



## MEMORANDUM

**TO:** Mayor Laurel Prussing  
City Council Members

**FROM:** Bruce Walden, CAO

**DATE:** March 22, 2006

**RE:** Intervention in Ameren IP Rate Case/Budget Amendment

### **Introduction:**

The purpose of this memo is to request the City of Urbana to join the Cities of Champaign and Peoria to “intervene” in the electrical rate setting case before the Illinois Commerce Commission.

### **Background:**

The City of Champaign has prepared a detailed background report on this matter, which is attached.

### **Action Requested:**

The first action requested is to enter into an intergovernmental agreement with Champaign and Peoria for the purposes of financing the costs of protecting the interests of our municipalities and rate payers.

The intergovernmental agreement is modeled after our agreement with other municipalities to jointly pursue legislation related to the potential acquisition of Illinois American Water. In this case, the City of Champaign will be lead agency. Jim Gitz has reviewed and approved the intergovernmental agreement as to form.

The second action requested is a budget amendment in the amount of \$17,250.00.

**Budget Impact:**

The total cost of the intervention action is projected at \$125,000, to be split by participating municipalities on a population basis. At this time, the municipalities are Champaign, Urbana and Peoria. Other municipalities could be added later, which would lower costs. Urbana's population is 17% of the total population of the original participants; therefore, a budget amendment of \$17,250 is requested at this time.

Given the reduced level of our reserves and the relationship this issue has to regional economic development, I am recommending the Economic Development Fund be utilized to fund this effort. Attached is a budget amendment.

**Recommendation:**

This is a significant issue which will impact every Urbana citizen and business. Rates could be increased by as much as 18%, according to Ameren press releases. Staff believes the City should make every effort to assure our residents are treated fairly in this process.

Staff recommends approval of an ordinance authorizing the City to enter into an intergovernmental agreement to finance the "intervention" in the subject rate case. Staff recommends approval of an ordinance amending the budget in the amount of \$17,250 for Urbana's pro rata share of the costs associated with this intergovernmental agreement.

BKW:ss

Attachments



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**REPORT TO CITY COUNCIL**

**FROM: Steven C. Carter, City Manager**

**DATE: March 24, 2006**

**SUBJECT: INTERVENTION IN AMERENIP ELECTRICITY DELIVERY SERVICES RATE CASE (SS 2006-\_\_\_\_\_)**

**A. Introduction:** This Report requests Council authorization to intervene in an ongoing rate-setting case before the Illinois Commerce Commission involving the rates for delivery of electricity and to act jointly with downstate Illinois cities in the intervention. The proposed level of financial commitment by the City is not to exceed \$65,000.

**B. Action Requested:** The Administration recommends the City Council authorize the intervention in the rate case and authorize the City Manager to sign an Intergovernmental Agreement to act jointly with other Illinois cities in this matter.

**C. Prior Council Action:** No prior action on this specific topic. The City intervened in the AmerenIP merger case before the ICC in 2004.

**D. Summary:**

- Illinois deregulated some parts of the electricity industry in 1997.
- Rates for delivery charges are still regulated; Ameren has filed a tariff case for increases in delivery charge rates.
- Issues in rate cases involve how much total revenue the company should receive. Ameren has also filed to increase the rates for street lighting.
- The cost of intervention could be as high as \$125,000. The City is seeking to partner with other downstate Illinois cities to intervene.

**D. Background:**

**1. Changes in the Structure of the Electric Industry and Illinois Deregulation.**

Historically in Illinois, the electric industry consisted of regulated vertically integrated companies. Illinois Power, for instance, had generating plants which produced electricity, transmitted that throughout the state and delivered that electricity to its customers. There were three separate aspects: generation, transmission and delivery. The Illinois Commerce Commission set the rates which the company could charge and this encompassed all three parts of the process in the rate charged. In 1997, the Illinois legislature passed a bill deregulating the

electric industry in Illinois. The intent was to free at least the cost of generation from rate based limits and let market forces dictate the price. The deregulation was anticipated to be phased in, with market based rates starting in 2007. From 1997 through 2006, residential rates were frozen in place at a 20% reduction. Recently, the Illinois Commerce Commission (ICC) has approved a "reverse auction" process which would be the basis for the cost of generation. There has been much news media coverage of this issue. That case is being litigated in the courts by the companies (ComEd and Ameren) and by the Illinois Attorney General's Office and CUB (Citizens' Utility Board), but that increase is **not** the part of the total bill which is discussed in this memo.

**2. Charges for Delivery of Electricity.** It was recognized when generation was deregulated that delivery of the electricity to houses and businesses, based on the infrastructure of wires, poles and underground conduit, was a natural monopoly and therefore would continue to be regulated by rates approved by the ICC. In late 2005, the Ameren Companies in Illinois filed tariff cases with the ICC to increase their rate delivery charges. Press releases from Ameren indicated they were seeking revenue increases of approximately \$200,000,000 from their three Illinois subsidiaries. This could lead to increases of approximately 18% in the former IP territory. Estimates of how much of the total bill constitute delivery charges range from 6% to 20-30%. The tariff case is anticipated to be heard this summer, with a decision by the ICC by late fall. An increase in the special tariff for street lighting charges was included in the rate case. Various parties have intervened, including the Attorney General, CUB, industrial users and the University of Illinois. The delivery service tariff will remain in place for many years, and therefore the impact will be long term

**3. Issues in Rate Cases.** One of the major issues in rate cases can be rate structure among different users (industry, commercial and residential) and how should the rate be divided. Because the City is interested in the welfare of all its citizens, corporate as well individual, this is not likely to be an issue the City would present testimony on. However, there are several issues of concern, including how much of a return on investment is appropriate for the company (which affects all rates), and how the impact of rate increases could be mitigated. In addition, there is the specific concern for municipalities of street lighting charges. R.W. Beck, the consultant retained by the City to assist in the merger case, has been retained by the City under the City Manager's administrative limit to do a preliminary assessment of the filing, and first indications are that it would be cost effective to intervene in the delivery service rate case.

**4. Costs of Intervention and Mutual Interests of Other Cities.** The cost of intervention depends on how active the City wishes to be. To present testimony and actively engage in negotiations on issues with the company and other parties is anticipated to cost \$100,000 to \$125,000, including industry experts on rate analysis at a cost between \$50,000 and \$75,000 and attorneys fees between \$35,000 and \$50,000. These costs include preparation of direct testimony by the experts and participation in a contested hearing process. The costs do not include any appeal beyond the ICC. Although separate cases have been filed for AmerenIP, AmerenCILCO, and AmerenCIPS, the issues are very much the same, and therefore, the interests of other downstate cities is much the same as Champaign's. Both Urbana and Peoria have expressed interest in joining together to split the costs of intervention and will be presenting the issue to their Councils in the next couple of weeks. The increase in costs due to additional parties is

minor. Additional cities also add to the impact of the testimony at the ICC because more residents are represented.

**5. Provisions of Intergovernmental Agreement.** A proposed Intergovernmental Agreement is attached. Approval of the Agreement would commit the Cities to act together in this matter and to share the costs on a population basis. The Intergovernmental Agreement designates Champaign, Urbana and Peoria as an Executive Committee to make decisions concerning the filings, and to report back to all the parties. One or possibly two agencies would take the lead in contracting with the experts and attorneys; it is likely Champaign would be one of those agencies.

**6. Timeframe for Action:** Tariff cases are scheduled to be decided within a year of filing. Ameren filed in December 2005, discovery is currently taking place, and interveners' expert testimony is likely to be required to be filed in April or May, with a hearing scheduled in the summer, a hearing officer's decision by late summer, and an ICC decision by November. Therefore, acting quickly to move to intervene is essential if the Cities wish to have a real impact on the case.

**E. Alternatives:**

1. Direct the City Manager to prepare a Resolution authorizing the City's intervention in the Ameren delivery services rate case and authorizing participation in an Intergovernmental Agreement at a cost not to exceed \$65,000 for the City of Champaign.
2. Direct the City Manager not to intervene or participate in the Intergovernmental Agreement to intervene in the rate case.

**F. Discussion of Alternatives:**

**Alternative 1** allows intervention in the rate case and participation in an Intergovernmental Agreement at a cost not to exceed \$65,000.

**a. Advantages**

- Tariffs for this portion of the electric bill affect the City and every person and business in the City; such tariffs will be in effect for many years and this is the only opportunity to affect what those rates will be. Intervening in this case offers an opportunity to obtain more favorable rates for citizens, and businesses in Champaign.
- Sharing the cost with other cities will reduce the City's cost.

**b. Disadvantages**

- Intervention is not guaranteed to result in a reduction of rates.
- Staff time could be devoted to other issues.

**Alternative 2** would not authorize intervention or participation in an Intergovernmental Agreement.

**a. Advantages**

- No additional expenditure of funds.
- No staff time expended on the project.

**b. Disadvantages**

- Opportunity to reduce rates forgone.

**G. Community Input:** No community input has been formally solicited.

**H. Budget and Staffing.** A budget amendment would be required to participate in this intervention. While preparing the FY 2005/06 budget, Staff has reserved \$65,000 for this purpose. Although costs would ultimately be shared among whichever cities chose to participate, the number of cities will not be known for at least several weeks. If no other cities participate, Champaign would proceed to intervene, although not as actively as if the resources of all the other cities were available. The Intergovernmental Agreement could lead to Champaign being the agency which contracts with the experts and attorneys and then requests reimbursement from all the other participating parties. When the participation level by other governmental entities is finalized, Staff would prepare a budget amendment reflecting the total cost and contributions from the other governmental bodies. This would be done no later than at the time the contract for these services is awarded.

Although no additional staffing will be required, monitoring the case and participating in decision-making on the issues raised will require substantial amounts of time from the City Manager's Department and Legal Department. The time will be limited to this calendar year as the case is most likely to be concluded by the end of 2006.

Prepared by:

Trisha Crowley  
Deputy City Attorney

Reviewed by:

Paul Berg  
Assistant City Manager

Reviewed by:

Renata Matousova  
Financial Services Manager

Attachment: Proposed Intergovernmental Agreement

ORDINANCE NO. 2006-03-036

AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT

(AmerenCILCO, AmerenCIPS and AmerenIP)

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. That An Intergovernmental Agreement between the City of Champaign, Illinois, the City of Urbana, Illinois, and the City of Peoria, Illinois, in substantially the form of the copy of said Agreement attached hereto and hereby incorporated by reference, be and the same is hereby authorized and approved.

Section 2. That the Chief Administrative Officer of the City of Urbana, Illinois, be and the same is hereby authorized to execute and deliver and the City Clerk of the City of Urbana, Illinois, be and the same is authorized to attest to said execution of said Agreement as so authorized and approved for and on behalf of the City of Urbana, Illinois.

PASSED by the City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

AYES:

NAYS:

ABSTAINS:

\_\_\_\_\_  
Phyllis D. Clark, City Clerk

APPROVED by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
Laurel Lunt Prussing, Mayor

## **INTERGOVERNMENTAL AGREEMENT**

THIS AGREEMENT entered into this \_\_\_\_ day of \_\_\_\_\_, 2006, by and between the CITY OF CHAMPAIGN, ILLINOIS (“Champaign”), the CITY OF URBANA, ILLINOIS (“Urbana”), and the CITY OF PEORIA, ILLINOIS (“Peoria”).

WHEREAS, reliable and low cost electric service is essential for the economic health of the local and regional community; and

WHEREAS, AmerenCILCO, AmerenCIPS, and AmerenIP have proposed a general increase in rates for delivery service as reflected in Illinois Commerce Commission Docket Nos. 06-0070, 06-0071, and 06-0072 (consolidated); and

WHEREAS, the parties and their individual, commercial, and industrial residents purchase substantial energy services from the above-named businesses; and

WHEREAS, the parties desire to agree to share the costs of intervening in those cases; and

WHEREAS, Section 10 of Article VII of the 1970 Illinois Constitution and “The Intergovernmental Cooperation Act” (5 ILCS 220/, et seq.) provides for intergovernmental cooperation.

NOW, THEREFORE, Champaign, Urbana, and Peoria agree as follows:

**Section 1 Original Parties.** The CITY OF CHAMPAIGN, ILLINOIS the CITY OF URBANA, ILLINOIS), and the CITY OF PEORIA, ILLINOIS shall be designated "original parties".

**Section 2. Additional Parties.** Other governmental agencies may become parties to this agreement by requesting to do so if all other original parties consent. Such consent shall be evidenced by the written approval of the parties, which may be



evidenced electronically. Such additional party shall contribute financially to these undertakings in a proportionate amount according to the population of the parties. The contribution shall be based on total costs at the including costs incurred before the approval of this Agreement by an additional party. Provided however, if a city or village with a population of less than 20,000 persons desires to pay an upfront cost in lieu of a proportionate share, such party shall pay \$2,000 if the population is between 20,000 and 10,000 and \$1,000 if the population is less than 10,000.

**Section 3. Lead Agency.** \_\_\_\_\_ shall be the lead agency on behalf of the parties. The Lead Agency shall be authorized to intervene into the cases in Illinois Commerce Commission Docket Nos. 06-0070, 06-0071 and 06-0072 on behalf of all and any of the parties to this Agreement, including additional parties. The Lead Agency on behalf of the parties shall contract for services desirable or necessary, to facilitate the intervention including without limitation, financial, legal, and engineering consultants. If the parties agree in advance however, any and all such contracts may be entered into by another of the original parties and billing for the costs of such contracts shall be in accordance with section 6. Such contracts shall be entered into as expeditiously as possible; however, no such contract shall be entered into except upon the consent of each party, as evidenced by the written approval of Urbana Chief Administrative Officer, Champaign City Manager, Peoria City Manager. The Lead Agency shall cause reports to be sent periodically to the parties and make available copies of work produced by services purchased under this Agreement.

**Section 4. Executive Committee.** Champaign, Urbana, and Peoria will constitute an executive committee that will guide decision-making. Upon request of any additional

party and the agreement of the original parties, an additional party may become a member of the Executive Committee.

**Section 5. Cost sharing.** Champaign, Urbana, and Peoria agree to share all costs of hiring attorneys and experts pursuant to Section 2, such costs to be split among the parties on the basis of population. If an additional party is added to this Agreement, the total costs shall be shared with the original parties and all additional parties on the basis of population. Total cost of the intervention action and research shall not exceed One Hundred Twenty-Five Thousand Dollars (\$125,000.00).

If additional funds are required above \$125,000, each party will be contacted by the Lead Agency with a proposed amendment to this Agreement, stating the required additional funds and each party will have an opportunity to continue with the project pursuant to the Agreement as amended. If a party chooses not to continue its participation due to the need for additional funds, such party may cease to participate but will be responsible for its proportionate share of costs to date.

No party to this Agreement will seek reimbursement for its own staff time or in-house resources provided to support this project.

**Section 6. Payment.** Payment for attorney and expert services rendered under this Agreement shall be due to the Lead Agency within 45 days following receipt by each of the participants of an itemized statement of the services performed. Such statement shall describe the services rendered. Billing in this manner will be performed periodically, but in no event more often than once per month.

**Section 7. Completion and Termination.**

(a) This Agreement will continue in full force until the decision of the Illinois Commerce Commission in the rate cases cited above. If the rate cases are appealed to the courts after the final decision of the Illinois Commerce Commission, no party shall be required to continue with the case or to contribute to such costs unless a supplemental amendment to this Agreement is approved by the party. Provided however a party may terminate its participation earlier as provided;

(b) Any signatory to this Agreement may terminate this Agreement by giving no less than fourteen (14) days' written notice of the intent to terminate this Agreement. Notice shall be considered given when deposited in the United States mail, postage prepaid, and addressed as provided in Section 6 below;

(c) In the event of termination of this Agreement by any participant prior to completion and final payment by that participant, the participant will pay the Lead Agency its share of costs for all services performed up to that party's total proportionate share of the project costs which were actually and satisfactorily rendered up to date of termination.

(d) In the event any of the provisions of this Agreement are violated by any signatory, the aggrieved party may serve written notice upon the other the intention to terminate such Agreement, such notice to contain the reasons for the termination. Unless within five (5) calendar days after the serving of such notice, the violation shall cease, and satisfactory agreements for correction be made, the contract shall expire five (5) calendar days after such service. In addition to any other remedies available at law, the defaulting party shall be liable to the other parties for any damages sustained by them

based on the default. The terminating party shall pay the Lead Agency its proportionate share of the project costs up to the point of termination.

**Section 8. Notice.** Notice given hereunder shall be given to:

Champaign at:

City Manager  
City of Champaign  
102 North Neil Street  
Champaign, IL 61820

City Attorney  
City of Champaign  
102 North Neil Street  
Champaign, IL 61820

Urbana at:

Chief Administrative Officer  
City of Urbana  
400 South Vine Street  
Urbana, IL 61801

City Attorney  
City of Urbana  
400 South Vine Street  
Urbana, IL 61801

Peoria at:

[Peoria Executive address]

[Peoria Legal Dept address]

IN WITNESS WHEREOF, Champaign, Urbana, and Peoria have executed this Agreement.

**CITY OF CHAMPAIGN, ILLINOIS**

By: \_\_\_\_\_  
City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

DATE: \_\_\_\_\_

**CITY OF URBANA, ILLINOIS**

By: \_\_\_\_\_  
Chief Administrative Officer

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

DATE: \_\_\_\_\_

**CITY OF PEORIA, ILLINOIS**

By: \_\_\_\_\_  
City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

DATE: \_\_\_\_\_