

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

THE CITIZENS UTILITY BOARD)	
and)	
THE ENVIRONMENTAL DEFENSE FUND)	
)	Docket No. 15-_____
Petition to Initiate a Proceeding to Investigate)	
the Adoption of a Utility Time of Use Rate)	

**Verified Petition of the Citizens Utility Board and
Environmental Defense Fund to Initiate a Proceeding to
Investigate the Adoption of a Utility Time of Use (“TOU”) Rate**

Pursuant to the Rules of Practice of the Illinois Commerce Commission (“ICC” or “the Commission”), 83 Ill. Admin. Code § 200.100, and Section 10-101 of the Public Utilities Act (“PUA” or “the Act”), the Citizens Utility Board (“CUB”) and the Environmental Defense Fund (“EDF”) hereby petition the Commission to initiate a proceeding to investigate the adoption of a utility Time of Use (“TOU”) rate. The purpose of this proceeding will be to review whether or not electric utilities participating in the performance-based formula rate scheme established by the Energy Infrastructure Modernization Act (“EIMA”) should offer a TOU rate to their customers. In support of this Petition, CUB and EDF state the following.

1. CUB is a statewide organization of residential ratepayers with the duty to represent and protect the interests of the residential utility consumers of this state and the legal authority to file this petition on behalf of its members. 220 ILCS 10/5(1)(a) and 220 ILCS 10/5(2)(d) and (e).

2. EDF is a non-profit organization whose mission is to preserve the natural systems on which all life depends. Guided by science and economics, EDF strives to find practical and lasting solutions to the most serious environmental problems.

3. The Commission has general supervision of all public utilities 220 ILCS 5/4-101. In Illinois, the Commission has general authority for “any matters covered by the provisions of the

[Public Utilities] Act, or by any other Acts relating to public utilities.” 220 ILCS 5/10-101. The Commission has the authority under Illinois law to direct the utility to do what is reasonably necessary to accomplish the legislature’s objective. *Abbott Lab. Inc. v. Illinois Commerce Comm’n*, 289 Ill.App.3d 705, 712, 682 N.E.2d 340, 347-348 (1 Dist.1997), citing *Lake County Bd. of Review v. Prop. Tax Appeal Board*, 119 Ill.2d 419, 427, N.E.2d 459 (1988).

4. One of the legislature’s objectives is enacting the Energy Infrastructure Modernization Act (“EIMA”) was that participating utilities should provide innovative technological offerings that will enhance customer experience and choice. Public Act 97-616, as modified by Public Act 97-646. Both the Commonwealth Edison Company (“ComEd”) and the Ameren Illinois Company (“Ameren”) have opted to participate in the EIMA’s performance-based formula rate structure. *See* ICC Dockets No. 11-0721 and 12-0001. ComEd and Ameren have both asserted that time-based rate options can benefit customers, in concurrence with the conclusion of the Illinois Statewide Smart Grid Collaborative. CITE.

6. The testimony of CUB/EDF witness James Fine (CUB/EDF Exhibit 1.0) demonstrates that a TOU tariff has the potential to lower energy costs for all Illinois customers regardless of supplier choice and assist Illinois in meeting the goals of the EIMA, including the reduction of greenhouse gas emissions. By providing price information to consumers that ties the price they see to tightly to the cost of service, TOU rates empower customers with a new way of reducing their energy bills: low-cost times of the day for using energy. By signaling to energy users when costs of serving power are highest (and lowest), TOU rates allow for a level of efficiency impossible under standard flat or tiered rates. Increased efficiency, in turn, reduces wasted energy on the system and benefits all who use the system. For example, a flatter load curve mean less purchase of relatively high-priced peak energy, and avoids costs associated with

capacity installed as contingency reserves. Less peak demand also enables a high capacity factor for existing resources since there is less need for peaking and ramping generation capacity. Taken together, these changes lead to a reduction in overall system costs.

7. The Smart Grid Advisory Council (“SGAC”) has issued guidance stating that one of the primary consumer benefits of AMI deployment will be the opportunity to provide customers with enhanced time-variant pricing options, including TOU rates. *Smart Grid Advisory Council – Guidance Regarding Implementation of Time of Use Rates*, March 14, 2012 , at 4. In fact, the Council noted, the cost-benefit analysis upon which Ameren’s AMI Plan was approved explicitly relied upon customers obtaining lower energy prices or reducing use in response to TOU rates, among other time-based pricing structures. The Council noted that dynamic pricing options that facilitate household energy management and promote improved efficiency and potential cost-savings are essential to generating customer benefits from AMI deployment. *Id.* at 5. The guidance recommended that ComEd and Ameren consider the best options for a utility-provided TOU rates if such a rate was found cost-beneficial by the ICC and that the utilities design their electronic data exchange processes and meter data management systems to enable ARES to offer TOU rates. *Id.* at 6. The SGAC concluded that it believed both ComEd and Ameren have offered to work with the ICC to make TOU rates available if the retail market does not develop competitive TOU rate structures within a reasonable time after AMI deployment. (The SGAC Guidance is included here as Attachment A to this Petition.)

8. In the 2012 ICC dockets where ComEd and Ameren’s AMI Plans were approved, CUB and EDF, along with the Environmental Law and Policy Center (“ELPC”), asked the Commission to direct each utility to adopt a TOU rate. *In Re Commonwealth Edison Co*, ICC Docket No. 12-0298, Final Order at 44-45 (June 22, 2012)(“12-0298 Final Order”); *In Re*

Ameren Ill. Co., ICC Docket No. 12-0244, Final Order on Rehearing at 26 (Dec. 5, 2012) (“12-0244 Final Order”). The Commission declined at that time. Though the Commission stated that a TOU was well-intentioned and had merit, it noted concerns. At the time, the CUB/EDF proposal did not address how the TOU would intersect with the Integrated Distribution Company (“IDC”) rules limiting the marketing of new rates and services, the costs and cost recovery mechanism involved in marketing such rate, or how the proposed TOU rate would address capacity costs which have the potential to be a significant portion of energy costs as generation reserve margins decline. 12-0298 Final Order at 44. The Commission also noted the concern of the Illinois Power Agency (“IPA”) that adoption of a TOU rate could complicate the IPA’s annual energy procurement process. *Id.* As a result, the Commission asked that a record be developed that addressed the issues it had identified with a TOU rate offering. *Id.* It directed the utilities to work with the SGAC and other stakeholders to develop a proposal regarding increasing the availability and participation in dynamic pricing programs offered by either the Company or alternative retail electric suppliers. *Id.* Each participating utility was directed to report on those discussions in the 2013 each utility’s annual AMI Implementation Progress Report (“AIPR”). 12-0298 Final Order at 44-45; 12-0244 Final Order at 26.

9. CUB and EDF understand that since that time both ComEd and Ameren have investigated the issue, including discussions with stakeholders, though until now they have declined to offer a TOU rate option to residential customers. In response to discussions with alternative retail electric suppliers (“ARES”) and other stakeholders, ComEd offered an option, Rider RMUD, which would allow ARES to offer their residential customers a TOU rate. *See* ICC Docket No. 13-0635. Rider RMUD was approved as a pilot tariff: (a) because of technical limitations on the number of participating customers inherent in the legacy meter data

management system (“MDMS”) and (b) to limit the cost of the pilot to a reasonable and prudent sum. Petition of Commonwealth Edison Co., ICC Docket No. 13-0635, at 1-2 (Nov. 15, 2013). Once ComEd’s new MDMS is installed and tested, ComEd has stated it intends to modify or replace Rider RMUD with a permanent tariff authorizing the provision of interval usage data. *Id.* Rider RMUD was approved on Dec. 5, 2013. Notice of Commission Action, ICC Docket No. 13-0635.

10. With respect to the Commission’s first concern in the 2012 case, the IDC rules allow permissible IDC services, such as load curtailment and distribution services. *In Re Commonwealth Edison Co. Evaluation of Experimental Residential Real-Time Pricing*, ICC Docket No. 11-0546, Final Order at 7 (May 29, 2012). The rules do prohibit the promotion, advertisement and marketing of a retail electricity supply service, *id.*, though in the past both ComEd and Ameren have received waivers to promote new pricing programs such as real-time pricing and peak-time rebate programs. The ICC has already concluded that a waiver from the IDC rules can be granted based on Commission order so long as a customer was not discouraged from switching to ARES service. *In Re Commonwealth Edison Co.*, ICC Docket No. 09-0263, Final Order at 46 (Oct. 14, 2009) (granting a waiver to promote experimental rate designs as part of an AMI pilot).

11. With respect to the Commission’s second concern in the 2012 case, CUB and EDF have discussed with the IPA the concerns noted by the ICC regarding the impact of a TOU rate on the IPA’s procurement processes. The IPA procures power and energy supply on behalf of those ComEd and Ameren residential customers in accordance with an ICC-approved power procurement plan. 220 ILCS 5/16-111.5 Since 2012 the IPA has begun exploring ways in which it might mitigate the impact of capacity costs, which are, as the ICC noted in 2012, expected to

be an increasingly large driver of overall energy costs for ComEd and Ameren customers. CUB and EDF understand that at this time the IPA has no objection to an investigation into a utility TOU rate offering, and in particular, for a record to be developed on how a TOU rate might be used to assist in the efforts of all parties to mitigate the expected increases in capacity costs.

12. Since a TOU rate was proposed in 2012, the ICC has addressed issues of customer usage data in the context of PUA restrictions on data sharing (*see* ICC Docket No. 13-0506) and initiated a docket to address the means by which the intervals of usage data which would support a TOU rate will be recorded and shared with residential customers (*see* ICC Docket No. 14-0507). Deployment of AMI meters continues and changes to utility billing and meter data management systems is continuing. With these efforts underway, the infrastructure will be in place to offer all residential customers a TOU rate while preserving their choice of alternative supplier. CUB and EDF believe that, since the Commission has made clear its preference to build a separate record on the issues associated with offering a TOU rate in the context of a deregulated market such as Illinois, a separate investigation is warranted. This investigation should be initiated now to ensure that as these modernization efforts move forward a regulatory structure is in place to support a TOU rate from ComEd and Ameren on an opt-in basis.

13. Efforts of both ComEd and Ameren to educate customers on the new metering systems and associated technologies and pricing programs are also underway. Each utility is now marketing and offering two time-variant rates: a real-time pricing rate and a peak-time rebate program. *See* ICC Dockets No. 12-0484 (Commonwealth Edison Co.) and 13-0105 (Ameren Ill. Co.). Customer education and engagement around the value of AMI deployment, including these new rates, has been ongoing since 2012 and will continue as meters are deployed. Costs associated with these efforts may be recovered through either a specific rider,

for example for some costs associated with real-time pricing, 220 ILCS 5/16-107(b-25), or in the performance-based formula rate authorized by the EIMA, as in the case of peak-time rebate, 220 ILCS 5/16-108.7(g). There is no reason to assume that a TOU rate could not be included in these efforts since as Dr. Fine notes in his testimony, a TOU rate will complement the existing utility offerings of fixed price bundled service, real-time pricing service and peak-time rebate service.

14. CUB and EDF therefore request the Commission to initiate an investigation into the adoption of a utility TOU rate. This investigation would build the evidentiary record sought by the Commission, and, as detailed in CUB/EDF Exhibit 1.0, address the following issues:

- The value of a TOU rate, including the value of a TOU rate designed to encourage load reduction during peak hours and load-shifting from peak to off-peak usage among residential customers, how a TOU rate can complement existing Illinois time-variant pricing programs, and the value of an opt-in TOU rate for Illinois.
- The appropriate structure of a TOU rate, including whether such a TOU rate should include separate pricing for peak, off-peak or super-peak usage; the range of response expected from various price differentials within the TOU rate.
- The elements and design of a successful customer education and enrollment campaign for an opt-in TOU rate, including how to identify and engage those customers who would benefit from a TOU rate.

CUB and EDF propose the following structure of a TOU rate be evaluated for inclusion in the final order in this case:

- Participation: This tariff should be offered on an opt-in basis for four years, and implemented with an emphasis on customer education and engagement. After three years, the Commission should investigate the value of offering an opt-out TOU rate for Illinois starting in the fifth year.
- Number of blocks: The Commission should direct the utilities to offer a TOU rate that would have three blocks: on-peak for highest costs of service; off-peak for mid-rate costs of service; and super off-peak for when costs of service are at their lowest.
- Block hours: The Commission should direct the utilities to offer a TOU rate with a 1:3:2 ratio – 4 hours of peak time, 12 hours of off-peak time and 8 hours of super off-peak – with price-ratio and peak period windows revisited and updated after two years to reflect changing grid conditions and costs of service.

- Block pricing: The Commission should direct the utility to offer a TOU rate that establishes prices in each period reflecting the marginal costs of service in those periods. The Commission should direct the utility to update its TOU rate tariff annually to reflect changes in the marginal costs of service during block hours.

After evaluation of the CUB and EDF recommendation, and exploration of alternate structures, CUB and EDF recommend the Commission direct the utilities to file a non-suspended tariff complying with the final order in this case to adopt TOU rates within 90 days.

Further, CUB and EDF recommend the Commission direct the utilities to demonstrate in their tariff that their TOU rate conforms to the following design principles:

- Rates should provide transparent and actionable price signals;
- Rates should be based on marginal cost;
- Rates should encourage conservation and energy efficiency;
- Rates should encourage reduction of both coincident and non-coincident peak demand;
- Rates should be stable and understandable and provide customer choice; and
- Rates should encourage economically efficient decision making.

Lastly, CUB and EDF recommend the Commission direct the utilities to report to the Commission each year, in their tariff filing, the following metrics to demonstrate that their TOU deployment efforts are meeting expected outcomes:

- Changes in load shapes and bills, along with underlying household characteristics;
- Changes in generation mix emissions intensity; and
- Changes in the quality and level of services and technologies that aid in conservation and shifting.

15. CUB and EDF request that the Commission initiate a proceeding to investigate the adoption of a utility Time of Use rate. In that proceeding, CUB and EDF agree to accept electronic service as governed by Part 200.150 of the Commission's rules, 83 Ill. Admin. Code §200.150, for the following individuals.

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