

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission	:	
On Its Own Motion	:	
Amendment of 83 Ill. Adm. Code 200	:	00-0353
Amendment of 83 Ill. Adm. Code 761,	:	00-0354
83 Ill. Adm. Code 762, 83 Ill. Adm. Code	:	(Consolidated)
763, and 83 Ill. Adm. Code 766	:	

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ILLINOIS
COMMERCE COMMISSION

BRIEF ON EXCEPTIONS OF THE
STAFF OF THE ILLINOIS COMMERCE COMMISSION

NOW COMES the Staff of the Illinois Commerce Commission ("Staff"), through its undersigned attorney, and files this Brief on Exceptions in the above captioned consolidated proceeding.

I. STAFF COMMENTS ON HEARING EXAMINER'S PROPOSED ORDER

Section 200.70. In response to comments from Peoples Energy, the HEPO has changed the heading of this Section in the text to read "Submission of Paper Documents to the Commission". The heading of the Section should be changed in the Part's Table of Contents to reflect the change in the text.

Section 200.100(a) and Section 200.170(a): The Appendix to the HEPO uses the term "e-mail access". Staff believes that this should be "e-mail address".

Section 200.110(a): Staff believes that the HEPO should allow additional flexibility for items that are not part of the text of a pleading or document. The HEPO states that pleadings and documents "shall have inside margins of not less than one inch." The suggested Staff language allows for an optional heading not less than 3/4

inch from the top of the page, centered page numbers not less than 1/2 inch from the bottom of the page, and line numbers, where required, not less than 1/2 inch from the left-hand side of the page. The flexibility resulting from this change will allow pleadings and documents to be more readily identifiable without severely diminishing the amount of information presented on a page. Staff suggests additional language clarifying footnotes and quotations:

- a) All pleadings and documents filed with the Commission shall be typewritten or printed on white paper cut or folded or capable of being printed on paper 8 1/2 inches by 11 inches or capable of being printed on white paper 8 1/2 inches by 11 inches and shall have inside margins of not less than one inch. An optional heading consisting of the docket number and document title shall be placed in the upper right hand corner and have a top margin of not less than 3/4 inch. Page numbers shall be centered and have a bottom margin of not less than 1/2 inch. Line numbers shall have a left-hand margin not less than 1/2 inch. All exhibits of a documentary character shall, whenever practical, conform to these said requirements of size and margin. The impression shall be on one side of the paper only and shall be double spaced; footnotes may be single spaced, and quotations may be single spaced and indented.

Section 200.110(b) After testing the readability of documents retrieved from the e-Docket system, Staff believes fonts sizes smaller than the HEPO's 10-point minimum are acceptable for "other material not in the body of the text, such as financial data." After conducting readability tests for financial schedules, Staff concludes that the following minimum font sizes are readable for "other material not in the body of the text": 8-point for a paper copy filing that would be scanned and converted to a pdf file and 6-point for an electronic filing that would be electronically saved as a pdf file. Certain financial data schedules and exhibits are lengthy and complex in nature. Often, many columns and lines of information are required to fully and accurately present the

results of the data. With a larger required font size, some financial data schedules and exhibits would not fit on a single sheet and cannot adequately be adapted to present the information on more than one sheet. Complex and lengthy schedules and exhibits can be more confusing if they are separated onto different pages. In certain instances, the chance of making a schedule confusing or hard to read is greatly increased if a schedule or exhibit is separated on to different pages. Staff has executed performance tests on the effects of font size when scanning a hard copy into a pdf file and when converting an electronic file into a pdf file. The test results indicate that an acceptable minimum font size is 8-point for a hard copy filing that would be scanned and converted to a pdf file and 6-point for an electronic filing that would be electronically saved as a pdf file. Staff proposes the following language for this subsection:

- b) All pleadings or other documents shall be composed in either Arial or Times New Roman font, black type on white background. The text of pleadings or documents and shall be at least 12-point or larger. Footnotes and other material not in the body of the text, such as financial data exhibits, shall be at least 10-point or larger. Other material not in the body of the text, such as financial data schedules and exhibits, shall be at least 8-point or larger. If submitted electronically, other material not in the body of the text, such as financial data schedules and exhibits, shall be at least 6-point or larger. All exhibits of a documentary character shall, whenever practical, conform to these requirements. Persons filing a formal complaint pursuant to Section 200.170 using the complaint form provided by the Commission may complete the form in handwriting.

Section 200.110(d): Staff proposes the following revised language for this subsection to more fully identify the documents listed:

- d) Testimony prepared for the purpose of being entered into evidence shall include line numbers on the left-hand side of each page of text. Testimony shall include continuous line numbers. Schedules, to testimony attachments, and exhibits of a numerical or

documentary nature shall, whenever practical, conform to said requirements.

Section 200.150(g): Section 10-108 of the Public Utilities Act [220 ILCS 5/10-108] provides in relevant part:

Service in all hearings, investigations, and proceedings before the Commission may be made upon any person upon whom a summons may be served in accordance with the provisions of the Civil Practice Law and all existing and future amendments thereto and modifications thereof and the Supreme Court Rules now or hereafter adopted in relation to that Law, and may be made personally, by electronic means, *or by mailing same in the United States mail in a sealed envelope with postage prepaid. The provisions of this section as to notice shall apply to all hearings held by the Commission or under its authority.*

The HEPO, in response to comment from Commonwealth Edison has modified Section 200.150(g) to read:

The Commission shall serve the notice provided by subsection (f) by personal delivery or registered or certified mail. Notwithstanding the foregoing, the Commission may serve by electronic means the notice provided for in subsection (f), provided that the subject line of the electronic message states "OFFICIAL COMMISSION NOTICE OF CASE OR PROCEEDING" and further provided that, if the recipient within two business days does not acknowledge receipt of the notice and expressly waive service by personal delivery or registered or certified mail, then the Commission shall serve the notice by personal delivery or registered or certified mail. The Chief Clerk shall maintain a copy of any acknowledgment of a notice expressly waiving service by personal delivery or registered or certified mail in the files associated with the proceeding. Notice of any additional hearings or other notices mailed by the Commission shall be by regular United States mail or as otherwise provided by the Hearing Examiner.

While the Staff has no quarrel with the concept of waiver of rights to service, Staff questions whether it is necessary to go beyond the statutory safeguards regarding service. The statute contemplates service by U.S. Mail, postage prepaid. The imposition of a requirement for certified or registered mail will put an economic burden

on the Commission not required by statute, and the preparation of the material for certified or registered mail will put additional demands on the Chief Clerk's office. The statute allows service by mail. The rule should reflect the statute. The Staff suggests that the subsection read as follows:

The Commission shall serve the notice provided by subsection (f) by personal delivery, by electronic means, or mailing the notice in the United States mail in a sealed envelope with postage prepaid registered or certified mail. Notwithstanding the foregoing, the Commission may serve by electronic means the notice provided for in subsection (f), provided that the subject line of the electronic message states "OFFICIAL COMMISSION NOTICE OF CASE OR PROCEEDING" and further provided that, if the recipient within two business days does not acknowledge receipt of the notice and expressly waive service by personal delivery or by mailing the notice in the United States mail in a sealed envelope with postage prepaid, then the Commission shall serve the notice by personal delivery or by mailing the notice in the United States mail in a sealed envelope with postage prepaid. The Chief Clerk shall maintain a copy of any acknowledgment of a notice expressly waiving service by personal delivery or mailing the notice in the United States mail in a sealed envelope with postage prepaid in the files associated with the proceeding. Notice of any additional hearings or other notices mailed by the Commission shall be by regular United States mail or as otherwise provided by the Hearing Examiner.

II. CONCLUSION

For the reasons set forth in the above discussion, Staff respectfully requests that the Commission revise the HEPO to reflect Staff's modifications above and revise the rule attached as Appendix A to the HEPO to reflect Staff's modifications above prior to submitting the rules to the Joint Committee on Administrative Rules, pursuant to Section 5-40(c) of the Illinois Administrative Procedure Act.

Respectfully submitted,



CONRAD S. RUBINKOWSKI
Staff Attorney

Counsel for the Staff of the Illinois
Commerce Commission

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission :
On Its Own Motion :
: 00-0353
Amendment of 83 Ill. Adm. Code 200 :

NOTICE OF FILING

TO: Attached Service List

PLEASE TAKE NOTICE that on this 14th day of August, 2000, I have filed with the Chief Clerk of the Illinois Commerce Commission, the Brief on Exceptions of the Staff of the Illinois Commerce Commission to the Hearing Examiner's Proposed Order, copies of which are hereby served upon you.



CONRAD S. RUBINKOWSKI
Staff Attorney

Counsel for the Staff of the Illinois Commerce
Commission

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Notice of Filing, together with the Brief on Exceptions of the Staff of the Illinois Commerce Commission to the Hearing Examiner's Proposed Order, was served upon the parties on the attached service list by first class mail, proper postage prepaid, on the 14th day of August, 2000.



CONRAD S. RUBINKOWSKI

***Service List - Docket Nos. 00-0353 & 00-0354
Consolidated***

Cynthia A. Fonner, John E. Rooney,
Christopher W. Zibart and John Ratnaswamy
Attorneys for Commonwealth Edison Company
Hopkins & Sutter
70 West Madison, Suite 4100
Chicago, IL 60602

Gerard T. Fox, Timothy P. Walsh,
James Hinchliff and Mary Klyasheff
Peoples Gas/North Shore
130 East Randolph Drive, 23rd Floor
Chicago, IL 60601

Robert P. Jared
Regulatory Law and Analysis
MidAmerican Energy Company
106 East Second St.
P.O. Box 4350
Davenport, IA 52808

Ronald D. Jolly and Alan H. Neff
Assistants Corporation Counsel
City of Chicago
Department of Law
30 North LaSalle St., Suite 900
Chicago, IL 60602-2580

Conrad Reddick
City of Chicago
30 North LaSalle St., Suite 1040
Chicago, IL 60602

Conrad S. Rubinkowski
Office of General Counsel
Illinois Commerce Commission
527 East Capitol Avenue
P.O. Box 19280
Springfield, IL 62794-9280

Michael W. Ward
Michael W. Ward, P.C.
1608 Barkley Blvd.
Buffalo Grove, IL 60089

Commission Staff:

John Albers, Hearing Examiner
Phil Hardas, Finance Dept.
Bryan Sant, Accounting Dept.
Bill Voss, Accounting Dept.
Joy Nicdao-Cuyugan, Finance Dept.