

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

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

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## **I. STATEMENT OF THE CASE**

The case was initiated to review formal Complaints against Illinois-American Water Company ("IAWC" or the "Company") filed with the Illinois Commerce Commission ("Commission") by Village of Homer Glen ("Homer Glen"), the Office of the Illinois Attorney General ("AG") and Mr. Kevin Grens ("Mr. Grens," together, Homer Glen, the AG and Mr. Grens are referred to as "Complainants"). The AG filed its Complaint against IAWC on February 8, 2006, which was assigned Docket 06-0094, and its Amended Complaint ("AG Complaint") on March 8, 2006. Homer Glen filed its Complaint ("Homer Glen Complaint") against IAWC on February 2, 2006, which was assigned Docket 06-0095. Mr. Grens filed a formal Complaint on October 20, 2005, which was assigned Docket 05-0681, and an Amended Complaint on March 27, 2006 ("Grens Complaint"). On February 21, 2006, the Citizens Utilities Board ("CUB") filed a Petition to Intervene in these proceedings.

Pursuant to an Administrative Law Judge ("ALJ") Order issued February 17, 2006, Dockets 06-0094 and 06-0095 were consolidated. On April 6, 2006, Docket 05-0681, the Grens Complaint, was also consolidated with Dockets 06-0094 and 06-0095.

IAWC filed answers to the AG Complaint and the Homer Glen Complaint on March 29, 2006.

On June 30, 2006, Homer Glen and the AG jointly filed the Direct Testimony of Scott J. Rubin (AG/HG Exhibit 1.0). Mr. Rubin is the AG's sole witness. Homer Glen also filed the Direct Testimony of Mary Niemiec (HG Exhibit 1.0), the Direct Testimony of Deborah Finnegan (HG Exhibit 2.0), the Direct Testimony of Jim Jilet (HG Exhibit 3.0) and the Direct Testimony

of Debbie Litoborksi (HG Exhibit 4.0) (Ms. Finnegan, Mr. Jilet, and Ms. Litoborksi are referred to as the "Homer Glen Customer Witnesses").

A Protective Order governing treatment of confidential material was entered on May 2, 2006.

On August 11, 2006, IAWC filed the Direct Testimony of Frederick L. Ruckman (IAWC Ex. 1.0), the Direct Testimony of Karen H. Cooper (IAWC Ex. 2.0) and the Direct Testimony of John A. Zerbe (IAWC Ex. 3.0).

The Staff of the Commission ("Staff") filed the Direct Testimony of William Johnson (ICC Staff Ex. 1.0) and the Direct Testimony of Joan Howard (ICC Staff Ex. 2.0) on August 21 2006.

On August 14, 2006, IAWC filed Motions to Strike and Dismiss ("Motions") certain portions of the AG Complaint and the Homer Glen Complaint, and to dismiss the Grens Complaint in its entirety. Homer Glen and the AG filed Responses to the Motions on August 25, 2006, and IAWC filed Replies to those Responses on September 1, 2006. On September 15, 2006, the ALJs issued a ruling granting the Motions in part and denying them in part. In pertinent part, the ALJs ordered that the Grens Complaint not be dismissed, that the allegation in Paragraph 40(e), item (ii) of the AG Complaint (that IAWC failed to assign sufficient personnel the duty of hearing in person any dispute by a customer) be stricken, and that the Motion to Strike with respect to the Homer Glen Complaint be granted, as the ALJs found that no evidence has been adduced to support Homer Glen's allegation about the failure of IAWC to repair water mains or the allegation that IAWC failed to assign sufficient personnel the duty of hearing in person any dispute by a customer.

On September 8, 2006, the AG and Homer Glen jointly filed the Rebuttal Testimony of Scott J. Rubin (AG/HG Ex. 2.0). On that day, Homer Glen filed the Rebuttal Testimony of Mary Niemiec (HG Exhibit 5.0).

On September 28, 2006, IAWC filed the Rebuttal Testimony of Frederick L. Ruckman (IAWC Ex. 4.0) and the Rebuttal Testimony of Karen H. Cooper (IAWC Ex. 5.0).

On October 6, 2006, Staff filed the Rebuttal Testimonies of William R. Johnson (ICC Staff Ex. 3.0) and Joan Howard (ICC Staff Ex. 4.0).

On October 20, 2006, the AG and Homer Glen jointly filed the Surrebuttal Testimony of Scott J. Rubin (AG/HG Ex. 3.0). On that day, Homer Glen filed the Surrebuttal Testimony of Mary Niemiec (HG Exhibit 6.0).

Pursuant to Leave Granted by the ALJs (Tr. 43), IAWC filed the Supplemental Rebuttal Testimony of Frederick L. Ruckman (IAWC Ex. 6.0) on October 31, 2006.

An evidentiary hearing was held on October 30, October 31, and November 1, 2006. At the hearing, Homer Glen, the AG, CUB, IAWC and the Staff appeared and were represented by counsel. Mr. Grens appeared pro se. Testimony was heard and admitted on behalf of the above-listed witnesses. Mr. Grens presented testimony on his own behalf. At the conclusion of the hearing, the matter was marked "Heard and Taken."

## **II. SUMMARY OF IAWC'S POSITION**

Neither the AG, Homer Glen, nor Mr. Grens have met the burden of proof with regard to the claims set forth in their Complaints, the allegations raised by their witness(es), or the recommendations that they propose. In each case, IAWC has shown either that the

Complainants' concerns are unfounded, or, that, where appropriate, IAWC has addressed the concerns. IAWC has also demonstrated that it has been addressing customer concerns as needed since before the Complaints were filed. As a result, there is no basis for the Commission to conclude that additional audits or investigations are needed, that penalties are appropriate, or that any of the other relief requested by the Complainants should be granted.

Many of the issues raised in the Complaints – high bills, "spiking," back billing – and the other issues raised in the testimony of Mr. Rubin, Ms. Niemiec and the Homer Glen Customer Witnesses, stem from events that took place in IAWC's Chicago Metro District ("Chicago Metro District" or "Chicago Metro"), and in particular in Homer Glen, during the summer and fall of 2005. These events reflect unusual circumstances that occurred in Chicago Metro and were exacerbated by a severe drought experienced in 2005. Accordingly, the issues are limited in scope. Moreover, no credible evidence has been offered to support Complainants' assertions that there are "system-wide" problems with regard to data quality, service, or billing accuracy.

The principal issues raised by the AG and Homer Glen are set forth by Mr. Rubin. (AG/HG Ex. 1.0, pp. 4-7.) With regard to those issues, the AG and Homer Glen have not met the requisite burden of proof. Mr. Rubin has not demonstrated that there is any need to conduct an outside audit of IAWC's operations. Mr. Rubin refers to small samples of customer account data, and then, without basis, extrapolates from that small sample to reach the conclusion that there are system-wide data quality issues. As a result, his expressed concerns regarding the quality and accuracy of billing and metering data, IAWC's procedures for estimating bills, and bills with zero and negative consumption are unfounded.

With regard to the issue of back billing in Homer Glen, the Company has already acted, through its back bill audit, to issue credits, with interest, to customers who received back bills following meter exchanges. Neither Mr. Rubin nor Ms. Niemiec has demonstrated that there are any errors in the back bill audit that would justify an independent review.

With regard to the other concerns raised by Homer Glen (through the testimony of Ms. Niemiec and the Homer Glen Customer Witnesses), these concerns are either unfounded or have been addressed. Ms. Niemiec has not offered any evidence demonstrating a need for a system-wide audit. Similarly, Ms. Niemiec has not demonstrated that penalties are appropriate. Finally, Homer Glen has also not met its burden of proof regarding allegations that there is a problem with customer service.

Where the Company has identified valid customer concerns, it has taken action to assure the concerns are resolved. The actions taken by IAWC to address customer concerns both before and after the issues in this case arose are set forth in IAWC Ex. 4.01, which is attached as Appendix "A" hereto. In addition, in May, 2006, the Company prepared a Performance Report (IAWC Exhibit 1.03), which describes in detail the steps the Company is taking to address concerns raised in Homer Glen and elsewhere in Illinois about IAWC's service. Mr. Ruckman's and Ms. Cooper's testimony further addressed the steps IAWC has taken. (*See, e.g.*, IAWC Exs. 1.0, pp. 15-17, 50-51; 2.0, pp. 14-16; 4.0, pp. 6-9.) IAWC's forthright response to the concerns of customers demonstrates its commitment to maintaining the highest levels of customer service. Therefore, because the AG's and Homer Glen's concerns are either without merit or have been addressed by IAWC, there is no basis for the relief that the AG and Homer Glen seek.

Mr. Grens' position regarding the reasonableness of IAWC's water and sewer rates is based on a comparison of IAWC's approved rates for water and sewer service to the rates charged in certain municipalities, without consideration of either IAWC's cost of service or the extent to which the municipalities he references may subsidize their water and sewer operations with tax revenue or operational support from other municipal departments. (Tr. 194-96.) The evidence presented by Mr. Grens does not address any component of IAWC's cost of service, such as operating expenses, rate base, rate of return, or the comparative cost of service for any of the municipalities he references. Mr. Grens also does not address the fact that the rates applicable in certain areas served by Illinois investor-owned utilities are higher than those applied by IAWC in its Southwest Suburban service area. In addition, Mr. Grens acknowledges that, at all times, the rates utilized in developing his bills were the rates approved by the Commission and he cites no concern with the amount of usage or correctness of his bills. Thus, the evidence submitted by Mr. Grens does not demonstrate that IAWC's approved water or wastewater rates are unjust or unreasonable.

### **III. ARGUMENT**

#### **A. STANDARD OF REVIEW**

In complaint proceedings before the Commission, the complainant bears the burden of proof on its claims. *Walden v. GTE North Inc.*, Docket Nos. 98-0200 & 98-0537 (Cons.), 1999 Ill. PUC LEXIS 698, \*82 (Sept. 28, 1999). Therefore, as Complainants, Homer Glen, the AG and Mr. Grens bear the burden of proof in this proceeding, and must show by a preponderance of the evidence that they are entitled to any relief sought. Preponderance of the evidence is defined as "the greater weight of the evidence, not necessarily in numbers of witnesses, but in merit and

worth that which has more evidence for it than against it." *Moss-American, Inc. v. Fair Employment Practices Comm'n*, 22 Ill. App. d 248, 259 (5th Dist. 1974).

## **B. BACKGROUND**

### **1. IAWC, the Chicago Metro District, and Homer Glen**

IAWC, a corporation duly organized and existing under Illinois law, is a public utility within the meaning of the Illinois Public Utilities Act (the "Act"). (IAWC Ex. 1.0, p. 6.) IAWC is a wholly-owned subsidiary of American Water Works Company, Inc. ("American Water") and is the largest investor-owned water utility in Illinois. (*Id.*) IAWC has 394 employees, and its principal office is located in Belleville, Illinois. (*Id.*) At present, IAWC provides service to approximately 281,000 water and 31,000 wastewater customers in all areas of the State. (*Id.*) In southern Illinois, IAWC serves Cairo, East St. Louis, Belleville, Granite City and Alton, while in central Illinois, IAWC serves Lincoln, Pekin, Peoria, Champaign-Urbana, Pontiac and Streator and in northern Illinois, IAWC serves Sterling, South Beloit and, through its Chicago Metro District, portions of the suburbs of Chicago. (*Id.*) Certain of IAWC's customer contact and billing services are provided through American Water's centralized Customer Service Center ("CSC"), the operations of which are described in detail below.

The Homer Glen service area, which is part of the Chicago Metro District, includes about 7,000 metered water customers and a similar number of sewer customers in Homer Glen, Orland Township and portions of unincorporated Lemont and Lockport. (IAWC Ex. 1.0, pp. 6-7.) The area is supplied with Lake Michigan water by the east leg of the American Lake Water Company ("ALWC") pipeline. (*Id.*) ALWC purchases Lake Michigan water for the area from Bedford Park, which in turn purchases water from the City of Chicago. (*Id.*, p. 7.) Wastewater is collected and treated at three waste treatment plants referred to as Chickasaw, Derby Meadows

and Oak Valley. (*Id.*) This service district, in concert with all other Chicago Metro service areas, is operated, managed and locally serviced from Chicago Metro's Woodridge office. (*Id.*)

IAWC acquired the water and wastewater facilities that make up its Chicago Metro District—an area that consists of portions of Cook, DuPage, Will, Kendall, Grundy, Kane and McHenry Counties—when IAWC acquired the assets of Citizens Utilities Company of Illinois ("Citizens") on January 15, 2002, pursuant to the Order of the Commission in Docket No. 00-0476. (IAWC Ex. 1.0, p. 7.) Although Citizen's facilities were in generally good condition, Citizens' meter infrastructure was outdated, and its meter change program was well behind schedule. (*Id.*) Valve and hydrant testing practices were also not fully compliant with Commission Rules. (*Id.*) Accordingly, as described in more detail below, IAWC initiated capital programs in 2003 designed to accelerate meter change-outs and improve valve and hydrant testing. (*Id.*)

## **2. Lake Water Service in Homer Glen**

Water for Homer Township (including Homer Glen) was initially obtained from wells. (IAWC Ex. 1.0, p. 10.) However, in the early 1990's, Homer Township's public leaders and Citizens recognized that the groundwater supply to this fast-growing area might not be adequate to meet future needs. (*Id.*) In addition, the shallow-well source of water was high in iron and hardness, and water quality was poor. (*Id.*; Tr. 58.) The poor water quality led to concerns by customers about rusty water ruining their clothes and corroding their pipes, and many customers had to buy or rent water softeners at a cost often in excess of \$20 a month. (IAWC Ex. 1.0, p. 10; IAWC Cross Ex. 2, p. 2.)

In 1994, Citizens polled community leaders and their customers, asking if they preferred that Citizens continue with the current source of supply, or switch to Lake Michigan water for an additional cost. (IAWC Ex. 1.0, p. 10.) In response to the poll, 92.5% of the customers in Homer Township who responded indicated that they preferred to switch to Lake Michigan water. (*Id.*) In addition, Homer Township passed a resolution (IAWC Exhibit 1.01) requesting that the Commission certify Citizens (through an affiliated entity, Citizens Lake Water Company ("CLWC")) to provide Lake Michigan water throughout any portion of Homer Township that was not served by another investor-owned or municipal utility. (IAWC Ex. 1.0, p. 10.) Accordingly, CLWC built an 18-mile pipeline to bring Lake Michigan water to Homer Glen and other Chicago Metro service areas. (*Id.*) The pipeline, which was placed in service in March 2001, cost CLWC more than \$45 million. (*Id.*) Significant additional investment in the existing utility infrastructure was also required in order to receive water from the pipeline. (*Id.*)

In consolidated Dockets 96-0200 and 96-0240, the Commission approved purchased water agreements under which Citizens would purchase Lake Michigan water from CLWC and provide it to customers. (IAWC Ex. 1.0, p. 11.) In 2002, at the time that IAWC acquired the assets of Citizens, American Water acquired CLWC, which was renamed American Lake Water Company ("ALWC"). (*Id.*) In the Order in Docket 00-0476, which approved IAWC's acquisition of Citizens, the Commission approved IAWC's assumption of Citizens' position under the purchased water agreements with ALWC. (*Id.*) The Commission recently re-approved the purchased water agreements in Docket 04-0594. (*Id.*) The cost of Lake Michigan water purchased by IAWC from ALWC is passed through dollar-for-dollar to Homer Glen customers through a charge ("Supply Charge") determined in accordance with a Purchased Water Rider ("Rider"). (*Id.*) The terms of the Rider are set forth in the tariffs of the Chicago Metro District,

and are consistent with the provisions of 83 Illinois Administrative Code, Section 655. (*Id.*) IAWC is required to file with the Commission an annual reconciliation of operation of the Supply Charge. (*Id.*) Lake Michigan water, which must be transported through the pipeline owned and operated by ALWC, is more expensive than the well water supply used for the Homer Glen area prior to completion of the pipeline. (*Id.*)

From 1995 to January of 2002-when IAWC acquired the assets of Citizens-Citizens had not adjusted its rates. (IAWC Ex. 1.0, p. 12) In the meantime, however, Citizens' investment in its utility plant had more than doubled. (*Id.*) Thus, IAWC filed for a rate increase after the acquisition, and in August 2003 the Commission approved a 40% increase in rates—an increase which impacted all customers in the Chicago Metro District. (*Id.*)

### **3. The Homer Glen Sewer and Water Task Force**

Homer Glen formed a Sewer and Water Task Force ("Task Force") in early 2004. (HG Ex. 1.0, p. 6.) The Task Force met monthly from June, 2004 through the end of 2005. (*Id.*, p. 7.) IAWC attended numerous Task Force meetings. (IAWC Ex. 1.0, p. 47.) The Task Force prepared an Interim Report ("Report") dated September 20, 2005, which referenced certain concerns regarding IAWC's water and sewer service in Homer Glen. (HG Ex. 1.01.)

The Task Force made a number of requests for information from IAWC, and IAWC sought to provide the Task Force with all the information it requested. (IAWC Ex. 1.0, p. 47.) As described below, IAWC undertook to work with Homer Glen to address many of the concerns raised by the Task Force.

The Task Force Report stated that the Task Force was "Generally Satisfied" with IAWC's service. (HG Ex. 1.01.) In particular, it noted that the quantity of water available was not an

issue during the summer of 2005, despite a drought; the quality of the Lake Michigan water is very good; the IAWC sewer treatment facilities do not have a record of a large quantity or severe violations of environmental laws and permits; and the water distribution system and the sewer collection system seem to be generally reliable. (*Id.*; Tr. 58-59) It recognized the fact that studies during the 1990's showed that ultimately the underground aquifer could not support the future anticipated population of Homer Glen and Homer Township. (HG Ex. 1.01.) It noted that the Lake Michigan water pipeline built was estimated to be the lowest cost alternative, providing the most stable water supply. (*Id.*) Finally, it noted that rate comparisons of communities served by municipal utilities are non-standardized and of limited relevance in determining the appropriateness of water rates in Homer Glen, as municipal utilities have use of multiple means of funding water service to residents. (*Id.*)

#### **4. IAWC Began Replacing the Meters in Chicago Metro in 2003**

Many of the meters Citizens installed (prior to Citizens' acquisition by IAWC) employed "pulse" reading devices (known as odometer devices) that can under-register the amount of water being used by the customer. (IAWC Ex. 1.0, p. 8.) Odometer-style meters consist of a meter inside a customer's residence that sends a pulse to an odometer reading device outside the residence as water was used, allowing the outside odometer device to display the meter reading and therefore eliminating the need for a meter reader to enter a residence to read the meter. (*Id.*) However, in some cases, the external odometer device did not function properly and would under-register the amount of water flowing through the meter. (*Id.*) As a result, for some customers, actual usage as recorded on the inside meter was higher than the reading from the outside odometer meter device. (*Id.*) This odometer device technology does not exist anywhere in IAWC's service territories other than in Chicago Metro. (*Id.*)

Recognizing that Citizen's meter infrastructure was outdated, and that the Chicago Metro District had a significant backlog of meter change-outs due under the Commission's rules at the time IAWC purchased Citizens, commencing in 2003 IAWC initiated a program ("Meter Replacement Program") to install state-of-the-art Automatic Meter Reading systems (also known as radio-read systems) throughout the Chicago Metro District, including Homer Glen. (IAWC Ex. 1.0, pp. 8-9.) The radio read system sends actual meter readings from the inside meter via radio signals to the meter reader, so the system is accurate. (*Id.*) As will be discussed below, as these meters are installed, the percentage of estimated reads declines because meter readers have (i) fewer problems with indoor meter access, and (ii) a more efficient way of gathering actual reads over a large geographic area. The radio-read system is state-of-the-art and is being installed in many municipal water systems throughout Illinois, including Hoffman Estates, Matteson, Mokena, Oak Park, Woodstock, Bloomington, Moline, Elmhurst, Park Ridge, and Rock Falls. (*Id.*, p. 9.)

At the beginning of 2003—just one year after IAWC's acquisition of Citizens—IAWC estimated that approximately 19,400 accounts (45-50% of the customer base) had meters that had not been tested in accordance with Commission timelines. (IAWC Ex. 1.0, p. 9.) IAWC, therefore, made the replacement of all meters in Chicago Metro a priority, not only to ensure compliance with the Commission's rules, but also because the investment in radio read meters throughout the service area would continue to improve service, for example by reducing estimated reads. (IAWC Ex. 4.0, p. 17.) In fact, in Chicago Metro, estimates dropped below 4% in January 2006, and below 2% in March 2006, and have been approximately 2% since that time. (*Id.*)

IAWC has prioritized meter replacement in those areas where the deadline for testing under Commission rules is first approaching. (IAWC Ex. 4.0, p. 17.) By employing an outside contractor and by working evenings and weekends, IAWC has accelerated the Meter Replacement Program's progress. (IAWC Ex. 1.0, p. 9.) IAWC has replaced approximately 16,700 meters in Chicago Metro, leaving about 15,700 meters as of March 2006 (additional meters having come due for testing since 2003). (*Id.*) IAWC intends to complete the Meter Replacement Program by 2010. (*Id.*) Aside from meters in the Bolingbrook area, all other meter replacements in Chicago Metro will be completed by the end of 2007. (IAWC Ex. 4.0, p. 17.) In Homer Glen, IAWC has replaced all but 300 of the 7,000 meters with radio read meters. (IAWC Ex. 4.0, p. 6.) In fact, Mr. Rubin noted (AG/HG Ex. 2.0, p. 5) that IAWC's meter exchanges are proceeding "slightly faster" than Commission rules require.

#### **5. IAWC Reviewed Compliance with Valve and Hydrant Inspection Requirements Beginning in 2004**

In 2004, the Commission Staff conducted a field investigation of the valve and hydrant records in IAWC's Pontiac and Interurban Districts and found that they were not in full compliance with the applicable rules concerning valve inspections. (IAWC Ex. 1.0, p. 43.) Immediately following the Staff's investigation, in February 2005, IAWC began its own investigation of valve, hydrant and meter regulatory compliance in all IAWC districts. (*Id.*, pp. 6-7.) The investigation found that, while most districts were at or near full compliance, some were not. (*Id.*, p. 43.) Accordingly, IAWC developed an action plan to bring all districts into compliance with the rules, and the Company committed to hiring an additional 38 employees, most of whom will be dedicated specifically to maintaining hydrants and exercising valves. (*Id.*) For the year 2006, all hydrants in Homer Glen, Champaign, Urbana, Alton, Lincoln, Pekin and Pontiac have already been inspected. (IAWC Ex. 4.01, p. 2) All other fire hydrants in Illinois

will be inspected by year-end. (*Id.*) Moreover, as discussed below, IAWC will implement valve and hydrant maintenance inspection programs in its Champaign and Chicago Metro Districts in accordance with Staff's recommendations in this proceeding.

#### **6. Homer Glen Experienced an Extreme Drought in 2005**

Much of Illinois, and particularly southwest suburban Chicago, where Homer Glen is located, experienced a severe drought in 2005. (IAWC Ex. 1.0, p. 14.) In fact, in 2005, northeast Illinois, including the Chicago Metro District service areas, experienced its driest March-November period on record (since 1895). (ICC Staff Ex. 1.0, p. 43.) As a result, customers in Homer Glen experienced the higher water rates approved in 2003 and the cost of Lake Michigan water, which, as described above, is more expensive than groundwater, in a drought situation for the first time. Although the drought impacted all of Illinois, it was unusually severe in the Homer Glen area. (*Id.*) Predictably, the drought caused an increase in Lake Michigan water usage in Chicago Metro and Homer Glen for lawn watering and other drought-related uses. (IAWC Ex. 4.02.)

#### **7. Homer Glen Experienced an Increase in Complaints in 2005**

As a result of the drought-related increase in customer usage (and, in certain cases, as discussed below, as a result of the issuance of bills for previously unbilled service in conjunction with the Meter Replacement Program), an increase in customer complaints occurred in Homer Glen in the summer and fall of 2005. (IAWC Exs. 1.0, p. 12; 4.02.) According to records of utility complaints compiled by the Commission's Consumer Service Division, IAWC historically had fewer complaints per 10,000 customers than most other Illinois public utilities, and has always had fewer complaints than other large Illinois water utilities. (*Id.*) In 2004, the first full year following the 2003 rate increase, only 107 customers from throughout Illinois filed informal

complaints with the Commission that were forwarded to the Company. (*Id.*) These complaints came from more than two million bills issued during 2004. The low level of complaints in 2004 is noteworthy in that, although the 2003 rate increase was in effect, the level was unaffected by drought conditions or the Meter Replacement Program in Homer Glen. (*Id.*)

In 2005, IAWC's level of customer complaints to the Commission nearly tripled, increasing from 107 to 310. (IAWC Ex. 1.0, p. 13.) Nevertheless, IAWC still had the fewest complaints of any large water company in Illinois. (*Id.*) The vast majority of the 2005 complaints were isolated in the Chicago Metro District—and Homer Glen in particular. (*Id.*) Specifically, of the 310 complaints, 189 (61%) came from the 2.7% of IAWC's customers who live in Homer Township - about 26 complaints per 1,000 customers. (*Id.*) By contrast, other IAWC customers in the Chicago Metro District filed only 1.4 complaints per 1,000 customers, and IAWC customers throughout the remainder of Illinois filed only 0.3 complaints per 1,000 customers. (*Id.*) The increase in complaints also came primarily in the late summer and fall of 2005, with the majority of complaints for IAWC for all 2005 concentrated in Chicago Metro in the late summer and fall. (*Id.*)

Homer Glen itself actively encouraged customers to file complaints with the Commission, thus driving up the volume of complaints. (IAWC Ex. 1.0, p. 13.) As Homer Glen's Complaint explains: "[i]n response to the rash of complaints against IAW, Homer Glen encouraged its residents to not only contact the village but also to contact the ICC directly." (Homer Glen Compl., ¶ 32.) Nevertheless, despite encouraging its residents to submit complaints, Homer Glen did not itself investigate the validity of the complaints. (Tr. 72-75.) As Ms. Niemiec testified, "[a]t times the Village asked for data and information from the residents so they could then forward it on to Illinois American. That was the extent of the Village's investigation of

these complaints." (Tr. 72-73.) Had Homer Glen investigated the high bill complaints, it might have discovered, as Staff Witness Johnson's review did, that certain customers with high usage in the summer of 2005 also had high monthly usage in summer months of previous years as well. (ICC Staff Ex. 1.0, pp. 44-45.)

Since the fall of 2005, complaints from Homer Glen have returned to a more typical level. (IAWC Ex. 1.0, p. 17.) In fact, for 2006, the number of complaints to the Commission's Consumer Services Division in both Chicago Metro as a whole, and Homer Glen, is trending lower than in 2004, based on the number of complaints received through July of each year. (*Id.*) In Homer Glen, the number of 2006 complaints for May, June and July is a small fraction of the 2005 level for that same period. (*Id.*) Similarly, the number of complaints logged by Homer Glen authorities dropped significantly from 2005 to 2006 (from approximately 400 to approximately 29). (Tr. 75-76; HG Ex. 1.02.)

#### **8. IAWC Stopped Backbilling of Customers in Connection with Odometer Meter Exchanges in Chicago Metro in 2005**

As stated above, many of the meters Citizens used in Chicago Metro employed odometer reading devices that can under-register the amount of water being used. (IAWC Ex. 1.0, p. 14.) In connection with the Meter Replacement Program, IAWC hired a contractor, Water Services Company, to implement the meter changes designed to convert these odometer-style meters to radio read meters. (IAWC Ex. 1.0, p. 14.) At the time of meter change out, Water Services Company reported the odometer reading and the actual level of water used by the customer as recorded on the (inside) meter. (*Id.*, p. 15.) Section 280.100 of the Commission's rules permits a utility to issue a bill for residential utility service rendered within the previous twelve months. IAWC therefore input the actual usage information into the billing system, which issued back

bills to the customers for the previously unbilled amount of their actual usage. (*Id.*) These back bills were, in certain instances, relatively high as compared to the customers' previous bills. (*Id.*)

IAWC determined, however, that, in certain cases, the difference between the inside meter and under-registering odometer device may have related to customer usage during a period more than twelve months prior to the meter reading, billing for which is inconsistent with the Company's billing guidelines and the applicable Commission rule. (IAWC Ex. 1.0, pp. 15-16.) Therefore, in order to ensure that no IAWC customer received a back bill for service of more than 12 months, as of September 2005, the Company discontinued the practice of billing customers included in the Meter Replacement Program for past unbilled water use detected at the time of the meter change. (*Id.*) Thus, after September 2005, no IAWC customer received a back bill for previously unbilled service relating to odometer meter under-registration.

**9. IAWC Also Conducted an Audit of Chicago Metro Customers Who May Have Received Back Bills Following Odometer Meter Exchanges and Issued Credits to the Appropriate Customers**

IAWC initiated an audit (IAWC Exhibit 1.02) to identify all customers in Chicago Metro who may have received a bill for previously unbilled service following a meter change. The purpose of the audit was to ensure that no customers were billed for usage extending back more than 12 months. Although IAWC believed that most customers with odometer style meter-related discrepancies were properly billed for unbilled service in accordance with 83 Ill. Admin. Code Section 280.100, the Company decided to conduct the audit and issue credits to all customers who received bills for unbilled service based on a meter discrepancy identified during a meter exchange, in order to ensure that there was no possibility that customers were back billed for more than 12 months. Customers identified in the audit received credits (with interest) on or before October 1, 2006 for amounts billed for prior unbilled service in connection with the Meter

Replacement Program. (IAWC Exs. 1.0, p. 17; 4.0, p. 10; Tr. 221.) Customers who had previously received credits also received an interest payment consistent with the credit previously received. (Tr. 422; IAWC Ex. 4.03.)

IAWC used the following criteria in selecting customers for the audit: (1) the account had an odometer-style remote reading device at the time of a meter exchange that took place from 2003 to the present; (2) there was an identified difference between the remote odometer reading and the actual reading taken from the meter at the time the meter was exchanged; and (3) the customer was billed from the reading taken from the meter. (IAWC Ex. 1.0, p. 16.) Using these criteria, IAWC reviewed data on over 10,000 Chicago Metro meter exchanges and identified 474 accounts that required review. (*Id.*) These accounts were further audited to confirm: (i) whether the meter had been visually read in the 12 months previous to the exchange; (ii) if any usage could reasonably have occurred prior to the twelve-month allowed timeframe for unbilled service; (iii) whether the account had already been adjusted and credited for any back billed usage; and (iv) if the customer had in fact been billed from inside meter when there was a discrepancy. (*Id.*) At the conclusion of the audit, IAWC found that 335 accounts should receive a credit. (*Id.*) As described above, IAWC credited these customers' accounts for the amount of all back billing (not just back billing beyond 12 months). (*Id.*; IAWC Ex. 4.0, p. 10.)

The back bill audit determined that the amount of the discrepancy between inside and outside meters was generally small: over 80% of the accounts identified as needing a credit had discrepancies of 5 units (5,000 gallons) or less. (IAWC Ex. 1.0, p. 17.) In fact, ten customers of the 335 that received a credit a credit represented the vast majority of the discrepancies by volume. (*Id.*) The remaining accounts (of the 474 reviewed) not included in the 335 that received a credit either: (a) had a credit already made in response to a customer complaint; (b)

had a final billing made from the odometer reading and not the inside meter reading; (c) had final inside and outside readings that matched; or (d) were duplicate entries in the original audit list.

*(Id.)*

#### **10. IAWC Took Steps To Address Homer Glen's Other Concerns**

In response to concerns expressed by Homer Glen in 2005 (particularly through the activities of the Task Force), and in addition to the steps regarding back billing above, IAWC took a number of steps related to Homer Glen specifically. IAWC representatives attended Task Force meetings and helped gather and provide information to Homer Glen. (IAWC Ex. 1.0, p. 50.) Ms. Niemiec's testimony (HG Ex. 1.0, p. 10) describes some of the efforts IAWC made to resolve Homer Glen's concerns: "[T]he Village met with IAWC on October 4, 2005. As a result of the meeting, IAWC sent the Village a letter on October 6, 2005 outlining steps IAWC was taking concerning the numerous complaints it had received from Homer Glen residents," and, "On October 23, 2005, IAWC sent a letter to residents that set out IAWC's position regarding the high and spiking water bills received by Homer Glen residents."

IAWC also undertook an audit of water usage in Homer Glen to address concerns about unaccounted-for water. (IAWC Ex. 1.0, p. 51.) This audit included retaining an outside leak detection contractor to survey the entire distribution system and to repair all identified leaks, and a review of all Homer Glen residences and businesses to confirm that all customers utilizing the public water supply are being billed for service. (*Id.*, p.22.) Also, the Company continues to work with Homer Glen to discourage water theft through fire hydrants and has agreed to meter construction water at the municipality's request. (*Id.*) These steps illustrate IAWC's proactive approach with regard to addressing Homer Glen's concerns.

Other concerns expressed in the Task Force Report have been addressed through the establishment of the specialty group discussed below in the CSC dedicated to handling calls from the Chicago Metro service districts, the flushing and inspection of fire hydrants in April and May 2006, assignment of a local contact in 2005 in Chicago Metro's Woodridge office to assist in resolving water and sewer questions referred to the Company by Homer Glen, and holding of a Town Hall Meeting on May 22, 2006 at Goodings Grove School in Homer Glen to provide information to and answer questions from customers. (IAWC Ex. 1.0, p. 51)

**11. IAWC Took Further Steps in Response to Customer Concerns and the Allegations of the Complaints**

As will be discussed below, most of the allegations raised by the Complainants are baseless. However, where IAWC identified valid concerns, either through customer feedback or as a result of the Complaints, IAWC moved aggressively to address those concerns.

**a. Customer Service Center Chicago Metro Specialty Desk**

IAWC's Chicago Metro District has a number of complexities related to its tariff , the Supply Charge, sewer authority relationships and the unique circumstances surrounding the replacement of odometer-style meters. (IAWC Ex. 2.0, p. 15; Tr. 457.) The 2005 summer drought, higher costs for Lake Michigan water and the higher volume of calls at the CSC generated a significant number of customer complaints in the Chicago area – particularly in Homer Glen – that focused on these unusual circumstances. (IAWC Ex. 2.0, p. 15.) In response, as indicated above, IAWC established a Chicago-area "specialty desk" at the CSC. (*Id.*) Beginning June 4, 2006, calls coming from the Chicago area have been routed to a specially trained Customer Service Representative ("CSR"). (*Id.*) These CSRs have received additional

in-depth training about Chicago Metro systems, processes and billing, and are available to Chicago Metro customers 24 hours a day, seven days a week. (*Id.*, pp. 15-16.)

**b. Bill Format Improvements**

The Company believes its bill format is in accord with the Commission's requirements. However, in response to customer workshop feedback and concerns raised by Homer Glen and the AG, IAWC has identified areas where its bill can be enhanced to improve a customer's ability to understand the billing information, particularly with respect to the Supply Charge, as well as line item charges for sewer services. (IAWC Ex. 1.0, p. 41.) The Company intends to change the description of the Supply Charges and will show the base volumetric rate for the Supply Charge on the bill. (*Id.*; Tr. 322-24.) IAWC will also inform the customer about the time period the bill covers when there is more than one consecutive estimate or there is a back bill. (IAWC Ex. 4.01, p. 2.) The revised bill format will comply with the recent requirements of 220 ILCS 5/8-306. (*Id.*) In accordance with the Commission's rules (83 Ill. Admin. Code § 600.160), the revised bill format will be submitted the Commission for approval.

**c. Dissemination of Customer Information**

IAWC provides information to customers regarding IAWC's credit and collection practices in its Rules, Regulations and Conditions of Service (Water), ILL. C. C. No. 4, Sheet Nos. 10-15 & 23-24, which are available for public inspection at IAWC's business offices and at the offices of the Commission. (IAWC Ex. 1.0, p. 54.) In addition, information regarding payment assistance and payment plans is provided through IAWC's website, which also provides "Regulatory Information" that includes a link to the Commission's website. (*Id.*) IAWC also provides all customers with information on collection practices and late payments in the "Messages from IAWC" section of each bill. (*Id.*) In addition, the "Messages" section refers to

IAWC's website, which contains the payment and regulatory information described above. (*Id.*) Payment plan information is also provided in the letters issued to customers receiving back bills described below. (Tr. 319-20.) However, to further improve the provision of relevant information to customers, IAWC is currently developing a customer information booklet containing the information described by 83 Ill. Admin. Code Section 280.200, which will be provided to all IAWC customers. (*Id.*) This booklet will also include the customer "Bill of Rights" discussed in Section 8-306 of the Act. (IAWC Ex. 4.01, p. 3.)

With regard to notice of water use restrictions required by the Illinois Department of Natural Resources ("IDNR"), IAWC communicated water conservation guidelines to customers in various ways throughout the summer of 2006, and IAWC will continue to provide this information in the future. (IAWC Ex. 4.01, p. 3.)

#### **d. Billing Procedure Improvements**

The Company also has made certain improvements to its billing procedures to help identify bill spikes and other billing concerns and inform customers of them. These improvements will also help the Company identify unusual bills and take steps to investigate where necessary. These steps include:

- When consumption for a given period exceeds the average consumption for the preceding three months by 50% or more, the Company reviews the account. If the review establishes that the measured consumption is accurate, the customer is notified by letter of the higher-than-historical usage, and is thus provided information to enable the customer to alter his usage. If, however, the review demonstrates that the measured consumption may not be accurate, the Company takes further action as appropriate. (IAWC Ex. 4.01, p. 1);
- When a back bill is issued following a meter exchange, stopped meter or consecutive estimates, IAWC sends a letter to the customer indicating the affected period, the reason for the back bill, and the payment terms available. (IAWC Ex. 4.01, p. 1; Tr. 319-20); and

- When no consumption—or "zero" consumption—is shown for three or more consecutive billing periods, IAWC reviews the account, and, if appropriate, takes further action. (IAWC Ex. 4.01, p. 1).

## **12. The AG and Homer Glen Complaints**

The main concerns that the AG and Homer Glen seek to address in this proceeding are summarized by Mr. Rubin. Mr. Rubin alleged in his testimony that: (i) IAWC has serious data quality issues with its customer service, billing, and metering records; (ii) IAWC improperly issued make up bills to hundreds of customers in the Chicago Metro area; (iii) IAWC improperly issued consecutive estimated bills to customers in Illinois; (iv) IAWC is not taking reasonable and prudent actions to track and investigate customers who receive bills that show zero consumption; (v) IAWC's bills are confusing; (vi) the Commission should oversee or conduct a full investigation of IAWC's fire hydrant maintenance and testing programs; and (vii) the Commission should order a full-scale audit of the Company's billing, metering, and customer service records. (AG/HG Ex. 1.0, pp. 6-7.)

Additional concerns raised by Homer Glen are set forth in the testimony of Ms. Niemiec, who sought the following: (i) an independent audit of back bills sent to Homer Glen customers; (ii) a full-scale audit of the type described by Mr. Rubin; (iii) assurance that customers who were back billed or charged a make up bill should be refunded the entire amount of the back bill or make up bill; (iv) assessment of administrative penalties and fines for each incident identified where the company has inappropriately back billed or sent make up bills to Homer Glen residents; (v) an order that IAWC send customers statements of customers' rights to dispute bills, receive a payment plan and file complaints with the ICC; and (vi) a Commission order that IAWC cease and desist from any patterns of harassment and/or intimidation of customers. (HG Ex. 1.0, pp. 16-17.) Homer Glen also introduced evidence related to the purported complaints or

concerns of certain individual customers, including the Homer Glen Customer Witnesses. (*See* HG Exs. 2.0; 3.0; 4.0; 6.01; 6.02.)

**C. THE ISSUES RAISED BY HOMER GLEN AND THE AG RELATE PRIMARILY TO EVENTS IN CHICAGO METRO IN 2005**

Most of the concerns that the AG and Homer Glen raise in their Complaints and testimony relate to the Meter Replacement Program in Chicago Metro and the extreme drought in Illinois in 2005. This is demonstrated by IAWC Exhibit 4.02, which shows the direct correlation between the drought (as represented by increased summer system delivery) and the escalated level of complaints received in the summer and fall of 2005. Neither Mr. Rubin, Ms. Niemiec, nor the Homer Glen Customer Witnesses have offered evidence to support a claim that the situation in Homer Glen in 2005 was related to and/or similar to any alleged concerns outside of Chicago Metro. Nor have these witnesses identified valid complaints related to the issues in this case from outside Chicago Metro.

Further evidence that the complaints at issue in this proceeding are related mainly to events in Homer Glen in 2005 is the fact that the number of complaints made about IAWC in Chicago Metro has declined since the summer and fall of 2005. As stated above, since the fall of 2005, complaints from Homer Glen have returned to a more typical level. (IAWC Ex. 1.0, p. 17.) The decline in complaints from 2005 to 2006 demonstrates that it was events in 2005 that were driving customer concerns, and that the end of the drought and substantial completion of the Meter Replacement Program in Homer Glen have reduced those concerns.

Moreover, neither the AG nor Homer Glen has identified a valid customer complaint from outside Chicago Metro relating to IAWC's service. All but two of the customer complaints identified in the AG's and Homer Glen's testimony in this case are from customers in the

Chicago Metro District. (*See e.g.*, HG Exs. 1.0; 2.0; 3.0; 4.0; 1.02; 1.03; 6.01; 6.02.) Mr. Rubin offered two customer "complaints" from outside Chicago Metro which he claimed represented back billing. (AG/HG Ex. 2.3.) As it turned out, however, the allegations of the two individuals were not related to back billing or any other issue, and the customers' concerns were resolved. (IAWC Ex. 4.0, pp. 12-14.) As a result, there is no evidence of valid customer concerns outside Chicago Metro.

Mr. Rubin also alleged that certain bill data (for example, on issuance of estimated bills and consecutive zero bills) are indicative of statewide concerns beyond Chicago Metro. (AG/HG Ex. 1.0, p. 5.) However, as described below, these allegations are unfounded and represent unsupported extrapolation from small data sets. As a result, the concerns in this case are focused on Chicago Metro. Because IAWC has addressed those concerns where appropriate, the relief sought by Homer Glen and the AG is unwarranted.

**D. IAWC MOVED AGGRESSIVELY TO ADDRESS CUSTOMER CONCERNS ARISING IN THE SUMMER OF 2005 IN CHICAGO METRO OR IDENTIFIED IN THIS PROCEEDING**

The AG and Homer Glen attempt to characterize the proactive steps taken by IAWC as occurring as a result of the Complaints filed in his case, but that is not the case. (AG/HG Ex. 2.0, pp. 1-2; HG Ex. 5.0, p. 2.) As described above, IAWC took steps to address some of the concerns at issue in this case as early as 2003 and addressed many of the other concerns now raised by the AG and Homer Glen in 2005, well before the Complaints were filed in February, 2006. For example, as described above, IAWC initiated the Meter Replacement Program in 2003 and commenced the valve and hydrant review in early 2005. (IAWC Ex. 4.0, p. 6.) As also described above, IAWC was already working with Homer Glen to address the concerns raised by the Task Force in 2005. (*Id.*, p. 7.) Similarly, IAWC identified concerns with

odometer meter exchanges and took steps to address them in the fall of 2005. (*Id.*) To the extent that the Complaints or customer feedback identified additional concerns since the fall of 2005, IAWC acted to address those as well. Moreover, IAWC has agreed to accept the recommendations of Staff in this case as described below.

IAWC has taken, or has committed to take, all of the actions in IAWC Exhibit 4.01, a copy of which is attached as Appendix "A" hereto. The following summarizes the steps (described in detail above) taken by IAWC both before and after the Complaints were filed that address issues of concern to the Complainants:

- Replacing all meters in Chicago Metro and Homer Glen.
- Permanently stopping the issuance of back bills resulting from inside/outside odometer meter discrepancies in Chicago Metro.
- Conducting the Meter Replacement Program back bill audit and issuing credits in Chicago Metro.
- Establishment of a specialty group in the customer service center dedicated to handling calls from the Chicago Metro District.
- Undertaking bill format improvements to improve clarity and understandability of bills.
- Improving the dissemination of customer information, including the development of a customer information booklet.
- Aggressively addressing valve and hydrant inspections, including committing to inspect all hydrants by year-end 2006.
- Implementing billing procedure improvements, including high bill reviews, back bill letters, and consecutive zero use bill review.
- Attending Task Force meetings and providing information to Homer Glen.
- Auditing water usage in Homer Glen to address concerns about unaccounted-for water.

- Working with Homer Glen to discourage water theft through fire hydrants and to meter construction water at the municipality's request.
- Flushing and inspecting Homer Glen fire hydrants in April and May 2006.
- Assigning a local contact in 2005 in Chicago Metro's Woodridge office to assist in resolving water and sewer questions referred to the company by Homer Glen.
- Holding of a town hall meeting on May 22, 2006 at Goodings Grove School in Homer Glen to provide information to and answer questions from customers.

**E. IAWC HAS ACCEPTED THE RECOMMENDATIONS OF COMMISSION STAFF IN THEIR COMPREHENSIVE REVIEW OF IAWC'S METER, VALVE, HYDRANT AND COMPLAINT RECORD KEEPING PRACTICES**

Staff Witness Johnson conducted a comprehensive review of IAWC's meter, hydrant, valve and complaint records. (ICC Staff Ex. 1.0, pp. 3-39.) The results of his review demonstrate that further investigation or audit of IAWC's practices is not required.

With regard to meters, Mr. Johnson found that IAWC was in compliance with most meter rules. (ICC Staff Ex. 1.0, pp. 21-23.) However, Mr. Johnson recommended that IAWC begin the process of consolidating its meter information so that data can be traced back to the time of initial purchase and installation in a simpler and more organized fashion. (*Id.*, p. 24.)

Mr. Johnson also recommended that the Company condense its rules, regulations, and conditions of service tariffs to make them simpler and more understandable to the public, and that the Company amend its tariffs to provide one unified set of rules, regulations, and conditions of service for all of its service areas in Illinois. (*Id.*) Finally, Mr. Johnson recommended that IAWC file a petition (within one year from the date of an order in this case) to enable the Commission to review whether the fifteen year meter testing period variance is appropriate for IAWC's Champaign Division. (*Id.*, p. 25.) IAWC accepted all of these recommendations. (IAWC Ex. 4.0, p. 2.)

An inspection of fire hydrant maintenance records was also performed by Staff Witness Johnson. Mr. Johnson concluded that there did not need to be a full investigation of IAWC's hydrant testing and maintenance programs throughout Illinois. (ICC Staff Ex. 1.0, p. 29.) However, he recommended that a program of hydrant inspection be done for IAWC's Chicago Metro and Champaign Districts. (*Id.*, p. 30.) Accordingly, IAWC will 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. (IAWC Ex. 4.01.) The Company will file a report detailing the inspection, identifying the individual hydrants inspected by number, maintenance performed, problems found, and any corrective action performed. (*Id.*) The report will also include all information required under 83 Ill. Admin. Code Section 600.140(c). (*Id.*) If all existing hydrants cannot be inspected and any corrective action performed within one year from the date of the final order, IAWC will request an extension that would include written justification and a timeline for repairs to the Commission's Manager of the Water Department. (*Id.*)

Mr. Johnson also recommended that a fire flow test should be conducted during the hydrant testing and maintenance inspection. (ICC Staff Ex. 3.0, p. 2.) In accordance with this recommendation regarding fire flow tests, where an ISO Public Fire Protection Survey has been completed within the last two years for an IAWC service area in Champaign or Chicago Metro, IAWC will provide a copy of that report to Commission Staff. (IAWC Ex. 6.0, pp. 1-2.) Where the most recent ISO Public Fire Protection Survey for a particular IAWC district in Champaign or Chicago Metro is more than two years old, IAWC would perform an ISO test of fire flows (using ISO methodology in selection of hydrants, performance of the fire flow test, and identification of hydrants to be tested). (*Id.*, p. 2.) This test would be completed within one year

of the order in this proceeding and the results of such tests would be included with the reports on the hydrant testing and maintenance inspection. (*Id.*)

Staff Witness Johnson inspected the Company's valve records. Mr. Johnson concluded that there did not need to be a full investigation of IAWC's valve testing and maintenance programs throughout Illinois. (ICC Staff Ex. 1.0, p. 35.) However, he recommended a valve inspection program for the Champaign and Chicago Metro Districts. (ICC Staff Ex. 1.0, p. 36) Accordingly, IAWC will complete a valve testing and maintenance inspection for all of the Chicago Metro and Champaign service areas within one year. (IAWC Ex. 4.01.) The Company will file a report detailing the inspection, identifying individual valves by number, maintenance performed, problems found, and any corrective action performed. (*Id.*) The report will also include all information required under 83 Ill. Admin. Code Section 600.140(c). (*Id.*) If all existing valves cannot be inspected and any corrective action performed within one year from the date of the final order, IAWC will request an extension that would include written justification and a timeline for repairs to the ICC's Manager of the Water Department. (*Id.*)

Mr. Johnson also reviewed IAWC's complaint records. He found no evidence of any violation of the Commission's rules for complaint records. (ICC Ex. 1.0, p. 39.) All IAWC service areas he examined maintained the information required by Section 600.170(b), and the quarterly report that IAWC provided included all the information required under Section 600.170(c). (*Id.*, p. 38.)

Finally, Mr. Johnson recommended that the Commission notify the Company, as part of a final order in this case, that the failure to complete Mr. Johnson's recommended actions in

accordance with his proposed timeframes would subject the Company to civil penalties. (ICC Staff Ex. 1.0, p. 48.)

Although Mr. Rubin and Ms. Niemiec appear to question the validity of Mr. Johnson's review of IAWC's records (AG/HG Ex. 2.0, pp. 21-22; HG Ex. 5.0, pp. 9-10), Mr. Johnson in fact looked at individual IAWC records in light of the relevant Commission rule. As such, Mr. Johnson's review was in many ways more focused and detailed than the sweeping allegations made by Mr. Rubin. For this reason, Mr. Johnson's review deserves significant weight, and demonstrates that no further audit or investigation into IAWC's practices is needed.

Staff Witness Howard reviewed the efforts of IAWC with regard to back bills resulting from the Meter Replacement Program, proposed changes to IAWC's bill format and the information sent to customers. (ICC Staff Ex. 2.0, p. 2.) Ms. Howard concluded that IAWC's approach towards the back billing in Chicago Metro, including the back bill audit, was reasonable, and recommended that IAWC confirm that it had given credits to appropriate customers and that it would continue its policy not to back bill Chicago Metro customers following odometer meter change outs. (*Id.*, pp. 3-4.) Mr. Ruckman confirmed that IAWC issued credits by October 1, 2006, that it has been IAWC's policy since September 2005 not to bill customers for past usage relating to identified differences between inside meters and odometer-style meter-reading devices following meter change-outs in the Chicago Metro area, and that this will continue to be IAWC's policy. (IAWC Ex. 4.0, pp. 4-5; Tr. 221.)

Ms. Howard also made a recommendation that IAWC's bill include the rate for the Supply Charge as a separate line item in any service territory having a Supply Charge. (ICC Staff Ex. 2.0, p. 5.) IAWC accepted this recommendation. (IAWC Ex. 4.0, p. 3.) Lastly, Ms.

Howard noted that IAWC was preparing a customer information booklet and recommended that the booklet include certain information concerning customer rights required by Section 8-306 of the Act. (ICC Staff Ex. 2.0, p. 6.) IAWC also accepted this recommendation. (IAWC Ex. 4.01, p. 3.)

**F. THE AG AND HOMER GLEN HAVE NOT DEMONSTRATED THAT AN INDEPENDENT AUDIT OF IAWC'S CHICAGO METRO BACK BILL AUDIT IS REQUIRED**

As described above, the Company undertook a comprehensive audit of Chicago Metro customers who may have been improperly back billed following odometer meter exchanges and issued appropriate credits, with interest, on or before October 1, 2006. (IAWC Ex. 1.0, p. 15-17.) Staff Witness Howard testified that these efforts to correct back billing were "a reasonable approach to correct past problems." (ICC Staff Ex. 2.0, p. 3.) Nevertheless, Ms. Niemiec seeks an audit to determine whether the Company correctly identified the customers to whom credits should have been issued and whether the Company properly computed those credits. Ms. Niemiec testified: "We would like to see the customers refunded. We just would like to see them refunded appropriately. And until there is a full audit, we don't know what that is." (Tr. 84.)

IAWC submitted the results of the audit to Homer Glen and the AG with its Direct Testimony on August 11, 2006. (IAWC Ex. 1.02). Both parties have had ample opportunity to review the audit's findings. However, the AG's and Homer Glen's witnesses have not presented any evidence that calls the accuracy of the Company's audit into question. In particular, neither the AG nor Homer Glen has identified any instance where a customer's refund was incorrectly calculated or where a customer who should have received a credit did not.

Mr. Rubin alleged that IAWC issued hundreds of improper back bills in Chicago Metro. (AG/HG Ex. 1.0, p. 5.) However, as discussed above, the Company determined in the course of the back bill audit that 335 accounts should be credited to eliminate any possibility of improper back billing. (IAWC Ex. 1.0, p. 27.) Of those 335, very few were likely to have received back bills in excess of the time limit under the Commission rules. (*Id.*, p. 30) Mr. Rubin identified no customers who should have received a credit but did not, or who were credited the wrong amount. Thus there is no evidence that "hundreds" of Chicago Metro customers were issued improper back bills. Further, the evidence shows that to the extent that any back bills were issued, a full credit with interest has been given.

Mr. Rubin later posited that "we still do not know the full scope of the problem," (AG/HG Ex. 1.0, p. 23.) However, he provided no evidence to suggest that the Company's initial universe of customers to be audited, the set of over 10,000 customers who had odometer meter exchanges, was incorrect, nor did he explain why the criteria IAWC used to select accounts for further review in the audit might be inappropriate. Instead, the specific "scope"-related criticisms Mr. Rubin made with regard to the back bill audit would have substantially reduced the number of customer accounts initially identified by the Company as possibly being back-billed and requiring further review, as Mr. Rubin concluded that the majority of these 474 customers did not have the characteristics of being back billed. (AG/HG Ex. 1.0, pp. 8, 14.)

Ms. Niemiec suggests (HG Ex. 5.0, p. 5) that the audit was inadequate because it "only covers those customers who had their meter changed by [the Company] since 2003," and the "criteria further restricted the audit to customers whose recorded usage was different for the inside and outside meter." However, the purpose of the audit was to provide credits to customers who were back billed following an odometer exchange. The Company began the Meter

Replacement Program in 2003, so that is the appropriate starting point. (IAWC Ex. 4.0, p. 25.) Moreover, the audit started with a review of over 10,000 accounts to identify those accounts with differences between the inside meter and the odometer reading device at the time of change-out. (*Id.*) When a customer account was identified on this basis, the audit was further narrowed to identify those 474 accounts which may have been billed from the inside meter following a discrepancy with the odometer device. (*Id.*) Where this occurred, a credit, based on the amount of the discrepancy, was issued (with interest). (Tr. 221.) Thus, all customers back billed as a result of the Meter Replacement Program received a credit.

Ms. Niemiec offered what she alleged was evidence of possible continued back billing by IAWC in the form of high bills received by two customers. (HG Exs. 6.0, p. 3; 6.01; 6.02.) However, IAWC's investigation of these two accounts showed that they were not back bills, and, moreover, were examples of IAWC resolving customer concerns. With regard to the customer referenced in Exhibit HG 6.01, IAWC records indicate that the customer had a new radio read meter installed on August 14, 2006, but the incorrect radio frequency number was programmed into the billing system, which created an erroneous read. (IAWC Ex. 6.0, p. 1.) A service order was generated to check the meter and the correct radio frequency number was entered on the account on September 19, 2006. (*Id.*) The customer received the appropriate credit on her October bill. (*Id.*)

With regard to HG Exhibit 6.02, this account was selected for review after the billing system identified high usage in July 2006 under high bill procedures recently implemented by IAWC. (Tr. 241-42.) During the review, office estimates were used for the bills issued for the August and September billing cycles. (IAWC Ex. 6.0, p. 1.) Company records indicated that, during the review, the customer informed a field service representative that the customer had a

new irrigation system installed and new sod laid in July, 2006, and had been extensively watering the new lawn. (*Id.*) Company records further indicated that the October bill (issued after the review was complete) reflected the actual usage related to the lawn watering. (*Id.*) The customer paid the bill at issue in full on October 23, 2006 (a week before the due date) and did not dispute the bill. (*Id.*) Far from being a cause for concern, this account is an excellent example of IAWC's billing system identifying a high bill and Company personnel investigating it. (Tr. 249-50.)

In short, neither the AG nor Homer Glen have identified any errors in the back bill audit, either in terms of the customers included or the amount of the credits. Rather, Ms. Niemiec expresses a vague concern that the audit is not correct. (Tr. 84.) This "concern" is insufficient to justify an outside audit of the back bill credits.

**G. THE AG AND HOMER GLEN HAVE NOT DEMONSTRATED THAT A STATEWIDE AUDIT OF IAWC'S BILLING, METERING, AND CUSTOMER SERVICE PRACTICES IS REQUIRED**

Nothing Mr. Rubin has said in his testimony suggests that a general audit of IAWC's practices is required. In addition, IAWC points out that Mr. Rubin has little specific expertise with regard to Illinois law and practice regarding water utility metering, billing or customer service - of the 68 cases in which he has offered expert testimony, Mr. Rubin admitted that none addressed back billing or estimated bills under Commission rules or a water utility's practice of issuing zero consumption bills. (Tr. 99.)

To the extent that Ms. Niemiec also proposes a Company-wide audit, she relies on Mr. Rubin's findings and establishes no independent basis for an audit. (IAWC Cross Ex. 4; Tr. 77.) Moreover, Mr. Rubin and Ms. Niemiec dismiss the steps taken by the Company to address

customer concerns and the review performed by Staff Witness Johnson. (AG/HG Ex. 2.0, pp. 1-2, 21-22; HG Ex. 5.0, pp. 2-3, 9-10.) However, Staff Witness Johnson's investigation of the Company's meter, valve, hydrant and complaint records, described above, coupled with IAWC's back bill audit and other affirmative steps it is taking in response to customer concerns described above, demonstrate that an additional audit (and the associated cost) is unnecessary.

**1. Mr. Rubin Has Not Established that IAWC's Bills Are Inaccurate**

IAWC's witness, Mr. Zerbe, demonstrated that the Company's E-CIS computer system produces accurate bills for its customers. (IAWC Ex. 3.0, p. 5.) Mr. Zerbe testified that IAWC's bills have an accuracy rate of 99.64%, which is slightly higher than American Water's company-wide average of 99.18%, and that there are no indications of system-wide problems with billing accuracy. (IAWC Ex. 3.0, pp. 3-5.) Mr. Rubin ultimately accepted Mr. Zerbe's judgment with regard to the accuracy of the underlying billing software. (AG/HG Ex. 2.0, pp. 20-21.)

Therefore, there is no basis to conclude that there is a concern with the accuracy of IAWC's bills.

**2. Mr. Rubin Has Not Demonstrated that There Is a Concern With Improper Back Bills at IAWC**

The circumstances surrounding potential improper back billing in connection with the Meter Replacement Program, and IAWC's response, were discussed above. As described above, neither the AG nor Homer Glen have identified any error with the back bill audit, and IAWC considers the back bill audit to have resolved the back bill concerns. Nevertheless, Mr. Rubin alleges an ongoing concern with back bills issued by IAWC. (AG/HG Ex. 1.0, pp. 15-16.)

As discussed above, IAWC is entitled to issue bills for previously unbilled service. 83 Ill. Admin. Code § 280.100. Thus, the issuance of back bills to assure that customers are properly billed for all service provided is not inappropriate. In fact, Mr. Rubin acknowledges that back

bills are appropriate because a utility is not entitled to provide free or reduced-rate service.  
(AG/HG Ex. 1.0, p. 17.)

Mr. Rubin offers two primary assertions for his allegation that the Company has ongoing back billing concerns: (i) a data analysis ostensibly demonstrating that "more than 7,900 customer accounts in Illinois" were back billed during the first five months of 2006 (AG/HG Ex. 1.0, p. 16); and (ii) a list of 52 customers Mr. Rubin claimed were back billed for inside/outside meter discrepancies after the Company committed to stop such back billing (AG/HG Exhibit 1.10). Neither assertion supports the proposition that improper back billing continues.

With regard to the 7,900 state-wide customers who allegedly received back bills, Mr. Rubin selected accounts that had different meters in 2006 than they did in 2005, and that had exactly one bill that was at least 50% higher in 2006 than the same month in 2005. (AG/HG Ex. 1.0, p. 16.) However, in using the 50% variation as a basis for assuming there was a back bill, Mr. Rubin ignored the many reasons why 50% variations in bill amounts between months can reasonably be expected, such as (IAWC Ex. 1.0, pp. 28-29):

- The account in question can be a vacation home, or the customer might otherwise use the premises on a seasonal basis;
- Weather fluctuations can affect water use;
- There may be inside plumbing leaks;
- Use of a 1000 gallon increment for billing can cause a given month's billed usage to increase as compared to the prior month; or
- IAWC's monthly billing cycle of 25-35 days can affect the usage by over 30% if the customer is using the same amount of water each day.

Mr. Ruckman demonstrated that, by utilizing Mr. Rubin's same base data and changing the parameters of the billings to identify accounts where a bill was 50% *less* than the same month

of the prior year, over 90,000 bill records could be identified that indicated usage on a meter in 2006 that was less than 50% of the same month in 2005, rather than greater. (IAWC Ex. 1.0, p. 29.) Thus, Mr. Ruckman's testimony made clear that 50% variations in bill amounts were common and expected under normal conditions of usage, and so not indicative of any improper back billing. Furthermore, the Company undertook a review of a randomly selected sample of 5% of the 7,900 accounts listed, and found that none involved improper back bills. (*Id.*, p. 28.)

Mr. Rubin responded to Mr. Ruckman's explanations concerning 50% bill variations by altering his criteria to include only those accounts that had consumption in a normal residential range in the relevant month in 2005 (between 5,000 and 20,000 gallons) and then only those accounts that had consumption increase by at least 10,000 gallons and by at least 100%. (AG/HG Ex. 2.0, p. 13.) Using these revised criteria, Mr. Rubin identified only 480 accounts (a decrease of 93% from the original 7,900) that had increases that to him "looked like" back billing. (*Id.*) Considering that the initial data set to which Mr. Rubin applied his criteria to arrive at the 480 accounts included approximately 80,000 customer accounts, the accounts Mr. Rubin identifies cannot provide a sufficient basis to claim there is a "widespread" concern with back billing. (IAWC Ex. 4.0, p. 11.) Instead, it represents an example of Mr. Rubin's use of small data sets to extrapolate alleged system-wide problems. Moreover, Mr. Rubin undertook no investigation to determine whether any of the 480 accounts he identified involved improper back billing. (AG/HG Ex. 2.0, pp. 13-14.)

IAWC discontinued back-billing following odometer meter exchanges in the Chicago Metro District in September 2005. Mr. Rubin's allegation that the list of 52 customers in AG/HG Exhibit 1.10 shows that "there are at least 50 customers who received what appear to be make up bills after meter change outs" after September 2005 (AG/HG Ex. 1.0, p. 22) is incorrect. (IAWC

Ex. 1.0, pp. 30-31.) Only 12 of the 52 accounts had meter exchanges after September 5, 2005. (*Id.*, p. 31.) Furthermore, of the 12 accounts that did have a meter exchange after that date, none of the removed meters had a discrepancy between the inside meter versus the outside reading device. (*Id.*) Thus, no back bill was issued. As a result, AG/HG Exhibit 1.10 does not support Mr. Rubin's contention that back bills continued after September, 2005.

Mr. Rubin also asserted (AG/HG Ex. 2.0, p.14) that he was aware of additional complaints regarding back billing from outside Chicago Metro. However, there were only two such individual complaints that Mr. Rubin cited (AG/HG Ex. 2.3), and neither supports Mr. Rubin's contention that there was improper back billing outside Chicago Metro. (IAWC Ex. 4.0, p. 12.) There was no indication from the account histories of these two customers that any back billing took place, but rather that the concerns of the customers in question related to leaks and high bills. (*Id.*) Moreover, the resolution of the concerns regarding these accounts showed that IAWC's customer service operates effectively.

For one account, the customer disputed high usage water bills for the months of January and February 2006. (IAWC Ex. 4.0, p. 12.) The customer called the CSC on March 7, 2006, about receiving two consecutive high bills. (*Id.*, p. 13.) The customer was advised that the bills were based on actual meter readings and that she may have a leak in her internal plumbing and a leak detection kit was then sent to her. (*Id.*) A 30-day hold was put on the account while the customer investigated any leaks. (*Id.*) In response to the customer's inquiry, a service order was also issued to have an IAWC field service representative visit the residence and inspect for leakage. (*Id.*) No leaks were detected. (*Id.*) The customer then requested that her water meter be tested, and the meter was pulled for testing and replaced with another meter. (*Id.*) The test results were well within the accepted accuracy rates. (*Id.*) However, the customer then

requested her meter be replaced again, and a new meter was installed on March 20, 2006. (*Id.*) On April 7, 2006, the customer called the CSC, continuing to dispute the high usage and requesting a courtesy adjustment to her account. (*Id.*) (It is IAWC's policy to issue a one-time courtesy credit for any customer who experiences a leak in their plumbing.) Although IAWC and the customer had inspected for leaks multiple times and none were detected, and a meter test of the meter in place during this period proved to be accurate, on June 12, 2006, IAWC provided a courtesy adjustment for the months of January-March 2006. (*Id.*)

The second customer account referenced in AG/HG Exhibit 2.3 also involved a high bill. The CSR that took the call issued a service order to investigate the high bill. (IAWC Ex. 4.0, pp. 13-14.) A service order was carried out and it was noted that there was a small leak. (*Id.*, p. 14.) After having the leak repaired, the customer sent a copy of the repair bill to the CSC and a leak adjustment credit was given on the account for \$141.97. (*Id.*) In November, 2005, the CSC received another letter from the customer stating that there was a leak in his irrigation system that would not be repaired until the following year when it is put back into service. (*Id.*) He requested that his account be adjusted based on the previous year's usage. (*Id.*) A letter was mailed from the CSC on November 23, 2005, advising the customer to provide receipts for repairs to the irrigation system in order to be considered for a leak adjustment on this account. (*Id.*) There was no further contact with the customer until IAWC called the residence in August, 2006 to discuss the possibility of a leak adjustment. (*Id.*) A second courtesy leak adjustment was given on the account on August 28, 2006. (*Id.*)

Mr. Rubin did not dispute these points regarding the two customer accounts in his Rebuttal or Surrebuttal Testimony. Accordingly, the two accounts referenced by Mr. Rubin do

not represent improper back billing, and provide no basis for a further investigation or audit of IAWC practices and procedures.

Because Mr. Rubin's assertions ignore common reasons for bill variations, and no specific examples of improper back billing outside of Chicago Metro have been identified, the AG and Homer Glen have not met their burden of proof with regard to state-wide back bills. The only possible concerns regarding back billing were related to the odometer meter exchanges in Chicago Metro. As discussed above, IAWC acted to address those concerns. Moreover, as also discussed above, the Company has procedures in place to review and investigate bills when consumption for a given period exceeds the average consumption for the preceding three months by 50% or more. (IAWC Ex. 4.01, p. 1.) Similarly, under current IAWC billing procedures, when a back bill is issued following a meter exchange or stopped meter, IAWC sends a letter to the customer indicating the affected period, the reason for the back bill, and the payment terms available. (*Id.*) Thus, there is no outstanding issue with back bills that justifies the time and expense of a Company-wide audit.

### **3. Mr. Rubin Has Not Established that IAWC Has a Concern with Consecutive Estimated Bills**

Mr. Rubin expressed concern with the Company's reliance on estimated bills and its tracking of repeated estimated bills. (AG/HG Ex. 1.0, p. 23.) However, much of Mr. Rubin's analysis regarding specific instances of consecutive estimates is based on data from Homer Glen. (See AG/HG Ex. 1.12.) As described below, any concerns about estimated reads in Homer Glen are being addressed by the Company's estimated bill review procedures and the installation of radio read meters. Mr. Rubin has not otherwise shown that there is a Company-wide concern with estimated bills.

**a. Mr. Rubin Has Not Shown IAWC's Overall Estimated Bill Level Is Unreasonable**

Mr. Rubin conceded that the overall level of estimates issued by IAWC, which he calculated at 7%, was not unreasonable. (AG/HG Ex. 1.0, p. 24.) For the first half of 2006, the average statewide rate was 5.33%. (IAWC Ex. 1.0, p. 36.) In particular, the accelerated conversion to radio read meter reading devices in the Chicago Metro District has helped to increase the actual meter reading rate by nine percentage points in the first four months of 2006. (IAWC Ex. 4.0, p. 22.) Chicago Metro estimates dropped below 4% in January 2006, and below 2% in March 2006, and have been approximately 2% since that time. (*Id.*) This is the percentage of estimates that Mr. Rubin cites as the industry standard. (AG/HG Ex. 1.0, p. 24 (errata).)

Mr. Rubin himself recognized that "[i]t is sometimes necessary to prepare an estimated bill, particularly when a meter is manually read and the meter reader cannot obtain access to the meter," or similarly, due to "the impact of weather." (AG/HG Ex. 1.0, p. 25.) This is consistent with the Commission's rules, which generally allow an estimated read every other billing period and allow the Company to issue consecutive estimates for a variety of reasons. 83 Ill. Admin. Code § 280.80. Section 280.80 of the Commission's rules provide that a utility "may render an estimated bill for any billing period in which: (1) the utility has taken appropriate and reasonable measures to read the meter, including but not limited to, making an appointment with the customer, scheduling readings for times other than normal business hours, and/or providing postal cards on which the customer may record the reading and mail it to the utility; or (2) the customer has knowingly and willfully denied reasonable access to the utility's representative for the purpose of taking an actual reading of the meter; or (3) the customer has otherwise made an

actual reading of the meter unnecessarily difficult; or (4) circumstances beyond the control of the utility make an actual reading of the meter extremely difficult."

In addition, Section 6.02 of the Company's approved tariff for the Chicago Metro District (ILL. C.C. No. 4 Sheet No. 14) and the Champaign/Urbana/Sterling/Streator/Pontiac Districts (Ill.C.C. No. 8 Sheet No. 12) allows the Company to issue an estimated bill if the meter cannot be read "for any reason." (IAWC Ex. 1.0, p. 35.)

Under the terms of the Commission's rules and IAWC's tariffs, estimates may be issued in proper circumstances, and Mr. Rubin has not provided evidence that IAWC has at any time improperly issued estimated bills. With regard to a list of customers with consecutive estimates (AG/HG Ex. 1.12) that Mr. Rubin offered as evidence of a "problem", Mr. Rubin admitted that he was "not certain of the cause" of the estimates. (AG/HG Ex. 1.0, p. 26.) He surmised that access to an odometer reader should not have been a problem and asserts that a malfunctioning meters or inadequate staffing may have been the cause of the consecutive estimates. (*Id.*, pp. 26-27.) However, Mr. Ruckman explained that Mr. Rubin's examples of "inadequate staffing" were in fact isolated circumstances. (IAWC Ex. 1.0, pp. 37-38.) Mr. Rubin also acknowledged that weather or the presence of a dog might be a reason why an odometer meter was not accessible (Tr. 115), and that accounts he identified as having many consecutive estimates had meter read codes that showed reasons for not reading the meter such as "dangerous animal" or "access blocked." (Tr. 128-31, 133-34.) These codes reflect circumstances that are "beyond the control of the utility" and "make an actual reading of the meter unnecessarily difficult" and are therefore permissible estimates. 83 Ill. Admin. Code § 280.80(b)(4).

Mr. Rubin also wrongly discounted the impact of weather on the Company's ability to obtain actual meter readings. (AG/HG Ex. 1.0, p.29.) Mr. Ruckman explained that snow and ice not only "slow down the meter reader's progress from meter site to meter site," but these conditions hinder meter readers' ability to locate meters or meter devices. (IAWC Ex. 1.0, p. 36.) Likewise, meter readers' performance is naturally affected by low temperatures and wind chills. (*Id.*) Cold weather also affects metering equipment, as Mr. Ruckman explained: "When temperatures fall below 10 degrees, manual read meters in outside pits are not normally read due to the possibility of the meter or pipes freezing." (*Id.*)

**b. The Company Has Procedures in Place to Track and Investigate Estimated Bills**

IAWC has procedures in place to address consecutive estimates on a customer-specific basis. (IAWC Ex. 1.0, p. 36.) The E-CIS system has a standard report which identifies customers that are receiving consecutive estimates. (*Id.*) IAWC is then able to investigate these consecutive bills based on the E-CIS system reports. (*Id.*) In addition, when a back bill is issued following consecutive estimates, IAWC sends a letter to the customer indicating the affected period, the reason for the back bill, and the payment terms available. (Tr. 320-21.) As a result, if a customer account experiences multiple consecutive estimates, IAWC has procedures for conducting a review and informing the customer of any back billing.

**c. The Number of Estimated Bills Is Decreasing**

Mr. Rubin's own analysis shows the number of estimates decreasing. (Tr. 118-19.) On AG/HG Exhibit 1.11, Mr. Rubin presented his calculations of the statewide percentage of estimated bills issued on a monthly basis as of May 2006. The percentage decreased from 2004 to 2005. For the first half of 2006, it fell to 5.73%. Exhibit AG/HG 1.11 also shows that the

percentage of estimated bills for May 2006 (the last month for which data were available) was 2.40%, which is in line with what Mr. Rubin's argues is a reasonable percentage of estimates for a "typical water utility" (AG/HG Ex. 2.0, p. 16; Tr. 120), and well below the 7% level he considers "not unreasonable." (AG/HG Ex. 1.0, p. 24.) Notably, Mr. Rubin's standard is more stringent than the level of estimated bills permitted by the Commission's regulations, which allow a utility to estimate bills every other month, or 50% of the time. 83 Ill. Admin. Code § 280.80. The Company's data show the same trend as Mr. Rubin's. As stated above, for the first half of 2006, IAWC's average statewide rate of estimates was 5.33%. (IAWC Ex. 1.0, p. 36.)

In Chicago Metro, odometer-style meter reading devices have contributed significantly to the number of estimated bills issued in the past, because odometer-style devices have not always functioned properly (IAWC Ex. 1.0, p. 8) and estimates were required. (AG/HG Ex. 1.0, p. 25; IAWC Ex. 1.0, p. 38.) In addition, odometer-style devices might have to be estimated in cases where there was bad weather or the access to the premises was blocked. (Tr. 115, 128-31, 133-34.) As the odometer devices are replaced by radio-read meter reading devices, the number of estimated bills will continue to decrease. Mr. Rubin acknowledged that "as the Company implements more radio-read meter reading devices, the number of estimated bills . . . should be declining." (AG/HG Ex. 1.0, p. 25.) As an example of this, Mr. Rubin acknowledged that the first five accounts on AG/HG Exhibit 1.12, a list of Homer Glen customers who received three or more consecutive estimated bills from 2002 to 2006, each stopped receiving estimated bills after radio read meters were installed. (Tr. 123-28.)

A decrease in estimates in Chicago Metro is already being seen. For Chicago Metro, estimates dropped below 4% in January 2006, and below 2% in March 2006, and have been approximately 2% since that time. (IAWC Ex. 4.0, p. 22.) These figures are particularly

important in light of Mr. Rubin's reliance on Homer Glen data in AG/HG Exhibit 1.12 as the basis for asserting that there is a concern with tracking consecutive estimates. (AG/HG Ex. 1.0, p. 26.) Because IAWC's level of estimates is declining, and IAWC has procedures in place to track consecutive estimates, there are no outstanding concerns that justify further investigation or audit.

**4. Mr. Rubin Has Not Established that IAWC Has a Concern with Consecutive Zero Bills**

There is no applicable rule or provision of Illinois law specifically addressing consecutive zero consumption bills. (IAWC Ex. 1.0, p. 39.) Mr. Rubin also admitted on cross examination that "there is no standard utility practice regarding consecutive zero consumption bills." (Tr. 126.) Mr. Rubin also made it clear that he does "not suggest that it would be prudent to investigate every zero-consumption bill." (AG/HG Ex. 2.0, p. 16.) Instead, Mr. Rubin opined, "IAWC is not taking reasonable and prudent actions to track and investigate customers who receive bills that show zero consumption." (AG/HG Ex. 1.0, p. 33.)

However, Mr. Ruckman testified that it is not uncommon for a residence to have zero usage bill. (IAWC Ex. 1.0, p. 39.) Customers who are absent from their homes on a seasonal basis will have zero usage bills for part of the year. (*Id.*) People will also routinely leave the water service active in a home that is for sale, or leave an irrigation system active in the off-season, though no actual usage will occur. (*Id.*) Landlords may request that service remain on between renters. Data from the U.S. Census Bureau (*see* IAWC Exhibit 1.09) shows homeowner vacancy rates of just under 2% in 2005 in Illinois. (*Id.*) Given IAWC's 280,000 customers, this would mean over 5,000 premises in IAWC's service areas could be vacant at any given time, in line with the 4,000 – 5,000 accounts with zero use bills that IAWC has at any given time.

(IAWC Ex. 1.0, pp. 39-40.) Mr. Rubin conceded that "zero consumption bills might be attributable to an irrigation system where the account is left active, but the irrigation system is not being used," (Tr. 127), and that "zero consumption bills might be attributable to the seasonal nature of swimming pools." (Tr. 134.) Mr. Rubin also testified that zero consumption bills might also be attributable to "vacant buildings or apartment units." (AG/HG Ex. 1.0, p. 31.)

Mr. Ruckman and Mr. Zerbe also explained that the Company generates a report from the E-CIS system that identifies consecutive zero usages. (IAWC Exs. 1.0, p. 39; 3.0, p. 7.) Verification of the accuracy of the zero usage bill is done by IAWC district personnel between meter reading dates and procedures are in place to investigate consecutive zero bills when deemed appropriate. (IAWC Ex. 1.0, p. 40.) Mr. Rubin acknowledges that these procedures are in place and are consistent with the recommendations in his Direct Testimony. (AG/HG Ex. 2.0, p. 17.) However, Mr. Rubin went on to argue that IAWC is not following those procedures. Nevertheless, he is unable to point to any specific instance where the procedures have not been followed.

Although Mr. Rubin's concerns about zero use bills lacked basis, the Company nevertheless is seeking to ensure that its procedures for reviewing consecutive zero use bills are followed carefully. Mr. Ruckman responded to Mr. Rubin's concerns about zero bill procedures as follows: "[I]n order to ensure that IAWC's procedures on consecutive zero bills are being followed to the letter, I have asked the various District managers to emphasize the review and investigation of consecutive zero bills on a going forward basis." (IAWC Ex. 4.0, p. 24.) Moreover, in all service areas when zero consumption is shown for three or more billing periods, IAWC reviews the account, and, if required, takes action. (IAWC Ex. 4.01, p. 1.)

As Mr. Rubin acknowledges, review of zero use bills is a matter of "best practice." The Company has shown that it in fact has procedures in place to track zero use bills and that such bills are usually valid. Therefore, there are no outstanding concerns with zero use bills that warrant further audit or investigation.

**5. Mr. Rubin Has Not Established that IAWC Has a System-Wide Concern with Hydrant Testing and Maintenance**

On page 5 of his Direct Testimony, Mr. Rubin claimed to have found "very serious concerns with the Company's fire hydrants from several communities." However, Mr. Rubin admitted to not having "investigated" the Company's fire hydrant maintenance and testing practices "in any depth." (AG/HG Ex. 1.0, p. 5.) On cross examination, Mr. Rubin admitted that he "claim[ed] no expertise with respect to the company's fire hydrants" (Tr. 139), and reviewing correspondence appears to be the extent of his "analysis." (AG/HG Ex. 1.0, p. 5) Mr. Rubin based his system-wide recommendation on correspondence from four municipalities. (AG/HG Ex. 1.17.) The issues raised in the correspondence have, as Mr. Ruckman testified, been addressed and resolved. (IAWC Ex. 1.0, pp. 42-46.) Mr. Rubin's recommendation that the Commission "oversee or conduct a full investigation of IAWC's hydrant testing and maintenance programs throughout Illinois" is unjustified. (AG/HG Ex. 1.0, p. 6) In fact, Staff witness Johnson undertook his own investigation of IAWC's hydrant maintenance records and found that a statewide investigation of IAWC's hydrant testing and maintenance was not warranted. (ICC Staff Ex. 1.0, p. 29.)

Instead, as described above, Mr. Johnson recommended that the Commission order the Company to inspect hydrants only in Champaign and Chicago Metro. (ICC Staff Ex. 1.0, p. 30-31.) The Company accepted the recommendation, and Mr. Ruckman testified, "With respect to

hydrants, in 2006 to date, all hydrants in Homer Glen, Champaign, Urbana, Alton, Lincoln, Pekin and Pontiac have been inspected." (IAWC Ex. 4.0, p. 3.) Furthermore, Mr. Ruckman added, "All hydrants in other areas will be inspected by year-end, and all hydrants will continue to be inspected annually as required by the Commission's rules." (*Id.*) The Company is hiring an additional 38 employees in 2006 to help get this done. (IAWC Ex. 1.0, p. 43.) As a result, to the extent Mr. Johnson raised concerns IAWC is addressing them. Because the concerns regarding hydrants have been addressed, there is no basis for further audit or investigation.

**6. Neither the AG Nor Homer Glen Has Established that IAWC has Inadequate Customer Service**

Mr. Rubin seeks an audit of IAWC's customer service records. (AG/HG Ex. 1.0, p. 6.) Ms. Niemiec and the Homer Glen Customer Witnesses also complain that IAWC has poor customer service. However, Mr. Rubin, Ms. Niemiec, and the Homer Glen Customer Witnesses have not demonstrated that there is any system-wide concern with customer service at IAWC. To the contrary, IAWC's evidence establishes that the CSC is well run, and that its performance measures well in relation to other utility call centers. Moreover, IAWC has resolved the Homer Glen Customer Witnesses' concerns. Therefore, there is no basis to determine that IAWC has a problem with customer service.

**a. The Quality of IAWC's Customer Service Through the CSC Is Good**

IAWC has presented evidence, unrefuted by Mr. Rubin, that IAWC's customer service, as provided through the CSC, is extremely good. The CSC is a group within American Water Works Service Company, Inc. ("Service Company") that provides customer contact and billing services in support of all of American Water's regulated subsidiaries, including IAWC and its customers. (IAWC Ex. 2.0, p. 3.) Operating out of service centers in Alton, Illinois, and in

Pensacola, Florida, the CSC responds to virtually all customer inquiries nationwide from American Water's regulated operations in 19 states, including customers located in Illinois who are served by IAWC. (*Id.*, p. 3.) CSRs are available to customers 24 hours per day, seven days per week, 365 days per year. (*Id.*)

The CSC is responsible for greeting customers making inbound calls and handling their requests. It also processes service orders and correspondence, bills accounts, and collects on accounts. (IAWC Ex. 2.0, p. 4.) The CSC and IAWC work together to provide the following services to all of IAWC's customers.

- "CSC Call Handling" operates 24/7/365 and handles both general calls, such as service inquiries and account inquiries, and emergency calls. In terms of volume, the CSC handled approximately 4.2 million calls in 2005.
- "Field Service" is responsible for reading meters and providing other field services to customers.
- "Billing" processes meter readings for billing.
- "Collections" is responsible for collecting unpaid bills and other collections-related activities, such as bankruptcy.

(*Id.*) To manage these functions, the CSC utilizes a number of systems and technologies that distributes customer calls into the CSC and enables the calls to be routed to agents with the skills to handle the specific type of call. (*Id.*) These and other technologies enable the CSC to manage customer service on a real-time basis and provide information to monitor performance. (*Id.*, p. 5.)

CSC employees receive comprehensive training in customer service procedures and processes. (IAWC Ex. 2.0, p. 5.) State-specific information is readily accessible to agents via the on-line Service Order and Billing and Collections resources, as well as the Call Handling Process Manual. CSC employees also receive substantial training in state-specific service

requirements. (Tr. 445-46.) In addition, CSC employees receive training on customer relations, courtesy, and handling upset or angry callers. (IAWC Ex. 2.0, p. 5.) Call quality monitoring is conducted by specialized quality assurance specialists, and the CSC monitors calls to ensure that agents resolve customers' issues efficiently and courteously. (*Id.*, p. 6.)

The CSC also conducts a wide variety of surveys and studies to ensure that customer needs are being met. Customer Satisfaction and Service Quality studies are conducted to provide both strategic and tactical customer feedback. (IAWC Ex. 2.0, p. 6.) Each year American Water contracts with Opinion Research Corporation, an independent research and consulting firm, to conduct a customer satisfaction survey of a representative sample of residential customers. (*Id.*) The purpose of the survey is to gauge overall customer satisfaction with the service they receive from American Water's state subsidiaries. (*Id.*) The survey captures customer evaluations of broad service attributes at the strategic level. (*Id.*) As reported in IAWC's Performance Report (IAWC Exhibit 1.03), 93% of American Water's customers surveyed in 2005 reported that they were either "satisfied" or "very satisfied" with American Water's customer service. In American Water's Central Region states—Illinois, Indiana, Iowa, Missouri and Ohio—94% of customers report comparable levels of satisfaction. (IAWC Ex. 2.0, pp. 6-7.)

Opinion Research Corporation also conducts a Service Quality Assessment, designed to measure the overall level of the quality of service provided to customers who have initiated contact with American Water within the previous seven days, on an ongoing basis. (IAWC Ex. 2.0, p. 7.) The results of the Service Quality Assessment are compiled on a quarterly basis. (*Id.*, p. 8.) Preliminary third and fourth quarter (2005) data indicate that IAWC's performance is consistently improving, based on improved fourth quarter 2005 responses. (*Id.*, p. 8.)

In addition to the surveys described above, at the end of every call, the CSR transfers the customer to a post-call survey. (*Id.*) Of 20,536 respondents (throughout the American Water system) in May and June of 2006, 93.8% reported a "good" to "excellent" overall customer experience; 95.5% reported a "good" to "excellent" level of expertise demonstrated by the CSR; 96.2% reported "good" to "excellent" professionalism of the CSR; 90.4% responded with "good" to "excellent" on the length of time it took to have their call answered by a CSR; and 95.5% responded "good" to "excellent" on the CSR's ability to resolve their issues. (*Id.*, pp. 8-9.)

American Water also monitors and tracks a number of metrics to assess overall call center performance and effectiveness. (IAWC Ex. 2.0, p. 9.) These include:

- Abandonment rate – the average percentage of calls that are dropped while the callers wait in queue;
- Average speed of answer – the average time a customer waits in queue before connecting to a CSR; and
- First call resolution – the percentage of calls handled with only one contact.

(*Id.*, pp. 9-10.) The CSC's performance on these metrics is above industry averages and often at or near "industry-best" levels. (*Id.*, p. 10.)

The Company, relying on various customer feedback sources, has taken a number of actions to improve customer service, including (*id.*, pp. 10-11):

- Launched a new service quality survey to better define customers' expectations and priorities, and ensure that American Water's subsidiaries, like IAWC, perform to customers' standards.
- Added more than 100 new CSRs to serve American Water customers (these new staff were added to respond to concerns that the percentage of calls answered in 30 seconds was too low).

- Improved the customer call quality monitoring and coaching process to focus more on the quality of the customers' experiences.
- Provided new technology and support resource tools to customer service representatives.
- Established the Chicago Metro "specialty desk," described above.

These actions demonstrate that the CSC is committed to continual improvement in its customer service. Neither the AG nor Homer Glen have disputed the overall quality of the service provided by CSC, as measured in the service studies and surveys above, and have offered no basis to assert that there is any weakness with CSC operations or training. To the contrary, even the documentation of customer complaints proffered by Homer Glen acknowledges that the CSRs were courteous and helpful. (*See, e.g.*, HG Ex. 1.03, pp. HG0059 & HG0240.)

**b. IAWC Properly Maintains Customer Complaint Records in Accordance with Commission Rules**

Mr. Rubin alleges that the CSC's system for maintaining complaint logs omits thousands of complaints. (AG/HG. Ex. 1.0, p. 10.) However, there is no evidence that IAWC has failed to maintain complaints in accordance with the Commission's rules at 83 Ill. Admin. Code Section 600.170, which governs water utilities' records of complaints. In fact, Staff Witness Johnson's review of IAWC's complaint records found that they were kept in accordance with the Commission's rules. (ICC Staff Ex. 1.0, pp. 38-39.)

Consistent with 83 Ill. Admin. Code Section 600.170(a), which defines complaint as a "substantial objection made to a utility by a customer as to its charges, facilities, or service, the disposal of which complaint requires investigation or analysis", IAWC maintains two types of complaint records. (IAWC Ex. 2.0, p. 12.) The first type includes records of customer complaints that cannot be resolved by a CSR, and are referred to the Account Resolution Team,

which follows up to resolve the issue. (*Id.*) The second type includes records of complaints that went directly to a manager or executive within IAWC and not to the CSC. (*Id.*) A specialized Executive Resolution Team is responsible for the follow-up and resolution of these complaints. (*Id.*) IAWC also maintains records of informal complaints made to the Commission, although these complaints were not "made to a utility" as referenced in 83 Ill. Admin. Code Section 600.170(a). (*Id.*) Such records are maintained separately by IAWC and not by the CSC. (*Id.*) However, American Water is working to develop a database that will include records of informal complaints to the Commission so that such records can be accessed along with complaint information maintained by the CSC. (*Id.*)

IAWC, through the CSC, maintains records of all complaints as required by Section 600.170. (*Id.*) However, because not every customer inquiry to the CSC is a "complaint" as defined under Section 600.170(a), IAWC does not maintain, as a complaint record, records of each inquiry to the CSC. (*Id.*) As a result, the fact that every inquiry by an IAWC customer to the CSC is not recorded as a complaint is not indicative of any system-wide concern with complaint handling by the CSC.

**c. The Complaints of the Three Homer Glen Customer Witnesses in this Case Have Been Resolved and There Are No Outstanding Issues with These Customers**

The Homer Glen Customer Witnesses, Ms. Finnegan, Ms. Litoborksi, and Mr. Jilet, alleged concerns about IAWC's service. (HG Exs. 2.0; 3.0; 4.0.) However, as Mr. Ruckman testified (and which Homer Glen does not dispute, *see* HG Ex. 5.0, p. 3), the concerns of the Homer Glen Customer Witnesses have been investigated and resolved, and these customers have no outstanding balances or disputes with IAWC. (IAWC Ex. 1.0, pp. 57-66.) IAWC has not heard from Ms. Finnegan since March 31, 2006, and her bills have been based on radio reads for

the past several months. (*Id.*, p. 61.) Mr. Jilet's concerns were addressed through the bill credits that were issued. (*Id.*, p. 63.) Ms. Litoborski was found to have a duplicate serial number on her meter and the problem was corrected by changing the meter serial number on the meter installed at Ms. Litoborski's residence. (*Id.*, p. 65.) Ms. Litoborski is now receiving regular monthly bills based on actual radio reads. (*Id.*)

In addition, any specific customer service concerns raised by the Homer Glen Customer Witnesses were also investigated and addressed. (IAWC Ex. 2.0, pp. 15-17.) For example, IAWC reviewed the records pertaining to Ms. Litoborski's account and noted numerous contacts recorded regarding meter change out, billing and collections. (*Id.*, p. 16.) Contrary to Ms. Litoborski's assertion that the CSC had no record of her calls (HG Ex. 4.0, pp. 2-3), the CSC records support the conclusion that there were in fact records of her previous calls available. (IAWC Ex. 2.0, p. 16.) Moreover, Company records indicate that, on June 7, 2006, a CSC representative called Ms. Litoborski to explain how her account had been corrected, and later Ms. Litoborski also received a call from another CSC employee who apologized for all of the issues Ms. Litoborski experienced in getting the unusual situation of duplicate serial numbers resolved. (*Id.*) Therefore, IAWC's records related to these accounts demonstrate that IAWC worked diligently and in good faith to resolve these customers' concerns. (IAWC Ex. 1.0, p. 66.)

**d. The Additional "Complaints" Ms. Niemiec Offered Also Do Not Support a Finding That There Is any Concern with IAWC's Customer Service**

Ms. Niemiec offered what she alleged was additional evidence of customer complaints. (HG Exs. 6.0, p. 3; 6.01; 6.02.) However, as described above (*see* pages 33-34, *supra*), both of these accounts are illustrations not of service problems at IAWC, but of IAWC's ability to identify customer concerns and resolve them.

**e. The Additional Complaints Cited by Mr. Rubin Do Not Establish that There Are Customer Service Concerns**

Mr. Rubin asserted (AG/HG Ex. 2.0, p. 14) that he was aware of additional complaints regarding IAWC's billing from outside Chicago Metro. However, as described above, the allegations of the two individual complaints Mr. Rubin cited (AG/HG Ex. 2.3) did not reflect any customer service concerns. (IAWC Ex. 4.0, p. 12.) Instead, the resolution of the concerns regarding these accounts showed that IAWC's customer service operates effectively.

**7. IAWC Has Committed To Improving Its Bill Format**

Mr. Rubin argues in general that IAWC's bills are confusing, and in particular that the Supply Charge used in Chicago Metro is a principal rate and therefore should be shown on the bill. (AG/HG Ex. 1.0, p. 36.) As Staff Witness Johnson points out, traditionally, principal rates referred to the base charges such as the customer charge and usage charge, and including the Supply Charge as a principal rate would be a departure from past practice. (ICC Staff Ex. 1.0, p. 41.) Thus it was not unreasonable for IAWC to not consider the purchased water Supply Charge a principal rate. (*Id.*) However, the Company has identified areas where its bill can be improved, particularly with respect to the Supply Charge. (IAWC Ex. 1.0, p. 41.) These areas are discussed in detail above. (*See page 22, supra.*)

**8. Mr. Rubin Has Not Shown that There Is a Valid Concern with IAWC's Data Quality**

In the opening pages of his Direct Testimony, Mr. Rubin cited several reasons he believed IAWC has "serious" concerns with data quality and reliability. (AG/HG Ex. pp. 7-13.) However, many of Mr. Rubin's "data quality" concerns arose from the fact that responses to discovery requests he made in the course of this case had to be retrieved through special database queries due to the complexity and format specifications that Mr. Rubin desired. Other of Mr.

Rubin's data quality concerns arose from the fact that some of the complex responses he sought had to be manually compiled. (IAWC Ex. 1.0, p. 24.)

During the discovery process, Mr. Rubin issued numerous data requests, many of which involved complex, multi-variable requests for customer account data. (IAWC Ex. 1.0, p. 24.) IAWC produced over 16,000 pages of information and tens of thousands of customer account records to Staff, the Attorney General and Homer Glen in the course of discovery. (*Id.*) As Mr. Zerbe explains in his testimony, where standard reports are not available, information must be retrieved from the E-CIS system through the development of specific queries of the system. (IAWC Ex. 3.0, pp. 7-8.) Developing such queries can require significant time and effort. (*Id.*) Since Mr. Rubin did not request standard reports, the effort undertaken by IAWC in providing responses to his request cannot be seen as evidence of a data quality concern.

For example, Mr. Rubin asserted that, since IAWC provided him with the "list" of accounts he requested in AG 3.19, IAWC should have been able to provide him with a "machine readable" version in response to AG 3.20. (AG/HG Ex. 1.0, pp. 10-11.) But AG 3.20 was a different question, which asked for not just the "list," but also several additional variables, which made the question more complex and resource-intensive to respond to. Moreover, under Illinois law, a party responding to a request for the production of documents shall "produce the requested documents as they are kept in the usual course of business . . . and all retrievable information in computer storage in printed form." Ill. S. Ct. R. 214. Therefore, although the Company attempted to compile the information requested by Mr. Rubin, it was not required to construct the complex databases that he requested.

In other cases, IAWC had to compile complex data responses by hand. Where appropriate (*e.g.*, data request AG 2.7 and AG 3.20), IAWC objected to the AG's requests as burdensome. (IAWC Ex. 4.0, p. 21.) Under the Commission's procedural rules, 83 Ill. Admin. Code Section 200.350, it is the AG's obligation to follow up informally on data requests to the Company. Although the AG contacted IAWC to request clarifications and revisions on some data responses, the AG did not do so regarding data responses about which Mr. Rubin now complains (AG 2.7 and AG 3.20). (IAWC Ex. 4.0, p. 21.) The AG gave no indication that it was dissatisfied with the responses to AG 2.7 or AG 3.20. (*Id.*)

**9. Ms. Niemiec Has Not Provided any Evidence Supporting a System-wide Audit**

Ms. Niemiec also proposes a system wide audit. (HG Ex. 1.0, p. 16.) In support, Ms. Niemiec cites information that she received from residents as providing the basis for an audit. (Tr. 76-78, apparently referring to bills provided in HG Exhibit 6.01 and 6.02.) As described above (*see* pages 33-34, *supra*), IAWC's review determined that those bills were valid, and in fact demonstrate IAWC's ability to identify and resolve customer concerns with high bills. Thus, these bills do not provide any justification for an audit.

**H. MS. NIEMIEC HAS NOT ESTABLISHED ANY BASIS FOR THE ADDITIONAL RELIEF SHE SEEKS**

In addition to the independent audit of the back bill audit and system-wide audit addressed above, Ms. Niemiec proposes certain additional relief, including (i) assurance that customers who were back billed or charged a make up bill should be refunded the entire amount of the back bill or make up bill; (ii) assessment of administrative penalties and fines for each incident identified where the company has inappropriately back billed or sent make up bills to Homer Glen residents; (iii) an order that IAWC send customers statements of customers' rights

to dispute bills, receive a payment plan and file complaints with the Commission; and (iv) a Commission order that IAWC cease and desist from any patterns of harassment and/or intimidation of customers. (HG Ex. 1.0. pp. 16-17.) However, IAWC has either addressed these concerns, or they lack merit.

**1. IAWC Has Already Resolved Two of These Additional Concerns**

With regard to items (i) and (iii) above, IAWC has addressed these concerns. Ms. Niemiec recommended that: "All customers who were back billed or charged a make up bill should be refunded the entire amount of the back bill or make up bill." (HG Ex. 1.0, p. 16.) IAWC has fulfilled this recommendation through the back bill audit described above.

Ms. Niemiec also recommended that the Commission "order IAW to annually send to Homer Glen residents a statement of the customer's rights to dispute bills, receive a payment plan and file complaints with the Commission. At a minimum, this should include the information required by 83 Ill. Adm. Code Sec. 280.200." (HG Ex. 1.0, p. 17.) Ms. Niemiec asserts that IAWC has not provided customers with appropriate information regarding credit and collection policies, payment plans or the process to file a complaint with the ICC. (HG Ex. 1.0, p. 15.) Contrary to Ms. Niemiec's assertions, as described above, IAWC already provides information to customers regarding IAWC's credit and collections practices, payment assistance and payment plans and other regulatory information. (IAWC Ex. 1.0, p. 54.) However, as also described above, to further improve the provision of relevant information to customers, IAWC is currently developing a customer information booklet containing the information described by 83 Ill. Admin. Code Section 280.200. (*Id.*) Therefore, IAWC has taken steps to address this recommendation as well.

**2. Ms. Niemiec Has Not Demonstrated that the Civil Penalties She Seeks Are Warranted**

Ms. Niemiec proposes penalties for each incident identified where the company has inappropriately back billed Homer Glen residents. (HG Ex. 1.0, p. 17.) None of the evidence offered in this case supports a finding that such penalties are appropriate. As described above, the Company stopped back billing for odometer meter exchanges in Chicago Metro, and it issued credits, with interest, as appropriate, to all customers that may have been entitled to credits. Neither Ms. Niemiec nor Mr. Rubin has identified one customer that is entitled to a refund but has not received it; nor have they identified one customer whose refund was incorrectly calculated. Therefore, no basis for penalties has been established.

Under 220 ILCS 5/5-202, "No penalties shall accrue . . . 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." For the reasons discussed above, the Commission should determine that issuance of such a notice is inappropriate with respect to the back billing issue raised by Homer Glen. As has been discussed, IAWC has taken action to fully address any concerns over potential back billing and should not be deemed subject to penalties.

**3. There Is No Evidence of a Pattern of Harassment or Intimidation of IAWC Customers by IAWC Personnel**

Ms. Niemiec alleges a pattern of harassment and intimidation by IAWC personnel. (HG Ex. 1.0, pp. 13-15.) Customer service personnel do not conduct IAWC business by intentionally harassing or intimidating customers. (IAWC Ex. 2.0, p. 13.) But because IAWC has a responsibility to collect amounts due for water service provided, the Company, working with the

CSC, attempts to contact past due customers prior to disconnecting service in an effort to avoid the inconvenience of service interruption and avoid fees associated with reconnection. (*Id.*) Outbound calls are only made to customers when their account is past due, and these calls are made in accordance with Fair Debt Collection Practices Act ("FDCPA") rules and regulations. (*Id.*, pp. 13-14.) Any customer interactions that are less than satisfactory are brought to a supervisor's attention and reviewed. (*Id.*, p. 14.) When necessary, such interactions are reviewed with the individual agents responsible in light of the Company's guidelines, and the individual is coached for improvement. (*Id.*)

The main focus of Ms. Niemiec's allegations that IAWC harasses its customers is the circumstances involving Ms. Finnegan and photos taken by IAWC personnel of certain houses in Homer Glen. (HG Ex. 1.0, pp. 13-15.) With regard to Ms. Finnegan's concern about threatening treatment from an IAWC employee, the incident involved an IAWC operations field supervisor whose responsibilities included handling calls and complaints from customers, and who failed to follow the proper customer relations procedures. (HG Ex. 1.12.) The employee at issue was counseled by his supervisor about how to appropriately respond to a customer's concerns. (IAWC Ex. 1.0, p. 60; HG Ex. 1.12). This was an isolated incident and IAWC took the appropriate steps to address it.

Photos of customer houses in Homer Glen were taken in an effort to understand customer concerns about high bills in Homer Glen. (IAWC Ex. 1.0, p. 53.) The photos were taken from the public right of way and no contact was made with the customer. (*Id.*) As Ms. Niemiec acknowledged, there is nothing illegal about them. (HG Ex. 1.0, p. 14.) The photos are consistent with the Company's view that high usage during drought conditions related primarily to lawn irrigation. (IAWC Ex. 1.0, p. 53.) This effort did not involve any intimidation or contact

of any kind with customers. (*Id.*) Therefore, Homer Glen has failed to demonstrate any pattern of harassment or intimidation by IAWC.

**I. NEITHER THE AG NOR HOMER GLEN HAS DEMONSTRATED THAT IAWC'S LEVEL OF UNACCOUNTED-FOR WATER IS EXCESSIVE**

The issue of unaccounted-for water is addressed in IAWC's purchased water reconciliation, Docket 06-0196. Mr. Rubin (AG/HG Ex. 2.0, p. 5), Staff Witness Johnson (ICC Ex. 1.0, p. 47) and Mr. Ruckman (IAWC Ex. 4.0, pp. 17-18) agree that Docket 06-0196 is the appropriate proceeding to address the issue of unaccounted-for water. However, IAWC will discuss in this brief evidence regarding this topic that was submitted in this case.

**1. The Levels of Unaccounted-for Water in IAWC's Districts Are Generally within Accepted Standards for Reasonable Levels of Unaccounted-for Water**

Both Ms. Niemiec and Mr. Rubin complain that IAWC's level of unaccounted-for water is too high. (AG/HG Ex. 1.0, p. 4; HG Ex. 1.0, p. 7.) However, neither witness provides support for the position that unaccounted-for water in IAWC's service districts is unreasonably high. Moreover, as described below, IAWC is already taking steps to address unaccounted-for water throughout its Illinois service territories.

Unaccounted-for water is a subset of "non-revenue water" ("NRW"). (AG/HG Ex. 2.0, p. 6.) NRW includes any water usage that is unmetered, including usage for such things as fire protection, fire hydrant testing, main flushing, and street cleaning—all of which benefit the community as a whole—as well as water lost through construction activities, theft, and leakage within the system. (IAWC Ex. 1.0, p. 19.) The accounted-for uses of NRW, such as main flushing and hydrant use, are deducted from total NRW to derive unaccounted-for water, *i.e.*, that portion of NRW that cannot be accounted-for (*e.g.*, leakage). (AG/HG Ex. 2.0, p. 6.) With

regard to NRW, the American Water Works Association ("AWWA") Manual M52 states, "It is not uncommon to find unbilled water to be over 20% in an older system." (IAWC Ex. 1.04.)

Mr. Rubin argues that the goal for a water utility's NRW should be 10%. (AG/HG Ex. 2.0, p. 8.) However, the source he cites for the 10% figure actually refers to 10% unaccounted-for water. (*Id.*) In addition, for the reasons explained above, the percentage of NRW would be higher than unaccounted-for water (since accounted-for uses are removed from NRW in calculating unaccounted-for water). The weight of authority on the subject of levels of unaccounted-for water indicates that 15-20% unaccounted-for water is the more common standard. The AWWA Water Distribution Systems Handbook ("Handbook"), published in 2000, states in Section 17.2.1 that: "A commonly accepted rule-of-thumb for acceptable levels of unaccounted-for water is 15 percent, although this value is highly site specific. The real rule for deciding whether unaccounted-for water exists at an acceptable level is an economic one; the economic savings in water production at least offsets the cost of reducing unaccounted-for water." (IAWC Ex. 4.04.) Other regulatory jurisdictions have recognized levels of unaccounted-for water of 15-20%. For example, the Pennsylvania Public Utility Commission has adopted a Statement of Policy on water conservation that provides as follows: "Levels of unaccounted-for water should be kept within reasonable amounts. Levels above 20% have been considered by the Commission to be excessive." 52 Pa. C.S. § 65.20. Similarly, the Ohio Public Utilities Commission requires a utility to report quarterly on the amount of its unaccounted-for water (which is defined to exclude "water usage for fire fighting, flushings, and plant usage"), but to propose remedial actions only when unaccounted-for water is 15% or above. Ohio Admin. Code § 4901:1-15-20(C)(5). Thus, the appropriate standard for reasonable unaccounted-for water is

15-20% (and, for the reasons explained above, the percentage for NRW would be expected to exceed this level).

There is no evidence that levels of unaccounted-for water in IAWC's service areas are unreasonable. Mr. Rubin cites high levels of NRW in certain IAWC Districts. (AG/HG Ex. 2.0, p. 7.) However, only two of these districts (Streator and Cairo) have NRW levels significantly above 20% (AG/HG Ex. 2.1), and, as stated above, levels of NRW above 20% are not uncommon in older systems (and Mr. Rubin cites levels of NRW, not unaccounted-for water, which should be lower). (IAWC Ex. 4.0, p. 19.) Moreover, as stated in the Handbook, "The real rule for deciding whether unaccounted-for water exists at an acceptable level is an economic one; the economic savings in water production at least offsets the cost of reducing unaccounted-for water." (IAWC Ex. 4.04.) During 2007, IAWC will perform economic analyses with respect to unaccounted-for water for all service areas.

Ms. Niemiec complains specifically about a level of unaccounted-for water in Homer Glen of 18%. (HG Ex. 1.0, p. 7.) However, the 18% figure Ms. Niemiec refers to is actually NRW, representing the percentage of water purchased that was not sold. (IAWC Ex. 1.0, p. 19.) IAWC's level of NRW has been approximately 18% for the system specifically serving Homer Glen (the Homer Township system). (*Id.*) As stated above, levels of NRW of 18% (or for that matter, unaccounted-for water levels of 18%) are not unreasonable. However, the levels of NRW for the entire service area covering Homer Glen, IAWC's Southwest Suburban system, are lower than 18% (for purposes of determining the Supply Charges paid by customers in Homer Glen, the Commission looks at IAWC's Homer Township and West Suburban systems on a combined basis – the Southwest Suburban system). (*Id.*, p. 20.) The level of NRW for the Southwest Suburban system was 16.65% in 2004 and 13.13% in 2005. (*Id.*) Commencing in

2006 (based on a tariff change), IAWC cannot recover more than 12% unaccounted-for water in its Southwest Suburban system through the annual reconciliation process. (*Id.*) These numbers are consistent with the unaccounted-for water standards set out in the Handbook (and with the Pennsylvania and Ohio standards as well) referenced above.

IAWC's levels of distribution system water losses in Chicago Metro are reasonable as well. In Chicago Metro, IAWC is required to account for distribution losses in accordance with the regulations of the IDNR, which controls the allocation of Lake Michigan water and monitors the use of this resource through an annual reporting process. (IAWC Ex. 1.0, p. 20.) IDNR requires each public water supply having a Lake Michigan allocation to complete a report on the public water supply's purchases of Lake Michigan water, sales to end users, and estimates of unmetered uses and unavoidable leakage for a given year, and calculate a measure pursuant to the regulations known as "Unaccounted-For Flow" ("UFF"). (*Id.*) UFF represents water purchases less (i) water used for residential, commercial, industrial, municipal, hydrant uses, and other identified uses, and (ii) an estimate of unavoidable leakage (UFF therefore differs from unaccounted-for water in that, *inter alia*, it includes an estimate of system leakage). (*Id.*, p. 21; *see* 17 Ill. Admin. Code § 3730.102.) Where UFF exceeds a threshold set by IDNR (8%), IAWC must report its plan to improve UFF to IDNR. (IAWC Ex. 1.0, p. 21.)

Because UFF calculation is a regulatory requirement applied by IDNR to IAWC's Lake Michigan water operations, it is highly relevant to IAWC's service in Chicago Metro. (IAWC Ex. 4.0, pp. 18-19.) In addition, because UFF accounts for both sales to end users and estimates of unmetered uses and unavoidable leaks, and given that there are legitimate reasons for unmetered uses and unavoidable leakage, UFF is a good proxy for comparisons among utilities. (*Id.*, p. 19.)

IAWC's reporting to IDNR shows that, as a whole, IAWC's water systems' level of UFF compares very favorably with the other public water supplies. (IAWC Ex. 1.0, p. 21.) The average UFF of IAWC's 13 systems using Lake Michigan water in 2004 was 6.45%, whereas this same average for the 185 other Lake Michigan water supplies in Illinois was 9.02%. (*Id.*) Southwest Suburban had a UFF of 9.5% in 2004. (*Id.*) There were 22 other public water supplies that reported UFF exceeding the level reported for Southwest Suburban, including the City of Chicago which reported 12.0%. (*Id.*)

Because Southwest Suburban had a UFF above 8%, IAWC reported a plan to IDNR with the required 2004 filing to reduce UFF by replacing aging meters in Homer Glen by year-end 2006, in addition to other steps being taken by IAWC to reduced unaccounted-for water in Homer Glen (see below). (*Id.*) As a result of these steps, UFF in Homer Glen is improving. (*Id.*, p. 22.) In 2005, UFF in the Southwest Suburban system was 6.54%. (*Id.*)

## **2. IAWC Is Taking a Variety of Steps To Reduce Unaccounted-for Water in Homer Glen and Throughout Its System**

The record also shows that American Water has taken steps to address unaccounted-for water throughout the American Water system (including IAWC) where it is economical to do so. (IAWC Ex. 4.0, p. 19.) American Water (through the Service Company) recently created and filled the position of NRW Manager for the Central Region, which includes IAWC. (*Id.*) While American Water and IAWC have historically taken measures to manage NRW and unaccounted-for water, the purpose of the NRW Manager is to create a more systematic approach to evaluating the sources, contributing factors and volumes of NRW. (*Id.*, pp. 19-20.) These evaluations are being undertaken at the Regional, IAWC and District level. (*Id.*, p. 20.) Upon

completion of these evaluations, the NRW Manager will develop a program to reduce NRW below current levels where prudent. (*Id.*)

Under the guidance of the NRW Manager, IAWC continues to evaluate the levels of NRW over time in each of its water systems, as well as the current practices employed to manage those levels (such as the frequency at which system delivery meters are calibrated, the extent to which fire department officials report water use from fire hydrants, the assumptions and methods used to account for unmetered flows of water, and an assessment of the effectiveness of leak surveys). (*Id.*) These steps will help the Company analyze the amount of NRW and conduct cost-benefit analyses. (*Id.*)

With regard to Homer Glen, the Company has taken a number of specific steps to address unaccounted-for water. First, the Company retained an outside leak detection contractor to survey the entire distribution system and to repair all identified leaks. (IAWC Ex. 1.0, p. 22.) Second, as explained above, the Company is in the process of replacing all meters with new meters having a greater level of accuracy. (*Id.*) Third, the Company is working with the Homer Glen to discourage water theft through fire hydrants. (*Id.*) Next, the Company is completing an audit of all Homer Glen residences and businesses to confirm that all customers utilizing the public water supply are being billed for service. Finally, IAWC has agreed to meter construction water at the municipality's request. (*Id.*)

Also, recent tariff filings in Chicago Metro have designated a maximum level of unaccounted-for water recoverable through the Supply Charge for Chicago Metro service areas in which purchased Lake Michigan water is utilized. (IAWC Exs. 4.0, p. 19; 4.01, p. 3.) In addition, in accordance with recent Illinois legislation (Section 8-306 of the Act) requiring the

filing of tariffs before year-end that establish maximum unaccounted-for water percentages applicable to rate or Supply Charge cost recovery, IAWC will file proposed tariff maximums for unaccounted-for water for all of its service districts.

**J. MR. GRENS DOES NOT PROVIDE ANY BASIS FOR HIS REQUESTED RELIEF**

In his Amended Complaint, Mr. Grens alleges that the Company's rates are too high, and in particular that the flat-fee sewer rates are excessive. He asks the Commission to order a formal rate investigation such that the flat fee "be changed . . . to a rate based on water usage." (Amend. Compl. Intro. ¶1.) At an earlier hearing in his case, Mr. Grens explained that "the fact that we're forced to pay a flat, ridiculously high sewer rate as opposed to a sewer rate based on water usage is essentially what I'd like to focus on from here on out." (Docket 05-0681, Tr. 76.) Later in the same hearing, Mr. Grens acknowledged that his claim involved "a tariff that has been fully litigated and approved by the Commission," and that he was "requesting . . . the Commission to essentially conduct a rate analysis." (Docket 05-0681, Tr. 79-80.)

Mr. Grens' complaints and request for a rate investigation are baseless. As Mr. Grens stated, "[S]ince the ICC is responsible for approving these rates, my issue, my problem, I think, really is more with the Commission than it is the water company." (Tr. 173-74.) Thus, Mr. Grens acknowledges that the Commission approved the rates that are the subject of Mr. Grens' claim, and that IAWC is entitled to a return. (*Id.*)

The rates that Mr. Grens now complains of were approved in Docket 02-0690, a rate proceeding in which all of the procedures and ratemaking principles established by Illinois law were applied. (Tr. 192-93.) Under Illinois law, rates set by the Commission must produce revenues sufficient to cover the utility's operating expenses and provide a reasonable return on

the utility's investment in property devoted to the provision of utility service. *Illinois Cent. R.R. Co. v. Illinois Commerce Comm'n*, 387 Ill. 256, 281 (1944); *Illinois Bell Tel. Co. v. Illinois Commerce Comm'n*, 414 Ill. 275, 286 (1953). The Illinois Supreme Court reaffirmed this principle in *Business & Prof. People for the Pub. Interest v. Illinois Commerce Comm'n*, 146 Ill. 2d 175, 195-96 (1991), where the Court stated:

In establishing rates that a public utility is permitted to charge its customers, the Commission must first determine the utility's revenue requirement. The components of the revenue requirement have frequently been expressed in the formula "R (revenue requirement) = C (operating costs) + Ir (invested capital or rate base times rate of return on capital)." (*Citizens Utilities Co. v. Illinois Commerce Comm'n* (1988), 124 Ill. 2d 195, citing *City of Charlottesville v. Federal Energy Regulatory Comm'n* (D.C. Cir. 1985), 774 F.2d 1205, 1217.)

Mr. Grens provides no evidence with regard to IAWC's operating expenses, rate base, rate of return, or any component of IAWC's revenue requirement, and, therefore, does not demonstrate that IAWC's rates for water or sewer service are excessive, unjust, or unreasonable. (Tr. 186-87.)

Mr. Grens' position regarding the reasonableness of IAWC's water and sewer rates is based on a comparison of IAWC's approved rates for water and sewer service to the rates charged in certain municipalities, without consideration of the extent to which the municipalities he references subsidize their water and sewer operations with tax revenue or operational support from other municipal departments. (Tr. 174-80.) As Mr. Ruckman testified, the comparison systems are municipally owned, and, as a result, do not incur costs paid by IAWC for items such as property and income taxes, each of which is a significant component of IAWC's expenses. (Tr. 195) In addition, Mr. Grens fails to include in his comparisons the full cost incurred by customers in his comparison communities in connection with water or sewer service. To fund

water and sewer operations and investment, municipally owned systems rely not only on revenues from water/sewer bills, but also on tax revenues. (Tr. 71, 195; HG Ex. 1.01.)

In making his rate comparisons, Mr. Grens refers to the water rates of municipally owned systems in Woodridge, Darien, Downers Grove and Lemont. (Tr. 179.) At least one of the communities referenced by Mr. Grens, Lemont, does not utilize Lake Michigan water and relies on less expensive, but lower quality, well water supplies. (Tr. 178.) In communities such as these, customers often are required to incur costs for water softeners and/or other costs related to use of well water. In making his comparison, Mr. Grens does not take costs incurred by customers who use well water supplies into account. Mr. Grens also does not address the fact that the rates applicable in other areas served by investor-owned utilities are higher than those applied by IAWC in its Southwest Suburban service area. (Tr. 193.)

The rates utilized in developing Mr. Grens' bills were the rates approved by the Commission, and he cites no concern with the amount of usage or correctness of his bills. (Tr. 178, 183.) His complaint relates solely to the high price of sewer service in general. (Tr. 178.) As is well established under Illinois law, rates are set by the Commission at a level that is just and reasonable, and the utility is required to apply the rates approved by the Commission in a rate order. *Business & Prof'l People for the Pub. Interest*, 146 Ill. 2d at 195-96; *Village of Apple River v. Illinois Commerce Comm'n*, 18 Ill. 2d 518, 523 (1960); 220 ILCS 5/9-240. In similar situations, the Commission has appropriately dismissed complaints alleging that rates are too high. *Mandel Bros., Inc. v. Chicago Tunnel Terminal Co.*, 2 Ill. 2d 205 (1954); *Independent Voters of Ill. v. Illinois Commerce Comm'n*, 139 Ill. App. 3d 957, *aff'd in part and rev'd in part on other grounds*, 117 Ill. 2d 90 (1985). Public utility rates cannot be found excessive if the

rates were ordered by the Commission. *Mandel*, 2 Ill. 2d at 209. Thus, there is no legal or factual basis for Mr. Grens' request for a rate review.

**K. CUB HAS NOT OFFERED ANY EVIDENCE REGARDING IAWC'S ISSUANCE OF BOIL ORDERS**

In this proceeding, CUB offered no direct evidence and took no position on any issue. Questions raised by CUB on cross examination suggest a concern with customer notification by IAWC in connection with certain boil orders issued in 2005 in the City of Champaign. In the event that CUB raises issues with regard to boil order notification in its Initial Brief, IAWC will address the issues raised by CUB in IAWC's Reply Brief. In this brief, IAWC notes only that rules governing boil orders are promulgated by the Illinois Pollution Control Board ("IPCB") and overseen by the Illinois Environmental Protection Agency, and IAWC has at all times complied with the applicable IPCB rules. (IAWC Ex. 1.03, p. 5; Tr. 354.)

**IV. CONCLUSION**

For the reasons discussed above, the relief requested by the Complainants the AG, Homer Glen and Mr. Grens, should be denied.

Dated: December 5, 2006

Respectfully submitted,

ILLINOIS-AMERICAN WATER  
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