

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

<b>Illinois Commerce Commission</b>	:	
<b>On Its Own Motion</b>	:	
<b>-vs-</b>	:	
<b>North Shore Gas Company</b>	:	<b>05-0748</b>
	:	
<b>Reconciliation of revenues collected</b>	:	
<b>under gas adjustment charges with actual</b>	:	
<b>costs prudently incurred.</b>	:	

**ADMINISTRATIVE LAW JUDGES' PROPOSED ORDER**

By the Commission:

**I. Procedural History**

On November 22, 2005, the Illinois Commerce Commission (“Commission”) entered an Order Commencing PGA Reconciliation Proceedings directing North Shore Gas Company (“North Shore”, “Company”, or “Respondent”) to present evidence at a public hearing in this docket showing the reconciliation of revenues collected under its Purchased Gas Adjustment (“PGA” or “Gas Charge”) tariff with the actual cost of gas supplies prudently incurred and recoverable under the Gas Charge tariff for the twelve-month period ended September 30, 2005 (the “Reconciliation Period”).

North Shore posted, in its business offices, notice of the filing of its testimony and exhibits with the Commission. North Shore caused notice to be published in a newspaper having general circulation in its service territory in the manner prescribed by 83 Ill. Admin. Code Part 255, in compliance with the November 22, 2005 order.

Pursuant to proper legal notice, a pre-hearing conference was held on April 26, 2006, before a duly authorized Administrative Law Judge of the Commission at its offices in Chicago, Illinois. Thereafter, an evidentiary hearing was held on May 30, 2007. Appearances were entered by counsel on behalf of the Company, the People of the State of Illinois (“AG”), the Citizens Utility Board (“CUB”), and Staff. North Shore presented the testimony of James Orsi, Manager of Gas Accounting, Peoples Energy Corporation; Thomas E. Zack, Director of Gas Supply and Hub Services, The Peoples Gas Light and Coke Company; and Linda M. Kallas, Vice President and Controller, Peoples Energy Corporation. CUB presented the testimony of Jerome D. Mierzwa, Principal and Vice President of Exeter Associates, Inc. Staff presented the testimony of Dianna Hathhorn, Accountant, Accounting Department of the Financial Analysis Division; Dennis Anderson, Senior Energy Engineer in the Gas Section of the Engineering Department of the Energy Division; and David Rearden, Senior Economist, Policy Program of the Energy Division. At the conclusion of the hearing on May 30, 2007, the record was marked "Heard and Taken."

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On July 12, 2007, North Shore, Staff, the AG and CUB each filed initial briefs. On August 2, 2007, the AG filed a reply brief and on August 3, 2007, North Shore, Staff, and CUB each filed reply briefs. The Administrative Law Judges' Proposed Order was served on November 5, 2007.

**II. Uncontested Issues****A. Lost Gas Revenue Policy**

Staff witness Hathhorn recommended that North Shore “consistently and routinely bill third parties for its estimated cost of gas lost as a result of damage to gas lines by third parties.” Staff Ex. 1.0 at 14. She proposed a disallowance of \$335.47 for revenues collected from third parties during the Reconciliation Period for the cost of gas lost as a result of damage to North Shore’s facilities. Staff Ex. 1.0 at 13. Staff did not opine on North Shore’s proposed method for estimating damages.

North Shore witness Zack stated that North Shore bills for lost gas in a few cases. North Shore accepted Ms. Hathhorn’s recommendation to estimate a quantity and value of gas lost and routinely include this in its bill for damages. As recommended by Ms. Hathhorn, North Shore agreed to flow amounts recovered from third parties for lost gas through the Gas Charge. North Shore did not oppose the recommended disallowance of \$335.47.

North Shore also proposed a method for estimating damages. A few key factors affect the quantity of gas lost when a third party damages North Shore’s facilities, notably, size of the pipe, pressure, whether the pipe is fully or partially open, and how long it is open. North Shore developed a table that it proposed to use to estimate gas lost based on these key factors. Resp. Ex. D at 5 and Sch. 1. North Shore requested that the Commission find that this is a reasonable approach to billing for lost gas from third party damage to North Shore’s facilities.

The Commission agrees with Staff that North Shore should routinely seek to recover damages associated with lost gas when a third party damages its facilities and North Shore should flow through its Commodity Gas Charge any amounts it recovers for such damages. The Commission also concludes that North Shore’s proposed method for billing third parties is a reasonable way to compute damages and takes appropriate factors into consideration. The Commission orders North Shore to refund, through Factor O applied to its Commodity Gas Charge, the \$335.47 that North Shore recovered from third parties for lost gas during the Reconciliation Period.

**B. Gas Purchase and Agency Agreement**

Staff witnesses Anderson and Rearden each testified that the Commission previously found that North Shore’s Gas Purchase and Agency Agreement (“GPAA”) was

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imprudent. The GPAA was in effect in October 2004. Dr. Rearden recommended a disallowance of \$337,269. Staff Ex. 2.0 at 3; Staff Ex. 3.0 at 4-5 and Attach. 3.1. Dr. Rearden stated that he calculated his recommended disallowance using the same method that he used in Docket 01-0706, which was North Shore's fiscal 2001 Gas Charge reconciliation case. That method involved calculating a value for discrete elements of the contract. Dr. Rearden stated that he made one adjustment to his calculation (namely, his calculation of the value of demand credits foregone) because the contract was in effect for only one month in the Reconciliation Period. Staff Ex. 3.0 at 5 and Attach. 3.1. The AG supported the \$337,269 disallowance that Staff proposed.

CUB witness Mierzwa similarly testified that the Commission had previously found the GPAA imprudent. His testimony focused on two elements of the GPAA, namely the Summer Incremental Quantity ("SIQ") and the capacity release and assignment provision of the GPAA. He explained why each element was imprudent and calculated an adjustment for each element based on what he stated North Shore paid under the GPAA *versus* what it would have paid without these elements. The recommended adjustments in his direct testimony were \$21,675 for the SIQ and \$563,654 for the capacity release provision. CUB Ex. 1.0 at 5-7 and Schs. JDM-2 and JDM-3. In his rebuttal testimony, he reduced his recommendation associated with the capacity release element to \$509,480. Mr. Mierzwa stated that this adjustment addressed a point raised by North Shore witness Zack.

North Shore witness Zack stated that North Shore would not oppose Staff's proposed disallowance. Citing Dr. Rearden's testimony, Mr. Zack concluded that the Staff calculation is consistent with the Commission's approach to the GPAA in Docket 01-0706 and, for that reason, it is more appropriate to adopt Staff's recommendation than CUB's.

The Commission agrees with the Staff, CUB, and the AG that a disallowance for the GPAA is appropriate. The Commission reviewed the two proposals and concludes that basing the disallowance on the method that was before the Commission in Docket 01-0706 is reasonable. Dr. Rearden's one adjustment to that method was supported by his testimony and is reasonable. Accordingly, the Commission orders North Shore to refund, through Factor O applied to the Commodity Gas Charge, \$337,269.

### **III. Contested Issues**

#### **A. Bank Gas Liability**

##### **1. Staff's Position**

Staff witness Hathhorn proposed to disallow \$388,126.48 for a reconciling adjustment to the liability for the redelivery of gas to transportation customers' gas bank accounts, i.e., banked gas, entered on the Company's books in May 2005. Staff maintains the disallowance is necessary because of uncertainty concerning the accuracy of the

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Company's proposed adjustment. According to Staff, it is uncontested that the Company's proposed adjustment for banked gas inappropriately includes amounts for periods prior to the reconciliation year and that the Company's proposed adjustment relies on its questionable internal controls for banked gas that were in place during the reconciliation period.

Banked gas refers to the Company's recognition of a liability for the redelivery of gas to transportation customers' gas bank accounts. The monthly change in the liability is recorded at the current last-in-first-out price ("LIFO"), and may be either an increase or a decrease to PGA gas costs, depending upon consumption. For the year ended September 30, 2005, this liability increased PGA costs by \$1,213,963.03.

Staff objects only to the May 2005 adjustment to banked gas, which accounts for 32% of banked gas PGA costs for the reconciliation year (\$388,126.48/\$1,213,963.03). The adjustment was recorded when the Company discovered a difference in the volumes attributed to banked gas in its general ledger system versus the volumes attributed to banked gas in its customer billing systems. The difference was discovered during the implementation of Sarbanes-Oxley. Sarbanes-Oxley refers to the Sarbanes-Oxley Act of 2002, which requires the evaluation of the effectiveness of an organization's internal controls over its financial reporting. Staff states that it is undisputed that the banked gas reconciliation process was considered a significant deficiency for Sarbanes-Oxley purposes in FY 2005. This review found that the monthly reconciliation of the gas bank account balances between the general ledger and subsidiary customer ledgers was not being performed in fiscal 2005. The Company confessed that "[t]he way in which large volume transportation customers are billed results in a timing difference that needed to be, but was not being, reconciled." Respondent's Exhibit C at 9. Ironically, Staff notes, while the Company admitted that its adjustment is the result of its lack of internal controls, it still expects full compensation from the ratepayers.

Additionally, Staff argues that the Company acknowledges that it is not possible to identify how much of the volume difference occurred during FY 2005 or prior periods. Respondent's Ex. C at 14. The Company compares these prior year costs (of unknown amount) to pipeline refunds. (*Id.*, pp. 8-9.) The comparison is deliberately deceptive. The pipeline refunds to which the Company refers are flowed back in fiscal years subsequent to the year in which the activity occurred because there is no way for the Company to know the amount of refund at the time of occurrence. This is not the case for the banked gas adjustment, Staff contends. The only reason the Company did not make its adjustment in the proper time period is because it was not performing the necessary reconciliations to record the adjustment in the proper time period.

The Company attempts to shift the focus of the issue to the process it used post-FY2005 to correct its controls of the banked gas accounts. (Respondent's Exhibit C, pp. 9-10; Respondent's Exhibit G.) These improvements, though, do nothing—and can do

nothing—to address how the Company's FY 2005 adjustment originated or why it is flawed, Staff avers.

The Company further attempts to cloud the record by stating that the basis for Staff's opinion that customers were harmed by the adjustment is that the customers in 2005 whose gas costs were affected by the adjustment were not necessarily the same customers who were on the system when the underbilling occurred. However, the possibility always exists that current customers were not on the system when the unamortized balance was generated. Staff's concern is that gas costs for all PGA customers were increased during the 2005 reconciliation year for the Company's adjustment, yet the adjustment cannot be verified and relates to multiple past time periods. The Company's argument concerning how long its customers remain on its system completely misses the point.

In conclusion, Staff recommends that the Commission approve Staff's recommended disallowance of \$388,126.48 for the liability for banked gas because: (1) it was caused by a lack of internal controls by the Company; (2) it is unverifiable; and (3) an unknown, unquantifiable amount of it relates to time periods prior to FY 2005.

## **2. AG**

In its initial brief, the AG, citing Ms. Hathhorn's and Mr. Mierzwa's testimony, supported Staff's and CUB's proposals.

## **3. CUB Position**

CUB witness Mierzwa and Staff witness Hathhorn both concluded that North Shore Gas should not be made whole for its lack of adequate internal controls, and that the Commission should disallow as imprudent the substantial portion of the \$468,868 the Company claimed as the liability for the redelivery of customer-owned gas. Mr. Mierzwa explained that, when transportation customers deliver more gas to North Shore Gas than they consume, the excess deliveries are banked on the customers' behalf and ratepayers are charged for these excess deliveries. Because North Shore does not segregate its system supply from banked gas in storage, the Company states that the banked gas displaces purchases that would have otherwise been necessary to meet the requirements of sales customers. The Company admitted that, until recently, it failed to accurately track and record banked volumes. In fact, the Sarbanes-Oxley audit team verified that the internal controls surrounding the banked gas balances during the 2005 reconciliation period were deficient. CUB contends that, rather than reconciling the banked gas balances with the general ledger, for example, the Company was only able to provide the Commission with documentation from the customer billing system that it used to calculate its adjustment. According to CUB, this information does not provide the parties or the

Commission with the verifiable or accurate cost data necessary to demonstrate that these costs were prudent.

CUB cites the Public Utilities Act, which dictates that it is the utility's burden to establish the prudence of its gas costs (220 ILCS 5/9-220), where prudence is the standard of care which a reasonable person would be expected to exercise under the same circumstances encountered by utility management. *Illinois Power Co. v. Illinois Commerce Commission*, 245 Ill. App. 3d 367, 371 (3d Dist. 1993). CUB avers that the Commission must view all of the Company's claimed costs under this standard, and therefore the verifiability of the utilities cost is of central relevancy. Both Staff and CUB provided evidence that demonstrated that the Company's lack of proper accounting controls lead to an unverifiable adjustment for an unknown, unquantifiable amount of time, which fails the prudence standard under Illinois law.

Furthermore, CUB maintains, pursuant to Section 525 of the Administrative Code, only costs incurred by public utilities during the applicable reconciliation period, as adjusted by Factor A and Factor O, are eligible for recovery. 83 Ill. Admin. Code Part 525.30. While the Company is correct that costs incurred in one reconciliation period may be recovered in another period, CUB reasons that, in such cases, the period of improper collection or assessment is known and the period is of a short duration. In addition, CUB takes issue with the Company's adjustment because it may result in the collection of gas costs from customers who were not customers of North Shore Gas when the undercollection occurred. CUB asserts that it is inequitable to require these customers to pay for gas costs that were not incurred on their behalf.

While the Company initially stated that it did not determine the extent to which the undercollection was applicable to the 2005 reconciliation period, it subsequently claimed that \$80,742 is attributable to the 2005 reconciliation period. CUB and Staff both were sufficiently satisfied with this calculation to accept this amount as being incurred during the reconciliation period and therefore both CUB and Staff reduced their recommended disallowance to \$388,126.48.

In the event the Commission disagrees with CUB's and Staff's recommended disallowance of \$388,126.48 in unverifiable banked gas costs, CUB recommends the Commission adopt the Company's first alternative disallowance calculation, as it is based on changes to North Shore Gas' customer base since 1991, the year the company began accounting for a banked gas liability.

#### **4. Respondent's Position**

During the Reconciliation Period, North Shore made a correction to its bank gas liability. The correction increased gas costs by \$468,868.12 (the adjustment is the product

of the amount of the increase in the bank gas liability (70,826 dekatherms) and the LIFO price (\$6.62)).

North Shore witness Kallas explained that the bank gas liability is the dollar value assigned to North Shore's obligation to deliver bank gas to customers. Transportation customers' ("transporters") deliveries to North Shore do not equal their consumption. The difference is accounted for in the GBA. The Tariff defines the GBA rights. Generally, if a customer's deliveries exceed its consumption, then the GBA balance increases and *vice versa*.

Ms. Kallas explained that on any day when transporters deliver more gas than they consume, North Shore does not literally store the gas for the customer, but it becomes part of system supply. It would displace purchases on that day, which would reduce that day's recoverable gas costs, or be added to storage such that, when withdrawn, it would displace requirements that would otherwise be met through purchases and reduce recoverable gas costs at that time. However, Ms. Kallas stated that the over-delivery creates a Tariff obligation to deliver this quantity of gas to the transporter at some later time. When transporters take GBA gas, North Shore must purchase more gas than what is needed for sales customers' requirements or adjust storage activity or both. This purchase and storage activity represents recoverable gas costs. As Ms. Hathorn stated, the correction was an accounting, not a physical, adjustment and, consequently, it had no effect on the quantity of gas in the GBA to which transporters had rights.

Ms. Kallas stated that when North Shore uses customers' over-deliveries as system supply, it adds to gas costs to reflect the value of these quantities and records a liability to reflect the obligation to deliver this quantity to the transporters. Each month, North Shore re-prices the liability quantity to reflect its current value. Any difference in this new value and previously recorded amount is also passed through the Gas Charge. Ms. Kallas stated that when North Shore delivers GBA gas to transporters, the reduction in the updated liability attributable to the smaller quantity being priced will offset the additional cost of gas purchased that month.

According to Ms. Kallas, Gas Accounting compares the transporters' deliveries to their actual and estimated usage each month. This is based on delivery information from Gas Transportation and usage information from the billing system. The difference increases or decreases the GBA balance. North Shore prices the balance at the current LIFO price and adjusts the liability on the general ledger.

Ms. Kallas stated that North Shore needed to make the GBA correction to reconcile its general ledger and certain subsidiary ledgers. The way North Shore bills transporters results in a timing difference that needed to be, but was not being, reconciled. The general ledger included estimated GBA data while the subsidiary ledgers included actual data. The billing process results in bills issued after the monthly close of the books. To determine an approximate month-end bank gas balance, a usage estimate is included in the general

ledger calculation. The full amount of the obligation was the actual information in the subsidiary ledgers and included in the transporters' bills.

Ms. Kallas opined that North Shore used the correct data to make the correction. The subsidiary ledger information is an accurate source because of the process that leads to information being recorded there. Each day, transporters or their gas suppliers notify North Shore, through what is called a nomination, of the quantity of gas that they will deliver that day. The nomination identifies the customer(s) to which the nomination corresponds. The nominations system has external checks and balances. For example, North Shore must confirm the nominated quantity with the pipeline that will be delivering the gas to North Shore's system. If there is a discrepancy, North Shore, the customer or supplier, and the pipeline must resolve the matter. The supplier may also have to involve its upstream supplier(s) and perhaps other pipelines. Thus, according to North Shore, the delivery quantity, which with usage determines the amount of gas added to or subtracted from the bank, is the subject of a process involving at least two outside parties.

Ms. Kallas stated that there is an additional check because transporters and their suppliers know, through their nominations and the related pipeline activity, what they have delivered and know, through their bills from North Shore, how much gas they used. The difference is the GBA activity, which is also shown on the customer's bill. Ms. Kallas stated that the GBA is a valuable right for transporters and their suppliers. If the bills were wrong, Ms. Kallas stated that the transporter or its supplier would raise this with North Shore.

In response to Staff's criticism that North Shore's reconciliation was insufficient, Ms. Kallas explained that the general ledger system is not intended to be the system that contains detailed billing and receivable information. That information is contained in the billing (C-first) system, which is the sub-ledger of the general ledger system. The information passed to SAP (the general ledger) is summarized by type of customer but does not contain information on individual customers. On a monthly basis, the total revenue recorded in SAP is reconciled against the summarized daily billings in C-first. Additionally, the total balance of each customer's individual accounts receivable balance, as detailed in the C-first ledger, is reconciled to the balance contained in SAP. Therefore, the general ledger is reconciled to the detailed C-first sub-ledger. The only way that an individual customer's bill could be reconciled to the general ledger would be if the detail by each customer was recorded in the general ledger. Ms. Kallas stated that this would not be practical or cost efficient.

North Shore agreed that a flaw in the way it determined the bank gas liability led to the correction in the Reconciliation Period. North Shore acknowledged that a reconciliation between ledgers needed to occur, and it has worked to eliminate the problem. However, North Shore argued that the gas costs at issue were prudently incurred, and the bank gas liability included in the Reconciliation Period was the correct amount. Absent the correction, North Shore asserted that the sales customers, who used, but did not pay for,

the bank gas when transporters delivered it, would not be paying for the gas that they used.

## **5. Commission Analysis and Conclusion**

Although the language of Section 525 of the Administrative Code supports the position that a utility may generally not recover a cost out of the reconciliation period, we are hesitant to say that exceptions will never occur. This situation, however, does not warrant making such an exception. The Commission finds that Staff and CUB have raised sufficient questions concerning the Company's internal accounting controls. Ms. Hathhorn, in her rebuttal testimony, stated that the Company's insufficient audit procedure consisted of "merely adjusting its general ledger record to agree with its customer billing records without verifying the cause of the differences." Staff Ex. 4.0 at 6. We agree with Staff that this does not prove that PGA gas customers are liable for an additional \$388,126.48 in costs.

The Company argues that this gas has been used by customers and, therefore, customers should pay for it, but North Shore has not explained why the 2005 LIFO price is appropriate. Although Company witness Kallas argues that the current LIFO price is appropriate because the Company will have to deliver this gas in the future to transportation customers and the current LIFO price is the best proxy of the Company's future liability, we are not convinced. The question is not what it will cost North Shore to deliver this gas to transportation customers, but rather what sales customers would have paid as it was used over the past 16 years. If not for the Company's error, customers would presumably have been charged at prior year rates over the course of the time period.

The Commission accepts that \$80,742 of this amount was accrued during the reconciliation period, but this is the only amount for which the utility provided sufficient evidence of prudent accounting. Thus, the Commission concludes that \$388,126.48 of the \$468,868 in banked gas liability should be disallowed as imprudent.

### **B. Bank Gas Liability Prior Period Adjustment**

#### **1. Staff's Position**

Staff witness Hathhorn proposed to disallow of \$279,054.45 in costs related to FY 2004, which is a closed reconciliation year, as ordered in Docket 04-0682. In order to adjust the FY 2004 reconciliation, Staff argues that the docket would need to be reopened.

Staff notes that the Company compares the correction to the routine true-up of gas costs and revenues which result through Factor A. However, Factor A is an on-going automatic adjustment that flows the under/over recovery of actual gas costs and revenues from the second prior month into the calculation of the rate to charge customers. Staff's

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adjustment does not relate to the routine true-up of gas costs to suppliers or revenues affected by usage. Rather, it is the result of a one-time error during the time period that was the subject of a global settlement. The Company advocated, and the Commission accepted, a settlement which rendered any analysis of Respondent's gas costs and revenues of these prior periods moot. By correcting this error within FY 2005, the Company is attempting to better its deal from that provided in the settlement of the prior years' reconciliations.

Because Staff did not review the Company's FY 2004 reconciliation activity due to the settlement in Docket 04-0682, there is no evidentiary record to review for possible errors in the FY 2004 reconciliation. As such, it is inappropriate now to allow increases to gas costs for FY 2004 because the issue, by default, was handled in the settlement. If the Company believes the costs in Staff Exhibit 4.0, Schedule 4.6 are material, Staff suggests the Company petition the Commission to re-open Docket 04-0682.

**2. AG**

In its initial brief, the AG, citing Ms. Hathhorn's testimony, supported Staff's proposal.

**3. CUB-City Position**

CUB did not address this adjustment.

**4. Respondent's Position**

According to Ms. Kallas, the subject of Ms. Hathhorn's "prior period adjustment" proposal is that, in September 2004, the routine monthly bank gas entry booked was incorrect due to a spreadsheet error in the supporting document for the entry. This error prevented the proper valuation of the year-end bank gas volumes at North Shore's year-end LIFO rate, causing both the liability and gas costs to be understated in that month. This error was discovered after North Shore had closed the books for September 2004. Accordingly, North Shore deferred a correcting entry to the very next month of October 2004.

This item is the product of a routine entry and not part of reconciling the general and subsidiary ledgers, *i.e.*, it is distinct from the bank gas liability issue discussed above. Ms. Kallas stated that it was prudent to book a correcting entry in the month immediately after the error's detection.

Ms. Kallas explained that the fact that the costs were incurred in fiscal year 2004 does not preclude their recovery in fiscal year 2005. Under the Commission's Gas Charge rules, this occurs routinely. For example Factor A, which is a component of each month's Gas Charge, is predicated on a two-month lag. (The lag in this instance was one month.)

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The amortization period for Factor A can be up to twelve months. 83 Ill. Admin. Code §525.50. As a second example, Ms. Kallas stated that the Gas Charge rules require the utility to flow pipeline refunds through the Gas Charge. It is certainly possible for a pipeline refund to pertain to costs incurred in a prior fiscal year. 83 Ill. Admin. Code §525.50(a)(1). Under North Shore's Tariff, Ms. Kallas stated that it is likewise inevitable that costs and credits incurred in one year will be recovered or refunded in a subsequent year. The liability tracks deliveries of transporters' gas. The Tariff governing transporters' rights ensures that there will be an undefined lag between deliveries to the bank and deliveries from the bank.

Finally, Ms. Kallas stated that an adjustment to gas costs crossing fiscal years is not uncommon. An example is booking gas cost accruals in the last month of one fiscal year only to have to true-up those gas costs in the following first month of the next fiscal year to actual gas costs. North Shore argued that the Commission does not and need not re-open a docket every time such an adjustment occurs.

## **5. Commission Analysis and Conclusion**

The same concerns arise here with the additional problem that this time period is subject to a settlement, which was accepted by the Commission. As such, the Commission is not inclined to allow the Company to correct its error for this time period. Accordingly, we agree with Staff that \$279,054.45 in costs related to FY 2004 should be disallowed.

### **C. Audit**

Pursuant to the Commission's orders in Dockets 01-0706, 02-0726, 03-0704 and 04-0682, a third party is currently conducting a management audit of North Shore's gas supply function. Staff witness Hathhorn testified that if, after the Commission issues a final order in this case, the management audit uncovers any material issues or adjustments related to fiscal year 2005, then this proceeding should be reopened. Staff witness Anderson stated that, after the audit is completed, a course of action will need to be determined. CUB witness Mierzwa testified that CUB reserves the right to propose further adjustments based on the audit. The AG stated that the Commission's order should include a finding and ordering paragraph to permit the re-opening of this docket pending the outcome of the audit.

North Shore argued that it is premature to address what, if any, effect the audit will have on this proceeding. North Shore cited the Commission's rules, which address reopening a docket. The rule (83 Ill. Admin. Code §200.900) states:

After issuance of an order by the Commission, the Commission may, on its own motion, reopen any proceeding when it has reason to believe that conditions of fact or law

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have so changed as to require, or that the public interest requires, such reopening. No party may petition the Commission to reopen on its own motion until after the time to petition for rehearing has expired.

North Shore argued that Section 200.900 will govern when and whether this proceeding is re-opened. There is no basis in the record to speculate about the effect of the audit, nor are there any rights for parties to reserve in this regard. When the audit report is issued, Section 200.900 of the Commission's Rules of Practice is sufficient to address the concerns raised by the Staff and CUB witnesses. Staff agrees that Section 200.900 will govern re-opening, but Staff asserts that it is appropriate for the Commission's order to include a finding and ordering paragraph to address the audit.

The Commission concludes that there is no need to provide for re-opening this docket based on the audit. The Commission's rules adequately address this matter.

**IV. FINDINGS AND ORDERING PARAGRAPHS**

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

- (1) North Shore Gas Company is an Illinois corporation engaged in the distribution of natural gas to the public in the State of Illinois and, as such, is a public utility within the meaning of the Public Utilities Act;
- (2) the Commission has jurisdiction over North Shore Gas Company and of the subject matter of this proceeding;
- (3) the recitals of fact and the conclusions reached in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact;
- (4) North Shore Gas Company has filed a reconciliation of revenue collected under its purchased gas adjustment clause (Rider 2, Gas Charge, of Respondent's Schedule of Rates) with the actual costs prudently incurred and recoverable under Rider 2, for the twelve months ended September 30, 2005;
- (5) North Shore Gas Company should implement Factor O refunds of \$1,004,785.40 through its Commodity Gas Charge in its first monthly Gas Charge filing after the date of this Order;
- (6) except as provided in Paragraph (5), the Commission approves North Shore Gas Company's reconciliation statement; and

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- (7) all motions, petitions, objections or other matters in this proceeding which remain undisposed of should be disposed of consistent with the conclusions herein.

IT IS THEREFORE ORDERED that North Shore Gas Company's purchased gas reconciliation of costs actually incurred for the purchase of natural gas with revenues received for such costs, for the twelve month reconciliation period ended September 30, 2005, as set forth in Appendix A to this Order, be, and is hereby, approved.

IT IS FURTHER ORDERED that North Shore Gas Company should refund the Commodity Gas Charge Factor O of \$1,004,785.40 beginning with the first monthly filing following the issuance of this order.

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:	November 5, 2007
BRIEFS ON EXCEPTIONS DUE:	November 19, 2007
REPLY BRIEFS ON EXCEPTIONS DUE:	November 26, 2007

Leslie Haynes,  
John Riley,  
Administrative Law Judges