

ALJPO Section II.H.5 (ALJPO, pp. 37-38)

H. Customer Service

5. Commission Analysis and Conclusion

The evidence shows that IAWC has two call centers nationally that monitor all incoming calls including those from Illinois. Those centers, known collectively as the CSC, keep records of all customer inquiries and complaints that comport with Commission regulations about required records. The calls are received by “call handlers” who are trained to respond to questions, but who lack the authority to make bill adjustments ~~or to investigate problems~~. They take the customer’s information and forward the problem to a member of the “Account Resolution Team” or ART.

The customer is not given contact information for the ART personnel, but must await a return call or a letter. Under the current system, whether the customer gets to discuss the problem with a customer representative authorized to resolve it is totally up to the discretion of the IAWC representative.

Commission rules require that utilities have personnel on duty authorized to act on behalf of the utility in resolving the complaint and available during all business hours. 83 Ill. Adm. Code 280.160(a).

Further, the rule provides that if the customer expresses “non-acceptance of the decision,” the person reviewing the customer’s complaint must inform him/her of the right to have a supervisor consider the problem. If the customer does not accept the resolution offered by the supervisor, the supervisor is to inform the customer of “his/her right to have the problem reviewed by the Commission, and shall furnish him/her with the telephone number and address of the Consumer Assistance Section of the Illinois Commerce Commission.” 83 Ill. Adm. Code 280.160(b). The record indicates that ART personnel ~~have not informed~~ inform complaining customers of their right to contact the Commission.

The Commission finds that IAWC’s present procedures are, while not inadequate, may reasonably be improved. We direct IAWC to modify its procedures so that all written communications from ART responsive to customer complainants will provide a toll free telephone number that will connect the customer with supervisory personnel authorized to act on behalf of the company to resolve the complaint. Any such written communication will also advise the customer of his/her right to have the problem reviewed by the Commission, and shall furnish him/her with the telephone number and address of the Consumer Assistance Section of the Commission. If the communication from ART is by telephone, the person making the call shall have authorization to resolve the complaint. IAWC is ordered to tell consumers that they are protected for 30 days or so long as the ART process is pending, and that they will receive notice of resolution. In the event that the complaint is not resolved to the customer’s satisfaction, the caller shall also provide the required information about the right to contact the Commission. IAWC is directed to report back to the Commission within 60 days of the effective date of this Order on its implementation of these directives.

The record indicates that in at least one instance, an IAWC customer received a threat of a service cutoff after a complaint was filed with the Commission. This is a clear violation of Commission rules. In addition to this there have been several other instances

where it is alleged that IAWC has tried to intimidate those persons disputing a bill through the internal complaint process before the dispute was resolved. These are also violations. The subsequent resolution of the issues involved (after the filing of these cases) is irrelevant. Threatening a service termination while a dispute is pending is inappropriate behavior. Should this or similar conduct reoccur, Commission Staff is directed to take appropriate action including the initiation of a proceeding to seek civil penalties from IAWC.

ALJPO Section II.J.5 (ALJPO, p. 44)

J. Grens Complaint

5. Commission Analysis and Conclusion

~~Mr. Grens makes some good points. His monthly water charge is about 250% higher than it would be in four surrounding towns. His monthly residential sewer charge is a flat fee of almost \$46, three to almost six times higher than the charge for the same service in these other communities.~~

~~In response, IAWC offers the rationale that its water rate, although high relative to other systems in the state, is cost based. It explains that water charges include its purchase price of Lake Michigan water and the cost of transport. IAWC offered little or no explanation why the individual sewer charge for a customer of an existing sewer system is a flat fee rather than usage based charge. Nor did it adequately explain why the charge for sewer service is at least three times higher than surrounding communities. IAWC counters that: 1) its rates (unlike those of municipally owned water systems) factor in taxes paid by IAWC and a reasonable profit; and 2) the other communities may subsidize the rates for these services with real estate taxes. These arguments are not persuasive. Mr. Grens introduced rebuttal evidence suggesting that in Woodridge, at least, the rates are user based and not subsidized. Furthermore, the AG, in support of Mr. Grens argument cited statutory authority that municipal water and sewer systems cannot be subsidized by real estate taxes because the law requires municipalities to charge rates sufficient to cover costs and depreciation. Moreover, none of the factors suggested by IAWC as explaining the discrepancy would seem to account for the magnitude of the difference in rates.~~

~~In August, 2003, IAWC was allowed rate increases in the Chicago Metro Service Area of 44.19% for water and 33.98% for sewer as a result of Docket 02-0690, Order, App. at Sch. CMS at 1 & Sch. CMW at 1 (Aug. 12, 2003). Comparative rate information was not addressed in that case.~~

~~Under Section 5/9-250 of the Act, the Commission has the power and authority to investigate any rate to determine whether it is unjust, unreasonable or discriminatory. We find that the Complainant has introduced sufficient evidence to suggest that an investigation or rate analysis of the reasonableness of rates charged by IAWC for water and sewer service in the Chicago Metro Service Area is warranted.~~

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 four 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.

Moreover, under Illinois law, the comparative rates paid by customers of municipal systems are not relevant to the Commission's determination of IAWC's rates. 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. The Illinois Supreme Court has said as much. See *Union Elec. Co. v. Illinois Commerce Comm'n*, 77 Ill. 2d 364, 383-84 (1979) (holding that, for a utility serving customers in both Missouri and Illinois, the Commission could not order Missouri rates applied in Illinois, but must set rates that produce a reasonable return on the value of the utility's property as required by Illinois law, even if Missouri rates were lower); see also *Complaint by Home Depot, USA, Inc., and LNT, Inc.*, New York Pub. Serv. Comm'n Case Nos. 05-W-0707, 06-W-1080, 2006 N.Y. PUC LEXIS 276, *10 13 (dismissing retailers' complaint that alleged that, inter alia, water rates were excessive compared to other locations, and stating, "Comparing [water utility]'s rates to those paid by Complainants' stores in other locations is inappropriate.").

ALJPO Section II.J.5 (ALJPO, pp. 47-48)

III. Findings and Ordering Paragraphs

The Commission, having considered the entire record herein and being fully advised in the premises thereof, 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 the parties and the subject matter herein;
- (3) the findings of fact and the conclusions of law set forth in the prefatory portion of this Order conform to the evidence of record and the law and are hereby adopted as findings of fact and law herein;
- (4) Kevin Grens filed a Complaint seeking a review of IAWC's rates for water and wastewater service, which is hereby ~~granted~~denied;
- (5) ~~the Commission should initiate a proceeding for the purposes of investigating the reasonableness of rates charged by IAWC for water and sewer service in the Chicago Metro Service Area, in accordance with the discussion above;~~
- (6) ~~Commission Staff is directed to prepare and submit to the Commission, a proposed initiating order to commence the investigation proceeding described in Finding (5);(7)the Office of the Illinois Attorney General and the Village of Homer Glen filed Complaints seeking an audit of certain operations of IAWC, civil penalties, and other relief, which are hereby granted in part and denied in part;~~
- (86) the Office of the Illinois Attorney General and IAWC have entered into a Stipulation, the provisions of which are reasonable, supported by the record and in the public interest;
- (97) IAWC is ordered to comply with the directives and corresponding timeframes herein as stated herein on pages 14-15, 19-20, 26-27, 29-30, 31, 32, 37-38, 40, 44 and 46-47;
- (10) ~~Citizens Utility Board was granted leave to intervene and presented evidence regarding boil order and loss pressure notification procedures as a result of which the Commission hereby orders the municipal notification procedure contained herein on pages 45-46;(11) 8)~~ in the event that the Company fails to comply with the directives and timeframes contained herein, this Order provides the notice required under Section 5-202 of the

Public Utilities Act for the initiation of a proceeding seeking to impose civil penalties.

~~IT IS THEREFORE ORDERED by the Illinois Commerce Commission that an investigation proceeding shall be initiated by the Commission in accordance with Finding (5) of this Order.~~

~~IT IS FURTHER ORDERED that the Commission Staff draft and submit to the Commission for consideration a proposed initiating order consistent with Finding (5).~~ IT IS FURTHER ORDERED that Illinois American Water Company shall comply with directives and corresponding timeframes herein.

IT IS FURTHER ORDERED in the event that the Company fails to comply with the directives and timeframes contained herein, this Order provides the notice required under Section 5-202 of the Public Utilities Act for the initiation of a proceeding seeking to impose civil penalties.

IT IS FURTHER ORDERED that all motions, petitions and objections made in this proceeding which are not disposed of, be and are hereby disposed of consistent with the ultimate conclusion contained herein.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

DATED:	March 14, 2007
BRIEFS ON EXCEPTIONS DUE:	March 21, 2007
REPLY BRIEFS ON EXCEPTIONS DUE:	March 26, 2007

Terrance Hilliard,
Leslie Haynes,
Administrative Law Judges