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	))	

REPLY COMMENTS OF
THE RETAIL ENERGY SUPPLY ASSOCIATION

The Retail Energy Supply Association ("RESA") hereby submits its Reply Comments on the "Strawman" Proposal submitted in this proceeding on February 22, 2018 by the Staff of the Illinois Commerce Commission ("Commission"). RESA is a non-profit trade association of independent corporations that are involved in the competitive supply of electricity and natural gas.[1] RESA and its members are actively involved in the development of retail and wholesale competition in electricity and natural gas markets throughout the United States.

On April 5, 2018, RESA submitted its Initial Comments in this proceeding. Initial Comments were also filed by Ameren Illinois Company ("Ameren"), the Cable Television and Communications Association of Illinois, and the Illinois Competitive Energy Association ("ICEA"). In these Reply Comments, RESA will address, briefly, the Initial Comments of Ameren and ICEA.

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

Before addressing the Initial Comments of Ameren and ICEA, RESA would like to summarize the points made in its Initial Comments. Most importantly, Section 2-202 (i-5) of the Public Utilities Act does not **require** the Commission to order "other regulated entities" such as Alternative Retail Electric Suppliers ("ARES") and Alternative Gas Suppliers ("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.

For the following reasons, ARES and AGS should not be required to pay assessments:

- 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; at a minimum, any assessments from ARES and AGS should be delayed.

RESPONSE TO AMEREN

Ameren states that it "supports 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". (Ameren In. Comments, p. 1) RESA also supports full funding of the Commission's

operations. However, to the extent that Ameren is referring to ARES and AGS as "regulated entities", the important point is that, ultimately, all of the assessments contemplated by this proceeding will be paid by customers. All of ARES' and AGS' customers in Ameren's service territory are customers of Ameren. Therefore, Ameren's customers who purchase electric supply from ARES and/or electricity supply from AGS will pay Ameren's share of assessments and then have to pay their ARES and/or AGS for their share of assessments. 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.

RESPONSE TO ICEA

While not opposing the imposition of assessments on ARES and AGS, ICEA notes 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". (ICEA In. Comments, p. 3) ICEA further states 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". (*Id.*, p. 4) While Respondent 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, 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, ICEA states its 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". (*Id.*, pp. 4-5) 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, 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 is another reason for the Commission to decline to impose assessments on ARES and AGS.

In conclusion, for the reasons stated in these Reply Comments and in RESA's Initial Comments, the Commission should use its discretion not to impose supplemental assessments for any deficiency on ARES and AGS. At a minimum, supplemental assessments on ARES and AGS should be delayed for at least one year.

Dated: April 9, 2018

Respectfully submitted,

Retail Energy Supply Association

By: /s/GERARD T. FOX
Gerard T. Fox

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NOTICE OF FILING

Please take note that on April 9, 2018, I caused to be filed via e-docket with the Chief Clerk of the Illinois Commerce Commission, the attached Reply Comments 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 Reply Comments 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 9, 2018.

/s/ GERARD T. FOX
Gerard T. Fox

VERIFICATION

Gerard T. Fox, being first duly sworn, on oath deposes and says that he is an attorney for the Retail Energy Supply Association, that he has read the foregoing Reply Comments, that he knows of the contents thereof, and that the same is true to the best of his knowledge, information, and belief.

/s/Gerard T. Fox
Gerard T. Fox

Subscribed and sworn to me
9th day of April, 2018

NOTARY PUBLIC