain why this was a known and measurable change outside the test year.

Based on the foregoing, IIEC recommends adding to the end of B. Contested Issues the following:

“8. Account 908 Pro Forma Adjustment

Both Staff and IIEC dispute the \$500,000 pro forma adjustment being recommended by CILCO with respect to Account 908 costs. These parties argue that no information was provided by CILCO with respect 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 even needed. No evidence was provided by CILCO as to when it may make a compliance filing with the functional separation rules. The only information provided by CILCO was in a context of the initial filing requirements which was limited in explanation.

In conclusion, the Commission agrees with Staff and IIEC. CILCO has not demonstrated the propriety of this \$500,000 pro forma adjustment outside the test year. The pro forma adjustment is neither known nor measurable.”

Dated this 21st day of February, 2002.

Edward Fitzhenry
Lueders, Robertson, Konzen & Fitzhenry
1939 Delmar Avenue - P.O. Box 735
Granite City, IL 62040

(618) 876-8500

Attorneys for the Illinois Industrial Energy
Consumers

35327

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 21st day of February, 2002, electronically file with the Illinois Commerce Commission Brief on Exceptions 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.

Edward Fitzhenry
Lueders, Robertson, Konzen & Fitzhenry
1939 Delmar Avenue
P. O. Box 735
Granite City, IL 62040
(618) 876-8500

SUBSCRIBED AND SWORN to me, a Notary Public, on this 21st day of February, 2002.

Notary Public

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

PLEASETAKE NOTICE that on this 21st day of February, 2002, we have electronically filed with the Illinois Commerce Commission, 527 East Capitol Ave., Springfield, Illinois, 62794, Brief on Exceptions on behalf of Illinois Industrial Energy Consumers, along with Proof of Service thereon attached.

Edward Fitzhenry
Lueders, Robertson, Konzen & Fitzhenry
1939 Delmar Avenue
P. O. Box 735
Granite City, IL 62040
(618) 876-8500

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

LINDA M BUELL
OFFICE OF GENERAL COUNSEL
ILLINOIS COMMERCE COMMISSION
527 E. CAPITOL AVE.
SPRINGFIELD, IL 62701
lbuell@icc.state.il.us

CHICAGO, IL 60604
wmseidel@defrees.com

EDWARD J GRIFFIN
DEFREES & FISKE
200 S. MICHIGAN AVE., STE. 1100
CHICAGO, IL 60604
ejpg@defrees.com

JOHN HENDRICKSON
CASE MANAGER
ILLINOIS COMMERCE COMMISSION
527 E. CAPITOL AVE.
SPRINGFIELD, IL 62701
jwhendri@icc.state.il.us

ANDREW G HUCKMAN ESQ
ILLINOIS COMMERCE COMMISSION
160 NORTH LA SALLE ST., STE. C-800
CHICAGO, IL 60601-3104
ahuckman@icc.state.il.us

JOSEPH L LAKSHMANAN
ILLINOIS POWER COMPANY
500 S. 27TH ST.
DECATUR, IL 62521-2200
joseph_lakshmanan@illinoispower.com

OWEN E MACBRIDE
ATTY. FOR ILLINOIS POWER COMPANY
SCHIFF HARDIN & WAITE
6600 SEARS TOWER
CHICAGO, IL 60606
omacbride@schiffhardin.com

W MICHAEL SEIDEL
DEFREES & FISKE
200 S. MICHIGAN AVE., STE. 1100

NICK T SHEA
DIRECTOR, RATES & REGULATORY
AFFAIRS
CENTRAL ILLINOIS LIGHT COMPANY
300 LIBERTY ST.
PEORIA, IL 61602
Nshea@cilco.com

ROBERT KELTER
CITIZENS UTILITY BOARD
208 S. LASALLE ST., SUITE 1760
CHICAGO, IL 60604
rkelter@cuboard.org

SHIG W YASUNAGA
ILLINOIS POWER COMPANY
500 S. 27TH ST.
DECATUR, IL 62521-2200
shig_yasunaga@illinoispower.com

KAREN M HUIZENGA
MIDAMERICAN ENERGY COMPANY
106 E. SECOND ST.
PO BOX 4350
DAVENPORT, IA 52808
kmhuizenaga@midamerican.com

ROBERT P JARED
REGULATORY LAW & ANALYSIS
106 E. SECOND ST.
PO BOX 4350
DAVENPORT, IA 52808
rpjared@midamerican.com

THERESA EBREY
CASE MANAGER
ILLINOIS COMMERCE COMMISSION
527 E. CAPITOL AVE.
SPRINGFIELD, IL 62701
tebrey@icc.state.il.us

STEVE HICKEY
ILLINOIS COMMERCE COMMISSION
527 EAST CAPITOL AVENUE
SPRINGFIELD, IL 62701
shickey@icc.state.il.us

LARRY JONES
ILLINOIS COMMERCE COMMISSION
527 E. CAPITOL AVE.
SPRINGFIELD, IL 62701
ljones@icc.state.il.us

35327