

ARES Certification, Licensure & Tariffs Subgroup Final Report

WORKING GROUP(S): Competitive Issues-ARES Certification, Licensure & Tariffs Subgroup

DATES: July 7th, 8th, 23rd, 28th and August 9th Minutes & Progress Report

LOCATION: Meetings of the ARES Certification, Licensure & Tariffs Subgroup of the Post 2006 Competitive Issues Workgroup were held on July 7, 8, 23, and 28, and August 9 at the offices of Constellation NewEnergy, Inc. A number of parties were in attendance and others participated by teleconference.

I. ATTENDEES: List attached.

David Fein convened the July 7th meeting and outlined the objectives of the Post 2006 Workshop and this Subgroup. After introductions by the attendees, the discussion followed an issues list that had been previously circulated for comment. The bulk of the time at the July 7th and 23rd meetings addressed the ARES Certification Rules in Part 451. It should be emphasized that the July 7th & 8th discussions were not intended to be a “final word” but a first step at frank and open discussions about issues and concerns, and concrete recommendations for changes in rules, tariffs, or business practices. The objective is to reach consensus for specific policy recommendations at the next sub-group meeting. The bulk of the July 8th meeting was devoted to reciprocity issues and the July 28th meeting was solely devoted to reciprocity issues. The August 9th meeting addressed reciprocity issues, other open issues, and the Consensus Items.

II. ISSUES DISCUSSED

A. **ICC ARES Certification Rule – Part 451**

Prior to the first meeting, David Fein circulated proposed revisions to the ARES Certification Rules. Additional Comments were received after the deadline for submission of comments, which meant that attendees at the July 7th meeting were unable to review those suggested changes to the Rules. The following summary highlights the various recommendations for revisions to the Rules, as well as comments or responses to such recommendations:

For purposes of completing an ARES application, the list of affiliates enumerated on the application should be limited to affiliates that sell electric power and energy to retail customers – Section 451.20(e). The rationale for the recommendation was that, based on the manner in which the reciprocity clause has been interpreted, this requirement no longer provides any useful information. A party objected to the deletion of this information, claiming that this information is relevant to an inquiry into the applicant’s treatment of employees. Several parties questioned how the treatment of employees was relevant to an inquiry under Section 16-115(d)(5) of the Act (commonly referred to as “the reciprocity provision”). Parties inquired whether a Subpart E

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ARES applicant would be required to provide this information. The IIEC wanted to cut the references to specific parties [*irony duly noted*]. **Now a consensus item.**

Elimination of Requirement for Applicant to Provide Notice to Registered Agent of Each Electric Utility In Whose Service Territory The Applicant Seeks to Provide Service – Section 451.30(c). While the Notification of Intent does not trigger any action by any electric utility, the ICC Staff would like to retain this notification provision to ensure consistency with the application and the notification of intent. Subsequent to the meeting, some parties have requested getting a better understanding of the reasons for retaining requirement. It was noted that registration with the electric utility is still a utility tariff or business practice requirement *after* an applicant obtains an ARES Certificate from the ICC. **The Subgroup participants agreed to allow the ICC Staff to determine whether they still desire wish to impose this requirement.**

New Financial Requirements for All ARES Applicants – Sections 451.110(a), 451.220(a), 451.320(a). An electric utility proposed a number of changes to the Financial Requirements contained in Subparts B, C, and D of the Rules. Basically, as a result of the integration of ComEd into the PJM Interconnection, all ARES applicants must comply with PJM's credit and financial requirements. Similar requirements are (or will be) in place for the MISO. An electric utility reasons that if the applicant meets the credit requirements of the RTO of the region that the retail customer resides in, the afore-mentioned applicant sufficiently demonstrates its financial qualifications. According to an electric utility, it is inappropriate for ARESs to have redundant coverage. Subsequent to the July 7th meeting, the electric utility provided the Subgroup participants with a link to PJM's applicable credit requirement that served as the basis for the recommendation. **This issue remains on the table for further review by the ICC Staff and others.**

Elimination of percentage of revenue as a basis for appropriate level of credit and instead apply a flat amount – Sections 451.110(a)(3), 451.110(a)(5)(B), 451.220(a)(2)(B), 451.220(a)(3)(A), 451.220(a)(5)(B), 451.320(a)(2)(B), 451.320(a)(3)(A), 451.320(a)(5)(B). A potential applicant recommended that the amount of credit be a flat amount rather than a floating amount based on revenue. It was reasoned that there was no rational connection between credit available and revenue. It was also proposed to avoid constant reviews and would make the rule straightforward. An electric utility objected to the striking of this language arguing that an ARES needs to have coverage proportional to their business book and that there should be no lower requirement for residential customers. The other argument against the revision was that it was asserted that \$1 million of coverage is not sufficient to cover a large business book. It was suggested that perhaps the compromise position is that the percentage should be applied for customers that are within ILL (look at RESs with operations in multiple states—they are covered in other states). You do not want to double or triple count exposure; but 10% is too low (15% is consistent with later provisions). We should restrict to only customers within ILL. Just a percentage would allow new entrants who have operations elsewhere to come in without exorbitant insurance needs but makes large business books cover their bases. The references to energy sales should be only electricity, not other energy. **This issue requires more review and consideration, pending ICC issues (certification of information); separately, the group**

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tentatively agreed that these sections did not apply to subpart E (as written) ARES, despite concerns about clarifying the requirements.

Deletion of the Financial Ratio Option - Sections 451.110(a)(6)(A), 451.220(a)(6)(A), 451.320(a)(6)(A). An electric utility argued that as worded, these are poor indicators of creditworthiness because it is only measuring debt and not capacity to serve large customers. Other parties questioned the necessity for the revision. As a compromise, it was suggested that the ICC be granted wider latitude to consider other financial criteria unless the Staff is comfortable with the current language. **An electric utility suggested using the PJM measure “tangible net worth,” as defined by PJM’s OATT (Sheets 523G, 523M) as a substitute criteria. All parties agreed there should be an objective standard, but tabled the discussion of tangible net worth; the electric utility agreed to explain the requirement further. Another party argued that no change was merited as there is no evidence that the ratios have failed to adequately screen applicants. A market participant suggested that the proposal to eliminate financial ratios or to impose net worth requirements to the ratios as a means to demonstrate creditworthiness benefits only large utilities and their affiliates, is inherently anti-competitive, and ultimately harms customers by limiting choice. The group agreed that it does not apply to Subpart E ARES as that provision is currently drafted.**

Adding a Requirement for ARES to Possess \$4,000,000 of General Liability Insurance – NEW Sections 451.110(c)(1)(2), 451.220(d)(1)(2), 451.320(d)(1)(2). An electric utility recommended adding a new requirement for applicants to possess insurance regardless of whether they are serving customers from plant or equipment that it owns in order to protect the public and to make sure that a normal business lawsuit does not drive an ARES out of business. In response, certain ARES argued that this would add incremental costs to providing service in customers and would not achieve the asserted goals of the proposal as there are other risks that could force an ARES to go out of business that insurance cannot cover. **The electric utility proponent argued that it is a general consumer protection, and is necessary. The group did not reach consensus on this issue. The group agreed that it does not apply to Subpart E ARES as that provision is currently drafted.**

Additional Information to Determine Compliance With Technical Requirements - Sections 451.230(d), 451.330(d), 451.430 (C), and 451.760. According to ICC Staff, one of the concerns with regards to determining technical experience is that what is being submitted is not sufficient to make such a determination. **This item achieved tentative consensus, with parties reserving their right to comment.**

Additional Information to Determine Compliance Managerial Requirements in Sections 451.240(c), 451.340(c), 451.750. The ICC Staff wants to see experience like profit/loss managerial experience, entrepreneurial experience, etc. **This item achieved tentative consensus, with parties reserving their right to comment.**

Additional Information to Determine Compliance With Managerial & Technical Requirements When Relying Upon Agents – NEW Sections 451.140(c), 451.250(c), 451.350(c),

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451.430(c). ICC Staff recommends a requirement to add an exhibit to demonstrate the Agent's background, experience, etc. **This item achieved consensus.**

Are Requirements in Sections 451.310(c)(3), (d), (e), and (f) to Provide Residential and Small Commercial Customers with Certain Information Necessary and Appropriate. Comments were twofold: (1) whether still required under the PUA after mandatory transition period; and (2) if so, do the costs outweigh the benefits? According to participants, the PUA requires the provision of such information even Post 2006. **The group achieved consensus not to make the change, due to requirements in the PUA.**

Financial Qualifications for Single Billing Option – Section 451.510. An electric utility proposed a number of changes to the options available to applicants under subsections (a), (c), and (d). An electric utility stated that they were not adverse to a flat dollar amount and a percentage, as long as it is the greater of the two. The 15% amount is roughly equivalent to two months worth of exposure to the utility which according to the electric utility is not a sufficient amount of time necessary to react. Additionally, an electric utility would also like to be provided with the ability to seek a cease and desist order from the ICC. In response, some questioned the risk exposure as outlined by the electric utility.

Participants were reminded that the SBO was an important component of the Customer Choice Act as a benefit to customers and there are only a small number of companies that offer the SBO in Illinois (ComEd – 3 ARES certified; IP – 3 certified but only 1 uses it; Ameren was unaware). Customer representatives were interested in learning from suppliers whether it is a business decision or a regulatory issue -- if it is a regulatory decision, we should try to address it. It was mentioned by one participant that the financial requirements for certification prevented an ARES from offering the single billing option. **After further discussion, the issue was not resolved with the argument that there might be more than credit-related issues.**

An ARES provider of single billing service recommended changes to subsection (d) to allow for an unconditional parental guarantee to have a reasonable financial cap on the exposure. This will provide greater clarity and consistency between the acceptable financial instruments for general financial requirements and the SBO requirements. With respect to the “unconditional guarantee”; experience shows that very few parent companies offer guarantees with no caps, and they are frowned upon by ratings agencies and the investment community. It was suggested by an ARES that it is difficult to convince the investment community that while “unconditional” you can identify the exposure. It was also noted that given the unconditional interpretation that this section is used at all. So in order to have parental guarantees we'd have to change this section. If the parent does have the requisite financial capability, we should be able to make it a desirable alternative. An electric utility offered to provide revised language to address this issue and did so but also added new and different requirements for applicants.

The group did not reach consensus on changes, but decided to leave the issue open. One party requested ARES come up with language as well.

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Annual Compliance Filing – Section 451.710, 451.730, 740, 760, 770. A number of ARES recommended moving the date for the Annual Compliance filing to no later than April 1st of each year in order to comport with the reality that certified financial statements and accountants reports are not available by January 31st of each year for any company that operates on a calendar year basis fiscal year. This will make the Annual Compliance filing process a more complete, one-time task for Staff and ARES. **No party expressed opposition to the recommendation and it appears that consensus has been reached.**

There was also a suggestion by a customer representative that consideration be given to requiring all ARES applicants to disclose whether they are subject to investigation by any other regulatory body. Discussion ensued regarding how to properly define “investigation”. No language was provided but was promised to be forthcoming. **However, it was noted that while this requirement was proposed as part of the Annual ARES Compliance filing under Subpart F; it should not apply to Subpart E ARES. Additionally, it was recommended that it probably should not apply to any ARES unless they are subject to a finding of improper action by a state public service commission and/or the FERC. To date, no language has been proposed; so the proposal has been dropped.**

Requirements for Customer Self Manager (“CSM”) and Subpart E ARES Certification Should Be As Streamlined As Possible – Section 451.400 et seq. A customer suggested that if you are self-serving in another state, if you are approved elsewhere approval should be easier in Illinois. Another customer representative suggested adding language that was not distributed prior to the meeting to add some language to allow a property manager or property owner to become certified under this provision of the ARES Certification Rules. An electric utility questioned whether this was appropriate and consistent with the intent of this Subpart since if the management company is the actual provider of power to retail customers, it is an ARES. It was argued that if the management companies are in the business of providing power to their customers, they should have to go through the process of ARES certification and registration. Another customer representative indicated that in the manufacturing arena, it is possible that there are other manufacturers on site, so there may be unique situations which need to be considered. These parties agreed to be provide language to address the situation. **An electric utility opposed any changes for rates issues, both from the tariffed service and transmission perspectives.**

The entire conversation seemed to blur the distinction between CSMs and Subpart E ARES. There is a difference between a CSM, who does not need to be certified by the ICC, and a subpart E ARES, who does. The CSM still must buy from a certified ARES, while a subpart E ARES may buy wholesale.

A customer representative also indicated that they would propose language to address the 24-hour scheduling facility requirement as it relates to Subpart E ARES. **That language was submitted, but an electric utility took exception on the basis that if the changes were made, the Subpart E ARES would be providing service to third parties, violating the spirit of the law. The original language was noted but the group decided that it could not reach consensus.**

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Acknowledgement of the Ability of CSMs to Serve Small Lease-Holder Consumers Located on the Premises - Section 451.400 et seq.

It was suggested that this is an aggregation issue and is an example of the confusion over the difference between CSM and Subpart E ARES.

B. Reporting Requirements

A consensus appeared to be reached that no changes were necessary to the existing ARES reporting requirements under the Act or under ICC Orders in the areas of Environmental Disclosure, Switching Statistics, and Reports on Competition. When the ICC conducts its reports on competition for presentation to the General Assembly pursuant to Sections 16-120 and 16-130 of the PUA, the ICC solicits info from individual ARES. According to the ICC Staff, the annual competition reports have been bare bones. The reports that are filed every three years are more elaborate. One other type of report that has been conducted in the past is the Chairman's Report. The Chairman's Report was an outgrowth of Chairman Mathias' roundtable meetings. The information shows up in lots of places, but it's extremely useful for Staff to have the information on hand. One ARES requested some consideration by the ICC Staff of a means to streamline the 128 page worksheet. Staff was agreeable to discussing this with ARES.

Parties Requested that the ICC Staff Engage in More Frequent Updates to the Information regarding the List of Certified ARES on ICC Website. ICC Staff will inquire as to the frequency of the updates. **Staff said that it is handled by the consumer service division, but the division does not actively look for information but only posts what information they are given.**

Might Be Useful To Indicate On The ICC Website Those ARES That Are "Active" in the Various Service Territories. While deemed useful, it became apparent that this might be difficult to determine **because of subjectivity.** One compromise suggestion was to list whether the ARES is "registered" with the utility. **An electric utility noted that the three major utilities list registered RES online, so the ICC could have a link from their website.**

C. Appropriateness of Electric Utility ARES Registration Requirements

The major electric utilities indicated that they do not impose any additional financial requirements upon ARES that are in addition to the ICC's ARES Certification Rules. One electric utility now requires proof of membership in PJM, including Subpart E ARES Applicants. However, one electric utility indicated that there are additional financial or credit requirements for ARES that utilize the SBO due to the collection of instrument funding charges on behalf of the utility. It was noted that in order to become a member of PJM, LSEs (ARES) must provide credit assurance to PJM. In addition, it was noted that under some utility OATT tariffs, ARES must provide credit assurance. **IP confirmed that there are additional requirements, but they**

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are open-ended. IP agreed to provide their language and subsequent to the meeting they provided a link to the tariff requirements.

Desire for Greater Uniformity of Terms In RES Agreements Across Utilities. To the extent that ARES operate in multiple service territories this adds a cost to ARES who compete in multiple service territories. It's fair to say that all of the utility agreements are different and there was no uniformity of creation besides possibly dispute resolution systems. **The group left this as an aspiration.**

Availability of RES Agreements On-Line. Illinois Power does not currently provide the RES Agreements on its website but indicated that they could do so. **IP agreed to do so promptly.**

Prompt Processing of RES Agreements. All of the electric utilities indicated that if all of the various Agreements are complete, they are processed in a manner of days and almost never take more than 2 weeks. **This seems to be a “non-issue”.**

D. Utility Tariff Provisions That Frustrate Customer Choice

Illinois Power's Rate 24 requires a customer to provide 12 Months notice of intent to leave. It has been asserted that this frustrates the ability of customers to exercise choice. IP has no desire to consider any changes to this tariff provision.

E. Reciprocity

5th District Appellate Court Decision and Certain Subsequent ICC Decisions Regarding Reciprocity Chills Competition By Limiting the Number of ARES

From the perspective of representatives for electric utility workers, the passage of the Act marked a genuine loss of jobs for electric utility workers because of shifting to contractors; there are now safety and reliability issues that came directly from the Act; and that there is also language in the Act that requires consideration of employment metrics. According to representatives for electric utility workers, primarily what has happened is a wholesale assault on the workforce that provided generation, transmission & distribution services for consumers of electric power in Illinois and a wholesale shifting of employees to subcontractors who get worse pay packages. As a result, representatives for electric utility workers presented a package of legislative proposals to ameliorate these problems. One recommendation is to impose protections — ARES standards for those entrants to the Illinois market based on the area standards (wages & benefits like the utilities and generators).

Representatives for electric utility workers agreed to provide some studies or numbers to substantiate the assertions regarding job loss and whether based upon normal attrition, business plan changes or otherwise but it is becoming a common occurrence. Representatives for electric utility workers see jobs being shifted from union jobs to less compensated non-union employees.

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Representatives for electric utility workers acknowledged that the proposal does not affect the interpretation of the reciprocity clause.

Representatives for electric utility workers were not certain how the proposal would affect Subpart E ARES applicants.

It was acknowledged that at the time of passage of the Customer Choice Act, the General Assembly recognized the potential for job loss and included Section 16-128 in the Act to preserve and protect certain jobs. According to representatives for electric utility workers, these provisions haven't worked to protect union workers in Illinois. The Act essentially provided for a floor of protections in the event of sales of plants and equipment to other entities, and those protections worked in that event. It has not worked where the utility did not sell to a third party but reorganizes itself into an IDC or under a holding company. The voluntary severance stipulations in the Act have been used to massively reduce the workforce.

It was suggested that it would be appropriate to see the breakdown of where the layoffs have occurred since the T&D portion is still regulated and has not been subject to competitive pressures. Representatives for electric utility workers indicated that they would provide this information and did so at the July 28th meeting.

Representatives for electric utility workers reiterated that they wanted to make sure their members that worked for Illinois generators compete on a level playing field. They indicated that they are waiting to hear from folks here to find a way to alter the reciprocity clause to make it more level.

Representatives for electric utility workers opined that the intent of the reciprocity clause is to ensure that ARES entrants to Illinois came from states that were open (how open it is is the subject of debate) to Illinois utilities (now extended to generators) to compete for end-use customers in the geographic areas from which the ARES entrant came from.

It was recognized that the ICC has entered certain orders that contain a requirement that the ARES that wants to come in must be affiliated with a wires company.

Others states have addressed this issue in different ways. For example, Texas and New Jersey have no reciprocity clause; Maryland includes a listing of the specific states that must be open to competition in a comparable fashion. (a copy of the legislative provision was circulated). Others commented that when they look at the IBEW decision, they see three aspects that must be satisfied. First, the Applicant or its affiliate must own T&D used to serve the public within a defined geographic region. Second, the applicant must show that electric power and energy can be physically and economically delivered by the electric utility or utilities in whose service area or areas the proposed service will be offered. Third, the applicant, or its corporate affiliates provides delivery services to the electric utility or utilities in whose service area or areas the proposed service will be offered that are reasonably comparable to those offered by the electric utility. The ICC has looked to alternate sources of electricity as a way to satisfy that condition.

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A discussion ensued regarding the recent Nordic proceeding.

Additionally, further discussion occurred regarding the purpose of the reciprocity clause – to protect utility generation. Generation in Illinois is essentially deregulated. The former utility generation is participating in the multi state wholesale markets. One of the original assumptions underlying the reciprocity clause was that generation would remain under ownership of the utility. There is no longer any need to protect the utility investment in those generating assets. Since the former utility generation competes in the wholesale market, the generation and the jobs associated with that generation have already received protection from unfair competition. The clause was written to prevent public utilities and their affiliates from competing in Illinois unless they offered delivery service to Illinois utilities. It was not intended to apply to entities that were incapable of providing delivery service. Nor was it intended to apply to public utilities (or affiliates of public utilities) when power and energy could not be physically and economically delivered to that public utility from Illinois. It does not make sense that the legislature wants ComEd to compete in Hawaii; anything ComEd does there is for Hawaiian jobs, not IL jobs. It was suggested that there may no longer be a need for a reciprocity clause.

Another potential market entrant noted that Texas has open access on retail and wholesale, but as they understand the law they cannot enter IL because they do not own wires.

It was asserted that the 5th District Court understood the basic intent of the clause, but clarified it beyond what it was meant to be.

All parties looked forward to further discussions on this issue and a suggestion was made to have a reciprocity subgroup.

July 28th Meeting

As requested, prior to the July 28th Meeting two separate proposals were circulated regarding the reciprocity issue.

Proposal A

A current ARES Applicant submitted what it termed a “meaningful reciprocity standard”, that is straightforward and easy to apply. Based upon comments received prior to the meeting, the applicant revised the proposal. It includes three tests, protects interests in Ill, and encourages openness of markets in non-competitive areas and goes toward the legislative intent. Additionally, it was argued that the proposal fit a lot more cleanly into an RTO environment, specifically after eliminating the principle source language.

There was some discussion regarding what “domiciled” meant under the proposal and the applicant clarified it to mean your principal place of business.

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From a policy perspective, several consumer representatives and potential ARES Applicants questioned why would anybody who is incapable of offering delivery service be required to demonstrate reciprocity. It was argued that this “clarification” would only lead to a few suppliers being able to enter the market and would not be an improvement over the current provision. Another potential ARES applicant argued that domicile doesn’t seem to be a logical requirement.

Proposal B

The second proposal was from a customer representative that was designed as a compromise and would allow an applicant to meet the reciprocity test if they did not own transmission and distribution facilities in another jurisdiction.

Overall Policy Discussion

The remainder of the meeting was really focused upon the overall policy and purpose of the reciprocity clause. A consumer representative wanted the parties to consider three issues: if there is a practical need for the reciprocity clause, if other states have them, and if the reciprocity clause serves a useful purpose in IL.

It was stated that if the purpose of the clause was to allow the generating assets of investor-owned utilities to compete in other states for electrical load and that today the situation is that the wholesale market is open so that they can compete on the wholesale level; then the policy has been achieved. Conversely, if the intent was to encourage neighboring states to enact legislation to allow for retail access; this is not going to happen. Another potential ARES Applicant agreed that it would be pointless to keep an applicant out of Illinois due to being affiliated with an owner of transmission and distribution assets when Illinois generation is free to compete in the wholesale markets in other states.

A current ARES opined that if we accept the idea that Illinois has a compelling state interest to encourage the opening of other wires systems out of state that are accessible to generation in Illinois that there is a rather obvious solution: Identify by name the states to which the reciprocity clause would apply: neighbors (such as in the Maryland legislation). In other words, it was recommended that Illinois should name states that are adjacent or directly competitive or utilities or wires companies that are in the “physical reach” of members of RTOs that share RTO membership with Illinois utilities, with the idea being that the RTOs would be the driver of wholesale trade. This would allow the ICC to deploy a set formula for applicants.

THE TEST: If the affiliated wires company shares membership in an RTO with an Illinois utility or if the company is in a state listed in the statute, then we use the open/closed criteria (or as refined). If the ARES is not affiliated with one of those utilities, then it can come in.

A representative of electric utility workers stated that to say that nobody opened up because of reciprocity is wrong [*although sequence does not imply causation*]. They reiterated that they would like to try to work with the group in good faith, and we understand there are issues

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connected with reciprocity. While open to discussing the issue, they will not agree that eliminating reciprocity is even an option.

Subsequent to the meeting it was suggested by an electric utility that the initial inquiry or threshold question in this process should be whether any legislative change is required to implement the post 2006 regulation of electric utility service. If the answer is in the affirmative, then not until all proposed or recommended legislative changes to the Customer Choice Law in particular, and the Public Utilities Act in general, are known, should any particular legislative offering be considered. All such changes need to be examined in the proper context; not necessarily in a piecemeal fashion.

Two revised or refined reciprocity proposals were submitted by the established deadline. These revised proposals from a certified ARES and a customer representative were discussed at the August 9th meeting.

The parties were unable to reach any consensus regarding any potential changes to the reciprocity clause or the adoption of any additional legislative language to address any other labor-related issues.

Two consensus items:

- **As currently interpreted and applied, the reciprocity clause has limited the number of retail electric supplier in Illinois.**
- **As currently drafted, there is no need for a reciprocity requirement to apply to Subpart E ARES -- i.e., if the ARES is only serving itself or affiliates.**

F. Reciprocity Provision of the PUA Should Not Apply to CSMs

It was agreed that CSMs are not subject to the reciprocity clause. They purchase from ARES.

IV. Other

It appeared that consensus was reached that the ICC Has Sufficient Enforcement Powers over ARES under the PUA and the ICC's Rules – Sections 16-115A, 16-115B, 16-115(e).

Should Agents Be Regulated By the ICC? No recommendation for expanding the ICC's authority to provide them with oversight responsibilities over agents. It is an issue that the ICC has had workshops on in the past, and the conclusion was that the ICC did not have authority to regulate agents.

Should Utility Agency Requirements Be Made More Uniform? Discussion ensued regarding the agency requirements that the utilities impose on entities that are responsible for communicating between the utility and the customer. These relationships existed prior to restructuring, but the proliferation of entities acting as agents (ARES, consulting firms, other

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agents) has pushed the utilities to adopt a standardized way to deal with these groups. Now there is a form that any such entity must submit to have that authority. The way in which those forms read is not uniform, nor is the method of obtaining the forms or the process time. Originally, ComEd had a form called a letter of agency, which allowed agents to obtain usage information. About two years ago, anybody who wanted to be an agent had to become the bill agent. RESs are still allowed to obtain usage info over the internet as long as they have an account and meter number, but any other authority over the customer requires them being the billing agent. IP's form is a NOA (notice of agency); it's not required for RESs to get info; the only reason a RES would need it is to get a TC (for customers above 1 MW) or to use the PPO calculator. For non-RESs, the agent can use the NOA or get a one-time release — this also works for a RES if they want to not be a billing agent; that is a different form. It is available on the website, and there is no submission fee. Generally, the Ameren website provides the account agency form. Just as IP and ComEd differentiate between one-time and account agent, Ameren does not require you to be the account agent in order to receive consumption information.

For Dual Fuel Utilities, You Should be Able to Become the Agent For the Electric Bill Without Also Becoming the Agent for The Gas Bill. In the IP and Ameren service territories, if you want to become the agent, those utilities also require the agent to be billing agents for natural gas as well, and that seems to be something that suppliers would like to see Ameren or IP to waive for suppliers in the electric business because there really is no purpose or point for them to be agents for the gas bill. One Illinois Dual-Fuel utility -- MidAm -- does accommodate a “splitting” of the agency. A request has been made to Ameren and IP to consider and report back on a willingness to accommodate the same. Ameren agreed to revisit the issue with the business center. No resolution from Ameren or Illinois Power.

Conclusion

The members of the Subgroup were able to agree to upon a list of Consensus Items at the Final Meeting on August 9th. A copy of which is attached.