STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Ameren Illinois Company d/b/a Ameren Illinois	)	
Proposed general increase in Gas rates	)	Docket No. 13-0192

INITIAL BRIEF OF
THE ILLINOIS COMPETITIVE ENERGY ASSOCIATION
AND THE RETAIL ENERGY SUPPLY ASSOCIATION

I. INTRODUCTION

Pursuant to 83 Ill. Admin. Code Section 200.800 and the schedule established by the Administrative Law Judge ("ALJ"), the Illinois Competitive Energy Association ("ICEA")[1] and the Retail Energy Supply Association ("RESA")[2] submit their Initial Brief in this proceeding. For the reasons stated in this Initial Brief, the Illinois Commerce Commission ("Commission") should approve the implementation by Ameren Illinois Company ("Ameren" or "AIC") of a small volume transportation program ("SVT

[1] ICEA's members include Champion Energy, LLC; Constellation NewEnergy Inc.; Direct Energy Services, LLC; FirstEnergy Solutions Corp.; Homefield Energy; Integrys Energy Services, Inc.; MC2 Energy Services, LLC; Nordic Energy Services, LLC; NRG Retail; and Verde Energy USA Illinois, LLC. The views expressed in this filing represent the position of ICEA as an organization but may not represent the views of any particular member of ICEA.

[2] RESA's members include AEP Energy, Inc.; Champion Energy Services, LLC; ConEdison *Solutions*; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; Energetix, Inc.; GDF SUEZ Energy Resources NA, Inc.; Hess Corporation; Homefield Energy; IDT Energy, Inc.; Integrys Energy Services, Inc.; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions LLC; NRG, Inc.; PPL EnergyPlus, LLC; Stream Energy; TransCanada Power Marketing Ltd.; and TriEagle Energy, L.P.. The comments expressed in this filing represent the position of RESA as an organization but may not represent the views of any particular member of RESA.

Program" or "Choice Program"), subject to establishing specific tariff provisions for the SVT Program in an expedited proceeding subsequent to the Commission's entry of a final order in this proceeding. The SVT Program is the only issue which ICEA and RESA will be briefing in this proceeding. This Initial Brief follows the agreed-upon outline approved by the ALJ in this proceeding.

A. OVERVIEW

1. COMMISSION'S ORDER IN DOCKET 11-0282

In Ill. C. C. Docket 11-0282, AIC's last gas rate case, the Commission noted its long-standing policy favoring competition in energy markets. The Commission also noted its belief that customers will generally benefit from being given the opportunity to participate in a well-designed competitive market. The Commission further recognized that the Public Utilities Act generally supports competition in the market and that the Commission has consistently advanced this view. (Order in Docket 11-0282, p. 193)

Rejecting a proposal that the Commission wait for the filing of the report from the Commission's Office of Retail Market Development, required by Section 19-130 of the Public Utilities Act, the Commission directed its Staff to host workshops on the issue of whether an SVT Program is appropriate for the AIC service territories and that the workshop should cover, at a minimum, the following issues:

- Whether there would be any benefit to customers from such a program
- Whether the cost of implementing such a program would be reasonable
- Whether there is utility support for the competitive market
- Will there be full utility cost recovery
- A properly adjusted price-to-compare

The Commission's order stated that the workshops were open to all interested parties and that the Commission expected all parties to work in good faith during the workshop process. (*Id*., pp. 193-194)

The Commission went into further details about the workshop process, directing that it begin within 60 days of the date of the Commission's Order and that the process should be completed in six months. The Commission specifically found that a six month process would give all parties a sufficient opportunity to identify and debate any operational issues presented by an SVT Program and, as the Citizens Utility Board ("CUB") noted, to address any needed consumer protections. (*Id*., p. 194)

The Commission concluded that the goal of the workshop process was to produce a consensus. If consensus was reached, then AIC was to file a petition within 60 days of the conclusion of the workshops and include with that petition suggested SVT Program tariffs. If however, there was no consensus as to the SVT Program tariffs, then, rather than AIC filing a petition, Staff was directed to prepare a report to the Commission detailing the workshop process. (*Id*., pp. 194-195)

2. SVT PROGRAM WORKSHOPS

Eight workshops were held starting on March 8, 2012, and concluding on September 10, 2012. While there appeared to be some consensus on the operational components of an SVT Program, responses to an AIC survey of stakeholders following the conclusion of the workshops showed a lack of consensus on the proposed overall SVT Program. Accordingly, Staff was to file a report with the Commission on the workshops and the issues that prevented consensus. (Ameren Ex. 1.0, Direct Testimony of Craig Nelson, p. 6, lines 100-104) Staff submitted its report to the Commission on

January10, 2013. (ICC Staff Ex. 7.0, Direct Testimony of Dr. David Rearden, p. 5, lines 78-80)

3. AMEREN SVT PROGRAM

While AIC did not file a proposed SVT Program with its initial filing in this proceeding, AIC did state that it stands ready to implement an SVT Program if the Commission so directs and approves recovery of related costs. (Ameren Ex. 1.0, p. 6, lines 111-112) At the request of the Commission Staff, AIC filed the Supplemental Direct Testimony of Ms. Vonda Seckler (Ameren Exhibit 13.0), who sponsored Ameren Exhibits 13.1 and 13.2. Ameren Exhibit 13.1 is a copy of the last version of draft tariffs circulated to the SVT workshop participants, while Ameren Exhibit 13.2 is an updated version, which includes refinements AIC added after the conclusion of the SVT workshop, including changes AIC believed to be necessary to provide a successful SVT Program. (Ameren Ex. 13.0, p. 2, lines 38-41)

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VIII. SVT PROGRAM--THE COMMISSION SHOULD APPROVE THE IMPLEMENTATION OF AN SVT PROGRAM BY AMEREN SUBJECT TO WORKING OUT THE DETAILS OF TARIFF SHEETS IN A SUBSEQUENT PROCEEDING.

A. RESOLVED ISSUES

B. CONTESTED ISSUES

1. APPROVAL OF SVT

a. ICEA/RESA POSITION

ICEA and RESA sponsored two witnesses in support of an SVT Program: Mr. Kevin Wright and Mr. Stephen E. Puican. Mr. Wright is the President of the Illinois Competitive Energy Association. Mr. Wright has over 25 years of Illinois state government experience and has held numerous senior-level administrative, legislative,

and policy positions under two governors and one secretary of state, including serving as the Chairman of the Commission from September 2002 until September 2003 and serving as a Commissioner until February 2007. (ICEA/RESA Ex. 1.0, pp. 1-2)

Mr. Wright addressed why it would be good policy for the Commission to direct AIC to adopt an SVT Program. Mr. Wright testified that recent events in the competitive retail electric market and increases in gas supply have changed the retail gas market to the point where AIC customers would see benefits from multiple supplier offers. Mr. Wright pointed out that residential and small non-residential customers in northern Illinois are offered Choice Programs by Nicor Gas Company ("Nicor Gas"), The Peoples Gas Light and Coke Company ("Peoples Gas"), and North Shore Gas Company ("North Shore"). The time is right to provide consumers gas choice in the AIC service territory. Customers in AIC's service territory should be given the same opportunity to benefit from the choices and rate offerings that flow from a retail gas choice program as their northern Illinois counterparts. (*Id*., p. 5)

Mr. Wright enumerated the advantages, from a public policy perspective of having an SVT Program. Many members of ICEA and RESA are both electric and natural gas competitive suppliers active not only in Illinois, but throughout the United States and Canada. As such, suppliers who currently offer electric service in AIC's service territory may be able to offer "multi-product" discounts for natural gas in combination with electricity offerings. In addition, the consumer education that has been spearheaded by the Commission, as well as similar efforts conducted by AIC in the retail electric market, creates an existing customer base of knowledge and awareness to build upon for the development of a well-functioning natural gas Choice Program. (*Id*., p. 6)

An SVT Program will result in greater and more diverse product and service innovation that may include multiple price options as a result of competition. Unlike utilities, AGS have the ability to leverage economies of scale between customers throughout the Midwest by utilizing storage assets in the region along with local production contracts and spot market purchases. ICEA and RESA maintain that AGS can not only offer customers savings but other value-added services that include the ability to set a fixed price for a set number of years or more innovative service offerings that could fuel a natural gas vehicle or provide free gas with installation of a fuel efficient furnace. (*Id*., pp. 6-7)

Unlike the utility's monopoly market, AGS will have to compete against other AGS, as well as the utility itself. Failure to provide satisfactory offers and follow up with satisfactory service to customers would result in AGS losing customers to other AGS or those customers switching back to the utility for their supply. (*Id*., p. 7)

Mr. Wright offered the following example of a multiple price option. He noted that an Illinois gas utility, such as AIC, is constrained to offering what is basically a variable price product, since the Purchased Gas Adjustment ("PGA") changes each month, sometimes substantially, so customers are not afforded any fixed-price protection. In contrast, an AGS is not constrained in a similar manner. For example, in addition to a variable price product, an AGS can offer a fixed price product or a fixed bill product for a mutually agreed upon duration. (*Id*.)

He explained further that a fixed price product would be one in which the AGS establishes a fixed price per therm usually for a fixed period of time. For example, an AGS could offer a fixed price of 50 cents per therm for a term of one year. While the

overall bill would change due to fluctuations in usage, the price per therm would not change. This would provide the customer with more stability in his or her bill and, in turn, the ability to budget more accurately. Moreover, the term would not necessarily be limited to one year. An AGS can offer a multi-year product to customers. (*Id*., pp. 7-8)

Mr. Wright also explained fixed bill products. A fixed bill product would be one in which the AGS establishes a fixed bill per month usually for a fixed period of time. For example, an AGS could offer a fixed price of $50 per month for a term of one year, regardless of the customer's usage. Thus, the overall bill would not change due to fluctuations in usage, nor to changes in the commodity price of natural gas. A fixed bill product would provide even more stability to the customer and his or her ability to budget accurately. Again, the term would not necessarily be limited to one year. An AGS can offer a multi-year fixed bill product to customers. (*Id*., p.8)

With respect to variable rate products, Mr. Wright explained that an AGS' variable rate product would not simply be the same as a gas utility's PGA. This is because AGSs are not constrained by the formula established by rule for gas utilities. For example, an AGS could offer a guaranteed savings variable rate plan, one in which the customer is guaranteed a percentage discount off the utility's variable rate. As another example of a variable price product, an AGS could offer a seasonable product which allows customers to lock in a price per therm for the winter period, but have variable prices, floating with the market, in the non-winter period. (*Id*., p. 8)

In addition, Mr. Wright gave examples of multiple product offers. He explained that an AGS can "package" its services with other products, such as demand response or energy efficiency products. For example, an AGS could offer installation of energy

efficiency appliances, such as energy efficient furnaces. Another example is that an AGS can offer a "green energy" product. An example of a green energy product is Integrys Energy Services' Ecovations program in Ohio which features a renewable gas offer in which some of the carbon dioxide emitted by burning natural gas is offset through a blend of renewable gas and carbon offsets. (*Id.*, pp. 8-9)

Mr. Wright noted the interest in offerings from AGSs in the northern part of Illinois, where SVT Programs are in existence. According to the Commission's most recent (as of the date of Mr. Wright's Direct Testimony) Consumer Services Division annual report (for calendar 2011 released on June 11, 2012), Nicor Gas reported that approximately 203,760 residential and 32,700 non-residential customers chose AGS through its Customer Select Program during 2011. Peoples Gas reported that approximately 67,900 residential and 10,500 non-residential customers chose AGS through its Choices for You Program. North Shore reported that approximately 13,500 residential and 1,200 non-residential customers are supplied by AGS. Mr. Wright testified that he believes this number is constrained because while these gas utilities offer a consolidated billing component as part of their Choice Programs, they do not include a purchase of receivables component. Nevertheless, these statistics show that there is considerable interest on the part of residential and small non-residential customers in having the ability to choose from whom to purchase their natural gas supply. (*Id.*, p. 9)

Mr. Wright noted that the Illinois retail electric market has experienced substantial switching from electric utilities to Alternative Retail Electric Suppliers ("ARES"). According to the most recent information available on the Commission's website at the time of his Direct Testimony, as of April 30, 2013, there were over

550,000 residential customers in AIC's service territory purchasing their electricity through Choice Programs. Mr. Wright concluded that AIC customers should be given the opportunity to choose their natural gas supplier similar to the opportunities that they have enjoyed for customer choice in the electric market. (*Id*., pp. 9-10)

Mr. Puican testified that an SVT program would be beneficial to Ameren's customers. He stated that introducing a market based approach for pricing natural gas commodity will result in lower prices and great control of prices for customers than the current PGA mechanism. While the PGA is a reasonable approach to pricing gas within the context of a monopoly provider of natural gas, such as AIC, in that it provides consumer protections against potential abuses of that monopoly status, there is no reason to continue with that model as the only option when it has been demonstrated that there is a highly functional competitive retail natural market available to provide natural gas commodity service. (ICEA/RESA Ex. 2.0, pp. 3-4)

Mr. Puican testified that the availability of multiple suppliers in a competitive natural gas market will provide the market discipline to ensure customers are protected from abuses in pricing and terms of service should they choose a market-based product in lieu of a regulated PGA. While the PGA provides consumer protection by ensuring dollar for dollar recovery of prudent gas purchasing costs with no profit, it provides little incentive for the utility to minimize its gas purchasing costs. The incentive for the utility is to minimize its risk of any disallowance in the Commission's after the fact PGA review. As long as the utility can demonstrate its purchasing practices were not unreasonable, the utility will recover its costs. Thus, bad decisions are penalized and good decisions are unrewarded. This skewed incentive structure provides the utility an

incentive to make only the most conservative gas purchasing decisions. In effect, it rewards risk minimization and discourages innovation. Mr. Puican concluded that an open market provides a more appropriate incentive structure for ensuring that consumers are being provided the best pricing options available. (*Id*., p. 4)

Mr. Puican testified that the experience in Ohio demonstrates that competition can result in lower natural gas commodity prices. Ohio experienced a significant drop in commodity prices when the Gas Cost Recovery ("GCR") mechanism, Ohio's equivalent to the PGA, was replaced with a market based retail auction for three of Ohio's natural gas utilities. Mr. Puican stated that while he understands that an auction is not being proposed in Illinois at this time, Ohio's experience is relevant in demonstrating the inefficiencies inherent in PGA type mechanisms. Mr. Puican offered a table which demonstrated that replacing Ohio's GCR with a market based retail auction has resulted in significant decreases in natural gas commodity prices. (*Id*., pp. 4-5)

Mr. Puican testified that he reviewed the draft SVT Program outline and proposed tariffs and that it is a very well designed structure for an SVT program, addressing all the major issues involved in implementing such a significant change in how customers purchase natural gas.[3]

b. RGS POSITION

The Retail Gas Suppliers, Interstate Gas Supply of Illinois, Inc. and Dominion Retail, Inc., ("RGS") sponsored the Direct and Rebuttal Testimony of Mr. James Crist, President of the Luman Group, Inc., a consulting firm focused on regulatory and market

[3] While Mr. Puican offered recommended changes to a few areas of the SVT Program to enhance the program from a customer and supplier perspective, ICEA and RESA have agreed with the Commission Staff and AIC that the specific tariff provisions for the SVT Program should be finalized in a proceeding subsequent to the Commission's Order in this proceeding.

issues. (RGS Ex. 1.0, p. 1) Mr. Crist has presented expert testimony in numerous cases involving gas and electric utilities before the Commission, including Ameren's last gas rate case, in which Mr. Crist recommended that the Commission order a workshop process to consider an SVT Program for Ameren. (*Id*., pp. 4-5)

Mr. Crist testified in support of the SVT Program reflected in AIC Ex. 13.1, sponsored by Ms. Seckler. He stated that that program will be a good start to a Choice Program which will create a competitive gas market for residential and small commercial customers in the Ameren service territory. (*Id*., p. 5) He noted that Ameren's residential and small commercial customers are the last group of customers of significant size in Illinois that cannot yet exercise choice of gas suppliers. All other gas customers in Illinois of Peoples Gas, North Shore, and Nicor Gas and all the electric customers of Ameren and Commonwealth Edison Company have the opportunity to choose their suppliers. He concluded that the Commission should direct Ameren to begin its Choice Program for gas customers. (*Id*., pp. 8-9)

Mr. Crist participated in the workshops ordered by the Commission in Ill. C. C. Docket 11-0282, which were open to all interested stakeholders. He stated that there was good participation in the workshops by a variety of stakeholders and that operational issues, including consumer protections, were identified as debated. (*Id*., pp. 9-10) He concluded that the draft SVT tariffs which resulted from the workshops would enable a Choice Program that would meet the needs of Ameren, marketers and customers. (*Id.*, p. 11) Mr. Crist also reviewed AIC Ex. 13.2, the revised version of the SVT tariffs sponsored by Ms. Seckler and stated that while the revisions reflected in that exhibit may allow for a workable SVT program, there may be additional changes that would be

merited. (*Id*.) However, like ICEA and RESA, RGS agreed that while the Commission should approve an SVT Program in this proceeding and direct Ameren to file SVT tariffs, if the Commission does not want to resolve specific tariff issues in this proceeding, then the details of those tariffs could be worked out in the proceeding subsequent to the Commission's final order in this proceeding, as recommended by the Commission Staff and Ameren. (RGS Ex. 2.0, p. 14)

Mr. Crist also recommended that the cost of implementing the SVT Program be recovered from all potential customers who may benefit from the Program, as recommended by AIC. Mr. Crist stated that he agreed with Ameren's approach because all system customers are eligible to participate in choice programs and have an opportunity to obtain supply from an AGS. He noted that Nicor currently recovers all of the costs of its choice program, Customer Select, from all ratepayers who have the option to participate in that program. (RGS Ex. 1.0, pp. 11-12)

c. POSITION OF COMMISSION STAFF

The Commission Staff's primary witness on the subject of the SVT Program was Dr. David Rearden, Senior Economist in the Policy Program. Dr. Rearden recommended that the Commission limit its determination in this docket to whether AIC should begin implementing an SVT Program and order the Company to submit draft tariffs for Commission review in a future proceeding. (ICC Staff Ex. 7.0, p. 7) Dr. Rearden testified that Staff does not oppose an SVT Program for AIC, stating that the Commission has already indicated that it favors retail competition and quoting from the Commission's

final order in Ill. C. C. Docket 11-0282. However, again, Staff recommends that the Commission review and approve specific SVT tariffs in a future proceeding. (*Id.*, p. 9)[4]

In his Rebuttal Testimony (ICC Staff Ex. 16.0), Dr. Rearden reaffirmed that he continued to advocate that the Commission should litigate the SVT tariffs in a separate docket after concluding this case. He made clear, however, that he does not oppose the Commission, in the instant proceeding, ordering an SVT Program for Ameren, citing the Commission's order in Ameren's last gas rate case, in which the Commission found that customers would benefit from a well-designed SVT Program. He concluded that based on the work that interested parties have done in the workshops and in this proceeding, and the work that can take place in the separate docket to consider just the SVT tariffs, the resulting tariffs will be well designed. (Staff Ex. 16.0, pp. 1-2)

d. POSITION OF AMEREN

The main witnesses on the subject of the SVT Program for Ameren were Mr. Craig Nelson, Senior Vice President of Regulatory Affairs and Financial Services, and Ms. Vonda Seckler, Managing Executive of Gas Supply. In his Direct Testimony (Ameren Ex. 1.0), Mr. Nelson testified briefly regarding the workshop process and stated that Ameren's position with regard to an SVT Program was that it is ready to implement small volume transport service if the Commission so directs and approves recovery of related costs. (AIC Ex. 1.0, p. 6) Mr. Nelson did not sponsor SVT tariffs as part of his Direct Testimony; however, at the request of the Commission Staff, Ms. Seckler, in her Supplemental Direct Testimony, sponsored Ameren Exhibits 13.1 (a copy of the last

[4] Dr. Rearden also offered proposed changes to the SVT Program in his direct testimony (pages 9-13) in the event that the Commission wants the SVT tariffs litigated in this proceeding, however, as previously stated, all parties taking a position on the SVT Program have stated that specific SVT tariffs should be litigated in a proceeding subsequent to the Commission's final order in this proceeding.

version of draft tariffs circulated to the workshop participants) and 13.2 (an updated version including refinements AIC added after the conclusion of the SVT workshops). (AIC Ex. 13.0, p. 2) Ms. Seckler confirmed Mr. Nelson's position that Ameren is neutral and will implement an SVT Program if the Commission so directs and approves recovery of related costs. (*Id*.)

In his Rebuttal Testimony, Mr. Nelson agreed with the position of Dr. Rearden, stating that AIC sees value in addressing the operational issues and tariff design issues, and other related issues associated with an SVT Program, in another proceeding.[5] Mr. Nelson concluded that, assuming the Commission directs Ameren to implement an SVT Program, Ameren is prepared to file a petition, supporting testimony and exhibits, including tariffs in support of the SVT Program, within 45 days after the date of the Commission's order in this proceeding. (Ameren Ex. 16.0, p. 14) He also testified that that proceeding should be completed in time to implement the SVT Program by the fourth quarter of 2014. (*Id*., p. 15)

e. POSITION OF CUB

CUB sponsored the Direct and Rebuttal Testimony of Mr. Martin Cohen. While agreeing that the detailed tariffs for an SVT Program should be worked out in a subsequent proceeding, Mr. Cohen takes the position that the Commission should not approve the SVT Program until it determines that the benefits of the program outweigh the costs, that the Purchase of Receivables component of the SVT Program is reasonable, and that consumer protections are added.

[5] Ms. Seckler, in her Rebuttal Testimony and Surrebuttal Testimony, addressed specific proposals to revise the SVT tariffs. However, as stated previously, the parties have agreed to work out specific tariff provisions for the SVT Program in the proceeding that will commence when Ameren files SVT tariffs within 45 days from the date of the Commission's final order in this proceeding.

Mr. Cohen states that he sees no evidence of quantifiable benefits to offset the "significant costs" of SVT implementation. (CUB Ex. 2.0, p. 1) He identifies those costs as $10.6 million. He concludes that the Commission should only approve implementation of an SVT Program if the evidence demonstrates that the annual benefits to customers will exceed the annual costs paid by customers in rates. (*Id*., p. 2)

With respect to the significant costs of the SVT Program, ICEA/RESA witness Mr. Puican calculated the annual cost of the SVT Program, as well as the annual cost per therm, assuming total costs of $10.6 million, based on information provided by Ameren. The $10.6 million updated cost of the SVT Program translates to an annual amount of $2.12 million. Based on Ameren's project annual consumption, the $2.12 million in costs translates to $0.00292 per therm. (ICEA/RESA Ex. 4.0, p. 9)

Mr. Puican testified that over time the benefits of an SVT Program should easily exceed its costs. He sponsored a table showing a comparison of the historical differences between the NYMEX natural gas settlement price and Ohio's Gas Cost Recovery rate and the difference between the NYMEX and the current auction based Retail Price Adjustments for three Ohio utilities, expressed in dollars per therm. The resulting differences were $0.1845 for Dominion East Ohio, $0.1272 for Vectren Energy Delivery of Ohio, and $0.1718 for Columbia Gas Ohio. Mr. Puican concluded that comparing those historical differences with the $0.00292 per therm incremental costs of the SVT Program demonstrates a significant likelihood that the benefits of the SVT Program will exceed the costs. Mr. Puican stated that while the experience in Ohio is not directly transferrable to Ameren, the order of the magnitude of the difference between the costs

and the benefits illustrates a high probability that Ameren's customers will benefit from the implementation of the SVT Program. (*Id*., p. 10)

Apparently, part of Mr. Cohen's skepticism about the ability of gas suppliers to offer lower prices than those of public utilities is because, as he notes, gas utilities, like Ameren, execute gas procurement strategies designed to provide the lowest possible price to customers consistent with sufficiency, reliability and mitigation of price volatility. (CUB Ex. 1.0, p. 7) However, Mr. Puican pointed to his historical analysis that illustrates that competitive suppliers can offer prices lower than utilities. (ICEA/RESA Ex. 4.0, p. 11, referring to ICEA/RESA Ex. 2.0, pp. 4-5) He noted that the ability of competitive suppliers to offer prices lower than utilities is not due to lack of concern or effort by gas utilities, but rather to the skewed incentive structure inherent in the PGA process. As stated previously, the PGA incentive structure discourages risk taking by retroactively penalizing decisions that don't work out while good decisions are unrewarded. That is, in making their gas supply decisions, utilities must always consider how such decisions will be evaluated in the retroactive review process. Consequently, utilities do not have the same financial incentives as competitive suppliers to minimize gas supply costs. (ICEA/RESA Ex. 4.0, p. 11)

Mr. Crist, the expert witness for RGS, also responded to Mr. Cohen's questioning of whether SVT programs provide benefits. As Mr. Crist points out, there are many states with choice programs with hundreds of thousands of participating customers, which provides very solid evidence that choice programs can produce customer benefits. For example, in Ohio, three of the four major gas distribution utilities have seen such growth in their choice programs that they have eliminated traditional reconcilable default

sales service in lieu of market-provided service. (RGS Ex. 2.0, p. 5) Mr. Crist also pointed to the experience in Illinois, specifically the Customer Select Program offered by Nicor Gas, noting that the Commission approved that program, not based on quantitative analysis, but on relevant factors such as consumer preferences and customer participation. Mr. Crist concluded that a well-developed SVT Program can provide more supplier entries into the market and that will provide benefits for customers. (*Id*., p. 6)

The many benefits of choice or SVT programs were addressed previously. The Commission should find that the benefits of an SVT Program in Ameren's service territory justify the approval of that program in its final order in this proceeding. Again, detailed tariffs and operation procedures can be worked out in the proceeding subsequent to the Commission's final order in this docket.

2. Purchase of Receivables

In his Rebuttal Testimony, Mr. Cohen states that the Commission should apply particular scrutiny to the POR component of the SVT tariff. However, he does so without addressing any of the features of the POR component of Ameren's SVT tariff. Instead, he says simply that the Commission examine the POR component of Ameren's SVT tariff in light of its decision in Docket 12-0569, in which the Commission denied a Purchase of Receivables with Consolidated Billing ("PORCB") Rider which Nicor Gas sought for its Customer Select Program. (CUB Ex. 2.0, p. 4)

In his Direct Testimony, Mr. Wright pointed out that PORCB is a necessary component of a workable SVT Program and that it provides crucial advantages from a public policy perspective. First, PORCB allows for a single collection point for a customer who receives a single bill. AIC is better suited for collections, especially

because it has greater recourse in the event that the customer does not pay, and can do so at a lower cost. (ICEA/RESA Ex. 1.0, p. 11)

Mr. Wright also stated that, as a vehicle through which AGS' receivables can be purchased, PORCB programs promote retail competition by enabling competitive suppliers to offer service to all residential and small commercial customers regardless of their income level or the size of their load. This results in a broader segment of customers enjoying the benefits of retail competition, including lower prices and the ability to select from multiple energy options. Thus, PORCB programs facilitate market entry by competitive suppliers, which, in turn, creates a greater choice of rate and service options for customers and, in particular, residential customers. (*Id*.)

Mr. Wright testified that a PORCB component of the SVT Program will benefit customers, with the major benefit being a more competitive natural gas market which, in turn, will result in greater price competition and more product offerings. In addition, he stated that a PORCB component will provide the following other benefits:

- Reduced customer confusion regarding collections
- Leveraging existing systems, thereby reducing overall costs
- Continuity of message and consistency in the treatment of receivables
- Expanded access to the competitive market for higher risk customers; and
- Efficient utilization of effective recovery tools. (*Id*., pp. 11-12)

With respect to Mr. Cohen's reference to the Commission's Order in Docket 12-0569, ICEA and RESA note that two of the Commission's major concerns regarding the PORCB proposal in that case are not present in Ameren's proposal in this case. First, unlike the Nicor Gas proposal, the POR component of Ameren's SVT Program does not

include provision for recovery of intangible costs. (Order in Docket 12-0569, p. 19) Second, unlike the Nicor Gas proposal, the Discount Rate charged to suppliers in Ameren's SVT Program is tied to the specific uncollectible expense experience of Ameren customers. (*Id*., p. 24)

3. Consumer Protections

In his Rebuttal Testimony, Mr. Cohen states that to address the problems seen in other Illinois retail gas marketing programs, three specific consumer protections should be ordered by the Commission if it decides to go forward with implementation of an SVT Program for Ameren:

- Customers shall be absolved from paying any termination fee if, prior to the due date of their first bill, they notify the supplier that they are terminating the contract.
- When a customer has accepted service from a supplier after solicitation by a door-to-door salesperson, there shall be no termination fees assessed if the customer terminates during the first six billing cycles.
- If a supplier's marketing materials include a price comparison of the supplier rate and the gas utility rate, the depiction of such comparison shall display at least three years of data in no greater than quarterly increments and shall also display the supplier's offered price for the same or equivalent product(s) or service(s) for each of the same increments.

In support of his three proposals, Mr. Cohen states simply that they would "address the well-documented problems of misleading marketing seen in Northern Illinois gas choice programs, which were described in my Direct Testimony". (CUB Ex. 2.0, pp. 9-10)

There are a number of problems with Mr. Cohen's proposals. First, they are untimely. They should have been brought up during the SVT Program workshops that were held after the Commission's Order in Docket 12-0282. Second, Mr. Cohen's proposals ignore the fact that there are significant consumer protections contained in the Public Utilities Act. Third, the problems described in Mr. Cohen's Direct Testimony are stale and predate the consumer protections added to the Public Utilities Act.

First, CUB's decision to wait until Mr. Cohen's Rebuttal Testimony to offer consumer protections appears to be based on the misunderstanding that consumer protections were not to be discussed during the SVT workshops. In his Rebuttal Testimony, Mr. Wright demonstrated that the notion of Mr. Cohen that the issue of consumer protections was not considered in the workshops, was incorrect. While CUB's response to ICEA/RESA Data Request No. 1.02 states that none of the agendas for the workshops included the topic of consumer protections, in fact, the first item of the Staff's agenda for the first workshop was: "What consumer protections are needed?". (RESA Ex. 3.0, p. 7) In this regard, Mr. Wright noted that CUB's responses to ICEA/RESA Data Requests Nos. 2.01 and 2.02 indicate that the only representative of CUB at the workshops was one of CUB's attorneys who called into two of the four workshops but is not certain about the other two workshops, nor about the four SVT webinars conducted by AIC in August and September 2012. (RESA Ex. 3.0, p. 8) Mr. Crist, on behalf of RGS, testified, at length, about CUB's lack of participation in the workshops. He testified that consumer protection issues were discussed several times during the workshops. Mr. Crist concluded that Mr. Cohen's testimony on issues that could have been discussed at the workshops should be disregarded. (RGS Ex. 2.0, pp. 1-5)

Second, Mr. Cohen seems also to be under the misunderstanding that the tariffs of Illinois gas utilities are the only source of consumer protections. (CUB Ex. 1.0, p. 6) However, as pointed out by Mr. Wright, while it is true that some Illinois gas utilities have standards of conduct relating to their Choice Programs in their tariffs, those tariffs are not the only source of consumer protections. In Illinois, protections for residential and small-volume non-residential natural gas customers are set forth in Section 19-115 of the Public Utilities Act. These protections are extensive and include important provisions relating to matters such as customer switching, customer complaints, marketing, early termination fees, and rescission rights. (ICEA/RESA Ex. 3.0, p. 6) Mr. Puican also addressed consumer protections. He stated that unlike many states, including Ohio, where consumer protections are by rule, Illinois has placed such protections into statute, Section 19-115 of the Public Utilities Act, and the Commission cannot waive any requirements or lessen these protections. Mr. Puican made a comparison of the Ohio regulations and the Illinois statutory provisions and found that the same issues are covered by both. He concluded that, in no case, did he find that Illinois is in any way inadequate on any issues for ensuring appropriate consumer protections. (ICEA/RESA Ex. 4.0, pp. 6-7)

Third, it is also important to recognize that these consumer protections were added to the Public Utilities Act after the Commission proceedings mentioned by Mr. Cohen in his direct testimony-- CUB v. Santanna (dockets 02-0425 and 02-0441) and U.S. Energy Savings (now doing business as Just Energy) (Docket 08-0175). Moreover, with respect to the latest of these three dockets—Docket 08-0175, the complaint against Just Energy—Mr. Wright noted that the Complaint in Docket 08-0175 states that CUB

received over 1500 informal complaints against Just Energy from January 2007 through March 3, 2008, the date of the Complaint, a period of approximately 14 months. In contrast, CUB's response to ICEA/RESA Data Request No. 2.06 indicates that from January 2013 through the date of the response, July 25, 2013, a period of almost 7 months, CUB has received only 16 informal complaints/inquiries regarding Just Energy. (ICEA/RESA Ex. 3.0, p. 7) In fact, the record shows that during calendar year 2013—through August 19, 2013—CUB has received the following total number of inquiries and complaints against all alternative gas suppliers: 20 relating to Nicor Gas' Customer Select Program, 16 relating to The Peoples Gas Light and Coke Company's Choices for You Program, and 0 relating to North Shore Gas Company's Choices for You Program. (RESA Ex. 7.0, last page) Thus, Mr. Cohen's proposals appear to be a solution in search of a problem.

4.**DISCOUNT RATE FOR SVT AND UCB/POR CUSTOMERS**[6]

5.RIDER GTA

6.RIDER GSIC

7.RIDER PGA

CONCLUSION

In conclusion, the Commission, in its final order in this proceeding, should approve implementation of an SVT Program in Ameren's service territory and direct Ameren to file tariffs within 45 days after the Commission's final order to implement that program. The Commission should also direct that the proceeding resulting from that

[6] With respect to Sections VIII (B) (4-7), ICEA's and RESA's understanding was that these would be addressed in the proceeding subsequent to the Commission's final order in this proceeding. However, ICEA and RESA reserve the right to address other parties' positions in their Reply Brief.

tariff filing will be conducted in a timely fashion that allows the SVT Program to be implemented by the fourth quarter of 2014.

CUB's opposition to approval of an SVT Program, including a POR component, is without merit and should be rejected. Similarly, CUB's proposed consumer protections should be rejected for the reasons set forth in this Initial Brief.

Respectfully submitted,
Illinois Competitive Energy Association
Retail Energy Supply Association

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NOTICE OF FILING

Please take note that on September 20, 2013, I caused to be filed via e-docket with the Chief Clerk of the Illinois Commerce Commission, the attached Initial Brief of the Illinois Competitive Energy Association and the Retail Energy Supply Association in this proceeding.

Dated: September 20, 2013

/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 Initial Brief of the Illinois Competitive Energy Association and the Retail Energy Supply Association upon the parties on the service list maintained on the Illinois Commerce Commission's eDocket system for Ill. C. C. Docket 13-0192 via electronic delivery on September 20, 2013.

/s/ GERARD T. FOX
Gerard T. Fox