

**BEFORE THE ILLINOIS COMMERCE COMMISSION
STATE OF ILLINOIS**

Illinois Commerce Commission)	
On Its Own Motion)	
)	14-NOI-01
Notice of Inquiry regarding retail)	
electric market issues)	

**JOINT VERIFIED THIRD ROUND COMMENTS OF
THE COALITION OF ENERGY SUPPLIERS AND
THE NATIONAL ENERGY MARKETERS ASSOCIATION**

The Coalition of Energy Suppliers ("CES")¹ and the National Energy Marketers Association ("NEM")² respectfully submit the following Third Round Comments regarding the questions posed by the Illinois Commerce Commission ("ICC" or "Commission") in its Notice of Inquiry regarding the residential retail electric market. These Comments supplement the Joint Verified Initial Comments and Joint Verified Reply Comments submitted by CES/NEM on November 6, 2014 and December 3, 2014, respectively, and the oral comments offered on behalf of CES/NEM at the workshops held on November 13, 2014 and December 8, 2014.

CES/NEM's previous Comments highlight the success of the Illinois competitive electricity market and the relative lack of significant problems requiring "solutions" in the form of additional unnecessarily burdensome and unwarranted regulatory requirements and obligations. (*See, e.g.*, CES/NEM Initial Comments at 1-3; CES/NEM Reply Comments at 2-3.)

¹ CES is an ad hoc coalition of retail electric suppliers that participate in competitive energy markets in Illinois and throughout the United States.

² NEM is a non-profit trade association representing both leading suppliers and major consumers of natural gas and electricity as well as energy-related products, services, information and advanced technologies throughout the United States, Canada, and the European Union. NEM's membership includes independent power producers, suppliers of distributed generation, energy brokers, power traders, global commodity exchanges and clearing solutions, demand side and load management firms, direct marketing organizations, billing, back office, customer service and related information technology providers. NEM members also include inventors, patent holders, systems integrators, and developers of advanced metering, solar, fuel cell, lighting, and power line technologies.

CES/NEM's previous Comments also point to existing law and regulations that provide the regulatory tools, where needed, to address potential problems or allegations of improper marketing techniques or RES misconduct. (*See, e.g.*, CES/NEM Initial Comments at 1-3; CES/NEM Reply Comments at 2-3, 5.) Other parties likewise have noted the market success in Illinois, the lack of significant market problems, and the existing legal and regulatory mechanisms to address any problems or bad actors. (*See* ICEA Initial Comments at 1-3; RESA Initial Comments at 1-5; ICEA Reply Comments at 2-3; RESA Reply Comments at 7-8.)

Given the overall market success, it is curious that there appears to be some level of assumption in the context of this NOI that there are significant competitive market problems that cannot be addressed via existing law or regulations. CES/NEM respectfully disagree with such an assumption. Although several customer contacts purportedly may have led the Citizens Utility Board ("CUB") and the City of Chicago ("City") to initiate ICC Docket No. 14-0422, that proceeding was dismissed by the Commission on December 17, 2014, prior to any substantive filings by any party. As a result, there was no opportunity via written filings or an evidentiary hearing to enable parties to understand the number, frequency, time period, customer type, or subject-matter of the customer contacts received by CUB and the City, or to evaluate whether those contacts mean that there is a substantial market problem in the context of a competitive market in which there are several million participants. In this proceeding, after two rounds of written Comments and two workshops, there also has been no verifiable, actionable information presented demonstrating significant problems with market function in Illinois that cannot be addressed through appropriate enforcement of existing law and regulations.

Accordingly, at this time, there is no legitimate basis upon which the Commission could order any new or different regulation of RESs, particularly where doing so would create

competitive asymmetry either between RESs and utilities or between different RESs. The requirement for competitive neutrality was recently reiterated by the Illinois General Assembly's Joint Committee on Administrative Rules ("JCAR"), which stated: "JCAR believes that it was not the intent of the General Assembly to create an advantage for any specific group of the entities marketing electrical service in this State." (Oct. 14, 2014 JCAR Statement of Objection To and Prohibition Against Filing of Proposed Rulemaking re: Governmental Electric Aggregation, available on ICC eDocket in ICC Docket No. 12-0456 (Oct. 16, 2014 eDocket entry).)

Thus, the Commission should reject the various proposals advanced by CUB and ICEA, including, without limitation, the idea of requiring advance notice of rate changes for certain variable rate products (which requirement would not be consistent with Illinois law, would be competitively asymmetric rather than competitively neutral, and would likely favor certain categories of RESs over others thereby making markets less competitive rather than more so); the suggestion that historical data be required regarding variable rates (which requirement would be onerous for RESs, would be competitively asymmetrical rather than competitively neutral, and would appear to provide little or no practical information for customers); the idea of imposing requirements and initiating investigatory proceedings against so-called "one-star suppliers" (which, again, finds no clear basis in Illinois law, would be competitively asymmetrical rather than competitively neutral, and raises considerable concerns about due process rights and competitive neutrality); and the idea of materially modifying the structure of

the POR/UCB utility tariff (which finds no basis in Illinois law, is anti-competitive, and is well outside the scope of the Commission's Notice of Inquiry.)³

CES/NEM appreciate that this NOI process is ongoing, and intends to continue to participate, and therefore reserves its rights to make further comments in this NOI process and any additional rulemaking or other related process that may result.

Respectfully submitted,

**THE COALITION OF ENERGY
SUPPLIERS**

**THE NATIONAL ENERGY MARKETERS
ASSOCIATION**

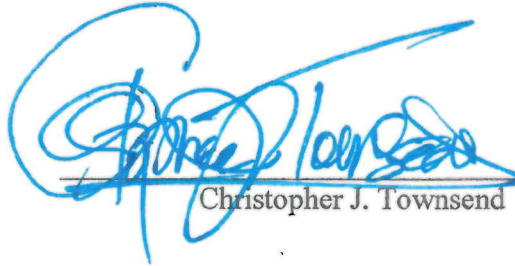
By: /s/Christopher J. Townsend
Christopher J. Townsend
Christopher N. Skey
Adam T. Margolin
Quarles & Brady LLP
300 North LaSalle Street
Suite 400
Chicago, IL 60654
Phone: (312) 715-5000
christopher.townsend@quarles.com
christopher.skey@quarles.com
adam.margolin@quarles.com

By: /s/Craig G. Goodman
Craig G. Goodman, Esq.
President and CEO
Stacey Rantala
Executive Director, Regulatory Services
National Energy Marketers Association
3333 K Street, NW
Suite 110
Washington, DC 20007
Phone: (202) 333-3288
cgoodman@energymarketers.com
srantala@energymarketers.com

³ CES/NEM appreciate that CUB has modified its position regarding pricing information, indicating that it no longer favors establishing a "forward looking price 'band'" and instead favors provision of historical variable price information. (See CUB Reply Comments at 1.) However, for the reasons CES/NEM and other parties have previously explained, such a requirement would be of zero or very limited practical utility to consumers, while imposing significant burdens on RESs.

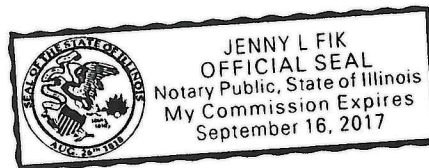
VERIFICATION

Christopher J. Townsend, being first duly sworn, on oath deposes and says that he is one of the attorneys for the Coalition of Energy Suppliers, that he has read the foregoing Joint Verified Third Round Comments of the Coalition of Energy Suppliers and the National Energy Marketers Association, that he knows of the contents thereof, and that the same is true to the best of his knowledge, information, and belief.


Christopher J. Townsend

Subscribed and sworn to me
this 8th day of January 2015.






VERIFICATION

Stacey L. Rantala, being first duly sworn, on oath deposes and says that she is the Executive Director, Regulatory Services of the National Energy Marketers Association, that she has read the foregoing Joint Verified Third Round Comments of the Coalition of Energy Suppliers and the National Energy Marketers Association, that she knows of the contents thereof, and that the same is true to the best of her knowledge, information, and belief.


Stacey L. Rantala

Subscribed and sworn to me
this 8th day of January 2015.


Washington, DC
06/30/2019



PHILOMINA GOMES
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires June 30, 2019