

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

| | | |
|--------------------------------|---|---------|
| Illinois Commerce Commission |) | |
| On Its Own Motion, |) | |
| |) | |
| -vs- |) | |
| |) | |
| North Shore Gas Company |) | 05-0748 |
| |) | |
| |) | |
| Reconciliation of revenues |) | |
| collected under gas |) | |
| adjustment charges with actual |) | |
| costs prudently incurred. |) | |

**REPLY BRIEF
OF
NORTH SHORE GAS COMPANY**

Gerard T. Fox
Mary Klyasheff
Attorneys for
North Shore Gas Company
130 East Randolph Drive
23rd Floor
Chicago, Illinois 60601

Dated at Chicago this
3rd day of August, 2007

TABLE OF CONTENTS

PAGE

| | |
|--|---|
| Reply Brief of North Shore Gas Company | 1 |
| I. Introduction | 1 |
| II. Bank Gas Liability..... | 2 |
| III. Gas Purchase and Agency Agreement | 5 |

Notice of Filing And Certificate of Service

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

| | | |
|--------------------------------|---|---------|
| Illinois Commerce Commission |) | |
| On Its Own Motion, |) | |
| |) | |
| -vs- |) | |
| |) | |
| North Shore Gas Company |) | 05-0748 |
| |) | |
| |) | |
| Reconciliation of revenues |) | |
| collected under gas |) | |
| adjustment charges with actual |) | |
| costs prudently incurred. |) | |

Reply Brief of North Shore Gas Company

1 Pursuant to Section 200.800 of the Illinois Commerce Commission’s
2 (“Commission”) Rules of Practice (83 Ill. Admin. Code §200.800) and the
3 schedule established by the Administrative Law Judges on May 30, 2007, North
4 Shore Gas Company (“Respondent” or “North Shore”) submits its Reply Brief in
5 the above-captioned proceeding.

6 I. Introduction

7 On July 12, 2007, North Shore, the Commission Staff, the Citizens Utility
8 Board (“CUB”), and the People of the State of Illinois (“AG”) filed initial briefs in
9 the above-captioned proceeding. North Shore’s initial brief anticipated and
10 responded to the arguments included in the Staff, CUB¹ and AG briefs, and,
11 consequently, this Reply Brief will be limited to a few specific points not directly

¹ CUB’s initial brief states that Mr. Mierzwa’s recommended refund is \$973,455. CUB In. Br., pp. 2-3. Mr. Mierzwa’s Schedule JDM-5 shows a recommended refund of \$919,281. The discrepancy is not explained in the brief.

12 addressed in North Shore's Initial Brief.

13 **II. Bank Gas Liability**

14 On pages 9-19 of its Initial Brief, North Shore showed that the record
15 supports finding that the gas costs associated with its correction to the bank gas
16 liability were prudently incurred. Also see, Resp. Ex. C and Schs. 1 and 2; Resp.
17 Ex. E and Sch. 1; and Resp. Ex. G.

18 The Staff recommended a cost disallowance of \$388,126.48 for a
19 reconciling adjustment to the bank gas liability and a cost disallowance of
20 \$279,054.45 for what the Staff called a prior period adjustment. Staff In. Br., pp.
21 5-10. The AG supported the Staff's proposals. AG In. Br., pp. 4-7. CUB
22 proposed a cost disallowance of \$388,126.48 for the reconciling adjustment.
23 CUB also stated that, if the Commission were to accept Respondent's alternative
24 adjustments based on changes to the customer base, CUB would support the
25 first alternative (changes to the customer base dating to 1991) as the more
26 conservative option. CUB In. Br., pp. 5-7.

27 The Staff and intervenor initial briefs do not raise arguments not already
28 addressed thoroughly in North Shore's Initial Brief. However, there are some
29 specific points to which North Shore will respond in this Reply Brief.

30 First, CUB stated that, if the Commission disagrees with the
31 recommended disallowance, it should adopt the first alternative proposed by Ms.
32 Kallas. CUB In. Br., pp. 6-7. North Shore, for the reasons stated in its Initial
33 Brief, believes that the record does not support any disallowance. However,
34 either of North Shore's proposed alternatives would be a reasonable alternative if

35 the Commission is concerned that the bank gas correction may be collected from
36 customers who were not customers when the associated costs were incurred.

37 To compute its proposed alternatives, North Shore analyzed customer
38 data to determine what portion of the customers were on the system both in
39 years when the understatement of the liability began to develop and in 2005.
40 Resp. Ex. E, Sch. 1. North Shore reviewed the number of customers in February
41 2007, who were also customers in previous years. The analysis showed, *inter*
42 *alia*, that 71% of North Shore's current customers who were customers in 2005
43 were also customers in 2000 and 29% were also customers in 1991. The
44 percentage increases each year from 1991 to 2005. Resp. Ex. E, p. 9.

45 Assuming, *arguendo*, that North Shore's correction would be imprudent
46 because customers who pay for² a correction are not identical, the facts do not
47 support disallowing the full amount of North Shore's correction. Many customers
48 whose 2005 bills included the correction also received bills that included the
49 benefit of the customer-owned gas deliveries and the understated bank gas
50 liability. Resp. Ex. E, pp. 9-10.

51 North Shore is not certain when the error in the liability began. The
52 earliest date would be 1991 because that is when North Shore began to account
53 for the bank gas obligation as a liability. However, 2000 is a possibility because
54 this is when North Shore implemented its new customer information system, and
55 that change may have resulted in the two ledgers becoming out of sync. Resp.
56 Ex. E, p. 10.

² Of course, the same logic would apply if the correction had reduced gas costs.

57 In its analysis, North Shore spread the portion of the correction that was
58 not clearly related to 2005 evenly over a period of years and adjusted for the
59 percentage of customers who were common to the years in question. For the
60 scenario under which the error began in 1991, the resulting disallowance would
61 be \$150,502.50.³ For the year 2000 scenario, the resulting disallowance would
62 be \$59,422.15. Resp. Ex. E, p. 10 and Sch. 1.

63 Second, CUB stated that North Shore “failed to accurately track and
64 record banked volumes.” CUB In. Br., p. 5. The source of the correction at issue
65 was not a failure to track bank gas accurately. It was a failure to reconcile the
66 estimated amounts in the general ledger with the actual amounts in the
67 subsidiary ledgers. The quantity was tracked and recorded accurately in the
68 subsidiary ledgers. The problem arose when the accurate quantity from the
69 subsidiary ledgers was not reconciled with the general ledger. Resp. Ex. C, pp.
70 3-4, 9.

71 Third, the AG stated that North Shore, in its supplemental direct testimony,
72 proposed a \$0.5 million increase to fiscal year 2005 gas costs. AG In. Br., p. 4.
73 For clarification, North Shore’s supplemental testimony was describing a
74 correction that was included in the fiscal year 2005 reconciliation statement.
75 North Shore made the correction in May 2005, and the testimony (Resp. Ex. C)
76 was addressing that correction. The testimony did not propose a cost increase.

77 Finally, Staff stated that North Shore is attempting to “cloud the record” by
78 stating that the basis for Staff’s opinion that customers were harmed by the

³ This is the alternative identified by Mr. Mierzwa if the Commission were to select one of the alternatives in lieu of accepting his recommendation. CUB In. Br., p. 7; CUB Ex. 2.0, p. 6.

79 adjustment is that customers in 2005 affected by the adjustment were not
80 necessarily customers when the underbilling occurred. Staff In. Br., p. 8. This is
81 an inaccurate characterization of North Shore witness Ms. Kallas' cited
82 testimony. In the cited testimony, Ms. Kallas was responding to specific
83 testimony and not addressing the entirety of the Staff and intervenor testimony.
84 In particular, Ms. Kallas was responding to Staff witness Ms. Hathhorn's
85 testimony (ICC Staff Ex. 1.0, pp. 10-11) in which Ms. Hathhorn disagreed with
86 Ms. Kallas' contention that customers were not harmed by the correction.⁴ Ms.
87 Kallas was also responding to CUB witness Mr. Mierzwa's statement that "the
88 adjustment may result in the collection of gas costs from customers who were not
89 customers of North Shore when the undercollection occurred." CUB Ex. 1.0, p.
90 9. Ms. Kallas responded to other issues elsewhere in her rebuttal and surrebuttal
91 testimony.

92 **III. Gas Purchase and Agency Agreement**

93 North Shore did not contest a Staff proposed disallowance related to the
94 Gas Purchase and Agency Agreement ("GPAA"). Resp. In. Br., pp. 19-20.

95 Staff describes its recommended GPAA disallowance of \$337,269. Staff
96 In. Br., pp. 4-5. The AG supported the Staff recommendation. AG In. Br., pp. 2,
97 7.⁵ CUB recommended a disallowance of \$509,480. CUB In. Br., pp. 3-4.

⁴ Staff witness Ms. Hathhorn stated: "A simple example is that any new customer in FY 2005 was never undercharged for this discrepancy sometime over many years in the past, but is now being charged for the 'correction'." ICC Staff Ex. 1.0, p. 11. Peoples Gas' proposed alternatives were responsive to that example.

⁵ The AG brief appears to include a typographical error on page 7 and shows \$377,269 for this adjustment. The figure is quoted accurately on page 2 of the AG brief.

98 Like the Staff, CUB cited Docket No. 01-0706 in support of disallowing
99 costs associated with the GPAA. CUB stated that its adjustment is “[i]n order to
100 reflect the Commission’s determinations” in that proceeding. CUB In. Br., p. 3.
101 Staff witness Dr. Rearden used the same analysis in the instant proceeding that
102 he used in Docket No. 01-0706. He made one adjustment to the analysis to
103 reflect the fact that the GPAA was in effect for only one month in the
104 reconciliation year. ICC Staff Ex. 3.0, pp. 4-5. North Shore did not contest this
105 approach because Dr. Rearden’s calculation was consistent with the approach
106 before the Commission in Docket No. 01-0706 when the Commission concluded
107 that the GPAA was imprudent. It is appropriate that, if the Commission disallows
108 costs for the GPAA, it base its disallowance on Dr. Rearden’s method. Resp. Ex.
109 F, p. 2.

110 WHEREFORE, North Shore Gas Company respectfully submits its Reply
111 Brief in this proceeding and requests that the Commission: (1) approve the
112 reconciliation statement, as filed, with the addition of a Factor O of \$337,604.47
113 to be flowed through the Commodity Gas Charge; (2) reject proposed cost
114 disallowances related to the bank gas liability; and (3) find reasonable North
115 Shore's proposed approach to calculating and billing third parties for damages to
116 North Shore's facilities.

Respectfully submitted,

North Shore Gas Company

/S/ MARY KLYASHEFF
Mary Klyasheff
An Attorney for
North Shore Gas Company

Gerard T. Fox
Mary Klyasheff
Attorneys for
North Shore Gas Company
130 East Randolph Drive
23rd Floor
Chicago, Illinois 60601
telephone: (312) 240-4470
facsimile: (312) 240-4219
e-mail: MPKlyasheff@integrysgroup.com

Dated at Chicago this
3rd day of August, 2007

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

| | | |
|--------------------------------|---|---------|
| Illinois Commerce Commission |) | |
| On Its Own Motion, |) | |
| |) | |
| -vs- |) | |
| |) | |
| North Shore Gas Company |) | 05-0748 |
| |) | |
| |) | |
| Reconciliation of revenues |) | |
| collected under gas |) | |
| adjustment charges with actual |) | |
| costs prudently incurred. |) | |

NOTICE OF FILING AND CERTIFICATE OF SERVICE

To: Service List

PLEASE TAKE NOTICE that on this 3rd day of August, 2007, I have filed with the Chief Clerk of the Illinois Commerce Commission, the Initial Brief of North Shore Gas Company, a copy of which is hereby served upon you by e-mail, messenger, overnight courier and/or United States Mail on August 3, 2007.

/S/ MARY KLYASHEFF
Mary Klyasheff
An Attorney for
North Shore Gas Company

Dated at Chicago this
3rd day of August, 2007