

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

NORTHERN ILLINOIS GAS COMPANY)
d/b/a NICOR GAS)
Proposed general increase in rates, and)
revisions to other terms and conditions)
of service.)

Docket No. 04-0779

REPLY BRIEF OF ENVIRONMENTAL LAW AND POLICY CENTER

VI. COST OF SERVICE, RATE DESIGN, AND TARIFF TERMS AND CONDITIONS

B. Rates, Riders, and Other Terms

15. Energy Efficiency Programs

I. INTRODUCTION.

Nicor consumers have been hard hit in recent years by increasing gas bills. The cost of gas supply constitutes 70-75% of the typical residential consumers' bills, and natural gas commodity prices are rising. In the winter peak demand months, Nicor often buys very expensive gas at the margins to meet demand. This expensive gas can cost twice as much as the average, and it thus pulls up the average cost of gas that is passed through to all consumers.

Energy efficiency is the only real consumer protection approach available for the Commission, Nicor and consumers to hold down the cost of gas supply and to keep energy dollars in Illinois' economy. Many states have instituted successful energy efficiency programs that have saved natural gas and, in turn, reduced consumers' utility bills. These programs include such tried-and-true measures as incentives for efficient furnaces, water heaters, and windows, furnace tune-ups, weatherization, and better or increased insulation.

Natural gas energy efficiency programs can benefit the participating consumers, all consumers, and the economy. They can benefit all consumers by reducing the average cost of natural gas through mitigating the need for expensive natural gas at the margins. They benefit the state's economy by reducing the flow of consumers' energy payments to out-of-state natural gas producers and increasing spending on in-state energy efficiency providers and products.

The General Assembly has directed the Commission to promote energy efficiency, and the extensive evidence in the record provides a strong basis for the Commission to require adoption of energy efficiency programs in its Final Order in this docket. 20 ILCS 687/62; 20 ILCS 1120/2 (b) (1) & (2); 220 ILCS 5/1-102 (b); 220 ILCS 5/8-401. Nicor concedes that "the Commission has the authority to initiate a proceeding to pursue energy efficiency programs for gas utilities." (Nicor Ex. 19.0, lines 336-338.) The Attorney General on behalf of the People of the State of Illinois, the Citizens Utility Board on behalf of residential and small business consumers, and the Cook County State's Attorney's Office on behalf of Cook County consumers have all joined the Environmental Law & Policy Center to support the Commission's adoption of a framework and funding for energy efficiency programs for consumers in the Nicor service territory. Unfortunately, Nicor, along with the IIEC and, possibly, Staff, would have consumers and the Illinois economy continue to miss this opportunity and, indeed, necessity. It is time for the Commission to adopt the energy efficiency program framework and funding recommended by ELPC, the Attorney General, CUB and the Cook County State's Attorney's Office in this docket for the benefit of consumers, for sound policy, and for good economic and environmental reasons.

II. NICOR OFFERS NO MEANINGFUL SOLUTION TO GAS COST PROBLEMS AND WOULD DEFER ENERGY EFFICIENCY SOLUTIONS.

Nicor argues that there is insufficient detail in the record regarding costs, rate design, and a tariff for cost recovery in order for the Commission to adopt energy efficiency programs. Nicor claims “that the process of deciding on a process and program is typically a lengthy and tortuous one.” (Nicor Initial Br. at 149.)

ELPC has presented ample detail to support an informed decision by the Commission adopting ELPC’s proposed order. Such detail was introduced through the comprehensive testimony of Dr. Martin Kushler and his supporting exhibits as well as the other document exhibits and cross-examination testimony cited in ELPC’s Initial Brief. (*See, e.g.*, ELPC Ex. 1, 2:40–6:128; ELPC Ex. 1.2; ELPC Ex. 1.3, ELPC Ex. 6; R. at 825:14–827:9.) ELPC’s proposed Final Order would set the framework for the energy efficiency programs, the funding level and direct Staff and interested parties to engage in a timely collaborative process to reach agreement on recommended programs, administration and other implementation details. (*See* ELPC’s Initial Br. at 2-3 for proposed Final Order text.) That collaborative process need not be “a lengthy and tortuous one,” as Nicor suggests, once the Commission has set forth the framework, funding level and other instructions in its Final Order in this docket. (Nicor Initial Br. at 149.) The parties can draw upon their own knowledge and the extensive energy efficiency program experiences in other states to engage in a focused and prompt collaborative effort to reach agreement in order to achieve the extensive benefits of energy efficiency programs. (ELPC Ex. 1, 8:173–9:193; ELPC Ex. 6, *California P.U.C Order Instituting Rulemaking to Examine the Commissions’ Future Energy Efficiency Policies, Administration and Programs*; ICC Staff Ex. 17.0, 18:360-364; R. at 1056:6–1059:16.)

Nicor asserts that it does not oppose energy efficiency initiatives: “Nicor does not oppose energy efficiency initiatives; however . . . there should be the appropriate mechanisms in place to insure that cost-effective programs are designed and selected.” (Nicor Initial Br. at 149.) The proposed collaborative process is just such a mechanism. Identifying cost-effective programs for implementation is relatively easy because Illinois can benefit from the experiences of other states. Cost-effective programs in other states that can provide models have already been identified, evaluated and compiled in detailed studies entered into evidence in this proceeding. (ELPC Ex. 1.3, *Responding to the Natural Gas Crisis: America’s Best Natural Gas Energy Efficiency Programs*; ELPC Ex. 6 *Order Instituting Rulemaking to Examine the Commissions’ Future Energy Efficiency Policies, Administration and Programs*.)

Nicor also states that the “Commission should consider its fundamental policy.” (Nicor Initial Brief at 149.) ELPC agrees. The General Assembly has specifically directed the Commission to consider energy efficiency and environmental impacts. 220 ILCS 5/1–102 (b); 220 ILCS 5/8–401; 20 ILCS 687/6-2; 20 ILCS 1120/2 (b) (1) & (2).¹ As the Attorney General points out, the Commission has both the “responsibility to address efficiency issues” and the “authority to address the issue of energy efficiency when determining base rates.” (People of the State of Illinois Initial Br. at 30-31 (citing 220 ILCS 5/8-401).) “The Commission’s ratemaking responsibilities . . . as well as its general supervisory authority over public utilities . . . require it to establish rates that are fully compliant with all provisions of the Act.” (*Id.* at 31 (citing 220 ILCS 5/9-201, 5/4-101).)

Finally, Nicor argues that a “[s]eparate proceeding would be a better forum.” (Nicor Initial Br. at 150.) However, Nicor fails to acknowledge that this rate case provides an

¹ For a full discussion of the legislation and fundamental policies requiring the Commission’s adoption of energy efficiency programs, please see ELPC’s Initial Brief at 11-13.

opportunity to obtain cost recovery of the designated funding level of the energy efficiency programs as a just and reasonable operating expense. As aptly stated by the Citizens Utility Board and the Cook County State’s Attorney’s Office, “Nicor opposes the approval of funding for energy efficiency programs in this proceeding, but it fails to adequately explain or defend its position.” (CUB/CCSAO Initial Br. at 46.)

III. STAFF’S POSITION.

Staff makes the sole conclusory statement that there is “insufficient detail regarding the programs,” but then “supports a collaborative process to determine energy efficiency programs to implement, and their costs, should the Commission determine that such programs should be funded.” (Staff Initial Br. at 134, ICC Staff Ex. 17.0, 18:360–364.) As described above, there is ample detail in the record, and Staff witness Borden provided a roadmap as to some fundamentals of the collaborative process and programs in his testimony on cross-examination. (R. at 1056:6–1058:19.)

IV. THE IIEC’S ARGUMENTS IGNORE THE VALUE OF ENERGY EFFICIENCY PROGRAMS.

IIEC ignores all of the evidence in favor of cost-effective energy efficiency programs in the record when it argues that programs have not been demonstrated to be cost-effective or least cost. The evidence in support of cost-effectiveness is summarized above with supporting citations to the record. Suffice it to say that energy efficiency measures cost half per Mcf saved over what natural gas costs to supply. (ELPC Ex. 1, 3: 51–59, 4:87–5:104.) That alone provides sufficient support for the cost-effectiveness of the programs and, in fact, is acknowledged later in IIEC’s brief. (IIEC Initial Br. at 30.) CUB and CCSAO agree: “[I]f implemented properly, these

programs should in fact reduce the usage of gas at peak prices during the winter and produce substantial savings for consumers.” (CUB/CCSAO Initial Br. at 46.)

IIEC goes on to argue that a Commission-adopted energy efficiency program is not necessary for industrial consumers because of market forces. However, IIEC misses the point that even though the market forces are there, that does not mean that all industrial consumers have taken advantage of energy efficiency opportunities. IIEC only represents particular industrial customers—indeed, a relatively small number—not all. In fact, an evaluation of industrial energy efficiency programs in other states demonstrates and identifies plenty of opportunities to reduce industrial natural gas usage through energy efficiency measures in a cost-effective manner despite the presence of those same market forces. (ELPC Ex. 1.2, *Responding to the Natural Gas Crisis: America’s Best Natural Gas Energy Efficiency Programs*, at 75-88.)

V. CONCLUSION.

For the foregoing reasons and those presented in ELPC’s Initial Brief, the Commission should adopt in its Final Order a framework and funding level for targeted energy efficiency programs that can provide both utility bill savings to Nicor consumers and benefits for Illinois’ economy and environment. These benefits were detailed in ELPC’s Initial Brief at 5-11 and are summarized as follows:

- Consumers who directly participate in energy efficiency programs would save money on their utility bills by reducing gas use through more efficient furnaces, better insulation and other tried-and-true approaches.
- All Nicor consumers would benefit because energy efficiency programs can help avoid very expensive gas at the margins which drives up the average cost of gas that is passed through to all consumers and comprises 70%-75% of the typical residential customer’s Nicor utility bill.

- All Nicor consumers and Nicor would benefit because energy efficiency programs would reduce “uncollectibles.”
- The above savings taken together would reduce the flow of money from the Illinois consumers to gas-producing states and, consequently, the dollar drain on the state’s economy.

These benefits can be achieved by the Commission’s adoption of the following energy efficiency program steps in its Final Order in this case, as described in ELPC’s Initial Brief at 2-3 and summarized as follows:

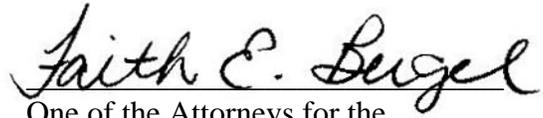
1. The Commission’s Order should direct that energy efficiency programs in the Nicor service territory be funded at the level of \$38 million per year for five years. Alternatively, at the very least, the energy efficiency programs should be funded at a level of \$10 million per year. Nicor should be permitted to recover these program expenses as normal operating expenses through its distribution rates.

2. The Commission’s Order should direct that the energy efficiency programs include tried-and-true measures, such as incentives for efficient furnaces, water heaters, and windows, furnace tune-ups, weatherization, and better or increased insulation. The Commission should also direct that an independent, qualified third-party be engaged to administer the programs.

3. The Commission’s Order should direct that a collaborative process be convened in which interested parties determine the details of the program. The collaborative process should be used to identify the portfolio of energy efficiency programs that would be adopted and implemented. The Commission should direct that the collaborative process be completed within 90 days with a report to be submitted to the Commission while the energy efficiency program funds collected by Nicor through its rates are retained in escrow for consumers’ benefit and use to support the energy efficiency programs.

Dated: July 5, 2005

Respectfully submitted,

A handwritten signature in black ink that reads "Faith E. Bugel". The signature is written in a cursive style with a horizontal line underneath the name.

One of the Attorneys for the
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