



obligations to provide electricity and ancillary services following divestiture of their generation resources, the Ameren Illinois Utilities entered into bilateral agreements. These contracts expired on December 31, 2006.

3. Originally, the Ameren Illinois Utilities anticipated procuring ancillary services from a Midwest Independent Transmission System Operator, Inc. (Midwest ISO) competitive ancillary services market after their prior ancillary service contracts expired, but no such market yet exists. Therefore, on May 1, 2006, the Ameren Illinois Utilities issued a Request For Proposals (RFP) to fifteen entities soliciting bids to supply 100 MWs each of regulation and frequency response, spinning reserve, and supplemental reserve services, for the period of January 1, 2007 through December 31, 2007, or until a Midwest ISO market for each service is operational, whichever occurs first. The original RFP failed to produce acceptable results for the Ameren Illinois Utilities and a revised RFP was issued on August 22, 2006 (Revised RFP).<sup>3</sup>

4. Three entities that were successful in their bids to provide the requested ancillary services are affiliates of the Ameren Illinois Utilities.<sup>4</sup> The first two successful bidders are Ameren Energy Resources Generating Company and Ameren Energy Generating Company, via their agent, Ameren Energy Marketing Company. Ameren Energy Resources Generating Company owns the Illinois generation formerly owned by AmerenCILCO and Ameren Energy Generating Company owns the Illinois and Missouri

---

<sup>3</sup> The Revised RFP differs from the Original RFP in that it seeks reduced quantities of spinning reserve service (56 MWs instead of 100 MWs) and supplemental reserve service (68 MWs instead of 100 MWs) and provides for the inclusion of a non-fixed component in sellers' bids to provide recovery of lost opportunity costs. In its initial post-technical conference comments, Ameren Services Company (Ameren Services) indicates that, following the Revised RFP, the amount of spinning service was reduced to 50 MWs and the amount of supplemental service was increased to 69 MWs. These adjustments resulted from Ameren Services' participation in the newly-formed Midwest Contingency Reserve Sharing Group, which revised the requirements of the Ameren Illinois Utilities for spinning and supplemental reserve service. Ameren Services Initial Post-Technical Conference Comments at 8.

<sup>4</sup> The only other bidder was Dynegy Midwest Generation, Inc. (Dynegy), which owns the generation formerly owned by AmerenIP. The Ameren Illinois Utilities chose Dynegy to provide regulation service and in *Dynegy Power Marketing, Inc.*, 118 FERC ¶ 61,094 (2007), *reh'g pending*, the Commission conditionally granted Dynegy's proposal to sell ancillary services to the Ameren Illinois Utilities as long as the rates Dynegy charges are no higher than the cost-based rates the Commission ultimately approves in the instant proceeding (*i.e.*, no higher than the cost-based rates the Applicants charge their affiliates for the same service).

generation formerly owned by AmerenCIPS. The third successful bidder is AmerenUE, a Missouri utility that owns generation in Missouri and Illinois, via its agent, Ameren Energy, Inc.

## II. November 3, 2006 Filings

5. On November 3, 2006, Applicants filed proposed rate schedules that set forth the rates, terms and conditions under which Ameren Energy Resources Generating Company, Ameren Energy Generating Company, and AmerenUE would provide ancillary services to the Ameren Illinois Utilities if negotiations are successful and the parties execute final ancillary service supply agreements.<sup>5</sup> The proposed rates are cost-based and include a formula rate component for recovery of lost opportunity costs related to the supply of regulation and frequency response and spinning reserve services.

6. In its protest, the Illinois Municipal Electric Agency (IMEA) asserted that the Revised RFP does not meet the Commission's requirements for affiliate sales. IMEA also argued that (1) the filings lacked supporting materials; (2) various cost of service items required correction; and (3) the request to recover lost opportunity costs was unsupported. The Illinois Commerce Commission (Illinois Commission) argued that (1) the RFP process fell short of the Commission's standards for evaluating affiliate sales set forth in *Edgar*<sup>6</sup> and *Allegheny*;<sup>7</sup> and (2) the Commission should investigate whether there was any undue preference in the process. The Illinois Commission stated that it did not intend its comments to disrupt the Ameren Illinois Utilities' ability to provide comprehensive service after January 1, 2007.

7. On December 26, 2006, the Commission accepted for filing the proposed rate schedules, and suspended them for a nominal period, to become effective January 1, 2007, as requested, subject to refund and further Commission order.<sup>8</sup> The Commission also established hearing and settlement judge procedures to address cost of service issues, and directed Commission staff to conduct a technical conference on affiliate abuse issues.

---

<sup>5</sup> Applicants filed individual proposals in Docket Nos. ER07-169-000 and ER07-170-000. As explained below, these dockets were consolidated in *Ameren Energy Marketing Co.*, 117 FERC ¶ 61,334 (2006) (December 2006 Order).

<sup>6</sup> *Boston Edison Co. Re: Edgar Electric Energy Co.*, 55 FERC ¶ 61,382 (1991) (*Edgar*).

<sup>7</sup> *Allegheny Energy Supply Company, LLC*, 108 FERC ¶ 61,082 (2004) (*Allegheny*).

<sup>8</sup> *Ameren Energy Marketing Co.*, 117 FERC ¶ 61,334 (2006).

The Commission consolidated the two proceedings. With respect to the cost of service issues, settlement judge procedures were terminated and hearing procedures were established by order of the Chief Administrative Law Judge dated February 7, 2007.<sup>9</sup>

### **III. Technical Conference and Filed Comments**

8. Notice of the staff technical conference was issued on February 21, 2007. On March 13, 2007, staff held the technical conference.<sup>10</sup> A notice allowing post-technical conference comments was issued on March 13, 2007 with initial comments due April 3, 2007 and reply comments due April 17, 2007.

9. Ameren Services<sup>11</sup> filed initial post-technical conference comments that provide information regarding the RFP procedures and evaluation process, including information regarding the independence of its third-party consultant. Ameren Services also provides specific information that Commission staff requested at the technical conference. In addition, Ameren Services states that it is going to have to again solicit bids for ancillary services because the Midwest ISO's proposed ancillary services market may not commence until the spring of 2008 at the earliest and the contracts subject to this proceeding expire December 31, 2007. Therefore, Ameren Services requests that the Commission provide confirmation of acceptable procedures by which Ameren Services can solicit and acquire these ancillary services, including potentially from its affiliates.

10. Ameren Services explains that it limited bidders to those in the Ameren control areas because buying ancillary services from generators outside the Ameren control areas would require additional telemetry and substantial modification to control center systems and Midwest ISO systems. It asserts that these cost and technical considerations were important because when it issued the RFP, it anticipated that the ancillary services were needed for less than one year and in any event only until the Midwest ISO ancillary service market becomes operational. Furthermore, service needed to commence within only a few months after the issuance of the RFP.

---

<sup>9</sup> The hearing process is ongoing.

<sup>10</sup> Numerous parties attended the technical conference, including Ameren Services, Ameren Services' third-party contractor (Burns & McDonnell), Midwest ISO, Dynegy Power Marketing, Southwestern Electric Cooperative, Inc. (Southwestern), Exelon Corp., Soyland Power Cooperative, Inc., Constellation Energy Commodities Group and IMEA. The Illinois Commission also participated in the conference.

<sup>11</sup> Ameren Services states that it submitted post-technical conference comments because it is the Ameren entity that possessed information regarding the procurement process.

11. Additionally, Ameren Services explains that during the technical conference there was little indication that any party was discouraged from bidding by any element or requirement of the RFPs. Ameren Services notes that Commission staff specifically asked the parties in attendance at the technical conference whether they felt prejudiced by the design of the RFPs, and “not a single party cried foul.”<sup>12</sup>

12. Southwestern was the only other party that filed post-technical conference comments. Southwestern argues that the Revised RFP was not sufficient to mitigate affiliate abuse concerns because the Ameren Illinois Utilities inappropriately limited the pool of prospective bidders to those within the Ameren control areas. Southwestern also disputes the claim that Ameren Services made at the technical conference that the *Edgar/Allegheny/Mountainview*<sup>13</sup> standards may not apply to sales of ancillary services and argues that the Ameren Illinois Utilities have not met their burden to establish a lack of affiliate abuse because the RFP did not meet the *Edgar* and *Allegheny* standards.

13. Ameren Services filed post-technical conference reply comments contending that the RFPs were distributed to the broadest possible number of potential bidders deemed capable of providing the services. Ameren Services highlights the fact that (1) Southwestern was in the pool of eligible bidders and could have, but did not, submit a bid; and (2) Southwestern fails to identify a single potential supplier that should have been, but was not, included in the group of suppliers receiving the RFP. Moreover, Ameren Services explains that the short-term nature of the contracts is a reality that could not be ignored. Explaining that Ameren Services needs to once again commence the process for obtaining ancillary services for the period after the currently effective ancillary services agreements expire on December 31, 2007, Ameren Services requests that the Commission find that the RFP process utilized to procure ancillary services from Applicants was acceptable and can be employed by Ameren Services in the future. Also, responding to Southwestern’s argument, Ameren Services argues that the *Edgar/Allegheny/Mountainview* standards apply to cost-based long-term power purchase agreements between affiliates but not, as in this case, to cost-based ancillary service sales.

#### IV. Discussion

##### Analysis

14. Under the circumstances of this proceeding, where the Ameren Illinois Utilities needed to procure ancillary services only for an interim period until the Midwest ISO

---

<sup>12</sup> Ameren Services Initial Post-Technical Conference Comments at 7.

<sup>13</sup> *Southern California Edison Co.*, 106 FERC ¶ 61,183, *order on reh’g*, 109 FERC ¶ 61,086 (2004), *order on reh’g*, 110 FERC ¶ 61,319 (2005) (*Mountainview*).

ancillary service market becomes operational, we find that the Revised RFP was a reasonable and appropriate method to solicit potential suppliers. We also find that the Revised RFP did not provide Applicants with an undue preference over non-affiliates.

15. Importantly, the proposed sales were designed only to bridge the gap between the expiration of the Ameren Illinois Utilities' previous ancillary services arrangements and the commencement of an operational Midwest ISO market for each requested ancillary service. The Ameren Illinois Utilities anticipated obtaining ancillary services from a Midwest ISO market after their previous contracts expired; however, the commencement of that market has been delayed. Because they have virtually no generation with which to meet their obligations to provide ancillary services, the Ameren Illinois Utilities were faced with finding an interim supply of ancillary services in a relatively short period of time. We find that, under these circumstances, the Revised RFP was a reasonable method for the Ameren Illinois Utilities to employ to solicit potential suppliers to temporarily fulfill their ancillary service obligations.

16. Moreover, no potential supplier claims that it desired to submit a bid for providing the requested ancillary services but was precluded from doing so under the terms of the Revised RFP or that it would have submitted a bid if the Revised RFP was designed differently.<sup>14</sup> Indeed, no party identifies a single potential supplier that should have been, but was not, included in the pool of suppliers receiving the Revised RFP. While Southwestern submitted post-technical conference comments opposing the Revised RFP, it was itself in the pool of potential suppliers and could have, but did not, bid. Nor did Southwestern point to any aspect of the Revised RFP that provided a preference to the Applicants over Southwestern in submitting a bid or in being selected to provide the services.<sup>15</sup> Furthermore, the sales are only for an interim period and the additional expense and complexities of obtaining ancillary services from outside Ameren control areas would be disproportionate to the limited nature of the Applicants' proposal.

17. We note that the Ameren Illinois Utilities will need to solicit bids for ancillary services to bridge the gap caused by the further delay of the Midwest ISO's ancillary services market (*i.e.*, to cover the period after the December 31, 2007 expiration date of the contracts subject to this proceeding until the commencement of an operational Midwest ISO market for ancillary services). Although the Ameren Illinois Utilities may

---

<sup>14</sup> An underlying concern at the technical conference was whether any party in attendance felt prejudiced by the design of the RFPs. No comments were filed with respect to this issue.

<sup>15</sup> IMEA and the Illinois Commission, the two parties that filed protests to Applicants' original filing, participated in the technical conference but did not file any further comments.

need to issue a further RFP, any proposed sales that result from such an RFP must be filed with the Commission pursuant to section 205 of the Federal Power Act<sup>16</sup> and it would be premature for the Commission to make a finding here, as requested by Ameren Services, that the RFP process used in this proceeding likewise can be employed by Ameren Services in the future.

The Commission orders:

Applicants' proposal, which is for an interim period only, to sell ancillary services to their affiliates at cost-based rates does not raise affiliate abuse issues and the Revised RFP was an appropriate method to solicit potential suppliers.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.

---

<sup>16</sup> 16 U.S.C. § 824d (2000).