

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission	:	
On Its Own Motion	:	
Vs	:	03-0696
Central Illinois Public Service Company	:	
Proposed	:	
Reconciliation of revenues collected	:	
Under gas adjustment charges with	:	
Actual costs prudently incurred.	:	

**REPLY BRIEF ON EXCEPTIONS
OF THE STAFF OF THE ILLINOIS COMMERCE COMMISSION**

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Staff of the Illinois Commerce Commission (“Staff”), by and through its counsel, pursuant to Section 200.830 of the Rules of Practice (83 Ill. Adm. Code 200.830) of the Illinois Commerce Commission’s (“Commission”), respectfully submits its reply to Central Illinois Public Service Company’s (“CIPS” or “Company”) Brief on Exceptions (“BOE”) to the Proposed Order (“PO”) issued by the Administrative Law Judge (“ALJ”) on June 7, 2005 in the above-captioned matter.

I. INTRODUCTION

The Administrative Law Judge (“ALJ”) has provided a sound, well reasoned PO in this proceeding. However, in its exceptions to the PO, CIPS again misconstrues the Staff position and thus the findings of the PO. Therefore, in response to CIPS’ exceptions Staff proposes additional language clarifying

Staff's position and the Commission conclusion in regards to the disallowance of Purchased Gas Adjustment Clause ("PGA") recovery of the cost of gas lost in Company-owned and operated underground storage fields.

II. ARGUMENT

A. Cost of Gas Lost From Company-Owned Storage

1. Discussion

The PO correctly reduces CIPS' recoverable PGA gas costs by \$103,272, representing Staff's adjustment for the cost of gas lost in CIPS's underground storage fields. (PO, page 5) The PO finds that the costs in question are recoverable through base rates and should be recorded in either Account 352.3 or Account 823. (PO, page 5) These findings are supported by the record evidence in this docket. In its BOE, CIPS repeats the arguments it made, and Staff responded to, in previous briefs.

a) PGA Recovery

First, CIPS argues that the lost gas is part of the gas that it purchased to provide to end users and thus, the Company is complying with the PGA requirement to recover the costs of purchase gas to meet customer demand through the Gas Charge. (CIPS BOE, p. 4) CIPS mischaracterizes Staff's position as being that "only the cost of gas actually available for delivery to customers can be recovered through the PGA." (CIPS BOE, p. 5-6) As discussed at length in Staff's Initial Brief (pp. 11-14) and Reply Brief (pp. 2-3), not all costs for gas purchased for injection into the Company's gas stream are

eligible for PGA recovery. (Staff IB, p. 13) Rather the PGA rules enumerate what costs are allowed through the PGA. (See Staff IB, p. 11, Staff RB, p. 3)

b) USOA

CIPS continues to take Staff's statements about the proper entries under the Uniform Systems of Accounts ("USOA") out of context. CIPS is correct that the PGA rule does not specify which USOA accounts qualify for recovery, and that it makes no statement suggesting amounts that fit the description of Account 823 are precluded from PGA recovery. (CIPS BOE, p. 7) However, since Part 525 enumerates the costs to be included in the PGA, the failure to include "gas lost or unaccounted for in underground storage operations due to cumulative inaccuracies of gas measurements or other causes", (USOA, Account 823) in the rule; has the same effect as expressly excluding "Account 823." The facts and considerations in *Archer Daniels-Midland Co. v. Illinois Commerce Commission*, 184 Ill.2d 391 (1998) are not present in the current proceeding before the Commission. (See Staff RB, pp. 4-5)

c) Take-Or-Pay Costs

CIPS' reliance on *Re Costs Associated with Take-or-Pay Charges*, 97 P.U.R.4' 189 (Ill.C.C. Doc. 88-0103, Nov. 22, 1988.) is unavailing. Docket No. 88-0103 was similar to a rulemaking. The Federal Energy Regulatory Commission ("FERC") had already ruled on recoverability of take-or-pay charges. The docket was initiated by the Commission to investigate the appropriate recovery of costs associated with take-or-pay charges. (*Id.* at 190) All Illinois

gas utilities were made parties to the investigation. (*Id.*) In contrast, this docket is an annual reconciliation concerning one utility and the issue at hand has been previously ruled on by the Commission. (See Order, Docket No. 02-0717)

d) Prior Allowance of Costs

CIPS also returns to the argument centering on Central Illinois Light Company's ("CILCO") short-lived practice of passing these costs through the PGA. (CIPS BOE, pp. 4-5 and 12-13) However, the Commission rejected the premise that the cost of lost gas from company-owned storage should flow through the PGA in CILCO's last PGA reconciliation. (Order, p 5, Docket No. 02-0717 (August 4, 2004); See also Staff RB, pp. 2-4) The PO finding is not an abrupt departure (CIPS BOE, p. 13) from an established practice at the Commission. Thus the holdings of *Gonzalez-Blanco v. Clayton*, 110 Ill.App.3d, 197 (205), 441 N.E2d 1308 (1st Dist. 1982) are inapposite to the instant docket. (See Staff RB, pp. 8-9)

e) Prior Storage Adjustments

CIPS seeks to distinguish the current lost gas from previous company-owned storage losses which were recovered through base rates. (CIPS BOE, p. 9-10) However, Staff has refuted CIPS claims that the gas had been lost from the field formations. (See Staff IB, pp. 7-10, Staff RB, p. 7-8)

f) Guiding Principles

Finally, CIPS argues that the disallowing recovery of the cost of lost gas from company-owned storage conflicts with the guiding principles of the PGA. (CIPS BOE, pp. 10-11) This argument, like the preceding arguments, lacks merit. Both Staff (See IB, pp. 11-14, Staff RB, pp. 2-6) and the PO (p. 6) explain that the cost of lost gas from company-owned storage is not a cost of gas recoverable through the PGA, but is rather a cost that is recoverable through base rates. CIPS is aware of this. It made adjustments to Account 352.3, non-recoverable natural gas, thus increasing its rate base during its last rate case. (See Staff IB, pp. 6-7)

2. Replacement Language

Staff respectfully suggests the following replacement language:

- VI. RECOVERY FOR LOST GAS
 - A. CIPS position

CIPS notes that the only outstanding issue to be resolved involves a proposed adjustment by Staff of \$103,272 to disallow from recovery through the PGA the cost of purchasing the portion of gas that is lost in connection with the seasonal injections and withdrawals from the Company's on-system storage fields. CIPS states that Staff does not contend these gas costs were unnecessary, imprudent, or unreasonable, but rather the costs should have been recovered through base rates.

CIPS argues that the lost gas is part of the gas that it purchased to provide to end users and thus, the Company is complying with the PGA requirement to recover the costs of purchase gas to meet customer demand through the Gas Charge. CIPS characterizes Staff's position as being that "only the cost of gas actually available for delivery to customers can be recovered through the PGA."

CIPS notes that the PGA rule does not specify which USOA accounts qualify for recovery, and also contains no language suggesting amounts that fit the description of Account 823 are precluded from PGA recovery.

CIPS argues that these costs have been recovered through the PGA by another Ameren affiliate, CILCO, since 1996 and that Staff did not propose to change recovery of these costs to the base rates in that company's recent base rate order in Docket No. 02-0837.

CIPS distinguishes the current lost gas from previous company-owned storage losses which were recovered through base rates. CIPS states that the lost gas in question has been lost from the field formations.

CIPS argues that Staff's proposed adjustment violates 83 Ill. Adm. Code 525.40 (a) and (c), that Staff's proposal is inconsistent with the purpose of this rule, and the proposed adjustment diverges from recent Commission orders allowing recovery of lost storage field gas costs through the PGA. CIPS asserts that Section 525 parts a) and c) allows gas utilities to recover gas lost from storage fields through the PGA.

B. Staff Position

Staff argues that CIPS should be directed to reduce its commodity gas costs recoverable through the PGA for the cost of gas lost in CIPS's underground storage fields. Staff takes the position that CIPS over-recovered the total cost of gas costs recoverable through the PGA clause for the cost of gas lost in the operation of the underground storage fields.

Staff states that not all costs, for gas purchased for injection into the Company's gas stream, are eligible for PGA recovery. Rather the PGA rules enumerate what costs are allowed through the PGA. Staff asserts that these losses are part of the cost of operating an underground storage field and are properly recorded in either of two accounts: Account 352.3 (Non-recoverable Natural Gas) or Account 823 (Gas Losses). The failure to include "gas lost or unaccounted for in underground storage operations due to cumulative inaccuracies of gas measurements or other causes", (USOA, Account 823) in the rule; has the same effect as expressly excluding Account 823. It is Staff's position that regardless of

which account is used, these losses are recoverable through base rates and are not recoverable through the PGA.

Staff argues that CIPS has attempted to cloud the real issue in this docket. Staff asserts that the gas at issue here is lost during storage, is never withdrawn from the storage field, and is separately identifiable from all other types of lost gas. Staff believes that the Uniform System of Accounts for Gas Utilities specifically provides the proper accounting treatment and must be recorded in either Account 352.3 or Account 823.

Staff further argues that CIPS obscures the issue by attempting to show prior communications with former Staff members and CILCO concerning the treatment of gas lost from storage fields. Staff asserts that CIPSCILCO knew that it was not according this gas the proper accounting treatment when it asked for a waiver in 1996~~89~~. Staff further argues that CIPS's argument that other utilities have recovered these costs through prior PGA reconciliation does not constitute any sort of approval for this treatment.

Staff disputed CIPS' claim that the gas had been lost from the field formations. Staff noted that the Company's basis for determining the claimed losses were due solely to gas migration and gas fingering was the Company's evaluation of hysteresis curves and states that the Company admits that a hysteresis analysis cannot determine why any changes occurred at a storage field

C. Commission Conclusion

At issue is the regulatory treatment of gas that is lost in the underground storage fields owned and operated by CIPS. The Company and Staff agree that CIPS may recover the costs, but disagree as to whether CIPS is entitled to recover these losses, through the PGA. Costs recoverable through the PGA are enumerated in Section 525.40.

CIPS has tried to analogize gas lost from company-owned storage with gas lost in other operations. However, CIPS fails to acknowledge that the cost of other gas losses are permitted to pass through the PGA because the costs were incurred in the course of a function for which the costs are specifically addressed in Section 525.40(a)(2) and (3). It is not the fact that gas is lost that qualifies the cost for PGA recovery, but rather the function that was being

performed when the gas was lost. The cost of gas lost from company-owned storage is a cost of operation and maintenance of company-owned storage fields. The cost of operation and maintenance of company-owned storage fields is not an allowable PGA cost. The Commission concurs with Staff that these costs are recoverable in base rates and should be recorded in either Account 352.3 or Account 823.

The Commission is not persuaded by CIPS' argument that the costs were associated with gas that had been lost in the field formation, and in fact is truly gone thus requiring different treatment from previous storage adjustments. Staff stated, and CIPS did not disagree, that the hysteresis analysis, performed by the Company to support its argument, could not determine why changes occurred at the storage field. Staff reviewed the Company data, but was unable to confirm that the gas had been lost from the field formation. The Commission finds that the lost gas costs at issue here are indistinguishable from prior storage adjustments which were not recovered through the PGA.

CIPS has failed to support its allegation that previous PGA reconciliations reviewed and approved by the Commission have included the cost of company-owned storage as an element. The only evidence in this record to support the allegation is related to CIPS' affiliate, CILCO. While, due to facts present in that docket which are not present in this one, the Commission authorized CILCO to run similar costs through the PGA, the Commission admonished:

...at the earliest time possible, CILCO is to change the manner in which it treats these costs and recover them through base rates rather than through the PGA. (Order, p. 5, Docket No. 02-0717 (August 4, 2004))

The Commission concludes that CIPS should not be allowed to recover the lost gas costs at issue here through the PGA. Staff has not taken the position that these are non-recoverable costs, simply non-recoverable through the PGA. The Commission finds that the costs in question are certainly recoverable through base rates and should be recorded in either Account 352.3 or Account 823. The Commission is of the opinion that the CILCO case cited by CIPS does not provide a basis for CIPS to recover the lost gas costs through the PGA. In contrast to the showing made by CILCO in the case cited, CIPS can make no claim that it was given the "okay" by

Staff to recover the lost gas cost through the PGA, nor has CIPS been recovering the lost gas through the PGA in previous reconciliations.

III. CONCLUSION

WHEREFORE, for all the reasons set forth herein, the Staff of the Illinois Commerce Commission respectfully requests that its recommendations be adopted in this proceeding.

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Respectfully submitted,



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