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 ON EXCEPTIONS

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REPLY BRIEF ON EXCEPTIONS
OF THE ILLINOIS INDUSTRIAL ENERGY CONSUMERS

I.

INTRODUCTION

The Illinois Industrial Energy Consumers ("IIEC"), by their attorneys, Lueders, Robertson & Konzen, LLC., will reply to Exception No. 26 and Exception No. 27 in the Initial Brief on Exceptions of North Shore Gas Company ("North Shore") and the Peoples Gas Light & Coke Company ("Peoples") (collectively the "Companies"), as well as the proposals of other parties to modify the seasonal injection requirement adopted in the November 26, 2007 Proposed Order (the "Proposed Order") and the proposal to adjust the Proposed Order's adoption of year-round MDQ injection limits for Riders FST and SST with a maximum daily nomination ("MDN") limit during April through October. IIEC's failure to respond to any party or any particular argument should not be considered an acceptance of that party's position or argument, unless otherwise specifically stated herein.[1]

X. TRANSPORTATION ISSUES

C. Large Volume Transportation Programs

4. Injection, Withdrawal and Cycling Requirements

a. Seasonal Cycling Requirements

The Companies recommend, in their Exception No. 26, that the Proposed Order be modified to reduce the seasonal injection target applicable to large volume transportation customers on the North Shore system from 85% to 75% of the customer's Allowable Bank, provided the Commission grants

[1] This Reply Brief is organized in a manner consistent with the headings in the Proposed Order, however, it references only the headings that are relevant to IIEC's arguments.

Exception No. 27 of their Brief on Exceptions.[2] They argue that the original 85% limit is justified by evidence in the record. However, because of concerns raised by Large volume transportation customers about the impact of this target and the daily injection and delivery limits proposed by North Shore, the Companies have agreed to address the "interplay" between the seasonal injection target and the daily injection and delivery limits on the North Shore system by reducing the target injection limit from 85% to 75%. (Companies' BOE at 83).

IIEC has explained the impropriety of seasonal injection and withdrawal limits at pages 2-4, 10-11 of its Initial Brief, pages 2-5 of its Reply Brief and pages 2-5 of its Initial Brief on Exceptions. It will not repeat those arguments here.

First, however, it does wish to point out to the Commission that the Companies originally took the position that an 85% injection target was necessary on the North Shore system in order to protect the ability of North Shore to manage its storage assets. The fact that the Companies are proposing to reduce the injection limit calls into question the need for the limit in the first place.

Second, the Companies argue that "large volume transportation customers" are concerned about the impact of the target in comparison with daily injection and delivery limits proposed by North Shore. (Companies BOE at 83). To the best of IIEC's knowledge, the only "large volume transportation customers" participating in this case are the IIEC Companies. They have not expressed concern about the interplay between these two requirements. They would prefer that the Proposed Order's language be modified to eliminate the language adopting a seasonal injection target for North

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[2]Exception 27 seeks modification of the Proposed Order to adopt injection limits based on MDN during the months of April through October instead of MDQ injection limits on a year round basis.

Shore and a seasonal injection target for Peoples. To the extent there is concern about the interplay between the issues of seasonal injection targets and daily delivery and injection limits, they would prefer it be resolved by such Commission action.

Third, the imposition of a MDN, as recommended in Exception No. 27, is counterproductive in the presence of a seasonal injection target for North Shore at 85% or 75% and for Peoples at 70%. That is, to require transportation customers to fill their storage bank to 85% or 75% or 70%, as the case may be, by November 30 of each year and at the same time, to limit the transportation customers daily nominations, in the months of April through October, and thereby make it difficult, if not impossible, for those customers to meet the injection requirement, is counterintuitive and gives contradictory signals to the transportation customer. The customer is told on one hand to limit its daily nominations, and on the other hand to fill its bank to 70% or 75% of capacity by a certain date.

Fourth, the Companies have introduced no evidence to justify seasonal cycling requirements of any kind. Indeed, IIEC has pointed to substantial evidence in the record which demonstrates that such requirements are harmful to sales customers. (IIEC/CNE/VES Jt. Ex. 1.0 at 23-24). Therefore, the record does not support the modified injection targets as proposed by the Companies.

Finally, to the extent other parties have a concern about the "interplay" between the seasonal injection requirement and the daily nomination limits, the more appropriate solution is to allow transportation customers to broaden the allowable daily nomination. For example, on the Nicor system, customers are permitted to nominate up to two times their MDQ in the months of October through March. (*See*, Vanguard Int. Br. at 5 discussing Nicor's existing nomination rules.)

b. Daily Injection Limits

In Exception No. 27, the Companies argue that the Proposed Order errs in rejecting the daily injection and delivery limits proposed by the Companies. Specifically, they object to the Proposed Order's recommendation that the nomination caps for Riders FST and SST be defined by MDQ on a year-round basis. (Companies' BOE at 83). The Companies argue that certain suppliers are willing to accept "limitations on their ability to nominate gas under . . ." Rider FST and Rider SST. (Id). IIEC opposed daily injection limits at pages 5-8 of its Initial Brief and pages 2-4 of its Reply Brief and it will not repeat those arguments here. However, IIEC does believe there are additional reasons to reject the Companies' recommended modifications.

First, IIEC would again like to respectfully point out that no end-use transportation customer has supported this type of approach. The Riders in question apply to end-use transportation customers, not suppliers.

Second, the Companies' proposal is unwieldy and impractical. Large transportation customers must operate their facilities in a manner that allows them to produce a product or service which may not lend itself to fixed daily nomination limits. Customers wishing to produce more product, on the 14th day of the month as compared to the 13th day of the month, may require more gas to do so. Customers using their gas to generate electricity may wish to produce more electricity on the 15th day of the month instead of the 14th day of the month based on market prices for electricity, which are extremely volatile. It is not possible for these large customers to predict with any degree of certainty that their usage will be the same on the 30th day of the month as it was on the 1st day of the month. Proposals which require customers to limit their daily nominations to 100% of their average daily nomination for the corresponding month of the preceding year, plus a percentage of their AB, are not acceptable. Indeed, even if such proposals are modified to allow the large volume customer to modify its MDN at the beginning of the month, so as to select an MDN is more reflective of its estimated usage for the coming month in the then current year, it does not provide such customers with any great comfort. This is because the need to produce more product or generate additional electricity on the 28th or 29th or 30th day of any given month is not always predictable on the first day of that month.

Third, as noted above in the discussion of the Companies' Exception No. 26, imposition of daily injection limits will limit, unfairly, transportation customers' ability to meet the November 30 injection target approved by the Proposed Order. To the extent the Proposed Order retains such an injection requirement, it should not, under any circumstance, impose daily nomination limits on transportation customers.

The Companies also cite to the rebuttal testimony of their witness Mr. Zack, in support of their argument that sales customers suffer in the absence of caps on large volume transportation customer nominations. (Companies BOE at 84). They claim the Proposed Order ignores this evidence. However, it is the Companies who ignore the evidence offered by IIEC demonstrating that assumptions made by the Companies' witness Mr. Zack, in concluding sales customers were harmed, were not realistic. As Dr. Rosenberg testified:

> . . . Mr. Zack imagines a case where transportation customers empty their entire storage bank in a single month (November), fill their bank 40% in December, empty it out completely the next month, and then fill it up back to their starting level the subsequent month. I have never, in my experience, encountered a customer that operates in a manner even remotely similar to this. In fact, Mr. Zack's case is not possible as the Companies have a one-third withdrawal limitation on storage gas in the winter. Therefore, a customer is only allowed to

> withdraw one-third of its entire bank capacity per month. A customer is unable to completely drain its storage bank if it is greater than one-third full at the beginning of the month. A customer's withdrawal of more than one-third of its bank will initiate a penalty to the customer assessed by the Companies and the Companies will also fill the customer's storage bank with companion gas to the extent that it exceeded the one-third withdrawal. The Companies then charge the customer for the companion gas at a published monthly rate.
> (IIEC/CNE/CES Jt. Ex. 2.0 at 18-19).

Thus, it is apparent that the Companies' allegations of harm to sales customers are based on assumptions that are totally unrealistic. The Proposed Order refuses to accept the Companies allegation of harm to sales customers without empirical evidence of such harm, and in the face of competent evidence from IIEC witness Dr. Rosenberg, to the effect that the Companies' analysis is unrealistic, its rejection of the MDN limits described in Exception No. 27 is fully justified.

Next the Companies argue that the Proposed Order ignores the fact that the Companies have altered or modified their various proposals for daily nomination and injection limits almost on a continuous basis, throughout this proceeding. (Companies BOE at 84). IIEC respectfully suggests that the Companies willingness to modify its proposals and to do so at almost every turn of this case, calls into question the need for such limits in the first instance. Furthermore, there is no "quid pro quo" for the Companies continuous modification of its original proposals as the Companies argue in their Brief on Exceptions. The standard for approval of rates and tariffs as described in Subsection (c) of Section 9-201 of the Illinois Public Utilities Act. This standard requires that the utilities demonstrate that their proposed tariffs and rates are just and reasonable and it imposes the burden of proof for doing so on the utilities. (220 ILCS 5/9-201(c)). In this particular instance, there is ample evidence in the record to demonstrate that the Companies have not justified the imposition of these daily limits at any stage of this proceeding. Staff witness Dr. Rearden has indicated they have not done so. (Rearden, Staff Corr. Ex. 24.0 at 9).[3] IIEC witness Dr. Rosenberg has also offered similar testimony. He testified that the Companies' witness " . . . Mr. Zack has not presented a single instance of transportation customers interfering with the Companies' operation of storage or harming sales customers. . .". (IIEC/CNE/VES Jt. Ex. 2.0 at 22). The Companies most certainly have not done so in the context of their Brief on Exceptions.

CONCLUSION

For the reasons stated above, the Commission should not adopt an Order that incorporates seasonal injection targets which would require transportation customers to fill their Allowable Bank to 70% on the Peoples system and as proposed in Exception No. 26 of the Companies' Brief on Exceptions ,75% on the North Shore system by November 30 of each year. The Commission should not adopt an Order incorporating the daily nomination limits proposed by the Companies, including, but not limited to, the MDN proposal discussed in Exception No. 27 of the Companies' Brief on Exceptions.

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[3]In fact, Dr. Rearden testified: "I oppose the Companies' proposal. The Companies have not made their case. Mr. Zack does not demonstrate that transportation customers are cross subsidized by sales service customers. The Companies' proposal is too restrictive and is inconsistent with giving customers choice. Additionally, the Companies have adequate tools to make their transportation ans sales offerings work effectively without imposing more customer restrictions."

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Respectfully submitted

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