

**STATE OF ILLINOIS**  
**ILLINOIS COMMERCE COMMISSION**

NORTH SHORE GAS COMPANY	:	
	:	
Proposed General Increase In Rates For Gas Service.	:	No. 07-0241
	:	and
THE PEOPLES GAS LIGHT AND COKE COMPANY	:	No. 07-0242
	:	(Consol.)
	:	
Proposed General Increase In Rates For Gas Service.	:	

**THE PEOPLES GAS LIGHT AND COKE COMPANY’S  
AND NORTH SHORE GAS COMPANY’S MOTION  
TO STRIKE PORTIONS OF GCI WITNESS WILLIAM L. GLAHN’S  
DIRECT AND REBUTTAL TESTIMONY**

The Peoples Gas Light and Coke Company (“Peoples Gas”) and North Shore Gas Company (“North Shore”), pursuant to Section 200.190 of the Rules and Practice of the Illinois Commerce Commission (the “Commission” or “ICC”) and other applicable law, respectfully move the Administrative Law Judges to strike portions of the direct and rebuttal testimony of “GCI”<sup>1</sup> witness William L. Glahn. In support of their motion, Peoples Gas and North Shore state as follows:

**INTRODUCTION**

1. Mr. Glahn’s direct and rebuttal testimony address several subjects, including the appropriate weather normalization period to use in calculating billing determinants. Mr. Glahn’s testimony on the subject of weather normalization relies in significant part on his assertions regarding climate science. Yet, he has neither the education nor the experience to testify

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<sup>1</sup> The Illinois Attorney General’s Office (the “AG”), the Citizens Utility Board (“CUB”), and the City of Chicago (the “City”) (collectively “GCI”) jointly submitted the testimony of three witnesses, including Mr. Glahn.

regarding climate science, as his resume and his recitation of his qualifications demonstrate. Mr. Glahn's assertions regarding climate science are based not on expertise but on information from the National Oceanographic and Atmospheric Administration ("NOAA") web site that any lay person could compile, plus a lengthy quotation from a Missouri Public Service Commission order based on an evidentiary record that is not before the ICC in the instant Dockets. He also adds conjecture about analyses that neither he nor any other witness has performed but that he believes "would be interesting" and what he "suspects" they would show. Those assertions are not proper expert testimony, and they should be stricken.

2. To be clear, Peoples Gas and North Shore are not moving to strike all of Mr. Glahn's direct or rebuttal testimony, nor are they moving to strike all of his testimony on the subject of weather normalization. Peoples Gas and North Shore do move, however, to strike his inadmissible assertions regarding climate science, as specified below.

### **LEGAL STANDARDS**

3. The burden of establishing an expert's qualifications rests with the party offering the testimony. *Gill v. Foster*, 232 Ill. App. 3d 768, 780 (4th Dist. 1992); *In re Northern Illinois Gas Co.*, ICC Docket No. 02-0170 (Order Aug. 6, 2003) at 12. There is no presumption that a witness is qualified to give an opinion. *Broussard v. Huffman Manuf. Co.*, 108 Ill. App. 3d 356, 363 (3d Dist. 1982). Where a witness does not have special knowledge or experience in the area about which he expresses an opinion, it is error to permit him to testify as an expert. *Hackett v. Equipment Specialists Inc.*, 201 Ill. App. 3d 186, 192 (1st Dist. 1990) (citing *Hagerman v. Nat'l Food Stores, Inc.*, 5 Ill. App. 3d 439, 442 (2d Dist. 1972)). Expert testimony should only be admitted into evidence, if, among other things, the proffered expert has knowledge and qualifications uncommon to laypersons that distinguish him as an expert. *People v. Randall*, 363

Ill. App. 3d 1124, 1131 (4th Dist. 2006). The critical issue is whether the expert's legal testimony aids the trier of fact by explaining a factual issue beyond its ordinary knowledge or whether the opinion merely recites a legal conclusion. *Martin v. Sally*, 341 Ill. App. 3d 308, 315 (2d Dist. 2003).

#### **MR. GLAHN'S LACK OF RELEVANT EXPERTISE**

4. According to his pre-filed testimony, Mr. Glahn is not an expert on climate science. There simply is nothing in his education or his experience that allows him to testify as an expert by making the assertions regarding climate science that are detailed below. He describes his training and experience in his direct testimony (GCI Ex. 3.0), page 2, line 15, through page 3, line 2. GCI Ex. 3.1, Schedule 1 to his direct testimony, is his more detailed resume. He has a Bachelor of Arts degree in Economics and a master of Business Administration degree with an emphasis in finance. He cites no training or experience in climate science.

#### **MR. GLAHN'S TESTIMONY**

5. Section VII of Mr. Glahn's direct testimony is entitled "Weather Normalization." In that section, Mr. Glahn testifies regarding the appropriate time period to use for weather normalization in calculating billing determinants. That testimony is based in part on assertions regarding climate science. More specifically:

- a) From page 36, line 21, to page 37, line 2, Mr. Glahn testifies regarding how NOAA defines normal weather data based on statements he found on NOAA's web site.
- b) From page 37, line 3, to page 38, line 2, Mr. Glahn testifies regarding why, according to him, NOAA considers a 30-year period, defined by decades, as

“normal”. Page 37, lines 4 through 21, consist of another lengthy quote he found on NOAA’s web site. Page 37, line, 23, to page 38, line 2, consist of inferences based on that quote.

- c) On page 38, lines 3 through 8, Mr. Glahn continues to make inferences based on that quote.
- d) On page 38, lines 9 through 11, Mr. Glahn goes so far as to give his personal opinion that certain NOAA data “do an excellent job of describing a climate...” and asserting their superiority to other data.
- e) Finally, on page 39, lines 3 through 14, Mr. Glahn adds his opinions regarding global warming, stating:

A. .... **It is common knowledge that global warming or climate change is a phenomenon that manifests itself over centuries, not years.** Climate change describes long-term trends. It does not guarantee that next year will be warmer than the last. At any time, extremely cold (even record cold) weather is possible over a number of years. More important, an awareness of global warming trends does not immediately redefine the climatic norm from which HDD variations should be measured.

Q. Are you challenging the concept of global warming or of global climate change?

A. No, I am not. Just as a cold day appearing in January does not disprove global warming, as skeptics would have it, global warming theory does not hold that we can never experience cold weather again.

(Emphasis added.)

8. In the “Summary of Testimony” section of his rebuttal testimony, on page 2, lines 37 through 44, Mr. Glahn states in part: “The 30-year average reflects a wider range of weather experiences than the Companies’ proposed 10-year data period while also reflecting any long-term trends affecting local climate appearing in more recent data.”

8. Section VI of Mr. Glahn’s rebuttal testimony is entitled “Rebuttal of NSG/PGL Witnesses Marozas and Takle.” This section, too, includes several inadmissible assertions.

- a) On page 18, lines 427 through 432, Mr. Glahn criticizes use of a 10-year period, relying on yet another quote he found on the NOAA web site and his inference from it.
- b) On page 18, lines 434 through 438, he states: “In addition, Mr. Marozas’ analysis might have been more convincing had he shown the results of predicting weather for a period longer than next year, using time periods other than 10 years and 30 years. It would be interesting to see, for example, how 15-year, 20-year, or 25-year periods fare in predicting annual HDD averages. I suspect that the result of using the 10-year data will turn out to be an anomaly.” Not only is that testimony improper for lack of expertise, but it is irrelevant and consists of speculation. No party has proposed 15-year, 20-year, or 25-year periods, nor does or can Mr. Glahn cite any basis for his criticism that Mr. Marozas should have analyzed them. What Mr. Glahn thinks “would be interesting” is not relevant, and what he “suspects” is simply conjecture.
- c) On page 18, line 440, through page 20, line 488, Mr. Glahn responds to rebuttal testimony of Peoples Gas and North Shore witness Brian Marozas, an expert in statistics, criticizing use of the NOAA data on which Mr. Glahn relies, by quoting at great length from a Missouri Public Service Commission order based on an evidentiary record that is not before the ICC in the instant Dockets. While citation of the decisions of other courts or commissions is itself proper, here Mr. Glahn is quoting its factual findings, which is not appropriate.

- d) Mr. Glahn, on page 20, lines 490 through 500, once more offers an opinion on the merits of NOAA data, and once again repeatedly quotes from the NOAA web site.
- e) Finally, on page 21, lines 512 through 518, he urges use of a 30-year period, based on a concluding sentence that is essentially identical to that quoted above from page 2, lines 37 through 44, except that he has inserted a claim regarding the ICC's "standard" before the 2004 Nicor Gas rate case.

8. Mr. Glahn's assertions listed above represent nothing more than a lay recitation of information easily located through a Google<sup>TM</sup> search plus quotation of a Missouri decision on a subject as to which he is not an expert based on facts not before the ICC in the instant Dockets. Consequently, Mr. Glahn's testimony regarding climate science should be stricken because it is inadmissible.

### **CONCLUSION**

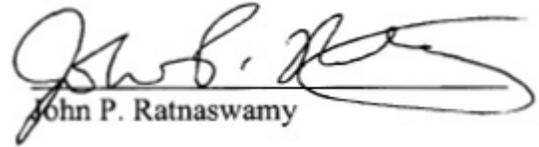
THEREFORE, in advance of Mr. Glahn's swearing to his direct and rebuttal testimony, the offer of that testimony into evidence, and his being tendered for cross-examination, Peoples Gas and North Shore respectfully request that the Administrative Law Judges grant their motion to strike the specific pages and lines of Mr. Glahn's direct and rebuttal testimony cited above, in order to ensure that an appropriate evidentiary record is presented to the Commission for decision in these proceedings.

Dated: August 24, 2007

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