

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

KEVIN GRENS, THE PEOPLE OF THE STATE OF ILLINOIS, AND THE VILLAGE OF HOMER GLEN)	
COMPLAINANTS)	
v.)	DOCKET NOS.
ILLINOIS-AMERICAN WATER COMPANY)	05-0681, 06-0094, and 06-0095
RESPONDENT)	(cons.)
)	
Complaint as to billing/charges in Lemont, Illinois, etc.)	

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OF THE STAFF WITNESSES**

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**INITIAL BRIEF
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Now come the Staff Witnesses of the Illinois Commerce Commission (“Staff Witnesses”) and present its opening brief in the above case.

I. OVERVIEW OF CASE

The Attorney General of the State of Illinois (“AG”), The Village of Homer Glen (“Homer Glen”), and Kevin Grens filed complaints against Illinois-American Water Company (“IAWC” or “Company”). The AG and Homer Glen claim there is a pattern of non-compliance with the rules and regulations of the Commission and violations of the Public Utilities Act (“Act”) (AG’s First Amended Verified Complaint, pp.11-13, and Homer Glen’s Verified Original Petition, pp.15-16). Mr. Grens’ complaint concerns billing, charges, and rates (*see also* Hearing of October 31, 2006, Tr. 173-187).

Staff witness Johnson addressed issues related to 83 Ill. Adm. Code 600.150 & 600.300-360 (meter records and tests), 600.140(c) & 600.240 (valve and hydrant records), and 600.170 (complaint records) (Staff Ex.1.0, pp. 6-39; and Staff Ex. 3.0, pp.

1-2), all of which were raised by the AG's complaint. Mr. Johnson reviewed billing practices covered under 83 Ill. Adm. Code 600.160 related to the purchased water supply charge, high monthly water usage, and unaccounted for water (Staff Ex. 1.0, pp. 39-47; Staff Ex. 3.0, pp. 2-3). Mr. Johnson also addressed issues concerning notice of water restrictions (Staff Ex. 1.0, pp. 45-46), civil penalties (Staff Ex. 1.0, pp. 47-49) and the possibility of an audit of the meter records that he had reviewed (Staff Ex. 3.0, pp. 3-4). Mr. Johnson had made numerous recommendations for improvement of the recordkeeping and operations of IAWC (Staff Ex. 1.0, pp. 50-53).

In her initial testimony (Staff Ex. 2.0, pp. 1-6), Staff witness Joan Howard addressed three issues in connection with the consolidated complaint cases: (i) the efforts of Illinois American Water Company to correct make-up bills resulting from meter replacement in the Chicago Metro area; (ii) the company's decision to consider changes to its bill format and information to customers; and (iii) the Company's lack of compliance with Section 280.200 of the Commission's Rules. Additionally, by way of background, Staff Witness Howard described the procedures followed by Consumer Services Division staff when a complaint involves a rate approved by the Commission (*Id.*, pp. 6-8). Staff witness Howard in her rebuttal testimony (Staff Ex. 4.0) testified as to audits, especially the specification necessary for ordering a management audit under Section 8-102 of the Act, 220 ILCS 5/8-102.

II. ALLEGED VIOLATIONS OF ADMINISTRATIVE RULES

The AG's First Amended Verified Complaint, page 8 paragraph 26, states that the violations of Commission rules appear to be affecting all districts in IAWC's service

territory. Staff witness Johnson therefore decided to survey a portion of IAWC's operations by choosing areas from the northern, central, and southern parts of the state (Staff Exhibit 1.0, pp.3-4). In the North, Mr. Johnson visited IAWC's Woodridge, Illinois office on March 30, 2006 and May 9, 2006, to inspect meter, hydrant, and valve records associated with the Homer Glen and the Orland Hills service areas of IAWC's Chicago Metro service area. Centrally, Mr. Johnson went to IAWC's Champaign, Illinois office on May 3, 2006, to inspect meter, hydrant, and valve records associated with the Champaign/Urbana service area. In the South, Mr. Johnson traveled to IAWC's Cairo, Illinois office on June 7, 2006, to inspect meter, hydrant, and valve records associated with the Cairo service area. Finally, Mr. Johnson visited IAWC's call center located in Alton, Illinois on June 20, 2006, to inspect complaint records related to the Homer Glen, Orland Hills, Champaign/Urbana (sometimes referred to as the "Champaign" service area), and Cairo service areas.

In determining the number of records to examine, the Staff Witnesses took into account manageability, resources, as well as, time constraints (Staff Exhibit 1.0, p.4). Staff witness Johnson selected a random sample of 1% of each type of record (1% of meters for each service area, 1% of valves for each service area, 1% of hydrants for each service area, and 1% of complaints from January 2004 through March 2006 for the Northern, Central, and Southern service areas). However, 1% of the meters in the Champaign service area would have meant that five hundred (500) records would be needed. As these could not be reviewed adequately in the limited time available, Mr. Johnson selected a random sample of ½% for the Champaign meter records. Additionally, Mr. Johnson set the minimum amount of records to be reviewed at twenty

(20) per service area (Staff Exhibit 1.0, p.4). The Commission Order of April 5, 2006 in Ill.C.C. Docket No. 04-0651 on page 4 recently accepted the use of a 1.5% data set sampling to allow IAWC a variance from the requirement under 83 Ill. Adm. Code 600.240 to annually inspect and operate all valves (Staff Exhibit 1.0, p. 34, and Hearing of November 1, 2006, Tr. 534).

A. METER RECORDS

The AG listed 83 Ill. Adm. Code 600.300-360 as being violated by IAWC on page 11, Subparagraph 40(a) of its First Amended Verified Complaint. However, the direct testimony of their witness, Scott Rubin, did not discuss these violations, and his rebuttal testimony (AG/HG Ex. 2.0, p.5) addressed only 83 Ill. Adm. Code 600.340 in relation to the former Citizens Utilities Company of Illinois (“Citizens”) territory within IAWC’s Chicago Metro service area. Homer Glen did not specifically discuss 83 Ill. Adm. Code 600 rule violations related to meters in their petition or testimony but merely stated that they are co-sponsoring the testimony of AG witness Scott J. Rubin (Homer Glen Exhibit 1.0, p. 1).

Staff reviewed compliance with 83 Ill. Adm. Code 600.300-360, as well as 83 Ill. Adm. Code 600.150, Customer Meter Test Records, since the AG in its First Amended Verified Complaint on page 2 stated that, among other things, IAWC had failed to maintain its meters to ensure their accuracy. The records required by 83 Ill. Adm. Code 600.150 give an indication of the age of meters, the testing that has occurred, and are a verification of compliance with Sections 600.310 and 600.340 (Staff Exhibit 1.0, p. 6).

The summary results of meter record inspections and the conclusions of the Staff Witnesses are found on Staff Exhibit 1.0, pp. 6-25, and are as follows:

- (i) 83 Ill. Adm. Code 600.150** – The Cairo, Champaign, and Homer Glen service areas, overall, met the requirements of Rule 600.150. There was information missing on some accounts, which the testimony characterized as minor violations. Staff Witnesses recommended the Company bridge the gap between their computerized meter information and the separately kept “hard-copy” meter information. The goal is to be able to trace a meter and its test results over the course of its service life. IAWC should be able to take an account number or meter number and trace it back to its initial purchase and installation in a simpler and quicker fashion. The Orland Hills service area was missing a large amount of the information required by this Rule and, therefore, was not in compliance with the Rule in the opinion of the Staff Witnesses.
- (ii) 83 Ill. Adm. Code 600.300** – All areas inspected met the requirements of Rule 600.300.
- (iii) 83 Ill. Adm. Code 600.310** – Overall the areas inspected met the requirements of Rule 600.310. The meter test results reviewed were all in compliance but, as discussed in connection with Rule 600.150, the Company needs to be able to take an account number or meter number and trace it back to its initial purchase and installation in a simpler and more organized fashion. Test results can be located, but in some cases it took a lot of effort to locate them. Also, the records associated with the Chicago Metro Service area were not as organized as the Cairo and Champaign service areas, but this could be due to the relatively recent acquisition from Citizens.

(iv) 83 Ill. Adm. Code 600.320 - The Rule provides the Company with the option to test meters at the place of installation with Commission approval. The Company does not test residential meters on site. There is no indication the Company is non-compliant with this Rule.

(v) 83 Ill. Adm. Code 600.330 – Overall, the service areas inspected met the requirements of Rule 600.330. Staff witness Johnson saw nothing during his inspections of any service area that would lead him to believe that meters are not tested prior to installation or that the meter test results were not within the guidelines established in Rule 600.310.

(vi) 83 Ill. Adm. Code 600.340 – The Cairo, Homer Glen, and Orland Hills service areas met the requirements of Rule 600.340, according to the examination by Staff witness Johnson. Although the Rebuttal Testimony of the AG and Homer Glen (AG/HG Ex. 2.0, p.5) questions whether IAWC’s Chicago Metro Service area, which includes Homer Glen and Orland Hills service areas, will meet 83 Ill. Adm. Code 600.340 in all cases, said testimony recognizes that IAWC is intending to replace the meters in the Chicago Metro Service area before the deadlines of Rule 600.340 when measured from IAWC’s acquisition of the Chicago Metro Service area.

However, IAWC’s Champaign service area had thirty-four (34) removed meters that had not been tested within the frequency required by Commission order in Ill.C.C. Docket No. 76-0491 or by Rule 600.340. (The Commission in Ill.C.C. Docket No. 76-0491 had allowed IAWC’s predecessor in the Champaign service area to test its 5/8” meters every fifteen (15) years instead of every ten (10) years as required in Rule 600.340.) Since records for cubic feet were not kept, it is possible that, had such

records been available, other violations of either the variance allowed in Ill.C.C. Docket No. 76-0491 or the requirements of Rule 600.340 could have been identified.

Because of the importance of the meters in registering usage for customer bills, the Staff Witnesses consider the Champaign service area to be noncompliant with Rule 600.340 and, if applicable, the exemption allowed by the Commission in Ill.C.C. Docket No. 76-0491. Because the Staff Witnesses question the need for the variance in the Champaign service area, when the rest of IAWC's service areas use the normal ten (10) year timeperiod for testing 5/8" meters, the Staff Witnesses recommend that the Commission order IAWC to file a petition (within one year from the date of this order) to enable the Commission to review whether the fifteen (15) year meter testing period variance is appropriate for IAWC's Champaign Division.

(vii) 83 Ill. Adm. Code 600.350 - All four services areas have tariff sheets on file with the Commission explaining customer-requested meter tests and, therefore meet the requirements of Rule 600.350. However, Staff Witnesses found, after reviewing the Company's rules, regulations, and conditions of service within the tariffs, that the tariffs are confusing, repetitive, and inconsistent. There are, in fact, three different meter testing tariffs for the Champaign, Cairo, and Chicago Metro service areas. It would be much simpler to condense them to one tariff representing all service areas or to provide identical language in each District's tariffs. Staff Witnesses have recommended that IAWC create one unified set of rules, regulations, and conditions of service for all of its service areas in the State of Illinois, to be completed within two years of the date of the final order in this proceeding.

(viii) 83 Ill. Adm. Code 600.360 – The Rule does not apply to the Company. Staff Witnesses did not find any evidence of a violation on the Company's part.

(ix) Summary of meter record recommendations –

Staff witness Johnson found that while there were some compliance issues (Staff Ex. 1.0, pp. 6-25), which Staff recommended certain corrections to and IAWC agreed, he found nothing indicating IAWC has a Company-wide meter problem. (Staff Witnesses will discuss the odometer style meter change-outs which are unique to Chicago Metro Service area in a later section of this Brief.) Staff saw nothing during its inspections of any of the service areas that would lead it to believe that meters are not tested prior to installation or that the meter test results were not within the guidelines established in Rule 600.310. Additionally, while some of the older meter records reviewed in the Champaign area were not tested or replaced in the time frame required under Rule 600.340, the records indicate that IAWC does have a meter replacement program in place.

Staff Witnesses recommend that the Commission order the Company to undertake the following improvements: IAWC has accepted these recommendations (IAWC Ex. 4.0, p. 2, and IAWC Ex. 4.01, pp. 4-5).

(a) Begin the process of consolidating its meter information for all service areas in the State of Illinois so that a meter can be traced from initial purchase and installation in a simpler and more organized fashion. This will make it easier for the Commission to verify compliance with Section 600.150, 600.310, 600.330, and 600.340. This is to be completed within two years of the date of the final order in this proceeding (Staff Exhibit 1.0, p.24);

(b) Amend its tariffs to provide one unified set of rules, regulations, and conditions of service for all of its service areas in the State of Illinois, which is to be completed within two years of the date of the final order in this proceeding (Staff Exhibit 1.0, pp. 24-25);

and

(c) Order IAWC to file a petition (within one year from the date of this order) to enable the Commission to review whether the fifteen (15) year meter testing period variance is appropriate for IAWC's Champaign Division (Staff Exhibit 1.0, p. 25).

B. HYDRANT RECORDS

The AG claims that IAWC is in violation of 83 Ill. Adm. Code 600.240 because they have failed to keep fire hydrants in good operating condition (AG First Amended Verified Complaint, p.13, Subparagraph 40(i)). Their witness, Mr. Rubin, states that communities are concerned with the inadequate level of fire flows that are available and the poor operational condition of hydrants (AG/HG Exhibit 1.0, p.37). Mr. Rubin is recommending that the Commission oversee or conduct a full investigation of IAWC's hydrant testing and maintenance programs throughout Illinois (AG/HG Exhibit 1.0, p.38 and AG/HG Exhibit 2.0, p. 22). The main concern expressed by the Complainants is centered on the availability of fire protection related to the "fire-flow" provided by IAWC's water systems.

Staff witness Johnson evaluated IAWC's compliance with 83 Ill. Adm. Code 600.140(c) and 600.240 (Staff Ex. 1.0, pp. 25-30). Mr. Johnson checked in the Cairo, Champaign, Homer Glen, and Orland Hills service areas to see if the records for hydrants were kept showing the date of installation, size, make and model (if known),

location, number and history of maintenance as required by Rule 600.140(c). The record of the maintenance history for hydrants helps verify IAWC's compliance with 83 Ill. Adm. Code 600.240.

Staff Witnesses found that the Cairo service area needs to consolidate its records so that the date of installation and hydrant size can be readily reviewed in one document which contains all the data required by Rule 600.140. Although the date of installation and hydrant size were available, the information was not easily accessible at the time of inspection by Mr. Johnson. The Cairo service area is inspecting their hydrants on an annual basis as required by Rule 600.240. The Staff Witnesses conclude that the Cairo service area is in compliance with Rules 600.140(c) and 600.240 (Staff Exhibit 1.0, p.28).

Although there were a couple of discrepancies, the Champaign service area appears to have the information required by Rule 600.140. The Champaign service area was also inspecting most of their hydrants on an annual basis but had not annually checked six (6) hydrants out of the thirty-seven (37) records inspected since 2000-2002. Rule 600.240 clearly states that hydrants should be inspected at least annually. Therefore, the Champaign service area was not complying with Rule 600.240. In addition, there have been complaints from the City of Champaign and Urbana (AG/HG Exhibit 1.17 page 14-17) in 2005 concerning problems with hydrants (Staff Exhibit 1.0, p.28).

Of the two Chicago Metro service areas, both the Homer Glen and the Orland Hills service areas failed to inspect their hydrants annually as required by Rule 600.240.

In addition, the hydrant records for the Homer Glen service area did not meet the requirements of Rule 600.140(c) for record keeping (Staff Exhibit 1.0, pp. 28-29).

Staff Witnesses disagree with the proposal of AG and Homer Glen witness, Mr. Rubin that the Commission oversee or conduct a full investigation of IAWC's hydrant testing and maintenance programs throughout Illinois (Staff Exhibit 1.0, p. 29). From Mr. Johnson's inspection of hydrant records for the four areas, one of the service areas (Cairo) appears to be in compliance with the requirements of Rules 600.140(c) and 600.240. In addition, the Complainants have neither alleged nor provided evidence that there are hydrant problems throughout all IAWC service areas. AG and Homer Glen witness Mr. Rubin alleged fire service problems but has only provided information in this regard for the Chicago Metro and Champaign service areas (AG/HG Exhibit 1.0, pp. 37-39). The record in this case is silent on fire-related or fire-flow related complaints associated with any other IAWC service areas other than the Chicago Metro Service area and Champaign service area. The Staff Witnesses are not aware of any reports of fire service problems in the Cairo service area or IAWC's other service areas besides the Chicago Metro area and Champaign areas. Staff Witnesses believe that a state-wide investigation of IAWC's hydrants and fire-flows is not warranted (Staff Exhibit 1.0, pp. 28-29).

The Staff Witnesses recommend that the Commission order IAWC to complete a hydrant testing and maintenance inspection for both its Chicago Metro Service area and Champaign service areas within one year of the final order in this case (Staff Exhibit 1.0, pp. 30-31 and Staff Ex. 3.0, pp. 1-2). IAWC should be required to file a report on e-Docket under these dockets within sixty (60) days of completing the inspection, as a late

filed exhibit, detailing the inspection, identifying the individual hydrants inspected by number, maintenance performed, problems found, and any corrective action performed. The report should also include all information required under Section 600.140(c) (*i.e.*, date of installation, size, make and model (if known), location, number and history of maintenance where applicable). A copy of the report should be provided to the Manager of the Water Department of the Commission. In the event that all existing hydrants cannot be inspected or any corrective action cannot be performed within one year from the date of the final order, the Commission should require IAWC to request, well in advance of the year deadline, an extension that would include written justification and a timeline for repairs to the Manager of the Water Department. The Manager of the Water Department would have the authority to accept or reject such an extension request. If IAWC needs longer than one year and receives written approval from the Manager of the Water Department of the Commission, then the Company should also be required to file a report on e-Docket under these dockets detailing the results of the corrective action taken during the extension period within thirty (30) days after the end of the extension.

The Commission should order that the above hydrant inspection will include fire-flow tests of the systems within Chicago Metro Service area and Champaign service areas. Because fire-flow issues had been raised in these Complaints, but the matter had not been specially mentioned in his original testimony, Staff witness Johnson in his rebuttal testimony clarified that the hydrant testing and maintenance inspection for both IAWC's Chicago Metro Service area and Champaign service areas should include fire flow tests (Staff Ex. 3.0, pp. 1-2).

IAWC accepted all of Staff's hydrant recommendations, including fire flow tests, in its rebuttal and supplemental rebuttal testimony (IAWC Ex. 4.0, pp. 2-3, IAWC Ex. 4.01, p. 4, and IAWC Ex. 6.0, pp. 4-5). IAWC has suggested that (1) where an ISO Public Fire Protection Survey has been done within two years of the Commission order in this case, that Survey will be accepted as the fire flow test for the service area examined in the Survey and (2) in all other service areas within the Chicago Metro Service area and the Champaign service area, IAWC will perform an ISO test of the fire-flows, using said methodology in the selection of hydrants, performance of the fire flow test, and identification of hydrants to be tested. IAWC intends to do these additional fire-flow tests within the same one-year period as the hydrant testing and maintenance inspection. These suggestions are acceptable to the Staff Witnesses and should be incorporated into the Commission order (Hearing of November 1, 2006, Tr. 532-3).

C. VALVE RECORDS

The AG claims that IAWC is in violation of 83 Ill. Adm. Code 600.240 because they have failed to keep valves in good operating condition (AG First Amended Verified Complaint, p.13, Subparagraph 40(i)). AG and Homer Glen witness, Mr. Rubin, ties valve violations to fire protection and hydrant violations. He states that providing adequate fire protection is not simply a matter of sticking hydrants in the ground. "The hydrants must be operated, tested, and maintained; and the underlying infrastructure (mains, storage, pumping, valves) also must be operated, tested and maintained to ensure that everything will work during a fire" (AG/HG Exhibit 1.0, p.37). As with hydrants, Mr. Rubin is proposing that the Commission oversee or conduct a full

investigation of IAWC's hydrant testing and maintenance programs throughout Illinois, which includes valves (AG/HG Ex. 1.0, pp.37-38, and AG/HG Ex. 2.0, p.22).

Staff witness Johnson evaluated IAWC's compliance with 83 Ill. Adm. Code 600.140(c) and 600.240 (Staff Exhibit 1.0, pp. 32-35). Mr. Johnson checked the Company's valve records in the Cairo, Champaign, Homer Glen, and Orland Hills service areas to see if the records for valves were kept showing the date of installation, size, make and model (if known), location, number and history of maintenance as required by Rule 600.140(c). The record of the maintenance history for valves helps verify IAWC's compliance with 83 Ill. Adm. Code 600.240. Mr. Johnson also noted that in Ill.C.C. Docket No. 04-0651, approved in the Commission Order of April 5, 2006, IAWC is required currently to inspect and operate key valves annually but is permitted to inspect all other valves every four years for all of IAWC's service areas in Illinois. Key valves were described as valves twelve (12) inches or larger; valves on transmission lines; valves surrounding water treatment and storage facilities; and strategic valves surrounding critical customers.

Mr. Johnson's inspection of valve records for the four areas (Cairo, Champaign, Homer Glen, and Orland Hills) indicated that only the Cairo service area is in compliance with the records required under Rule 600.140(c). Based on inspections and the evidence currently in the record, the Staff Witnesses are not aware of any problems with the inspection and maintenance of valves, in the Cairo or Champaign service areas, although these service areas had not inspected every valve in the past on an annual basis as required in Rule 600. 240. However, with the recent issuance of the Commission order of April 5, 2006, in Ill.C.C. Docket No. 04-0651, all of IAWC's service

areas should be aware of the new regulation concerning IAWC's valves and should be changing their practices anyway. The Homer Glen service area has no records of valve maintenance, and the Orland Hills service area valve records show that maintenance has not been recorded since 1982. Staff did not know if the valves in Homer Glen or Orland Hills had been maintained at all (Staff Ex. 1.0, pp. 35-36).

Staff Witnesses recommend that the Commission order IAWC to complete a valve testing and maintenance inspection for both its Chicago Metro Service area and its Champaign service areas within one year of the final order in this case (Staff Ex. 1.0, pp. 36-37). IAWC should be required to file a report on e-Docket under these dockets within sixty (60) days after completing the inspection, as a late filed exhibit, detailing the inspection, identifying individual valves by number, maintenance performed, problems found, and any corrective action performed. Staff stated that the report should also include all information required under Section 600.140(c) (*i.e.*, date of installation, size, make and model (if known), location, number and history of maintenance where applicable). A copy of the report should be provided to the Manager of the Water Department of the Commission. In the event that all existing valves cannot be inspected or any corrective action cannot be performed within one year from the date of the final order, the Commission should require IAWC to request, well in advance of the year deadline, an extension that would include written justification and a timeline for repairs to the Manager of the Water Department. The Manager of the Water Department would have the authority to accept or reject such an extension request. If IAWC needs longer than one year and receives written approval from the Manager of the Water Department of the Commission, then the Company should also be required to

file a report on e-Docket under these dockets detailing the results of the corrective action taken during the extension period within thirty (30) days after the end of the extension.

Unless and until the Commission decides otherwise, after completion of the valve testing and maintenance inspection for all of the Chicago Metro Service area and Champaign service area, these areas should comply with the inspection and operation of key valves annually and all other valves every four years as set forth in the Commission Order of April 5, 2006, in Docket No. 04-0651, like all other IAWC service areas (Staff Exhibit 1.0, p. 37).

IAWC accepted all of Staff's valve recommendations in its rebuttal testimony (IAWC Ex. 4.0, pp. 2-3, and IAWC Ex. 4.01, pp. 4-5).

D. COMPLAINT RECORDS

On pages 5-6 of the First Amended Verified Complaint, Paragraph 16, the AG refers to the duties imposed on IAWC by 83 Ill. Adm. Code 600.170 and 220 ILCS 5/8-303. Section 8-303 of the Act, *supra*, is also cited in relation to 83 Ill. Adm. Code 600.160 on page 12, Subparagraph (40)(e) of the First Amended Complaint. Homer Glen similarly points to a violation of 220 ILCS 5/8-303 on page 16, Paragraph 47(g) of their Verified Petition.

Staff witness Johnson examined the records required by Rules 600.170(b) and (c) (Staff Exhibit 1.0, pp. 37-39). The records of the examined service areas contained all information required by Rule 600.170(b). Additionally, the quarterly reports which

IAWC provided to the Staff Witnesses had all pertinent information required under Rule 600.170(c) (Staff Exhibit 1.0, pp. 38-39).

Staff Witnesses could find no violations of Rule 600.170 by IAWC. Thus, from its records, IAWC appears to have investigated the complaints made by its customers. This conclusion does not resolve the entirety of claims raised by the Complainants in this case related to the handling of complaints and 220 ILCS 5/8-303.

E. PROVISION OF INFORMATION BOOKLETS

83 Ill. Adm. Code 280.200 requires the Company to provide a customer information booklet containing the utility's credit and collection practices to all applicants for service and to make such booklet available to customers at all business offices (Staff Ex. 2.0, p. 5, lines 89-95). With respect to the Company's compliance with the Commission's rules in Part 280, Staff witness Joan Howard found that IAWC was not compliant with Rule 280.200 (83 Ill. Adm. Code 280.200) and recommended that the Company correct this violation (Staff Ex. 2.0, pp. 5-6).

Mr. Ruckman (IAWC Ex. 1.0, p. 54, lines 1191-1194) testified that IAWC provides customers, including applicants, information through bill messages and IAWC's web site. While Staff witness Howard acknowledged that the Company provides information to customers through bill messages and its web site, nevertheless, Ms. Howard concluded that the lack of a customer information booklet is a violation of Rule 280.200 (Staff Exhibit 2.0, p. 5, lines 93-95), noting however that the Company has committed to developing and providing such a customer information booklet (IAWC Ex. 1.0, p. 54, lines 1194-1196). Staff witness Howard also noted that, in addition to requirements

applicable to billing statements, the recent legislation (PA 94- 0950) amends the Public Utilities Act to specify that certain information concerning customer rights be made available to customers. Staff witness Howard recommended that the customer information booklet that is required by 83 Ill. Adm. Code 280.200 should also include this “customers’ rights” information (Staff Ex. 2.0, p. 6, lines 99-102). Finally, Ms. Howard recommended that IAWC provide a draft of their booklet to the Manager of the Consumer Services Division of the Commission for review and comment prior to finalizing the booklet for distribution to its customers and applicants for service (*Id.*, lines 103-4).

III. METER REPLACEMENT AND BACKBILLS IN CHICAGO METRO SERVICE AREA

A. METER REPLACEMENT IN CHICAGO METRO SERVICE AREA

IAWC stated in its direct testimony that, for Citizens Utilities Company of Illinois (“Citizens”), the prior owner of what is now IAWC’s Chicago Metro Service area, the meter change-out program was well behind schedule (IAWC Ex.1.0, p. 7). IAWC initiated a meter change-out program in 2003 designed to accelerate meter change-outs. IAWC has replaced approximately 16,200 meters in the Chicago Metro Service area, leaving about 15,700 meters as of March 2006 (IAWC Ex. 1.0, p. 9). IAWC expects that full replacement of old meters, aside from the Bolingbrook area, will be completed by the end of 2007 (IAWC Ex. 4.0, pp. 16-17). IAWC maintains that the problem associated with the complaints herein is derived from the meter change-out program. The meters changed were odometer-style meters that only exist in the

Chicago Metro Service area. IAWC claims that odometer style meters would under-register the amount of water flowing through the meter compared to the outside odometer reading device (IAWC Ex. 1.0, p. 8).

In rebuttal testimony (AG/HG Ex. 2.0, pp. 4-5), Mr. Rubin suggested that IAWC's meter replacement program is only slightly faster than the testing schedule required by the Commission's regulations (83 Ill. Adm. Code 600.340). He suggested that there should be a much more aggressive, high-priority, replacement program.

IAWC's rebuttal testimony defends its meter replacement program in the Chicago Metro service area, stating that replacing the 16,700 meters through March 2006 required a substantial investment of time and resources and that full replacement, aside from the Bolingbrook area, will be completed by the end of 2007 (IAWC Ex. 4.0, pp. 16-17).

In surrebuttal testimony (AG/HG Ex. 3.0, pp. 3-4), Mr. Rubin, states that the Staff Witnesses' review was useful but not comprehensive enough because it failed to review the meter records associated with meters that had been removed from service, i.e., those that gave rise to the back billing. However, it is no secret that the meters in the Chicago Metro Service area needed replacing because of improper testing and replacement by Citizens, as admitted by Mr. Rubin (AG/HG Ex. 2.0, p.4). IAWC implemented a meter replacement program in 2003, after acquisition, which gave rise to the complaint case (IAWC Ex. 1.0, p. 7). Staff Witnesses inspected the new meter records to insure that those meters were in compliance with Commission rules, which includes manufacturer test results (Staff Ex. 1.0, pp. 15-16). All new meter records inspected by Staff in the Chicago Metro Service area had manufacturer test results that

were in compliance (Staff Ex. 1.0, pp. 15-16). Examining the old meter records as suggested by Mr. Rubin would only indicate whether Citizens had or had not followed Commission rules, not whether IAWC had.

B. BACKBILLING FROM METER CHANGE-OUTS

With respect to the remediation efforts of the Company regarding back billing, Staff witness Howard acknowledged the concessions and commitments of the Company and sought additional commitments. Mr. Ruckman's testimony (IAWC Ex. 1.0, p. 3, lines 60-78), on behalf of IAWC, acknowledged that the Company had issued make-up or back bills to customers in the Chicago Metro Service area in relation to the replacement of odometer-style meters but further asserted that IAWC, in the fall of 2005, moved aggressively to address the problems arising out of those back bills. According to Mr. Ruckman's testimony, IAWC stopped back billing Chicago Metro customers when IAWC found that defective remote devices resulted in a discrepancy between the inside meter reading and the outside remote reading at the time on the meter exchange. *Id.* With regard to customers who had already been billed on these discrepancies, Mr. Ruckman testified that IAWC conducted an audit of customer accounts to identify customers who may have been improperly billed and that IAWC committed to issue a full credit (with interest) on or before October 1, 2006 to all customers in Chicago Metro who received a back bill related to an odometer meter exchange (*Id.* at lines 76-78).

Based on these commitments made by Mr. Ruckman on behalf of the Company, Staff witness Howard testified that the Company's efforts to date seemed to be a

reasonable approach to correct past problems, assuming that IAWC issued credits as promised and assuming that the internal audit conducted by the Company appropriately identifies customers entitled to a credit (Staff Ex. 2.0, pp. 3-4). In addition, Ms. Howard recommended that IAWC provide a draft of any information to customers related to the refund, including the language that will identify the refund, to the Consumer Services Division Manager for review and comment prior to implementation (Staff Ex. 2.0, p. 3, lines 40-43). IAWC has already done so. See Ex Parte Reports of October 25 and 27, 2006.

Staff witness Howard recommended further that the Company extend its policy decision made in the fall of 2005, to discontinue back billing customers in the Chicago Metro Service area in connection with meter exchanges until all exchanges involving odometer meters in the Chicago Metro Service area have been completed (*Id.* at lines 58-60). Alternatively, Ms. Howard recommended that the Company, in connection with meter exchanges, institute procedures to ensure that customers are correctly identified as being responsible for back bills and that charges related to back bills are clearly identified on the bills. Finally, Staff witness Howard recommended that IAWC inform Commission staff of any change in this policy to allow a review of the Company's new back billing procedures to ensure that customers are not improperly billed (*Id.* at lines 61-67).

IAWC has indicated that it will not back bill on the change out of odometer style meters in the Chicago Metro Service area (IAWC Ex. 4.0, p. 5). It should be noted that this is the only type of meter change where there can be a different inside meter/outside remote meter reading in IAWC's service territories. Staff Witnesses recommend that

the Commission order IAWC to discontinue backbilling customers in the Chicago Metro Service area in connection with the replacement of odometer style meters.

IV. IMPROVEMENTS IN COMMUNICATIONS WITH CUSTOMERS

A. *DECLARATION OF PURCHASED WATER CHARGE RATE ON BILLS*

AG witness Rubin is concerned (AG/HG Ex. 1.0, pp. 35-36) that, because IAWC does not show the rate¹ for the purchased water supply charge on its bills to customers, IAWC does not appear to be in compliance with 83 Ill. Adm. Code 600.160. Rule 600.160 requires the showing of, at least, a condensed statement of the principal rates. Without the disclosure of the “volumetric” rate (AG/HG Ex. 2.0, p. 4) on which the supply charge is based, the customer is not able to determine whether the supply charge is accurate. Mr. Rubin is recommending that the Company show the calculation of supply charges on its bills.

Staff witness Johnson evaluated 83 Ill. Adm. Code 600.160 with reference to the supply charge. He found that the Chicago Metro Service area is the only IAWC service area with a purchased water surcharge and the surcharge is based upon the purchase of Lake Michigan water (Staff Exhibit 1.0, p. 40). Staff reviewed the bills attached to Homer Glen’s petition, the direct testimony of Homer Glen witness Mary Niemiec, and those received in response to data requests. None of the bills actually showed the rate for the purchased water supply charge, *i.e.*, there is a separate line item for the variable

¹ On page 5 of IAWC Ex. 1.0, line 106, described as a “per-unit charge”

purchased water supply charges with a total bill, but no indication of the purchased water supply charge per thousand gallons (“the rate”) (Staff Exhibit 1.0, p. 40).

Staff witness Johnson found that traditionally with water public utilities principal rates referred to base charges (customer charge and usage charge). Because the purchased water supply charge is similar to a usage charge and represents a high percentage of the bill received by the affected customers, Staff Witnesses assert that the rate for IAWC’s purchased water charges should now be deemed a principal rate. Because there has been no previous Commission ruling concerning the presentation of the Lake Michigan purchased water charges on the bills of the customers, Staff Witnesses do not believe that the Company is in violation of Rule 600.160. The rule does not provide a definition of what constitutes a principal rate.

However, in light of the examination, Staff argues that the Company should disclose the rate for the purchased water charge on its customers’ bills on an ongoing basis. The information would help the customer better understand the charges that apply and would benefit the Company by eliminating possible billing inquiries related to the purchased water charges (Staff Ex. 1.0, pp. 41-42 and Staff Ex. 2.0, p. 5, lines 84-87). The Chicago Metro Division of IAWC also has a purchased sewage treatment charge (Staff Ex. 1.0, p. 42). For similar reasons, the Staff Witnesses recommend that the Commission order IAWC to identify the fixed (“rate”) and variable (“volume/meter reading”) purchased water and purchased sewage treatment charges, along with gallons used in the calculation, as separate items on customers’ bills (Staff Exhibit 1.0, p.43).

IAWC witness Ruckman has stated in his testimony (IAWC Ex. 1.0, p. 42; IAWC Ex. 4.0, p. 3; and IAWC EX. 4.01, p. 2) that the Company plans to revise its billing practices to show the base volumetric rate for the “Supply Charge” (which reflects the Purchased Water Surcharge applied to Chicago Metro customers for their use of Lake Michigan water), *or alternatively*, provide copies of the volumetric rate to customers on an annual basis in accordance with 83 Ill. Admin. Code 600.160.

Staff Witnesses do not agree that IAWC should be allowed to use the alternative for the fixed and variable purchased water and purchased sewerage treatment charges (Staff Exhibit 3.0, pp. 2-3). Staff Witnesses believe that the alternative relates to postcard billing previously used by public utilities and mentioned in Rule 600.160 (b). However, in the absence of proof that the principal rates cannot be shown on its bills because of absolute space restrictions, IAWC should be required to disclose its principal rates, including its fixed and variable purchased water and purchased sewerage treatment charges.

Staff Witnesses recommend that the Commission order IAWC to publish the fixed and variable purchased water and purchased sewage treatment charges, along with gallons used in the calculation, on its customers’ bills. Staff Witnesses further recommend that IAWC provide a draft of the new bill which includes the fixed and variable purchased water and purchased sewage treatment charges, along with gallons used in the calculation, to the Managers of the Consumer Services Division and the Water Department of the Commission for review and comment prior to finalizing the format of the new bill.

B. OTHER REVISIONS TO THE FORMAT OF IAWC'S BILLS

With respect to IAWC's plan to revise its bill format, Staff witness Howard discussed the changes to the bill format proposed by Mr. Ruckman in his testimony (Staff Ex. 2.0, pp. 4-5). Mr. Ruckman (IAWC Ex. 1.0, p. 42, lines 912-921) testified that input from customers and concerns raised in this complaint case have led IAWC to try to improve the clarity and understandability of its bills. One of the format changes identified by the Company is to provide information to the customer regarding the time period that the bill covers when either there is more than one consecutive estimate or there is a back bill. *Id.*

Staff witness Howard pointed out that recent legislation (PA 94-0950) requires water and sewer utilities to disclose on each billing statement any charge that is for service provided prior to the date covered by the billing statement (Staff Exhibit 2.0, p. 4, lines 74-76). Pursuant to P.A. 94-0950, the disclosure must include the dates for which the prior services were billed. Further, each billing statement that includes a charge for service provided prior to the date covered by the billing statement must also disclose the dates for which that amount is billed and must include a copy of customer information (being developed by the Commission) and a statement of current Commission rules concerning unbilled or misbilled service.

Therefore, Staff witness Howard concluded that it is appropriate for the Company to revise its bill format and other disclosures to customers in compliance with the new law. Ms. Howard also concluded that it would be appropriate for IAWC to revise its bill format to indicate the rate for the supply charge as a separate line item in any service territory having a supply charge (Staff Ex. 2.0, p. 5, lines 84-87).

Again, Staff Witnesses recommend that IAWC provide a draft of the new bill format which meets the requirements discussed above to the Managers of the Consumer Services Division and the Water Department of the Commission for review and comment prior to finalizing the format of the new bill.

C. NOTIFICATION OF WATER RESTRICTIONS

The Staff Witnesses (Staff Ex. 1.0, pp. 44-45) had pointed out that IAWC has an existing Commission-approved tariff which restricts water usage from May 15 through September 15 for any customer supplied with Lake Michigan water (ILL. C.C. No. 4, Original Sheet Nos. 17 & 18, Sections 7.10 and 7.11). This tariff was in effect during 2005 and applies to customers in Homer Glen and a majority of the Chicago Metro Division. However, IAWC's customers were not notified of these restrictions. While there is no particular Commission requirement that IAWC notify the customers of these restrictions, at the request of the Commission's Water Department, IAWC agreed earlier this year to notify customers of water restrictions through an initial mailing prior to the water restriction period and through reminders to the customers of water restrictions within the customer bills during the water restriction period. This water restriction notification was implemented for 2006.

Such water restrictions should reduce water usage during the summer months and is consistent with the water conservation intent of the tariff. Staff Witnesses propose that the Commission order IAWC to notify its customers of any applicable water restrictions annually. IAWC has agreed to continue these annual notifications (IAWC Ex. 4.00, p.4 and IAWC Ex. 4.01, p.5).

V. CIVIL PENALTIES

Both complaints sought the imposition of civil penalties on the Respondent, Illinois-American Water Company [¶¶ 42-43 and Relief (v.) of First Amended Verified Complaint of People of the State of Illinois and ¶49 and Relief of Verified Complaint of Village of Homer Glen]. Since 2003, the Commission itself has authority to assess civil penalties, after notice and an opportunity to be heard. 220 ILCS 5/4-203(a). The general civil penalty provision of 220 ILCS 5/5-202 retains a significant procedural limitation. The last paragraph of said Section provides:

“No penalties shall accrue under this provision until 15 days after the mailing of a notice to such party or parties that they are in violation of or have failed to comply with the Act or order, decision, rule, regulation, direction, or requirement of the Commission or any part or provision thereof, except that this notice provision shall not apply when the violation was intentional.” 220 ILCS 5/5-202

Although the intentional violation exception is new to the provision, Section 5-202 of the Act, *supra*, remains generally as its predecessor had since August 29, 1979, there are no civil penalties under the provision, no matter what the utility has violated, until 15 days after a notice of its violation is issued. As shown in the Staff Witnesses’ testimony (Staff Ex. 1.0, p. 49), Illinois-American is not a small public utility within the meaning of 220 ILCS 5/4-502(b) and 5-202.

The Staff Witnesses did not recommend the assessment of civil penalties within this case. The Staff Witnesses did not identify any violation of the Act or the Commission rules which, in the opinion of the Staff Witnesses, constituted an intentional

violation. To the extent, Illinois-American was in violation of the Commission rules, there has been no 15-day notice issued in the opinion of the Staff Witnesses. Admittedly, since this notice provision has not been fleshed out by decisions of either the Commission or the courts, the issue of what constitutes sufficient notice for Section 5-202 purposes is subject to argument and conjecture, *i.e.*, “a blank canvas upon which anyone can paint.”

However, the Staff Witnesses do recommend, to the extent its evidence has uncovered violations of the Commission rules, that the final order in this cause be treated as the notice for Section 5-202 purposes so that, if Illinois-American fails to meet the ordered time limits, a civil penalty can be imposed. Because many of the actions are given a completion date of a year or more after the issuance of the Commission’s order, the Staff Witnesses hesitate to call the order a 15-day notice. However, the 15-day notice provision of Section 5-202 is the minimal notice required under the provision and, therefore, the order can function as the notice if the specified violations are not timely corrected. Moreover, it still will take, in the Staff Witnesses’ opinion, an additional proceeding if Illinois-American fails to meet the time limits of the Commission order, even on these items, because of the other requirements of Subsection 4-203 (a) of the Act, 220 ILCS 5/4-203(a) [assessment of the penalty including consideration of mitigation, good faith, etc.].

It must be recognized that a number of actions which Staff has recommended and Illinois-American has agreed to carry out are not violations of the Act or the rules, but are improvements in meeting the regulatory requirements. For example, the Staff Witnesses’ testimony found that the utility was compliant with the Commission rules

concerning recordkeeping, but the time and ease of reviewing the required records could be improved. While the Commission is clearly empowered to order such improvements (220 ILCS 5/9-250), in the absence of any previous requirement or decision finding that these improvements were minimal compliance requirements, it is inappropriate to treat Illinois-American as being in violation of the regulations on these matters. There is a difference, in the Staff Witnesses' opinion, between being in violation of a rule and making improvements after the Commission has reviewed a matter and has created new additional obligations on the Company. Only if Illinois-American fails to carry out the improvements would there be a violation of the Commission order (in this case) establishing the new requirement. Determination of a violation of the future Commission order (in this case) can take place only after the Commission order is entered and, therefore, Illinois-American cannot be given a notice of any violation for failure to make these improvements currently.

Therefore, the Staff Witnesses ask that the final order in this case be treated as notice of violation for Section 5-202 civil penalty purposes only on the following matters, showing the applicable time period for correction/completion:

A. 600.140(c) (Records of hydrants): Chicago-Metro (Homer Glen)

(Records of valves): Champaign, Chicago-Metro (Homer Glen) & Chicago-Metro (Orland Hills)

Time period: (IAWC Ex. 4.01, pp.4-5, within one year)

B. 600.150 (Customer Meter Test Records): Chicago-Metro (Orland Hills)

Because this violation will be part of IAWC's effort to improve its recordkeeping generally, the two-year suggestion in Staff Ex. 1.0, p. 24, (which is directed to the improvements in recordkeeping as well) seems appropriate.

Time period: (IAWC Ex. 4.01, p. 5, within two years of the Commission order)

C. 600.240 (Maintenance/ inspection of hydrants): Champaign,
Chicago-Metro (Homer Glen), & Chicago-Metro (Orland Hills)

(Maintenance/ inspection of valves): Chicago-Metro (Homer Glen),
& Chicago-Metro (Orland Hills)

Time period: (IAWC Ex. 4.01, pp. 4-5, hydrants and valves within one year (which is what 83 Ill. Adm. Code 600.240 requires)).

D. 600.340/variance Docket 76-0491 (Meter test frequency): Champaign

Although the testimony of the Staff Witnesses could be read to suggest two years as the time period for IAWC to come into compliance (Staff Ex. 1.0, p. 24), the testing/removal of old meters is central to assurances of accuracy in billing customers. Champaign is a large district with numerous water meters. The problem appears to be more than missing records (Staff Ex. 1.0, pp. 17-19 and 23).

Time Period: Consequently, Staff recommends that IAWC comply with the time limits of the rule or of the variance for certain meters, no later than one year after the date of the Commission order. (IAWC Ex. 4.01, p. 5, within two years of the Commission order.)

Finally, the Staff Witnesses ask that the final order in this case state that if IAWC fails either to meet the time limits specified in the order for the corrective action or, on other matters, to meet the imposed requirements in a reasonable time, the Commission will initiate a proceeding against IAWC to impose civil penalties pursuant to Sections 5-202 and 4-203 of the Public Utilities Act, 220 ILCS 5/5-202 and 4-203.

VI. AUDITS

The Staff Witnesses have not identified anything in this proceeding which, in the Staff Witnesses' opinion, would justify ordering an audit [ICC Staff Ex. 3.0, pp. 3-4, lines 64-79, and ICC Staff Ex. 4.0, p. 3, lines 47-51]. On a number of items which Staff Witnesses investigated, Illinois-American has agreed, for example, to improve its recordkeeping of valves, hydrants, and meters and to create a single statewide tariff concerning its rules, regulations and conditions of service within two years of the order [IAWC Ex. 4.0, pp. 2-4, lines 27-70]. Thus, there would be no point in conducting an audit when the records themselves are to undergo a change in how they are kept and handled.

Mr. Scott Rubin, the witness for both the AG and Homer Glen, has recommended an audit of Illinois-American, conducted by independent auditor selected by the company and at shareholders' expense [AG/HG Ex. 1.0, p. 6, lines 130-133, and p. 11, lines 259-265; and Ex. 3.0, lines 166-168]. Homer Glen witness, Ms. Mary Niemiec, recommends an audit conducted by an independent auditor selected by Homer Glen and the AG at shareholders' expense [HG Ex. 6.0, p. 2, lines 39-40], although in her earlier testimony she asked for a Commission-supervised audit of the historical billing

records in Homer Glen [HG Ex. 1.0, p. 16, lines 374-378]. As specified in the testimony, neither Complainant seeks a Commission-conducted management audit under Section 8-102 of the Public Utilities Act (“Act”), 220 ILCS 5/8-102, which permits the Commission, if the Commission Staff is unable to do the audit, to hire an independent auditor, the costs of which may be recovered as an expense through normal ratemaking procedures.

Similarly, only Ms. Niemiec’s Direct Testimony [HG Ex. 1.0, p. 16, lines 374-378] seeks an “audit” under Section 5-105 of the Act, 220 ILCS 5/5-105. Section 5-105 of the Act permits the officers and employees of the Commission, under the direction of the Commission, to inspect and examine a utility’s books, accounts, papers, records and memoranda. Because Ms. Niemiec has subsequently recommended an audit conducted by an independent auditor, the Staff Witnesses presume that Homer Glen no longer is requesting an audit under Section 5-105 of the Act, *supra*.

Homer Glen has indicated that it wants an audit of the Company’s recently given refunds (October 30, 2006, hearing, Tr. 76). However, other than a deep distrust of Illinois-American and its records (October 30, 2006, hearing, Tr. 84-85), there does not appear to be, again in Staff Witnesses’ opinion, any evidence in this proceeding that the recent refund was miscalculated or misdirected by Illinois-American. Admittedly, Staff Witnesses did not audit or verify the correctness of the amounts or the persons receiving said refund (Hearing of November 1, 2006, Tr. 573-4).

The Staff Witnesses have sought clarification and specification of the proposed audits from the Complainants. In her rebuttal testimony, Staff witness Howard described the responses received as lacking specificity (Staff Ex. 4.0. p. 3, lines 47-51).

As noted below, should the Commission order an audit, the Commission will need to describe the scope of any audit with specificity.

As was brought out in the testimony, there are two types of auditing (October 30, 2006, hearing, Tr. 141-146). One is a historical or an accounting audit, conducted by the Commission under Section 5-105 of the Act, *supra*, which verifies the accounts and records of a utility for completeness and accuracy. None of the Complainants appear to be requesting a Section 5-105 audit because the Complainants are requesting that the Commission arrange for an independent auditor. The other kind of audit is a management audit under Section 8-102 of the Act, *supra*, which is conducted either by the Commission or by independent auditors under the direction of the Commission. A Section 8-102 management can be conducted by the Commission

“...only when it has reasonable grounds to believe that the audit or investigation is necessary to assure that the utility is providing adequate, efficient, reliable, safe, and least-cost service and charging only just and reasonable rates therefor, or that the audit or investigation is likely to be cost-beneficial in enhancing the quality of service or the reasonableness of rates therefor. The Commission shall, before initiating any such audit or investigation, issue an order describing the grounds for the audit or investigation and the appropriate scope and nature of the audit or investigation.” 220 ILCS 5/8-102

If the Commission agrees with recommendations of the AG or Homer Glen in this proceeding and orders an audit, Staff Witnesses recommend that the scope of the audit and Staff’s role be described with specificity (Staff Exhibits 2.0, p. 7. lines 130-134, and 4.0, pp. 1-2, lines 17-26. In particular, the Staff Witnesses asked for a description of

audit details including a) period(s) to be reviewed, b) service areas to be reviewed, c) records to be reviewed, d) types of tests to be performed, e) type of entity that might perform the audit, f) the administrator of the audit, *i.e.*, entity that would select the auditor, approve the audit plan, and supervise the conduct of the audit, g) completion date for the audit, h) submission date of the audit reports, i) the recipients of the audit reports, and j) expected actions to take as a result of the audit.

The need for specificity in identifying the matters to be examined in a management audit is shown by the Staff Report underlying the Order of August 16, 2006, in Ill.C.C. Docket No. 06-0556, *Illinois Commerce Commission, On Its Own Motion, Management audit of The Peoples Gas Light and Coke Company and North Shore Gas Company focused upon gas purchasing practices, gas storage operations and storage activities*. The four-page Staff Report and Attachments A, B, and I lay out with the necessary specificity what the management audit in that proceeding ought to entail. (The stipulations submitted with the Staff Report as Attachments C through H in Ill.C.C. Docket No. 06-0556 are unique to the circumstances of Ill.C.C. Docket No. 06-0556 and are not expected in other Section 8-102 management audit cases.) Without specificity, the audit becomes a waste of time and money.

As stated above, the Staff Witnesses have not identified anything in this proceeding which, in the Staff Witnesses' opinion, would justify ordering an audit. However, as the Staff Witnesses are ultimately not the judges of the evidence (Staff Ex. 4.0, p. 3, lines 55-57), the Commission may ultimately conclude there is a need to conduct an audit of some specific matter(s). To the extent an audit is granted pursuant to either Section 5-105 or 8-102 of the Public Utilities Act, 220 ILCS 5/5-105 and 8-102,

the Staff is available to oversee whatever audit the Commission determines is justified by this record.

VII. RECOMMENDATIONS

Staff Witnesses propose that the Commission order:

- (1) IAWC to amend its tariffs to provide one unified set of “Rules, Regulations, and Conditions of Service” for all of their service areas in the State of Illinois, which is to be completed within two years of the date the final order in this proceeding;
- (2) IAWC to consolidate its meter information for all service areas in the State of Illinois so that a meter can be traced from initial purchase and installation in a simpler and quicker fashion than available presently. This will make it easier for the Commission to verify compliance with Rules 600.150, 600.310, 600.330 and 600.340. This is to be completed within two years of the date the final order in this proceeding;
- (3) IAWC to file a petition (within one year from the date of this order) to enable the Commission to review whether the fifteen (15) year meter testing period variance is appropriate for IAWC’s Champaign service area and to comply within said one-year period with the frequency of testing set forth in Rule 600.340 or the Commission ordered variance of Rule 600.340 granted in Docket 76-0491 for the Champaign service area;
- (4) IAWC to complete a hydrant testing and maintenance inspection for all of its Chicago Metro and Champaign service areas within one year of the final

order in this case. It is also recommended that the Company file a report on e-Docket within sixty (60) days of completing the inspection, as a late filed exhibit, detailing the inspection, identifying the individual hydrants inspected by number, maintenance performed, problems found, and any corrective action performed. The report should also include all information required under Section 600.140(c) (*i.e.*, date of installation, size, make and model (if known), location, number and history of maintenance where applicable). A copy of the report should be provided to the ICC's Manager of the Water Department. If all existing hydrants cannot be inspected and any corrective action performed within one year from the date of the final order, the Commission should require IAWC to request well in advance for an extension that would include written justification and a timeline for repairs to the ICC's Manager of the Water Department. The ICC's Manager of the Water Department would have the authority to accept or reject such extension request. If IAWC needs longer than one year and receives written approval from the ICC's Manager of the Water Department, then the Company should also file a report on e-Docket showing the results of the corrective action taken within thirty (30) days after the approved corrective period;

- (5) IAWC to complete a valve testing and maintenance inspection for all of the Chicago Metro and Champaign service areas within one year of the final order in this case. It is also recommended that the Company file a report on e-Docket within sixty (60) days after completing the inspection, as a late filed exhibit, detailing the inspection, identifying individual valves by number,

maintenance performed, problems found, and any corrective action performed. The report should also include all information required under Section 600.140(c) (*i.e.*, date of installation, size, make and model (if known), location, number and history of maintenance where applicable). A copy of the report should be provided to the ICC's Manager of the Water Department. If all existing valves cannot be inspected and any corrective action performed within one year from the date of the final order, the Commission should require IAWC to request well in advance for an extension that would include written justification and a timeline for repairs to the ICC's Manager of the Water Department. The ICC's Manager of the Water Department would have the authority to accept or reject such extension request. If IAWC needs longer than one year and receives written approval from the ICC's Manager of the Water Department, then the Company should also file a report on e-Docket showing the results of the corrective action taken within thirty (30) days after the approved corrective period;

- (6) IAWC to supply customers with an information booklet meeting the requirements of 83 Ill. Adm. Code 280.200, plus the additional information requirements of Public Act 94- 0950. A draft of IAWC's information booklet should also be supplied to the Manager of the Consumer Services Division of the Commission for review and comment prior to finalizing the booklet for distribution to its customers and applicants for service;
- (7) IAWC to discontinue back billing customers in the Chicago Metro service area in connection with the replacement of odometer style meters;

- (8) IAWC to publish the fixed and variable purchased water and purchased sewage treatment charges, along with gallons used in the calculation, on customers' bills and that IAWC provide a draft of the new bill which includes the fixed and variable purchased water and purchased sewage treatment charges, along with gallons used in the calculation, to the Managers of the Consumer Services Division and the Water Department of the Commission for review and comment prior to finalizing the format of the new bill;
- (9) IAWC to provide a draft of the new bill which meets the requirements of Public Act 94-0950 or otherwise clarifies IAWC's billings to its customers to the Managers of the Consumer Services Division and the Water Department of the Commission for review and comment prior to finalizing the format of the new bill.
- (10) IAWC to notify customers of any applicable water restrictions annually;
- (11) that, for the items specified in the Section V of this Brief (Civil Penalties), the Commission order in this case act as the notice for the purposes of Section 5-202 of the Act, 220 ILCS 5/5-202;
- (12) that, if IAWC fails to meet the time limits imposed by in this Commission order on any of the corrective actions that are to be undertaken or, otherwise, does not undertake the ordered actions within a reasonable time, the Commission will seek to impose civil penalties on IAWC, pursuant to Sections 5-202 and 4-203 of the Public Utilities Act, 220 ILCS 5/5-202 and 4-203; and
- (13) that, although the Staff Witnesses do not recommend the ordering of an audit, if the Commission determines an audit or audits are appropriate, the

scope of any audit be specified by identifying the matters to be examined as set forth in Section VI of this Brief.

Wherefore the Commission Staff Witnesses ask that the Commission adopt the above recommendations as provisions in its final order.

Respectfully submitted,

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