

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

KEVIN GRENS	§	
VS.	§	DOCKET NO. 05-0681
ILLINOIS AMERICAN WATER COMPANY	§	
	§	
PEOPLE OF THE STATE OF ILLINOIS	§	
VS.	§	
ILLINOIS-AMERICAN WATER COMPANY	§	DOCKET NO. 06-0094
	§	
Investigation of failure to provide service on	§	
Just and reasonable terms, and violation of the	§	(Cons.)
Public Utilities Act and Commission rules.	§	
	§	
VILLAGE OF HOMER GLEN	§	
VS.	§	DOCKET NO. 06-0095
ILLINOIS-AMERICAN WATER COMPANY	§	
	§	
Complaint as to billing/charges in Homer Glen,	§	
Illinois.	§	

**REBUTTAL TESTIMONY
OF MARY NIEMIEC
ON BEHALF OF VILLAGE OF HOMER GLEN**

HG EXHIBIT 5.0

8 SEPTEMBER 2006

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**PREFILED REBUTTAL TESTIMONY
OF MARY NIEMIEC
ON BEHALF OF THE VILLAGE OF HOMER GLEN**

6 **Q. Please state your name.**

7 A. My name is Mary Niemiec and I am the mayor pro tem of the Village of Homer
8 Glen.

9 **Q. Did you file direct testimony in this docket?**

10 A. Yes, I did.

11 **Q. What is the purpose of your rebuttal testimony?**

12 A. The purpose of my testimony is to respond to the testimony filed by Illinois
13 American Water Company and the Illinois Commerce Commission (ICC) Staff
14 (Staff).

15 **Q. Did your review of the testimony of the Illinois American Water (IAW)**
16 **witnesses or the Illinois Commerce Commission Staff witnesses change any of**
17 **your recommendations in your original testimony?**

18 A. No, it does not. I found the testimony of IAW to be general in nature. It did not
19 address the serious issues that were raised by Homer Glen's expert witness Scott
20 Rubin or by me in our direct testimony. It appears that the ICC Staff did not
21 conduct a thorough investigation of the allegations and focused mainly on some
22 technical issues.

23 **Q. Turning first to the testimony of IAW witness Frederick L. Ruckman. Do**
24 **you agree with his statement on Page 2 of his testimony that the complaint by**
25 **Homer Glen reflects "an unusual set of problems that occurred in Chicago**

26 **Metro and were exacerbated by the severe drought experienced in 2005. As**
27 **such, these problems are limited in scope?”**

28 A. No. I believe the problems described in my original testimony and the testimony
29 of Mr. Rubin indicates that there are systemic, not limited problems, with the
30 operation of IAW.

31 **Q. Do you agree with Mr. Ruckman at Page 5 of his testimony that IAW has**
32 **taken appropriate steps to resolve the problems you and Mr. Rubin**
33 **identified?**

34 A. No. IAW continues to only react to problems after they are identified. In
35 addition, the company refuses to admit that its past practices and failures of its
36 customer service office resulted in acts of intimidation and harassment to its
37 customers. Mr. Ruckman wants to erroneously paint a picture that IAW
38 independently took steps to resolve the issues that Homer Glen identified in its
39 complaint. On the contrary, had it not been for Homer Glen’s inquiries, public
40 meetings and the filing of the complaint, I do not believe that IAW today would
41 be offering refunds for its back billing. This belief is confirmed in the answers by
42 Kevin Hillen, Network Operations Manager for IAW to Homer Glen’s data
43 requests 2.9 and 2.10. In data request 2.9 IAW was asked when it became aware
44 that its external odometer devices were not functioning properly. Mr. Hillen
45 responded that IAW “became aware that certain external odometer devices were
46 not functioning problem *in response to consumer complaints*, either to the
47 Customer Service Center or the ICC.” Data request 2.10 asked when IAW
48 became aware that Homer Glen residents were being back-billed for service for

49 more than 12 months. Mr. Hillen said the determination that back billing
50 occurred “was made *in response to internal investigations of customer*
51 *complaints.*” A copy of the data responses are attached as HG Exhibits 5.01 and
52 5.02 to this testimony. These responses indicate that had it not been for the
53 complaints, IAW would have been unaware of its violations of ICC rules and
54 regulations and its problems with its billing system.

55 **Q. Mr. Ruckman at Page 6 states that since there are no outstanding balances or**
56 **disputes with IAW’s customers who filed testimony that their concerns**
57 **should be ignored. Do you agree?**

58 A. No. The three citizens of Homer Glen came forth to offer testimony to describe
59 the treatment they received from IAW. The problems our residents described
60 demonstrate the company’s attitude toward its customers and their problems.
61 Merely because the customers finally forced IAW to act does not mean that the
62 company’s actions were proper in the first instance.

63 **Q. Beginning at Page 12 of his testimony, Mr. Ruckman compliments his**
64 **company for the lack of complaints filed with the ICC and states the increase**
65 **in complaints in 2005 was driven by Homer Glen. Do you agree?**

66 A. No. I do not know why the complaints filed with the ICC in 2004 were so low.
67 However, I do know that Homer Glen did not encourage its residents to complain
68 about IAW. The opposite is true unless if by “encourage,” IAW means informing
69 Homer Glen residents of their legal rights, then Homer Glen is guilty of
70 “encouraging.” The Village began to receive numerous complaints from its
71 residents in 2005 concerning spiking bills from IAW and less than courteous

72 treatment from IAW's customer representatives. IAW did not send customer
73 information brochures to residents explaining the process to file complaints with
74 the ICC. Nor did IAW have a person assigned to hear complaints from residents
75 in person. In its response to Homer Glen Data Request 1.9, IAW admits that it
76 did not have a consumer representative as required by ICC regulations. A copy of
77 the data request answer is attached to my testimony as HG Exhibit 5.03. It was
78 not until Homer Glen received numerous complaints that Village representatives
79 contacted the ICC and were directed by the ICC to have residents file complaints
80 at the ICC. Homer Glen then made its residents aware of the procedure they
81 needed to follow. Even after complaints were filed with the ICC, no action was
82 taken by the ICC nor am I aware of any investigation undertaken by the ICC.

83 **Q. Mr. Ruckman attempts to blame the "spikes" in customer bills on the**
84 **drought. Do you believe that is the only cause of the spikes?**

85 A. No. Mr. Ruckman himself admits that during 2005 IAW was in the process of
86 changing out meters, the company billed customers for usage for a period more
87 than 12 months prior to the meter reading. He does not explain, however, why the
88 company did not detect this back billing when it occurred rather than finding it
89 only after Homer Glen customers began filing complaints with the Village and
90 with the ICC. As I understand the testimony of our expert Scott Rubin, the
91 company's billing program should have flagged these bills.

92 If the problem was limited to drought conditions as Mr. Ruckman states,
93 then why is the company providing refunds because of back billing customers due
94 to meter change outs? Moreover, the unrebutted allegations in the Homer Glen

95 complaint show that spiked bills occurred in November 2005 (Exhibit R and S
96 attached to the complaint), in December 2005 (Exhibit T) and January 2006
97 (Exhibit U). As far as I am aware in Illinois November, December and January
98 are not summer months or months when Homer Glen residents would be watering
99 their lawns.

100 **Q. One of the recommendations of Mr. Rubin and you is that there should be a**
101 **detailed audit of IAW's billing practices. Mr. Ruckman at Page 16 has**
102 **described an "audit" conducted by IAW on itself. Is this self audit**
103 **satisfactory to Homer Glen?**

104 A. No. The company itself admits that it was not a full audit. First, the audit only
105 covers those customers who had their meter changed by IAW since 2003.
106 Second, the criteria further restricted the audit to customers whose recorded usage
107 was different for the inside and outside meter. Of these, IAW "audited" only 474
108 accounts. Of the 474, it found that 335 were entitled to a credit. In other words,
109 of the accounts IAW self selected and self audited over 71 per cent were entitled
110 to a credit. To me, this indicates that a more detailed audit is necessary by an
111 impartial, outside auditor.

112 The audit by IAW also does not address the issues raised by Mr. Rubin
113 concerning consecutive months of zero usage bills nor does it answer the question
114 of whether there are other problems with billing by IAW.

115 In addition, since the filing of my original direct testimony, the Village has
116 been contacted by residents who have billing issues with the sewer charge. In
117 these new complaints from Homer Glen residents, several residents have been

118 billed for the entire month of sewer service even though they took service for as
119 little as six days (such as a new move in or move out). Other sewer customers
120 report that their bills have been prorated for the number of days they had service.
121 Thus it appears that IAW is at least inconsistent with its sewer charges in these
122 circumstances. This is further evidence that there are problems with IAW's
123 billing program and billing methods.

124 **Q. Do you agree with Mr. Ruckman's statement on Page 21 that IAW "is taking**
125 **aggressive action" to lower the unaccounted for water loss in Homer Glen?**

126 A. Mr. Ruckman outlines several steps that the company is taking to reduce lost
127 water. Mr. Ruckman does not provide in his testimony any detailed information
128 or data on how or by how much water lost by IAW will be reduced by IAW's
129 actions. In addition, Mr. Ruckman failed to demonstrate that IAW promptly
130 sends crews to repair reported water leaks. It has been the Village's observation
131 that IAW delays at night and on weekends to send crews to repair water leaks.

132 **Q. On Page 49, Mr. Ruckman states that the "spiking" bills cited by Homer**
133 **Glen "are related to the drought conditions." Do you agree?**

134 A. No. Mr. Ruckman himself contradicts his own statement. Earlier in his
135 testimony, Mr. Ruckman said that based on IAW's own, self-selecting audit that
136 71 per cent of bills reviewed showed that the customers were entitled to a credit.
137 This refund is not due at all to drought conditions but rather back billing that IAW
138 itself now admits was improper under ICC regulations, requiring that the charge
139 be refunded.

140 **Q. Mr. Ruckman at Page 49 states that 30 per cent of those Homer Glen**
141 **residents who called the Village never filed a complaint with the ICC. He**
142 **further states that the Homer Glen log was part of an attempt by the Village**
143 **“to encourage residents to complain about IAWC.” Can you comment on his**
144 **statements?**

145 A. Mr. Ruckman is incorrect in his statements. The Village did keep a log of
146 residents who called to complain about IAW. It was not until Homer Glen
147 representatives met with the ICC following a rash of complaints from its residents
148 that the Village became aware that individual residents could file complaints with
149 the ICC. Homer Glen did not “encourage” residents to file their complaints with
150 the ICC. Rather, the residents who called the Village were told that they had the
151 right to file a complaint with the ICC. Since IAW did not provide Homer Glen
152 residents with a customer brochure, many residents were unaware of their right to
153 file a complaint with the ICC. This lack of information from IAW concerning the
154 complaint process may help explain why complaints in the past were so low since
155 there was no information on what rights customers had concerning IAW’s
156 practices. Finally, it was IAW’s actions in the way it billed customers and treated
157 customers that “drove up the volume of complaints,” not the fact that customers
158 were informed of their rights.

159 **Q. Mr. Ruckman at Page 30 indicates that IAW met with the Village to resolve**
160 **its issues. Were those meetings successful?**

161 A. Obviously the issues were not resolved. At no time during the meetings with
162 Homer Glen did IAW offer to conduct an audit or to make refunds to customers it

163 had back billed. Due to the lack of a response from IAW to resolve the issues,
164 Homer Glen was forced to file its formal complaint with the ICC that resulted in
165 this docket.

166 **Q. Mr. Ruckman states that IAW eventually stopped the back billing. Doesn't**
167 **this indicate that the company was responding to Homer Glen?**

168 A. No. The company only stopped the back billing after Homer Glen met with the
169 ICC and the Illinois Attorney General. There was no discussion or offer of
170 refunds for the overbilling until after the formal complaint was filed with the ICC
171 and IAW began to respond to data requests from Homer Glen and the Attorney
172 General.

173 **Q. Mr. Ruckman states at page 52 that IAW did not harass or intimidate**
174 **customers. Do you agree?**

175 A. No. I believe the testimony of the residents indicate otherwise. I also think that
176 the company continued to try to harass and intimidate customers by sending out
177 photographers to photograph the houses of Homer Glen residents who complain
178 about IAW.

179 **Q. Did you review the testimony of IAW witness Karen Cooper?**

180 A. Yes I have.

181 **Q. Do you have any comments regarding her testimony?**

182 A. Yes. As with Mr. Ruckman, Ms. Cooper only offers general statements. She
183 offers no first hand testimony concerning the billing issues or the issues regarding
184 the poor quality of service from IAW's customer service center.

185 **Q. Ms. Cooper says that “not every customer inquiry to the CSC is a**
186 **complaint.” Do you agree?**

187 A. I do not know what criteria IAW uses to distinguish a customer inquiry from a
188 complaint. What I do know is that Homer Glen received complaints from its
189 residents concerning the treatment by the IAW call center and the lack of
190 responsiveness. If by designating a call an “inquiry” rather than a “complaint”
191 IAW is able to keep the call off the complaint log, then the registered complaints
192 may be understated.

193 **Q. Does the testimony by Ms. Cooper resolve the issues raised by the individual**
194 **Homer Glen residents who filed testimony?**

195 A. The residents raised valid questions that should not be dismissed by merely
196 reviewing the “records” of the call center. I also am concerned that in spite of the
197 serious nature of the threats made to Ms. Finnegan IAW did not discipline the
198 employee involved and has attempted to shift the blame to Ms. Finnegan by
199 describing her as an “irate” caller in IAW’s response to Homer Glen’s Data
200 Requests 1.42 and 2.18. A copy of those data requests are attached to my
201 testimony as HG Exhibits 5.04 and 5.05.

202 **Q. Have you reviewed the testimony filed by ICC Staff Witnesses Joan Howard**
203 **and William R. Johnson?**

204 A. Yes.

205 **Q. Do you have any concerns about their testimony?**

206 A. Yes. Neither witness apparently made any attempt to talk with any Homer Glen
207 resident or to investigate any of the factual allegations in the Homer Glen

208 complaint. Rather, their testimony focused on only contacting the company and
209 analyzing data provided to them by the company. This is especially disappointing
210 because since 2005, Homer Glen has been encouraged by the ICC to have its
211 residents file complaints with the ICC concerning IAW but the ICC staff
212 apparently has failed to take the complaints seriously and investigate. Rather the
213 Staff witnesses merely talks with IAW and accepts the company's response
214 without seeking input from the persons actually involved.

215 **Q. Do you agree with the Staff's conclusion that the company only should be**
216 **given a warning and only receive an administrative penalty if it violates the**
217 **specific warning in the future?**

218 A. I cannot address any legal issues concerning how to impose penalties. However,
219 from a policy perspective, I do not believe a utility should be allowed to commit
220 serious infractions of ICC regulations knowing that it will not be penalized until it
221 receives a specific Commission-issued warning.