

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Ameren Illinois Company)
 d/b/a Ameren Illinois)
Petition for Approval of Tariffs) Docket 14-0097
Associated with the Small Volume)
Transportation Program)

**PETITION FOR REHEARING OF
THE ILLINOIS COMPETITIVE ENERGY ASSOCIATION,
THE RETAIL ENERGY SUPPLY ASSOCIATION,
AND THE RETAIL GAS SUPPLIERS**

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Pursuant to Section 10-113 of the Public Utilities Act and Section 200.880 of the Rules of Practice of the Illinois Commerce Commission (“Commission”), the Illinois Competitive Energy Association (“ICEA”), the Retail Energy Supply Association (“RESA”)¹, and the Retail Gas Suppliers (“RGS”)² (hereinafter collectively referred to as the “Gas Suppliers”) hereby file this Petition for Rehearing, requesting that the Commission grant rehearing of the Commission’s Order, dated July 8, 2015, in this proceeding. This proceeding resulted from the compliance

¹ The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of more than twenty retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at www.resausa.org.

² On September 17, 2014, Dominion Retail, Inc., a member of the RGS, filed its motion to withdraw from this proceeding.

filing made by Ameren Illinois Company (“Ameren” or “AIC”) which was directed by the Commission in Docket 13-0192, in which the Commission approved a Small Volume Transportation (“SVT”) Program for Ameren.

I. INTRODUCTION

The gas customers of Ameren are the last significant group of customers in Illinois who are not currently able to select their gas supplier in an SVT program. The other two major gas utilities, Nicor Gas Company (“Nicor Gas”) and The Peoples Gas Light and Coke Company (“Peoples Gas”), have Choice programs. The major electric utilities, Commonwealth Edison Company (“ComEd”) and Ameren itself, also have Choice programs in place. (RGS Ex. 3.0, pp. 1-2) It appeared that the Commission remedied this situation when it ordered Ameren, in its Order in Docket 13-0192, to implement an SVT Program by the end of 2014.

Customer Choice to customers in Ameren’s service territory appeared to be close to reality when the Administrative Law Judge (“ALJ”) issued his Proposed Order (“ALJPO”) on March 20, 2015. The ALJPO rejected the arguments of Ameren, the Citizens Utility Board (“CUB”) and the Attorney General (“AG”) and directed Ameren to implement its SVT Program, with certain modifications. (ALJPO, pp. 31-33)

However, in its July 8, 2015 Order in this proceeding, the Commission directed Ameren to cease implementation of the SVT Program (a meaningless directive because Ameren had ceased implementation, without Commission permission, early in 2014 (*Id.*, p. 8)) further directing its Staff and Ameren to hold more workshops to “determine how and when residential gas customers in its service territory will have access to a Gas Supplier Choice Program”. (Order, p. 33)

The basis for the Commission's reversal of its own directive and that of the ALJPO was that Ameren and the Citizens Utility Board and the Attorney General had raised concerns about Ameren's estimated cost of the SVT Program and that that required a further examination of the benefits of that Program. (*Id.*, pp. 32-33)

However, the Commission's Order ignores the purpose of this proceeding, as established by the Commission itself in its Order in Docket 13-0192. The instant proceeding is a compliance proceeding resulting from the Commission's Order approving an SVT Program for Ameren in Docket 13-0192. The Commission directed Ameren to make the compliance filing in order to address unresolved issues regarding SVT tariffs. The Commission's Order specifically found that the purpose of this proceeding was not to re-litigate matters resolved in Docket 13-0192. (Order in Docket 13-0192, p. 246)

Instead of completing implementation of the SVT Program, as directed by the ALJPO, Ameren is being allowed to backtrack on years of workshops and hearings spent preparing the already approved program.

As demonstrated in this Petition for Rehearing, the Commission committed reversible error on two bases. First, the Order lacks the analysis necessary to allow a reviewing court to conduct an informed judicial review of the Order, as required by Section 10-201 of the Public Utilities Act. Second, the Commission's Order is not based on substantial evidence based on the entire record of evidence presented to or before the Commission for and against the Commission's Order, as also required by Section 10-201 of the Public Utilities Act.

In addition, Section 9-201 of the Public Utilities Act requires a reviewing court to remand an order to the Commission when the Commission fails to receive evidence properly proffered on rehearing or in an application for rehearing. The Gas Suppliers request the opportunity to

present, on rehearing, additional evidence regarding the costs and benefits of the SVT Program. 83 Ill. Admin. Code Section 200.880, Rehearing, of the Commission's Rules of Practice requires a brief statement of proposed additional evidence, if any, and an explanation why such evidence was not previously adduced. Briefly, given that this was a compliance proceeding and based on the Commission's order in Docket 13-0192, the cost/benefit issue was decided in Docket 13-0192 and was not to be re-litigated in this proceeding. A more complete explanation of the Gas Suppliers' additional evidence is contained in Section V, *infra*, of this Petition for Rehearing.

Accordingly, the Commission should grant rehearing to reverse its ruling and hold hearings regarding the costs and benefits of the SVT Program. Such hearings would run concurrently with the workshops ordered by the Commission. Indeed, absent hearings on rehearing, the Gas Suppliers are concerned that workshops with Ameren would be a waste of time because, as found in the ALJPO, "Ameren does not appear serious about implementing the Program ordered by the Commission". (ALJPO, p. 32)

II. PROCEDURAL HISTORY

A. III. C. C. DOCKET 11-0279/11-0282

The first docket that dealt with the development and launch of an SVT program was AIC's base rate case in 2011 (Ill. C. C. Dockets 11-0279/11-0282). In that case, the initiation of a small volume transportation program for gas customers was proposed and acted upon favorably with the Commission directing its Staff to promptly convene workshops with the goal of developing consensus on SVT issues so that Ameren could file SVT tariffs. In the event consensus was not reached, Staff was to prepare a report detailing the workshop process and issues. The Commission's Order (dated January 10, 2012) proclaimed it "strongly embraces retail competition in the energy markets" and expressed the desire to "examine and address

market barriers and other related issues as the program is being developed, rather than address them when a program might already be in place.” (Order in Dockets 11-0279/11-0282, p. 195) This step forward was taken and workshops were held under the oversight of the Commission Staff’s Dr. Rearden. (RGS 3.0, p. 2)

The workshop process was very extensive--eight workshops were held that were productive and had significant participation from various stakeholders including many Alternative Gas Suppliers. Robust discussion was held on aspects of an SVT program and fundamental program rules were developed. Dr. Rearden’s report stated, “the workshops were successful in the sense that they cooperatively developed a set of tariffs that seemed to satisfy the majority of participants. Certainly, all participants did not agree with every word of the tariffs that were discussed. But it appeared to Staff that most stakeholders were content with the approach that was developed. However, the workshops did not result in 100% consensus on every aspect of the SVT program.” (*Id.*, pp. 2-3) In his report, Dr. Rearden included a letter from Ameren requesting to file SVT tariffs in its next gas rate case, planned for the first quarter of 2013. It appeared that two years after the SVT program concept was approved that it would finally come to life. (*Id.*, p. 3)

B. III. C. C. DOCKET 13-0192

In its gas rate case (Docket 13-0192), AIC filed the SVT tariff along with related Rider GTA and Rider GSIC and the Commission again pushed the SVT program forward. The Order identified the threshold issue to be addressed--whether the Commission should approve an SVT program in this proceeding—noting that “AIC, Staff, ICEA/RESA and RGS either endorse approval of such a program in this proceeding, or they do not oppose such action.” The Commission stated further that “the potential benefits of an SVT program in AIC’s service

territory, while not certain, are likely.” The Commission concluded “that it is in the public interest to approve an SVT program at this time.” While the Commission approved the SVT Program, it noted that not all operational, tariff design, and other related issues regarding the SVT tariffs had been fully addressed by the parties in Docket 13-0192. Therefore, the Commission ordered Ameren to “promptly hold a workshop, following the issuance of this Order to focus on the issues that are *not resolved* by this Order.” It also directed Ameren to file a petition, tariffs and testimony *in support of* the SVT program within 45 days of the date of the Order. (Order in Docket 13-0192, dated December 28, 2013, p. 246; emphasis added)

Docket 13-0192 was a gas base rate case and AIC included costs for the development and launch of the SVT program including information technology/billing system changes in its filing and those costs were included in the rate base approved in the Order in Docket 13-0192. Ameren was awarded an increase in rates, reflecting increases in operation and maintenance expense and rate base. Thus, the rates in place today that are currently being collected reflect the inclusion of costs for Ameren to follow the Commission order to file SVT tariffs and implement the SVT program. (RGS Ex. 3.0, pp. 3-4)

As directed by the Commission, AIC held two workshops in January 2014, on the 16th and again on the 28th. As Ms. Seckler described in her testimony, the workshop participants discussed the SVT program and tariff issues to continue to reach agreement on program specifics and improve the tariff language for filing. (Ill. C. C. Docket 14-0097, AIC Exhibit 1.0, p. 11) There was no discussion during those workshops that there could be a delay from the fourth quarter 2014 SVT program launch, nor a substantial increase in costs. (RGS Ex. 3.0, p. 5)

C. III. C. C. DOCKET 14-0097

AIC filed the SVT tariffs, along with supporting testimony, on January 31, 2014, in this Docket 14-0097. Ameren did not ask the Commission to reverse its approval of the SVT Program; rather, Ameren maintained its neutrality regarding the SVT Program. (AIC Ex. 1.0, p. 3) Docket 14-0097 is not a base rate filing, nor a docket intended to examine the prudence of Ameren's costs, nor a docket to re-litigate issues decided in Docket 13-0192. This is a compliance docket to specifically review and approve the SVT tariff, after ruling on issues that were not resolved in Docket 13-0192. Not all issues were resolved in the January workshops so ICEA/RESA, RGS, the Commission Staff and the Citizens Utility Board ("CUB") filed direct testimony on April 11, 2014 and rebuttal testimony on April 25, 2014, all concerning SVT program and tariff issues. (RGS Ex. 3.0, p. 5) No party challenged the Commission's approval of the SVT Program in direct or rebuttal testimony.

A workshop was held on April 15, 2014, to focus on consumer protection issues, and it did. In general the discussion was on consumer education, consumer protection and consumer bill issues. (AIC Ex. 1.0, p. 11) There was no discussion during that workshop that the fourth quarter 2014 SVT program launch could be delayed, nor was there any indication of a substantial increase in costs to implement the program. (RGS Ex. 3.0, p. 6)

AIC did not make the parties aware of the substantial proposed revisions to SVT program costs and schedule until three days after Staff and Intervenors submitted their rebuttal testimony. On April 28, 2014, Ameren filed its Motion to File Supplemental Direct Testimony. In that Motion, Ameren claimed that its estimate of SVT Program costs had increased from the \$10.6 million, approved by the Commission in Docket 13-0192 (the amount being recovered through

current rates) to \$34 million and that the SVT program launch, which had been planned for the fourth quarter of 2014 would now be two years later, in late 2016, at the earliest. (*Id.*, p. 6)

III. THE COMMISSION’S ORDER LACKS ANY MEANINGFUL ANALYSIS AND, THEREFORE, CONSTITUTES REVERSIBLE ERROR.

Section 10-201 (e) (iii) of the Public Utilities Act requires a Commission order to contain findings or analysis sufficient to allow an informed review thereof:

(iii) If it appears that the Commission’s rule, regulation, order or decision does not contain findings or analysis sufficient to allow an informed judicial review thereof, the court shall remand the rule, regulation, order or decision, in whole or in part, with instructions to the Commission to make the necessary findings or analysis.

The Commission’s Order does not contain sufficient analysis; in fact, it contains virtually no analysis. The “Commission Analysis and Conclusion” section of the Order was created by deleting the similarly titled section in the ALJPO and substituting four paragraphs of largely conclusory statements without any analysis.

In this regard, the Commission’s Order stands in stark contrast to the ALJPO which did analyze the evidentiary record in this proceeding. While the Order basically states that the Commission is “concerned” with Ameren’s estimated costs of the SVT Program and that it agrees that the Gas Suppliers failed to supply an adequate cost analysis, the ALJPO actually analyzes the record regarding the costs and benefits of the SVT Program, as well as the other arguments raised by Ameren against the Program.

Regarding the “sunk costs” of the Program, the ALJPO states:

Both Ameren and CUB/AG raise concerns that the cost of the SVT Program may exceed the benefits to customers. While they are sunk costs at this point, it is not clear to

the Commission that the money Ameren says it has already spent on the SVT Program is clearly and directly related to that Program (See Ameren Ex. 4.0 at 8-9). In the Commission's view, this creates some question about Ameren's estimate of the incremental cost of the SVT Program. (ALJPO, p. 32)

Regarding Ameren's estimate of the remaining costs of the Program, the ALJPO states:

To be clear, in Docket 13-0192 Ameren was authorized to include \$10.6 million of investment associated with the SVT Program in its revenue requirement and estimated the Program would be operational before the end of 2014. Now, Ameren indicates that it has completed only Phase I of the SVT Program and estimates it will be required to invest an additional \$21 million to complete Phase 2 of the Program and that it will not be complete until 2016. The Commission is concerned regarding the inexactitude which has prevailed regarding estimates of the time and money required to implement the Commission's Order with regard to the SVT Program. (*Id.*)

Regarding Ameren's remaining arguments, which were not analyzed by the Commission in its Order, the ALJPO states:

Ameren's arguments that gas markets have significantly evolved and threaten the success of the SVT Program have been largely refuted by Dr. Rearden. Dr. Rearden has demonstrated that municipal aggregation has not been necessary in northern Illinois or other areas to support the development of successful SVT type programs. He also demonstrated that a general decrease in the price of natural gas is not sufficient to undermine a successful SVT type program. Dr. Rearden also disputes Ameren's assertion that a decrease in price volatility is likely to threaten the success of an SVT type program. With regard to price volatility, the Commission notes that this is one of the, if not the, primary factor underlying adoption of a purchased gas adjustment clause for Illinois LDCs. The Commission is unaware of any LDC, including Ameren, who has suggested that a decrease in the volatility has been sufficient to eliminate the need for a purchased gas adjustment clause. In the Commission's view, Ameren's arguments in this regard are unpersuasive. (*Id.*)

The fact that the Commission ignored addressing these arguments is an important issue because these are the arguments supporting Ameren's position that few customers would participate in an SVT Program, which was a principle component of its so-called cost analysis, as well as its position that implementing an SVT Program would require a large expenditure of money for only a few customers.

While a reviewing court would be able to conduct an informed judicial review of the ALJPO's analysis of the evidentiary record, it would not be able to do so with the conclusory statements and unsupported findings of the Commission's Order.

IV. THE COMMISSION'S ORDER IS NOT BASED ON SUBSTANTIAL EVIDENCE AND, THEREFORE, CONSTITUTES REVERSIBLE ERROR ON THE PART OF THE COMMISSION.

Under Section 10-201 (e) of the Public Utilities Act, a reviewing court shall reverse a Commission order if it finds that the "findings of the Commission are not supported by substantial evidence based on the entire record of evidence presented to or before the Commission for and against such rule, regulation, order or decision..." As demonstrated below, there is no substantial evidence supporting the Order's conclusory statements regarding the costs and benefits of the SVT Program.

A. BENEFITS OF THE SVT PROGRAM

The Commission's Order states that the "benefits of the SVT Program must be adequately examined before Ameren Illinois can consider implementing the Program". (Order, p. 33) However, the Order does not even attempt to analyze the evidence regarding the benefits of the SVT Program set forth in the record of this proceeding.

Ameren's customers will benefit from an SVT Program. And those benefits go far beyond the benefits cited in Ameren's superficial and flawed cost-benefit analysis (as discussed more fully herein). One of the major benefits of an SVT Program is the ability of suppliers to offer a diverse range of products and services that Ameren cannot offer. Such products can better meet the needs and preferences of customers, and can also help customers consume energy more efficiently.

Probably the most common example of products offered by suppliers is fixed rate products. In contrast, Ameren's supply customers pay a gas charge, which varies monthly and has experienced significant swings. (TR. 258). Customers who buy fixed-price products understand that they have a fixed, guaranteed price for the term of their contracts and that's the value that they attribute to their buying decision in making that purchase. (TR. 187) While fixed price products are important products offered by competitive suppliers, they certainly are not the only products.

RGS Witness Mr. James Crist provided a lengthy list of products offered by competitive suppliers including those that are bundled with gas commodity. (AIC Cross Ex. 11) One need only look at the telecommunications and cable industry to understand that there is great value added for customers by bundling related products. (TR. 162)

Mr. Crist provided an excellent example of a bundled product offered by Direct Energy Services in the service territory of Nicor Gas. The customer receives a Nest Smart Thermostat, which has a value of \$249, bundled with a two-year fixed price contract and a \$50 VISA gift card. Studies have shown that smart thermostats can save consumers up to 20% of their energy consumption. Thus, through such a bundled product, the supplier is actually helping customers use less energy and lower their overall energy bill. Mr. Crist also noted the benefits from such a bundled product would not be reflected in Ameren's attempt at a cost benefit analysis, which will be addressed later in this Petition for Rehearing. (TR. 198-199)

As has been demonstrated for the past two decades around the country in various markets, suppliers will come into the market, products will be developed, and customers will avail themselves of the choices. Suppliers must be making compellingly attractive offers to

customers because in a variety of utility markets for both electricity and natural gas for the past two decades, choice programs have been launched and are healthy and growing. (TR. 192-193)

Mr. Crist also testified to wholesale benefits of an SVT Program. Those benefits include increased liquidity at the Ameren trading hubs because multiple suppliers are buying and selling at those hubs. Further, Choice programs bring greater reliability because suppliers have intrastate pipeline assets that can be utilized to deliver into the system that Ameren may not have access to, and downward price pressure on wholesale prices at the Ameren hubs due to multiple buyers and sellers utilizing those hubs. (RGS Ex. 3.0, at 27-28)

Finally, ICEA/RESA witness Teresa Ringenbach testified to the opportunity of customers to save money by purchasing their supply from AGS rather than utilities. In her rebuttal testimony to the supplemental direct testimony of Ameren, she testified that then current supplier offers in both Nicor Gas' and Peoples Gas' service territories were 10%-20% below those utilities' gas charges as of August 2014. (ICEA/RESA Ex. 3.0, pp. 9-10)

B. COSTS

The Commission's Order states, as a given, that there is a "potential significant cost for consumers" (Order, p. 32). However, the Commission does not attempt to analyze the merits, or lack thereof, of Ameren's evidence regarding SVT Program costs. Both aspects of Ameren's costs—the sunk Phase I costs and the estimated Phase II costs—were so thoroughly discredited in the evidentiary record that they can't possibly be considered to constitute the "substantial evidence" required for a valid Commission order that can withstand judicial review. As demonstrated in this section, the Phase I costs are not related to the SVT Program and the Phase II costs are inflated and suspect.

1. **Sunk Costs-Ameren's "so-called Phase I" costs should not be attributed to the SVT Program.**

Ameren appears to have taken the money approved for SVT and instead used it for non-SVT related items outside of the Commission's Order. If the Commission truly wants to consider the costs of the SVT Program, it is important that the Commission only consider costs related to the SVT program. As demonstrated in Mr. Crist's Rebuttal to AIC's Supplemental Direct Testimony, Ameren has overstated the increased cost of the SVT program. Embedded in its \$34 million forecast is over \$10 million in non-SVT expenditures that Ameren intended to make regardless of the SVT program. (RGS Ex. 3.0, p. 7) The record is clear that Ameren is using the approved SVT funding for non-SVT related projects and complaining about cost overruns without having done the approved work.

In its last base rate case (Docket 13-0192) Ameren submitted testimony by Craig Nelson who summarized Ameren's plans to conduct two extensive IT projects related to its transportation service. Mr. Nelson testified that one project was needed for the implementation of the SVT program and the other project was to upgrade the IT systems for the non-SVT gas transportation activity Ameren already provides (Exhibit 1.0, p. 7). In that testimony Mr. Nelson explained that "SVT enhancements to the gas management and billing systems are projected to cost \$7.026 million." Mr. Nelson then described that "AIC plans to enhance its existing gas management and billing systems due to their limitations in supporting current and projected levels of non-SVT gas transportation activity by customers....and are projected to cost \$6.046 million." What is critical is that Mr. Nelson testified that those costs were included in the future test year case in Docket 13-0192. Therefore, Ameren already has been collecting revenues from its customers for SVT implementation. (RGS Ex. 3.0, p. 11)

Moreover, after the initial testimony Ameren revised its estimate for SVT program costs. In July 2013 Ameren submitted testimony by Vonda Seckler stating (Docket 13-0192, Exhibit 26.0, pp. 28-29) that “the total expected cost to implement the SVT program is approximately \$10.6 million.” Ms. Seckler explained that the “original projection has been upgraded to ensure the complex systems needed in the compressed timeframe are ready by November 2014.” Ms. Seckler emphasized that the increased estimate to \$10.6 million would cover additional systems (forecasting and aggregation solution) that would “ensure the complex systems needed in the compressed timeframe are ready by November 2014”. Those costs were included in the rate base and O&M expenses used to determine the rates currently charged to Ameren customers. Thus, Ameren was authorized, based upon a future test year, to spend a total of \$16.6 million to implement enhancements to its gas management and billing system (\$6 million) and to implement the SVT program (\$10.6 million). (RGS Ex.3.0, pp. 11-12)

In the testimony filed in this proceeding Ameren Witness Mr. Glaeser described the SVT work in two phases; however, there is no reference of this two phase approach made by Ameren in its previous base rate case. That said, as Mr. Glaeser explained in his testimony, the Phase 1 SVT systems went into service in 2014. (RGS Ex. 3.0, p.13) Phase 2 is on hold, pending the Commission’s decision in this proceeding. (TR. 304)

Mr. Glaeser explained that there are two systems Ameren is installing for Phase 1- the Settlement Data System (“SDS”) and the Gas Settlement System (“GSS”). Mr. Glaeser then describes several components of these systems which include: 1) daily load forecasts, 2) backcasting, 3) independent data source from CSS for Smart Meter applications, 4) gas load research, 5) hourly gas day data, 6) class load profiles and 7) gas utilization system replacement. In summary, Mr. Glaeser stated, “The Phase 1 implementation enables AIC to analyze customer

demand and usage in a much more granular manner than is currently available and are improvements or replacements to existing, outdated technology serving as a catalyst to modernize the gas system infrastructure.” (AIC Ex. 4.0, p. 10)

However, the improvements from the SDS and GSS systems are not necessary for Ameren to host a SVT program. While the Phase 1 systems may be said to benefit Ameren customers, they cannot reasonably be said to be upgrades made specifically for the SVT program.

- **Daily load forecasts** provide greater segmentation of data by allowing Ameren to review load by eight geographic weather zones. This may help Ameren better understand the usage of specific customers in different geographic areas but is not necessary for the implementation of a SVT program. (*Id.*, p. 14)
- **Backcasting** provides the ability to apply actual weather to original load forecasts to determine the load difference due to temperature changes. However, Ameren does not do backcasting now to manage its system and therefore does not require it to manage its system after an SVT program has been initiated. (*Id.*)
- **Independent data source from CSS for Smart Meter applications** will provide hourly and daily interval data for better access to usage patterns. While it may be beneficial for Ameren to understand the granular usage patterns of all its distribution customers, this data is not necessary for the provision of an SVT program. Most choice programs were initiated before smart meters were available and most are currently operating in environments that lack smart meters. (*Id.*)

- **Gas load research** enhances the ability to perform system studies and further integrate the three legacy gas systems (IP, CILCO & CIPS). While this might be desirable and an objective of Ameren’s as it strives to unify its three zones into one system, it is not critical for offering choice. (*Id.*, p. 15)
- **Hourly gas day data** where SDS converts meter reads to a new gas day that may be contemplated by FERC is clearly something that is prospective in nature and does not exist in other LDC systems that have been offering choice for years. It is not critical for offering choice. (*Id.*)
- **Class load profiles** enable Ameren to better understand the system demand per customer class, but this information is customarily used to determine revenue allocations by customer class and distribution rate design. However, it would not be necessary for SVT offerings. (*Id.*)
- **The Gas Utilization System** replacement will help with the lost and unaccounted for gas calculation which is currently performed on a mainframe that is due for retirement. This upgrade may help Ameren more accurately calculate its gas costs, but this is something that will benefit the entire Ameren system and is not necessary for the purpose of an SVT program. (*Id.*)

In summary, none of the seven components or functionalities that Mr. Glaeser described are necessary for launching an SVT program. They are all system improvements that Ameren chose to do, apparently to generally upgrade its IT capabilities. Thus the \$11.6 million that Ameren has spent on “Phase 1” was clearly not spent on the components necessary to launch a SVT program and the costs to develop those “Phase 1” improvements are not part of SVT program costs. (RGS Ex. 3.0, pp. 16-17) Thus, that portion of the \$34 million estimated cost of

the SVT Program should be disregarded as it is sunk cost on programs applicable to general system management. What is relevant is the current estimate of \$21 million that Ameren witness, Ms. Mary Heger, Vice President of Information Technology, identifies as the remaining amount necessary to launch SVT, an amount nearly twice as much as the \$10.6 million Ameren has available to implement the SVT Program. (RGS Ex. 3.0, p. 28)

2. Estimated Costs—Ameren’s estimates of “Phase II” costs are overstated and suspect.

Ms. Heger testified that Ameren originally determined a preliminary budget estimate of approximately \$12 to \$22 million to implement an SVT Program.³ (AIC Ex. 5.0, p. 6) However, Ameren chose to include only \$7 million in its test year in Docket 13-0192, calendar 2014, for the SVT Program, an amount which Ms. Heger described as the lower end of the range of cost estimates. (Later, this estimate was revised to \$10.6 million, which is the amount approved by the Commission in Docket 13-0192 and currently being recovered through rates. (*Id.*))

Ms. Heger admitted that, in retrospect, the level of testing reflected in the \$10.6 million approved for the SVT Program in Docket 13-0192 was inadequate and insufficient. (TR. 301-302, 304). If anything, that appears to be quite an understatement in that approximately \$14.5 million of the \$22 million costs for Phase 2 are for testing, as shown on AIC Ex. 5.4:

Phase 2 Testing Costs

Build/Test	\$2.5 million
System Test	\$2.0 million

³ The \$22 million estimate included \$6 million in general enhancements to its gas billing system.

Test Planning/Prep. Data Construction	\$1.5 million
Integration Testing	\$4.0 million
Regression Testing	\$1.5 million
UAT Testing	<u>\$3.0 million</u>
TOTAL	\$14.5 million

Cross-examination of Ms. Heger demonstrated that Ameren’s SVT Program appears to be suspiciously different from Ameren’s other IT projects in at least three respects. First, Ms. Heger was not aware of any other instances in which Ameren has experienced a substantial increase in an estimate for a budget project that resulted in Ameren asking the Commission to reevaluate the benefits of that project. (TR. 303) Second, Ms. Heger could not identify any Ameren IT projects, since 2009 when she became Vice President of IT, which required \$14.5 million in testing. (TR. 314). Third, there have been no major IT projects (projects in excess of \$10 million) at Ameren since 2009 that have experienced a 200% increase from the original budget to the final budget. (TR. 315)

In summary, Ameren’s estimated costs for implementation of the SVT Program appear to be overstated in two ways. First, Ameren attributed costs to the SVT Program that were actually extended for general improvements to its existing transportation system. Second, Ameren’s estimated costs appear overstated, especially its testing costs which, by themselves, far exceed the entire amount for which Ameren was granted recovery in Docket 13-0192.

(Staff Ex. 3.0, p. 3)

3. **Ameren’s cost-benefit analysis is flawed and self-serving, as demonstrated by the Gas Suppliers.**

The Order states that the Commission agrees with CUB and the AG that the Gas Suppliers “failed to supply an adequate savings analysis”. (Order, p. 32) This statement is incorrect. The Gas Suppliers corrected the attempt by Ameren’s witness to analyze costs and demonstrated that the SVT Program could be implemented at an extremely nominal amount.

Mr. Glaeser sponsored AIC Exhibit 4.1, which purports to be a cost-benefit analysis of the SVT Program. However, Mr. Glaeser’s attempt at a cost-benefit analysis is flawed because Mr. Glaeser’s analysis incorrectly assumes that customers will benefit from the SVT program only if they take service from a retail supplier. Mr. Glaeser’s analysis fails to acknowledge that choice is, in itself, a benefit for all customers. Thus, a more appropriate analysis would divide the total cost of SVT implementation over all Ameren customers, as was done in Docket 13-0192. (RGS Ex. 3.0, pp. 24-25)

Besides understating the population that benefits from retail choice, there were several other flaws, which Mr. Crist corrected in his RGS Exhibit JC6. First, Mr. Glaeser is proposing to spend \$21 million on the SVT program. Such costs are extraordinarily high compared to the original estimate of \$7.0 million or the estimate revised by Ms. Seckler of \$10.6 million, which is the figure Mr. Crist used in his analysis.⁴ Mr. Glaeser also amortized the investment on what will be a new and sophisticated IT system over a very short 5-year period. One would hope that the Company is not planning on abandoning its SVT program after five years. Indeed some of the IT systems in place at the Company are still functioning much longer than that, such as the GUS system referred to by Mr. Glaeser that was still operating on a mainframe. Mr. Crist’s analysis amortized the \$10.6 million cost over a 10-year period. (RGS Ex. 3.0, p. 25)

⁴ Note again that the \$10.6 million should still be available for the SVT Program because none of Ameren’s Phase I costs should be attributable to the SVT Program since they were incurred for general transportation system improvements.

While RGS Ex. JC6 only assigned costs to SVT customers (in order to track Mr. Glaeser's Ex. 4.1), if those costs were spread over all eligible customers, recovering \$10.6 million from the approximately 800,000 Ameren customers over 10 years would only add approximately \$1.30 per year to each customer's bill. Indeed, when asked on cross-examination if he believed that \$1 per year was significant, Mr. Glaeser responded, stating "I wouldn't consider it a meaningful or significant amount." (TR. at 248). Thus, the investment necessary to provide customers the option of taking service from a retail supplier is quite reasonable. (RGS Ex. 3.0, p. 26)

In conclusion, it is Ameren that failed to supply an adequate savings analysis. The Gas Suppliers' correction of that analysis demonstrates that there is a very low cost associated with implementation of the SVT Program. Given the benefits stated above, the Gas Suppliers assert that, contrary to the Order's conclusory statement, they have provided an adequate savings analysis to justify the implementation of the SVT Program.

V. ADDITIONAL EVIDENCE ON REHEARING

83 Ill. Admin. Code Section 200.880, Rehearing, requires a party petitioning for rehearing to provide a brief statement of proposed additional evidence, if any, and an explanation why such evidence was not previously adduced.

The Gas Suppliers request an opportunity to offer new evidence on rehearing addressing the costs and benefits of the SVT Program, demonstrating that the benefits of the SVT Program outweigh the costs. While the Gas Suppliers were able to submit evidence of the benefits of the SVT Program, as well as evidence correcting the cost estimates offered by Ameren, they did not put on a complete showing because the proceeding was a compliance proceeding. The

Commission had already considered the benefits of the SVT Program when it ordered Ameren to implement the Program in its final Order in Docket 13-0192. (Order, p. 246)

The Gas Suppliers would like to introduce additional evidence regarding the costs and benefits of the SVT Program. Moreover, with regard to costs, the Gas Suppliers would present evidence comparing Ameren's Purchased Gas Adjustment ("PGA") to actual NYMEX settlement prices for the period November 2014 through March 2015, which demonstrates that Ameren's cost analysis was inappropriately based on NYMEX future prices.

VI. CONCLUSION

As demonstrated in this Petition for Rehearing, the Commission's Order does not contain any analysis that would allow a reviewing court to conduct an informed review of the Commission's Order, as required by Section 9-201 of the Public Utilities Act. Moreover, the Commission's Order is not based on substantial evidence, another requirement of Section 9-201. Therefore, the Commission's order directing Ameren to cease implementation of the SVT Program and, instead, hold workshops constitutes reversible error.

Wherefore, for all of the above reasons, the Commission should grant rehearing, hear additional evidence regarding the costs and benefits of the SVT Program, and enter an order on rehearing directing Ameren to implement the SVT Program.

Respectfully submitted,

/s/ GERARD T. FOX

Gerard T. Fox
203 N. LaSalle Street
Suite 2100
Chicago, IL 60601
(312) 827-7986
Gerardtfox@gerardtfoxlawoffices.com

An Attorney for the Illinois Competitive Energy Association, the Retail Energy Supply Association, and Interstate Gas Supply of Illinois, Inc.

/s/ JOSEPH OLIKER

Joseph Olikar

6100 Emerald Parkway

Dublin, OH 43016

(614) 655-5069

joliker@igsenergy.com

An Attorney for Interstate Gas Supply of Illinois, Inc.

NOTICE OF FILING

Please take note that on August 5, 2015, I caused to be filed via e-docket with the Chief Clerk of the Illinois Commerce Commission, the attached Petition for Rehearing of the Illinois Competitive Energy Association, the Retail Energy Supply Association and the Retail Gas Suppliers in this proceeding.

/s/GERARD T. FOX
Gerard T. Fox

CERTIFICATE OF SERVICE

I, Gerard T. Fox, certify that I caused to be served copies of the foregoing Petition for Rehearing of the Illinois Competitive Energy Association, the Retail Energy Supply Association and the Retail Gas Suppliers upon the parties on the service list maintained on the Illinois Commerce Commission's eDocket system for Ill. C. C. Docket 14-0097 via electronic delivery on August 5, 2015.

/s/GERARD T. FOX
Gerard T. Fox