

SURREBUTTAL TESTIMONY

OF

ROY A. KING

WATER DEPARTMENT

FINANCIAL ANALYSIS DIVISION

ILLINOIS COMMERCE COMMISSION

NORTHERN ILLINOIS UTILITIES, INC.

Docket No. 01-0491

May 2002

1 **Q. Please state your name and business address.**

2 A. My name is Roy A. King. My business address is 527 East Capitol Avenue,
3 Springfield, Illinois 62701.

4
5 **Q. By whom are you employed and in what capacity?**

6 A. I am employed by the Illinois Commerce Commission (Commission) as a Water
7 Engineer in the Water Department of the Financial Analysis Division (FAD).

8
9 **Q. Are you the same Roy A. King who previously submitted ICC Staff Exhibits
10 1.0, 3.0, and 5.0 with attached schedules in these proceedings?**

11 A. Yes, I am.

12
13 **Q. Are you familiar with the rebuttal testimony presented by Northern Illinois
14 Utilities, Inc. 's (NIU or Company) witness Mr. Thomas P. Mathews?**

15 A. Yes, I have personally reviewed the rebuttal testimony presented by Mr.
16 Mathews.

17
18 **Q. What is the purpose of your testimony?**

19 A. I am responsible for presenting surrebuttal testimony in response to Company
20 witness T. P. Mathews' statements regarding his compliance to the Order in
21 Docket No. 97-0608

22

23

24 **GENERAL RATE RELIEF**

25 **Q. In Mr. Mathews' rebuttal testimony, p.1, he indicates, "substantial rate relief**
26 **was and remains absolutely critical to maintain the financial viability,**
27 **reality, and water quality of these utilities." Based on your experience, do**
28 **you agreed with Mr. Mathews' statement that rate relief is a necessity to**
29 **maintain any public utility system to the standards of government agencies**
30 **and be financially fit to meet all operating expenses?**

31 **A.** Yes. In my opinion a utility should seek a rate increase on a regular basis so that
32 the Company can maintain a high level of proficiency, be financially sound to
33 maintain the standards of the governing agencies and, operate and maintain their
34 systems in excellent condition. However, based on the following table, it appears
35 that NIU has sought rate relief five times since receiving its initial certificate of
36 public convenience and necessity in 1953.

<u>Docket</u> <u>Number</u>	<u>Date of</u> <u>Request</u>	<u>Date of</u> <u>Order or</u> <u>Final Action</u>	<u>Amount</u> <u>Granted</u> <u>(000)</u>
58146	8-Mar-73	6-Feb-74	5.7
85-SF	19-Sep-85	22-Jan-86	17.7
97-0608	19-Nov-97	16-Jun-99	11.1
02-SF	17-May-01	28-Jan-02	withdrawn
02-SF	20-Feb-02	26-Feb-02	rejected

37

38 **Q. In Mr. Mathews' rebuttal testimony, p. 2, he states, "Ironically, given this**
39 **desperate need for additional revenues (rate relief), the Staff inexplicably**
40 **demanded that the new short form rate cases which were proceeding on a**
41 **parallel track with these proceedings be 'voluntarily' dismissed by each of**

42 **my water companies.” In your opinion, has Mr. Mathews accurately**
43 **described the status of the current rate relief requested by the Company?**

44 A. In my opinion, the only accurate statement made by Mr. Mathews is that the
45 utility has requested that the short form rate cases be withdrawn. Staff at no time
46 demanded dismissal of the previously pending short form rate cases. Mr.
47 Mathews’ testimony ignores the fact that the Company failed to provide Staff with
48 responses to our discovery on a timely basis and failed to co-operate with Staff.

49
50 **Q. I am showing you several letters and documents marked for identification**
51 **as ICC Staff Exhibit 9.00, Group Schedule 9.01, and ask you to identify**
52 **these documents.**

53 A. Group Schedule 9.01 represents copies of written communications between Mr.
54 Mathews and Staff concerning the Simplified Rate Procedures filed in May 2001.
55 These documents set forth the lack of co-operation by the Company with Staff.
56 In my opinion, the letters also demonstrate that Staff tried to provide NIU with
57 opportunities to complete the rate proceedings. However, without supporting
58 documents for NIU’s adjustments, Staff’s discovery was hindered and was
59 unable to proceed further with NIU’s rate case in a timely manner.

60
61 **Q. In Mr. Mathews’ rebuttal testimony, p. 2, he indicates that his utilities are**
62 **being singled out by virtue of these proceedings. In your opinion, has Staff**
63 **singled out the Company because of the type of operation Mr. Mathews**
64 **currently maintains?**

65 A. In my opinion the Company, by not complying with the Commission's previous
66 order, has singled itself out. Several of the items reflect requirements set by 83
67 Il. Adm. Code Part 600, which has been in effect since 1977. NIU has had over
68 20 years to achieve compliance with Part 600.

69

70 **Q. Mr. Mathews' rebuttal testimony, p. 2, references a Report that you**
71 **provided to the Company as a response to their inquiry. Mr. Mathews**
72 **indicates that it showed "approximately 200 utilities, many, if not most, of**
73 **which appeared to be regulated by the Commission, with very serious**
74 **service problems." In your opinion, has Mr. Mathews correctly identified**
75 **the information provided by you?**

76 A. Mr. Mathews failed to recognize that the information provided was a copy of the
77 Environmental Register, which is a publication of the Illinois Pollution Control
78 Board. The information being referred to by Mr. Mathews is the public water
79 supplies, regulated by IEPA that have been placed on restricted status. The
80 Commission regulates about 10 of approximately 150 public water supplies listed
81 as being on restricted status. The Commission currently only regulates
82 approximately 50 public water suppliers.

83

84 **Q. Mr. Mathews further indicated on page 3, lines 81 through 84, that I**
85 **acknowledged, in a response to a data request, that I was unaware of any**
86 **previous proceedings like this being initiated against any other water**
87 **company. Is this correct?**

88 A. Yes. Based on my experience with the Commission, once the Commission has
89 issued an order requiring compliance to be completed or reported, the utility
90 normally follows the Commission's directive without further formal proceedings.
91 In this instance, NIU has elected not to comply with the requirements set forth in
92 the Order in Docket No. 97-0608.

93

94 **TWO-INCH DIAMETER PIPE REPLACEMENT**

95 **Q. Since filing your rebuttal testimony, has NIU started replacing 1,770 feet of**
96 **two-inch diameter water mains annually for five years, as required by the**
97 **Order in Docket No. 97-0608?**

98 A. No.

99

100 **Q. Mr. Mathews, on page 13, lines 542 through 555, takes issue with the**
101 **citation order requiring NIU to replaced the existing two-inch mains with**
102 **eight-inch mains. In your opinion, should the two-inch mains be replaced**
103 **with eight-inch mains?**

104 A. Yes, for the reasons set forth in my direct and rebuttal testimony. As of this date,
105 NIU has not provided any studies supporting the Company conclusion that the
106 two-inch mains are adequate and that they comply with Part 600 and IEPA
107 requirements.

108 Also, Mr. Mathews fails to recognize that he agreed to do this work in Docket No.
109 97-0608.

110

111 **Q. Mr. Mathews on page 13, lines 554 and 555, indicates that , if NIU replaces**
112 **the two-inch mains, the other customers in NIU’s service area will have to**
113 **share in this cost. In your opinion, would all the customers in NIU’s service**
114 **area share in the installation cost of the eight-inch mains?**

115 A. Yes. The current rate structure for the service area is a customer charge and a
116 usage charge. The structure is design to treat all customers equally.

117

118 **Q. Has the Commission ever ordered NIU to replace some of its two-inch**
119 **water mains prior to Docket No. 97-0608?**

120 A. Yes, in Docket No. 59359, the Commission ordered a replacement. The work
121 was done on or about September 14, 1979, after suit was brought (*People v.*
122 *Northern Illinois*, Docket No. 76 L 585, McHenry County).

123

124 **INSTALLATION OF SECOND WELL**

125 **Q. In Mr. Mathews’ rebuttal testimony, on page 14, lines 573 to 582, he**
126 **indicates that the object for the second well is to find the right location.**
127 **Based on Mr. Mathew’s rebuttal testimony, does it appear that NIU**
128 **complied with the Order in Docket No. 97-0608?**

129 A. No. As set forth in my direct and rebuttal testimonies, NIU’s initial report
130 indicated, “the Company is investigating a location for a new well and seeking
131 bids for a well, pumping equipment and electrical equipment and the necessity
132 for enlarging the pump house.” Approximately three years later, we basically
133 received the same reasons in their rebuttal statement as stated in the initial

134 report of September 15, 1999. In a recently withdrawn rate request under the
135 Simplified Rate Procedures, the information provided did not include any
136 contracts showing that a bid had been granted for the well, equipment and pump
137 house. Also, NIU has not requested approval from the Commission for
138 borrowing funds to pay for the new well, tank or other water facilities. The
139 conditions that I reported above in the earlier testimonies still exist today.

140

141 **REFUNDS TO CUSTOMERS**

142 **Q. On page 10, of Mr. Mathews' rebuttal testimony, lines 425 through 428, Mr.**
143 **Mathews takes issue with your testimony concerning refunds to**
144 **customers, which is also common to Mr. Mathews' other systems, which**
145 **also have citation proceedings against them. Mr. Mathews indicated that**
146 **he has constantly advised you about these refunds. In your opinion has**
147 **NIU, or any of the other systems owned by Mr. Mathews, complied with the**
148 **Citation orders that required the filing of quarterly reports regarding the**
149 **ordered refunds, with interest, to the affected customers?**

150 **A.** Neither NIU nor the other Respondents have complied with the Commission's
151 orders concerning refunds. My opinion is based on the following reasons.
152 Neither NIU nor any of the other companies' initial quarterly reports, filed on
153 September 15, 1999, provide any details as to the customers receiving refunds
154 and how much. This quarterly report is the only report received by Staff from
155 NIU. When testimony was filed in the original citation dockets, there was no
156 evidence in the books or records of the companies that refunds of the untariffed

157 but collected charges had been made. The companies have not provided any
158 specific details to Staff concerning a single refund or even an examination of the
159 customers that are owed a refund. The only information Mr. Mathews relayed to
160 Staff concerning refunds was that the reports concerning refunds could not be
161 filed because of computer difficulties, as detailed in my earlier testimony.

162 NIU and the other Respondents have not complied with the orders' requirement
163 of quarterly reports. NIU and the other Respondents can provide no
164 documentary proof that any of the ordered refunds were made.

165

166 **ELECTRIC BILLS**

167 **Q Mr. Mathews' rebuttal testimony, p. 7, appears to take issue with your**
168 **investigation of the electric bills for NIU and the underlying reasons as to**
169 **why Commonwealth Edison ("Com Ed") has not been paid. Based on your**
170 **investigation has NIU paid ComEd?**

171 A. No. Nothing has been paid since the last rate proceeding when the Commission
172 allowed \$4,100 as an operating expense for electricity.

173

174 **Q. Based on Mr. Mathews' rebuttal testimony, in your opinion, does an**
175 **outstanding electric bill affect its service?**

176 A. Yes. If the Company is shut-off for non-payment of electric bills, this could result
177 in a safety and health hazard to the public. Such an unnecessary service
178 interruption undercuts the continuity of service demanded of a public utility,
179 which in my opinion violates Section 8-101 of the Act, 220 ILCS 5/8-101.

180

181 **METER TESTING AND METER REPLACEMENT**

182 **Q. In reviewing Mr. Mathews' rebuttal testimony, p.12, lines 506-514, has NIU**
183 **or any of the other companies owned by Mr. Mathews' complied with the**
184 **citation orders which required the institution of meter testing programs or**
185 **replacement programs?**

186 **A. No. Several of the items reflect requirements set by 83 Il. Adm. Code Part 600,**
187 **which have been in effect since 1977. NIU has had over 20 years to achieve**
188 **compliance with Part 600.**

189

190 **CUSTOMER POLLING**

191 **Q. In reviewing Mr. Mathews' rebuttal testimony, has NIU polled its customers**
192 **concerning alternative methods to improve the quality of the water as per**
193 **the Citation Order in 97-0908?**

194 **A. No.**

195

196 **RECOMMENDATION**

197 **Q. Are you still supporting your direct and rebuttal testimonies concerning**
198 **Section 4-502 of the Act be applied in this instance?**

199 **A. Yes. Based on my entire testimonies, I am still recommending to the**
200 **Commission that Section 4-502 be applied to NIU and that a capable public utility**
201 **be authorized to acquire NIU. In my opinion, NIU does not have sufficient**
202 **financial, managerial or technical ability or resources to provide safe, adequate,**

203 and reliable service.

204

205 **Q. Does this conclude your Surrebuttal Testimony?**

206 A. Yes, it does.

207