

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)

**BRIEF ON EXCEPTIONS OF
THE ILLINOIS COMPETITIVE ENERGY ASSOCIATION,
THE RETAIL ENERGY SUPPLY ASSOCIATION,
AND THE RETAIL GAS SUPPLIERS**

INDEX

I.	INTRODUCTION.....	4
II.	EXCEPTION 1: THE COMMISSION SHOULD ACCEPT THE ALJPO’S CONCLUSION TO REQUIRE AMEREN TO IMPLEMENT THE SVT PROGRAM; HOWEVER THE ALJPO SHOULD BE REVISED TO INCLUDE A TIME PERIOD FOR IMPLEMENTATION AND A REPORTING REQUIREMENT.....	4
III.	SVT PROGRAMMATIC PROPOSALS.....	6
	A. EXCEPTION 2: The ALJPO’s Conclusion Regarding the 200% Penalty for Non-Delivery Provision Should Be Clarified.....	6
	B. EXCEPTION 3: The ALJPO Should Be Revised to Suspend Ameren’s Change in Its Practices Regarding Combined Billing	7
IV.	CONCLUSION.....	9

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)

**BRIEF ON EXCEPTIONS OF
THE ILLINOIS COMPETITIVE ENERGY ASSOCIATION,
THE RETAIL ENERGY SUPPLY ASSOCIATION,
AND THE RETAIL GAS SUPPLIERS**

Pursuant to Section 200.830 of the Rules of Practice of the Illinois Commerce Commission (“Commission”) and the Administrative Law Judge’s Ruling, the Illinois Competitive Energy Association (“ICEA”), the Retail Energy Supply Association (“RESA”)¹, and the Retail Gas Suppliers (“RGS”)² submit this Brief on Exceptions in this proceeding. This proceeding resulted from the compliance 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.

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.

I. INTRODUCTION

The Administrative Law Judge's Proposed Order ("ALJPO") provides a thorough, well-thought analysis of the issues in this proceeding. Most importantly, the ALJPO rejects Ameren's attempt to re-litigate the Commission's prior decision requiring Ameren to implement an SVT Program. ICEA, RESA and RGS agree completely with the ALJPO on this issue, but for the reasons explained below, believe that the ALJPO should be revised to require an implementation deadline and a reporting requirement.

With respect to the remaining contested issues in this proceeding, ICEA, RESA and RGS note that the ALJPO did not agree with them on all of our positions; however, they will limit this Brief on Exceptions to addressing the following contested issues: the 200% penalty and the combined billing issue.

II. EXCEPTION ONE: THE COMMISSION SHOULD ACCEPT THE ALJPO'S CONCLUSION TO REQUIRE AMEREN TO IMPLEMENT THE SVT PROGRAM; HOWEVER THE ALJPO SHOULD BE REVISED TO INCLUDE A TIME PERIOD FOR IMPLEMENTATION, A REPORTING REQUIREMENT, AND A REQUIREMENT FOR WORKSHOPS.

The ALJPO provides a thorough and well-thought out analysis of the issue of continued implementation of the SVT Program, rejecting Ameren's attempt to re-litigate the issue, and finding that Ameren should implement the SVT Program. RGS, ICEA and RESA agree with the ALJPO's finding on this issue. However, the ALJPO does not set forth a deadline for implementation of the SVT Program. Considering the following statements from the ALJPO, ICEA, RESA, and RGS believe that an implementation deadline is necessary to make sure the SVT Program is completed in a timely fashion. Specifically, that period should be nine months from the date of the Commission's Order in this proceeding. Assuming a Commission order in

May, 2015, Ameren would be required to complete implementation of the SVT Program by March 2016, allowing suppliers to sign up customers for the program using the May allocation.

The following quotations from the ALJPO raise a serious question regarding both Ameren's estimates of timing for implementation and its commitment to implementing the SVT Program ordered by the Commission in Docket 13-0192:

While the Commission appreciates that Ameren now estimates that the cost of the SVT Program has increased, the Commission is troubled by Ameren's actions with regard to the Program. The SVT Program was under consideration since approximately 2008, a lengthy time, before the decision was made in Docket No. 13-0192 to proceed with the Program. While Ameren states that it is neutral on such a Program, it does not appear serious about implementing the Program ordered by the Commission.

In Docket No. 13-0192, Ameren suggested it would have the SVT Program start in November 2014. (See Docket No. 13-0192, Order at 212) That date has gone and the Program appears to be far from ready to start. Ameren has completed only Phase I of what it now claims is a two Phase Program. As noted above, Ameren has halted work on the SVT Program. Again, implementing the Commission's direction does not appear to be a priority for Ameren....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. (ALJPO, p. 32)

Moreover, for the same reasons given above for an implementation deadline, ICEA, RESA, and RGS recommend that the Commission add a reporting requirement to the ALJPO and a workshop requirement. Specifically, Ameren should be required to file a progress report every three months from the date of the Commission's Order until implementation of the SVT Program is complete. That report should include a detailed explanation of the work done during the reporting period to implement the SVT Program, costs incurred during the reporting period; and an identification of any obstacles to completing implementation by the deadline with an explanation of how Ameren proposes to address any such obstacles. In addition, Ameren should be required to conduct a workshop with all stakeholders following each report for the purpose of receiving stakeholder input regarding Ameren's compliance with the Commission's Order.

RESA recommends the following modifications to the ALJPO to accomplish their recommendations:

Add the following paragraph after the first full paragraph on page 33 of the ALJPO:

Because of the Commission's concerns regarding both Ameren's previous time estimates and Ameren's commitment to implementing the SVT Program as ordered by the Commission, the Commission directs Ameren to complete implementation of the SVT Program within 9 months from the date of this Order. This means that Alternative Gas Suppliers should be able to enroll customers in the SVT Program within 9 months from the date of this Order. Moreover, because of those same concerns, Ameren is hereby directed to file a progress report every three months from the date of the Commission's Order until implementation of the SVT Program is complete. That report should include a detailed explanation of the work done during the reporting period to implement the SVT Program, costs incurred during the reporting period; and an identification of any obstacles to completing implementation by the deadline with an explanation of how Ameren proposes to address any such obstacles. Following each report, Ameren is required to conduct a workshop with all stakeholders.

III. SVT PROGRAMMATIC PROPOSALS

A. EXCEPTION 2: THE ALJPO SHOULD BE REVISED TO CLARIFY THE 200% PENALTY FOR NON-DELIVERY PROVISION.

ICEA/RESA's position was as follows: If the Commission does not want to match the full NAESB intraday standards, at a minimum the ICC should require that this penalty may only be applied if the nominations do not match after Intraday 1 cycle with a 10 a.m. deadline, and a penalty or problem has occurred on Ameren's system as set forth in ICEA/RESA Ex. 1.2. In addition, while the Commission is not enforcing a full NAESB intraday nomination schedule at this time, Ameren should use reasonable discretion in applying the penalty to ensure situations where Ameren sales customers have a similar shortfall are not given a free pass when a supplier cannot due to pipeline cuts or problems. On this issue, the ALJPO states:

The Commission believes that Ameren's proposed 200% penalty in the fashion suggested is in excess of what should be required in situations such as this. The Commission believes that the ICEA and RESA suggested alteration that the penalty may only be applied if the nominations do not match the intraday 1 cycle with a 10 am deadline is more appropriate. The Commission will therefore adopt the penalty language as proposed by Ameren with the suggested changes of ICEA and RESA for use in the SVT Program. (ALJPO, p. 54)

It is not clear that the ICEA/RESA position is completely accepted. In addition to the condition that the penalty may only be applied if the nominations do not match the intraday 1 cycle with a 10 am deadline, the other condition was that the penalty not be applied unless a penalty or problem has occurred on Ameren's system. To accomplish this, the paragraph of the ALJPO quoted above should be modified as follows:

The Commission believes that Ameren's proposed 200% penalty in the fashion suggested is in excess of what should be required in situations such as this. The Commission believes that the ICEA and RESA suggested alteration that the penalty may only be applied if the nominations do not match the intraday 1 cycle with a 10 am deadline and if a penalty or problem has occurred on Ameren's system is more appropriate. The Commission will therefore adopt the penalty language as proposed by Ameren with the suggested changes of ICEA and RESA for use in the SVT Program. (ALJPO, p. 54)

B. Exception 3: The ALJPO Should Be Revised to Suspend Ameren's change in its Practices Regarding Combined Billing.

Previously, if an Ameren customer were buying gas supply from an AGS and electric supply from an ARES and those suppliers were billing the customer, Ameren would send the bill for gas supply to the AGS and the bill for electric supply to the ARES. Ameren changed this practice for new customers and sends only a combination bill to such customers.

ICEA and RESA demonstrated during the proceeding that Ameren's changed practice has serious market repercussions. First many AGS are also ARES and vice versa. This change means competing ARES and AGS doing supplier consolidated billing behind Ameren will have

visibility into their competitors' pricing. ICEA and RESA offered the following example: both Direct Energy and Constellation sell gas and electricity behind Ameren. Assume that both Constellation and Direct Energy bid for Customer A's electricity and natural gas contracts. Assume Customer A chooses Direct Energy for electricity and Constellation for gas. Also, assume that the customer's terms with Direct Energy require they use Direct Energy as agent for billing because the product chosen can only be broken out on a Direct Energy bill system. The customer must now also agree that Direct Energy will bill for Constellation's gas charges. This will now offer Direct Energy a glimpse into its competitor's contract with the customer, often confidential information. Assume that to receive the preferred offer from Constellation for gas that Constellation requires they be the agent for billing. Under Ameren's proposal new customers must now choose between their preferred gas offer or risk losing their preferred electricity offer. The ultimate result of Ameren's change is to reduce the options of large commercial customers in the market and expose competitive and proprietary information among competitive suppliers. The former practice should not have been changed to this more complicated version for new customers and should not be changed for current customers.

RGS agreed with ICEA and RESA regarding the provision of combined bills to customers' billing agents. One supplier should not be permitted to see the sensitive pricing information of another supplier, and the proposed billing process of AIC would allow this to happen. (RGS Ex. 2.0, p. 7)

The Commission Staff witness, Dr. Rearden, also agreed with ICEA's and RESA's concerns about Ameren's change in practice. He concluded that there does not seem to be a strong reason why each supplier cannot send its own bill. (Staff Ex. 2.0, pp. 8-9)

Ameren's change reaches beyond exposing supplier information to its competitors but also would require customers to now expose their contract pricing to entities they may want to negotiate better deals with in the future. ICEA, RESA and RGS ask the ALJPO to require Ameren to suspend this practice for new customers and not to expand it to existing customers until the issue which impacts gas and electric suppliers and customers can be fully vetted for its impact through a Commission workshop with customers, retail electric and retail gas suppliers.

This exception can be effectuated by revising the ALJPO to delete the first two paragraphs on page 65 and insert the following language:

The Commission agrees with ICEA, RESA, and RGS and notes that they have the support of the Staff witness on this issue. This is not merely a matter of convenience or inconvenience, but exposes the confidential pricing information of one supplier to another supplier. The Commission notes that it routinely grants confidential treatment to the reports of Alternative Gas Suppliers and Alternative Retail Electric Suppliers regarding their usage information and other information that may result in a competitive advantage to other suppliers. However, the Commission finds that the record in this proceeding is not fully developed. It is not clear when Ameren changed its practice, whether the practice applies to existing customers at the time of the change, or whether the practice applies only to new customers. Because this is an issue that concerns not only Rider SVT customers, but also Rider T customers, and because the Commission, as stated previously, is allowing Ameren 9 months to implement the SVT Program, the Commission directs Ameren to suspend this change in practice and not apply it to any new customers, nor existing customers if it has not done so already. The Commission encourages ICEA, RESA and RGS to address this matter in the pending gas rate case of Ameren.

IV. CONCLUSION

In conclusion, the Commission should adopt the ALJPO with the revisions proposed by ICEA, RESA and RGS in this Brief on Exceptions.

Respectfully submitted,

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.

JOSEPH OLIKER

Joseph Olikier
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 April 3, 2015, I caused to be filed via e-docket with the Chief Clerk of the Illinois Commerce Commission, the attached Brief on Exceptions 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 Brief on Exceptions 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 April 3, 2015.

/s/GERARD T. FOX
Gerard T. Fox