

CITY OF LeROY
COUNTY OF McLEAN
STATE OF ILLINOIS

ORDINANCE NO. 423

ORDINANCE APPROVING SPECIAL LEGAL COUNSEL CONTRACT FOR
REPRESENTATION IN ILLINOIS POWER COMPANY RATE INCREASE PROCEEDING

ADOPTED BY THE CITY COUNCIL OF THE CITY OF LE ROY THIS 6th DAY OF
January, 1992.

PRESENTED: January 6, 1992

PASSED: January 6, 1992

APPROVED: January 6, 1992

RECORDED: January 6, 1992

PUBLISHED: January 6, 1992

In Pamphlet Form

Voting "Aye" 6

Voting "Nay" 0

The undersigned being the duly qualified and acting City Clerk of the City of LeRoy does hereby certify that this document constitutes the publication in pamphlet form, in connection with and pursuant to Section 1-2-4 of the Illinois Municipal Code, of the above-captioned ordinance and that such ordinance was presented, passed, approved, recorded and published as above stated.

(SEAL)

Juanita Hagley
City Clerk of the City of LeRoy,
McLean County, Illinois

Dated: January 6, 1992.

ORDINANCE NO. 423

ORDINANCE APPROVING SPECIAL LEGAL COUNSEL CONTRACT FOR REPRESENTATION IN ILLINOIS POWER COMPANY RATE INCREASE PROCEEDING

WHEREAS, the Mayor and City Council of the City of LeRoy, McLean County, Illinois, an Illinois municipal corporation, find it is necessary and appropriate for the City to join in litigation in connection with a proposed electric rate increase by Illinois Power Company; and,

WHEREAS, it is necessary that the City of LeRoy enter into a retainer agreement with the law firm of Pfeifer & Kelty for representation in the aforementioned litigation,

NOW, THEREFORE, be it ordained by the City Council of the City of LeRoy, McLean County, Illinois, in lawful meeting assembled, as follows:

Section 1. The retainer agreement for special legal services attached hereto, identified as exhibit "A," and incorporated herein by reference, is hereby approved.

Section 2. The Mayor and City Clerk of the City of LeRoy are hereby directed to execute said contract in the original and as many copies as may reasonably be required, retaining a signed copy of the contract for the City of LeRoy after it has been fully executed by all parties.

Section 3. This ordinance shall be in full force and effect from and after its passage and approval.

PASSED by the City Council of the City of LeRoy, Illinois, on the 6th day of January 6,, 1992, and deposited and filed in the office of the City Clerk in said City on that date.

Aldermen elected 6

Aldermen present 6

AYES: William Swindle, Gary Builta, Randy Zimmerman, Robert D. Johnson

NAYS: None David Spratt, Jerry Davis

Juanita Dagley
Juanita Dagley, City Clerk of the City of LeRoy, Illinois

Approved by the Mayor of the City of LeRoy, Illinois, on this 6th day of
January, 1992.

Jerry Davis
Jerry Davis, Mayor of the City of LeRoy, Illinois

Attest: (SEAL)

Juanita Dagley
Juanita Dagley, City Clerk of the City of LeRoy, Illinois

MUNICIPAL USERS GROUP

RETENTION AGREEMENT

Re: City of Champaign and Municipal Users Group/Illinois Power Intervention
ICC Docket No. 91-0335
Our File: 900-13003

The undersigned municipality, as a part of the Municipal Users Group (M-U-G), agrees to retain Pfeifer & Kelty, P.C. to represent it in Illinois Commerce Commission Docket No. 91-0147. Pfeifer & Kelty represents and agrees:

A. **Professional Undertaking:** Thomas W. Kelty will have primary responsibility for your representation, and will utilize other attorneys and legal assistants in the office in the best exercise of our professional judgment. In connection with this representation, we will represent the City of Champaign and numerous other municipalities comprising the Municipal Users Group (the "Group") which are affected by the Illinois Power Company "Proposed change in the rates for the purpose of implementing a redesign of rates for electric service" before the Illinois Commerce Commission in Docket No. 91-0335.

B. **Fees:** The payment of legal fees shall be as follows:

(i) The City of Champaign and each of the members of the Municipal Users Group will advance to Pfeifer & Kelty a retainer in amounts as follows:

| <u>Population</u> | |
|-------------------|----------|
| Zero to 5,000 | \$250.00 |
| 5,001 to 15,000 | 500.00 |
| 15,001 and over | 750.00 |

This retainer will be used to offset out-of-pocket expenses, cost of research and analysis by experts and other expenses related to the representation of the Municipal Users Group in this proceeding. It will be non-refundable.

(ii) Legal fees will be paid on a contingent fee basis at the rate of 16.5% of net savings (see (iv) below) which are achieved for the Group for the five-year period subsequent to the effective date of the rate increase as a result of our representation of the Group in this Docket. The amount of retainer paid in accordance with (i) above shall be a credit against fees due hereunder.

Furthermore, in the event IP would file for and receive a new rate increase after this case concludes but before the five-year fee payment period expires, the balance of fees due for subsequent months to the end of the five-year period shall be forgiven and this agreement shall be null and void.

- (iii) The retainer set forth above will be credited against the savings realized and fees to be paid. The savings will be calculated in accordance with the formula set forth below.
- (iv) Net Savings will be calculated based upon the differential between the published tariff rate for service classifications 41, 42 and 45, at the close of the current Rate Case, Docket No. 91-0147, and the resulting increase in rates in those classifications based upon the actual rate ordered by the Illinois Commerce Commission upon conclusion of this Docket. In other words, net savings equals the difference between (i) the revised Tariffs filed by Illinois Power and ordered by the Illinois Commerce Commission in Docket No. 91-0147 (Proposed Rates) and (ii) the Tariffs ordered by the Illinois Commerce Commission in Docket No. 91-0335 (Ordered Rates), the differential to which will be applied the 16.5% factor. For purposes of illustration the formula and calculations are set forth in Exhibit 1 attached hereto.
- (v) Regulatory Management Consultants will contract for its services directly with the City of Champaign and the municipal members of the Municipal Users Group. The consulting services of N. Richard King, d/b/a Regulatory Management Consultants, Springfield, Illinois, will be paid at the rate of 16.5% of the net savings realized from this Docket as described above.

C. **Costs:** Often it is necessary for us to incur expenses for items such as telephone calls and deposition transcripts. Similarly, some matters require substantial amounts of costly ancillary services such as photocopying, computerized legal research and staff overtime. In order to allocate these expenses fairly and keep billable rates as low as possible for those matters which do not involve such expenditures, these items are separately itemized on our statements as "Disbursements". We do not expect any single item of such expenditure to exceed \$150.00 and would not incur such expense without prior approval.

D. **Billings:** Our fees will be due monthly for each month beginning with the effective date of the increase approved by the Illinois Commerce Commission in Docket No. 91-0147 (the IP rate case), and monthly thereafter.

We have ascertained that this particular representation would present no conflict of any kind. As is the case with all of our clients, representation on the above matter does not mean that we will necessarily accept representation of every matter as to which you may request it; and we reserve the right to decline representation for any reason we deem necessary or appropriate.

Our firm represents a large number of clients including many of long-standing. We owe a continuing duty to those clients and must maintain to the maximum extent possible our ability to represent them on future matters. It is possible that while you are a client a conflict of positions may arise between you and another client of the firm on a matter wholly unrelated to the present one, and we may be asked by the other client to represent it on the matter. If we wish to do so and if we conclude that the representation would not adversely affect our ability to effectively represent you in any unrelated pending matter, we would expect to consult with you and gain your consent to the representation.

Please be assured that we welcome you as a client on this matter, and we look forward to a mutually satisfactory and beneficial relationship. We trust that you will understand the desirability of making clear at this time the points mentioned above so as to avoid any future misunderstanding.

If the foregoing terms of this Retention Agreement are acceptable to you, please sign the enclosed copy of this letter and return it to us in the enclosed envelope. If you have any questions, please feel free to contact us.

We enclose a description of our municipal/regulatory practice for your file.

Sincerely,

PFEIFER & KELTY, P.C.

By:  _____

Thomas W. Kelty, President

By:  _____

Daniel P. Schuering, Secretary

TWK/DPS:cb
Enclosure

AGREED:

Date

EXHIBIT 1

CALCULATION OF NET SAVINGS

- A. [IP Requested Rates¹ in Docket No. 91-0335 which result from Docket No. 91-0147 x Average Monthly Usage (kwh)] + [Number of Access Points x Monthly Access Fees) = Monthly Bill (+ Taxes).
- B. [Ordered Rates² at the conclusion of Docket No. 91-0335 x Average Monthly Usage (kwh)] + [Number of Access Points x Proposed Monthly Access Fees) = Monthly Bill (+ Taxes).
- C. IP Requested Rates less Ordered Rates = Net Savings x 16.5% less retainer payment = fees due Pfeifer & Kelty, P.C.

Example based on actual City of Champaign charges assuming 15.1% increase in rates from 91-0147 Docket, and assuming the Ordered Rate in Docket 91-0335 to be 11.1%, the 4% differential of \$13,757 equals Net Savings x 16.5% or \$2,269.

¹IP Requested Rates equal Company's revised and proposed rates in Docket No. 91-0335 following the known outcome of the current case, Docket No. 91-0147. The Rate case, Docket No. 91-0147, does not deal with rate design, but will determine the total amount of revenues Illinois Power may collect from all of their customers. The Rate Design case, Docket No. 91-0335, will determine how much IP can collect from each individual customer classification.

²Ordered Rates are the rates which the Illinois Commerce Commission orders at the conclusion of Docket No. 91-0335.

STATE OF ILLINOIS)
) SS:
COUNTY OF McLEAN)


I, **Juanita Dagley**, do hereby certify that I am the duly qualified and acting City Clerk of the **City of LeRoy, McLean** County, Illinois, and as such City Clerk that I am the keeper of the records and files of the Mayor and the City Council of said City.

I do further certify that the foregoing is a true, correct and complete copy of an ordinance entitled:

ORDINANCE APPROVING SPECIAL LEGAL COUNSEL CONTRACT FOR REPRESENTATION IN ILLINOIS POWER COMPANY RATE INCREASE PROCEEDING.

Said ordinance was adopted by the City Council of the City of LeRoy at a regular meeting on the 6th day of January, 1992, and a faithful record of said ordinance has been made in the record books.

Dated this 6th day of January, 1992.



City Clerk

(SEAL)