STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

NORTH SHORE GAS COMPANY	:	
	:	NO. 07-0241
Proposed general increase in rates for gas service	:	
PEOPLES GAS LIGHT AND COKE COMPANY	:	
	:	NO. 07-0242 (Consolidated)
Proposed general increase in rates for gas service.	:	

ILLINOIS INDUSTRIAL ENERGY CONSUMERS REPLY BRIEF

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REPLY BRIEF OF THE ILLINOIS INDUSTRIAL ENERGY CONSUMERS

I.

INTRODUCTION

The Illinois Industrial Energy Consumers ("IIEC") will respond to certain arguments made by Peoples Light & Coke Company ("Peoples" or "PGLC") and North Shore Gas Company ("North Shore" or "NS") (collectively the "Companies"). They will also respond to certain arguments made by the Staff of the Illinois Commerce Commission ("Staff"). IIEC's failure to address the arguments or positions of any other party should not be considered an agreement with those positions, unless otherwise specifically stated herein.[1]

X. Transportation Issues

C. Large Volume Transportation Program

4. Injection, Withdrawal and Cycling Requirements

The Companies, in response to criticisms by IIEC and others, modified their proposed storage, injection and withdrawal limitations in the context of an alternative proposal that would retain Rider SST (which was originally to be eliminated) and put forward an alternative form of Rider SST. Specifically, the Companies proposed that for the alternative version of Rider SST, customers' monthly injections would be limited to 20% of AB. This limitation was converted to a daily injection limit of 0.67%. (20% divided by 30). *(See*, PGLC/NS Br at 190). In support of their proposal the Companies argue that it represents a compromise that presents a reasonable resolution

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[1]IIEC has organized its brief in accordance with the ALJs' outline referencing only the captions relevant to IIEC's issues and arguments.

of the issues. (*Id* at 190-191). The Companies do not offer any substantive or factual argument in support of this proposal.

The Companies propose to retain their original seasonal cycling requirement, which would mandate that transportation customers have their AB at least 70% full on November 30 and no more than 35% full on March 31 of each year on the Peoples system, and 85% full on November 30 and no more than 24% full on March 31 of each year on the North Shore system. (*See*, PGLC/NS Br at 188-189).

With the exception of modified cycling requirements, Staff continues to oppose new limits on injections and withdrawals and support the maintenance of the status quo with regard to such limitations. (Staff Br at 254). Staff supports the Companies' proposed cycling requirements. (*Id*).

a. Response to Companies

The Companies have failed to demonstrate in their testimony or in their brief that current withdrawal and injection limitations have harmed sales customers. In fact, Companies' witness Mr. Zack testified that sales customers may not be harmed. *(See*, Zack, Tr. 592). Nor have they demonstrated, in the context of their testimony, or their brief, that system operations have been impaired by the actions of transportation customers under the current rate structure, which contains withdrawal and injection limitations less stringent than those originally proposed by the Company and less stringent than the injection limitations proposed as a compromise. In the absence of such a showing, the Companies proposed daily injection limitations should be rejected. Staff apparently agrees. (*See*, Staff Br at 253).

With regard to the cycling requirements, the Companies simply argue that these requirements were based on the storage rights and assets of each company and the restrictions to which each company is subject with respect to those storage rights and assets. IIEC again notes that the Companies have been operating their systems, including storage, for over ten years under the current restrictions. They have failed to identify, on an historic basis, any difficulty in the exercise of their storage rights or the use of their storage assets as a result of the actions of transportation customers. Thus, they have failed to demonstrate the need for levels of storage inventory requirements they propose in this case.

Furthermore, the proposed storage inventory restrictions/cycling requirements, as opposed to contra cycling may actually harm customers. (Rosenberg, IIEC/CNE/VES Jt. Ex. 1 at 24:6-10, Schs. 3 and 4). In other words, if for some reason a transportation customer wants to minimize their balances at the beginning of the withdrawal season, and maximize their storage bank on at the end of the withdrawal season, that would be more beneficial to sales customers than adhering to the Company's proposed parameters.

The Companies did present an exhibit in this proceeding purporting to show that under certain circumstances, sales customers could pay more for gas as a result of transportation and storage activity. (Zack, PGLC/NS Ex. TZ 2.03). Dr. Rosenberg explained the circumstances underlying the exhibit were unlikely to occur. (Rosenberg, IIEC/CNE/VES Jt. Ex. 2 at 18-19:364-393). Mr. Zack's analysis did not seek to contrast the newly proposed cycling requirements vis-a-vis the status quo. (i.e., no cycling requirements). Thus, Mr. Zack's analysis was not dispositive of the issue.

b. Response to Staff

As noted above, Staff opposes the modification of the Companies' tariffs to establish new withdrawal and injection or injection only limits. Staff does so because it believes the Companies have not justified their proposals in this case. (Staff Br at 253). IIEC agrees with the Staff on this issue.

However, Staff does support the imposition of the cycling requirements proposed by the Companies on the grounds that transportation customers and their marketers should be encouraged to cycle storage and the Companies apparently have leased storage agreements that feature injection and withdrawal restrictions in their tariffs. (Staff Br at 253). Staff does not explain why transportation customers should be encouraged to cycle storage. The Staff has presented no empirical analysis in the record to justify its support for cycling requirements. There is no evidence in the record that the absence of such limitations has harmed sales customers or that the imposition of such limitations would help such customers. Indeed, the evidence in the record suggests that the ability of transportation customers to cycle their gas on a schedule other than one mandated by the Companies would actually be beneficial to sales customers. (Rosenberg, IIEC/CNE/VES Jt. Ex. 1 at 24:6-10).

The Staff's position appears to be based upon the assumption that there is some relationship between the Companies' proposed limitations on daily injections and withdrawals and its proposed cycling requirements and that given that nexus, a reasonable compromise on this issue is to accept the cycling requirements and reject the injection and daily injection withdrawal limitations. However, no party to this proceeding has suggested that there is a nexus between the daily injection and withdrawal limitations and the cycling requirements. Thus, when Staff suggests that it is a "fair compromise" to accept the proposed cycling requirements and reject the daily injection and withdrawal limitations (Staff Br at 253-254), IIEC respectfully disagrees. It is not an appropriate compromise to properly reject daily injection and withdrawal limitations which have not been adequately supported in the record and to accept cycling requirements which have not been adequately supported in the record. There is no logic in such a compromise.

Furthermore, Staff's own witness, Dr. Rearden, testified that the Staff does not agree that each individual transportation customer's usage should be restricted to how the utility uses its storage allocation for sales customers, as long as it does not interfere with provision service to other customers. (Rearden, Tr. 752-753). The record here fails to establish that transportation customers' use of storage has interfered with the ability to provide service to other customers. As the Staff itself argues, the Companies have not proved their case. (Staff Br at 253).

Under such circumstances, the Companies proposals for mandatory cycling requirements should be rejected, for the same reason that Staff has rejected the withdrawal and injection limitations proposed by the Companies, the Companies have simply failed to establish a need for such cycling requirement. The Companies' cycling requirements have not been justified and should be rejected.

5. Unbundled Storage Bank ("USB")

The Companies and the Staff oppose the request made by customers and marketers for an unbundled base rate storage service referred to as the Unbundled Storage Bank ("USB"). (PGLC/NS Br at 192; Staff Br at 255). The Companies argue the "stated rationale" for USB service is that Peoples owns Manlove and Manlove can support USB. (PGLC/NS Br at 192). They also suggest that the proponents of USB take the position that USB service can be provided more economically by using other parts of the Companies systems. (*Id*). They suggest the "stated rationale" is undermined by the position the USB can be more economically provided by using other parts of the system. (*Id*).

The Companies actually oppose the USB for several reasons. First, they allege the injection and withdrawal limits for USB exceed the capability of the Manlove Field ("Manlove") which in turn means that Sales Customers would subsidize USB service. (PGLC/NS Br at 192-193). Second, they allege it would be more difficult for them to manage their gas systems for the benefit of all customers if USB service is approved. Third, they suggest the proposed USB ignores the fact that the Companies are separate utilities with different storage rights and separate regulation. Fourth, North Shore does not own a base rate storage asset from which this service can be offered. (*Id* at 193).

Staff's opposition is based upon the rationale that storage for transportation customers should reflect the availability of all storage resources owned or leased by the Companies, not just Manlove, the lowest cost resource. Staff suggests that it is inequitable to allocate the lowest cost resource to one group before others. According to the Staff, such an allocation necessarily implies that other customers pay rates that result from the use of higher cost resources. (Staff Br at 255).

IIEC will first reply to the Companies and then to the Staff.

a. Response to the Companies

The Companies suggest that the stated rationale for the USB proposal is that Peoples owns Manlove and Manlove can support USB service, citing to IIEC/CNE/VES Joint Exhibit 1, page 7, lines 6-7.[2] (PGLC/NS Br at 192). The Companies also suggest that the supporters of USB claim the Companies can provide USB service more economically by utilizing other parts of their gas system as well as Manlove. (*Id*). The Companies state they believe the latter claim undermines the "stated rationale for the USB proposal." (*Id*). The companies position is without merit.

The description of the purported rationale for USB is neither comprehensive nor accurate. While a part of the rationale for USB service was that the Companies had access to Manlove and were capable of providing that service, it was also suggested that storage service is distinct from standby service in that they serve different functions and provide different capabilities to the customer in the effective use of its gas service. (Rosenberg, IIEC/CNE/VES Jt. Ex. 1 at 5:3-26). In addition, it was suggested that the Companies proposed a substantial increase in the cost of standby services and customers who may not be able to afford the increase could still have access to a cost based storage only service. (*Id* at 6:1-5). It was further suggested that USB service would allow transportation customers to lower their energy costs by allowing them to make maximum use of their gas supply, which would in turn make Chicago more attractive to large gas users at a time when large volume usage is declining. (*Id* at 6:6-22). Finally, a part of the rationale for USB service was that the Companies already offered unbundled storage service to third parties and should

[2]IIEC has reviewed the specific testimony cited by the Companies and does not believe the citation supports the Companies' position. The testimony cited discusses the difference between bundled and unbundled storage.

be prepared to do so for its own retail customers. (*Id* at 6:23-24).

Thus, the Companies description of the rationale for USB service is inaccurate and incomplete. The request for USB is simply a request to be permitted to buy storage service without purchasing standby service from the Companies as well. (Zack, Tr. 574).

Next, the Companies take out of context certain testimony of the supporters of USB which suggested that USB service could be more economically provided by utilizing other parts of the Companies' systems as well as Manlove. (PGLC/NS Br at 192). A review of the testimony containing that suggestion discloses that the witness, Dr. Rosenberg, was responding to a statement by Mr. Zack in which Mr. Zack claimed that confining USB service to the Manlove storage field should limit the operating parameters of that service to those that pertain to Manlove. (*See*, Rosenberg, IIEC/CNE/VES Jt. Ex. 2 at 9:166-169). In his response, Dr. Rosenberg first noted that his proposal for USB withdrawal rights on critical days was, in fact, aligned with the physical characteristics of Manlove. He went on to indicate that it was unnecessary and potentially counterproductive to assume that every transportation customer's imbalance must be treated as injected or withdrawn from Manlove. He believed this would artificially limit the benefits to sales customers. Then, Dr. Rosenberg went on to make the following statement which contains the language relied upon by the Companies:

> The important fact is that I designed my recommended rates reflecting only the parameters of the Manlove storage field. I did not take into account economies that the Companies could realize by providing the service from its [sic] entire system. The Companies will probably be able to provide the service more economically by using other parts of their system as well as Manlove. If they are able to do so the savings would accrue to the sales customers because the

> Companu [sic] would receive revenues from transportation customers based on the stand-alone costs of Manlove but incur lower costs based on the economic operation of the entire system. (*Id* at 9:175-183).

When read in context, this statement does not undermine the correct description of the rationale for USB service. Rather, it is fully consistent with the elements of that rationale.

The Companies have in fact misstated the rationale for the USB proposal, therefore, their belief the rationale for USB has been "substantially undermined", is itself undermined. More importantly, the Companies theory of undermining is apparently based on the assumption USB cannot be provided without the use of other storage services. This is not the case. Mr. Zack of the Companies testified the Companies could in fact provide storage service that is not dependent on using interstate pipeline services. (Zack, Tr. 574-575). Thus, the Companies can provide USB without the use of other storage services.

Contrary to the Companies argument, USB injection and withdrawal rights do not exceed Manlove capacity and Sales Customers will not subsidize USB service.

Companies' witness Mr. Zack testified:

> Q. How would USB differ from the currently available base rate storage?
>
> A: It would differ very little from the currently available base rate component of AB but it would differ significantly from the proposed AB. (Zack, PGLC/NS Ex. TZ 2.0 at 15:333-335).

The USB injection and withdrawal limits exceed the limitations imposed on transportation customers under current tariffs and the Companies have failed to point to any evidence in the record that demonstrates that Sales Customers have been harmed by the actions of transportation customers under the current limitations. (Rosenberg, IIEC/CNE/VES Jt. Ex. 2 at 20:404-411). If USB differs very little from currently available base rate components of the AB, and currently applicable injection and withdrawal limits have not resulted in harm to transportation customers, it is difficult to see how the even more restrictive injection and withdrawal limits proposed for USB would exceed the capacity of Manlove or harm sales customers in any way.

In addition, the Companies' argument that the injection and withdrawal limits for USB exceed the capabilities of Manlove and this necessarily means that sales customers subsidize USB service is based upon two unrealistic assumptions. (Rosenberg, IIEC/CNE/VES Jt. Ex. 2 at 10:184-193).[3] This argument wrongly assumes that all transportation customers will fill their storage to the maximum level of USB subscribed. Second, it wrongly assumes that each customer uses its maximum storage rights on the same day.

The first assumption that every transportation customer will actually utilize the maximum USB storage permitted is contravened by the fact that the present storage alternative has not been fully used. (*Id* at 10:194-198). The second assumption that each and every transportation customer will use its maximum storage rights on the same day would only be true if each and every customer had the same expectation regarding future gas market prices. Under such circumstances, customers

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[3]Mr. Zack notes there are 10.2 BCF of working gas in storage devoted to Hub services. (Zack, Tr. 509). He indicates there is about $10 million in revenue based on that 10.2 BCF. (Zack, Tr. 510-511). USB service could produce almost $9.7 million in revenue assuming Storage Diversity Factor ("SDF") is not adopted and as much as $8.7 million of the SDF is adopted. ($0.0078/month per therm X 10.2 BCF = $9.7 M; $0.0071/month BCF = $8.7 M) (Rosenberg, IIEC/CNE/VES Jt. Ex. 2, Sch. 2, Lns. 6 and 8). This is a clear indication that USB service is priced at levels that will not result in a subsidy of USB service.

would tend to inject more into storage on days when the gas price is “low”. The fact of the matter is that each customer would have a different concept of when the gas price is “low” depending on their view of the market. (*Id* at 10:199-203).

These two unrealistic assumptions are themselves based on another unrealistic or wrongful assumption, namely, that transportation customers are primarily interested in making money on swings in the price of gas and producing and making products they manufacture are offering the services they provide to their customers. Transportation customers are primarily concerned with having gas available for the manufacture of their products and the conduct of their business. (*Id* at 10:204-207).

The Companies arguments that USB would make it more difficult for them to manage their systems for the benefit of customers and that USB ignores that the utilities are two separate entities and that North Shore does not own a storage field, so it does not have a base rate storage asset to unbundle, do not withstand the analysis.

As noted above, Mr. Zack, the Companies witness on this issue, has clearly testified on rebuttal that there is very little difference between USB and base rate storage available under current rates. The inclusion of base rate storage, similar to USB, in current rates does not appear to have made it more difficult for the Companies to manage their systems. Nor have the facts that the Companies are separate utilities, with different gas storage rights and separate regulation by the Commission, apparently had any impact on the ability to offer base rate storage in the context of current rates.   Moreover, the fact that North Shore does not own a storage field has not prevented it from including a base rate storage component in its storage service. Thus, these factors should not prevent the Companies from offering USB.

Mr. Zack did argue, on behalf of the Companies, in his surrebuttal testimony, that there were three differences between USB and the current base rate storage. In doing so he clearly implied that absent these differences, there would be no reason to not offer USB. (Zack, PGLC/NS Ex. TZ 3.0 at 22-23:483-500). Cross-examination of Mr. Zack established that two of three differences these were not, in fact, differences between USB and current base rate storage but the difference between USB and the Companies' current and proposed rate structure. (Zack, Tr. 590).

None of the alleged differences between USB and the current rate structure are significant or actual differences. The first alleged difference is that USB customers pay only a portion of Manlove base rates. (Zack, PGLC/NS Ex. TZ 3.0 at 22:487-488). However, this ignores the fact that only a portion of Manlove is allocated to USB. (Rosenberg, IIEC/CNE/VES Jt. Ex. 1 at 8:19-23 and 9:1-6). It further ignores the fact that only a portion of Manlove is paid for in current base rates. For example, under the current rate structure, Mr. Zack testified that transportation customers pay only for a portion of Manlove. (Zack, Tr. 589).

The second alleged difference is that USB activity would only be limited on critical days. (Zack, PGLC/NS Ex. TZ 3.0 at 23:493-495). However, use of the current AB is limited on critical days as well. (Rearden, Staff Ex. 24.0 Corr at 5:84-91).

The third alleged difference is that USB has an order of deliveries. *(Id* at 23:496-500). However, this ignores the fact that the Companies' current tariff provisions have an order of delivery for the AB. (Zack, Tr. 590-591).

With regard to the suggestion that USB would make it more difficult for the Companies to manage their system for the benefit of all customers, it should be noted that Dr. Rosenberg did not propose that Peoples operate Manlove any differently than the way it currently operates. (Rosenberg, IIEC/CNE/VES Jt. Ex. 2 at 7:146-147). Furthermore, Mr. Zack himself has testified that USB would differ very little from current base rate storage. (*Id* at 7-8:147-149; Zack, PGLC/NS Ex. TZ 2.0 at 15:333-335).

The fact that the Companies are separate, with separate storage rights and separate regulation, does not impair their ability to offer USB service. First, it is worth noting that the transportation rate structure of each Company is basically the same. The language of many of their tariffs are the same as well. The terms and conditions of service are similar. Also, the current cases are being tried on a consolidated basis, presumably because of the similarity of the two Companies and the fact that they are under common ownership. If there was any significance to the fact that the Companies were separate utilities, etc., under separate regulation, they would not be tried on a consolidated basis. Furthermore, in some instances, the Companies offer a similar storage service. For example, under the current tariffs, both Peoples and North Shore customers can withdraw and inject into their AB up to their full Maximum Daily Quantity except on Critical Days. (Rearden, Staff Ex. 24.0 Corr at 5:81-91). Under the circumstances, it is difficult to understand why USB service should not be made available to transportation customers on the Peoples and NS systems simply because they are separate utilities with separate storage rights and separate regulation.

The fact that North Shore does not own base rate storage should not prevent the Companies from offering USB service. North Shore offers base rate storage to SC 2 customers as part of its current AB without "owning" storage. (*See*, Zack, Tr. 574; *See*, Zack, PGLC/NS Ex. TZ 2.0 at

14:306-308).

b. Response to Staff

The Staff argues that transportation customers' storage should reflect the availability of all storage resources owned or leased by the Companies and not just Manlove; that it is inequitable to allocate the lowest cost resource to one group before another; and that allocation of Manlove to transportation customers necessarily implies that other customers pay rates that result from the use of high cost resources are without merit.

This argument would be of serious concern if all the storage resources of the Companies were homogeneous. In point of fact, they are quite different. Storage service provided from the Manlove Field is simply that - basic storage service. The storage service provided by the Companies from pipelines on the other hand, is a basic storage service plus bells and whistles, such as no-notice sales service. (*See*, Zack, Tr. 583-586). That is why the Manlove service is the least expensive. It is also why transportation customers design service from Manlove only - they are not interested in the bells and whistles (designed for sales customers) that accompany the purchased storage services.

Staff's own witness, Dr. Rearden, agreed with the premise that economic theory holds that efficiency is enhanced when customers are free to purchase only the goods and services they need or want. (Rearden, Tr. 752). He also concurred that the transportation program should be designed to "equitably and efficiently allocate storage between customer groups." (*Id*). Furthermore, the Staff's arguments are not supported by the record. Staff's arguments assume that Manlove and interstate storage services are interchangeable and they are not.[4] The interstate storage services are, in fact, more expensive than Manlove, but they are more expensive for a reason. The fact that the Companies would go out and buy these interstate storage services, when they concede that they have excess Manlove storage used to provide Hub services (*See*, Puracchio, Tr. 458), proves that beyond a doubt.

Thus, it is not as though transportation customers are seeking to obtain these interstate pipeline services at a reduced price, they acquire and pay for those services on their own. Dr. Rosenberg proposed unbundled rates based on the physical and operating capabilities of Manlove and based on the costs specific to Manlove. Such rates would allow transportation customers to purchase only the storage service they need or want without requiring them to acquire all of the bells and whistles associated with the other services.

Staff is also incorrect in suggesting that somehow Manlove and interstate pipeline storage must, of necessity, go hand in hand. The Companies already offer Manlove Field to smaller transportation customers (SC 2) without requiring them to purchase interstate storage. (Zack, Tr. 574). Peoples offers North Shore the ability to utilize Manlove without requiring North Shore to purchase other services from Peoples. (*See*. Rosenberg, IIEC/CNE/VES Jt. Ex. 2 at 7:136-141). the Companies are fully capable of offering USB without relying on pipeline services. (Zack, Tr. 574-

[4]The Staff also alludes to deliveries from interstate pipelines. (Staff Br at 255). This reference is misplaced in the context of storage services. Transportation customers, by definition, and the terms of the transportation program, not only supply (and pay for) their own gas, they secure (and pay for) their own interstate pipeline service. It is true that transportation customers which reserve (and pay for) standby service do rely on the Companies' deliveries from interstate pipelines, but that is a separate and distinct service that is not related to the unbundled storage issue.

575).

Staff suggests that it would be unfair to allocate storage to transportation customers. However, Staff offered no evidence in this case to suggest that Dr. Rosenberg's allocation of a portion of Manlove to transportation customers is unfair. Moreover, Staff acknowledged that transportation customers would benefit from this service. (Staff Br at 255). Moreover, Staff has recommended Peoples cease its Hub service and this would leave an additional 10.2 BCF of unused Manlove capacity that would become available for customer use. (Staff Br at 111; *See*, Zack, Tr. 499-500, 509). Dr. Rosenberg's recommended allocation of storage would require an incremental increase of 8.2 BCF of Manlove storage already allocated to transportation customers assuming that it was in fact fully subscribed.[5]

Given Staff's proposal to eliminate hub services and given the fact that adoption of Staff's recommendation will make an additional 10.2 BCF of Manlove storage capacity available for customer use, it is difficult to see why Staff would oppose requiring the Companies to offer USB service.

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[5]Dr. Rosenberg recommended 19.8 days (that is, 19.8 times MDQ) of storage be devoted to USB, whereas Peoples recommended that the base load component of the AB should be 9 days. (Zack, PGLC Ex. TZ 1.0 at 40:914-917). Thus, acceptance of Dr. Rosenberg's USB proposal would require an additional 10.8 days of Manlove storage relative to the Peoples' proposal. Mr. Zack notes that Peoples' transportation customers had combined MDQs of 660,00 Dth and the quantity for North Shore was 99,000 Dth, for a total of 759,000 Dth. (*See*, Zack, PGLC/NS Ex. TZ-2.0 at 29:643-645). Multiplying that figure by 10.8 days yields 8.2 BCF.

CONCLUSION

The Companies' proposals to impose new or additional limits on the ability of transportation customers to use storage should be rejected. The Commission should require the Companies to offer USB service.

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