

**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.)	

PROPOSED ORDER OF ILLINOIS-AMERICAN WATER COMPANY

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January 12, 2007.

TABLE OF CONTENTS

	Page
I. Procedural History	1
II. Background.....	2
III. The AG’s Position.....	6
IV. Homer Glen’s Position.....	8
V. Mr. Grens’ Position.....	10
VI. Staff’s Position.....	10
VII. CUB’s Position	14
VIII. The Company’s Position.....	14
IX. Commission Conclusion	22
X. Findings and Ordering Paragraphs.....	27

I. PROCEDURAL HISTORY

Mr. Kevin Grens, the Office of the Illinois Attorney General (“AG”) and the Village of Homer Glen (“Homer Glen”) filed complaints (respectively, the “Grens Complaint,” “AG Complaint” and “Homer Glen Complaint”) against Illinois-American Water Company (“IAWC” or the “Company”) on October 20, 2005, February 2, 2006 and February 8, 2006, respectively. Dockets 05-0681, 06-0094 and 06-0095, respectively, were initiated to review the Complaints, and those Dockets were consolidated by an Order issued on February 17, 2006. The AG Complaint and Homer Glen Complaint seek an audit of certain operations of IAWC, civil penalties, and other relief. The Grens Complaint seeks a review of IAWC’s rates for water and wastewater service. On February 21, 2006, the Citizens’ Utility Board (“CUB”) filed a petition to intervene, which was granted.

On June 30, 2006, the AG and Homer Glen jointly filed the Direct Testimony of Scott J. Rubin, the AG’s sole witness. Homer Glen also filed the Direct Testimony of Mary Niemiec, Deborah Finnegan, Jim Jilet and Debbie Litoborski. On August 11, 2006, IAWC filed the Direct Testimony of Frederick L. Ruckman, Karen H. Cooper and John A. Zerbe. On August 21, 2006, the Illinois Commerce Commission (“Commission”) Staff (“Staff”) filed the Direct Testimony of William R. Johnson and Joan Howard. On September 8, 2006, the AG and Homer Glen jointly filed the Rebuttal Testimony of Scott J. Rubin, and Homer Glen filed the Rebuttal Testimony of Mary Niemiec. On September 28, 2006, IAWC filed the Rebuttal Testimony of Mr. Ruckman and Ms. Cooper. On October 6, 2006, Staff filed the Rebuttal Testimony of William R. Johnson and Joan Howard. On October 20, 2006, the AG and Homer Glen jointly filed the Surrebuttal Testimony of Scott J. Rubin, and Homer Glen filed the Surrebuttal Testimony of Mary Niemiec.

On November 14, 2005, the Company filed a Motion to Dismiss the Grens Complaint in its entirety. On September 15, 2006, the Company’s Motion to Dismiss the Grens Complaint was denied. On August 14, 2006, the Company filed Motions to Strike and Dismiss the Grens Complaint, and certain portions of the AG Complaint and the Homer Glen Complaint. The AG and Homer Glen responded on August 25, 2006; and on September 1, 2006, the Company replied. The Administrative Law Judges (“ALJs”) denied the Motion to Strike with respect to the Grens Complaint, and granted the Company’s Motion to Strike and Dismiss in part with respect to the AG Complaint and Homer Glen Complaint, striking Paragraph 40(e), item (ii) of the AG Complaint and the portion of Homer Glen’s Complaint which alleged that IAWC had failed to repair water mains and assign sufficient personnel the duty of hearing customer disputes in-person.

Pursuant to proper legal notice, an evidentiary hearing was held in this matter before duly authorized Administrative Law Judges of the Commission on October 30 and 31, and on November 1, 2006. Appearances were entered by counsel on behalf of the AG, Homer Glen, CUB, Staff and IAWC. Mr. Grens appeared *pro se*. At the conclusion of the hearing on November 1, 2006, the record was marked “Heard and Taken.”

Initial briefs and reply briefs were filed by the AG, Homer Glen, Staff and the Company. A Proposed Order was filed by IAWC on January 12, 2007.

II. BACKGROUND

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 is a wholly-owned subsidiary of American Water Works Company, Inc. (“American Water”), and it provides service to approximately 281,000 water and 31,000 wastewater customers throughout Illinois.

IAWC’s Homer Glen service area, which is part of IAWC’s Chicago Metro District (“Chicago Metro District” or “Chicago Metro”), includes 7,000 metered water, and a similar number of wastewater, customers in Homer Glen, Orland Township, Lemont and Lockport. Homer Glen is supplied with Lake Michigan water, and the cost of Lake Michigan water is passed dollar-for-dollar through a charge determined in accordance with a purchased water rider. Like the rest of the Chicago Metro service areas, the Company’s operations in Homer Glen are managed from IAWC’s Woodridge office.

IAWC acquired the Chicago Metro water and wastewater facilities from Citizens Utilities Company of Illinois (“Citizens”) in 2002 pursuant to the Order of the Commission in Docket No. 00-0476. According to the Company, although Citizen’s facilities were in generally good condition, Citizens’ meter infrastructure was outdated and its meter change-out program was behind schedule. Valve and hydrant testing practices were not fully compliant with Commission rules. IAWC has offered evidence that, in 2003, it initiated capital programs designed to accelerate meter change-outs and improve valve and hydrant testing. According to the Company, when it acquired Citizens’ assets in January 2002, Citizens had not adjusted its rates for over 7 years. The Company filed for a rate increase after the acquisition in 2002, and in August 2003, the Commission approved a 40% rate increase.

Prior to 1994, water for Homer Township (including Homer Glen) was obtained from groundwater wells. In 1994, Homer Township passed a resolution, which IAWC provided as an exhibit to its testimony in this docket, requesting that Citizens be certified through an affiliated entity to provide Lake Michigan water throughout any portion of Homer Township not served by another investor-owned or municipal utility. The Lake Michigan supplier then built an 18-mile pipeline to bring water to Homer Glen and other Chicago Metro service areas at a cost of more than \$45 million. Additional investment in the utility infrastructure was also required. In these dockets, the Company presented evidence showing that Lake Michigan water, which must be transported through the pipeline owned and operated by an IAWC affiliate, is more expensive than the well water supply used for Homer Glen prior to completion of the Lake Michigan pipeline.

In early 2004, Homer Glen formed a Sewer and Water Task Force (“Task Force”), to investigate the cost of water and wastewater service provided by the Company. IAWC representatives attended numerous Task Force meetings. The Task Force prepared an Interim Report (“Report”) dated September 20, 2005, which referenced concerns regarding IAWC’s water and sewer service in Homer Glen.

The Task Force reported that it was “Generally Satisfied” with IAWC’s service. It found that the quantity of water available in Homer Glen was not an issue during the summer of 2005 despite a drought; that the Company’s wastewater treatment facilities did not have a record of

many or severe violations of environmental laws or permits; that the water distribution system and the wastewater collection system in Homer Glen were generally reliable; that the Lake Michigan water pipeline, when built, was estimated to be the lowest cost alternative that would provide the most stable water supply; and 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 multiple alternatives for funding water service to residents.

Many of the meters Citizens had installed in the Chicago Metro District prior to the IAWC acquisition employed “pulse” reading devices (known as odometer devices). Odometer-style meter systems consist of a meter inside a customer’s residence which sends a pulse to another device—*i.e.*, an odometer-style device located outside the customer’s residence. Because usage is recorded on the outside device, the odometer device eliminates the need for a meter-reader to enter a residence. However, according to IAWC, in some cases the external odometer device malfunctioned by under-registering the amount of water flowing through the inside meter. As a result, for some customers, actual usage as recorded on the inside meter was higher than the reading displayed on the outside device. The Company states that this pulse technology does not exist anywhere in IAWC’s service territories other than Chicago Metro.

Commencing in 2003, IAWC initiated a program (“Meter Replacement Program”) to install what it calls state-of-the-art Automatic Meter Reading systems (also known as radio-read systems) throughout Chicago Metro, including Homer Glen. The radio-read system sends actual meter readings from the inside meter to the meter-reader via radio signals, not wire impulses, and the system is highly accurate. IAWC maintains that, as more of these types of systems are installed, the percentage of estimated reads has declined 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.

According to the Company, at the beginning of 2003—one year after the Citizens acquisition—approximately 19,400 accounts (45-50% of the customer base) had meters that had not been tested in accordance with Commission timelines. As a result, IAWC states that it made meter replacement 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 reportedly continue to improve service, for example by reducing estimated reads. IAWC claims that, since 2003, estimates have dropped below 4% in January 2006 and below 2% in March 2006. The Company reports that its rate of estimates has been approximately 2% since that time.

IAWC also states that it has prioritized meter replacement in those areas where the deadline for testing under Commission rules is first approaching. According to the Company, it has employed an outside contractor and has worked evenings and weekends, accelerating the progress of the Meter Replacement Program. IAWC reports that it has replaced approximately 16,700 meters in Chicago Metro, leaving about 15,700 meters to go as of March 2006 (additional meters have come due for testing in the meantime). The Company states that it will complete the Meter Replacement Program by 2010 and that, aside from the Bolingbrook area, all other meter replacements in Chicago Metro will be completed by 2007. In Homer Glen, IAWC has replaced all but 300 of the 7,000 meters with radio read meters.

In 2004, the Commission Staff conducted a field investigation of the valve and hydrant records in IAWC's Pontiac and Interurban Districts. Staff found that IAWC's records were not in full compliance with the applicable rules concerning valve inspections. Following the Staff's investigation, IAWC began its own investigation of valve, hydrant, and meter regulatory compliance in all of its districts. Because the investigation revealed that some districts were not in compliance, IAWC states that it developed an action plan to bring all of its districts into compliance. Under this plan, the Company committed to hiring an additional 38 employees, most of whom would be dedicated to maintaining hydrants and exercising valves. IAWC states that all of its hydrants throughout Illinois will be inspected by the end of 2006. (IAWC Init. Br., pp. 13-14.)

The parties agree that much of Illinois, and particularly southwest suburban Chicago, experienced a severe drought in 2005. Northeast Illinois, which includes all of the Chicago Metro District service areas, experienced its driest March-November period since at least 1895. According to IAWC, Homer Glen consequently incurred the cost of Lake Michigan water, which is more expensive than groundwater, in a drought situation for the first time that summer. IAWC states that the drought caused an increase in Lake Michigan water usage in Chicago Metro and Homer Glen for such things as lawn watering and other drought-related uses.

IAWC states that, as a result of the drought-related increase in customer usage and the issuance of bills for previously unbilled service in conjunction with the Meter Replacement Program, Homer Glen customer complaints increased in the summer and fall of 2005. In 2005, IAWC's level of customer complaints received from the Commission nearly tripled. IAWC notes that, even with this increase, it still had the fewest complaints of any large water company in Illinois. According to the Company, the vast majority of the 2005 complaints were from the Chicago Metro District—and Homer Glen in particular. IAWC points out that Homer Glen encouraged its residents to file complaints with the Commission, driving up the volume of complaints. IAWC notes that, since the fall of 2005, Homer Glen complaints have returned to a more typical level.

The Company explains that, at the time of meter change outs during the Meter Replacement Program, the contractor reported the odometer reading along with the actual level of water used by the customer as recorded on the inside meter. IAWC input the actual usage information as measured by the inside meters into its billing system. Where a customer's actual usage had been under-recorded by the odometer device, the billing system issued back bills for the customer's previously unbilled actual usage. For certain accounts, these back bills were at times relatively high as compared to previous bills. In addition, IAWC determined that, in certain cases, the difference between the inside meter and the under-registering odometer device may have related to customer usage during a usage period more than twelve months prior to the meter reading. For residential customers, billing for such usage is inconsistent with the Company's billing guidelines and an applicable Commission rule. Accordingly, 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 a meter change.

The Company states that it also 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, and to issue credits to all customers who received bills based on a

meter discrepancy identified during a meter exchange, to ensure that no customers were back billed for usage beyond 12 months. Customers identified in the audit received credits (with interest) on or before October 1, 2006. Also, customers who had previously received credits (as a result of action taken prior to completion of the back bill audit) received an interest payment consistent with the credit previously received. (Tr. 422; IAWC Ex. 4.03.) According to the Company, the amount of the discrepancy between inside and outside meters was generally small—over 80% of the accounts identified as needing a credit showed a discrepancy of 5 units (5,000 gallons) or less.

In response to concerns expressed by Homer Glen in 2005, and in addition to the steps taken regarding back billing described above, IAWC states that it took a number of other steps related to Homer Glen in particular. IAWC representatives reportedly attended Task Force meetings and helped gather and provide information to Homer Glen. IAWC also undertook an audit of water usage in Homer Glen to address concerns about unaccounted-for water, and it has implemented additional procedures to reduce the level of unaccounted-for water. IAWC also (i) established a specialty group in the Customer Service Center (“CSC”) dedicated to handling calls from the Chicago Metro service districts, (ii) flushed and inspected fire hydrants, (iii) assigned a local contact to assist in resolving water and sewer questions referred to the Company by Homer Glen, and (iv) held a town hall meeting to provide information to and answer questions from customers. In addition, IAWC intends to change the description of the Supply Charges on its bills to show the base volumetric rate, and the Company will inform customers about the time period the bill covers when there is more than one consecutive estimate or a back bill.

IAWC maintains that it provides information to its customers regarding its credit and collection practices in its Rules, Regulations and Conditions of Service (Water), ILLINOIS C. C. No. 4, Sheet Nos. 10-15 & 23-24, which are available for public inspection at IAWC’s business offices and at the Commission’s offices. The Company also provides such information on its website, which is referred to on the face of its bills. In addition, IAWC is developing a customer information booklet, and it will provide the booklet to all of its customers. IAWC also communicates water conservation guidelines to its customers.

The Company states that it has made certain improvements to its billing procedures to help identify bill spikes and other billing concerns, and to inform customers of this information. These improvements will help identify unusual bills and allow the Company to take steps to investigate those bills 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.
- 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.

- 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.

III. THE AG’S POSITION

The AG contends that IAWC violated the Commission’s metering rules and did not maintain metering accuracy because it failed to replace outdated and inaccurate meters in a timely manner. According to the AG, there were 40,516 meters in place when IAWC acquired the Chicago Metro area. The Commission’s rules require that each 5/8” meter be inspected and tested every 10 years. 83 Illinois Admin. Code § 600.340. The AG notes that Citizens was not in compliance with the Commission’s rules when IAWC acquired Citizens in March, 2002, and asserts that IAWC did not commence an accelerated meter replacement program until 2003. The AG maintains that currently the Company has replaced a total of 18,200 meters, leaving 19,500 meters to be replaced—18,050 meters in Bolingbrook and 1,450 meters in Fernway or Orland Hills. The AG points out that the Company’s plan to replace all of the meters in Bolingbrook extends to 2010.

The AG alleges that, in response to Data Request AG 5.8, the Company stated that, of a sample of 1,000 meters tested after they were removed, “over 50% . . . did not meet the standards for new meters” provided in Section 600.310. (AG Init. Br., p. 7.) According to the AG, inaccurate meters triggered customer complaints.

The AG claims that consumer complaints stemming from back billing revealed numerous violations of “consumer protection rules.” According to the AG, complaints about bill spikes tripled during 2005 as the Company’s Meter Replacement Program expanded. The AG states that bills did not indicate to customers that any portion of the usage was for prior unbilled service, and that some bills did not indicate that a meter had been changed. According to the AG, the Company did not offer payment plans, and customers did not receive an information booklet on credit and collection practices. Also, the AG states that customers were not told how to contact the Commission to have their accounts reviewed.

The AG contends that the back bill credits the Company issued in connection with the Meter Replacement Program were inadequate; and that the Company should therefore be subject to an independent audit to ensure that the correct number of customers were identified, and the refund amounts were correct. According to the AG, of the approximately 10,000 accounts reviewed, the Company identified 474 customers potentially exposed to back bills for usage beyond 12 months. The AG states that this determination conflicts “with Mr. Rubin’s analysis, which showed 7,900 accounts that had a meter exchange in 2005 or 2006, and one bill at least 50% higher in the first six months of 2006 than in the same month of 2005.” According to the AG, Mr. Rubin identified 45 bills that were, in total, \$64,916.99 more than the previous month’s bill. Deducting usage relating to the drought of 2005 from that figure, the AG maintains that customers were back billed at least \$61,375.74.

According to the AG, the Company did not notify consumers of summer water usage restrictions in 2005, thus aggravating the high bills resulting from back billing.

The AG claims that back billing associated with meter exchanges revealed other violations of the Commission's rules. The AG maintains that call handlers, who are trained to respond to questions, "lack the authority to make bill adjustments or to investigate problems." While the Commission's rules provide that dispute resolution personnel shall conduct hearings in-person, the AG asserts that "[f]ace-to-face meetings with customers are rare, and not part of the customer service procedure." According to the AG, the Company's collection efforts continued even after customers called to dispute bills, contrary to the Commission's rules.

The AG argues that the Company's bills do not contain certain information required by Commission rules, such as whether any of the usage relates to a prior period, or whether any usage is the result of an estimated or "consecutive zero usage" bill. The AG notes that its witness, Mr. Rubin, testified that the Company's Chicago Metro bills should display the purchased water supply charge.

The AG also claims that the Company did not track consecutive estimated bills and consecutive zero consumption bills. The AG contends that "Mr. Rubin found that in one month almost 30% of bills in Illinois were estimates, while in January 2005 and January 2006, 16% and 13% of bills were estimated." (AG Init. Br., p. 25.) Mr. Rubin's review of IAWC's billing records suggests that more than 300 Homer Glen customers received three or more consecutive estimated bills. The AG contends that "Mr. Rubin found several instances of consecutive zero usage bills, which can also lead to bill spikes." Although the Company's procedures already call for the investigation of accounts with three months of zero consumption, the AG asserts that those procedures are not being followed.

According to the AG, customers are entitled to a consumer information booklet. The AG proposes that, "[i]n its Order, the Commission . . . set a date certain for the development and distribution of this information." (AG Init. Br., p. 28.)

The AG submits two reports of alleged problems with fire hydrants that were discovered during fires, and one report of a fire hydrant that required maintenance. The AG characterizes Staff witness Johnson's review of IAWC's valve and hydrant records as "very limited." The AG cites Staff witness Johnson's finding that the Company's testing and maintenance records were not complete or up-to-date, and acknowledges Mr. Ruckman's testimony "that IAWC has inspected or will inspect all hydrants and valves in its service territory by the end of 2006." (AG Init. Br., p. 30.)

The AG contends that, although it believes that IAWC's unaccounted-for water level is excessive, the appropriate maximum level going forward will be addressed in connection with the Company's tariff filing under 220 ILCS 5/8-306 (m). The AG states that it will review the Company's tariff filing, and that unaccounted-for water will be the subject of hearings related to the tariff filing.

The AG argues that the Company's water and wastewater rates should be compared to those of neighboring water systems referenced in Mr. Grens' testimony. Mr. Grens, who did not file a brief, testified that the Company's water and wastewater rates were higher than the rates paid by customers in Woodridge, Darien, Downers Grove and Lemont. According to the AG, a document from the website of the State of Illinois Comptroller's office sponsored by Mr. Grens

as an Exhibit shows that the Village of Woodridge operates its public water system through an “enterprise” fund, which, according to the AG, shows that “operations are financed and costs recovered primarily through user charges.” (AG Init. Br., p. 36.) The AG maintains that, under Illinois law, rates of municipal water and sewer systems must be set at a level sufficient to cover the municipal system’s cost of service.

In conclusion, the AG asserts that it, Homer Glen, CUB and Mr. Grens presented evidence suggesting that IAWC had not complied with provisions of the Illinois Public Utilities Act and the Commission’s rules, but that the Company has taken action to address many of those violations. The AG asks that the Commission incorporate into its final order the Company’s actions, along with the additional requests made by the AG in its brief. The AG requests a statement by the Commission detailing the Company’s violations and a provision in the Commission’s order for penalties.

IV. HOMER GLEN’S POSITION

Homer Glen characterizes its Complaint as seeking relief from the Company’s billing practices, along with certain other practices. Homer Glen seeks an order imposing civil penalties against the Company. Specifically, Homer Glen alleges that the Company: did not read meters every other month; did not assign personnel to in-person hearings on customer disputes; threatened to disconnect service to customers who disputed portions of their bills; did not provide a customer information booklet containing its credit and collection practices; did not investigate complaints of high bills; billed customers for prior unbilled usage more than 12 months prior to issuance of the bill; did not offer payment plans following bills for prior unbilled service; and harassed and intimidated customers. (HG Init. Br., pp. 2-3.)

Homer Glen acknowledges that the Company has agreed to take certain actions in response to customer concerns, but believes that the Company’s responses are insufficient to address the alleged violations.

Homer Glen states that, in early 2004, Homer Glen appointed residents to serve on the Task Force. According to Homer Glen, the Task Force found that Homer Glen had the highest water rate in Illinois among communities served by a private utility; the cost of pipeline construction for Lake Michigan water is a significant factor in the overall water charge; and unaccounted-for water in Homer Glen was 18% of total water, and the Company had no incentive to control unaccounted-for water. The overall quality of water was not an issue. (HG Init. Br., p. 6; HG Ex. 1.01.) Before the Task Force could complete its work, Homer Glen began receiving reports from residents about high water bills with spikes in usage.

Homer Glen alleges that the Company began issuing high and “spiking” bills in early 2005. Homer Glen asserts that “[h]igh and spiking bills are those where the usage in one month far exceeds the usage in previous months and exceeds the usage after the date of the bill.” (HG Init. Br., p. 7.) Homer Glen points to bills showing monthly consumption of 17,000 gallons to 95,000 gallons. Homer Glen notes that, in an October 2005 letter, the Company advised Homer Glen customers that high bills were due primarily to increased water usage during the 2005 drought. Homer Glen states, however, that certain customers received high bills after September, 2005. Homer Glen also refers to one customer who it alleges received back bills beginning in

January, 2006, when the customer's meter was replaced with a meter having a serial number identical to another customer's serial number.

Homer Glen contends that the Company's approach for addressing high bills was inadequate. According to Homer Glen, the Company did not stop back billing in September 2005, and its audit of customers entitled to potential back bill refunds in connection with the Meter Replacement Program was conducted without third-party oversight. Based on testimony provided by Mr. Rubin, Homer Glen suggests that back billing goes beyond problems associated with Chicago Metro odometer devices and refers to data regarding zero consumption bills, negative consumption bills and estimated bills. Homer Glen acknowledges that the Company has a written policy for dealing with zero consumption bills, and that the policy is consistent with Mr. Rubin's recommendations in this docket. According to Homer Glen, however, the Company is not following its policy. Homer Glen identifies two issues with regard to estimated bills: whether the amount of the estimated bill is within the national average, and whether the Company is tracking estimated bills to ensure that fundamental metering issues do not exist. Homer Glen proposes that the Commission order the Company to develop a system to track estimated bills and determine why they are occurring.

Homer Glen further alleges that the Company has not inspected and maintained fire hydrants and valves located in Homer Glen. Homer Glen notes that Mr. Rubin testified that fire protection is an important function of a public water supply system, and that Staff witness Johnson testified that none of the Homer Glen valve records had a history of maintenance, date of installation, or make or model.

Homer Glen contends that the back bill refunds issued by the Company were not reviewed by an independent third party. According to Homer Glen, the Company submitted a letter to the Commission Staff for review, and such review was inappropriate. Ms. Niemiec believes this letter is troubling because it allegedly did not provide customers with information for contesting the refund. Homer Glen asserts that no Staff witness reviewed the Company's refund calculations.

Homer Glen claims that the Company failed to provide customers with an in-person hearing for disputes. Homer Glen acknowledges that this issue was stricken from the case by prior ruling of the ALJs, and it asserts that the ruling was erroneous. Homer Glen contends that the Company has no procedure in place to inform customers of their rights to a hearing in the event of a billing dispute.

Homer Glen also alleges that the Company harassed and intimidated customers who filed complaints with the Commission. According to Homer Glen, after one such customer received a bill in July, 2005, and after talking to the Company, the customer decided to file a complaint with the Commission. Several days after filing a complaint, Homer Glen maintains that the customer found a shut-off notice on the door to the customer's premises. According to Homer Glen, several months later, the customer allegedly received another shut-off notice, along with a message on an answering machine in which the caller said, "I could just turn off your water without telling, how would you like that?" (HG Init. Br., p. 36; HG Ex. 2.0 4:79-87.) Homer Glen asserts that the employee who left the phone message was never disciplined, and the customer received two more shut-off notices after her meter was changed. Another customer

allegedly received two phone calls on the same day, to a cell phone, about a past-due account, notwithstanding the fact that the customer allegedly had a pending billing dispute with the Company. According to Homer Glen, during the second call, the caller told the customer to “expect a telephone call every other day until the bill was paid in full.” (HG Init. Br., p. 38; HG Ex. 5:90-101.) Homer Glen also claims that the Company sent photographers to the premises of certain Homer Glen residents who complained about high bills.

Homer Glen seeks an audit of the Company’s operations and monetary penalties exceeding \$3.5 million.

V. MR. GRENS’ POSITION

Mr. Grens’ complaint alleges that IAWC’s approved water and wastewater rates are high in comparison to the rates that Mr. Grens believes are charged by certain municipal utility systems. Mr. Grens refers to rates he believes are in effect for systems in Woodridge, Darien, Downers Grove and Lemont.

Mr. Grens does not maintain that the approved rates were incorrectly applied. (Tr. 178, 183.) Mr. Grens stated at the hearing: “[s]ince the ICC is responsible for approving these rates, my issue, my problem, I think, really is more with the Commission than with the water company.” (Tr. 173-74.)

According to Mr. Grens, the rates charged by the municipal water systems he referenced in his testimony are sufficient to cover the costs of operating those systems. Mr. Grens bases this contention on a document from the State of Illinois Comptroller’s Office, which was described above in connection with the AG’s position.

VI. STAFF’S POSITION

Staff submitted the testimony of two witnesses. Staff witness Johnson addressed issues relating to meter records and tests; valve and hydrant records; complaint records; billing records related to the purchased water supply charge, high monthly water usage and unaccounted-for water; penalties; and the possibility of an audit. Ms. Howard addressed IAWC’s efforts to correct make-up bills; the Company’s decision to consider changes in its bill format and the information it provides to customers; and issues relating to Section 280.200 of the Commission’s rules. Ms. Howard also described the procedures followed by the Commission’s Consumer Services Division staff when a complaint is received concerning a rate previously approved by the Commission, and the level of specificity required for a management audit.

Because the AG’s Complaint alleged violations throughout IAWC’s service territory, Mr. Johnson surveyed portions of the Company’s operations by choosing areas in northern, central and southern Illinois. He visited the Company’s Woodridge office (northern Illinois) on March 30, 2006 and May 9, 2006, and he inspected meter, hydrant and valve records associated with the Homer Glen and Orland Hills areas. On May 3, 2006, Mr. Johnson went to the Company’s Champaign office (central Illinois) and inspected meter, hydrant and valve records associated with the Champaign and Urbana areas. On June 7, 2006, Mr. Johnson went to the Cairo office (southern Illinois), where he inspected meter, hydrant and valve records associated with the Cairo area. On June 20, 2006, Mr. Johnson inspected complaint records relating to Homer Glen,

Orland Hills, Champaign, Urbana and Cairo in the Company's Alton, Illinois office. Mr. Johnson selected a random sample of 1% of records for each type of meter, valve and fire hydrant record—with the exception of Champaign, where he reviewed .5%—and 1% of the complaint records from January 2004 through March 2006. (Staff Init. Br., p. 3.)

Staff notes that the AG's Complaint refers to alleged violations of rules regarding meter testing and replacement. Mr. Johnson found that the Cairo, Champaign and Homer Glen areas all met the requirements of 83 Illinois Admin. Code § 600.150, which specifies the content for meter records, and that Orland Hills did not. All of the Company's reviewed areas met the requirements of Section 600.300 and Section 600.310, which provide specifications for meter testing. Because the Company does not test meters on-site, Staff found that Section 600.320 was inapplicable. Mr. Johnson found that the Company was in compliance with Section 600.330, which specifies parameters within which meters must test prior to installation. Mr. Johnson found that the Cairo, Homer Glen and Orland Hills areas all satisfied the requirements of Section 600.340, which establishes the time intervals in which meters must be tested. Staff notes that, "[a]lthough the Rebuttal Testimony of the AG and Homer Glen . . . questions whether IAWC's Chicago Metro Service area . . . will meet [Section 600.340] in all cases, said testimony recognizes that IAWC is intending to replace the meters in the Chicago Metro Service area before the deadlines of Rule 600.340 when measured from IAWC's acquisition of the Chicago Metro Service area." (Staff Init. Br., pp. 6-7.) Mr. Johnson found that 34 removed meters in Champaign had not been tested as required by the Commission's variance. Staff questions the need for a variance in Champaign and recommends that the Commission order the Company to file a petition to enable the Commission to further review the variance. Although all of the Company's service areas had tariff sheets on file as required by Section 600.350, Staff recommends that the Company create one unified set of rules, regulations, and conditions of service. According to Staff, Section 600.360 does not apply to the Company, and the Company was not in violation of this Section.

As Staff notes, both the AG and Homer Glen allege that the Company failed to keep fire hydrants in good operating condition. Mr. Rubin raised allegations relating to inadequate levels of fire flows, and he alleged that fire hydrants were in poor operational condition. Mr. Johnson reviewed the Company's hydrant records for date of installation, size, make and model (if known), location, number, and history of maintenance. The Company's records for the Cairo area all met the requirements of both Section 140(c) and Section 240. Because 6 of the 37 reviewed records for the Champaign area did not show that annual fire hydrant inspections had been conducted, Staff considers the Champaign area to be out of compliance. Staff acknowledges that the AG and Homer Glen identified two complaints allegedly raising issues with the condition of the Company's fire hydrants in the Champaign area. Mr. Johnson found that the Company's Homer Glen and Orland Hills areas were out of compliance with the Commission's rules regarding annual inspections and record keeping. Staff disagrees with the AG and Homer Glen's proposal for an audit because the Cairo service area was in compliance and "the Complainants have neither alleged nor provided evidence that there are hydrant problems throughout all IAWC service areas." (Staff Init. Br., p. 11.) Staff recommends that the Commission order the Company to complete a hydrant testing and maintenance inspection for the Chicago Metro and Champaign areas within one year of the final order of this case, including fire flow testing.

Staff notes that the AG and Homer Glen alleged that the Company failed to keep valves in good operating condition. (Staff Init. Br., p. 14; AG/HG Ex. 1.0, p. 37.) Mr. Johnson determined that the Company's Cairo service area complied with the Commission's rules regarding valve records, and he did not identify any problems with the Company's valve inspection and maintenance in Cairo or Champaign. Mr. Johnson was unable to locate valve maintenance records for Homer Glen, and the Orland Hills records did not indicate when maintenance had been performed. (Staff Init. Br., p. 16.) Staff recommends that the Commission order the Company to complete valve testing and maintenance for the Chicago Metro and Champaign areas within one year of the final order in this docket. (Staff Init. Br., p. 17.)

Mr. Johnson found that the Company's customer service records contain all of the information required by Illinois law. *See* 220 ILCS 5/8-303; 83 Illinois Admin. Code § 170.

Staff witness Howard found that the Company has not made an information booklet available to customers. Staff acknowledges that the Company provides customers with information through bill messages and its website (Staff Init. Br., p. 18; IAWC Ex. 1.0, p. 54), and that the Company is committed to providing an information booklet to its customers. Ms. Howard recommends that the Company provide a draft of the booklet to the Commission for review prior to distribution.

Staff notes that, according to the Company, Citizens was well behind schedule with respect to meter replacement when IAWC acquired the Chicago Metro area from Citizens in 2002. Staff points out that the Company began changing out meters in 2003, and as of March, 2006, the Company had replaced approximately 16,200 meters, leaving 15,700 meters to be replaced at that time. The Company expects that the full replacement of old meters—apart from those meters located in Bolingbrook (which will be completed in 2010)—will be completed by year-end 2007. Staff acknowledges the Company's evidence showing that certain billing concerns addressed in this case arose because of the meter change-out program. Staff recognizes that, in his Surrebuttal Testimony, Mr. Rubin asserted that Staff's review of meter records was not comprehensive enough because Mr. Johnson failed to review the meter records associated with removed meters—*i.e.*, the meters that gave rise to the issue of back billing. Staff responds to Mr. Rubin as follows: “[e]xamining the old meter records as suggested by Mr. Rubin would only indicate whether Citizens had or had not followed Commission rules, not whether IAWC had.”

Staff acknowledges the commitments the Company has made in response to the concerns raised by customers and the Complainants. Staff notes that the Company has stopped back billing for meter discrepancies associated with meter change-outs. The Company also audited its accounts to identify customers who had been back billed for meter discrepancies, and it committed to issue full credits for all back billing in connection with the Meter Replacement Program (whether or not related to usage more than 12 months prior to issuance of the bill) with interest to those customers on or before October 1, 2006. Ms. Howard believes this is a reasonable approach to correct past problems, assuming the Company issued the credits as promised and that the audit appropriately identified all of the customers entitled to credits. Ms. Howard requested that the Company provide a draft letter to the Commission Staff reflecting the information that the Company proposed to send to customers with regard to the back bill refund.

Ms. Howard also recommends that the Company extend its decision to not issue back bills until all meter changes in Chicago Metro are complete.

Staff notes that Mr. Rubin's concerns included the fact that the purchased water supply charge did not appear on the face of the Company's Chicago Metro bills, and that without this disclosure, customers would not be able to determine whether the actual supply charge was accurate. Mr. Johnson concluded that the purchased water supply charge should be displayed on the Company's bills going forward. However, because there was no previous Commission ruling to that effect, Mr. Johnson did not believe that the Company was in violation of Section 600.160, which does not define the term "principal rate." Staff notes that the Company had already planned to revise its current practice and show the supply charge on its bills, or, in the alternative, to provide copies of the purchased water supply charge to customers on an annual basis. To the extent the Company's offer to provide information was an alternative to displaying the purchased water supply charge on the face of the bill, Staff finds such a disclosure insufficient—at least in the absence of proof that the purchased water supply charge cannot be shown on the face of the bill due to space restrictions.

Staff recommends that the Company revise its bill format to show the time period that the bill covers, including an entry on the bill showing whether any of the usage is estimated. Staff also recommends that the rate for the supply charge be shown as a separate line item in any service territory with a supply charge, as explained above.

Staff points out that there is no Commission rule requiring the Company to notify customers of water restrictions. However, at the request of the Staff, the Company has agreed to notify customers of water restrictions through an initial mailing prior to the restriction period and through reminders contained within bills during the restriction period itself.

Because none of the Company's violations of the Commission's rules appear to be intentional, Staff does not recommend that penalties be assessed in this proceeding. If the Company does not act within the time limits specified in the Commission's final order, Staff recommends that at that point the Commission consider issuing notice to the Company and initiating an additional proceeding in accordance with 220 ILCS 5/4-203(a). According to Staff, "[i]t must be recognized that a number of the actions which Staff has recommended and Illinois-American has agreed to carry out are not violations of the Act or the rules, but are improvements in meeting the regulatory requirements."

Staff explains that it has "not identified anything in this proceeding which, in the Staff Witnesses' opinion, would justify ordering an audit." Staff notes that the Company has agreed to improve its record keeping. According to Staff, other than Complainants' deep distrust of Illinois-American and its records, there does not appear to be any evidence in this proceeding that the back bill refunds were miscalculated or misdirected by Illinois-American. (Staff Init. Br., p. 35.) If the Commission disagrees with Staff's opinion, Staff recommends that the Commission describe the scope of the audit with specificity, including a detailed description of Staff's role in the audit.

VII. CUB'S POSITION

CUB contends in its Initial Brief that the Company failed to adequately notify customers of boil orders. CUB acknowledges that state law does not direct the Company to use any specific method to notify customers of boil orders. According to CUB, the Company's primary means of notification is door-to-door personal contact, *i.e.*, fastening notice of boil orders to customers' doors. CUB argues that IAWC's customers do not always receive these types of notices, increasing the risk that customers might consume contaminated water.

CUB contends that IAWC does not always notify municipalities when it issues boil orders. CUB also contends that it is the Company's responsibility to notify local fire departments of boil orders. CUB argues that IAWC should fax or telephone local fire departments when boil orders are issued.

CUB acknowledges that IAWC's parent company is in the process of establishing an automated boil order notification system for IAWC and other subsidiaries, but recommends that the Commission direct the Company itself to implement an automated system to inform customers, municipalities, and fire departments when boil orders are issued.

CUB also asserts that the Company has not tracked the costs associated with notifying customers of boil orders and has not kept a list of all the boil orders it has issued.

VIII. THE COMPANY'S POSITION

The Company states that the AG, Homer Glen, Mr. Grens and CUB have each failed to carry its respective burden of proof in this case. According to IAWC, neither an independent audit of IAWC's practices and procedures nor civil penalties is factually or legally justified, and neither the AG nor Homer Glen mentions the burden of proof in its Initial Brief. (IAWC Reply Br., p. 1.) The Company claims that, although few if any violations of the Commission's rules were alleged in the testimony offered by the AG and Homer Glen, both the AG and Homer Glen maintain in their Initial Briefs that IAWC has violated a number of Commission rules and provisions of the Act. The Company asserts that where valid customer concerns have been identified, it has taken the appropriate steps to address those concerns. (*See* IAWC Ex. 4.01.)

The Company rejects Homer Glen's assertion that issuance to a given customer of a bill that is "high," compared to the customer's bills in one or more other months, demonstrates a concern with the Company's billing practices. According to the Company, there is nothing improper about issuing a bill that reflects actual usage, whether or not "high" as compared to the customer's prior usage. Utilities are required, as Mr. Rubin acknowledged, to bill customers at the approved tariffed rates for the services rendered and cannot provide free or reduced-rate service. (IAWC Reply Br., p. 3; AG/HG Ex. 1.0, p. 17.) IAWC states that neither the AG nor Homer Glen has offered evidence showing that the bills they characterize as "high" reflect anything other than actual usage. According to IAWC, Homer Glen's assertions ignore the Company's explanation of why bills might increase by 50% or more from one month to the next. IAWC notes that Mr. Rubin recognized a number of these reasons as valid. (IAWC Reply Br., p. 4; IAWC Ex. 1.0, pp. 28-29; AG/HG Ex. 2.0, p. 13.) According to the Company, Homer Glen's position also ignores the impact on water usage of the 2005 drought as shown by the total system

delivery to Homer Glen (and Chicago Metro as a whole) in the summer months of 2005. (IAWC Reply Br., p. 4; IAWC Ex. 4.02.)

The Company points out that neither the AG nor Homer Glen has identified any improper back billing not related to odometer meter changes in Chicago Metro. The Company also notes that no party to this proceeding has identified any specific customer who was back billed in violation of the Commission's rules. (IAWC Init. Br., pp. 16-19.) The Company further notes that no evidence was offered that the Company did not provide payment plans corresponding to the period of back billed usage in accordance with Commission rules. Nevertheless, according to IAWC, its policy is to offer payment plans to all customers who indicate they are having difficulty paying their bills, including customers who receive back bills. (IAWC Reply Br., p. 8; IAWC Ex. 1.0, p. 32.) IAWC argues that it addressed any back billing concerns that existed in Chicago Metro.

The Company asserts that neither the AG nor Homer Glen has identified any violation of the Commission's rules regarding estimated bills. IAWC maintains that it has procedures in place to address consecutive estimates on a customer-specific basis. (IAWC Reply Br., p. 8; IAWC Ex. 1.0, p. 36.) According to IAWC, in Chicago Metro, the level of estimated bills was below 4% in January 2006, and below 2% in March 2006. It has been approximately 2% since that time. (IAWC Reply Br., p. 9; IAWC Ex. 4.0, p. 22.) IAWC notes that Mr. Rubin referenced a 2% level of estimated bills as being the "national average." Homer Glen also reportedly acknowledged that the overall level of estimates statewide is not "out of line with the national averages."

The Company maintains that neither the AG nor Homer Glen has established that the Company violated the rules regarding zero usage bills. As IAWC points out, there are no Commission rules in this area, and Mr. Rubin admitted that "there is no standard utility practice regarding consecutive zero consumption bills." (IAWC Reply Br., p. 10; Tr. 126.) IAWC claims that it has demonstrated, and Mr. Rubin has acknowledged, that many zero usage bills are valid, particularly for residences that are unoccupied during the year. The AG and Homer Glen assert that IAWC does not track zero consumption bills. The Company notes, however, that its billing system generates a report that identifies zero consecutive usages. IAWC states that it has procedures in place to investigate three or more consecutive zero bills when appropriate, and the Company points out that Mr. Rubin acknowledged that IAWC's written procedures with regard to consecutive zero-consumption bills are consistent with his recommendations. (IAWC Reply Br., pp. 10-11; IAWC Exs. 1.0, p. 40; 4.01, p. 1.) The Company notes that Homer Glen offers no evidence that any zero usage bill has been improperly issued or that any customer has been "harmed" by a zero use bill.

IAWC argues that the Meter Replacement Program does not violate the Commission's meter testing rules. (IAWC Reply Br., p. 11; AG Ex. 2.0, p. 5.) IAWC reports that it has prioritized meter replacements in accordance with the Commission's rules, and that the AG overlooks the fact that many of the meters that are scheduled to be replaced between now and 2010 are not yet due for testing or did not become due for testing until recently. The Company claims that the AG wrongly disregards the history of the Meter Replacement Program, which shows that IAWC has been working diligently to come into compliance with applicable requirements since it acquired Chicago Metro from Citizens.

The Company maintains that no concerns exist with the accuracy of its meters. According to the Company, the AG's argument based on AG Exhibit 5.8 ignores the fact that the standards set forth in 83 Illinois Admin. Code § 600.310 apply to new or repaired meters, not older meters removed from service. The Company notes that there is no evidence that "many customer complaints" were triggered by meter inaccuracies, or that any customer was issued an inaccurate bill based on readings from the meters described in AG 5.8. The Company also notes that neither the AG nor Homer Glen provided evidence showing that a customer overpaid or received a back bill as a result of an inaccurate meter.

The Company maintains that a system-wide investigation of valves and fire hydrants is unwarranted. Mr. Johnson conducted a valve and fire hydrant review, and Staff believes that neither the AG nor Homer Glen has provided evidence of hydrant problems across all IAWC services areas. Staff notes that "[t]he record in this case is silent on fire-related or fire-flow related complaints associated with any other IAWC service areas other than the Chicago Metro Service area and Champaign service area." The Company points out that Mr. Rubin admitted to not having "investigated" the Company's fire hydrant maintenance and testing practices "in any depth." (IAWC Reply Br., p. 14; AG/HG Exs. 1.0, p. 5; 1.17.) According to IAWC, the issues raised in the correspondence cited by Homer Glen have been addressed and resolved. The Company rejects Homer Glen's assertion that "[t]he evidence is clear that these [hydrant] inspections [in Homer Glen] are not being done," as Homer Glen's fire hydrants were all inspected in 2006. (IAWC Reply Br., p. 15; IAWC Ex. 4.0, p. 3.) The Company states that all fire hydrants throughout Illinois will be inspected by year-end 2006. Mr. Johnson recommends that the Commission order the Company to inspect valves and hydrants in Champaign and Chicago Metro (IAWC Reply Br., p. 15; ICC Staff Ex. 1.0, pp. 30-31, 36-37), and the Company indicates that it accepts these recommendations.

The Company asserts that it has addressed all concerns with the presentation of information on its bills. The Company believes its bill format complies with the applicable requirements. (IAWC Init. Br., p. 21.) IAWC has agreed to incorporate the purchased water supply charge into its bill. IAWC notes that, when a back billing is identified during the billing process, the billing representative issues a letter to the customer which indicates the affected period, the reason for the back bill, and payments terms should the customer wish to enter into an agreement. If an actual meter reading follows an estimated reading, the bill currently indicates that the reading corrects a previous estimated reading. (IAWC Reply Br., 17; IAWC Exs. 1.0, pp. 32, 41; 4.01, p. 1.) Nevertheless, the Company has identified areas where its bill can be enhanced to improve a customer's ability to understand the billing information, including the time period. (IAWC Reply Br., 17; IAWC Ex. 1.0, p. 41.) IAWC states that it will inform customers of the time period the bill covers when there is more than one consecutive estimate or a back bill.

The Company states that neither the AG nor Homer Glen has identified any violations of the Company's rules relating to customer service. The issue of whether in-person hearings were required was stricken from both the AG and Homer Glen's Complaints. In the event that the Commission elects to consider this issue, IAWC notes that the AG and Homer Glen misconstrue Section 280.160(a), which provides that utilities shall assign personnel "in each of its offices where it transacts business" the duty of hearing in-person disputes. Neither the AG nor Homer Glen has established that personnel are not available to hear disputes in the Company's offices.

The Company does not have an office in Homer Glen, and is therefore not required to have personnel in Homer Glen to hear complaints in-person. Furthermore, it was Homer Glen's decision to reject the Company's proposal to place an IAWC representative in the Village Hall to address customer concerns. As IAWC also observes, the evidence demonstrates that an individual is available to hear complaints in-person at IAWC's office in Woodridge, Illinois. (IAWC Reply Br., p. 19; HG Ex. 5.03, pp. 31-32; Tr. 223.)

The Company states that neither the AG nor Homer Glen has demonstrated that IAWC violated 83 Illinois Admin. Code § 280.160(b). When a customer calls its Customer Service Center ("CSC") with a concern that cannot be resolved, the concern is forwarded to an Account Resolution Team ("ART") for follow-up and resolution. (IAWC Reply Br., p. 20; IAWC Ex. 2.0, p. 12; Tr. 467-68.) IAWC explains that supervisory personnel inform customers of the right to have their complaints heard by the Commission.

The Company maintains that neither the AG nor Homer Glen demonstrated that the Company violated 83 Illinois Admin. Code § 280.160(c). (IAWC Reply Br., p. 21.) According to IAWC, neither the AG nor Homer Glen has established that any customer experienced a service shut off while a bill was in dispute in violation of the rule. IAWC also notes that the AG provides no basis for its assertion that customers are not aware of the status of an ART investigation. ART personnel may themselves contact customers, and ART personnel have a target response time of ten days. As IAWC explains, the Executive Resolution Team must respond within one day. (IAWC Reply Br., p. 22; Tr. 45-51, 470-71.) Ms. Cooper testified that "[i]f there's a customer dispute and there's an issue being worked on, the customer account is placed on hold" for 10 to 30 days.

According to IAWC, Homer Glen has not demonstrated that IAWC harassed or intimidated customers. Homer Glen alleges three instances of "harassment," including a message left on a customer's answering machine, collections calls on a customer's cell phone, and photographs taken of customers' premises. IAWC explains that it appropriately dealt with the customer service employee who allegedly left the threatening message. (IAWC Reply Br., p. 22; IAWC Ex. 1.0, p. 60; HG Ex. 1.12). According to the Company, it attempts to contact past due customers in accordance with Fair Debt Collection Practices Act rules and regulations. (IAWC Init. Br., pp. 59-60.) Ms. Cooper explained that customer service associates are trained to verify customer telephone numbers and update the customer information system accordingly each time a customer calls in to the CSC, which is why a customer's cell phone number may be recorded and used as a point of contact. (IAWC Reply Br., p. 23; IAWC Ex. 2.0, p. 17.) According to IAWC, neither the collection of past due accounts, nor the use of a cell phone as an updated point of contact, represents harassment. The Company also explains that the photographs were taken as part of IAWC's investigation of customer concerns about high bills in Homer Glen. There was no customer contact or harassment involved. (IAWC Reply Br., p. 23; IAWC Ex. 1.0, p. 53.) IAWC states that the photos of premises were taken from the public right of way, and there was nothing illegal about them. IAWC notes that Homer Glen does not identify any statute or rule that was violated in connection with the photographs.

According to IAWC, it has demonstrated that it investigates customer complaints and promptly resolves them. IAWC maintains that the evidence in this proceeding demonstrates that it has gone to great lengths to investigate and understand customer complaints about high bills—

before, during and after the drought. IAWC points out that it has received certain customer complaints (*e.g.* related to high usage) from the Commission, and has investigated those accounts. IAWC has also conducted broader investigations, such as the back bill audit, to understand and address customer concerns.

IAWC states that there are no valid concerns regarding its provision of information to customers. Although IAWC is not required to do so, it has committed to distribute water conservation information to Chicago Metro customers. IAWC also provided a letter to Homer Glen customers describing the drought, its impact on usage, and recommendations for reducing water use. In addition, the Company provides information to its customers regarding its credit and collections practices, payment assistance and payment plans, and other regulatory information. (IAWC Reply Br., p. 25; IAWC Ex. 1.0, p. 54.) IAWC states that it is also developing a customer information booklet containing the information described by 83 Illinois Admin. Code § 280.200, which will be provided to all IAWC customers.

IAWC maintains that neither the AG nor Homer Glen has demonstrated that an audit of its practices is necessary. The Company maintains that neither the AG nor Homer Glen has identified any error in the back bill audit. IAWC points out that Ms. Howard testified that IAWC's efforts to correct back billing through the audit were "a reasonable approach to correct past problems." (IAWC Reply Br., p. 26; ICC Staff Ex. 2.0, p. 3.) IAWC notes that it submitted the results of the audit to Homer Glen and the AG with its Direct Testimony on August 11, 2006. Although the AG and Homer Glen have not identified any errors in the back bill audit, IAWC states that both the AG and Homer Glen contend without basis that the audit lacks credibility. According to IAWC, neither the AG nor Homer Glen has submitted any evidence that a customer's refund was incorrectly calculated or that a customer who should have received a credit did not.

The Company rejects the AG's argument that, because Mr. Rubin identified 45 bills in AG/HG Exhibit 1.5 that were in total over \$64,000 more than the previous month's bill, the \$14,000 in credits issued by IAWC were inadequate. The Company states that it analyzed the accounts identified as having potentially been back billed; and the proper amount of the billing credit, if any, was determined. IAWC notes that AG/HG Exhibit 1.5, for its part, shows only the total amount of a customer's bill and the amount of the previous bill. The back bill credit, on the other hand, is based on the difference between the inside meter and the outside odometer device, which is not the same as the total bill for a month or the difference between a monthly bill and the previous monthly bill. According to IAWC, AG/HG Exhibit 1.5 also does not consider the reason for the higher bill, nor does it give any indication that those bills are related to an odometer meter discrepancy and not something else, such as actual usage during the period of the drought. Thus, according to IAWC, no correlation between the amount of the bills shown on AG/HG Exhibit 1.5 and the total refund resulting from the back bill audit should be expected.

The Company disagrees with AG's position that Mr. Rubin's analysis of 7,900 accounts with a different meter in 2006 than in 2005 that had exactly one bill at least 50% higher in 2006 than the same month in 2005 raises a concern regarding back bills. (AG Init. Br., p. 14.) IAWC maintains that the back bill audit covered 10,000 accounts in Chicago Metro that had meter changes before September 2005, while Mr. Rubin's analysis covered accounts statewide. (IAWC Reply Br., pp. 27-28; AG/HG Ex. 2.0, p. 13.) According to IAWC, the AG ignores the

fact that, in response to Mr. Ruckman's discussion of 50% bill variations, Mr. Rubin altered his criteria for the 7,900 accounts to include only those accounts that had consumption in a normal residential range in the relevant month in 2005, and which had an increase in consumption of at least 10,000 gallons and at least 100%. Using these revised criteria, Mr. Rubin stated that 480 accounts on a statewide basis "appeared" to him to involve back billing. (IAWC Init. Br., p. 37.) IAWC maintains that these 480 accounts do not indicate a back billing concern. According to IAWC, Mr. Rubin's conclusion is based on unwarranted extrapolation from a small data set. IAWC notes that Mr. Rubin undertook no investigation to determine whether any of the accounts he identified were improperly back billed. As IAWC indicates, neither the AG nor Homer Glen identifies even one of the 480 accounts (or any other account) that actually received an improper back bill.

Regarding the AG's argument that "71% of the accounts reviewed were entitled to a credit," IAWC states that the AG mischaracterizes the record. IAWC issued credits to 335 accounts out of over 10,000 accounts initially reviewed (IAWC Ex. 1.0, p.16), making the percentage of accounts receiving credits approximately 3%. According to IAWC, the AG also misunderstands the nature of the odometer meter discrepancy that led to IAWC's concerns about back billing. The AG argues that the 50% accuracy variance IAWC found in a random sample of removed meters (discussed above) suggests that more than 335 of 10,000 accounts reviewed would have been back billed. (AG Init. Br., p. 14.) However, the under-registration of odometer devices described above was not in any way related to the accuracy of customers' inside meters. The back bills at issue in the back bill audit were issued because a customer's outside odometer remote reading device had improperly recorded the amount of usage shown on the customer's inside meter, creating a discrepancy between the reading from odometer device and the reading from inside meter. (IAWC Ex. 1.0, pp. 14-17.) There is no evidence in this proceeding that any back bill was issued as a result of inside meter inaccuracy, and there is no relationship between inside meter accuracy and the back bills subject to the back bill audit.

The Company maintains that neither the AG nor Homer Glen has provided justification for a statewide audit of IAWC's operations. IAWC also notes that, in Staff's opinion, nothing has been identified in this proceeding which would justify an audit. (IAWC Reply Br., p. 29; Staff Init. Br., p. 33.)

According to the Company, neither the AG nor Homer Glen submitted evidence describing in detail the statewide audit they are seeking, nor do those parties identify the source of authority for imposing such an audit, although both recommend an independent audit by a third-party outside auditor. (IAWC Reply Br., pp. 29-30; AG Init. Br., p. 3; HG Init. Br, p. 41.) IAWC maintains that, if the Commission believes that an audit is required (which, according to IAWC, it should not be), the audit should be undertaken pursuant to 220 ILCS 5/8-102, consistent with the AG's and Homer Glen's request for an audit by an independent third party overseen by the Commission. Under Section 8-102, the cost of the audit would be recovered through normal ratemaking procedures.

The Company maintains that there is no legal or factual basis for imposing penalties on the Company. Ms. Niemiec was the only witness that recommended penalties in testimony in this case. As IAWC notes, Ms. Niemiec proposed penalties for each incident identified where the Company has inappropriately back billed Homer Glen residents. (IAWC Reply Br., p. 30;

HG Ex. 1.0, p. 17.) IAWC states that neither the AG nor Homer Glen has met their burdens of proof with regard to the claims set forth in their Complaints, the allegations of violations of the Commission's rules, or the recommendations for civil penalties they propose. In each case, IAWC maintains that it has shown that the concerns raised by these parties are unfounded or that, where appropriate, IAWC has addressed those concerns. IAWC has been addressing customer concerns as needed since before the Complaints were filed. (IAWC Reply Br., p. 31; Staff Init. Br., p. 29.)

IAWC argues that, under 220 ILCS 5/5-202, no civil penalties would accrue unless the Commission elects to issue a notice of violation (which, according to IAWC, it should not do). The AG and Homer Glen assert that their Complaints provided the requisite statutory notice. IAWC asserts that this position is incorrect for several reasons. First, the Complaints merely contained unproven allegations of violations, and neither the AG nor Homer Glen has cited any authority providing that mere allegations can provide the requisite notice under the statute. Second, the Company maintains that the Commission's statutory authority with respect to civil penalties coupled with past Commission orders make clear that the Commission is responsible for determining whether penalties are appropriate and for issuing the statutory notice, not litigants. *See* 220 ILCS 5/4-201; 220 ILCS 5/4-202; 220 ILCS 5/4-203. According to the Company, its position is supported by past Commission orders in which the notice required by Section 5-202 was issued by the Commission in the form of a Citation Order requiring a utility to demonstrate that it should not be subject to penalties for violations of the Act. *See, e.g., Illinois Commerce Comm'n v. Util. Unlimited, Inc.*, Docket 98-0846, 2000 WL 34446575 at 1 (June 7, 2000); *Illinois Commerce Comm'n v. Crystal Clear Water Co.* ("Crystal Clear Water"), Docket 97-0605, 1999 WL 33915111 at 1 (June 16, 1999); *Illinois Commerce Comm'n v. Carroll Heights Util. Co.*, Docket 97-0352, 1998 WL 34302197 at 1 (Aug. 28, 1998). Third, the Company notes that Section 4-203 of the Act requires the Commission to consider the size of the utility, the gravity of the violation, and the good faith of the utility in attempting to achieve compliance after notification of a violation. Neither the AG nor Homer Glen addresses the analysis required by Section 4-203, and Homer Glen provides no justification for its request for penalties in excess of \$3.5 million. (IAWC Reply Br., p. 32; HG Init. Br., p. 45.)

The Company asserts that the good faith of the utility in responding to the notice of violation is an important consideration in determining whether penalties should be imposed. 220 ILCS 5/4-203; *see Illinois Commerce Comm'n v. Peoples Gas Light & Coke Co.*, Docket 05-0341, Order at 7-23 (Mar. 22, 2006) (assessing under the Natural Gas Pipeline Safety Act the gravity of the violation, the fairness of penalties, and the utility's good faith). Although no notice of violation has been issued in this case (and IAWC maintains that none should be issued), IAWC argues that it has already demonstrated its good faith through the actions it has taken to address the valid concerns that were raised, including those involving alleged violations of the Act or the Commission's rules. (IAWC Init. Br., pp. 11-14, 16-23, 25-27; IAWC Ex. 4.01.)

The Company agrees with the AG that the issue of unaccounted-for water should not be addressed in this proceeding. The Company maintains that its level of unaccounted-for water is within a reasonable range. The Company notes that the AG has confused unaccounted-for water with Unaccounted-for Flow ("UFF"), which is a measurement required under Illinois Department of Natural Resources rules for public water supplies with a Lake Michigan water allocation. The Company rejects the AG's contention that IAWC's figure for UFF for all users

of Lake Michigan water is high. According to IAWC, the AG's figure is a simple average, not a weighted average, and does not account for the size of each water system using Lake Michigan water.

The Company maintains that Mr. Grens offered no evidence regarding IAWC's cost of service or revenue requirement, or the cost of service or revenue requirement of the municipalities he referenced in his testimony. (IAWC Reply Br., p 36.) Accordingly, the Company maintains that Mr. Grens has not demonstrated that IAWC's rates are unjust or unreasonable. According to the Company, Mr. Grens also offered no evidence regarding how much customers in those municipalities actually pay for water service, such as taxes or fees not reflected on the water bill or operational support from other municipal departments. (IAWC Reply Br., p. 36; Tr. 206.) The Company, citing *Union Elec. Co. v. Illinois Commerce Comm'n*, 77 Ill. 2d 364, 383-84 (1979), also asserts that the Commission is required, by statute, to approve rates that provide a reasonable rate of return on rate base, not set rates based on a comparison to rates in other jurisdictions. (IAWC Reply Br., pp. 36-37.)

The Company disagrees with the AG's assertion that certain statutory provisions require municipalities to cover all of their utility costs through rates alone. According to the Company, Section 5-15020 of the Counties Code (55 ILCS 5/5-15020) applies to waterworks or sewage facilities acquired by a county, and neither the AG nor Mr. Grens has offered evidence showing that DuPage County Public Works or any of the other municipalities Mr. Grens referenced is governed by Section 5-15020. As the Company explains, Section 5-15020 applies to county systems financed by "revenue" bonds. *See* 55 ILCS 5/5-15017 ("Revenue bonds"); 5/5-15018 ("Ordinances relative to issuance of revenue bonds"); 5/5-15019 ("Use of revenues"); 5/5-15020 ("Rates and charges; rights of bondholders"). According to the Company, the AG fails to note that revenue bonds are just one method of financing county waterworks, and Division 5-15 of the Counties Code provides two additional means of funding property taxes and general bond obligations. *Compare* 55 ILCS 5/5-15005 *with* 55 ILCS 5/5-15022.

The Company also explains that Section 11-117-12 of the Municipal Code (65 ILCS 5/11-117-12) does not address how costs in addition to maintenance, operation, and bond interest, must be borne by the utility. According to the Company, municipalities may, by statute, fund utility operations from sources other than rates and charges, such as property taxes or special assessments. *See* 65 ILCS 5/11-128-1 (municipality may fund waterworks through a property tax); 65 ILCS 5/11-131-1 (same); 65 ILCS 5/11-143-1 (municipality may fund sewer systems through a property tax); 65 ILCS 5/11-117-8 (municipality may issue bonds to acquire public utilities); 65 ILCS 5/11-117-10 (municipality may use special assessment to acquire public utility property). The proceeds from such taxes may be used—along with utility rate charges—to cover the costs of bond interest and operation and maintenance of the system, though such taxes would not necessarily appear on a customer's bill in a manner that permits a direct comparison to IAWC's rates.

The Company maintains that there is no basis for the Commission to grant the relief CUB seeks. As IAWC points out, CUB offers no direct evidence to support its position, relying instead on unsubstantiated assertions. IAWC notes that CUB's request for relief would require the installation of an automated dialer system to alert customers of boil orders. IAWC has explained that such a system is already being acquired by IAWC's parent for use by IAWC and

other subsidiaries. (IAWC Reply Br., p. 39; Tr. 359, 519.) IAWC maintains that it issues boil orders in accordance with rules promulgated by the Illinois Environmental Protection Agency, and that CUB has not alleged that the Company violated those rules. According to IAWC, CUB's claim that the Company's practice of going door-to-door to alert customers is inadequate is unsupported by the record. IAWC points out that CUB has offered no evidence suggesting why IAWC should be treated differently than any other public water supply subject to Section 607.103, or why the Company should be subject to different or more stringent rules than other municipal water suppliers or investor-owned utilities.

The Company notes that CUB has identified no requirement that a municipality receive boil order notices. According to IAWC, CUB also offers no evidence in support of the notion that all municipalities should receive the "same universal boil order notification." CUB has not identified any municipality that wishes to receive a boil order notification that is not now receiving one, and CUB does not define or support its request for a "universally consistent notification process." (IAWC Reply Br., p. 40.)

IAWC notes that CUB cites no provision of Illinois law requiring that fire departments be notified of boil orders, nor does it provide evidence that fire departments would be interested in receiving notification in the first instance. The Company maintains that CUB's assertions on this issue, such as "IAWC's failure to notify the local fire department when a boil order is issued is not appropriate in light of the risk of injury, loss of life and damage to property," (CUB Init. Br., p. 7), are unsupported by record evidence.

The Company observes that CUB's argument that current boil order notice procedures are inadequate relies on the complaints of two customers, which IAWC investigated and resolved, and the unproven allegations of the City of Champaign in a complaint under review in another docket. (IAWC Reply Br., p. 41.) According to IAWC, this is not a sufficient basis to conclude that IAWC's boil order notification is inadequate, and CUB offers no other evidence suggesting that the Company's notice of boil orders presents a concern.

IX. COMMISSION CONCLUSION

As detailed above, the Commission Staff conducted a review of the issues raised in this proceeding by the AG and Homer Glen. Based on the record, the Commission concludes that the recommendations of Staff, which IAWC has accepted, are reasonable and should be approved.

As recommended by Staff witness Johnson:

(1) IAWC should amend its tariffs to provide one unified set of "Rules, Regulations and Conditions of Service" for all of its Service Areas in the State of Illinois to be completed within two years of the date of this Order.

(2) IAWC should complete a hydrant testing and maintenance inspection for all of its Chicago Metro and Champaign service areas within one year of the date of this Order. The Company should file a report on e-Docket within sixty (60) days of completing the inspection, as a late filed exhibit, detailing the inspection, identifying the individual hydrants inspected by number, maintenance performed, problems found, and any corrective action performed. The report should also include all information required under Section 600.140(c) (*i.e.* date of

installation, size, make and model (if known), location, number and history of maintenance where applicable). A copy of the report should be provided to the Commission's Manager of the Water Department. If all existing hydrants cannot be inspected and any corrective action performed within one year from the date of this Order, IAWC should submit well in advance a request for extension that includes written justification and a timeline for repairs to the Commission's Manager of the Water Department. The Commission's Manager of the Water Department should have the authority to accept or reject such extension request. If IAWC needs longer than one year and receives written approval from the Commission's Manager of the Water Department, the Company should also file a report on e-Docket showing the results of the corrective action taken within (30) days after the approved corrective period.

(3) In connection with the hydrant testing and maintenance inspections referenced in Item 2 above, where an ISO Public Fire Protection Survey has been completed within the last two years for the IAWC service area in Champaign or Chicago Metro, IAWC should provide a copy of that report to the Commission's Manager of the Water Department. 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 should perform an ISO test of fire flows (using ISO methodology in section of hydrants, performance of the fire flow test, and identification of hydrants to be tested). This test should be completed within one year of the date of this Order, and the result of such test should be included with the reports on the hydrant testing and maintenance inspection.

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

(5) IAWC should identify the fixed and variable purchased water and sewage treatment charges along with the gallons used in the calculation on customers' bills.

(6) IAWC should consolidate meter information for all service areas in the State of Illinois so that a meter can be traced from the initial purchase and installation in a simpler and quicker fashion than presently available. This will make it easier for the Commission to verify compliance with Sections 600.150, 600.310, 600.330 and 600.340. This is to be completed within two years of the date of this Order.

(7) IAWC should file a petition (within one year from the date of this Order) to enable the Commission to review whether the fifteen (15) year meter testing period is appropriate for IAWC's Champaign Division. IAWC also should within one year from the date of this Order comply with the frequency of testing set forth in Section 600.340 or the Commission ordered variance from Section 600.340 granted in Docket 76-0491 for the Champaign service area.

(8) IAWC should notify customers of applicable water use restrictions annually.

Also, as Staff witness Howard recommended:

(1) The Company should maintain in effect its policy of not issuing back bills in connection with the Meter Replacement Program in Chicago Metro (unless Staff is informed of a change in this policy and provided with an opportunity to review the Company's back billing procedures).

(2) IAWC should modify its bill format as required by 220 ILCS 5/8-306 to disclose on each billing statement any amount billed for service provided prior to the date covered by the statement. Each billing statement that includes an amount billed for service provided prior to the date covered by the billing statement should disclose the dates for which that amount is billed and include a copy of the customer information required by Section 8-306 (developed by the Commission Staff), and a statement of current Commission rules concerning unbilled or misbilled service.

(3) IAWC's bill should include the rate for the supply charge as a separate line item in any service territory having a supply charge;

(4) IAWC should provide a draft of the new bill format that includes the fixed and variable purchased water and purchased sewage treatment charges, along with gallons used in the calculation, to the Managers of the Consumer Services Division and Water Department of the Commission for review and comment prior to finalizing the new bill format.

(5) In accordance with 83 Illinois Admin. Code § 28.200, IAWC should provide a customer information booklet to all applicants for service and should make the booklet available to customers at its business offices. The customer information booklet should include the information concerning customer rights that is required by Section 8-306. In addition, IAWC should provide a draft of the customer information booklet to the Managers of the Consumer Services Division and Water Department of the Commission for review prior to finalizing the booklet for distribution.

As proposed by Staff witness Johnson, IAWC is notified by this Order that, pursuant to 220 ILCS 5/5-202 and 5/4-203, if the Staff recommendations stated above are not implemented within the specified timeframes (or, if no time frame is otherwise specified, within a reasonable time following the date of this Order), the Company will be subject to assessment by the Commission of civil penalties as determined by the Commission.

The Commission concludes that the additional relief sought by the AG and Homer Glen should be denied. In this regard, the AG and Homer Glen have the burden of proof with respect

to the allegations raised in their respective complaints. Neither the AG nor Homer Glen has provided sufficient evidence to meet that burden with respect to additional relief.

IAWC has demonstrated that the concerns of the AG and Homer Glen are either unfounded, or, where appropriate, that IAWC has addressed the concerns. IAWC has also demonstrated that it has been addressing customer concerns as needed since before the AG and Homer Glen Complaints were filed. As a result, there is no basis for the Commission to conclude that an outside audit is needed, that penalties are appropriate, or that any of the other relief requested by the AG and Homer should be granted. In this regard, the Commission notes the extensive actions already taken by IAWC in response to customer concerns as detailed in IAWC Exhibit 4.01 and other evidence presented by IAWC.

Many of the issues raised in the Complaints—high bills, “spiking,” back billing—and the 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, and in particular in Homer Glen, during the summer and fall of 2005. The evidence shows that, during this time period, Chicago Metro was impacted by a severe drought which resulted in high water usage for drought-related uses, such as lawn irrigation. No credible evidence has been offered to support the assertions of the AG and Homer Glen 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. Mr. Rubin refers to small samples of customer account data and then, without basis, extrapolates from the small samples to conclude that there are system-wide data quality issues. For the reasons given by IAWC, Mr. Rubin’s allegations regarding the quality and accuracy of billing and metering data, IAWC’s procedures for estimating bills, and for review of bills with zero consumption are unfounded.

With regard to the issue of back billing in Homer Glen, the Commission notes that IAWC has already acted, through its back bill audit, to issue credits with interest to all customers who received back bills following meter exchanges. Neither Mr. Rubin nor Ms. Niemiec has demonstrated that there are 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), the record shows that these concerns are either unfounded or have been addressed. Homer Glen also has not met its burden of proof regarding its allegation that there are significant problems with customer service. Where the Company has identified valid customer concerns, it has taken action to resolve the concerns. The evidence presented by IAWC witnesses Ruckman and Cooper demonstrates IAWC’s forthright response to the concerns of its customers, and IAWC’s commitment to maintaining the highest levels of customer service.

Under Section 5-202, the discretion to determine whether civil penalties should be assessed and whether to pursue an action to recover civil penalties rests with the Commission. The Commission also notes that, contrary to the positions taken by AG and Homer Glen, the Commission (and not some other entity) must, before penalties may accrue, issue a notice in accordance with Section 5-202.

The Commission also notes that the only witness who recommended that a penalty be imposed in this proceeding is Homer Glen's witness Ms. Niemiec, who recommended (HG Ex. 1.00, p. 17) that the Commission "access [sic] an administrative penalty and fine on.... [IAWC] for each incident identified where the Company has inappropriately back billed or sent make-up bills to Homer Glen residents." According to Ms. Niemiec, the Commission should "assess the penalties and fines on each of the 474 accounts for which...[IAWC] already has admitted may have been [sic] inappropriately billed." As the record shows, of the 474 customer accounts referenced by Ms. Niemiec for which odometer style meters were replaced, 335 accounts received back bills for previously unbilled service. No customer account, however, was billed at any time for an amount other than the actual water usage. It is possible that a portion of the amount back billed, which totals \$14,000 for the 335 customers (primarily for ten customer accounts), may have related to service rendered more than 12 months prior to the billing. As explained above, however, IAWC has voluntarily refunded to the affected customers all of the amount back billed (whether or not related to service rendered more than 12 months prior to the billing), with interest.

In its Initial Brief, Homer Glen goes beyond the testimony offered by Ms. Niemiec and proposes that civil penalties be assessed in connection with other referenced violations. In total, Homer Glen seeks the imposition of civil penalties in excess of \$3.5 million. The Commission concludes that Homer Glen's proposal in this regard is unsupported by the record in this proceeding.

Based on the record, the Commission finds that IAWC has in good faith taken action to address all valid concerns of customers and the Complainants that were referenced in this proceeding, including those that constitute violations of the Act or rules of the Commission. For this and the other reasons discussed above, the Commission concludes that no civil penalties should be imposed in this proceeding.

Mr. Grens' assertions regarding the reasonableness of IAWC's water and sewer rates is based on a comparison of IAWC's approved rates for water and sewer services to the rates charged in certain municipalities. The Commission notes that 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 costs 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. 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 concerns with the amount of usage or correctness of his bills. Thus, the Commission concludes that the evidence submitted by Mr. Grens does not demonstrate that IAWC's approved water or wastewater rates are unjust or unreasonable, or that a review of IAWC's rates should be initiated.

In this proceeding, CUB did not present direct evidence. Based on certain cross-examination, CUB presents arguments to the effect that IAWC should adopt procedures for boil order notification that were not recommended by any witness. For the reasons given by IAWC, the Commission concludes that CUB's recommendations should be rejected.

X. FINDINGS AND ORDERING PARAGRAPHS

The Commission having considered the entire record herein and being fully advised in the premises is of the opinion and finds that:

- (1) Illinois-American Water Company is in the business of furnishing water and wastewater service to the public in portions of the State of Illinois, and is a public utility as defined in Section 3-105 of the Illinois Public Utilities Act (220 ILCS 5/3 105);
- (2) the Commission has jurisdiction over Illinois-American Water Company, and the subject matter of this proceeding;
- (3) the findings of fact and conclusions of law set forth in the “Commission Conclusion” section of this Order are supported by the record herein and are hereby adopted as findings of fact and conclusions of law;
- (4) the Commission finds that the recommendations offered in this proceeding by the Commission Staff which are set out in detail above are reasonable and should be adopted;
- (5) Illinois-American Water Company should be notified that, if it does not implement the recommendations of the Commission Staff that are set out herein within the specified timeframes (or if no timeframe is specified for a particular recommendation within a reasonable time following the date of this Order), Illinois-American Water Company will be subject to civil penalties in accordance with Sections 4-203 and 5-202 of the Illinois Public Utilities Act (220 ILCS 5/4 203, 5 202);
- (6) the matters at issue in this proceeding should be decided in the manner set out in the “Commission Conclusion” section of this Order;
- (7) for the reasons specified in the “Commission Conclusion” section of this Order, the relief requested in the Complaints referenced in this Order as the AG Complaint, the Homer Glen Complaint and the Grens Complaint is denied;
- (8) for the reasons stated in the “Commission Conclusion” section of this Order, the proposals of CUB should be rejected; and
- (9) for the reasons specified in the “Commission Conclusion” section of this Order, no outside audit of Illinois-American Water Company’s procedures or practices is appropriate, and no civil penalties should be imposed in this proceeding.

IT IS THEREFORE ORDERED THAT the recommendations of the Commission Staff set forth this Order are adopted.

IT IS FURTHER ORDERED THAT Illinois-American Water Company is hereby notified that, if it fails to implement the recommendations of the Commission Staff, as set out herein, with the timeframes specified (or if no timeframe in specified for a particular recommendation within a reasonable time following the date of this Order), Illinois-American

Water Company will be subject to civil penalties as determined by the Commission in accordance with Sections 4-203 and 5-202 of the Illinois Public Utilities Act.

IT IS FURTHER ORDERED THAT the relief requested in the Complaints filed by the Office of the Illinois Attorney General, the Village of Homer Glen and Mr. Grens, and the relief requested by CUB, is denied.

IT IS FURTHER ORDERED THAT, pursuant to Section 10-113 of the Illinois Public Utilities Act and 83 Illinois Admin. Code 200.880, this Order is final and is not subject to the Administrative Review Law.

By Order of the Commission this ____ day of _____, 2007.