MISSOURI PUBLIC SERVICE COMMISSION

UTILITY SERVICES DIVISION

SURREBUTTAL TESTIMONY

OF RONALD L. BIBLE

Schedule 6

CASE NO. EC-2002-1

UNION ELECTRIC COMPANY
d/b/a AMERENUE

Jefferson City, Missouri
June 2002

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Central Illinois Public Service Company (AmerenCIPS) and Union Electric Company (AmerenUE)	:	
Request for approval of revisions to delivery services tariffs, and for approval of Delivery Services Implementation Plan for Residential Customers.	:	00-0802

ORDER

Dated: December 11, 2001

Schedule 6

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By the Commission:

I. PROCEDURAL HISTORY

On December 15, 2000, Central Illinois Public Service Company ("AmerenCIPS" or "CIPS") and Union Electric Company ("AmerenUE" or "UE") (jointly referred to as "Ameren" or the "Company") filed a Petition with the Illinois Commerce Commission ("Commission") requesting approval of revisions to delivery service tariffs, and for approval of a Delivery Services Implementation Plan for Residential Customers pursuant to Article IX and Article XVI of the Public Utilities Act ("PUA" or "Act").

AmerenCIPS and AmerenUE are both wholly owned subsidiaries of Ameren Corporation, and own and operate electric distribution systems in Illinois.

Petitions to Intervene were filed by the following named companies: Archer Daniels Midland Company, Big River Zinc Corporation, Central Soya Company, Inc., Cerro Copper Products Co., Ethyl Corporation, Marathon Ashland Petroleum and Tosco Refining Company as the Illinois Industrial Energy Consumers ('IIEC"), Central Illinois Light Company ("CILCO"), Illinois Power Company ("IP"), MidAmerican Energy Company ("MidAmerican"), the People of the State of Illinois ("People"), the Association of Illinois Cooperatives ("Cooperatives") and EnerStar Power Corporation ("EnerStar"). All Petitions for leave to Intervene were granted.

Pursuant to due notice, a prehearing conference was held in this matter before a duly authorized Administrative Law Judge ("ALJ") of the Commission in Springfield, Illinois on January 29, 2001. Evidentiary hearings were held at the Commission's Springfield offices on July 18 and 19, 2001. Appearances were entered on behalf of Ameren, IIEC, IP, MidAmerican, and Staff. At the hearings, Craig D. Nelson, Robert J.

Mill, Wilbon L. Cooper, Philip B. Difani, Jr. and Keith P. Hock testified on behalf of Ameren. Theresa Ebrey, Dianna Hathhorn, Michael McNally, Mike Luth, Peter Lazare, Howard J. Haas and Cheri L. Harden testified on behalf of Staff. Testimony was also submitted by Ameren witnesses Gary S. Weiss, Kathleen C. McShane, Lee R. Nickloy, and Paul J. Nauert; Staff witnesses Bryan C. Sant, Carolyn Berning and Eric P. Schlaf; and IIEC witness Michael Gorman, and was admitted into evidence. During the course of the proceedings, the active parties eventually resolved most of the contested issues raised in this docket, and the parties are commended for their efforts in this regard. At the conclusion of the July 19, 2001 hearing, the record was marked "Heard and Taken."

Ameren, Staff, IIEC and MidAmerican filed initial briefs while Ameren, Staff and IIEC filed reply briefs. A proposed order was served on the parties. Briefs on exception ("exceptions"), including suggested replacement language, were filed by Ameren and Staff. Reply briefs on exception ("RBOE" or "replies to exceptions") were filed by Ameren, Staff and IIEC.

II. STATUTORY AUTHORITY; BACKGROUND AND OVERVIEW

The offering of delivery services pursuant to the Illinois Customer Choice Law is addressed in a number of sections in Article XVI of the Act. The definition of "delivery services" and the timeline for offering such services are set out in part in Sections 16-102 and Section 16-104 of the Act, respectively. Section 16-102 defines "delivery services" as "those services provided by the electric utility that are necessary in order for the transmission and distribution systems to function so that retail customers located in the . . . utility's service area can receive electric power and energy from suppliers other than the . . . utility, and shall include, without limitation, standard metering and billing services."

The dates by which delivery services are to be offered to non-residential customers are identified in subsections (1), (2), (2.5) and (3) of Section 16-104(a). For residential customers, Section 16-104(a)(4) provides that delivery services shall be offered to all residential retail customers on or before May 1, 2002.

Section 16-108(a) provides in part that an electric utility "shall provide the components of delivery services that are subject to the jurisdiction of the Federal Energy Regulatory Commission at the same prices, terms and conditions set forth in its applicable tariff as approved or allowed to go into effect by that [agency]." The Illinois Commerce Commission "shall otherwise have the authority pursuant to Article IX to review, approve and modify the prices, terms and conditions of those components of delivery services not subject to the jurisdiction of the Federal Energy Regulatory Commission, including the authority to determine the extent to which such delivery services should be offered on an unbundled basis."

Section 16-108(b) provides that the Commission shall enter an order approving, or approving as modified, the delivery services tariff no later than 30 days prior to the date on which the utility must commence providing such services.

Ameren's initial delivery services tariffs were filed in Docket No. 99-0121. In its Order in that proceeding, the Commission approved, with modifications, Ameren's proposed delivery services tariffs for non-residential customers.

In the instant docket Ameren, filed a petition requesting approval of revisions to its delivery service tariffs. For the most part, these revisions are for the purpose of offering delivery services to residential customers. Ameren also seeks approval of a Delivery Services Implementation Plan for Residential Customers.

III. TEST YEAR AND PROPOSED REVENUE INCREASE

For the test year in this proceeding, Ameren selected a historic test year consisting of the 1999 calendar year, with pro forma adjustments through September 30, 2000. In Ameren's view, the proposed test year is reasonable and represents a normal period. In addition, Ameren asserts that there were many necessary, reasonable and prudent costs associated with delivery services that were incurred during 1999 that the Company wishes to amortize and recover over future periods. Ameren was concerned that if it chose to use a later test year, these costs could be deemed out of period and excluded from the ratemaking process. Ameren claims that exclusion of these costs would not be appropriate and the resulting rates would not fairly reflect the costs of providing delivery services. (Ameren Ex. 3.0, Revised at 3)

No party objected to the test year selected by Ameren although, as discussed further below, Staff did take issue with some of Ameren's proposed pro forma adjustments.

The Commission finds Ameren's proposed test year reasonable for purposes of establishing delivery services rates in this proceeding.

With respect to revenue requirements associated with providing delivery services, it was Ameren's initial position that the revenue requirements for the Illinois jurisdiction were: $187,632,000 for AmerenCIPS and $34,240,000 for Ameren UE. (Ameren Ex. 3.12, Revised and 3.22, Revised) After accepting, for purposes of this proceeding, some of Staff's proposed adjustments to rate base and operating expenses which are discussed further below, it is Ameren's current position that the revenue requirements for the Illinois jurisdiction are: $171,094,00 for AmerenCIPS and $32,097,000. (Ameren Reply Brief, Appendix A) It is noted that in Ameren's prior delivery services proceeding, Docket 99-0121, revenue requirements were determined to be $154,218,000 for AmerenCIPS and $32,596,000 for AmerenUE.

Staff's claims the Illinois jurisdictional revenue requirements are $169,092,000 and $31,749,00 for AmerenCIPS and AmerenUE, respectively. (Staff Brief at 5)

IV. RATE BASE

Ameren's proposed Illinois jurisdictional original cost rate base associated with the provision of delivery services was $393,908,000 for AmerenCIPS and $51,476,000 for AmerenUE. (Ameren Ex. 3.12, Revised and 3.22, Revised) Staff proposed several adjustments to rate base, as described below, that were accepted by Ameren for purposes of this proceeding. After accepting these proposed adjustments, Ameren and Staff agree that the Illinois jurisdictional original cost rate base for AmerenCIPS is $390,793,000 and for AmerenUE is $51,008. (Staff Brief, Appendix A Schedule 3, and Appendix B Schedule 3; Ameren Reply Brief, Appendix A)

One such adjustment proposed by Staff was to disallow the cash working capital included in the Company's filings, $1,287,000 for AmerenCIPS and $207,000 for AmerenUE (ICC Staff Ex. 1.0, Schedule 1.7CIPS and 1.7UE), asserting the amounts were based on an incomplete analysis of working capital including only certain prepayment amounts. (Staff Brief at 5-6)

Staff also proposed reducing materials and supplies inventory balances by $1,756,000 and $261,000 for AmerenCIPS and AmerenUE, respectively. Staff asserts that these adjustments limit the balances reflected in rate base to the amounts that have been funded by investors. (Staff Brief at 6, citing ICC Staff Ex. 3.0 at 4)

Staff proposed increasing rate base by $199,000 for AmerenCIPS by reducing its reserve for depreciation. According to Staff, this reduction was made to correct the amount by which the Company reduced the depreciation reserve as a result of a sale of a building subsequent to the end of the test year. (Staff Brief at 6, citing ICC Staff Ex. 3.0 at 13)

Staff also recommended that the Commission reduce AmerenCIPS' rate base by $271,000 to properly allocate the Customer Account System, included in the Company's total Deferred System Development Costs, to gas operations. (Staff Brief at 6, citing ICC Staff Ex. 2.0 at 7) As previously mentioned, Ameren accepted each of Staff's proposed adjustments to rate base. (Ameren Ex. 26.0)

Taking into consideration Staff's proposed adjustments, all of which Ameren accepted, the Commission concludes that AmerenCIPS' and AmerenUE's Illinois jurisdictional delivery services rate base for the 1999 test year with pro forma adjustments is $390,793,000 and $51,008, respectively, as shown in Appendix A hereto. The tables below depict the components of each rate base.

AmerenCIPS

	000s
Delivery Services Plant in Service	$ 864,167
Accumulated Depreciation	(380,487)
NET PLANT	483,680
ADDITIONS TO RATE BASE	
Materials and Supplies	5,879
Working Capital	-
Deferred Charges	1,685
Budget Plan Balances	1,603
DEDUCTIONS FROM RATE BASE	
Customer Advances for Construction	(838)
Customer Deposits	(2,488)
Unamortized Pre-1971 ITCs	(33)
Accumulated Deferred Income Taxes	(98,695)
RATE BASE	$ 390,793

AmerenUE

	000s
Delivery Services Plant in Service	$ 150,511
Accumulated Depreciation	(88,139)
NET PLANT	62,372
ADDITIONS TO RATE BASE	
Fuel, Materials and Supplies	874
Working Capital	-
Budget Plan Balances	257
DEDUCTIONS FROM RATE BASE	
Customer Advances for Construction	(40)
Customer Deposits	(638)
Unamortized Pre-1971 ITCs	(3)
Accumulated Deferred Income Taxes	(11,814)

RATE BASE	$ 51,008

V. OPERATING REVENUES AND EXPENSES

Ameren witness Weiss submitted revised direct testimony in this proceeding that laid out Ameren's position regarding its operating revenues, expenses and revenue requirement associated with delivery services. Ameren Exhibits 3.12, Revised and 3.22, Revised purports to show that the Illinois jurisdictional revenue requirement associated with delivery services for the 1999 test year with pro forma changes was $187,632,000 for AmerenCIPS and $34,240,000 for AmerenUE. These operating income statements may be summarized as follows:

AmerenCIPS

	000s
Operating Revenues	$ 187,632
Other Revenue	-
TOTAL OPERATING REVENUES	187,632
Uncollectible Expense	-
Distribution	38,789
Customer Accounts	11,127
Customer Service	3,564
Administrative and General	27,398
Depreciation and Amortization	35,587
Taxes Other than Income Taxes	14,183
Total Operating Expense before Income Taxes	130,648
State Income Tax	3,930
Federal Income Tax	17,466
Deferred Taxes and ITCs Net	(2,802)
TOTAL OPERATING EXPENSES	149,242
NET OPERATING INCOME	$ 38,390

AmerenUE

	000s
Operating Revenues	$ 34,240
Other Revenue	-
TOTAL OPERATING REVENUES	34,240
Uncollectible Expense	-
Distribution	5,759
Customer Accounts	2,826
Customer Service	419
Administrative and General	4,400
Depreciation and Amortization	6,527
Taxes Other than Income Taxes	4,227
Total Operating Expense before Income Taxes	24,158
State Income Tax	699
Federal Income Tax	3,108
Deferred Taxes and ITCs Net	710
TOTAL OPERATING EXPENSES	28,675
NET OPERATING INCOME	$ 5,565

A. Uncontested Issues

Staff proposed numerous adjustments to the Company's operating income statements, some of which the Company did not contest for purposes of this proceeding. These adjustments are identified below.

Staff recommended that the Commission reduce Ameren's annualized wage increase from 4% to 3% for all employees in order to reflect a normal level of wages expense. This resulted in decreases of $64,000 and $28,000 for AmerenCIPS and AmerenUE, respectively. (Staff Brief at 7, citing ICC Staff Ex. 1.0, Schedule 1.8CIPS and 1.8UE)

Staff proposed reducing Ameren's employee benefits expenses to reflect the year 2000 actual benefit balances as a better representation of a normal level of expense than the estimated budget amounts proposed by Ameren. In addition, Staff claims that because of the significant change in calendar year 2000 resulting from the generation operations transfer from AmerenCIPS to GENCO, the year 2000 labor allocator factor should be applied instead of the 1999 labor allocator proposed by Ameren. Staff's resulting adjustments amounted to $4,401,000 for AmerenCIPS and

$70,000 for AmerenUE. (Staff Brief at 7, citing ICC Staff Ex. 1.0, Schedule 1.9CIPS and 1.9UE)

In Staff's view, the Commission should adjust uncollectible expense by applying a 5-year average rate to Ameren's requested revenue, asserting it is a better indicator of the on-going level of expense than the one-year of experience proposed by Ameren. Staff's resulting adjustments were increases of $6,000 and $16,000 for AmerenCIPS and AmerenUE, respectively. (Staff Brief at 7, citing ICC Staff Ex. 1.0, Schedule 1.13CIPS and 1.13UE)

Because it believes certain rate case expenses were either unsupported or already reflected elsewhere in Ameren's expenses, Staff proposed disallowing $17,000 in rate case expenses each for AmerenCIPS and AmerenUE. (Staff Brief at 8, citing ICC Staff Ex. 1.0 at 28, Ex. 11.0, Schedule 11.7CIPS and 11.7UE)

Staff recommended decreasing wage expense by $35,000 for AmerenCIPS (ICC Staff Ex. 1.0, Schedule 1.15CIPS) as it related to Staff's proposed disallowance of the reclassification of Transmission expenses to Distribution expenses. (Staff Brief at 8)

To remove institutional advertising expenditures, Staff proposed disallowing $337,000 and $73,000 in advertising expenses for AmerenCIPS and AmerenUE, respectively. (Staff Brief at 8, citing ICC Staff Ex. 3.0 at 9)

Staff recommended disallowing $258,000 and $245,000 in tax expenses for AmerenCIPS and AmerenUE, respectively, to base the expense on actual kilowatt-hours distributed in the test year. (Staff Brief at 8, citing ICC Staff Ex. 3.0 at 9-10)

Staff also proposed disallowing $33,000 and $8,000 in membership dues for AmerenCIPS and AmerenUE, respectively. Staff's proposal would not allow recovery of promotional and goodwill practices that Staff asserts are not essential in providing utility service. (Staff Brief at 8, citing ICC Staff Ex. 3.0 at 10)

To allow for an increase in the interest rate as Ordered by the Commission in Docket No. 00-0772, Staff recommended increasing interest expenses by $26,000 and $6,000 for AmerenCIPS and AmerenUE, respectively. (Staff Brief at 9, citing ICC Staff Ex. 3.0 at 11)

To disallow the portion of Edison Electric Institute dues used for lobbying purposes, Staff recommended disallowing $25,000 and $4,000 of the dues for AmerenCIPS and AmerenUE, respectively. (Staff Brief at 9, citing ICC Staff Ex. 3.0 at 12)

Staff proposed three separate disallowances of $141,000, $36,000, and $15,000 to AmerenCIPS' real estate tax expense. The first disallowance would remove real estate taxes assessed on gas plant rather than electric plant. (ICC Staff Ex. 3.0 at 13-

14) The second disallowance would remove real estate taxes assessed on plant that in Staff's view is not used and useful in providing public utility service. (Id. at 15) The third disallowance would remove real estate taxes assessed on plant that has subsequently been disposed of by AmerenCIPS. (Staff Brief at 9, ICC Staff Ex. 3.0 at 16)

Because it believes certain charitable contributions made by AmerenCIPS were political in nature, Staff recommended disallowing $9,000 of charitable contributions. (Staff Brief at 9, citing ICC Staff Ex. 3.0 at 16-14)

Staff proposed that the Commission disallow $84,000 and $20,000 in software amortization expense for AmerenCIPS and AmerenUE, respectively, for (1) costs Staff's says are related to information systems used for transmission, rather than distribution, services, and (2) costs Staff believes are for routine charges such as legal, regulatory, and phone charges incurred in calendar year 2000, outside the test year. (Staff Brief at 10, citing ICC Staff Ex. 2.0 at 5)

In Staff's view, since certain software amortization expenses were for routine charges such as legal and regulatory, incurred in calendar year 2000, outside the test year, the Commission should disallow $3,000 and $1,000 for AmerenCIPS and AmerenUE, respectively. (Staff Brief at 10, citing ICC Staff Ex. 2.0 at 5-6)

According to Staff, the Commission should reject the Company's proposed $2,123,000 pro forma adjustment to increase distribution expenses because no such increase in distribution expenses actually occurred. (Staff Brief at 10, citing ICC Staff Ex. 2.0 at 7)

Staff recommended an adjustment to Ameren's proposed Alternative Retail Electric Supplier ("ARES") Business Center Labor costs, reducing it to the current pay level of the four existing employees. (Staff Brief at 10) This reduction amounted to $51,030 for AmerenCIPS and $11,970 for AmerenUE. (Ameren Ex. 28.0)

According to Staff, each of its proposed adjustments to operating expenses discussed in this Section of the Order were accepted in Ameren Exhibit 26.0, except the last proposed adjustment relating to the ARES Business Center, which was accepted by Ameren witness Hock. (Staff Brief at 7-10, citing Ameren Exhibit 18.0 at 2) The Commission finds these adjustments to be appropriate.

B. Contested Issues

As described below, there were some adjustments proposed by Staff that remained contested. These issues were addressed by Ameren and Staff in their testimony and briefs, and their positions are summarized below IIEC did not offer testimony on these issues. In its reply brief, IIEC addresses certain of the adjustments proposed by Staff. (IIEC Reply Brief at 2)

1. Incentive Compensation Plan

Ameren has proposed to recover, from ratepayers, the cost associated with its incentive compensation program. The incentive compensation plan (the "Plan") covers all employees including union-represented employees. Under Ameren's incentive compensation program, each department or function has key performance indicators to measure its performance. The key performance indicators include such measures as safety, reliability, number of outages and customer satisfaction. The incentive compensation plan makes a portion of each employee's total compensation contingent on performance and improvement. (Ameren Ex. 11.0) Staff recommends that such expenses be disallowed and proposed disallowances of $1,778,000 for CIPS and $295,000 for UE.

a. Ameren's Position

Ameren states that it has in place an incentive compensation plan for all employees (including collective bargaining unit employees) as a part of its overall compensation package. Ameren asserts that it is a recurring expense and reflects a policy to make a portion of employees' total compensation contingent on performance and improvement. (Ameren Brief at 14)

In Ameren's view, the purpose of the incentive compensation plan is to ensure and enhance Ameren's ability to attract, retain, and encourage the development of knowledgeable and experienced talent capable of successfully operating and managing the business, and to promote and reward more efficient operation. Ameren contends that employees will take actions and expend greater efforts in response to offers of incentive compensation. Ameren believes that the results of its incentive compensation plan benefit customers, investors and the Company. (Id.)

Ameren asserts that incentive compensation programs are favorably viewed and widely utilized in the industry, a fact Ameren says is demonstrated by the number of consulting firms that provide incentive compensation plan design services. Ameren contends that in the utility industry, the trend has been to provide a portion of the total compensation package, particularly for key officers, in a performance-based/at risk manner. Ameren claims that as early as a decade ago over half of electric and gas utilities had specific objectives for employees that included customer satisfaction goals while customer targeted incentive compensation schemes were relatively common in the larger companies.

According to Ameren, based on a 2000/2001 Compensation Practices Survey conducted by William Mercer, Incorporated, 90% of utilities have incentive plans for the executive employees, 84% have incentive plans for their management employees and 70% have plans for their nonexempt clerical/technical employees. Also, based on a 1999/2000 Compensation Practice Survey by Buck Consulting, Ameren states that 98%

of general industry executives have a formal incentive plan; 85% have incentive plans for their management employees and 44% have plans for their salaried nonexempt employees. In Ameren's view, incentive compensation plans can be a useful tool for management that can promote more efficient and lower cost operations. (Id. at 15)

Ameren indicates that state public utility regulatory commission treatment of incentive compensation plans has varied. The Company acknowledges that some state public utility commissions have not allowed recovery of expenses related to incentive programs. Ameren says that other commissions have allowed partial to full recovery of such expenses in the rates. (Id. at 15-16)

Ameren contends that when some commissions have disallowed recovery, it has been due to concerns of negative customer impact. Ameren claims this is not a potential concern for Ameren because there have been no allegations, either by Staff or by any other party, that Ameren's quality of service has been poor or has declined. (Id. at 16)

It is Ameren's position that ratepayers primarily benefit from the incentive compensation plan in two ways: performance and cost. Ameren contends that ratepayers benefit from performance because the incentive plans pay employees only when predefined performance goals are achieved. Ameren claims that these performance goals are beneficial to ratepayers and include employee safety, cost control, process improvements, service ratings and reliability ratings. Ameren asserts that the ratepayer also benefits from a labor cost perspective because employees are paid based on a competitive "total" pay basis. According to Ameren, this total amount is determined based on competitive pay levels for each job and includes two parts, base pay and incentive pay. Ameren says base pay is a fixed amount that is paid to the employee for the job they do while the incentive portion is variable and only paid when the previously discussed performance goals are met. In Ameren's view, this is a very common and competitive pay philosophy typically called a "pay performance" program. (Id. at 16-17)

Ameren asserts that the incentive compensation plan reinforces Ameren's performance-oriented culture and motivates employees to meet goals that benefit the Company, shareholders, and ratepayers. Not being able to recover the costs associated with the incentive compensation plan, Ameren argues, will impact salary decisions by management and will affect the Company's ability to attract and retain personnel. (Id. at 17) Ameren contends that its ability to balance the key goals of compensating employees in a competitive manner and providing employees with an incentive to perform more efficiently and effectively, thus benefiting customers, will be seriously hindered. (Id.)

Ameren also argues that precedent exists to allow the cost recovery of incentive compensation programs. Ameren contends that the Commission allowed recovery of the costs for incentive compensation plans in Consumers Illinois Water Company, Docket No. 97-0351 (June 17, 1998), and Northern Illinois Gas Co., Docket No. 95-0219 (April 3, 1996). (Id.)

As noted by Ameren, Staff witness Ebrey proposed disallowing labor and the associated payroll tax expense related to the incentive compensation plan. (Id., citing Staff Ex. 1.0 at 15) According to Ameren, Ms. Ebrey maintained that the plan was based on financial goals only, that there were no guarantees the plan would continue or goals would be met, and there was insufficient historical data. (Id. at 17-18, citing Staff Ex. 1.0 at 15-20 and Staff Ex. 11.0 at 3-6)

In response, Ameren claims that the plan's goals are performance-oriented. Ameren contends that while purely financial goals would benefit shareholders, return on equity ("ROE") typically is increased by either increasing sales or decreasing costs. Ameren believes that as a result, the cost of service is reduced, and ratepayers will benefit. Ameren says it has nevertheless moved from financial goals to a program with both performance goals tied to operating efficiency and financial goals. Ameren asserts that each department or function has key performance indicators ("KPIs") to measure its performance and that the KPIs are not purely financial. According to Ameren, these KPIs include such measures as safety and reliability. Ameren asserts that the KPIs also include other non-financial measures such as number of outages and customer satisfaction. It is Ameren's position that the incentive compensation plan is a part of the Company's overall compensation package meant for all employees and the purpose of such a plan is to make a portion of an employee's total compensation contingent on performance and increased efficiency in operations. (Id. at 18)

In its reply brief, Ameren states that Staff is arguing that the Company's incentive compensation payments are incurred principally for the benefit of shareholders and that their inclusion in the test year could enrich shareholders further if the payments are not made. Ameren does not deny that it is in business to make money, and that when it makes money, Ameren's shareholders benefit. Ameren claims that while it strives to provide quality service to its customers, it admits that its principal motive in doing so is to promote the continued health of its business, which relies in large part on the continued satisfaction of its customers. Ameren asserts that when it seeks to improve efficiency, it does so to improve the bottom line – which also benefits customers. Ameren contends that regulatory commissions have long been comfortable with this relationship between the interests of customers and shareholders. (Ameren Reply Brief at 7)

According to Ameren, Staff displays a good deal of discomfort with the fact that many of the actions that Ameren takes, while benefiting customers, also benefit shareholders. Ameren claims that like many employers, including a large part of the utility sector, Ameren has a detailed incentive plan designed to promote the provision of efficient and quality service. Ameren contends that this both improves profits, by reducing costs, and promotes the continued health of the business, by promoting customer satisfaction. Ameren believes incentive plans are highly effective tools in drawing out of employees the performance necessary to achieve these goals. (Ameren Reply Brief at 7)

According to Ameren, Staff does not disagree that incentive plans can be effective, and Staff is not asserting that those costs should never be reflected in rates. Ameren says that Staff does, however, demonstrate a good deal of suspicion with respect to Ameren's plan and its motives. Ameren claims that Staff fears that, through one event or another, Ameren will be in a position not to make the payments, but to collect their cost from ratepayers. (Ameren Reply Brief at 8)

In Ameren's view, Staff's mistrust is unfounded. Ameren states that one concern that Staff has is that Ameren will revise or eliminate its plan, and thus not make any payments to employees. Ameren claims this is a highly unlikely result. Ameren asserts that the use of incentive plans is increasingly common, and at Ameren the Plan is an important part of an employee's overall compensation. Ameren contends that it would not abandon its incentive plan, a primary tool used to control costs and promote quality service, simply to pocket the incentive payments reflected in rates. (Id.)

Ameren also responds to what it refers to a concern by Staff that because the payments are funded out of earnings, if earnings are down, payments will not be made. Ameren says that if earnings are down, that means that expenses are up, or revenues are down, which means that Ameren is not realizing the expected rate of return – in which case shareholders are not being unduly enriched by the absence of incentive payments. (Id.)

Ameren believes that the Commission should encourage the use of incentive plans. Ameren argues that rate decisions that deny utilities recovery of legitimate and appropriate costs of service do not promote use of these tools. Ameren asserts that such decisions pressure utilities to abandon what have been recognized as effective management tools that can benefit ratepayers greatly. (Ameren Reply Brief at 8)

b. Staff's Position

Staff recommends that the Commission disallow the expenses included in Ameren's filings for the incentive compensation plan. Staff's proposed reduction in operating expense is $1,778,000 and $295,000 for AmerenCIPS and AmerenUE, respectively. (Staff Brief at 17, citing ICC Staff Ex. 1.0, Schedule 1.11CIPS and 1.11UE)

Staff claims the incentive compensation plan is dependent upon financial goals of Ameren, which benefit shareholders and not ratepayers. Staff further asserts that the goals in the incentive compensation plan may not be met and thus Ameren would incur no cost; yet, ratepayers would still provide the same level of funding. Staff argues that the incentive compensation plan is discretionary and may be discontinued at any time. Staff also contends that there is no comparable historical data on which to determine if the test year level is reflective of a "normal" level. Finally, Staff argues that prior Commission precedent supports the disallowance of costs associated with the incentive compensation plan. (Staff Brief at 11, citing ICC Staff Ex. 1.0, pp. 16-20.)

As mentioned above, Staff contends that the incentive compensation plan is based on the financial performance goals of the Company. Staff claims this presents at least two problems. First, Staff believes these types of goals are based upon circular reasoning; that is, the larger the rate increase granted, the more success Ameren will have in achieving its earnings goals. Staff argues that as a result, Ameren will enhance its ability to award incentive compensation. Second, it is Staff's position that these goals primarily benefit shareholders; therefore, shareholders should bear the cost. Staff argues that this process, while providing benefits to the shareholders, provides little benefit to ratepayers, since the cost of the plan is included in the revenue requirement regardless of whether the performance goals are met. (Staff Brief at 11-12)

In Staff's view, ratepayers are not protected in the event that Ameren fails to achieve the incentive compensation plan's financial goals and incentive compensation payments are not made. Staff states that the 1999 test year expense amount is based upon the goals established and performance achieved for 1999. According to Staff, there is no mechanism to protect ratepayers should Ameren not achieve its 1999 level in the future. Staff states that if the projected expense for the incentive compensation plan is recovered through rates, ratepayers will pay the cost of incentive compensation whether or not Ameren incurs it. (Id. at 12)

According to Staff, Ameren argues that the inclusion of the incentive compensation expense would not harm ratepayers since the incentive compensation is not paid out unless performance goals are met. (Id., citing Ameren Exhibit 11.0 at 4-5) Staff asserts that Ameren's argument is misleading for two reasons.

First, Staff states that the level of expense included in the revenue requirement used to set rates does not change once those rates are set. Staff says the actual level of expenditures in a given period has no direct effect on the rates charged to ratepayers during that period. According to Staff, the Company says there is no concern of negative customer impact for the Ameren customers and in fact asserts that customers benefit because the incentive plans pay employees only when predefined performance goals are achieved. (Id., citing Ameren Exhibit 11.0 at 5) Staff claims, however, that in any period in which the level of incentive payments is less than that included by Ameren in the test year, the ratepayers will be funding the plan at the greater level included in the test year and thus experience "negative customer impact."

Second, Staff states that it is possible for a given group of Ameren employees to meet all of their performance goals, none of which includes an earnings per share level, and still not receive incentive compensation payments because financial targets were not achieved. Staff says the key performance indicators used to set forth goals and measure employee performance for purposes of the incentive compensation plan, are indicated on the Performance Management, Performance Score Card. Staff states that the incentive compensation plan system is based on four areas or quadrants; financial, process efficiency improvement, customer satisfaction and employee safety. Staff claims that a review of the financial quadrant of the Energy Delivery Performance Score Card revealed that the goals were: net income of the regulated business, delivery service cost per customer, transmission service revenue, direct operations and maintenance cost per customer. According to Staff, no level of earnings per share was included in the goals. Staff also asserts that there were no goals in the process efficiency improvement, customer satisfaction or employee safety quadrants that were directed at earnings per share. (Id. at 13, citing Tr. at 212-218)

Staff thus concludes that it would be possible for the employees to meet all the goals indicated on the Performance Score Card, while the Company, as a whole, did not meet its financial goals. Staff asserts that unless the targeted overall earnings per share benchmark for the Company is reached, no funding of the plan will occur. (Id., citing Staff Cross Exhibit 1, TEE 6.04 and 6.05) According to Staff, if the incentive compensation plan is not funded, no incentive payments can be made. Staff argues that while performance goals may direct how incentive compensation is earned by the various employees, earnings per share is still the driving force behind the actual incentive compensation payments occurring. (Id. at 13-14)

With regard to what it refers to as "plan changes", Staff argues that the incentive compensation plan may or may not be modified and may or may not be continued into the future, and that the Company's commitment to this plan continuing into the future is questionable. (Id. at 14)

On the question of "comparable historical data," Staff contends that because there is no comparable historical data, Ameren is unable to demonstrate that the proposed test year level of expense for the Plan is reflective of a "normal" level. Staff claims that Ameren's incentive compensation plans have changed annually since 1998. (Id.) Staff states that in each year from 1998 forward, different variables for evaluating performance have been included in the calculation of a given individual's potential incentive compensation. Staff says that the Company indicated that the structure of its incentive compensation plan for 2001 has again changed. Staff argues that since the structure for the pay out in the future is different from the test year, Staff was not able to analyze, based upon historical data, what the pay out would be in the future. (Id. at 14-15)

In terms of "Commission policy," Staff responds to Ameren's position that incentive compensation programs are favorably viewed and widely utilized in the industry. (Id., citing Ameren Exhibit 11.0 at 2) According to Staff, the Commission order in MidAmerican Energy Company Docket No. 99-0534, page 9 states:

> Although the Commission recognizes that incentive plans may be a part of the Company's compensation package, it does not follow that such plans have to be included in the operating costs.

Staff argues that the existence of an incentive compensation plan as part of a total compensation plan does not guarantee that the cost of the plan should be recovered through rates. Staff believes that prior Commission precedent supports the disallowance of incentive compensation. Staff claims the Commission rejected the costs for incentive compensation plans in the following cases: MidAmerican Energy Company: Docket No. 99-0534 (July 11, 2000); Illinois Power Company: Docket Nos. 99-0120/99-0134 (Consolidated) (August 25, 1999), 93-0183 (April 6, 1994) and 91-0147 (February 11, 1992); Central Illinois Light Company: Docket Nos. 99-0119/99-0131 (Consolidated) (August 25, 1999) and 94-0040 (December 12, 1994); Consumers Illinois Water Company: Docket Nos. 95-0641 (October 23, 1996), 95-0307/95-0342 (Consolidated) (May 8, 1996); and Citizens Utilities Company of Illinois, Docket No. 94-0481 (April 6, 1994). (Id. at 15)

Staff further argues that the Commission has been concerned about the dependence of incentive compensation payments on company financial goals in the past. (Id., citing Docket No. 93-0183, Order entered April 6, 1994 and 99-0534, Order entered July 11, 2000)

According to Staff, Ameren cites two cases as precedent in which the Commission has allowed recovery of incentive compensation programs. Staff claims that in those cases, the companies demonstrated that the goals set for their incentive compensation plans reduced expenses and created greater efficiencies in operations. Staff contends that the companies had historical patterns of paying incentive compensation and were able to demonstrate that the incentive compensation payments provided benefits to ratepayers. Staff argues that Ameren failed to make any similar showing in this docket and thus failed to demonstrate how the incentive compensation plans of those two utilities, for which the Commission has allowed recovery in the past, have any correlation to Ameren's plan. In Staff's view, the so-called precedent cited by Ameren does not apply in this case as the reasons the Commission allowed recovery in those dockets do not exist in the current case. (Id. at 16, citing ICC Staff Ex. 11.0 at 6-7)

According to Staff, Ameren argues that other state Commissions have allowed recovery of incentive compensation plan expenses. Staff argues however, that the Commission has taken the position in the past that each case must stand on its own merits and that this Commission is not obligated to walk in the footsteps of other state commissions. Staff contends that other states' allowance of the recovery of incentive compensation plans in rates does not qualify plans in Illinois to be recovered through rates. (Id. citing Ameren Ex. 11.0 at 3-5 and Docket Nos. 99-0119/99-0131 (Cons.), Order at 38)

In its reply brief, Staff responds to a statement in Ameren's brief that "Ms. Ebrey maintained that the plan was based on financial goals only". Staff claims this is a misstatement because nowhere in Ms. Ebrey's testimony does she make such a statement. Staff contends that while the employees may meet all of their individual performance goals, it is possible that the Company as a whole may not meet its targeted financial goals. Staff asserts that unless the targeted overall earnings per share benchmark for the Company is reached, no funding of the Plan will occur. Staff claims that if the Plan is not funded, no incentive payments can be made. Staff states that performance goals may be a component of the Plan, but the deciding factor on whether or not incentive compensation payments are made is the Company achieving its targeted earnings per share level. (Staff Reply Brief at 4-5)

According to Staff, Ameren agrees that the criteria used for measuring the level of incentive compensation has changed "from financial goals to a program with both performance goals tied to operating efficiency and financial goals". Staff believes that, as a result, it is not possible to determine a "normal" level of expense to be included in operating expenses based on comparable historical data. (Staff Reply Brief at 5)

c. MidAmerican's Position

MidAmerican believes, in general, that the disallowance of incentive compensation plan costs is inappropriate and fails to recognize that incentive compensation plans are an integral part of a utility's total compensation package. MidAmerican says it is heartened, however, by Staff's apparent recognition that, in the appropriate circumstances, the costs of incentive compensation packages may be included in a utility's rates. According to MidAmerican, Staff witness Ebrey agreed that retirement and deferred compensation packages may be legitimate components of an employee's overall compensation package. (MidAmerican Brief at 2, citing ICC Staff Exhibit 11.0 at 4) MidAmerican says that Ms. Ebrey then went on to state that inclusion of a benefit plan in the Company's compensation package does not, in itself, guarantee recovery of the cost of the plan in the rates granted in a rate case.

MidAmerican understands Ms. Ebrey's comments to mean that, in appropriate circumstances, the costs associated with an incentive compensation plan could be included in a utility's rates granted in a rate case. MidAmerican asserts that cross-examination of Ms. Ebrey supports this conclusion. MidAmerican says that Ms. Ebrey discussed certain circumstances that would need to be present for her to recommend that the Commission reflect the costs of incentive compensation plans in rates. (Id. at 2-3, citing Tr. at 69-72) MidAmerican believes a case-by-case review of such costs is reasonable.

MidAmerican believes consideration should be given to whether the specific costs Ameren requests should be included in the revenue requirements. In MidAmerican's view, many of the concerns discussed by Ms. Ebrey were addressed in the specifics of Ameren's incentive compensation plan. MidAmerican supports the recognition that incentive compensation plans can be an appropriate item to be included in a utility's rates. (MidAmerican Brief at 3)

d. Commission's Conclusion

Ameren has proposed to recover, from ratepayers, the cost associated with its incentive compensation program. The incentive compensation plan, which covers all employees, makes a portion of each employee's total compensation contingent on performance and improvement. Under Ameren's program, each department or function has key performance indicators to measure its performance. These indicators include such measures as safety, reliability, number of outages and customer satisfaction.

As discussed more fully above, Ameren provided numerous reasons why it believes it should be allowed to recover the costs associated with its incentive compensation plan from ratepayers. In Ameren's view, ratepayers benefit from the incentive compensation plan in two ways: performance and cost. Ameren contends that ratepayers benefit from performance because the incentive compensation plan pays employees only when predefined performance goals are achieved. Further, Ameren claims that ratepayers benefit from a labor cost perspective because employees are paid based on a competitive total pay basis, including the expected incentive compensation payments.

Staff opposes recovery of the costs of the plan. Among other reasons, Staff asserts that no funding of the plan will occur unless financial goals are met, and that it was not possible to reasonably estimate the test year level of expense. According to Staff, there was no assurance the plan would continue, or that the goals would be met, and there was insufficient historical data to determine the test year level of expense associated with the Plan.

In response to Staff's arguments, Ameren claims that its incentive compensation plan has moved from financial goals to a program with performance tied to operating efficiency as well as financial goals. Ameren also asserts that it has no intention of discarding the incentive compensation plan. Ameren further claims that shareholders will not being unduly enriched by the absence of incentive compensation payments in the event such payments, which are dependent on earnings, are not paid. According to Ameren, since earnings are down in that situation, that means expenses are up or revenues are down, in which case Ameren is not realizing the expected rate of return.

Having reviewed the positions of the parties on this issue, the Commission finds, based on the record in this docket, that Ameren should not be allowed to recover from ratepayers the expenses associated with its current incentive compensation plan. First, as Staff has argued, the Commission has generally disallowed such expenses except where the utility has demonstrated that its incentive compensation plan has reduced expenses and created greater efficiencies in operations. For example, in its Order in the CILCO proceeding in Dockets 99-0199/99-0131 (Cons.), the Commission disallowed such expenses, and in doing so stated on pages 37-38, "The Commission remains convinced that such expenses are not recoverable in the absence of any evidence that the . . . Plan benefits ratepayers." In the limited number of cases in which such expenses were allowed, those companies had historical patterns of paying incentive compensation and were able to demonstrate that the incentive compensation payments provided benefits to ratepayers. Generally speaking, the Commission believes that if a utility is seeking to recover such projected expenses from ratepayers, the utility should demonstrate that its plan can reasonably be expected to provide net benefits to ratepayers. In the instant case, while Ameren has provided test year amounts for the expenses purportedly associated with its incentive compensation plan, as discussed below, it has not demonstrated that its plan has provided or will provide net benefits to ratepayers.

With regard to the requested level of expenses under Ameren's plan, the actual payout to employees pursuant to the plan will not occur unless earnings per share targets are achieved. Therefore, although Ameren's incentive compensation plan does include certain performance and efficiency goals, no funding of the plan will occur and no incentive payments will be made if the Company fails to meet its financial target, even if all key performance indicators are met by the employees. Meanwhile, under the Company's proposal, the projected payouts would continue to be collected from ratepayers even if actual payouts do not occur.

As for using historic payout levels in other years to evaluate the reasonableness of the Company's requested amounts, the Commission agrees with Staff that such a comparison is problematic in this case in that the variables for evaluating performance have changed each year since 1998. Also, whether or not the Company's projections of these expenses would be supported by a review of its forecasts by an independent certified public accounting firm, regarding compliance with the Guide for Prospective Financial Statements of the American Institute of Certified Public Accountants, is a question the Commission does not reach in this docket because the Company selected a historic test year.

Accordingly, while the Commission believes that incentive compensation plans have the potential to provide benefits in terms of improving performance and reducing costs, and that the recovery of expenses associated with incentive compensation plans may be appropriate in some circumstances, the Commission concludes, for the reasons set forth above, that Ameren should not be allowed to recover from ratepayers the expenses associated with its current incentive compensation plan as requested in this docket.

2. ARES Business Center Labor Expense

Ameren proposed a pro forma adjustment to the test year labor expense associated with its ARES Business Center ("ABC"). Ameren states that the ABC is responsible for processing delivery services requests and interfacing with ARES. Ameren asserts that it will be required to add additional staff at the ABC to provide service, once all customers have choice. Specifically, Ameren proposes to add three new positions, including a Retail Electric Supplier ("RES") account executive, a customer enrollment specialist and an ARES business specialist. Accordingly, Ameren proposed an adjustment to the test year operating expenses to reflect the costs associated with hiring these additional employees. (Ameren Brief at 12) Staff opposes this adjustment. Staff proposes to reduce the Company's pro forma ARES business expense labor by $136,000 for CIPS and $32,000 for UE. As previously discussed, Staff also recommended an adjustment to Ameren's proposed ARES business center labor costs, reducing it to the current pay level of the four existing employees and Ameren did not oppose that adjustment.

a. Staff's Position

According to Staff, Ameren proposed a pro forma adjustment because three new employees will be required in the ARES Business Center on the "anticipated" volume increases due to residential customer choice. Staff says Ameren admitted that if the timing of these volume increases varies, so will the timing of the filling of the proposed positions. (Staff Brief at 18, citing Tr. at 39-41) Staff states that the RES Account Executive position was initially to be filled by mid 2001, but was not, and is now expected to be filled by the end of 2001 although no specific timetable exists. (Id., citing Tr. at 49) Staff also notes that Ameren does not expect the other two positions to be filled until May 1, 2002. Staff also complains that the projected salary levels for the three new ABC positions have changed three times since the inception of this case.

In its testimony, briefs and exceptions to the proposed order, Staff recommends that the Commission disallow costs associated with the position Ameren expects to fill in 2001 since the cost for this employee is not known and measurable. (Staff exceptions at 2-4) Staff also recommends that the Commission disallow the costs associated with the two positions that are not expected to be filled until 2002, because this hire date is well beyond 12 months from the filing date of the tariffs. (Staff Brief at 17)

Staff indicates that the Commission Order in Docket No. 85-0056, defined known and measurable changes as "verifiable on the record and certain of effectuation." (Id., citing Docket No. 85-0056, Order at 16) Staff says the Commission has further ruled on "known and measurable" as a well-established practice. (Id., citing Docket No. 99-0013, Order at 23) Staff claims that Ameren has not been able to prove, with any degree of reasonable certainty, when these positions will be filled or what the expense level will be. Staff complains that both the timing of filling the positions, as well as the level of expense to be incurred, have been moving targets since the inception of the case. Staff believes that the known and measurable criteria, historically used by the Commission for evaluating pro forma adjustments, have not been met. Staff therefore recommends that the Commission reduce the ARES Business Center Labor by

$136,000 for AmerenCIPS and $32,000 for AmerenUE. (Id. at 18-19, citing ICC Staff Ex. 1.0, Schedule 1.12CIPS & 1.12UE)

In its reply brief, Staff again asserts that Ameren failed to demonstrate that its proposed pro forma adjustments for the three new proposed positions for the ABC are known and measurable. Staff contends that while this proceeding was initiated for the purpose of setting rates for delivery services, not base rates, 83 Ill. Adm. Code 285, which sets forth the standard filing requirements for utilities in filing for an increase in rates, is persuasive authority which the Commission may use in reviewing the filings and making a determination thereon. Staff says that according to Part 285, a utility may propose pro forma adjustments " . . . where such changes occurred during the selected Historical or Current Test Year or are reasonably certain to occur subsequent to the selected Test Year within 12 months from the filing date of the tariffs and the amount of the changes are determinable." (Staff Reply Brief at 1-2, citing 83 Ill. Adm. Code 285.150(e)) Staff indicates that Part 285 goes on to describe proposed pro forma adjustments as "known and measurable." It is Staff's position that the costs for filling the proposed positions are not known and measurable. (Staff Reply Brief at 2)

Staff again emphasizes that at least two of the three positions will be not be filled until beyond 12 months from the filing date of the tariffs. Staff states that the Company has alleged that it expects to fill the one position, the RES account executive, by the end of 2001. (Staff Reply Brief at 2, citing Tr. at 49) Staff says the Company stated that although the job description for that position has been developed, the description is subject to approval of the vice president of the Customer Service Division. In Staff's view, there is no evidence that two of the positions comply with the Part 285 requirements and it is not certain that the third position will be filled within twelve months of the December 15, 2000 filing. (Staff Reply Brief at 2)

According to Staff, the known and measurable criteria are not met by the inclusion of costs associated with these positions in a Company budget. Staff asserts that while budgets are an integral part of filing a future test year, in an historic test year such as the one filed by Ameren in the current case, inclusion in a budget does not constitute sufficient evidence to meet known and measurable criteria. Staff claims that had Ameren filed a future test year, pro forma adjustments based on the budget of that future period would have been considered; however, Ameren would also have had to secure the opinion of an independent Certified Public Accountant ("CPA") regarding Ameren's adherence to "Guidelines for Systems for the Preparation of Financial Forecasts" published by the American Institute of Certified Public Accountants as required by 83 Ill. Adm. Code 285.150 for utilities that use a forecasted test year. Staff believes that since Ameren filed an historic test year, the criteria related to a future test year filing do not apply. (Staff Reply Brief at 2-3)

Staff asserts that the Ameren statement that due to certain "anticipated" volume increases resulting from residential customer choice these three positions are necessary (Id. at 3, citing Staff Cross Exhibit 1, TEE 4.05), does not provide sufficient justification upon which to make the adjustments. Staff claims that as Ameren witness Hock acknowledged, the timing of these hiring events is subject to change. (Id., citing Tr. at 40) Staff asserts that, in fact, the timing has changed during the course of this case from mid 2001 to by the end of 2001. (Staff Reply Brief at 3, citing Staff Brief at 17-18 and ICC Staff Ex. 1.0 at 25)

b. Ameren's Position

Ameren claims the ABC must hire new employees over the next several months to continue to meet the growing customer service demands of the RES and retail customers. Ameren indicates that all three positions are reflected in the current budget and the RES Account Executive is expected to be hired before the end of this year, which is when the rates approved in this case will go into effect. Ameren asserts that the other two positions will be hired prior to May 1, 2002 in preparation for residential choice. Ameren contends that the increased volume of transactions necessitates the additional three employees, and it is unlikely that the timing for hiring these positions will change. Ameren thus believes the hirings are "known." (Ameren Brief at 12-13)

In Ameren's view the costs associated with the employees are also "measurable." Ameren asserts that if has provided sufficient evidence to justify the salary levels of these employees. (Id. at 13, citing Ameren Ex. 18.0 at 4) Ameren argues that salaries would be comparable to the salaries of current ABC employees based on current levels and are reflected in Ameren's budgets. Ameren states that Staff witness Ms. Ebrey expressed doubt regarding the projected salary levels, and found it "peculiar" that a company would bring in new hires at the same pay level as existing employees. Ameren responds that applicants meeting the requirements for these positions should expect to be compensated at a level comparable to existing employees because those new employees will have equivalent education and skill levels. Ameren believes it has demonstrated that its pro forma adjustment for the three employees is known and measurable. (Id.)

In its reply brief, Ameren replies to what it refers to as arguments by Staff that the timing of the hirings is uncertain and that the level of compensation is not known, and refers in this regard to the Commission's traditional test year rules. Ameren asserts that while the specific timing of the hirings is not fixed, the record reflects that all positions will be filled by May 1, 2002, just a few months after the rates established in this proceeding are expected to become effective, and by the time that residential customers become eligible for delivery services. In Ameren's view, there is a "reasonable certainty" that the hirings will be made within a reasonable period. According to Ameren, the Commission has never, to Ameren's knowledge, required that a utility demonstrate the specific date on which an employee will begin; rather, under traditional test year rules, the Commission has required only that an employee be hired (or that any particular event occur) within a specific period for an adjustment to be accepted. (Ameren Reply Brief at 5)

As for comments by Staff that the salary levels for the three ABC positions have changed three times since the inception of the case, Ameren contends that the fact that the salary levels have been refined in the course of the budgeting process should not have a material effect on the Commission's decision. Ameren claims the initial estimate of salary requirements was made nearly a year ago in order to be included in the filing last fall. Ameren asserts that since that time, Ameren has refined its plans for the ABC as the date for residential open access has approached. (Ameren Reply Brief at 5)

Ameren claims it is certain that the ABC will experience an increase in the level of activity and that it will hire the three new employees by May 1, 2002 to address that increase. Ameren asserts that the salary levels reflected on Ameren Ex. 28.0 represent the amounts that Ameren is prepared to offer to candidates for the new positions, and thus represent the minimum amounts that Ameren will have to pay. Ameren believes the adjustment is both known and measurable and should be reflected in the rates established in this proceeding. (Ameren Reply Brief at 6)

c. Commission's Conclusion

As discussed above, Ameren proposed a pro forma adjustment to test year labor expenses to reflect the addition of three employees at the ARES Business Center. Ameren's labor expenses include the addition of a RES account executive, a customer enrollment specialist and an ARES business specialist. It is projected by Ameren that the latter two positions will be filled not later than May 1, 2002. Ameren says it plans to hire the RES account executive before the end of 2001. Staff, on the other hand, contends that this proposed adjustment should be disallowed.

Ameren asserts that these three additional employees are necessary to meet increased customer service demands of retail electric suppliers and retail customers. Ameren claims that all three new employees will be hired by the time residential customers become eligible for delivery services, just a few months after the rates established in this proceeding are expected to become effective. In Ameren's view, this response to the increased level of activity is timely and reasonable.

Staff disagrees with Ameren on this issue. Staff argues, among other things, that Ameren's pro forma adjustment does not meet the "known and measurable" standard. Staff claims, in essence, that two of the future employees will be hired more than twelve months after the filing date of the tariffs in this proceeding. As for the third employee, Staff in essence contends that the date of hiring and the level of compensation for this prospective employee are not known with sufficient certainty to constitute a known and measurable change to the test year operating expenses.

In arriving at a conclusion on this issue, the Commission first notes that for the test year in this proceeding, Ameren selected a historic test year, comprised of the 1999 calendar year, with pro forma adjustments through September 30, 2000. Among other reasons, Ameren selected this test year because, in its view, many necessary and prudent costs associated with delivery services were incurred during 1999, and Ameren wishes to amortize and recover these costs over future periods. Under Part 285, a historical test year allows a utility to propose pro forma adjustments to the historic test year for "known and measurable changes." These adjustments shall reflect "significant changes" where such changes "are reasonably certain to occur . . . within 12 months from the filing date of the tariffs" and "the amount of the changes are determinable." The Commission believes that these criteria for evaluating pro forma adjustments are appropriate for use in this docket.

In this case, it is undisputed that the two positions Ameren plans to fill in 2002 will not be filled until over two years after the conclusion of the 1999 historical test year and well over one year after the petition seeking approval of tariffs in this proceeding was filed. Thus, the Commission believes that the labor expenses associated with these two positions, estimated by Ameren to total $100,000, $81,000 for AmerenCIPS and $19,000 for AmerenUE, do not conform to the test year standards governing pro forma adjustments to test year operating expenses. The projected hiring date which gives rise to these expenses is simply too far removed from the 1999 historical test year selected by the Company and from the date the tariff proposals were filed, December 15, 2000, to qualify for recovery in this proceeding. Accordingly, the Commission finds that Ameren should not be allowed to include in test year operating expenses the labor costs associated with the two employees Ameren plans to hire in 2002.

With regard to the RES account executive, an Ameren witness testified that the job description has been developed, the salary level for this position has been included in the 2001 budget and Ameren plans to fill the position during calendar year 2001. The Commission finds that there is a reasonable level of certainty that the position will be filled in 2001 at the salary level of $68,000 projected by Ameren, with $55,080 allocated to AmerenCIPS and $12,920 allocated to AmerenUE. The Commission also notes that while Staff questions when the position will be filled and what the associated salary level will be, Staff does not contend that increased activity at the ARES Business Center can be met with existing employees. In the Commission's view, Ameren has shown that this hiring is reasonably certain to occur within 12 months from the filing date of the tariffs and that the amount of the change is determinable. Accordingly, the Commission concludes that the salary for the RES account executive should be included in operating expenses as a pro forma adjustment to the test year.

3. Employee Benefits Cost Adjustment

Ameren included in its operating expenses certain retirement and deferred compensation plans, as a portion of employee benefits expense, that benefit only certain upper management employees. Staff opposes the inclusion of these expenses in revenue requirement.

a. Staff's Position

Staff argues that the employee benefits plans Ameren included in its operating expenses are the same benefit plans which have been disallowed by the Commission in three prior CIPS Dockets. (Staff Brief at 19, citing Staff Cross Exhibit 1, TEE 9.08) Staff claims that Ameren's only argument for including these plans in the revenue requirement is that differences in compensation exist among different types and levels of employees. (Id., citing Ameren Exhibit 13.0 at 4) Staff contends that Ameren fails to address any of the reasons these plans were disallowed in past cases and fails to provide any new documentation as to why they should be allowed in this case after already having been considered and disallowed three times. Staff recommends that the Commission reduce employee benefits expenses by $82,000 and $23,000 for AmerenCIPS and AmerenUE, respectively. (Id., citing ICC Staff Ex. 1.0, Schedule 1.10CIPS and 1.10UE)

In its reply brief, Staff claims that Ameren erroneously states Staff's basis for disallowing the expenses related to certain retirement and deferred compensation plans is a decision reached by the Commission 10 years ago. (Staff Reply Brief at 3-4, citing Ameren Brief at 13) Staff contends that these same plans have been considered and disallowed more recently in AmerenCIPS Dockets 98-0545 and 99-0121. (Id., citing ICC Staff Ex. 1.0 at 14) It is Staff's position that the reasons these expenses were disallowed in AmerenCIPS Docket 91-0193 remain valid reasons for disallowing the expenses in the current case. Staff argues that the Company has failed to provide any new evidence to persuade Staff that the expenses, which have already been considered and disallowed three times, should now be allowed. (Staff Reply Brief at 4)

In Staff's view, these plans are discriminatory. Staff claims they only provide for benefits for a small number of highly paid employees who are also included under the pension plan that covers all employees. Staff also asserts that these plans are not necessary to provide service to the ratepayers. (Staff Reply Brief at 4)

b. Ameren's Position

In Ameren's view, the Commission should assess each expense item on its merits, and not reject a cost simply because of a decision it reached 10 years ago. Ameren indicates that it offers senior management a package that includes certain benefits not offered to all employees. Ameren states that Staff does not contend the total package is unreasonable in amount, only that the plans "discriminate." Ameren argues that differences in compensation are a reflection of market realities, not discrimination. Ameren contends that employees are compensated based on experience and skill and that the majority of employers do not provide a single, uniform compensation package to everyone working at the company. Ameren asserts that it is reasonable and customary for upper management to have a larger compensation package than lower level employees. Ameren claims that its employee benefits plan is appropriate to the market in which it competes and is a reasonable component of an overall compensation package. Ameren believes that it should be allowed to recover the costs of these plans in rates. (Ameren Brief at 13-14)

In its reply brief, Ameren asserts that Staff offers no reason why the cost of these plans should be disallowed beyond the fact that in certain prior cases, the Commission disallowed them. Ameren says it is not litigating prior cases; rather, it is litigating this case. In this case, Ameren claims it presented a test year that included the cost of executive compensation packages, which, in turn, include certain supplemental benefit plans. Ameren contends that it explained that the supplemental benefit plans are reasonable and necessary components of executive compensation, and that the overall levels of compensation are reasonable and appropriate in the market. (Ameren Reply Brief at 6)

Ameren contends that Staff opposed the inclusion of the cost of these plans in the test year, but never suggested either that the cost of those plans is unreasonable or that the overall compensation packages are themselves unreasonable. Ameren argues that instead, Staff asserted that the supplemental plans are discriminatory, while at the same time readily admitting that there is nothing inappropriate about compensating different employees differently, and relied principally on the Commission's prior treatment of similar plans. (Ameren Reply Brief at 6)

Ameren believes the fact that the Commission previously rejected inclusion of similar costs in a test year does not forever foreclose Ameren from ever proposing their inclusion again. Ameren claims it presented those costs here as a reasonable and necessary element of appropriate compensation packages for executives, and no party has questioned that. Ameren believes the costs should be reflected in the test year. (Ameren Reply Brief at 6-7)

c. Commission's Conclusion

As explained above, Ameren included in its operating expenses certain retirement and deferred compensation plans, as a portion of employee benefits expense, that apply to certain upper management employees. Staff believes the plans under discussion here are discriminatory because they only provide benefits to a small number of highly paid employees who are also included under the pension plan that covers all employees. Staff also contends that the plans are not necessary to provide service to ratepayers. Staff asserts that these same expenses were disallowed in Docket Nos. 91-0193, 98-0545 and 99-0121. In Staff's view, the reasons for disallowing these expenses in Docket No. 91-0193 remain valid, and the Company has failed to provide any evidence demonstrating that the costs should now be recovered from ratepayers.

It is Ameren's position that it is reasonable and customary for upper management to have a larger compensation package than lower level employees. Ameren contends that the supplemental benefit plans are reasonable and necessary components of executive compensation, and that the overall levels of compensation are reasonable and appropriate in the market. Regarding the previous Commission decisions cited by Staff, Ameren believes that the Commission should assess each expense item on its merits, and not reject a cost simply because it has done so previously. In Ameren's view, the fact that the Commission previously rejected inclusion of similar costs in a test year does not preclude Ameren from proposing their inclusion in test year operating expenses in this docket.

As stated above, in its Order in a prior CIPS docket, 91-0193, the Commission agreed with Staff that certain employee benefit expenses, which were similar to those proposed in the current docket, should be disallowed. As indicated in the Commission's analysis on this issue in Docket 91-0193, a number of concerns were raised with regard to these expenses. More specifically, the Order cited Staff criticisms that the plans were discriminatory, available for a select few highly paid individuals, were a non-tax deductible expense, and did not produce tax-deferred earnings. Further criticisms were that the utility failed to explain why the plan was essential to utility operations or how it benefited ratepayers. (Docket No. 91-0193, Order at 83-84) At the conclusion of its analysis in Docket 91-0193, the Commission found that the Company failed to justify the amount it was proposing to recover from ratepayers, and the Commission excluded these expenses from the Company's recoverable operating expenses. Similar disallowances were ordered in Dockets 98-0545 and 99-0121.

The Commission has reviewed the record in the instant docket and finds that Ameren should not be allowed to recover the costs of the plans at issue from ratepayers at this time. While Ameren is correct that it is not precluded from seeking recovery of operating expenses similar to those previously disallowed by the Commission, the evidence presented by Ameren in this docket does not adequately dispel or satisfy the concerns that were enumerated in the Commission's Orders disallowing such expenses in the prior dockets. That is, in this instance, Ameren has not shown why it should be allowed to recover, from ratepayers, the expenses in question. The Commission observes that this decision is without prejudice to Ameren's proposing recovery of such costs in future proceedings, should Ameren believe the concerns have been met or are no longer applicable due to changes in circumstances or other reasons, or are otherwise appropriate.

4. Approved Operating Income Statement

Upon giving effect to the adjustments to operating revenues and expenses approved hereinabove, and the rate of return of 8.60% for AmerenCIPS and 9.04% for AmerenUE hereafter allowed in this Order, the Commission concludes that AmerenCIPS' and AmerenUE's Illinois jurisdictional delivery services operating income statements for the 1999 test year with pro forma adjustments, for purposes of this proceeding, are as shown in Appendix B attached hereto. These income statements may be summarized as follows:

AmerenCIPS

	000s
Operating Revenues	$ 169,147
Other Revenue	0
TOTAL OPERATING REVENUES	169,147
Uncollectible Expense	706
Distribution	35,670
Customer Accounts	9,877
Customer Service	2,866
Administrative and General	22,067
Depreciation and Amortization	35,587
Taxes Other than Income Taxes	13,603
Total Operating Expense before Income Taxes	120,376
State Income Tax	3,299
Federal Income Tax	14,658
Deferred Taxes and ITCs Net	(2,802)
TOTAL OPERATING EXPENSES	135,531
NET OPERATING INCOME	$ 33,616

AmerenUE

	000s
Operating Revenues	$ 31,762
Other Revenue	0
TOTAL OPERATING REVENUES	31,762
Uncollectible Expense	170
Distribution	5,602
Customer Accounts	2,579
Customer Service	323
Administrative and General	4,142
Depreciation and Amortization	6,527
Taxes Other than Income Taxes	3,959
Total Operating Expense before Income Taxes	23,302
State Income Tax	578

Federal Income Tax	2,560
Deferred Taxes and ITCs Net	710
TOTAL OPERATING EXPENSES	27,150
NET OPERATING INCOME	$ 4,612

VI. CAPITAL STRUCTURE AND RATE OF RETURN

As discussed more fully below, there were initially some issues of disagreement between Ameren, Staff and IIEC related to capital structure and rate of return. However, the parties ultimately reached agreement on an appropriate weighted average cost of capital ("WACC") to be used for setting rates for AmerenCIPS and AmerenUE in this proceeding. The parties did not reach agreement on each of the individual components that comprise the capital structure and overall rate of return.

In its filing, Ameren recommended that for purposes of setting rates in this proceeding, the Commission use the following capital structure and costs of capital components:

AmerenCIPS

	Amount	Percent of Total Capital	Cost	Weighted Cost
Long-term Debt	$518,049,841	45.811%	7.140%	3.271%
Preferred Stock	$78,403,022	6.933%	4.789%	0.332%
Common Equity	$534,378,322	47.255%	13.000%	6.143%
Total	$1,130,831,186	100.00%		**9.746%**

AmerenUE

	Amount	Percent of Total Capital	Cost	Weighted Cost
Long-term Debt	$1,591,864,637	38.086%	7.958%	3.031%
Preferred Stock	$154,124,324	3.687%	5.721%	0.211%
Common Equity	$2,433,682,282	58.227%	13.000%	7.569%

Total	$4,179,671,243	100.00%	**10.811%**

(Ameren Ex. 6.5, Ameren Ex. 7.5)

Staff initially proposed to include short-term debt in AmerenCIPS' capital structure. However, subsequent to Staff's initial proposal, AmerenCIPS received authority to issue up to $150 million in long-term debt to refund outstanding evidences of indebtedness, including short-term debt. Accordingly, Staff revised its proposal, replacing the short-term debt balance in its initial proposal with $110,202,917 in additional long-term debt, which represents the average monthly balance of total short-term debt outstanding for the 12 months ending June 2000. (ICC Staff Exhibit 13.0 at 5)

It was Staff's position that AmerenUE's capital structure is not appropriate for ratemaking purposes based on a comparison to several benchmarks and based on the implied pre-tax interest coverage ratio resulting from the application of Staff's cost of capital recommendations to AmerenUE's proposed capital structure. (ICC Staff Exhibit 13.0 at 7-9) Staff proposed to reduce the proportion of AmerenUE's common equity in its capital structure to an imputed level that Staff believed to be consistent with comparable companies. Staff recommended the following capital structures and cost of capital components for purposes of setting rates:

AmerenCIPS

	Amount	Percent of Total Capital	Cost	Weighted Cost
Long-term Debt	$628,252,758	50.62%	6.74%	3.41%
Preferred Stock	$78,387,002	6.32%	4.79%	0.30%
Common Equity	$534,378,322	43.06%	11.18-11.52%	4.81-4.96%
Total	$1,241,018,082	100.00%		**8.53-8.68%**

AmerenUE

	Percent of Total Capital	Cost	Weighted Cost
Long-term Debt	49.00%	6.93%	3.39%
Preferred Stock	5.00%	5.64%	0.28%
Common Equity	46.00%	11.18-11.52%	5.14-5.30%

Total	100.00%	**8.82-8.98%**

(ICC Staff Ex. 4.0, Schedule 4.2, ICC Staff Ex. 13.0, Schedule 13.1)

Ameren did not object to Staff's ultimate position regarding the amount and type of debt in AmerenCIPS' capital structure. Ameren did, however, disagree with Staff's proposal to impute a capital structure for AmerenUE. In Ameren's view, the proportion of common equity in AmerenUE's capital structure is reasonable, and is consistent with capital structures of other companies with similar business risk, and appropriate for a company with AmerenUE's credit rating.

It was IIEC's position that Staff's proposal regarding AmerenUE's common equity ratio was appropriate and should be adopted by the Commission. (IIEC Ex. 1.0 at 3-10)

A. Long-Term Debt

It was Ameren's position that certain debt in the capital structures of AmerenCIPS and AmerenUE was issued for generation-related purposes. In Ameren's view, this debt represents bonds issued to finance pollution control and other environmental facilities not reflected in the delivery services rate base. Accordingly, Ameren recommended that the cost of this debt be omitted in determining the embedded cost of long-term debt used to derive the weighted average cost of capital. (Ameren Ex. 6.0 at 5-6)

Staff disagreed with Ameren's proposal to exclude the cost of pollution control and environmental improvement debt from the WACC calculation. Staff claimed that it would be inappropriate to disregard the cost of such debt in the WACC being used to set rates, since the liability created with the issuance of those bonds puts all of Ameren's cash flows at risk, including those of its delivery service operations. Staff also stated that treatment of this debt as generation-related would be inconsistent with the treatment of this debt in Ameren's previous bundled rate cases. (ICC Staff Exhibit 13.0 at 2-5)

B. Common Equity

Ameren witness McShane filed testimony regarding the cost of common equity for Ameren. Ms. McShane used a comparable earnings test, and performed the discounted cash flow ("DCF") and equity risk premium analyses with adjustments to reflect differences between market and book value and also flotation costs. Ms. McShane applied her methodology to a sample of natural gas distribution companies, which she claims is similar in risk to electric delivery service operations. Based on her analysis, Ms. McShane concluded that a fair return on common equity for Ameren would be in the range of 12.75-13.25%, with a mid-point of 13.00%. (Ameren Ex. 4.0 at 3-5, Ameren Ex. 5.0 at 3-5)

Staff witness McNally had several criticisms of Ms. McShane's analysis. He testified that Ms. McShane's comparable earnings methodology is based on the erroneous assumption that earned returns on book equity are acceptable substitutes for investor-required returns. He further stated that the Commission should disregard Ms. McShane's use of the comparable earnings method on the grounds that the Commission has found it to be unreliable for ratemaking purposes. (ICC Staff Exhibit 13.0 at 10)

Mr. McNally also criticized Ms. McShane's use of a market/book adjustment to her DCF and equity risk premium results. He asserted that Ms. McShane's market/book adjustment is based on the flawed argument that a market-derived required rate of return does not produce a fair return when applied to a book value rate base if the market to book value ratio differs from one, and that the Commission has rejected that argument in past proceedings. (ICC Staff Exhibit 13.0 at 12) Finally, Mr. McNally criticized Ms. McShane's argument for a flotation cost adjustment. He testified that prior Commission Orders have rejected generalized flotation cost adjustments and that Ms. McShane failed to demonstrate that either the Companies (or their parent) anticipate they will issue stock in the test year, or that costs were actually incurred by the Companies prior to the test year that have not been recovered previously through rates. (ICC Staff Exhibit 4.0 at 39-40)

Mr. McNally performed his own analysis of Ameren's required return on common equity, using the DCF and equity risk premium models. He applied those models to both a sample of integrated electric utility companies and a sample of natural gas distribution companies. (ICC Staff Exhibit 4.0 at 15) The DCF estimate of the cost of equity was 12.20% for the electric sample and 11.18% for the natural gas sample. (ICC Staff Exhibit 4.0 at 22) The risk premium estimate of the cost of equity was 11.19% for the electric sample and 11.52% for the natural gas sample. (ICC Staff Exhibit 4.0 at 31) Ultimately, Mr. McNally's return on equity recommendation was based on his sample of natural gas distribution companies, because he believed Standard & Poor's credit rating and business position scores indicated that the gas distribution company sample better represented the risk level of AmerenCIPS' and AmerenUE's electric delivery service operations. Based upon his analysis, Mr. McNally concluded that an appropriate return on common equity for AmerenCIPS and AmerenUE is 11.18% to 11.52% with a mid-point of 11.35%. (ICC Staff Exhibit 4.0 at 32-33)

Through the testimony of IIEC witness Gorman, IIEC criticized Ameren's use of a comparable earnings test as a measure or test of the investor-required return. (IIEC Ex. 1.0 at 10-11) IIEC also took issue with the market to book ratio adjustment to the results of the DCF and risk premium analyses, contending it would produce an undue, excessive return on equity. (IIEC Ex. 1.0 at 11-13)

C. Resolution of and Conclusions on Rate of Return Issues

At the hearing of this matter, as a result of discussions with Staff and other active parties, Ameren witness Nickloy submitted additional testimony presenting a compromise position regarding the weighted average cost of capital for each Company. Neither Staff nor any other party objected to this compromise proposal, which is described below.

Mr. Nickloy explained that while Ameren was not conceding any particular issues in dispute, Ameren would accept a weighted average cost of capital of 8.60% for AmerenCIPS and a WACC of 9.04% for AmerenUE as shown in Ameren Exhibit 25.0 at page 2. According to Ameren, Staff and IIEC, those WACCs are reasonable because neither implies a return on common equity in excess of 11.35%, the mid-point return on equity recommended by Staff. (Ameren Exhibit 25.0 at 2, Staff Brief at 20, IIEC Brief at 2) Mr. Nickloy further explained that, for interest synchronization purposes, the weighted cost of debt for AmerenCIPS should be 3.41% and the weighted cost of debt for AmerenUE should be 3.22%. (Ameren Exhibit 25.0 at 2) Ameren claims that these weighted costs of debt are consistent with the WACCs it proposed. Ameren and Staff also state that Ameren's revised position produces WACCs for AmerenCIPS and AmerenUE that are consistent with Staff's analysis. Staff indicated that it does not object to the proposed weighted cost of debt for AmerenCIPS and AmerenUE for the purpose of this proceeding, and the Commission finds these cost rates to be appropriate for that purpose. (Staff Brief at 20, citing Tr. at 131)

Having reviewed the record, the Commission concludes that for purposes of establishing revenue requirements in this proceeding, the compromise proposal described above is reasonable and should be approved. While it is somewhat unusual for the parties to reach agreement regarding an overall rate of return without reaching agreement on each of the specific components thereof, the Commission appreciates the efforts of the parties to resolve this matter. The Commission also understands that performing a cost of capital analysis, including estimating the cost of common equity and developing and evaluating an imputed capital structure, is a complex undertaking. Furthermore, while the Commission believes that it is important to use appropriate data and techniques when establishing rates, the ultimate goal is to establish rates that are just and reasonable. In this regard, the Commission believes that the parties' efforts have produced a reasonable result.

As noted above, the parties assert that their compromise proposal utilizes a WACC of 8.60% for AmerenCIPS and 9.04% for AmerenUE. Based on the record in this case, which includes comprehensive cost of capital analyses performed by both Ameren and Staff, the Commission finds that an overall cost of capital, and rate of return on rate base, of 8.60% for AmerenCIPS and 9.04% for AmerenUE are reasonable. For AmerenCIPS, the overall rate of return for of 8.60%, and implied rate of 11.35% for the return on equity ("ROE") component, are at the midpoint of the range in Staff's recommendation. For AmerenUE, assuming a cost rate for the ROE component at the midpoint of Staff's range, 11.35%, the overall return of 9.04% would be toward the low end of the WACC range established by using the imputed capital structure proposed by Staff on the low end and the actual capital structure used by Ameren on the high end.

The Commission also notes that on the subject of ratemaking, the United States Supreme Court has stated, "It is not theory but the impact of the order which counts. If the total effect of the rate order cannot be said to be unjust and unreasonable, judicial inquiry under the Act is at an end." (Federal Power Commission v. Hope Natural Gas Company, 320 U.S. 591, (1944)) In the instant proceeding, the Commission concludes that the rates of return in the parties' compromise proposal produce reasonable results from a ratemaking standpoint, and should be used for purposes of establishing revenue requirements and setting just and reasonable rates.

VII. COST OF SERVICE AND RATE DESIGN ISSUES

A. Uncontested Issues

The parties to this proceeding were eventually in general agreement regarding cost of service studies and rate design, except as noted in the following subsections of this Order. During the course of the proceeding, Ameren suggested that Staff's initial determination of rates did not sufficiently distinguish between voltage classes. (Ameren Ex. 12.0 at 12-13) Thereafter, Staff made certain adjustments to its rate levels that satisfied Ameren's concerns in this regard. (ICC Staff Ex. 14.0 at 12)

For non-residential delivery services customers, Ameren initially proposed to maintain its unbundled meter rates at the level approved by the Commission in Docket No. 99-0121. Staff recommended that Ameren update its unbundled metering rates so that the charges would be based upon the same test year that is being utilized in this proceeding rather than the test year used in Docket No. 99-0121. (ICC Staff Exhibit 5.0 at 15) Staff asserts that cost of service principles dictate that all customer class charges should be developed from the same test year. (Id.) Staff states that in general, Ameren simply proposed the same metering charges for non-residential customers that are currently in effect. Staff indicates that those metering charges are based upon an October 1997 through September 1998 test year utilized in both the Company's previous delivery services docket (Docket No. 99-0121) and the metering unbundling docket (Docket No. 99-0013). (Id.) Staff further indicates that the Company proposed a metering charge for AmerenCIPS Special Contract customers, which was previously unavailable. According to Staff, the Company provided neither explanation nor support for how the charge was determined. (Id.)

In response to Staff's concerns, Ameren presented an unbundled metering Cost of Service Study ("COSS") based upon the same 1999 test year that is being utilized to determine delivery services rates. (Ameren Exhibit No. 17.0 at 4-5, Ameren Exhibit Nos. 17.3 and 17.4) Staff witness Luth reviewed Mr. Difani's metering COSS and found it to be a reasonable basis for determining revised metering rates. (ICC Staff Exhibit 14.0 at 12, and Schedule 2-CIPS and 2-UE at 1, line described as "Less: Metering Charge")

Staff indicates that Ameren's tariffs, as originally filed, did not offer unbundled metering service to residential customers, and suggested that the delivery services tariffs should be revised so that residential customer classes are eligible for metering services provided by an alternative Meter Services Provider. (ICC Staff Ex. 14.0 at 12-13) Staff recommended that delivery services rates for residential DS-1 customers be re-stated to reflect the division of the monthly delivery services Customer Charge into separate charges for delivery services and metering. (Id.)

Ameren witness Mill expressed doubt that unbundled metering services would be much in demand by residential customers, but stated that Ameren would be willing to expand eligibility for unbundled metering services to residential customers. (Ameren Exhibit No. 20 at 5-6) Staff argues that regardless of the current level of demand for unbundled metering services, residential customers should have the same option to choose unbundled metering services as do non-residential customers. Staff recommends that the Commission order the Ameren tariffs be revised so that residential customers are eligible for unbundled metering services at the same date on which delivery services rates are effective for residential customers. (Staff Brief at 22) The Commission finds that this recommendation by Staff is appropriate and is hereby adopted.

Ameren proposed that charges for delivery services provided to potential future customers at a 138 kV level be determined on an individual basis. (Ameren Exhibit 2.0 at 10) Staff agreed that 138 kV customers are unique, with only one such customer at AmerenCIPS and two at AmerenUE. Therefore, Staff proposed that the Commission review Ameren's specific determination of rates for potential future 138 kV customers and that Commission approval of these rates should be required in order for the charge to become effective. (ICC Staff Ex. 5.0 at 16) Staff says that Ameren did not reply to this recommendation. Staff believes that its recommendation is reasonable and consistent with the Commission's regulatory function. Staff recommended that the Order in this docket include the requirement that rates for future 138 kV customers be submitted to the Commission for approval. (Staff Brief at 22-23) The Commission finds that this recommendation by Staff is appropriate and is hereby adopted.

Staff indicates that it did not recommend any changes to the Terms and Conditions portion of Ameren's proposed delivery services tariffs. Staff says that the Terms and Conditions sections of Ameren's tariffs were extensively reviewed in two recently concluded Commission dockets, Docket Nos. 00-0259, 00-0395 and 00-0461 (Consolidated) and 00-0494. Staff states that Ameren incorporated the tariff changes resulting from these dockets into the tariffs it proposed in this proceeding. (ICC Staff Ex. 10.0 at 2-3, Staff Brief at 27)

According to Staff, the Commission's order in Docket No. 00-0494 requires electric utilities to revise their "Customer" and "Supplier" delivery services tariffs in accordance with an outline described in the Commission's order. Staff states that the Commission left, to Staff-sponsored workshops, the determination of the date by which the utilities should file new tariffs in accordance with the outline. In this proceeding, Staff witness Schlaf recommended that Ameren commit to reordering its Customer and Supplier tariffs by the end of 2001. Staff says Company witness Mill stated that Ameren would conform its tariffs in accordance with the outline when it files compliance tariffs at the conclusion of this proceeding. (Staff Brief at 27, citing Tr. at 98-99) Staff has no objection to Ameren's plans.

With respect to the single billing option, there was initially a significant difference between Ameren and Staff regarding the appropriate level of credit to be provided under Ameren's Single Billing Option ("SBO") tariff. In rebuttal testimony, Staff proposed a net SBO credit of 49 cents per bill for AmerenCIPS and 51 cents per bill for AmerenUE. (Staff Ex. 15.0 at 10-11 and Schedule 2) In contrast, Ameren proposed net SBO credits of four to five cents per bill for AmerenCIPS and zero to one cent per bill for AmerenUE. (Ameren Ex. 12.1) However, at the hearing, Ameren and Staff reached an agreement regarding the level of credits. Staff recommends that the Commission approve the agreement reached between Staff and the Company on SBO credits for AmerenCIPS and AmerenUE. For AmerenCIPS, Staff and the Company agreed on an SBO cost of service of 49 cents per bill; an EDI offset of 3 cents per bill and a net credit of 46 cents per bill. The corresponding agreement for AmerenUE is an SBO cost of service of 53 cents per bill, an EDI offset of a 3 cents per bill and a net credit of 50 cents per bill. (Staff Brief at 28, citing Tr. at 94)

Ameren also states that it may require RESs to use internet-based EDI software compatible with the Companies' software, and that Ameren will update the RES handbook, and send letters to registered RESs, to notify RESs that Ameren will require the use of internet-based EDI. (Ameren exceptions at 2)

Staff considers the proposed settlement reasonable because it closely resembles Staff's final position on the SBO credit in the case. Staff states that the only difference in both cases was that Staff had proposed an EDI offset of two cents per bill for both Companies, which produced SBO credits one cent higher for each company than the settled-upon figure. Staff suggests that by reaching a reasonable resolution of this issue, Staff and the Company provide the Commission an opportunity to focus its attention on other issues where meaningful differences remain. Staff believes this should help improve the decision-making on remaining issues and raise the overall quality of the Order in this case. (Staff Brief at 29) The Commission finds that the credits for which Staff and Ameren are in agreement are supported by the record and are hereby approved.

B. Contested Issues

1. Cost Classification and Allocation

As discussed more fully below, Staff and Ameren disagree over the appropriate method for allocating distribution costs between customer charges and demand charges. Ameren proposes to use the zero-intercept method, whereby the part of common distribution equipment determined to be related to connecting a customer is charged according to a fixed customer charge, which is based upon the number of customers in the customer's rate class. Under this approach, the part of common distribution equipment determined to be related to serving electric demand is charged according to the level of the customer's use or demand upon the electric distribution system, with the per-unit charge determined by the overall demand or use of the distribution system by the customer's rate class.

Alternatively, Staff's approach includes a fixed monthly charge for the equipment and activities that are fixed and customer-specific, and a variable demand or usage charge for the use of common distribution equipment that is based upon that use. Unlike the zero-intercept approach, Staff's proposal does not attempt to separate common distribution equipment into customer and demand components.

a. Ameren's Position

Ameren states that its cost of service studies for both AmerenUE and AmerenCIPS were based on the zero-intercept cost allocation methodology, as described in the NARUC Electric Utility Cost Allocation Manual. According to Ameren, the purpose of the zero-intercept methodology is to identify the customer component of each of the different system costs. (Ameren Brief at 16, citing Ameren Ex. 16.0 at 2-5)

Ameren asserts that the NARUC Manual sets forth the zero-intercept method which is a generally accepted method of distribution cost allocation that is widely used by utility, regulatory and consulting personnel within the electric utility industry. Ameren contends that its widespread use and acceptance in the industry indicates that this method is, contrary to Staff's assertions, neither complex nor vague. (Ameren Brief at 19, citing Ameren Ex. 16.0 at 2-5)

Ameren claims that Staff witness Luth's methodology considered only three distribution accounts (369-Services, 370-Meters, and 371-Installations on Customer Premises) to contain customer components. Ameren also contends that Mr. Luth only included distribution O&M expenses for those same accounts that contain customer components. According to Ameren, page 90 of the NARUC Manual states that Distribution Plant Accounts 364-370 involve both demand and customer costs. Ameren further asserts that pages 87 and 88 of the NARUC Manual contain tables indicating that 11 out of 14 Distribution Plant Accounts 360-373, as well as 14 of the 19 Distribution O & M Accounts 580-598, are considered to contain a customer component by the NARUC organization. In Ameren's view, Mr. Luth's approach significantly understated the role of customer components. (Ameren Brief at 19)

According to the Company, Ameren witness Cooper provided a "real world" example demonstrating that in addition to the demand differences in the use of the distribution system, the number of customers served also affects the level and costs of distribution system required to be installed. In Ameren's example, there are two identical tracts of land, one occupied by an average size 200 home subdivision and the second occupied by an intermediate size commercial or industrial customer, both tracts having hourly peak demands of 1,000 kilowatts on a given day. Ameren claims that the Company's investment and capacity in the primary voltage distribution lines to supply the electrical usage to each of these tracts of land is likely to be the same. Ameren asserts that in the case of the residential subdivision, the Company must extend its primary voltage distribution lines throughout the subdivision tract, in addition to installing multiple distribution transformers, secondary voltage lines and service lines, to reach each home. Ameren contends that in the case of the non-residential customer, the same primary distribution line can serve this same peak electrical use by only installing a meter for a primary voltage customer, or only a transformer and a meter for a secondary voltage customer.

Ameren argues that since the total peak demands being served on each of these tracts are the same, this example clearly indicates that the number of customers being served by the Company's distribution system affects costs. In Ameren's view, it follows that an appropriate distribution cost allocation methodology should and must consider a customer component as a part of its application. Ameren recommends that the rates established in this proceeding be based on a cost of service study employing that method. (Ameren Brief at 19-20, citing Ameren Ex. 16.0 at 2-5)

b. Staff's Position

According to Staff, the most significant and recurring difference between the Ameren cost of service study ("COSS") and the Staff COSS concerns the treatment of several plant-in-service and expense accounts. Staff states that Ameren treated several accounts as being partially customer-related, whereas Staff treated those accounts as being fully demand-related. Staff also contends that Ameren's treatment of the relevant accounts is not consistent with the Order in Ameren's delivery service tariff ("DST") Docket No. 99-0121, which rejected Ameren's use of the same zero-intercept method of cost classification and cost allocation that Ameren is proposing in this docket. (Staff Brief at 23, citing ICC Staff Ex. 5.0 at 6-10)

Staff says it considered Ameren's classification of customer-related costs to be demand-related costs in the following plant-in-service accounts:

Account No.	Account Title
364	Poles, towers and fixtures
365	Overhead conductors and devices
366	Underground conduit

367	Underground conductors and devices
368	Line transformers

(ICC Staff Ex. 5.0 at 6)

In addition, Staff claims that it considered the Services plant-in-service account numbers 369-1 and 369-2 to be entirely customer-related, while Ameren considered a portion of these accounts to be demand-related costs. Staff states that its changes in cost allocation and classification in the Distribution Plant accounts necessarily resulted in changes to General Plant costs, because General Plant costs were allocated and classified using the same ratio as Distribution Plant-in-Service accounts. (Id.)

According to Staff, operating and maintenance expense accounts were also affected by Staff's revision of Ameren's determination of customer-related costs. Those accounts were:

Account No.	Account Title
583-1	Overhead line expenses
583-2	Overhead transformer expenses
584-1	Underground line expenses
584-2	Underground line transformer expenses
593	Maintenance of overhead lines
594	Maintenance of underground lines
595	Maintenance of line transformers

Staff's claims that its changes in cost allocation and classification of these operating and maintenance expense accounts affected the allocation and classification of account numbers 581, "Load dispatching"; 588, "Miscellaneous distribution expenses", 590, "Maintenance supervision and engineering"; and 598, "Maintenance of miscellaneous distribution plant." (Id.)

For the operations and maintenance expense account no. 589, "Rents", Staff says it used the overall allocation of Distribution Plant among the rate classes as an allocation factor for account no. 589. Staff contends that this is the same allocation factor that was used in the last Ameren DST proceeding. Staff argues that this allocation factor is appropriate for use in this docket, because this account records payments for rent of property, owned by parties other than Ameren, for use by the distribution system. Staff claims that if Ameren itself owned the property, the property would be recorded as a plant-in-service item. In Staff's view, an allocation factor based upon how the distribution plant-in-service is allocated is appropriate for account no. 589. (Id., at 9)

As noted above, the main difference between Ameren and Staff in determining customer-related and demand-related costs results from Ameren's application of the zero-intercept method of determining customer costs. According to Staff, the zero-intercept method seeks to determine what part of a distribution system is related to connecting a customer to common distribution system equipment, and what part of common distribution system equipment serves electric demand. Staff states that the zero-intercept method determines customer-related connection costs by "identify[ing] that portion of plant related to a hypothetical no-load or zero-intercept situation." (Staff Brief at 25, citing NARUC Cost Allocation Manual at 92) Staff says that under this approach, the part of common distribution equipment determined to be related to connecting a customer is charged according to a fixed customer charge which is based upon the number of customers in the customer's rate class. Staff also states that under the zero intercept approach, the part of common distribution equipment determined to be related to serving electric demand is charged according to the level of the customer's use or demand upon the electric distribution system, with the per-unit charge determined by the overall demand or use of the distribution system by the customer's rate class. (Staff Brief at 25-26)

Staff asserts that the Commission rejected this same zero-intercept method in the last Ameren DST proceeding. (Staff Brief at 25, citing Docket No. 99-0121, Order at 71) Staff says the Commission's Order on Docket No. 99-0121 references other dockets in which the Commission also rejected the zero-intercept method. (Id., citing Docket Nos. 91-0010, 90-0007 and 88-0277) Staff contends that Ameren has provided no new or compelling arguments in support of its position. It is Staff's position that because Ameren's explanation for its use of the zero-intercept method in this docket has been presented before and rejected, it is appropriate for the Commission to again reject Ameren's use of the zero-intercept method. (Staff Brief at 25)

It is Staff's position that the zero-intercept method's complex attempt to separate costs of common distribution system equipment is made vague and complicated by the fact that the distribution system is built to serve electric demand, rather than to merely connect customers. Staff claims that if a distribution system was not built to serve electric demand, it is doubtful that a customer would want to be connected to it. In Staff's view, it is appropriate to charge for the costs of using common distribution equipment based upon the use of that equipment. Staff asserts that its method of differentiating customer and demand-related costs was approved by the Commission in the Order in Ameren's previous DST proceeding, and recognizes demand differences in the use of the distribution system while allowing the Company to recover its delivery services revenue requirement. Staff further contends that its method includes a fixed monthly charge for the equipment and activities that are fixed and customer-specific, and a variable demand or usage charge for the use of common distribution equipment that is based upon that use. Staff claims that unlike the zero-intercept method, the Staff method charges customer classes according to their use of common distribution system equipment, rather than through a hypothetical no-load situation. (Staff Brief at 26, citing ICC Staff Ex. 5.0 at 10)

In its reply brief, Staff responds to arguments in Ameren's initial brief which Staff says relied on the description of the zero-intercept method in the NARUC Electric Utility

Cost Allocation Manual in an effort to show that the zero-intercept method is widely used and generally accepted by utility, regulatory and consulting personnel within the electric industry. Staff contends that Ameren did not offer any citations to Commission Orders accepting the zero-intercept method, and that Ameren's claim that it is widely used and generally accepted does not apply at the Commission. Staff reiterates that the Commission has rejected the zero-intercept method for many years, including Ameren's previous delivery services proceeding, Docket No. 99-0121. (Staff Reply Brief at 6)

Staff also responds to the example offered by Ameren to demonstrate how, in Ameren's view, the zero-intercept method is justified. Staff says Ameren compares two groups of customers with a similar level of demand, one a residential area consisting of approximately 200 houses and the other a single commercial or industrial customer. Staff indicates that Ameren explains how the residential area requires the installation of more transformers, secondary voltage lines and service lines compared to the single commercial or industrial customer. In Staff's view, the additional service lines in Ameren's example do not provide support for the zero-intercept method over the Staff COSS because the Staff COSS allocates service lines as a customer cost. (Staff Reply Brief at 7, citing ICC Staff Ex. 14.0 at 11)

Staff says its testimony offered another example where the length of the primary distribution line serving the single commercial or industrial customer is longer than the primary distribution line serving the residential area, thus resulting in additional costs. (Id., citing ICC Staff Ex. 14.0 at 10-11) According to Staff, the potential for continued build-out of the residential line for more residential or small commercial customers is more likely given more favorable local environmental factors. Staff argues that with continued build-out, under the zero-intercept method, residential and small commercial customers would be responsible for a greater percentage of the costs of primary distribution equipment solely as a result of more connections, even though the length of the primary distribution line would be unchanged. (Id.)

c. Commission's Conclusion

Staff and Ameren disagree over the appropriate method for allocating distribution costs between customer charges and demand charges. Ameren proposes to use the "zero-intercept" method which determines customer-related connection costs by identifying that portion of plant related to a hypothetical no-load or zero-intercept situation. Under the zero-intercept approach, the portion of common distribution equipment determined to be related to connecting a customer is recovered through a fixed customer charge which is based upon the number of customers in the customer's rate class. Under this approach, the part of common distribution equipment determined to be related to serving electric demand is charged according to the level of the customer's use or demand upon the electric distribution system, with the per-unit charge determined by the overall demand or use of the distribution system by the customer's rate class.

Staff's approach includes a fixed monthly charge for the equipment and activities that are fixed and customer-specific, and a variable demand or usage charge for the use of common distribution equipment that is based upon that use. Unlike the zero-intercept approach, Staff's proposal does not attempt to separate common distribution equipment into customer and demand components.

Ameren claims that use of the zero-intercept method for distribution cost allocation is widespread and that the approach is accepted throughout the electric utility industry. Ameren contends that the approach proposed by Staff significantly understates the role of customer components in cost allocation.

Staff, on the other hand, believes the distribution system was built to serve electric demand and that the zero-intercept approach to identifying the portion of plant related to a "hypothetical no-load or zero-load" situation is inappropriate. Staff claims that its approach recognizes that a distribution system is built and integrated to serve demand for electricity by many customers, rather than being built for a no-load situation, and Staff's approach allocates the cost of common-use distribution equipment based upon demand. In addition, Staff asserts that Ameren's proposed zero-intercept approach was rejected by the Commission in Ameren's recent delivery services proceeding, Docket No. 99-0121. In Staff's view, Ameren provided no new or compelling arguments in support of its proposal and therefore, the zero-intercept method should be rejected here.

In arriving at a decision on this issue, the Commission first observes that in its Order in Ameren's prior delivery service proceeding, Docket 99-0121, the Commission rejected a similar proposal by the Company to utilize the zero-intercept approach. On page 71 of that Order, the Commission found, in part, " . . . [T]he Commission agrees with Staff that a utility's system is designed in an integrated manner to deliver electricity to customers in quantities to meet all customer demands and individual components of the system cannot be identified for purposes of connecting customers only."

Based on the record in the instant case, the Commission believes a conclusion in this docket similar to that quoted above remains appropriate. Accordingly, for purposes of this proceeding, the Commission finds Staff's methodology to be superior to the zero-intercept approach recommended by Ameren for purposes of allocating distribution costs between the customer and demand functions. As explained above, Staff's method would allocate service lines as a customer cost, but would allocate distribution facilities on the basis of demand. In the Commission's view, Staff's method is consistent with the fact that distribution systems are designed primarily to serve electric demand, and the Commission agrees with Staff that attempts to separate the costs of connecting customers to the electric distribution system from the costs of serving their demand remain problematic. Furthermore, this conclusion is consistent with decisions in recent cases, including those involving Ameren. Thus, at this time, the Commission rejects Ameren's zero-intercept approach for separating the electric distribution system into demand and customer components.

2. Rider ISS

In Docket No. 99-0121, Ameren's initial Delivery Service Tariff ("DST") proceeding, the Commission approved Ameren's Rider Interim Supply Service ("Rider ISS") for non-residential delivery services customers. According to Ameren, Rider ISS is intended to provide power and energy to delivery services customers who find themselves temporarily without a supplier. The service is priced at the market value of power, plus an adder of 10% and a monthly administrative fee of $5.00. More specifically, energy is priced at the lower of the interchange market prices or Ameren's actual incremental cost. The interchange market prices reflect prices for financially firm energy delivered to Ameren's transmission system. Ameren says the 10% adder represents the estimate of the cost of capacity that Ameren must purchase to serve a customer on a short-term basis, and comes from Ameren's Open Access Transmission Tariff ("OATT") Schedule 4. (Ameren Brief at 1)

In this proceeding, Ameren proposed to make Interim Supply Service available to residential delivery services customers as well. Ameren proposed to price the service in the same manner as approved by the Commission for other DST customers in Docket No. 99-0121.

In his rebuttal testimony, Ameren witness Hock indicated that Ameren would be willing to revise Rider ISS by dropping the adder component and replacing it with the capacity charge methodology from Ameren's recently filed Rider Market Value Index ("MVI"), provided that rider is then effective. (Ameren Brief at 1, citing Ameren Ex. 18. 0 at 8; Ameren exceptions at 2)

a. Staff's Position

Staff did not object to Ameren's proposal to offer Interim Supply Service to residential DST customers. However, as explained in the testimony of Staff witness Harden, and in its briefs and its exceptions to the proposed order, Staff does oppose Ameren's proposal to price that service for residential customers on the same basis as for all other DST customers. (Staff exceptions at 4-6) In its proposal, Staff recommends that for residential customers, the applicable bundled rate be used instead of the market price. Thus, under Staff's proposal, the charge for ISS service for residential customers would consist of the applicable bundled rate, along with the 10% adder and the $5 administrative charge currently in Ameren's Rider ISS tariffs. (Staff Brief at 27)

Staff says it recommended this rate to reduce the barriers present for residential customers who are eligible to participate, for the first time, in the competitive market. In Staff's view, it is likely that some residential customers would not be able to withstand paying extremely high market prices for energy, should they lose their supplier, particularly on a high cost day. Staff argues that application of a bundled rate, as proposed by Staff, is more appropriate for pricing power and energy to residential customers who have lost their alternative supplier than the high rate proposed by Ameren. (Staff Brief at 28)

In response to arguments by IIEC that Staff's proposal would result in some groups of customers being subsidized by others, as discussed below, Staff claims that its recommendation will not result in a subsidy across customer classes. Staff asserts that in its next rate case, the Company would likely request that any shortfall be picked up by other residential delivery service customers, thereby putting into play the averaging principle and not creating a subsidy to other customers that had not chosen an alternative supplier. (Staff Reply Brief at 9)

Staff also disagrees with IIEC's suggestion that Staff's proposal is premature. Staff says it has identified that under the Company's proposed Rider ISS, there is at least the potential that certain customers will be faced with unexpectedly high bills. Staff claims that its proposal is responsive to this concern and provides an option to the Commission that would allow residential customers to participate in the competitive market. In its reply brief, Staff asserts that companies, generally, have been allowed by the Commission to use fuel adjustments charge ("FAC") clauses to recover the cost of power under a bundled tariff. Staff says it would find it acceptable for the Company to recover high-energy charges from ISS through a similar FAC-type add-on charge to residential delivery service customers. (Id.; Staff exceptions at 5) The Commission notes that this suggestion appears to have arisen for the first time in Staff's reply brief.

In response to IIEC's charge that Staff's proposal would bring about "perverse incentives," Staff claims it is not the intent of the proposed option to make it convenient for suppliers to game the system for their own benefit. Staff asserts, rather, that it is concerned with the welfare of customer's who participate in the unknown competitive market. Staff states that to the extent that an opportunity for gaming exists, the Commission should weigh this against the interest of reducing the barriers to customer participation on the competition market. (Staff Reply Brief at 9)

In balancing the significant interests addressed above, Staff requests that the Commission give the Staff-proposed Rider ISS option all due consideration. (Id.)

In its testimony and briefs, Staff also responded to rebuttal testimony from Ameren in which the Company indicated it would not object to modifying the current Rider ISS methodology by dropping the 10% adder and replacing it with the capacity charge methodology from Ameren's recently filed Rider MVI. (Ameren Exhibit 18.0 at 8) Staff continues to recommend adoption of its own primary proposal; however, Staff stated that if the Commission decides not to adopt Staff's primary recommendation, this alternative would be preferable to the Company's original proposal. Staff also suggests that if the Commission adopts the capacity charge method from Ameren's Rider MVI, Rider ISS should retain the provision whereby the Company may, at its option, exclude the capacity charge adder if it anticipates a decremental price adjustment under Rider ISS. (Staff Brief at 28, citing ICC Staff Ex. 17.0 at 2)

b. Ameren's Position

As explained in its testimony, briefs and reply to Staff's exceptions, Ameren believes that Staff's proposed pricing for residential customers would produce harmful gaming of the tariffs by Retail Electric Suppliers ("RES"), and would inappropriately shift credit and price risk to Ameren and other customers. (Ameren Brief at 2)

Ameren states that a customer might find itself without a supplier for any number of reasons. Ameren claims that some of those reasons could be the customer's fault. For example, Ameren states, a customer's agreement with a RES could expire and the customer has not made any arrangements to return to bundled service or be served by another RES. Ameren says that other reasons might not be the customer's fault, such as if its RES were to breach its contract or simply go out of business. Ameren argues, however, that in none of the circumstances in which a customer finds itself without a RES would it be Ameren's fault. (Id., citing Tr. at 223-224)

According to Ameren, regardless of who is at fault, Staff's proposal would improperly shift to Ameren the credit and price risk associated with contracts between RES and residential delivery services customers. (Id., citing Tr. at 228-229) Ameren contends that every time someone enters into a contract to purchase goods or services, that person encounters the possibility that the other party to the contract will not perform. In that situation, Ameren states, the non-defaulting party will then have to "cover" by acquiring the goods or services from another provider at the then market price. Ameren asserts that the difference between the original contract price and the market price at which cover is achieved is the cost of cover. Ameren claims that the defaulting party's financial ability to perform and, in the case of non-performance, to compensate the non-defaulting party for the cost of cover, presents a credit issue. In Ameren's view, the issue is the likelihood that the defaulting party will have adequate resources to give the non-defaulting party the benefit of the bargain it made. It is Ameren's position that there are many ways that a contracting party can address the credit issues in a contract, including guarantees from another party, letters of credit, and so forth. (Ameren Brief at 2-3)

Ameren contends that sales of electricity by RES to residential customers in Ameren's service territories are no different in this regard than other contracts for the purchase of goods and services. Ameren asserts that customers may agree to purchase at prices that may be more or less than the price of a replacement contract (typically market price) at any given point in time. According to Ameren, Staff is correct that in the event a supplier defaults, absent Staff's proposal, a residential customer would have to cover at a market price. Ameren argues that to the extent the market price exceeds the contract price, the supplier's willingness and ability to perform are subject to financial pressure, and if the supplier fails to perform, the customer must recover the difference from its defaulting supplier. (Ameren Brief at 3)

According to Ameren, the Staff proposal caps the customer's exposure in a default situation at the bundled rate plus an adder, and the customer can never be out anything greater than that amount, no matter by how much the market price exceeds the applicable ISS rate. Ameren states that the exposure above the capped rate is inappropriately shifted to the delivery services provider ("DSP"), who is not a party to any contract between the residential customer and its RES. Ameren asserts that the DSP has no ability to address and mitigate the credit risk presented by the deal -- if the DSP even has a cause of action against the defaulting RES, which Ameren claims is unlikely. Ameren contends that in such a situation, the DSP is not being compensated anywhere or by any means in the rates it charges. Ameren argues that under the Staff proposal, the DSP does not select the supplier, does not negotiate the price, and does not agree to the credit terms -- but is left with a large piece of the credit risk, for which it receives nothing. (Id. at 3-4)

Ameren contends that a similar result occurs with respect to price risk. Ameren suggests that a RES who agrees to supply a customer at a given price assumes it would be able to produce or acquire supply at or below that price. Ameren claims that if the RES bets wrong, and its cost of supply exceeds the amount at which it agreed to supply the customer, the RES can minimize its losses by defaulting and limiting its exposure to the difference between the contract price and a capped ISS price. According to Ameren, any additional cost would be absorbed by the DSP as an out-of-pocket and/or an opportunity cost. (Ameren Brief at 4)

In Ameren's view, this risk is present even if the RES produces its own power. Ameren states that if the market price exceeds a capped ISS rate, the RES has an incentive to default. Ameren provides an example, assuming that the contract price is 3 cents per kilowatt-hour ("kWh"), the generation cost embedded in bundled rates plus an adder is 4¢/kWh and the market price is 5¢/kWh. Ameren claims that the RES can default under the agreement and still net 1¢/kWh more than by fulfilling its contractual obligations. Ameren suggests that the customer is indifferent, because s/he still receives power at net 3¢/kWh and only the DSP loses. (Ameren Brief at 4)

Ameren contends that the purpose of the adder in this context is not to compensate the DSP for additional risk. Ameren claims it is intended to compensate the DSP for capacity costs and, in combination with a market price, to be a disincentive to default and gaming. In Ameren's view, regardless of its purpose, the adder is not sufficient to compensate the DSP for the additional risk.

Ameren also responds to suggestions by Staff that any shortfall from Staff's proposal can be corrected prospectively through the ratemaking process. Ameren argues that it is not appropriate to use rates charged to all customers as insurance for some customers where RES default. According to Ameren, that would simply impose credit and price risks from a deal on those not benefiting from the deal. Ameren asserts that benefit should follow risk and that Staff's proposal would assign benefit to one group and risk to another. Ameren also claims that Staff's proposal is a "wait and see" proposal where if Ameren suffers losses, rates can be adjusted to reflect that event. Ameren says that Staff has not made clear how that will occur. (Ameren Brief at 4-5)

Ameren says Staff also suggested that the term of ISS service could be shortened to eliminate incentives to game Ameren's tariffs. Ameren claims that shortening the permissible stay on ISS would reduce, but not eliminate, the incentive to game the tariffs. According to Ameren, the only means of eliminating the incentive is to price ISS at market plus an adder, making it more costly to the RES to default than to perform. (Ameren Brief at 5)

Ameren also argues that it is not appropriate to charge a short-term customer a bundled rate, which is a twelve-month average rate, and thus does not likely match the cost of generation service in any month of the year. Ameren states that in some months the bundled rate may be higher and in some months the bundled rate may be lower. According to Ameren, the most appropriate way to charge for a monthly service is to use a monthly price that reflects the then current market prices, which is how Ameren's proposed Rider ISS is designed. (Id.)

In its reply brief, Ameren responds to arguments in Staff's brief that Staff proposed the rate cap "to reduce the barriers present for residential customers to participate in the competitive market" and that Ameren's rate proposal is a "high rate." (Ameren Reply Brief at 1)

Ameren argues that its rate proposal under Rider ISS presents neither a barrier to the market nor a high rate. Ameren asserts that to the contrary, it proposes to charge residential customers a market rate plus a capacity adder -- which is what Ameren asserts it costs to serve the customer. Ameren claims that customers who wish to be protected from paying market rates that may be higher than the bundled rate should not participate in the competitive market. In Ameren's view, normal risk in the market is not a "barrier." (Ameren Reply Brief at 2)

Ameren contends that what Staff is trying to do is capture benefits of the competitive market for residential customers with none of the risks. (Ameren RBOE at 3) Ameren argues that shifting those risks to Ameren and/or other customers is not appropriate, and is directly inconsistent with what the Commission has approved for other customers. (Ameren Reply Brief at 2)

c. IIEC's Position

IIEC did not file testimony on this issue, but did file a brief and a reply to Staff's exceptions. In IIEC's opinion, the Staff proposal should be rejected. According to IIEC, Staff admitted its position would result in cross-subsidies that would eventually be paid by other residential customers. (IIEC Brief at 4, citing Tr. at 230-232) IIEC claims the cross-subsidies occur because customers that switched from Rider ISS on days when the market price is high and begin taking bundled service would create a shortfall to be absorbed by the utility. IIEC says that in the next rate case, Staff supposes that the revenue shortfall would be made up by other residential customers, a clear shifting of costs with no benefit in return. (IIEC Brief at 4) IIEC asserts that on this issue, Staff is promoting a cross-subsidy at the very outset of customer choice, a result that should be avoided. (Id.)

In IIEC's view, the Staff position is premature because there is no historical or empirical evidence to support Staff's contention that some customers may not be able to pay the high market prices. IIEC contends that it has not been the Commission's policy to affirm a rate design that purposely shifts costs to other customers simply because they can afford to pay more for the services. (IIEC Brief at 4) It is IIEC's position that at the very least, the Commission should wait until there is more time and experience with residential customers in their efforts to procure power and energy from other suppliers before considering this kind of a proposal, if ever at all. (Id.)

According to IIEC, while there may be an occasion to create policy to address an unusual or extreme situation, in this instance the Staff proposal that changes the policy to ignore cost causation in setting rates is lacking substance.

IIEC believes that the Staff position represents poor policy because it is questionable to protect against this aberration for the benefit of "some" customers. IIEC claims the Staff witness admitted that other customers would be able to pay the market price. (Id., citing Tr. at 235) According to IIEC, "some" is never defined, quantified, or measured. IIEC also asserts that the parameters of who can and who cannot pay the high market prices is never discussed or provided. In IIEC's view, creating an undue benefit for some at the expense of most, without more information, makes little sense. (Id. at 5-6; IIEC exceptions at 2)

According to IIEC, Staff did not object or rebut the Ameren arguments raised by Ameren witness Hock that the Staff position would create a perverse incentive to suppliers to terminate their services to customers when market prices are high. (IIEC Brief at 5-6 citing Ameren Ex. 18.0 at 6-8) IIEC argues that knowing that the bundled price would be less than the market price, the suppliers would be doing the customers a favor by terminating service under that circumstance. IIEC contends that not only does this occurrence place a twist in the developing retail energy market but, the Staff position ignores the recourse rights customers will have against suppliers. (IIEC Brief at 6)

IIEC states that if the Staff concern is that suppliers may terminate service to their residential customers when market prices are high, the solution is not to make it convenient for suppliers to terminate service. IIEC suggests instead, suppliers and residential customers will enter into contracts for service that will allow for the parties to negotiate rights and remedies in the event of default. IIEC claims that in the event of a breach of contract or in the event of default, the residential customer would have legal recourse against the supplier and this is how it should be. According to IIEC, if the Staff position prevails, the supplier will be driving customers back onto bundled service and will not pay the high market prices that the suppliers would otherwise charge the customer. IIEC contends that the supplier has no interest in securing power and energy during times of high prices if default is an available remedy. IIEC also asserts that the residential customers will have no incentive to seek their recourse rights against the supplier, because they are otherwise better off being on bundled service. In IIEC's view this regulatory manipulation of the manner in which a market is intended to work cannot be sustained. (Id. at 6-7)

According to IIEC, the Public Utilities Act is clear that "No public utility shall, as to rates or other charges, services, facilities or in other respect, make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates or other charges, services, facilities, or in any other respect, either as between localities or as between classes of service." (Id. at 7, citing 220 ILCS 5/9-241) IIEC argues that for the Commission to allow the Staff proposal to go into effect with respect to residential customers and not provide for the same charges and conditions for non-residential customers, is a violation of Section 9-241. In IIEC's view, there has been no demonstration that the proposed difference in Rider ISS for residential customers as compared to non-residential customers is reasonably related to the difference in the cost of providing service. (Id., citing Austin View Civic Association V. City of Palos Heights, 40 Ill. Dec. 164, 405 N.E. 2d 1256 (App. Ct. 1980)) According to IIEC, the purported differences in treatment are not reasonable and are arbitrary. (Id., citing City of Chicago v. Illinois Commerce Commission, 217, Ill. Dec. 274, 666 N.E. 2d 1212 (App. Dist. 1996))

In IIEC's view, the Staff has not justified a departure from current Rider ISS terms and conditions, nor has it justified the cross-subsidies and "perverse incentives" that will develop in the retail energy market, should its position be adopted. (Id.)

d. Commission's Conclusion

As discussed above, the Commission approved Ameren's Rider ISS for non-residential customers in Ameren's initial Delivery Service Tariff proceeding, Docket No. 99-0121. Under Rider ISS, Ameren offers Interim Supply Service, which it says is intended to provide power and energy to delivery services customers who find themselves temporarily without a supplier. ISS service is priced at the market value of power, plus an adder of 10% and an administrative fee of $5.00 per month. More specifically, under Rider ISS, energy is priced at the lower of the interchange market price or Ameren's actual incremental cost. Ameren states that the 10% adder is intended to represent an estimate of the cost of capacity that Ameren must purchase to serve a customer on a short-term basis, and comes from Ameren's OATT Schedule 4. In the instant proceeding, Ameren proposes to extend the availability of Rider ISS to residential customers using the pricing mechanism previously approved by the Commission.

Staff opposes Ameren's proposal to price ISS service for residential customers on the same basis as for all other DST customers. Staff recommends that for residential customers, the applicable bundled rate should be used instead of the market price. Thus, under Staff's proposal, the charge for ISS service for residential customers would consist of the applicable bundled rate, along with the 10% adder and the $5 administrative charge currently in Ameren's Rider ISS tariffs. Staff is concerned that, in certain circumstances, residential customers would not be able to absorb the high market-based prices that could be incurred under Ameren's proposed Rider ISS. Staff is further concerned that this might discourage some residential customers from participating in the competitive electric generation market which could have an adverse impact on the development of the competitive generation market in Illinois.

Both Ameren and IIEC oppose Staff's recommendation and assert that the price for residential customers taking service under Rider ISS should based upon market prices. Ameren and IIEC believe that Staff's proposal is inconsistent with the principle whereby those who cause costs to be incurred should pay the cost. In addition, Ameren and IIEC believe that Staff's proposal is discriminatory and will cause improper subsidization of one group of customers by another. Finally, they suggest that Staff's proposal could allow residential customers or RES's to game the system to the disadvantage of Ameren as well as other customers.

In reviewing the positions of the parties and arriving at a decision on this issue, the Commission first wishes to emphasize that residential customers should have the opportunity to access the competitive electric generation market without facing unnecessary risks or barriers thereto, and the Commission believes the provision of interim supply service through Rider ISS will be a useful tool toward that end. In this regard, the Commission appreciates Staff's concerns, which are well explained in its testimony and briefs; however, the Commission cannot accept Staff's recommendation that residential Rider ISS rates be based upon bundled electric rates.

Rather, the Commission agrees with Ameren and IIEC that Staff's proposal would likely result in cross-subsidies, as revenue shortfalls from customers who use the rider are ultimately borne by other customers. Although to some extent unintended cross-subsidies are inevitable, the Commission does not believe it is appropriate in this situation to intentionally develop rates at the outset that have little relationship to cost-causation. Further, basing Rider ISS prices on bundled rates would provide opportunities and incentives for RES's and residential customers to game the system if residential customers can temporarily switch to or rely on Ameren for firm supply at prices based on bundled rates in situations when market prices are high. The Commission believes that it is more appropriate for residential customers to pay prices based on market prices for interim supply service, as non-residential customers are already doing.

Accordingly, the Commission concludes that Ameren's proposed Rider ISS should be approved, as modified by its rebuttal testimony. With this modification, the ten percent adder, which was intended to be a proxy for the cost of capacity, is replaced by the capacity charge methodology from Ameren's recently filed Rider MVI, provided that Rider is then effective. As noted above, Staff indicated that this modification was preferable to the Company's original proposal. Staff further commented that if such a modification is made, language that '[t]he Company may, at its option, exclude the ... adder if it anticipates a decremental price adjustment under ... Rider ISS" should continue to apply. The Commission finds that Staff's suggestion on this point is appropriate.

3. Rider SG

In its filing, Ameren proposed Rider SG, "Delivery Service for Self-Generation." Generally speaking, the tariff would "apply to all customers taking delivery services under Rates DS-2, DS-3 and DS-4 that also have access to generation facilities (self-generation) connected or capable of being connected directly to customers metered load from the Company's electric distribution system." Ameren states that this tariff is designed to recover the investment in transmission and distribution facilities that are standing by to provide delivery services to customers when their generation is not operating. Under Rider SG, a delivery services customer with self-generation facilities would be assessed transmission and distribution charges associated with its peak demand. Charges under Rider SG would reflect either the coincident demand registered on the delivery service meter and the customer's self-generation meter or, in the event there is no demand meter, the sum of usage registered on the delivery service meter and the customer's self-generation meter.

a. Staff's Position

In the testimony of Staff witness Haas and in its briefs, Staff argues that Rider SG should not be approved. Staff believes that rejection of Rider SG is necessary in order to provide a level playing field among the various load management technologies and competitive service options available to customers in the deregulated market. Staff claims that the effect of its proposal would be to charge self-generating ("SG") customers on the same basis, system usage and non-coincident peak demand. It is Staff's opinion that Rider SG is discriminatory in its allocation of distribution and transmission costs and charges to SG customers relative to non-SG customers within the same delivery service class. Staff asserts that to provide the correct signals to the market, within the limitations of the current regulatory process, customers within customer classes should be treated in a consistent fashion. Staff argues that to do otherwise would provide a distortion in the price signals by which customers will make decisions in the deregulated market place. (Staff Brief at 33)

Staff contends that the use of Rider SG, as proposed, would discourage the use of self-generation when it would otherwise be considered an economical choice. Staff also claims that Ameren's Rider SG tariff would penalize, and not reward, self-generation for the system benefits they can provide. Staff asserts that system-wide benefits include increased transmission and distribution capacity, which would open the market to more sources of competitive generation producing lower on-peak and off-peak prices, as well as improved system reliability through reduced system strain and the reduction of potential brown outs. According to Staff, self-generation would also allow a measure of demand response to market conditions, further improving market conditions in times of tight demand relative to the case where demand is unable to respond to prices in the market. Staff claims that other system benefits of prolific self-generation are potential decreases in maintenance costs and the system-wide costs associated with system upgrades. Staff asserts that customer-specific benefits include improved reliability and the ability to remove one's demand from a potentially volatile market for electricity. (Staff Brief at 33-34)

Staff argues that Rider SG will make SG more costly than it should be relative to other competitive supply and load management alternatives. Staff asserts that by making SG more costly than alternatives, Ameren's proposal will assure that very little new SG is installed so that there will never be enough SG in place to make the coincident peak/diversified load model relevant. Staff claims that Rider SG would also work to prevent the benefits of SG from being realized in the long run. (Id. at 34)

In Staff's view, Ameren's proposed Rider SG will provide a barrier to entry for smaller SG units, like micro-turbines and photovoltaic systems, where outages of a few units would have no noticeable impact, but where the use of a large number of such units could produce real benefits. (Id.)

It is Staff's position that in a partially deregulated market environment, policy makers need to be conscious of the price signals that are being sent to the market through regulated rates. Staff claims that equitable treatment of customers within specific customer classes, based on monthly usage and/or peak non-coincident demand, makes more sense than what is being proposed in Rider SG within the context of a deregulated market for electricity. (Staff Brief at 34-35)

Staff claims that a more appropriate and equitable way to allocate the costs of the common resources needed to serve any customer would be to look at some measure of coincident peak demand and volumetric usage of Ameren's system. Staff says the concept of coincident/diversified load modeling is not an unusual concept in system design. According to Staff, this methodology reflects the fact that SG will reduce the amount of resources needed to provide service to all customers, holding total "potential" load constant. Staff asserts that a diverse set of SG units will require fewer resources, on average, to serve their total peak demand than similar customers without SG. Staff concludes that the existence of SG units has a tangible benefit to the system in terms of reliability, increased capacity, and a reduced need for system resources for a given total "potential" load on the system. (Id., at 35-36)

Staff says that its arguments regarding the concept of coincident/diversified load modeling were not meant to suggest that Ameren's proposed distribution and transmission cost allocation methodology for DS-2, DS-3, and DS-4 customers be completely reworked according to more accurate cost causation methodologies. Staff claims that true economic causation based allocation methodologies are impractical at this time. It is Staff's position that Ameren has proposed a viable alternative, in the absence of Rider SG, in its design of DS-2, DS-3, and DS-4. Staff says this viable alternative is in the form of averaged cost allocation based on actual non-coincident peak demand on Ameren's system that is applied equitably and consistently to all customers. (Staff Brief at 36)

Staff argues that the implementation of Rider SG in conjunction with the DS-2, DS-3, and DS-4 rate structures would violate the concept of equitable and consistent treatment across all customers, and go against the concepts of cost causation, particularly in the long run. In Staff's view, if common costs are to be allocated across all customers based on actual monthly non-coincident peak demand and/or usage, it is illogical for SG customers to pay more than non-SG customers relative to their actual usage of the grid, given there is every indication — based on the concepts of diversified/peak load costs allocations — that SG customers will, on average, actually use less resources than non-SG customers of similar total load. Staff argues that in the long run, under a rate structure that does not discourage SG, the addition of more SG units on the grid will serve to further reduce the actual resources required to serve SG customers relative to non-SG customers of similar loads. (Id. at 36-37)

According to Staff, while Ameren agrees that in general diversified/coincident peak load concepts of system design are applicable at the generator/transmission level, the Company argues that the concepts are not necessarily applicable at the distribution level, unless there are a large number of units on a particular part of the distribution system. Staff says that Ameren witness Cooper states that since there are very few SG units on Ameren's system, diversified/peak load concepts are not as applicable to the discussion of Rider SG and the delivery level charges being allocated by it. Staff claims it is Ameren's position that the small number of SG units that actually exists in Ameren's territory would also increase the probability that SG units will shift costs to non-SG units in the short-run. (Staff Brief at 37)

In Staff's view, the language of DS-2, DS-3, and DS-4 demonstrates that Rider SG includes charges designed to recover transmission costs in addition to distribution costs. According to Staff, the tariffs for all of the delivery service classes discuss the collection of "Transmission Delivery Charges" based on monthly usage, pursuant to the Company's Federal Energy Regulatory Commission ("FERC") approved OATT. (Id. at 37-38)

Staff asserts that Ameren intends to collect transmission level costs through charges to SG and non-SG DST customers based on monthly usage (kWh), regardless of DST class. In Staff's view, this would indicate that the charges are being collected at a level where all parties agree that diversified/coincident peak load planning and cost allocation would be appropriate, and where SG would have an obvious potential to reduce a customer's usage relative to non-SG customers. Staff claims that, at the very least, the collection of transmission charges on power recorded on a SG customer's SG meter should be eliminated from consideration in the proposed language of Rider SG. (Staff Brief at 38)

Staff believes that Ameren's argument against the applicability of the coincident/peak load line of reasoning at the distribution level hinges on the fact that the current population of SG units in the Company's territory may not yet be sufficiently large to provide the system benefits identified by Staff. Staff asserts that Ameren's argument is based on circular logic. According to Staff, Ameren claims that because there are currently not enough SG units to generate their potential system-wide benefits and to make the diversity/coincident demand argument very relevant, the Company sees no reason to set up a tariff structure that would allow the economic proliferation of SG so that these benefits can be realized and the case for diversity/coincident demand argument can be made. (Id. at 38-39)

Staff argues that barriers to the economic introduction of SG, like Rider SG, make such arguments self-fulfilling prophecies. Staff asserts that Rider SG would act as a true uneconomic and distortionary deterrent to using SG as an alternative energy solution relative to competitive power sold in the unregulated market, conservation, or improved efficiency to customers of all sizes affected by Rider SG. (Staff Brief at 39)

Staff also argues that economic pressures will exist in the deregulated market that will mitigate the effects of a small number of units on Ameren's system. According to Staff, any RES serving a small number of SG customers on delivery services would have a strong incentive to make sure that they minimize their "load risk." Staff claims the RES will make sure that its SG customers have every incentive to schedule their SG maintenance for off-peak times, when the benefits of SG and the prices for arranged power and transmission access are lowest. Staff believes this is obvious and economically driven arrangements will make the diversified/coincident peak load argument relevant to the allocation of distribution and transmission costs even in the short-run with the relatively small number of large SG units that exist on Ameren's system at this time. (Id. at 39-40)

In Staff's view, the current number of SG units on Ameren's system is irrelevant to the long-term issue of whether or not Rider SG should be implemented. Staff claims that given all the potential benefits of a large number of diverse SG customers, the lack of diversity now should be ignored in order to allow the development of a large and diverse SG customer base in the long run. (Staff Brief at 40)

Staff believes that what is important is that any tariff or treatment of competitive choices in the unregulated market for electricity that are set today should be consistent with the policy goals in the long run. Staff contends that one of the more important policy goals with regard to the unregulated market is the development of a competitive market for electricity. Staff argues that the un-distorted availability of economic SG could be a vital part of that goal, and it will require the equitable treatment of SG as an energy choice relative to other choices in the marketplace. According to Staff, the parties are not debating the long-run benefits of SG on Ameren's system and as a source of competition to main station power. Staff asserts that Ameren, nevertheless, wishes to implement a relatively discriminatory cost recovery mechanism that will reduce the economic viability of SG as a customer choice. Staff believes that the delivery service tariff set today must not be so much consistent with the current circumstances, as it must be consistent with the goal of undistorted competition amongst all the options customers will have in the deregulated market. (Staff Brief at 40-41)

It is Staff's position that undistorted economic availability of SG requires the equitable treatment of SG customers, relative to non-SG customers, within the cost allocation mechanisms used by Ameren. Staff asserts that any cost recovery mechanism used in any system of tariffs should be consistent across all customers that have similar load impacts on the system and the cost recovery mechanism should be independent of the technology the consumer picks for load management. According to Staff, this means that if all other non-residential customers on delivery services are charged, based on their actual usage and/or peak non-coincident demand for power drawn across Ameren's transmission and distribution system, so should self-generating customers on delivery services. Staff argues that to do otherwise would provide a distorted price signal to the market regarding the choices that are available to customers in the deregulated market. Staff claims that this, in turn, would deter the economic implementation of SG based on private cost and benefits considerations, which would, in turn, limit the system-wide gains in terms of increased competition, lower prices for electricity, increased reliability, and reduced system maintenance costs. (Id. at 41)

According to Staff, Ameren's position ignores many of the admitted benefits of SG in the long-run with a numerous and diverse population of SG units on the Company's system, and fails to weigh these long-term advantages against any short-term marginal impacts on non-SG customers. Staff claims that at the same time, Ameren fails to recognize that SG customers will not be compensated - with or without Rider SG - for any benefits they provide in the short or long run. Staff argues that any cross-subsidization in the near-term due to any current relative inapplicability of peak/diversified load modeling should be minuscule, both in terms of the magnitude of the imposed costs per non-SG customer (in the short run) and in terms of the benefits that can be realized in the long run from a well-developed and diverse population of SG customers. Staff asserts that if anything, even with the removal of Rider SG, SG customers will be subsidizing non-SG customers in the long run. (Staff Brief at 42)

Staff claims that Ameren's assertion that SG customers would be shirking their financial responsibility with regard to "dedicated transformers, services, and meters" (Id., citing Ameren Ex. 16.0 at 10), and thereby shifting the costs of this equipment to non-SG customers, is erroneous. It is Staff's position that customers that are served by any customer specific and dedicated equipment beyond that needed for standard non-SG service must pay for this equipment and service outright in the form of a one-time fee to that specific customer. (Id. at 42-43)

Staff also argues that SG customers, in the absence of Rider SG, will still pay a portion of the distribution and transmission costs that are collected through non-varying customer and meter charges regardless of their level of demand or usage on the Company's system unless they disconnect their loads completely over and above any customer specific charges for dedicated equipment. Staff states that in the absence of Rider SG, any time the customer makes use of Ameren's system in any capacity, it will pay for the use of that system in proportion to its non-coincident 15-minute peak demand and/or total monthly usage as all other customers under the Company's proposed Tariff. Staff also states that if a DS-3 (or DS-4) customer's SG unit goes down for any reason within a month for 15 minutes or more, that customer will pay the same amount of demand charges that any other non-SG customer with the same monthly peak non-coincident demand would pay. Staff asserts that a SG customer would face a lower charge than a comparable non-SG customer under only three limited circumstances; (1) when the customer's SG unit(s) is down during the customer's non-coincident off-peak demand period or (2) when the customer's SG unit(s) is down and the customer is able to shed load equivalent to its SG output; or (3) when the customer's SG unit(s) never failed or stopped running for any reason. Staff argues that this customer would be using less in the way of actual transmission and distribution resources than an identical customer without SG (as defined by the customers peak non-coincident peak demand in the case of DS3 or DS-4 customers). (Staff Brief at 43-44)

Staff states that Ameren's proposed Rider SG would charge SG customers as though the customer's SG unit was never running at any time during the month. Staff believes that relative to how other non-SG customers will be charged (on an individual basis according to actual usage of the Company's system), Rider SG will over-represent the common transmission and distribution network resources required to serve SG customers. Staff claims that this "overcharging" of SG customers relative to actual resource use will only get worse as the number of SG units increases on Ameren's system due to the concepts of diversified/peak coincident load resource requirements. In Staff's view, if Rider SG is removed, the SG customer, like all other customers, will face demand charges based on their actual 15-minute peak non-coincident demand and/or usage of power drawn from the Company's system. Staff believes that on a system-wide basis, this is more in line with the actual resources that are actually being used by the SG customers in the near term and it will be more in line and relevant as more customers install SG units. (Id. at 44)

Staff states that Ameren Exhibit 2.4, which breaks down the delivery service revenue requirements by customer class and billing units, does not list the billing units or the revenue expected from demand charges from self-generation customer billing units under Rider SG. Staff claims that without some representation of the share of the demand charges that are expected to come from SG customers under Rider SG, the Company's argument that the absence of Rider SG will cause any portion of the revenue requirement to fall unduly on any other class is tenuous at best. (Staff Brief at 44-45)

Staff asserts that in order to judge a true case of cost-shifting, and whether it is detrimental to one group of customers or another, one would have to know the actual costs of serving each customer. Staff claims, however, in the area of common costs, such as the costs associated with non-dedicated transmission and distribution systems, the ability to determine the true economic cost of serving any individual customer is extremely difficult. Staff believes that under these circumstances the concept of cost shifting and cost causation is largely arbitrary and that makes it difficult to attribute costs in anything but a necessarily arbitrary fashion. Staff argues that since the true economic cost/customer causation relationship is muddled, the next best alternative is to divide common costs within customer classes in a consistent and non-discriminatory way to reduce any unnecessary price distortions and their effects on long-term outcomes — a particular concern in a deregulated market. It is Staff's position that Ameren's basic averaged cost allocation based methodology, in the absence of Rider SG, would represent a viable overall solution to the problem of a relatively non-distortionary means of allocating the common costs associated with distribution and transmission. (Staff Brief at 45)

In its reply brief, Staff responds to the two-customer example that was addressed in Ameren's initial brief and is described in the discussion of Ameren's position below. Staff claims that Ameren's example is not very illustrative of the potential benefits from Customer B's use of SG, and as such, it is not very illustrative of the potential benefits, or the lack thereof, in a more realistic setting. (Staff Reply Brief at 10)

Staff argues that Ameren's example does not show that Customer B's use of SG reduces the wear on the transmission and distribution system, even though Customer B's use of SG cuts load demand in half. Staff asserts that Ameren's example does not include stochastic (variable) demand where the fact that Customer B has freed up capacity on the distribution and transmission system results in any benefits to the remaining customers(s). Staff contends that Ameren's example does not show the potential of any additional customer demand from new customers (or increased demand from existing customers) that would benefit from the increased capacity on the transmission and distribution system created by Customer B's use of SG. According to Staff, the benefit would take the form of the reduced need to add expensive new physical capacity to meet new load. (Staff Reply Brief at 10-11, citing ICC Staff Ex. 16.0 at 25-26)

Staff also asserts that Ameren's claims regarding Customer B's cost responsibilities in the absence of Rider SG are erroneous. (Id. at 11, citing Ameren Exhibit No. 16.0 at 8 and Ameren Brief at 26) Staff contends that Ameren fails to show that unless Customer B disconnects its load completely from Ameren's system, it will still pay the portion of these costs that are collected through customer and meter charges. According to Staff, Customer B in Ameren's example would only avoid the variable portion of its transmission and distribution costs if it installed SG units and then remained connected to Ameren's grid in the absence of Rider SG. Staff claims it is also important to note that Customer B would not avoid paying for any customer specific equipment used to serve it with power. Staff argues that overall, the example provided by Ameren is misleading and not really relevant to the issues at hand. (Staff Reply Brief at 11)

Staff continues to recommend that Rider SG, as currently presented, be removed from consideration, because it would provide an uneconomic and distortionary price signal to customers considering SG in Ameren's territory. Staff also suggests that Ameren be required to encourage SG through special contracts or delivery service rates when considering distribution or transmission upgrades to the system. Staff says this recommendation would only require that Rider SG be stricken from the proposed tariffs. (Id.)

Staff claims that in no case should the Company be allowed to assess transmission charges on power generated by the customer's own self-generating unit. Staff says this would affect all Rider SG customer classes with respect to the calculation of transmission charges. Staff states that this recommendation would only require that the language within Rider SG referring to the calculation of transmission charges based on the customer's metered SG usage be removed. (Staff Reply Brief at 10-11)

b. Ameren's Position

Ameren argues that the inability of the Company to require payment from self-generation customers under Rider SG will ultimately shift costs incurred on behalf of such self-generators to Ameren's other customers. Ameren states that if self-generators desire to avoid this charge, they may isolate their load served by their own generation so that it does not impose any demand on the Company's facilities in the event a customer's generation is not running. (Ameren Brief at 6)

Ameren believes that it is both premature and speculative for the Commission to adopt the SG policy endorsed by Staff. Ameren states that while Staff has not performed any qualitative analysis, Staff believes that any resulting subsidy from cost shifting to other customers would be short-term in nature and would be outweighed by the long-term benefits of SG. Ameren argues that Staff has provided no cost-benefit analysis of SG, and its view that SG can be beneficial is premised on the presence of a significant amount of SG load on the Ameren system. Ameren believes there is no telling when or if such market penetration will occur. Ameren asserts that in the meantime, Staff's proposal creates a significant risk that other customers will be required to subsidize the stand-by service offered to the SG load. In Ameren's view, the better, and more equitable, path is to charge SG customers the cost of their stand-by service, as Ameren's Rider SG would do. (Ameren Brief at 6-7)

Ameren asserts that Rider SG would not impose on self-generation customers any costs that are not justified. Ameren contends that a self-generation customer with total connected load equal to that of a customer without self-generation requires, and should pay, the same transmission and distribution costs as the customer without self-generation, because the self-generation customer places the same planning burden on the system as do other customers. Ameren claims that practically speaking, the system's level of investment in transmission and distribution facilities to provide, or be prepared to provide, delivery services to these customers is the same as it is for comparably sized customers without SG. It is Ameren's position that if self-generation customers want to avoid this charge, they need to isolate their SG load so that it does not impose any demand on the system in the event the self-generation facilities are not running. (Id. at 7)

Ameren claims that contrary to Staff's position, Rider SG does not, and is not intended to, encourage or discourage "economically" justifiable self-generation. Ameren asserts that to the contrary, Rider SG is intended to recover from SG customers the transmission- and distribution-related costs of backing up the load that is served by self-generation equipment, when that load is not isolated from the distribution system. It is Ameren's position that to do otherwise would result in the delivery costs of self-generation customers being borne by other customers. (Ameren Brief at 7-8)

According to Ameren, Rider SG would not, and is not intended to, penalize or reward customers with self-generation, but merely attempts to recover transmission and distribution costs in a cost-causative fashion. In Ameren's view, while Staff asserts system-wide benefits are provided by self-generation, it cannot quantify any of these purported benefits. Ameren, therefore, concludes that there is no justification for any variation from full cost recovery from self-generation customers. (Id., citing 220 ILCS 5/16-108) Ameren asserts that the cost of providing delivery service does not change in accordance with whether the customer has generation.

Ameren offered an example in an effort to illustrate its points. Ameren assumes that a utility has constructed comparable transmission and distribution facilities to two customers with a load of 1,000 kilowatts ("kW") each (2,000 kilowatts total). Ameren further assumes that Customer A has no self-generation, while Customer B has self-generation that is being run all the time to serve the 1,000 kilowatts of load, but not isolated from the Company's distribution system. Ameren claims the revenue requirement associated with the transmission and distribution system in place to serve the 2,000 kilowatts of loads is $6,000 per month ($3,000/kW-month). (Ameren Brief at 8)

Ameren contends that under Staff's approach, Customer A would be responsible for the full $6,000 of monthly charges although the Utility's revenue requirement associated with serving his load would only be half ($3,000). Ameren claims that Customer B, while requiring the same investment in transmission and distribution facilities, would pay nothing unless his generation were to be taken off-line in a particular month. Ameren argues that this approach creates a $3,000 subsidy to be paid by Customer A for costs for which Customer B should be responsible. (Ameren Brief at 8-9)

According to Ameren, under the Company's proposed Rider SG, Customer A and Customer B each would pay $3,000 per month. Ameren asserts that this approach, while not encouraging or discouraging self-generation, equitably recovers transmission and distribution costs from both Customer A and Customer B. Ameren claims that it could not provide backup service to Customer B without the construction of the transmission and distribution facilities or provide standard service to Customer A without construction of comparable facilities. Ameren argues that its proposal does not discriminate against Customer A or Customer B. (Id. at 9)

Ameren also responds to what if refers to as suggestions by Staff that the SG customer's actual load on the system at peak is the proper measure of the effect of SG load on the system, because, at other times, the diversity of load on the system would allow the system to handle the SG load without additional investment. In response, Ameren claims that a coincident peak ("CP") method using system peak is not applicable here. Ameren asserts that the coincidence/diversity of loads must be examined with respect to the design and construction of the distribution system. According to Ameren, the lower voltage distribution facilities, from a design and operational perspective, are and must be installed to meet localized area customer peak demands, regardless of when they occur. It is Ameren's position that diversity of demand at the localized distribution level is not as significant as it is at the generation and transmission levels, and loads on one part of the distribution network are totally independent of loads on another segregated part of that same network. Ameren claims that the proposal to charge full distribution costs to self-generation customers for non-isolated load served by their generation fully recognizes the design and operation of the distribution system, while Staff's proposal does not. Ameren states that diversity/coincident demand considerations would be somewhat relevant if Ameren had significant self-generation on a localized section of its distribution network, however, such is not the case. (Ameren Brief at 9-10)

Ameren also argues that the data to price SG stand-by service on a CP basis is not available, because it would require a piece by piece analysis of the entire distribution system, and not even Staff proposes to actually price that way. In Ameren's view, what Staff is apparently saying is that a CP method is theoretically better than a non-CP method, but since we do not have the data for the CP method, we will not use any method at all. According to Ameren, Staff is suggesting that we will simply disregard any stand-by costs other than the customer and meter charges, and let other customers absorb the short-fall. (Id. at 10)

Ameren claims that Staff's proposal would shift costs associated with providing transmission and distribution delivery service to self-generation customers to all of the Company's remaining customers. Ameren believes such shifting would be unduly discriminatory and inequitable. Ameren argues that just as the cost of delivery service is the same for customers receiving their power from a RES or via the Company's PPO, self-generation customers connected to the same delivery system should pay the same charges for that system. (Ameren Brief at 10)

According to Ameren, Staff also claimed that the Company's proposed "way to allocate costs" to SG customers is an inaccurate and unreliable method of measuring the amount of infrastructure needed to support the demand of a large and diverse customer base. Ameren asserts that customers with self-generation typically tend to have large load requirements (i.e., greater than 100 kilowatts) and are usually served with dedicated transformers, services, and meters. Ameren contends that these facilities must be sized without any consideration of coincident or diversified loads of any other customers on the system. Ameren argues that where the load served by self-generation is not isolated from the distribution system, the sizing of these facilities must reflect the possibility that the entire load (i.e., load served by outside sources plus SG load) may be placed on the system. Ameren claims that in many cases, the load served by the self-generation can be a significant portion of the total load and thusly represent a significant portion of the costs of the facilities associated with providing distribution service to the premises. (Id. at 10-11) Ameren states that non-SG customers with large loads are also served with dedicated transformers, services, and meters and that these facilities too, must be sized without any consideration of coincident or diversified loads of any other customers on the system.

Ameren indicates that Staff claimed that any cost shifting that could occur in the short-term between SG and non-SG customers would be more than offset by system-wide and competitive benefits in the long term. Ameren says Staff has thus acknowledged that if Rider SG were eliminated, cost shifting would occur. Ameren contends, however, that Staff never quantifies these system wide and competitive benefits that would offset such shifting in the long-term. (Id. at 11)

Ameren believes that it is by no means clear that the benefits of SG will ever be realized on the Ameren system. Ameren contends that Staff's view of the benefits of self-generation is premised on the presence of a large number of self-generators on the Ameren system – when in fact the Ameren system has very few. Ameren claims that there are only a handful of self-generators on the Ameren system. (Ameren Brief at 11)

According to Ameren, Staff essentially agrees that without a tariff structure that invites self-generation, there will never be a large SG load. Ameren argues, however, that penetration of SG into the Ameren area is questionable anyway. Ameren asserts that SG is not present in low cost areas and that most SG in Illinois exists in what Ameren refers to as the high cost Commonwealth Edison Company ("ComEd") area. (Id.)

Ameren says it seeks a fair and equitable recovery of its delivery costs from customer classes. Ameren asserts that where on-site generation provides system benefits that can be quantified and determined to be the least-cost option for providing reliable delivery service, Ameren would not be opposed to entering into special contracts for charges associated with delivery service to these customers as opposed to the proposed application of Rider SG. Ameren claims, however, that absent such quantification of system benefits, cost causation principles and equitable recovery of such costs would dictate the standard application of Ameren's proposed Rider SG. (Ameren Brief at 12)

In its reply brief, Ameren states that Staff dedicates a substantial portion of its initial brief to what amounts to a request that the Commission make a substantial reversal of rate design policy and philosophy in order to promote the development of self-generation. Ameren claims that it has proposed Rider SG to assess delivery services customers with SG their fair share of the costs of the system that stands ready to serve them when their SG is not in service. According to Ameren, Staff contends that, when customer self generation is on-line, it imposes no demands or costs on the delivery system beyond those reflected in the customer and meter charges. (Ameren Reply Brief at 2)

Ameren states that Staff contends the Company's proposal will result in "inconsistent" treatment within rate classes because, according to Staff, non-SG and SG customers will be charged on a different basis. In this regard, Staff states that non-SG customers will be charged based on "actual usage," whereas SG customers will be charged based on "the sum of their usage from Ameren's system and from their own generators." (Ameren Reply Brief at 2-3, citing Staff Brief at 30-31)

Ameren argues that there is no inconsistency in treatment because in each instance, customers are being asked to bear responsibility in proportion to the load Ameren's delivery system must be prepared to serve. Ameren claims that for non-SG customers, the load Ameren must be prepared to service is their actual system usage; those customers generally have no additional load that Ameren must be ready to serve, or at least not the magnitude represented by SG installations. Ameren asserts that for SG customers, that load is the sum of their "actual" system usage (i.e., what they pull through the Ameren meter) plus what is being served from SG, because Ameren is standing by to serve that load in the event that the SG fails. (Ameren Reply Brief at 3)

It is Ameren's position that in this respect, Rider SG is no different from Ameren's existing electric and gas standby rates that the Commission has approved previously. Ameren asserts that under AmerenCIPS' electric Rider 2 (Ill. C.C. Schedule No. 15), for example, customers contract for a level of standby service, and pay a monthly demand charge reflecting the level of standby service, regardless of whether it is ever "actually" used (i.e., pulled through the meter). Ameren contends that both system gas and gas transportation customers pay monthly charges for contracted standby amounts, regardless of whether the customers make full use of their standby service level (Rider T and Rider S, Ill. C.C. Schedule No. 10F). (Ameren Reply Brief at 3)

In Ameren's view, Staff seeks to provide SG customers with what amounts to free standby service. Ameren asserts that under Staff's proposal, SG customers would have full standby service, at all times, for which these standby customers would pay no demand charges. Ameren claims this would mark an extraordinary departure from the principles of pricing standby service reflected in the Company's existing standby service tariffs. Ameren argues that where the Commission has clearly seen it appropriate in the past to require standby customers to bear a portion of the costs of the system prepared to serve them in proportion to their potential load, Staff now sees this as inappropriate, inconsistent and discriminatory. (Ameren Reply Brief at 3-4)

According to Ameren, Staff seeks to justify what Ameren characterizes as an "abrupt change in policy" by stressing both the importance of SG and the "distortion" that would result from implementation of the Ameren pricing proposal. Ameren asserts that Staff, however, establishes neither point. Ameren argues that Staff's acceptance of the benefits of SG is apparently a matter of faith. Ameren claims Staff provided no cost-benefit analysis, no matter how rudimentary, of SG. Ameren contends that Staff merely asserted that SG would be beneficial to the Ameren system, if SG could develop in large numbers. In Ameren's view, however, there is no basis for concluding that SG can or will develop in that manner on the Ameren system. (Ameren Reply Brief 4)

It is Ameren's position that it is not distortionary in any respect to charge standby customers an appropriate fee for standby service. Ameren claims that if recognition of that appropriate fee produces a different result in the customer's decision-making process with respect to SG, it does not mean that there is something wrong with the fee. Ameren believes that an analysis of whether SG is economical should reflect all appropriate costs, including the cost of standby service. Ameren contends that it is distortionary to pretend that there are no standby service costs, as Staff apparently does. Ameren claims that while such a subsidy may result in the introduction of more SG, it does not follow that either the system or other customers will benefit. According to Ameren, Staff's proposal will shift costs to non-SG customers in the short run, with no quantifiable benefit to them in the long run. (Ameren Reply Brief at 4)

Ameren recommends that the Commission adhere to its existing pricing policy with respect to standby service and price standby delivery services for SG customers in the same manner as proposed by Ameren. (Id.) The Commission notes that during the hearing, however, Ameren indicated if a self-generating customer could demonstrate an ability to shed or reduce its load when its self-generation facility is not operating, Ameren would not object to modifying Rider SG to allow that self-generating customer, the opportunity to contract for a specific level of backup delivery services demand. Ameren also proposed, in the event the Commission chose this modification, to include a twelve-month demand ratchet in the modified Rider SG in the event the self-generating customer fails to shed load and its actual demand exceeds the contract demand. (Tr. at 163-164)

c. Exceptions to the Proposed Order and Replies thereto

As explained above, **Staff**'s basic position is that Rider SG should be rejected outright and "removed from the DST tariff . . . " (Staff Brief at 33) Staff views Rider SG as anti-competitive with regard to the use of self-generation and discriminatory in its treatment of customers with self-generation. Staff did not offer any alternative proposals or modifications to Rider SG in its direct and rebuttal testimony filings, at the hearings, or in its briefs or reply briefs. Staff did, however, indicate that the Company had proposed a viable alternative, in the absence of Rider SG, in its design of DS-2, DS-3, and DS-4. (Staff Initial Brief at 34)

In its exceptions to the proposed order, Staff's basic position continues to be that Rider SG should be completely rejected. In support thereof, Staff reiterated its concerns about Ameren's proposed Rider SG. In its exceptions, Staff also took issue with certain conclusions in the proposed order regarding Rider SG. As discussed further below, the proposed order recommended adoption of Rider SG with certain modifications. Under the tariff, as modified in the proposed order, a customer with the ability to shed load during periods when self-generation is interrupted or curtailed would be allowed to subscribe for, and be charged for, only the level of standby service it wants, subject to a demand ratchet in the event actual demand were to exceed contracted demand.

In its exceptions, Staff disagrees with the conclusion in the proposed order that Rider SG as modified does not discriminate between self-generating and non-self-generating delivery services customers. Staff also disagrees with the conclusion that in the absence of Rider SG, self-generating customers could not reasonably be expected to pay anything approaching the cost of providing those facilities over which standby energy will be delivered when operations at self-generation facilities are interrupted. (Staff exceptions at 7)

It is Staff's position that Rider SG as modified in the proposed order will have anti-competitive effects. (Staff exceptions at 10) Staff also argues that Rider SG as modified will, at best, provide a cost savings to a small subset of customers relative to the treatment of self-generating customers under Ameren's proposed Rider SG. (Staff exceptions at 11) Staff also asserts that Rider SG as modified in the proposed order will have limited impact in reducing the customers' costs relative to Ameren's proposed Rider SG's allegedly "discriminatory and distortionary over-collection of demand charges". (Id.) Staff further complains that Rider SG as modified in the proposed order would impose "effectively higher rates" on customers that choose to use self-generation as a competitive alternative to main station power. (Staff exceptions at 12)

Using data from a cross-examination exhibit, Staff performed calculations in an effort to demonstrate that the Commission should not adopt either Ameren's proposed Rider SG, or Rider SG as modified in the proposed order. Staff asserts that by comparing the actual and "effective rate", as well as total demand charges, these calculations show how various groups of customers are treated under the Rider SG contained in the proposed order relative to an "identical" non-self-generating customer. (Staff exceptions at 13) Staff claims that the modifications to Ameren's proposed Rider SG, as contained in the proposed order, do not alleviate Staff's concerns with the discriminatory and anti-competitive effect of Rider SG. (Staff exceptions at 19)

In its analysis, Staff used historical demand data for three customers (referred to as Customers A, B and C) in AmerenCIPS' service territory that possess self-generation facilities. In addition, Staff made certain assumptions in an effort to show what customers would pay under Ameren's proposed Rider SG, under Rider SG as modified in the proposed order, and in the absence of Rider SG. In addition, Staff also created data for three hypothetical customers that it referred to as "erratic single annual peak" customers. The three customers were described as customers without self-generating facilities that had the same yearly maximum monthly peak demand as each of the three actual AmerenCIPS customers but with greater variable load demand – in essence, hypothetical non-self-generating customers with extremely low load factors. (Staff exceptions at 13-14)

Tables 1, 2 and 3 in Staff's exceptions contain the actual historical data for the three AmerenCIPS' customers and certain assumptions about demand under Rider SG as modified in the proposed order, as well as about the three "erratic single annual peak" customers. (Staff exceptions at 15-16) Tables 4, 5 and 6 are intended to show the billing effects on each customer under Ameren's proposed Rider SG. (Id. at 16-18) Tables 7, 8 and 9 are intended to show the billing effects on each customer under Rider SG as modified in the proposed order. (Id. at 19) Tables 10, 11 and 12 are intended to show the results of removing Rider SG on the "effective rate" and total revenues that would be collected from each customer depending on historical demand.

Staff argues that its analysis shows self-generating customers will pay a higher "effective rate" than a non-self-generating customer with the same peak demand, "if they make use of the voluntary ratchet provision contained in Modified Rider SG." (Staff exceptions at 20) Staff also complains that under the proposed order, any customer will be overcharged for any failure to accurately predict its own future demand, no matter how temporary the mistake, due to the 12-month demand ratchet. (Staff exceptions at 21-22)

Staff claims that the method recommended by the proposed order would result in discriminatory treatment of self-generating customers, relative to the common cost methodology applied to all other customers, by charging self-generating customers more for their actual monthly non-coincident peak demand than non-self-generating customers who are charged on a per unit of actual monthly non-coincident peak demand basis. (Staff exceptions at 22) Staff asserts that to make the allocation method non-distortionary and non-discriminatory, all customers would have their portion of common costs allocated based on the same methodology – actual monthly peak use of Ameren's system. (Staff exceptions at 26-27)

In the proposed replacement language contained in its exceptions, Staff also recommends that the Commission direct Ameren, in the interest of promoting the development of competition and insuring that the potential benefits of SG are realized, to seek out SG projects to reinforce system reliability as an alterative to Ameren's building its own generation to serve the same purpose. Staff's proposed replacement language also recommends that Ameren be directed to conduct, and make public, a bi-annual study of its system with regard to locations favorable for the location and installation of SG units as a means of improving and/or maintaining system reliability. (Staff exceptions at 27) The Commission observes that while Staff's suggestions are not wholly without merit, it appears they were made for the first time in Staff's exceptions. In any event, it is not clear why the proposed study would focus solely on self-generation rather than all types of generation, or at least all forms of distributed generation, or when the study should be completed. The Commission concludes that the record does not support adoption of the recommendation at this time.

As noted above, Staff's position is that Rider SG should be rejected and "removed from the DST tariff . . . " (Staff Brief at 33) Staff did not offer any alternative proposals or modifications to Rider SG in its direct and rebuttal testimony filings, at the hearings, or in its briefs or reply briefs. In its exceptions, Staff states that if the Commission finds the elimination of Rider SG to be unacceptable, then "Staff recommends that monthly demand charges to SG customers within customer classes DS-2, DS-3, and DS-4 be set based on the average of each individual SG customer's actual (as measured on Ameren's meter) historical monthly non-coincident peak demand from the last 12 months." (Staff exceptions at 29-31) The Commission observes that this new alternative pricing methodology, which is clearly substantive in nature, was not explained, or even proposed, in the evidentiary record. The record in this proceeding does not support the adoption of this proposal.

In its reply brief on exceptions, **Ameren** takes issue with various contentions in Staff's exceptions. First, Ameren comments that in proposing the outright rejection of Rider SG, Staff in effect is seeking to promote the development of self-generation by requiring Ameren to provide "free stand-by service" to self-generating customers." (Ameren RBOE at 4) According to Ameren, Staff's position incorrectly assumes the "cost of standby delivery service is zero, or stated differently, that there is no burden imposed on the system by the potential load of an SG customer." (Id. at 5) For the reasons stated in its RBOE, and in its testimony and briefs as summarized above, Ameren disagrees with Staff's position. (Ameren RBOE at 5-8)

Ameren further argues that "[f]ree stand-by service has never been Commission policy, to Ameren's knowledge, for any utility service." (Id. at 8) Rather, Ameren contends, the Commission has consistently approved stand-by rates that recognize that a utility system must take into account the stand-by load, which could be connected to the system at any time.

According to Ameren, FERC sees it the same way. Ameren says network customers with their own "generation behind the meter" are charged based on their total system load because that is the load that the network must be prepared to serve. (Id. at 9, citing FERC Order No. 888, slip op. at 86; and Fed. Reg. Vol. 62, No. 50 at 12322-24) In its RBOE, Ameren does not indicate that this argument regarding FERC's position was made previously in the instant docket.

In responding to Staff's exceptions, Ameren next argues that non-self-generating customers should not have to subsidize self-generating customers. (Ameren RBOE at 9-11) Ameren claims Staff effectively takes the position that self-generation is not economic compared to other forms of generation and must be subsidized with free stand-by service -- and the cost of any subsidy must be borne by other, non-self-generating customers. In Ameren's view, whether self-generation is economic is a decision that should be reached based on the true cost of self-generation, including back-up or stand-by service where the customer seeks it. Ameren says the decision should not be made by offering customers an incentive in the form of free stand-by delivery service to entice them to install self-generation, with the result that delivery service charges increase for remaining customers. (Id. at 11; 14-15)

In its RBOE, Ameren next argues that the "rate analysis" in Staff's exceptions is flawed. (Ameren RBOE at 11-14) Regarding the "effective billing rate" calculated by

Staff, Ameren says Staff's approach is to compare the cost of delivery per kW actually delivered to self-generation and non-self-generating customers. Ameren asserts that by simply dividing the total bill amount by the units pulled through the meter, Staff "misses the point entirely", because it incorrectly assumes there is a zero cost for the standby portion of that service. (Ameren RBOE at 11-12)

In further response to Staff's rate analysis, Ameren next addresses Staff's assessment of the effect of Rider SG as modified on the "erratic customer." Ameren says Staff argues that the lack of a "minimum bill" provision applicable to erratic load customers renders Rider SG "discriminatory". According to Ameren, the load profile in Staff's example is very extreme, and there is no data to support its use nor is there any data to indicate that there are such customers on the Ameren system. (Id. at 12) Moreover, Ameren states, it proposed a minimum bill provision in its last delivery service case (Docket 99-0121), which was opposed by Staff and rejected by the Commission.

In responding to the rate analysis in Staff's exceptions, Ameren also argues that Staff's pricing analysis for modified Rider SG in tables 7-9 is completely flawed because, among other errors, it is premised on irrational customer behavior. (Ameren RBOE at 12) In certain of its examples, Staff assumes that a customer would elect a "reservation" amount that would result in charges higher than had such customer simply opted for standard Rider SG. According to Ameren, "Unlike the Staff example, however, customers make rational decisions." (Id. at 12-13) Ameren states that Staff also assumes bundled service Rider 2 Customers A, B and C would retain the same level of "standby reservations" that they have currently under Rider 2. That, in Ameren's view, would obviously make no sense. Ameren says customers A and C would be foolish to assume that they can shed load if, in fact, they cannot due to the nature of their operations. Ameren claims such customers would not elect the optional Rider SG provision to establish a reservation, and would instead simply opt for standard Rider SG as the Company originally proposed.

Ameren also responds to comments by Staff that "Customer B would have no incentive to reduce its system demand below its contracted level," and further that " . . . Customer B's effective rate [DS average charges] per kW goes down the less it runs its self generation unit to shave its monthly peak non-coincident system demand." According to Ameren, the power and energy cost component associated with the self-generation operation are the most significant costs to a self-generation operation, not the use charge for the delivery services, and such customers are not highly motivated to incur demands on the distribution system solely because they may have set a contract reservation for its use at a high level. If these customers are willing to make additional use of the distribution system, Ameren states, it is because their avoided cost of energy production using self-generation is higher than the price at which they can purchase from their energy supplier. (Ameren RBOE at 12-13)

In further assessing Staff's rate analysis, Ameren next states that Staff, by assuming minimums or reservation levels for Customers A and C in tables 7 and 9, incorrectly assumes that modified Rider SG requires all customers to elect a "reservation level". (Ameren RBOE at 13-14) Ameren's says its proposal, as modified in the manner described in the proposed order, is that Rider SG will have two sections: A and B. Section A would be the standard Rider SG provisions as originally proposed by Ameren. Two meters (main meter and SG meter) simply take the highest coincident peak each month for billing (DS-3 and totaling kWh for billing DS-2). Ameren states that Section B (the modified provisions) would allow a customer who has the capability to shed all or some of its load when its self-generation is curtailed, to elect a level of standby delivery service (its "Reservation") that is less than its self-generation capability. Ameren says Section B would be for customers that are able to reduce load when self-generation is lost, and that a customer under Section B would be billed on the basis of its "main meter" demand, plus the higher of its actual standby level taken during the month, or its Reservation. When a Section B customer takes more than its "Reservation," Ameren states, its Reservation level is increased up to the new level for the next 11 months, unless exceeded again.

Also, contrary to Staff's position, Ameren claims Rider SG does not, and is not intended to, encourage or discourage "economically" justifiable self-generation. Rather, the Rider is intended to recover from self-generating customers the transmission- and distribution-related costs of backing up the load that is served by self-generation equipment, when that load is not isolated from the distribution system. Otherwise, Ameren asserts, the delivery costs of self-generation customers would be borne by other customers.

Lastly, Ameren comments that there is no apparent groundswell of support for self-generation in its service territory from the class most likely to take advantage of it: industrial customers. On this point, Ameren notes that a group of industrial customers participated in the case but took no position regarding Rider SG. (Id. at 15)

Before proceeding with its conclusions on this issue, which for the most part are contained in the following subsection of this order, the **Commission** has several **observations** regarding the assertions made in the exceptions and replies thereto. First, it is undisputed that in the absence of a mechanism similar to Rider SG, a customer who typically meets all of its requirements through self-generation could have continuous access to standby power and energy throughout a billing period and yet routinely pay no energy or demand charges at all for that period.

Each of the three customers who were the focus of Staff's rate analysis possess self-generation facilities but, historically, have utilized AmerenCIPS to provide significant power and energy above and beyond what the self-generation facilities have actually provided. The self-generation facility of Customer C actually produced energy in only 10 of 36 months and produced an insignificant amount of energy in several of those months. The Commission believes that this customer provides little guidance in determining how self-generating delivery services customers should be treated. The self-generation facility of Customer B operated in each month and was used to meet a significant portion of Customer B's requirements in most, but not all, months. The Commission notes, as shown in Staff's rate analysis, that this customer has the opportunity to benefit from the modification of Ameren's Rider SG recommended in the proposed order in comparison to Ameren's proposed Rider SG. (Staff exceptions, Appendix B and Table 8)

With regard to Customers A and C, the Commission observes that both customers would actually be made worse off if they took advantage of the option to set a predetermined twelve month maximum monthly non-coincident peak period. (Staff BOE at 21) Using the annual minimum contract level that would be needed to prevent a "ratcheting up" of the charges, the Modified Rider SG ratchet would have both Customer A and C paying more billing units worth of demand charges than an identical customer without self-generation. (Staff BOE at 21) Indeed, under the Modified Rider SG, the Commission observes that Customers A and C would actually pay more in annual demand charges than identical customers, with identical load profiles, that did not have self-generation capability. (Staff BOE at 21) It appears illogical for SG customers to pay more than non-SG customers relative to their actual usage of the grid, given that there is every indication – based on the concepts of diversified/peak load costs allocations – that SG customers will, on average, actually use fewer resources than non-SG customers of similar total load. (Staff Initial Brief at 35) The Modified Rider SG, then, would overcharge self-generation customers. (Staff BOE at 22) In doing so, it would discourage the use of self-generation relative to other peak shaving efforts as well as discourage the use of self-generation as a competitive alternative to main station power. (Staff BOE at 22) As such, Rider SG, as proposed by the Company as well the Modified Rider SG, would prevent the very real benefits of SG generation – such as increased transmission and distribution capacity and improved system reliability through reduced system strain and the reduction of potential brown outs – from being realized in the long run. (See Staff Initial Brief at 32) Unless self-generation is operated in a way that reduces demands on the system, the desired benefits are not likely to occur.

d. Commission's Conclusion

In its filing, Ameren proposed Rider SG, "Delivery Service for Self-Generation." Generally speaking, the tariff would "apply to all customers taking delivery services under Rates DS-2, DS-3 and DS-4 that also have access to generation facilities (self-generation) connected or capable of being connected directly to customers metered load from the Company's electric distribution system." Ameren says this tariff is designed to recover the investment in transmission and distribution facilities that are standing by to provide delivery services to customers when their generation is not operating. Under Rider SG, a delivery services customer with self-generation facilities would be assessed transmission and distribution charges associated with its peak demand. Charges under Rider SG would reflect either the coincident demand registered on the delivery service meter and the customer's self-generation meter or, in the event there is no demand meter, the sum of usage registered on the delivery service meter and the customer's self-generation meter.

Both Ameren and Staff presented extensive argument regarding the merits of Rider SG. Their positions are described in detail above, and will not be repeated in this portion of the Order. To summarize, however, Staff believes that Rider SG will impair the development of economic self-generation and improperly differentiates between delivery services customers with self-generation facilities and those without such facilities.

Ameren, on the other hand, contends that Rider SG neither encourages nor discourages self-generation but is simply intended to recover, from self-generating customers, the investment in delivery services assets necessary to provide standby service. In contrast to Staff, Ameren argues that Rider SG is not discriminatory because it allows the Company to charge a customer on the basis of costs that are incurred to meet the customer's service requirements. Ameren is concerned that Staff's proposal to eliminate Rider SG would result in customers without self-generation subsidizing customers with self-generation, and would also provide retail electric suppliers an opportunity to improperly game the system.

In analyzing this issue, the Commission first wishes to observe that self-generation has the potential to provide system wide benefits. In this regard, Staff's objective of encouraging the expansion of self-generation has merit and Staff's policy arguments in opposition to Rider SG are well articulated. The Commission notes that Staff effectively demonstrated that Rider SG, modified as described above, clearly provides an anti-self-generation economic signal to any customers considering it as a means of peak shaving. (Staff BOE at 18) Specifically, Staff established that, once an SG customer's ratchet or contracted stand-by peak demand is set, Rider SG provides no incentive, in either effect or total demand charges, to peak shave. (Staff BOE at 22) Furthermore, the Commission is rather troubled that, in terms of demand charges, the Modified Rider SG sends a signal that reliable self-generation has no advantage over unreliable self-generation. (Staff BOE at 18) Without Rider SG, the effective billing rate on all customers is the same and equal to the actual rate per unit of peak monthly demand. (Staff BOE at 23) The Company has proposed a viable alternative, in the absence of Rider SG, in its design of DS-2, DS-3, and DS-4. (Staff Initial Brief at 34) This viable alternative is in the form of averaged cost allocation based on actual non-coincident peak demand on the Company's system that is applied equitably and consistently to all customers. (Staff Initial Brief at 24)

The Commission believes that it is appropriate for those customers who cause costs to be incurred to pay such costs. It is particularly important to send the proper price signals when rates are initially established and at a time when competition in the generation market is beginning. In the Commission's view, customers who possess self-generation facilities are, by definition, no different from customers who do not. The

Commission notes that SG customers, in the absence of Rider SG, will still pay a portion of the distribution and transmission costs that are collected through non-varying customer and meter charges regardless of their level of demand or usage on the Company's system unless they disconnect their loads completely over and above any customer specific charges for dedicated equipment. (Staff Initial Brief at 41) In the absence of Rider SG, any time the customer makes use of Ameren's system in any capacity, it will pay for the use of that system in proportion to its non-coincident 15-minute peak demand and/or total monthly usage as all other customers under the Company's proposed Tariff. (Staff Initial Brief at 41) Based on the record, the Commission believes that Rider SG should be rejected. The Commission, having found Rider SG to be of anti-competitive effect with regard to the use of SG as a competitive alternative to main station power and discriminatory in its treatment of customers with SG, strikes Rider SG and all language therein. (Replacement Language, Staff BOE at 27)

VIII. OTHER ISSUES

Staff recommended that the Commission direct Ameren to perform a depreciation study prior to its next electric proceeding to determine a proper rate level. Staff further recommended that the depreciation studies submitted to the Commission to support future electric rate proceedings be no more than five years old. (ICC Staff Ex. 2.0, at 10, Staff Brief at 20) Ameren did not object to Staff's recommendations. The Commission believes Staff's proposal is reasonable and therefore adopts this proposal.

Ameren submitted a proposed Residential Customer Handbook as part of its Residential Delivery Services Implementation Plan ("DSIP"). Ameren made various modifications to the handbook as a result of conversations with the Staff. A revised handbook reflecting the modifications was admitted into the record as Ameren Ex. 18.1. The Commission finds that Ameren's Residential DSIP, including the revised handbook, is reasonable, and is hereby approved.

IX. FINDING AND ORDERING PARAGRAPHS

The Commission, having reviewed the entire record herein, is of the opinion and finds that:

(1) AmerenCIPS and AmerenUE are engaged in the transmission, sale, and delivery of electricity to the public in the State of Illinois, and are "public utilities" as defined in Section 3-105 of the Act and "electric utilities" as defined in Section 16-102 of the Act;

(2) the Commission has jurisdiction of AmerenCIPS and AmerenUE and of the subject matter hereof;

(3) the recitals and facts and conclusions reached in the prefatory portion of this Order are supported by the evidence of record and are hereby adopted as findings of fact,

(4) the attached Appendix A, concerning rate base, and Appendix B, concerning the operating revenues, expenses and income, provide supporting calculations for various conclusions in this Order;

(5) for purposes of this proceeding, the test year is the 12 month period ended December 31, 1999, with pro forma adjustments; this test year is appropriate for purposes of this proceeding;

(6) for purposes of this proceeding, AmerenCIPS' delivery services rate base is $390,793,000; for purposes of this proceeding, AmerenUE's delivery services rate base is $51,008,000;

(7) for purposes of this proceeding, AmerenCIPS' delivery services revenue requirement is $169,147,000; for purposes of this proceeding, AmerenUE's delivery services revenue requirement is $31,762,000;

(8) a just and reasonable rate of return which AmerenCIPS should be allowed to earn on its rate base is 8.60%; a just and reasonable rate of return which AmerenUE should be allowed to earn on its rate base is 9.04%;

(9) the proposed revisions to AmerenCIPS' and AmerenUE's Delivery Service Tariffs and Riders, as modified by agreement during the course of these proceedings or as further directed in the prefatory portion of this Order, are hereby deemed to be just and reasonable, and AmerenCIPS and AmerenUE are directed to place these tariff sheets into effect and the tariff sheets shall be applicable to service furnished on and after the effective date, which shall be no sooner than five calendar days after the filing of tariffs in compliance with this order, and no later than the date provided by statute;

(10) the cost of service, class revenue allocation and rate design conclusions reached in the prefatory portion of this Order are just and reasonable for purposes of this proceeding and the delivery services tariffs filed by Ameren shall be consistent therewith;

(11) the rates contained in the tariffs filed pursuant to the this Order shall be designed to recover the revenue requirement approved in this Order pursuant to the methodology described in the prefatory portion of this Order;

(12) AmerenCIPS and AmerenUE shall file the new tariff sheets authorized to be filed by this Order within 10 days of the date of this Order;

(13) Ameren shall include a copy of the modified DSIP with the compliance tariff filing.

IT IS THEREFORE ORDERED that AmerenCIPS and AmerenUE are hereby authorized and directed to file new tariff sheets comprised of delivery services tariffs containing terms and provisions consistent with and reflective of the findings and determinations contained herein.

IT IS FURTHER ORDERED that AmerenCIPS and AmerenUE shall comply with Findings (9), (10), (11), (12) and (13) of this Order.

IT IS FURTHER ORDERED that any objections or motions in this proceeding which have not been ruled upon hereby deemed disposed of in a manner consistent with the ultimate conclusions herein contained.

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 11th day of December, 2001.

(SIGNED) RICHARD L. MATHIAS

Chairman

(S E A L)