STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission On Its Own Motion	)	
	)	Docket No. 18-0375
Proceeding under Section 2-202(i-5) of the Public Utilities Act	)	

DRAFT PROPOSED ORDER OF THE
RETAIL ENERGY SUPPLY ASSOCIATION

By the Commission:

I. Procedural History

As part of the Future Energy Jobs Act, PA 99-906, the General Assembly amended Section 2-202 of the Illinois Public Utilities Act to add new subsection (i-5). In summary, subsection (i-5) provides that the Illinois Commerce Commission ("Commission", "ICC", or "agency") may assess electric and gas utilities for any deficit the ICC experiences between expected deposits to the Public Utility Fund (PUF) and expected agency expenditures for the current fiscal year. It also directs the Commission to determine whether other regulated entities, including water and sewer utilities, telecommunications carriers, alternative retail electric suppliers (ARES), and alternative gas suppliers (AGS), should be required to contribute to such assessments or pay fees for the same purpose.

On February 20, 2018, the Commission initiated this proceeding to resolve the latter issue: whether water and sewer utilities, ARES, AGS, and telecommunications carriers should be required to pay the same type of assessments or fees paid by gas and electric utilities. Also on February 20, 2018, Staff circulated its Proposal to extend assessments to other regulated entities to all electric, gas, water and sewer utilities, telecommunications carriers, ARES and AGS under the jurisdiction of the Commission, and filed it on e-docket. The Staff Proposal, discussed in greater detail below will, if adopted, require utilities, AGS, ARES and telecommunications carriers to contribute to Section 2-202(i-5) supplemental assessments..

A number of entities filed Petitions for Leave to Intervene, including the Illinois Competitive Energy Association (ICEA), the Retail Energy Supply Association (RESA), the Illinois Bell Telephone Company (AT&T Illinois), the Mt. Carmel Public Utility Co. (Mt. Carmel), ExteNet Systems, Inc. (ExteNet), the Cable Television and Communications Association of Illinois (CTC), Aqua Illinois, Inc. (Aqua), Ameren Illinois Company (AIC), Gallatin River Communications L.L.C. (Gallatin), Illinois Energy, USA, LLC (IE), North Shore Gas Company (North Shore), and The Peoples Gas Light and

Coke Company (PGL). On March 13, 2018, a prehearing conference was convened before a duly-appointed Administrative Law Judge (ALJ) and a procedural schedule set. Pursuant to that schedule, Staff filed, on March 21, 2018, the Verified Statement of Rochelle M. Phipps, describing the Staff Proposal in greater detail. On March 27, 2018, a Staff-led workshop was convened, with a number of interested entities participating.

On April 5, 2018, RESA, CTC, AIC, and ICEA submitted Initial Comments (ExteNet submitted its Comments on March 6, 2018). On April 9, 2018, Staff, RESA and IE submitted Reply Comments. On April 11, 2018, a hearing was held, during which the parties agreed to submit, on or about April 27, 2018, Draft Proposed Orders embodying the position each wanted the ALJ to adopt, or appropriate ordering language, for the ALJ's consideration, with the ALJ serving her Proposed Order on the parties on May 3 or 4, 2018. Staff witness Rochelle Phipps' Verified Statement, having been marked for identification as Staff Exhibit 1.0, was admitted into evidence as well. Parties submitted their Draft Proposed Orders, or ordering language, on April 27, 2018. The ALJ circulated her Proposed Order on May [3]/[4], 2018. Parties filed Brief on Exceptions on May 11, 2018, previously having waived Replies to Briefs on Exceptions.

II. Amendments to Section 2-202

As noted, PA 99-0906 amended Section 2-202 of the Act to add subsection (i-5), which provides, in its entirety, that:

> During the month of October of each year the Commission shall:
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> > (1) determine the amount of all moneys expected to be deposited in the Public Utility Fund during the current fiscal year, plus the balance, if any, in that fund at the beginning of that year;
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> > (2) determine the total of all moneys expected to be expended or obligated against appropriations made from the Public Utility Fund during the current fiscal year; and
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> > (3) determine the amount, if any, by which the amount determined in paragraph (2) exceeds the amount determined as provided in paragraph (1).
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> If the amount determined as provided in paragraph (3) of this subsection (i-5) results in a deficit, the Commission may assess electric utilities and gas utilities for the difference between the amount appropriated for the ordinary and contingent expenses of the Commission and the amount derived under paragraph (1) of this subsection (i-5). Such proceeds shall be deposited in the Public Utility Fund in the State treasury. The Commission shall apportion that difference among those public utilities on the basis of each utility's share of the total intrastate gross revenues of the utilities subject to this subsection (i-5). Payments required under this

subsection (i-5) shall be made in the time and manner directed by the Commission. The Commission shall permit utilities to recover Illinois Commerce Commission assessments effective pursuant to this subsection through an automatic adjustment mechanism that is incorporated into an existing tariff that recovers costs associated with this Section, or through a supplemental customer charge.

Within 6 months after the first time assessments are made under this subsection (i-5), the Commission shall initiate a docketed proceeding in which it shall consider, in addition to assessments from electric and gas utilities subject to this subsection, the raising of assessments from, or the payment of fees by, water and sewer utilities, entities possessing certificates of service authority as alternative retail electric suppliers under Section 16-115 of this Act, entities possessing certificates of service authority as alternative gas suppliers under Section 19-110 of this Act, and telecommunications carriers providing local exchange telecommunications service or interexchange telecommunications service under sections 13-204 or 13-205 of this Act. The amounts so determined shall be based on the costs to the agency of the exercise of its regulatory and supervisory functions with regard to the different industries and service providers subject to the proceeding. No less often than every 3 years after the end of a proceeding under this subsection (i-5), the Commission shall initiate another proceeding for that purpose.

The Commission may use this apportionment method until the docketed proceeding in which the Commission considers the raising of assessments from other entities subject to its jurisdiction under this Act has concluded. No credit memoranda shall be issued pursuant to subsection (i) if the amount determined as provided in paragraph (3) of this subsection (i-5) results in a deficit.

III. Positions of the Parties and Staff

A. Staff

1. Staff Allocation Proposal

Staff observes that the amounts of any assessments and fees under Section 2-202(i-5) are to be "based on the costs to the agency of the exercise of its regulatory and supervisory functions with regard to the different industries and service providers[.]" Staff states that, to determine the costs attributable to each industry, it reviewed docketed proceedings before the Commission during the 2013-2017 period, and estimated the agency resources required to conclude these proceedings. Staff explains that, in reaching this estimate, it considered various factors, including the number of

cases filed under specific sections of the Act; the scope of review and analysis required for each case type; the number of Commission employees involved in a particular case type from the filing date until either a final order is issued or a final compliance filing is made, whichever occurs later; whether such cases are typically contested; and, the activities typically undertaken for each case type (e.g., workshops, testimony, briefing, oral argument).

Staff states that its review yields the following allocations:

Weight	Percentage of Total Case Work by Industry 2013-2017				Total Cases
	Case Type	Utilities	Telecom Carriers	ARES/ AGS	
30.00%	Traditional Rate Case	100.00%			26
20.00%	Reconciliations	100.00%			287
10.00%	Other (Incl. Energy Efficiency)	88.79%	11.21%		107
9.00%	7-204 Reorganizations	66.67%	33.33%		15
7.50%	Affiliate Transactions & Asset Transfers	100.00%			38
7.50%	Certificates-Articles VIII & IX	89.80%	10.20%		49
7.50%	Rulemakings	68.75%	31.25%		16
3.20%	Formula Rate Updates	100.00%			11
3.20%	Rate Design Cases	100.00%			7
1.00%	Certificates-ARES & AGS			100.00%	94
1.00%	Financing Cases	100.00%			41
0.05%	Short Form Rate Cases	100.00%			6
0.05%	Sec. 252 - Negotiated Agreements		100.00%		151
100.00%	Total				848

Staff stated that its Proposal allocated the Section 2-202(i-5) supplemental assessments as follows: to utilities and telecom carriers based on revenues; to ARES based on annual kilowatt hours as reported pursuant to 83 Ill. Adm. Code 451.770; and to AGS based on annual dekatherms as reported pursuant to 83 Ill. Adm. Code 551.770. Staff proposed certain threshold criteria for assessment, based on cost-saving, regulatory reduction and efficiency. Specifically, Staff proposes that supplemental assessments should not be applicable to utilities with annual intrastate gross revenues of $1,000,000 or less; telecommunications carriers with annual intrastate gross revenues of $10,000,000 or less; ARES reporting less than 1,000,000,000 kilowatt hours; and AGS reporting less than 1,000,000 dekatherms.

Staff states that its proposal would, if adopted, allocate Section 2-202(i-5) supplemental assessments among the various regulated industries as follows:

- 91.27% to Utilities (affecting 13 entities);
- 7.28% to Telecom Carriers (affecting 19 entities);
- 0.68% to ARES (affecting 15 entities); and

- 0.32% to AGS (affecting 11 entities).

Staff observes that the 1.00 percent weight assigned to "Certificates – ARES & AGS" was allocated between ARES and AGS by dividing the number of certified ARES (i.e., 102) by the sum of all certified ARES and AGS (i.e., 150) and dividing the number of certified AGS (i.e., 48) by the sum of all certified ARES and AGS.

Staff illustrates the operation of its proposal by assuming a deficit of $12,000,000 between deposits to the PUF and expected agency expenditures for the current fiscal year. Based on this assumption, the Staff Proposal would result in an allocation among the various industries as follows:

Industry	Allocation (%)	Allocation ($)
Utilities	91.72%	$11,006,400
Telecom Carriers	7.28%	$873,600
ARES	0.68%	$81,600
AGS	0.32%	$38,400
Total	100.00%	$12,000,000

Total revenues of affected Utilities	=	$9,765,327,079
Total revenues of affected Telecom Carriers	=	$1,453,536,545
Total reported Kilowatt Hours of affected ARES	=	78,020,264,418
Total reported Dekatherms of affected AGS	=	47,778,972

Staff understands that knowing the total revenues, kilowatt hours or Dekatherms ascribable to each industry enables those entities that would be subject to assessment under the Staff Proposal by virtue of falling above the so-called *de minimis* thresholds Staff proposes to determine their relative share of the hypothetical $12 million assessment. Staff further notes that the $12 million figure is based upon Section 40, Article 117 of Illinois Public Act 99-524, in which the General Assembly appropriated $12,000,000 to the PUF from the Renewable Energy Resources Fund ("RERF"). Staff cautions that this sum may not accurately represent the shortfall between the PUF and agency costs in any other year, since that shortfall, assuming that there is one, will be based on the difference between the Commission's legislative appropriation in future years and the Commission's future year operating costs, neither of which can be known in advance with precision.

2. Reply Comments

Staff understands CTC to not object to Staff's Proposal provided that the methodology Staff proposes is accurate. Staff characterizes ICEA's position as to generally be supportive of the Staff Proposal, while supporting certain modest changes.

Staff understands AIC to support the Proposal, while expressing misgivings regarding timing. Staff characterizes RESA's position, generally, as being that AGSs and RESs should not be required to pay any assessment.

Staff states that CTC and ICEA express concerns regarding the Staff Proposal basing supplemental assessments on ARES, AGS and Telecom Carriers sales, the data underlying which is confidential and proprietary.

With respect to data security, Staff states that it is cognizant of the sensitivity of AGS, ARES and telecom carriers' sales data, but that there is no basis for concern that the current billing and collection practice will disclose any sales data that has been granted confidential treatment. Staff states that it will observe current Commission billing and collections practices for fees for the FY19 supplemental assessments and in future fiscal years. Moreover, Staff observes that current billing and collection practices will not result in the disclosure of confidential sales data, or of any figure from which such data might be extrapolated. Specifically, Staff states that the agency will, on an individual basis, deliver invoices for FY19 supplemental assessments to the various agents of affected utilities, ARES, AGS and telecom carriers. Staff explains that invoiced amounts will be based on the agency's calculation methodology as described in the Staff Proposal and all payments received will be deposited with the State Treasurer upon receipt. Staff further points out that the agency will report total, aggregated revenues by fee type received to the Illinois State Comptroller. Staff states that this report will not disclose the source of each dollar of revenue; rather, the reported revenues will be identified as "FEJA Assessments," and reported in aggregate numbers. Further, Staff notes that the report in question does not identify any single entity responsible for remitting supplemental assessments, or indeed any other fees or taxes, to the Commission. As such, Staff states that there will be no public disclosure of any entity-specific information regarding supplemental assessment amounts billed to, or received from, affected utilities, ARES, AGS and telecom carrier, nor will it be possible to extrapolate such data from public sources.

Staff understands CTC to raise several questions regarding the timing and mechanism for implementing assessments. Staff proposes that supplemental assessments will be assessed and collected annually, in accordance with remittance instructions provided on the supplemental assessment invoice. Staff states that supplemental assessments will be deposited into the PUF. Staff avers that supplemental assessments are a source of revenue for the Commission, as such, they are not subject to appropriation by the General Assembly. In contrast, notes Staff, Commission operating expenses (i.e., expenditures), which those revenues are used to defray, are subject to approval by appropriation.

Staff notes that AIC takes issue with the proposed assessment issue and collection date of June 30, 2018 on the basis that it "seems to conflict with both the Initiating Order and Section 2-202(i-5)." Specifically, AIC argues that use of the term

"October" in the statute should be construed to mean assessments cannot occur in any other month. Staff urges rejection of this argument.

Staff argues that it is well established that in determining the plain meaning of a statutory provision, statutory words and phrases should not be considered in isolation. Relf v. Shatayeva, 2013 IL 114925, ¶23 (2013). Staff observes that a court must not focus on a single sentence or phase in a statute. Italia Foods, Inc. v. Sun Tours, Inc., 2011 IL 110350, ¶12 (2011). Rather, notes Staff, a court should consider the statute in its entirety, including the subject the statute addresses, and the apparent intent of the legislature in enacting the statute. Hayashi v. Illinois Dept. of Financial and Professional Regulation, 2014 IL 116023, ¶16 (2014); In re N.C., 2013 IL App (3d) 120438, ¶15 (2013). Likewise, avers Staff, a court may consider the reason for the enactment, the problems the General Assembly sought to remedy, and the purposes it sought to achieve. Italia Foods, 2011 IL 110350, ¶12. Further, no part of the statute should be rendered meaningless or superfluous. Skaperdas v. County Casualty Insurance Co., 2015 IL 117021, ¶15.

Staff argues that if Section 2-202(i-5) is read in its entirety, it is clear that the "October" language is meant to apply to supplemental assessments prior to, but not including, the one at issue here. Staff advises that Section 2-202(i-5) states that the apportionment method described, and including the October provision, is to be used "until the docketed proceeding in which the Commission considers the raising of assessment from other entities subject to its jurisdiction under this Act has concluded[,]" i.e., this proceeding. Staff argues that when Section 2-202(i-5) is read in its entirety, as it must be, it is clear that the apportionment method, including the date on which that apportionment is assessed, may be reconsidered after this docketed proceeding.

Staff understands AIC to urge a mandatory construction of the phrase "[in] October of each year" in Section 2-202(i-5), meaning that this activity must in all cases be done in October. However, Staff argues mandatory construction is not appropriate. Staff directs the Commission's attention to People v. Jennings, 3 Ill. 2d 125 (1954), in which the Illinois Supreme Court observed that:

> [M]any statutory requisitions intended for the guide of officers in the conduct of business devolved upon them, which do not limit their power or render its exercise in disregard of the requisitions ineffectual. Such, generally, are regulations designed to secure order, system and dispatch in proceedings, and by a disregard of which the rights of parties interested cannot be injuriously affected. Provisions of this character are not usually regarded as mandatory unless accompanied by negative words importing that the acts required shall not be done in any other manner or time than that designated.
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> Jennings, 3 Ill. 2d at 129-30 (emphasis added).

Moreover, Staff observes that ordinarily a statute which specifies the time for the performance of an official duty will be considered directory, rather than mandatory, where the rights of the parties cannot be injuriously affected by failure to act within the time indicated. Carrigan v. Ill. Liquor Control Bd., 19 Ill. 2d 230, 233 (1960). As there is no suggestion in the statute that assessments can only be collected in October, and because no party will be negatively affected if collection occurs in June instead of October, use of the word "October" in the statute should be deemed directory rather than mandatory.

Further, Staff explains that the timing issue is not trivial, as funds realized from supplemental assessments may be required in order to make certain there is cash in the PUF to support agency operations as of July 1, 2018. In other words, Staff argues that "the problem[] the General Assembly sought to remedy[,]" – the Commission lacking funds to operate – will be exacerbated by a mandatory construction. *Cf.* Italia Foods, 2011 IL 110350, ¶12. Staff argues that the "October" date is clearly not mandatory and would frustrate legislative intent. It should be deemed inapplicable for this purpose.

This, asserts Staff, is the basis for its proposed collection deadline of June 30, 2018 for FY19 supplemental assessments. In the event final FY19 PUF appropriations are not available for calculating the supplemental assessments, Staff states that the agency will rely on the Governor's proposed FY19 PUF appropriations. That is, FY19 supplemental assessments will be based on (1) all moneys expected to be expended or obligated against appropriations made from the PUF during FY19 (based on final FY19 PUF appropriations, or if unavailable, the Governor's proposed FY19 PUF appropriations), less (2) the amount of all money expected to be deposited in the PUF during FY19 (an estimate excluding FY19 supplemental assessments), plus the estimated balance of the PUF on July 1, 2018 (an estimate excluding FY19 supplemental assessments). As always, Staff notes that the cash balance will fluctuate daily, and the PUF cash balance on close of business June 30, 2018 (end of FY18) will be the PUF cash balance at the start of July 1, 2018 (FY19).

Staff hears ICEA to suggest that it may be possible to extend the FY19 supplemental assessment deadline beyond June 30, 2018 by utilizing lapse period – i.e., a period in which the ICC may receive funds that were billed during a previous fiscal year and still count those as revenue in that previous fiscal year. However, Staff thinks that ICEA misapprehends the operation of the lapse period. Staff explains that the Commission, like all State of Illinois entities, records revenues during the fiscal year in which they are received. In contrast, the lapse period reflects a period during which the Commission can pay any outstanding obligations from a recently expired fiscal year, and so the lapse period has no bearing on revenues, which are at issue here.

Finally, Staff understands RESA to argue that ARES and AGS should be entirely exempt from paying any supplemental assessment. More specifically, Staff understands RESA to first argue that the *de minimis* levels proposed by Staff are unworkable,

contending that, if the deficiency recovered through the supplemental assessment is indeed $12 million, a RES selling an amount of electricity just above the *de minimis* level will be required to pay $1,045, while a similarly situated AGS will be assessed approximately $800. Staff characterizes RESA's argument as being that the requirement imposes unnecessary administrative expenses for negligible recovery. Second, Staff hears RESA to argue that AGS and ARES customers already pay the supplemental assessment through delivery charges, so they would be compelled to pay twice if ARES and AGS are required to pay the assessment. Third, Staff hears RESA to contend that competitive parity requires that the supplemental assessment be recovered in a common manner: apparently through distribution rates. To do otherwise, argues RESA, would distort ARES and AGS supply rates. Finally, Staff hears RESA to argue that ARES and AGS, unlike Utilities, do not have what RESA describes as "automatic recovery mechanisms" through which the supplemental assessment can be recovered, and indeed may be unable to recover them under existing customer contracts. Staff hears RESA to contend that, "[a]t a minimum, the imposition of supplemental assessments on ARESs and AGSs should be delayed for a year in order for them to revise their contracts to allow for recovery of supplemental assessments."

Staff urges rejection of RESA's arguments. Staff first notes that Section 2-202(i-5) states "[assessments] shall be based on the costs to the [ICC] of the exercise of its regulatory and supervisory functions with regard to the different industries and service providers subject to the proceeding." According to Staff, the General Assembly clearly contemplated that such costs might be caused, and might properly be recoverable from, "entities possessing certificates of service authority as alternative retail electric suppliers under Section 16-115 of [the PUA], [or] … as alternative gas suppliers under Section 19-110 of [the PUA][.]" The Staff notes that it conducted a careful assessment of the extent to which the Commission's costs of operation are caused by each regulated industry. Staff further notes that, in reaching its estimates of costs caused by each industry:

> [It] considered various factors, including the number of cases filed under specific sections of the Act; the scope of review and analysis required for each case type; the number of Commission employees involved in a particular case type from the filing date until either a final order is issued or a final compliance filing is made, whichever occurs later; whether such cases are typically contested; and, the activities typically undertaken for each case type (e.g., workshops, testimony, briefing, oral argument).

Staff determined, based on this assessment, that ARES caused 68/100 of one percent (or 0.68%) of agency costs, and AGS caused 32/100 of one percent (or. 0.32%).

Furthermore, argues Staff, the Commission's regulatory and supervisory functions related to ARES and AGS extend beyond initial certification for those entities under Sections 16-115 and 19-110 of the Act. Staff notes that there are also annual

compliance filings and reporting requirements for every certified ARES and AGS, rulemaking proceedings, an agency Office of Retail Market Development that works with ARES (and other stakeholders) to promote retail electric competition and to educate residential and small business customers about electric choice programs throughout the state, and a Consumers Services division for which "electric choice education is an ongoing function." (www.pluginillinois.org; www.icc.illinois.gov.)

Staff notes that its methodology assigns 1% of total supplemental assessments to certified ARES and AGS using thresholds based on annual sales and attempts to balance the following competing goals: capture the bulk of a competitive industry that requires agency resources for regulatory and supervisory functions while avoiding the imposition of undue financial burdens on ARES, AGS or the agency. In Staff's view, the threshold sales volumes presented in the Proposal achieves this balance by capturing approximately 90% of the kilowatt hours sold by ARES (using 2016 data) and dekatherms sold by AGS (using 2016 data) while simultaneously resulting in substantially lower supplemental assessments for ARES and AGS than either Utilities or Telecom Carriers. Staff notes that neither RESA, nor any other party, challenges Staff's methodology.

Staff therefore characterizes RESA's argument as, although ARES and AGS undoubtedly cause the Commission to incur regulatory costs, ARES and AGS shouldn't be required to pay them. Staff states that this departs markedly from well-established principles of cost causation, namely that cost causers should be responsible for the costs they cause. Staff urges the Commission to reject this argument.

Likewise, Staff urges the Commission to reject RESA's argument that the assessments on RES and AGS are, on the one hand, essentially not worth collecting, and on the other hand so significant as to distort ARES / AGS rates in terms of the price to compare. Staff states that RESA cannot have it both ways; if the assessments are indeed *de minimis* as to ARES / AGS, Staff finds it difficult to see how those assessment could distort rates. Further, Staff considers RESA's notion of competitive parity is an interesting one, dependent as it is upon the proposition that utilities, with which ARES / AGS compete, should pay a charge from which RES / AGS are exempt. Staff does not think this is parity.

Staff notes that ICEA requests that Staff provide evidence about costs incurred by the agency to process and collect supplemental assessments so that stakeholders can provide constructive proposals to avoid *de minimis* collections. Staff notes that evidence requested by ICEA does not exist yet, given no supplemental assessments have been assigned to or collected from ARES and AGS to date. Nevertheless, should the Commission desire to review evidence regarding costs incurred by the agency to process and collect supplemental assessments from ARES and AGS, Staff recommends the Commission's Order in the instant docket include a directive for Staff to present such evidence in next proceeding on this issue, which will take place 3 years from the date an Order is issued in the instant docket. Staff notes that this alternative

would allow the agency to collect evidence that does not currently exist for presentation to the Commission in a future docket, not just for ARES and AGS, but for all entities subject to assessment.

B. RESA

1. Initial Comments

RESA states that it is a non-profit trade association of independent corporations that are involved in the competitive supply of electricity and natural gas. RESA further avers that it and its members are actively involved in the development of retail and wholesale competition in electricity and natural gas markets throughout the United States.

RESA notes, at the outset, that Section 2-202 (i-5) does not require the Commission to order "other regulated entities" such as ARES and AGS to pay assessments or fees; the Commission is only required to consider whether such entities should be required to pay such assessments or fees. RESA argues that ARES and AGS should not be required to pay assessments, as proposed by Staff.

While RESA recognizes that the Commission has discretion in this matter, RESA urges the Commission to utilize that discretion to reject the allocation of any supplemental assessments to ARES and AGS for the following reasons. First, RESA argues that the amounts proposed to be assessed to ARES and AGS would be *de minimis* and would not justify the expense and work involved in collecting them. Second, RESA contends that ARES and AGS' customers, rather than AGS and ARES, will pay the assessments; assessments which they would already be paying as customers of gas and electric utilities. Third, RESA states that even though the amounts are *de minimis*, the imposition of such costs on ARES and AGS would exacerbate what RESA characterizes as the existing competitive parity situation in the Illinois retail marketplace. Fourth, RESA states that, unlike gas and electric utilities, ARES and AGS do not have mechanisms in place to recover the assessment and may not have the right to recover such assessments under existing contracts; at a minimum, RESA states that any assessments from ARES and AGS should be delayed.

First, RESA states that it is not clear what the level of supplemental assessments will be for fiscal year 2019, the year covered by the Staff Proposal, or for any subsequent years; Staff assumes a "hypothetical deficiency" of $12 million for purposes of illustration, but notes that this sum may not accurately represent the shortfall between the PUF and agency costs in any other year, since that shortfall, assuming that there is one, will be based on the difference between the Commission's legislative appropriation in future years and the Commission's future year operating costs, neither of which can be known with precision.

RESA states that, applying this $12 million hypothetical deficiency and the floor of 1 billion kWh for ARES and 1 million DTH for AGS, an ARES at that minimum level

would be assessed approximately $1,045 and an AGS at that minimum level would be assessed approximately $800. RESA considers the work involved in assessing, billing, and collecting the amounts to be counterproductive. Moreover, RESA states that, while the Staff's proposal for billing and collecting assessments has not been established, it appears that it may require the disclosure of confidential information—the kWh sales of ARES and the DTH sales of AGS. Consequently, argues RESA, ARES and AGS would have to file petitions seeking confidential treatment of that information from the Commission in order to avoid public disclosure, creating additional expenses for Staff, as well as for ARES and AGS.

Second, RESA contends that the utilities and ARES and AGS ultimately do not pay the assessment; their customers do. RESA argues that, under Staff's proposal, ARES' and AGS' customers effectively pay twice or even three times, if they are receiving electric supply from an ARES and gas supply from an AGS. RESA posits the example of a customer of an ARES, who pays his or her electric utility the same amount for his or her share of the assessment as a customer who is purchasing his or her supply from the electric utility. Then, argues RESA, the same customer will pay his or her share of the assessment imposed on the ARES. Given that every ARES customer is a customer of an electric utility and every AGS customer is a customer of a gas utility, RESA argues that requiring such customers to pay more than customers buying their supply from a utility is unfair.

Third, RESA contends that even though the amounts of the supplemental assessments to individual ARES and AGS appear to be *de minimis*, assessment of such amounts on those entities would aggravate the competitive parity situation in Illinois. When considering imposing additional costs on ARES and AGS, RESA thinks it important to consider the effect such requirements have on the competitive parity between supplier products and default supply service. RESA asserts that the costs of regulatory requirements that apply to utilities are recovered by them through their distribution rates, not their supply charges, in contrast to RESs which must recover their costs through their supply prices. RESA argues that this is a further distortion of the Price-To-Compare, which in RESA's view is already distorted because, among other reasons, electric and gas utilities' distribution charges include costs that should be, but are not, included in their supply charges.

Fourth, RESA argues that unlike ARES and AGS, electric and gas utilities already have mechanisms to recover the costs of the supplemental assessments from their customers. RESA contends that suppliers do not have automatic recovery mechanisms, but instead must recover all of their costs through their supply charges. Moreover, RESA argues that, depending on the contracts that ARES and AGS have with their customers, they may not be able to recover the cost of supplemental assessments under the terms of existing contracts; they may have to wait until contracts are renewed with their customers. RESA argues that a minimum, the imposition of supplemental assessments on ARES and AGS should be delayed for a year in order for

them to revise their contracts to allow for recovery of supplemental assessments, but states that that even with a one-year delay, ARES and AGS would not be able to revise contracts for those customers having multi-year contracts.

2. Reply Comments

In its Reply Comments, RESA, after summarizing its Initial Comments, responded to the Initial Comments of AIC and ICEA.

RESA characterizes AIC's position as "support[ing] the funding of the Public Utility Fund and the Commission's efforts to expand the assessment process and bring other regulated entities within its scope". RESA asserts that it also supports full funding of the Commission's operations. However, RESA states that to the extent that AIC is referring to ARES and AGS as "regulated entities", RESA considers the important point to be that, ultimately, all of the assessments contemplated by this proceeding will be paid by customers. RESA argues that all of ARES' and AGS' customers in AIC's service territory are customers of AIC. Therefore, asserts RESA, AIC's customers who purchase electric supply from ARES and/or electricity supply from AGS will pay AIC's share of assessments and then have to pay their ARES and/or AGS for their share of assessments. RESA contends that requiring customers who buy their supply from ARES and/or AGS to pay more than customers buying their supply from the utility is simply unfair.

RESA characterizes ICEA's position as, while not opposing the imposition of assessments on ARES and AGS, nonetheless arguing that it "makes no sense for the Commission to engage in trying to collect an assessment where the costs associated with such an effort are greater than the amount to be collected". RESA understands ICEA to further state that it "requests that the Staff provide evidence about the costs incurred by the Commission to process and collect assessment so that Stakeholders can respond and provide constructive proposals to avoid *de minimis* collections while ensuring that ARES and AGS that would have paid a substantial assessment will indeed do so". While RESA disagrees, for the reasons stated above, that ARES and AGS should pay any assessment, it agrees with ICEA that there is no evidence showing that the amounts Staff proposes to recover from ARES and AGS is not *de minimis*. Consequently, RESA argues that no assessment should be imposed on ARES and AGS until there has been a showing that the amounts to be recovered are greater than the costs of recovering them—both to the Commission and to the ARES and AGS.

Second, RESA understands ICEA to express concerns regarding the potential disclosure of confidential information and that the "Commission should consider taking feasible steps to further protect the confidentiality of market share information. RESA contends that while the Staff's proposal for billing and collecting assessments has not been established, it appears that it may require the disclosure of confidential information—the kWh sales of ARES and the DTH sales of AGS. Consequently, RESA

argues that absent the Commission taking steps to protect against the disclosure of confidential information, ARES and AGS would have to file petitions seeking confidential treatment of that information from the Commission in order to avoid public disclosure, creating additional expenses for Staff, as well as for ARES and AGS. This, argues RESA, is another reason for the Commission to decline to impose assessments on ARES and AGS.

C. ICEA

ICEA submitted Initial Comments only. ICEA states that, as a general matter, it believes Staff's allocation of 1% of total under-appropriation from PUF to ARES and AGS to be reasonable and should be approved. ICEA identifies three issues of concern to it: (1) lapse period payments, (2) minimum size thresholds for ARES/AGS fees, and (3) protecting highly confidential and proprietary market share information.

With respect to lapse period payments, ICEA states that Staff's proposal would require initial payment of PUF shortfalls by June 30, 2018. While ICEA does not strenuously object to this deadline, ICEA believes it is in the interests of both the Commission and fee-paying entities to extend the deadline past June 30. ICEA understands that part of the motivation for the June 30, 2018 date was for the payment to be received before the close of the 2017-2018 state fiscal year.

ICEA believes the goal of applying funds to the 2017-2018 fiscal year can be achieved in conjunction with the goal of a longer deadline by utilizing the lapse period. ICEA states that the "lapse period" is the period in which the Commission may receive funds that were billed during the previous fiscal year and still count those funds as revenue in the previous fiscal year. ICEA directs the Commission and stakeholders to the Illinois Comptroller's Statewide Accounting Management System ("SAMS") Manual:

> Recognition Standards for Governmental Funds Financial Statements
> (Modified Accrual)
> Governmental fund financial statements are reported using the current financial resources measurement focus and the modified accrual basis of accounting (see Procedure 3.20.20). The only difference between accrual-basis recognition of financial resource inflows and modified accrual-basis recognition of financial resource inflows relates to availability. Under the modified accrual basis of accounting, revenue should be recognized in the accounting period in which they become both measurable and "available". The term available generally means collectible within the current period or soon enough thereafter to be used to pay liabilities of the current period. The State considers all revenues reported in the governmental funds to be available if collected within the State's lapse period (i.e. 60 days after

year-end). Accordingly, revenue should be deferred if the receivable is not collected within 60 days after year-end.

Procedure 3.20.20 states in part:

> Under the current financial resources measurement focus and the modified accrual basis of accounting, revenues are recognized when measurable and available. The State considers all revenues reported in the governmental funds to be available if collected within the lapse period. Application of the "measurable and available" criteria requires judgment, consideration of the materiality of the item in question, and due regard for the practicality of measurement, as well as consistency in application.

In ICEA's view, the SAMS manual specifically contemplates applying lapse period accounting to "amounts due for licensing and fees taken together", ICEA considers it clear that for accounting purposes the Commission could collect fees assessed under Section 2-202(i-5) up to 60 days after June 30, 2018 and have those fees still count toward the fiscal year ending June 30, 2018. ICEA understands this to mean that collecting up to 60 days later would not have a detrimental effect on the Commission from an accounting compliance standpoint. ICEA does not necessarily recommend that the Commission allow regulated entities all 60 days, but perhaps an additional 30-45 days beyond June 30, 2018 for the initial payment would better allow assessed entities—especially those that do not have a statutory entitlement to rate recovery, including ARES and AGS—to pay. ICEA states that this additional time should not create an issue with the Commission's accounting.

ICEA understands Staff to propose that fees pursuant to Section 2-202(i-5) only be imposed on ARES selling more than 1,000,000 MWh or AGS selling more than 1,000,000 dekatherms according to their most recent annual report. ICEA understands that one justification for these limits may be that below a certain point the costs of collecting the assessment will exceed the size of the assessment.

ICEA agrees that it makes no sense for the Commission to engage in trying to collect an assessment where the costs associated with such an effort are greater that the amount to be collected. Accordingly, ICEA agrees that under Staff's proposal there is some threshold amount below which collection efforts become uneconomic. For ICEA, the question is one of ensuring a fair allocation structure going forward. For the first assessment, an ARES and AGS right at the threshold would pay approximately $1,045 and $803, respectively. ICEA states that if, in future years, if the PUF shortfall exceeds the estimated $12,000,000 used for illustrative purposes in the Staff Proposal, those numbers will increase. ICEA respectfully requests that Staff provide evidence about the costs incurred by the Commission to process and collect assessment so that Stakeholders can respond and provide constructive proposals to avoid *de minimis*

collections while ensuring that ARES and AGS that would have paid a substantial assessment will indeed do so.

ICEA further recommends that Staff consider a minimum fee as an alternative to a size threshold. Under this approach, Staff would assess each ARES/AGS at the greater of the per-kWh rate or a minimum value (for instance $500 per ARES/AGS license). ICEA states that the value would have to be set at a level at or above the minimum fee Staff determines is necessary to make it worthwhile to assess and collect. ICEA believes that this would help minimize free ridership.

ICEA states that the Commission has an obligation to protect confidential and proprietary information furnished by third parties, including ARES and AGS. ICEA believes the Commission adequately protects confidential and proprietary information provided by ARES and AGS and believes that the Commission fully intends to continue doing so. However, ICEA also believes that there is additional danger that due to the public nature of payments to the State of Illinois that confidential and proprietary information about ARES and AGS size and market share may be available. ICEA recommends that the Commission protect fee payment information to the extent possible to protect commercially sensitive market share information. ICEA is concerned that, generally speaking, the volume of payments (and who paid) to the State of Illinois is not confidential. If this is correct, ICEA posits that an entity obtaining the identity of and payment by the 15 ARES and 11 AGS (noting the likely overlap between the ARES and AGS in certain situations) may be able to guess the market shares of those ARES and AGS. At minimum, if a sophisticated market player only had the identity of the ARES/AGS fee payers, ICEA argues that such a participant would know to a reasonable degree of certainty which ARES/AGS sold over 1,000,000 MWh and/or 1,000,000 dekatherms—and which ones did not. While ICEA believes that only providing fee-paying entities with an "amount due" bill—rather than detailed calculations—will mitigate this concern to a certain extent, ICEA recommends that the Commission consider taking feasible steps to further protect the confidentiality of market share information.

D. CTC

CTC submitted initial Comments only. CTC summarizes the Staff Proposal in detail, and states that it does not object to Staff's proposal if the methodology and means for determining an individual telecom carrier's annual assessment as recited is accurate. CTC states that it understands that Staff will provide recommendations addressing how to safeguard the confidentiality of an individual company's assessment. CTC further understands that Staff will further provide recommendations addressing the timing and mechanism for implementing the assessments, including but not limited to: (i) once the assessments are imposed, to what State agency are these assessments to be paid by the regulated entity/public utility; (ii) into which State fund are these

assessments required to be deposited; (iii) are these assessments due and payable annually, semi-annually, quarterly or on some other schedule; (iv) once deposited, are the assessment funds subject to appropriation by the General Assembly; (v) whether these assessments will be deemed to be the payment of “taxes”; and (vi) whether these assessment payments will be wholly deposited into the PUF, or some other fund, for the exclusive use of the ICC. CTC submits these are important factors to be considered and resolved in the assessment process and reserves comment on these matters until it sees the proposal.

E. AIC

AIC filed Initial Comments only. AIC states that it supports the funding of the PUF and the Commission's efforts to expand the assessment process and bring other regulated entities within its scope. AIC states that it appreciates the effort put forth by the Staff in the Proposal and the participation of all parties in the workshop process. The Comments below focus only on the proposed collection date for the supplemental assessment.

AIC understands and supports Staff's recommendation for "an expeditious initiation of the initial docket contemplated by Section 2-202(i-5) before the next round of assessments must be calculated and issued. AIC states that it has no objection to the supplemental assessment or expedited schedule. However, AIC takes issue with the proposed assessment issue and collection date identified in the Staff Proposal, that assessments may be finalized and issued in time for collection of Section 2-202(i-5) supplemental assessments by June 30, 2018.

AIC argues that the proposed collection date of June 30, 2018, appears to it to conflict with both the Initiating Order and Section 2-202(i-5). AIC observes that Section 2-202(i-5) of the Act states that "[d]uring the month of October of each year the Commission shall…" 220 ILCS 5/2-2-2(i-5). Further, AIC argues that Section 2-202(i-5) outlines what actions the Commission must take in order to impose an assessment. AIC states that this section does not provide for any date other than October to determine and impose an assessment. Additionally, AIC notes that the Initiating Order's first paragraph states "[t]he agency's determination of those amounts is to be made during the month of October for the then-current fiscal year." AIC further states that the Commission in its Initiating Order further references or indicates that the assessments should be made in October. Specifically, AIC observes that the Initiating Order provides that "Staff recommends that the present docket consider assessments to be made for fiscal years 2019 through 2021, if the docket can be completed by October 2018, in time for the release of the fiscal year 2019 assessments." AIC argues that, as proposed by Staff, the dates for issuing the assessment and collecting the assessment would occur during the current fiscal year, FY18, and that the Initiating Order indicates that this docket is to determine assessment methodology for the next fiscal year, FY19. This, according to AIC raises some questions, including, how, with the proposed timeline, will

the Commission be able to make a proper assessment in accordance with the requirements outlined in Section 2-202(i-5)? How will the Commission be able to properly determine the amount of money being deposited into the Public Utility Fund (PUF) for FY19, when it is still FY18? How will the Commission be able to determine how much money remained in the PUF from FY18, while it is still FY18?

A further question posited by AIC is how will the Commission be able to properly determine FY19's financial obligations against the appropriations made to the PUF for FY19, when it is still FY18? In AIC's opinion not only would it be in contradiction to the Act but it would be imprudent to impose an assessment for FY19 during FY18, when the Commission does not have all the necessary information to properly determine the assessment. As a point of procedure, AIC has already been assessed for FY18. This proposed assessment would, in AIC's view, be a second assessment in FY18, which the Act does not provide or allow for under the current Section 2-202(i-5).

AIC argues that the Staff Proposal recommends a date for collection of assessment that is not supported by the Initiating Order nor Section 2-202(i-5). Additionally, according to AIC, the Staff Proposal creates questions of whether it is permitted under the Act or prudent to do at such an early date without knowing the appropriations to the PUF or its FY19 obligations.

F. IE

IE submitted only Reply Comments, responding to RESA, ICEA and AIC. IE states that it concurs in RESA's comments to the effect that AGS and ARES should not be required to pay an assessment because: (1) the assessments to ARES and AGS would be *de minimis* and would not justify the expense and work involved in collecting them; (2) ARES and AGS' customers will ultimately have to pay the assessments, which they would already be paying as customers of gas and electric utilities; (3) even though the amounts are *de minimis*, the imposition of such costs on ARES and AGS would only serve to exacerbate the existing competitive parity situation in the Illinois retail marketplace; and (4) gas and electric utilities have a mechanism in place to recover the assessments whereas ARES and AGS do not have mechanisms in place to recover the assessment and may not have the right to recover such assessments under existing contracts.

IE understands ICEA to recommend that Staff consider a minimum fee as an alternative to a size threshold. Under this approach, Staff would assess each ARES/AGS at the greater of the per-kWh rate or a minimum value (for instance $500 per ARES/AGS license). IE concurs that this is a reasonable approach, particularly given that Staff's proposed allocation is based on time spent on certification proceedings. The Commission should consider this approach if it adopts a methodology that allocates a portion of the shortfall to ARES and AGS. IE also notes that this approach could be modified to mitigate the confidentiality concerns addressed by RESA

and ICEA. IE suggests that an equal allocation of any shortfall after the minimum value could be allocated on a per entity basis rather than a per kWh basis to eliminate confidential kWh data from the calculation.

IE understands AIC to contend that a proposed collection date of June 30, 2018 for supplemental assessments conflicts with Section 2-202(i-5) of the PUA as well as the Initiating Order in this docket. IE agrees with AIC that Section 2-202(i-5) calls for the Commission to make various determinations as to potential annual shortfalls in October of each Fiscal Year and that such timing constraint was also evident in the Commission's Initiating Order. As such, IE also agrees it would be inconsistent with Section 2-202(i-5) if Staff's language was intended to result in application of the allocation methodology adopted in this proceeding to any Fiscal Year 2018 shortfall as no such determination was made in October of Fiscal Year 2018. IE argues that, as indicated in the Initiating Order, any shortfall allocation methodology adopted here should apply starting with any shortfall determined for Fiscal Year 2019 with such shortfall to be determined in October of 2018. IE states that subsection (i-5) does state that "[p]ayments required under this subsection (i-5) shall be made in the time and manner directed by the Commission." 220 ILCS 5/2-202(i-5). IE argues that it would be consistent with the PUA for the Commission to determine that payments required for any shortfall determined in October of a Fiscal Year shall by paid by June 30 of that Fiscal Year.

G. ExteNet

In line with the statutory goal of supplemental assessments, ExteNet urges the Commission to limit Section 2-202(i-5) assessments on Telecom Carriers and, instead, to place the primary burden of supplemental assessments on entities that are responsible for the supplemental costs to the Commission, such as electric, gas, water and sewer utilities.

ExteNet states that in the context of the Commission's regulatory and supervisory functions for Telecom Carriers, the Commission's jurisdiction is crucial, but limited, in recent years. ExteNet observes that the Commission plays an important role in resolving disputes and proceedings relating to services provided by Incumbent Local Exchange Carriers under Sections 251 and 252 of the Telecommunications Act of 1996, but the 1996 Telecom Act also establishes a default jurisdiction before the Federal Communications Commission at Section 152 relating to interstate telephone traffic. ExteNet further states that recent decisions have limited the Commission's jurisdiction relating to other portions of the 1996 Telecom Act.

In addition, ExteNet states that the telecommunications industry increasingly uses WSPs and wireless infrastructure, such as those relied upon by ExteNet. As a result, the industry is less reliant on Commission regulatory and supervisory functions as the industry moves away from the heavily-regulated wireline intrastate disputes. This, according to ExteNet, is necessarily so because Section 332 of the Communications

Act expressly preempts state entry and rate regulation of intrastate as well as interstate and international commercial and private wireless services.

By contrast, ExteNet observes that the Commission is playing an increasingly active role in regulating and supervising electric, gas, water and sewer utilities in Illinois, which Staff recognizes in its Correspondence in this docket by recommending 91.72% of any Section 2-202(i-5) assessment be placed on electric, gas, water and sewer utilities. ExteNet agrees that Section 2-202(i-5) assessments should be primarily borne by electric, gas, water and sewer utilities in Illinois in light of that industry's increasingly active use of Commission resources. ExteNet notes that the Commission's energy initiatives include NextGrid, which involves examining new technologies and specialized expertise to examine the use of new technologies in the Illinois energy grid, and the Commission continues to play an active role with respect to rate case determinations in the energy industry. Further, ExteNet notes the Commission's active participation in this industry is the Commission's filings before the Federal Energy Regulatory Commission ("FERC"), with the Commission filing no less than eight comments, motions and responses, and protests in FERC proceedings in 2017 alone.

In light of this dichotomy of Commission resources, ExteNet urges the Commission to limit Section 2-202(i-5) assessments on Telecom Carriers. ExtenEt understands the Staff Proposal to limit any assessment under Section 2-202(i-5) for Telecom Carriers to those that generate in excess of $10,000,000 in annual intrastate gross revenue. ExteNet supports that limitation. ExteNet states that Telecom Carriers with less than $10,000,000 in annual intrastate gross revenue do not routinely appear before the Commission in complex proceedings which would require specialized costs to the Commission to exercise its regulatory and supervisory functions. In addition, ExteNet proposes that, in light of the Commission's crucial but limited role in regulating Telecom Carriers, the Commission make clear that any Section 2-202(i-5) assessment would be limited to only those services provided by Telecom Carriers with less than $10,000,000 in annual intrastate gross revenue from services affirmatively regulated by the Commission.

IV. Commission Analysis and Conclusions

Having considered the positions of the parties as expressed in their various comments, the Commission adopts the Staff Proposal, as modified herein to reflect RESA's position regarding the imposition of supplemental assessments on ARES and AGS.

The Commission notes that no party takes issue with Staff's proposal to extend supplemental assessments to water and sewer utilities, including the water and sewer utilities themselves.

The Commission agrees with RESA that Section 2-202 (i-5) does not **require** the Commission to order "other regulated entities" such as ARES and AGS to pay assessments or fees; the Commission is only required to **consider** whether entities other than electric and gas utilities, such as ARES and AGS, should be required to pay assessments or fees to cover the difference between deposits to the Public Utility Fund and expected Commission expenditures. Section 2-202 (i-5) states, in pertinent part:

> Within 6 months after the first time assessments are made under this subsection (i-5), the Commission shall initiate a docketed proceeding in which it shall **consider**, in addition to assessments from electric and gas utilities subject to this subsection, the raising of assessments from, or the payment of fees by, water and sewer utilities, entities possessing certificates of service authority as alternative retail electric suppliers under Section 16-115 of this Act, entities possessing certificates of service authority as alternative gas suppliers under Section 19-110 of this Act, and telecommunications carriers providing local exchange telecommunications service or interexchange telecommunications service under Sections 13-204 or 13-205 of this Act. **(emphasis added)**

The Commission agrees with RESA that the Commission has discretion in this matter. The Commission is using that discretion to reject the allocation of any supplemental assessments to ARES and AGS for the following reasons. First, the amounts proposed to be assessed to ARES and AGS would be *de minimis* and would not justify the expense and work involved in collecting them. Second, the reality is that ARES' and AGS' customers will ultimately have to pay the assessments; assessments which they would already be paying as customers of gas and electric utilities. Third, even though the amounts are *de minimis*, the imposition of such costs on ARES and AGS would only serve to exacerbate the existing competitive parity situation in the Illinois retail marketplace. Fourth, unlike gas and electric utilities, ARES and AGS do not have mechanisms in place to recover the assessment and may not have the right to recover such assessments under existing contracts.

Contrary to Staff's implication, the Commission is not required to impose supplemental assessments on ARES and AGS. For the reasons stated above, the Commission will utilize its discretion to not impose 1% of the supplemental assessments on ARES and AGS. This 1% shall be assessed upon electric and gas utilities in the same proportion as proposed by Staff for their own supplemental assessments.

We understand a number of parties to express the concern that the amount of a specific entity's assessment might, were it to become publicly known, enable the extrapolation of that entity's sales or market share. While the Commission understands

and shares concerns regarding the maintenance of competitively-sensitive information as strictly confidential, the Staff makes clear that this can be readily accomplished under the Staff Proposal. This Commission, and the Commission Staff, have considerable experience, acquired over many years, of handling confidential information and maintaining the confidentiality of information submitted as confidential. We are confident that the situation here presents no unusual problems in this regard.

[DECISION RE ARGUMENTS REGARDING PROPOSED COLLECTION DATE OF JUNE 30]

V. Findings and Ordering Paragraphs

The Commission, having considered the entire record and being fully advised in the premises, is of the opinion and finds that:

1) The Commission has jurisdiction over the parties to and the subject matter of this proceeding;

2) The facts recited and conclusions reached in the prefatory portions of this Order are supported by the record and are adopted as findings of fact and conclusions of law;

3) The Staff Proposal to allocate and collect the special assessments provided for by Section 2-202(i-5), should be modified to eliminate the imposition of supplemental assessments on ARES and AGS and to reallocate their assessments to electric and gas utilities as explained in the Commission's Analysis and Conclusions; and

4) all motions, petitions, objections or other matters in this proceeding that remain undisposed of should be disposed of consistent with the conclusions herein.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the Staff Proposal to allocate and collect the special assessments provided for by Section 2-202(i-5), as set forth in greater detail herein, is adopted as modified in the Commission's Analysis and Conclusion section and in the Commission's Findings.

IT IS FURTHER ORDERED that, subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By Order of the Commission this __ day of May 2018.

(SIGNED) BRIEN J. SHEAHAN
Chairman.

NOTICE OF FILING

Please take note that on April 27, 2018, I caused to be filed via e-docket with the Chief Clerk of the Illinois Commerce Commission, the attached Draft Proposed Order of the Retail Energy Supply Association 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 Draft Proposed Order of 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 18-0375 via electronic delivery on April 27, 2018.

/s/ GERARD T. FOX
Gerard T. Fox