

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

Illinois Commerce Commission	)	
On Its Own Motion	)	
	)	
Investigation into the Customer	)	Docket No. 15-0073
Authorization Required for Access by Third	)	(January 28, 2015)
Parties Other than Retail Electric Suppliers	)	
To Advanced Metering Infrastructure Interval	)	
Meter Data	)	

**REPLY TO BRIEFS ON EXCEPTIONS  
OF THE MISSION:DATA COALITION**

***Background***

Pursuant to the Rules of Practice of the Illinois Commerce Commission (“ICC” or “the Commission”), 83 Ill. Admin. Code §200.830, the Mission:data Coalition (“Mission:data”) files this Reply to Briefs on Exceptions in the instant proceeding. A Proposed Decision (“PO”) from Administrative Law Judge Haynes was issued on December 23, 2015. Briefs on Exceptions (“Exceptions”) were filed January 15, 2016 by Citizens’ Utility Board and Environmental Defense Fund (“CUB/EDF”), Commonwealth Edison Company (“ComEd”), Ameren Illinois Company (“Ameren”) and Illinois Competitive Energy Association (“ICEA”). The Staff of the Illinois Commerce Commission (“Staff”) filed a non-substantive Brief on Exceptions. Below, we reply to the Exceptions expressed by the aforementioned parties.

- 1. The Commission should reject the exceptions raised by Ameren (Exception #1) and ICEA (Exceptions #1 and #2) that would delay implementation of Green Button Connect.**

Two parties, Ameren and ICEA, argue for modifications to the PO that would delay implementation of Green Button Connect pending resolution of Docket No. 14-0507. Ameren

Brief on Exceptions at 9; ICEA Brief on Exceptions at 4. Ameren's and ICEA's arguments do not provide sufficient reasons for amending the PO.

ICEA, in its Exception #1, argues that Green Button Connect implementation should be delayed pending resolution of 14-0507 for two reasons. First, ICEA cites an "unresolved issue" of the Commission's lack of ability to prohibit non-RES third parties from sharing or selling customer information. ICEA Brief on Exceptions at 3. While the PO acknowledges that "The record does not provide enough information regarding this process to make a determination regarding the ability of the registration process to make third parties comply with this prohibition on sharing" (PO at 8), the PO then states:

Because this is an authorization form, the Commission finds it to be more effective and clear for the customer to sign a form which states "I do not authorize" the third party to share the data. **When considered with the third party registration process, this language is preferable because it specifically states what is or is not being authorized.**

PO at 8 (emphasis added). The PO clearly *approves* the authorization form and amended authorization language *despite* the lack of information in the record regarding making third parties comply with prohibitions on sharing. ICEA misinterprets the PO's discussion as if the authorization form were *not* being approved due to complicating factors, when in fact the opposite is true: complicating factors were put to rest and the PO resolved the matter to the Commission's satisfaction by amending the authorization language. The Commission should reject ICEA's misguided interpretation of its reasoning.

Second, ICEA's Exception #1 cites "several issues" it has raised with regard to the "third party warrant" approach that, it argues, "would still be present under a Green Button approach." ICEA Brief on Exceptions at 3. ICEA does not specify those issues in its Brief on Exceptions,

but from the record it appears ICEA is referring to jurisdictional questions of the Commission over non-RES third parties cited throughout multiple rounds of comments, the topic further discussed in ICEA's Exception #2. Here again, what ICEA sees as unresolved was in fact resolved to the Commission's satisfaction in the PO. ICEA may disagree with the Commission's conclusions, but the PO approves a customer authorization form, fulfilling the purpose of the current docket. The fact that issues are often complex and inter-related should not automatically make a decision in one docket conditional upon conclusion of another. Indeed, if the Commission wanted to consider the authorization form as integral to all aspects of CUB/EDF's proposed Open Data Access Framework in 14-0507, it would not have initiated 15-0073 as a separate docket in the first place. The Commission rightly saw the authorization form as a distinct issue worthy of consideration separate from 15-0073. ICEA does not provide a convincing case for taking a step backwards and tying the authorization form's approval to the rest of 14-0507.

Ameren argues in its Exception #1 that the PO creates a "scheme that cannot be effectively administered" and puts Ameren in "implementation purgatory" due to the PO's deferral on the question of a "warrant" authorization process. Ameren Brief on Exceptions at 8. Ameren's argument is muddled and difficult to understand, but it appears Ameren believes the PO requires it to support a paper-based authorization process but does not provide sufficient clarity that would allow Ameren to have a web-based system to process such authorization forms. Thus, Ameren appears afraid of the workload of processing large numbers of paper forms. Mission:data does not see how Ameren could have interpreted the PO in this way. The "warrant" process does not have a monopoly on web-based functionality, as Ameren seems to think. Yes, the warrant process as it exists for retail energy suppliers (RESs) today is web-based, as Ameren

initially described. Ver. Initial Com. of Ameren at 7-8. But the authorization form and method approved in the PO can accommodate an “electronic, web-based signature.” PO at 17. The PO further notes that “There is no dispute that the utilities should implement the Green Button system and accept customer authorizations.” *Ibid.*

In its Brief on Exceptions, Ameren does not explain why it now believes a web-based, Green Button authorization process is impossible without a warrant process, whereas it failed to mention this in multiple rounds of prior comments, including comments in which Ameren affirmatively agreed to implement Green Button Connect. Ver. Reply Comm. of Ameren at 4. Mission:data thinks Ameren has a simple misunderstanding. We also note that ComEd did not raise a similar objection. If the Commission ignores Ameren’s misconstrued interpretation of the PO, as it should, then Ameren’s conclusions no longer hold; namely, that either (1) “overarching” warrant issues must be resolved in the present docket, (2) the present docket should be stayed until resolution of 14-0507, and (3) any final order should be conditioned on the sharing of data per 14-0507.

The arguments in Ameren’s Exception #1 and ICEA’s Exceptions #1 and #2 are faulty. Therefore, there is no reason to postpone a decision in the current docket or condition its effects on the resolution of 14-0507. Finally, as to the ability of utilities to implement Green Button Connect prior to an explicit Commission ruling, it is important to note that ComEd and Ameren, despite being regulated utilities, are granted a degree of autonomy in the operation of the electric system and its information technology (IT) functions. Not everything the utilities do requires explicit Commission authorization by default. If ComEd or Ameren wish to offer their customers a helpful service via their websites, and such a service does not violate the law or

Commission orders, the utilities are free to do so. In fact, ComEd already offers Green Button Connect for commercial and industrial customers. We applaud ComEd for its leadership in helping customers realize the benefits of investments in advanced metering infrastructure. ICEA and Ameren appear to claim that every feature on a utility's website must be pre-approved by the Commission, but sensible IT improvements that deliver value to customers can and should be implemented unilaterally by utilities in the regular course of business. Furthermore, Illinois has embraced data access for customers as its public policy (220 ILCS 5/16-108.6(c)), so the offering of Green Button Connect is not without basis in policy. Mission:data sees no reason to move backwards, or forestall widespread offering of Green Button Connect by staying the current docket until a decision in Docket 14-0507.

**2. The Proposed Order should incorporate CUB/EDF's Exception #1 to allow customers to modify the default period of authorization.**

CUB/EDF urge that customers and third parties should have the option of extending the period of authorization beyond the default term of 24 months. CUB/EDF Brief on Exceptions at 2. Mission:data agrees with CUB/EDF's recommended changes. As Illinois law speaks of the *right* of consumers to share to consent to the disclosure of personal energy information to third parties through electronic means in accordance with privacy laws, the Commission should be circumspect in limiting the circumstances under which that right can be exercised, particularly given that the record contains multiple examples of where a longer term of authorization is appropriate, for example, to avoid service interruption or enable post-retrofit analysis of results. 220 ILCS 5/16-108.6(c); Elevate Energy Ver. Reply Comments at 3; Elevate Energy Final Ver. Comments at 5; Mission:data Ver. Reply Comments at 7.

As noted in Mission:data's Brief on Exceptions, the PO moved in the right direction by providing some business customers flexibility as to the term of their authorization. Mission:data had suggested a clarification that such flexibility be provided to non-residential customers. Mission:data Brief on Exceptions at 2-3. We agree with CUB/EDF that flexibility for all customer classes would be desirable so that all customers can avoid the risk of service interruptions, take advantage of longer-term energy management arrangements and providing continuing verification of energy savings results. Mission:data Ver. Reply Comments at 7; Elevate Energy Final Ver. Comments at 5. There has been some suggestion that RES's are subject to a two year limitation under the Docket in 14-0701. As previously noted on the record, the authorization form specified in Docket 14-0701 allows a RES to receive data until the customer terminates its supply service by the RES: the option for a longer term for non-RES third parties establishes a more level playing field. Mission:data Final Ver. Comments at 4. Final Order (Appendix A) in Docket 14-0701.

**3. The Proposed Order's prohibition on selling or licensing data should be clarified per ComEd's Exception #1.**

The PO included a prohibition on selling or licensing data in the authorization language. In its Brief, ComEd's Exception #1 suggests that this language "could be read as allowing a third party having the ability to sell electricity usage information for the purpose identified in the fill-in-the-blank portion of the authorization" and suggests that the relevant sentence be amended to read:

[NAME OF THIRD PARTY] may disclose my electricity usage information to its contracted third party vendors or its affiliates for this purpose only. [NAME OF THIRD PARTY], its affiliates, and its contracted third party vendors, will not sell or license my electricity usage information to any party for any purpose."

Brief on Exceptions of Commonwealth Edison at 4-5. Mission:data believes that the language in the PO prohibiting the sale or licensing of customer energy usage information was already clear but supports the clarification.


#### **4. Conclusion.**

The Mission:data Coalition appreciates the Commission's consideration of these arguments and requests that the Proposed Order be revised as set forth in Mission:data's Brief on Exceptions and in this Reply Brief.

Dated: January 26, 2016

Respectfully submitted

For the Mission:data Coalition



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## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Sacramento

On January 26, 2016 before me, Nellie Tumbaga Hurtienne  
(insert name and title of the officer)

personally appeared Jim Hawley,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Nellie Tumbaga Hurtienne (Seal)

