

May 9, 2019

Senator Don Harmon
JCAR, Co-Chair
329 B State House
Springfield, IL 62706

Representative Keith Wheeler
JCAR, Co-Chair
200-5N. Stratton Building
Springfield, IL 62706

Re: Proposed 83 Ill. Admin Code Part 289, Regulatory Accounting Treatment for Cloud-Based Computing Solutions, Illinois Commerce Commission (“ICC” or “Commission”) Docket No. 17-0855

Dear Messrs. Harmon and Wheeler:

The undersigned utilities, along with Advanced Energy Economy (“AEE”), respectfully submit this correspondence in support of the Commission's proposed rule, 83 ILAC Part 289 that is currently before you, which is set to expire on July 6, 2019. *See* 5 ILCS 100/5-40(e). This proposed rule concerns an accounting treatment issue that is unique to public utilities. In short, the current accounting rules incentivize public utilities to invest in on-premises computing systems, on which they earn a rate of return (as a capital investment), and disincentivize investment in cloud-based systems, on which they do not earn a rate of return (as an operating expense). The purpose of the proposed rule is to change those incentives, and “to provide comparable accounting treatment for cloud-based computing solutions and on-premises computing solutions.” *See* Proposed Part 289.10 (Purpose).

Proposed Part 289 is important because “the regulatory accounting rules have not kept pace with technological innovation” and “[t]he disparity between on-premise and cloud computing systems create a disincentive for utilities to invest in new technology.” *See* ICC Docket No. 17-0855, Initiating Order (Dec. 6, 2017) at 1. Proposed Part 289 provides benefits to customers by allowing public utilities to make the most efficient investment choices in conjunction with the pace and direction of technology. It provides “a regulatory accounting alternative that any public utility subject to this Part may utilize in order to minimize differences in regulatory accounting treatment for cloud-based computing solutions and on-premises computing solutions.” *See* Proposed Part 289.10 (Purpose).

Under Part 289, public utilities will therefore be indifferent to implementing cloud-based solutions – instead of, for example, building more mainframe solutions – which they may have otherwise not selected due to outdated regulatory treatment. Whether a computing solution is cloud-based or on-premises, it must be a prudent investment and its cost reasonable in amount to be recovered in rates. The proposed Part 289 does not change this bedrock principle of Illinois ratemaking. Cloud-based computing solutions provide benefits to customers and can serve the same functions as on-premises computing solutions. Proposed Part 289 simply makes the accounting rules technology-agnostic and removes the disincentive to invest in cloud-based systems as opposed to on-premises systems.

Moreover, for the past 18 months, the Commission has diligently presided over a rulemaking proceeding in order to create a rule that would “level the playing field between on-premise and cloud-based computing systems by clarifying the regulatory accounting rules to provide comparable accounting treatment of on-premise and cloud-based computing systems.” *See* ICC Docket No. 17-0855, Initiating Order (Dec. 6, 2017) at 1. And for more than a year before that, the Commission engaged in a Notice of Inquiry process involving stakeholder workshops and feedback.

During that time, the Commission thoroughly considered competing positions and a variety of proposals regarding its proposed rule. The Commission considered, for example – and thrice rejected – the Attorney General’s (“AG”) position that the rule is unnecessary. But while the Commission declined “to accept the AG’s contention that no new rules are necessary or that the current accounting rules are sufficient to address any disparity in the treatment of on-premises versus cloud-based computing solutions,” it also found that proposed Part 289 addresses “many of the implementation concerns raised by the AG as regards cancellations, incurred costs and regulatory review for prudence and reasonableness.” *See* ICC Docket No. 17-0855, First Notice Order (June 1, 2018) at 8-9. The Commission also considered, and ultimately rejected in light of the Illinois Public Utilities Act, 220 ILCS 5/1-101, *et seq.*, the Citizens Utility Board’s proposal that the proposed rule require a “cost-benefit demonstration.” *See* ICC Docket No. 17-0855, Second Notice Order (January 9, 2019) at 9. (CUB otherwise supported Part 289). Similarly, the Commission considered, and accepted and rejected, various aspects of the undersigned utilities’ and AEE’s positions as well. *See*, ICC Docket No. 17-0855, First Notice Order (June 1, 2018) at 19 (rejecting utility position on reporting requirements and accepting Staff’s alternative language) and at 34 (rejecting Advanced Energy Economy position on amortization period). This balanced approach resulted in a proposed rule that will accomplish the ultimate goal of the rulemaking while incorporating feedback from all of the interested parties.

The undersigned utilities and AEE are also willing to meet with JCAR Staff informally to discuss the facts and arguments in support of their positions and in favor of adopting the proposed rule, to provide JCAR with the same balanced approach that the Commission employed.

Senator Don Harmon
Representative Keith Wheeler
JCAR, Co-Chairs
May 9, 2019
Page 3

Respectfully submitted,

Advanced Energy Economy
By: *David Warr*
Date: *May 9, 2019*

Northern Illinois Gas Company
By: _____
Date: _____

Ameren Illinois Company
By: _____
Date: _____

North Shore Gas Company
By: _____
Date: _____

Commonwealth Edison Company
By: _____
Date: _____

The Peoples Gas Light and Coke Company
By: _____
Date: _____

Aqua Illinois, Inc.
By: _____
Date: _____

Illinois-American Water Company
By: _____
Date: _____

- cc: Jonathan Eastvold, Rules Analyst III, JCAR (via hand delivery)
- Attached JCAR Service List (via hand delivery)
- Illinois Commerce Commission Docket 17-0855 Service List (via USPS)

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Representative Keith Wheeler
JCAR, Co-Chairs
May 9, 2019
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Respectfully submitted,

Advanced Energy Economy

By: _____

Date: _____

Northern Illinois Gas Company

By: _____

Date: _____

Ameren Illinois Company

By:  _____

Date: 5/9/2019 _____

North Shore Gas Company

By: _____

Date: _____

Commonwealth Edison Company

By: _____

Date: _____

The Peoples Gas Light and Coke Company

By: _____

Date: _____

Aqua Illinois, Inc.

By: _____

Date: _____

Illinois-American Water Company

By: _____

Date: _____

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Advanced Energy Economy

By: _____

Date: _____

Northern Illinois Gas Company®

By: _____

Date: _____

Ameren Illinois Company

By: _____

Date: _____

North Shore Gas Company

By: _____

Date: _____

Commonwealth Edison Company

By: *Julius Beard*

Date: 5/9/19

The Peoples Gas Light and Coke Company®

By: _____

Date: _____

Aqua Illinois, Inc.

By: _____

Date: _____

Illinois-American Water Company

By: _____

Date: _____

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Date: _____

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Date: _____

The Peoples Gas Light and Coke Company

By: _____

Date: _____

Aqua Illinois, Inc.

By: 

Date: 5/9/19

Illinois-American Water Company

By: _____

Date: _____

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Date: _____

Northern Illinois Gas Company

By: Annemarie Mitchell

Date: May 9, 2019

Ameren Illinois Company

By: _____

Date: _____

North Shore Gas Company

By: _____

Date: _____

Commonwealth Edison Company

By: _____

Date: _____

The Peoples Gas Light and Coke Company

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Date: _____

Aqua Illinois, Inc.

By: _____

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Illinois-American Water Company

By: _____

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By: _____

Date: _____

Northern Illinois Gas Company

By: _____

Date: _____

Ameren Illinois Company

By: _____

Date: _____

North Shore Gas Company

By: Jay Bair

Date: 5/9/19

Commonwealth Edison Company

By: _____

Date: _____

The Peoples Gas Light and Coke Company

By: Jay Bair

Date: 5/9/19

Aqua Illinois, Inc.

By: _____

Date: _____

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Date: _____

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Date: _____

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By: _____

Date: _____

Aqua Illinois, Inc.

By: _____

Date: _____

Illinois-American Water Company

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