STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission On Its Own Motion vs Consumers Gas Company Reconciliation of revenues collected Under gas adjustment charges with Actual costs prudently incurred.	: : : : : : : : : : : :	05-0741

REPLY BRIEF OF THE STAFF
OF THE ILLINOIS COMMERCE COMMISSION

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March 7, 2008

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Staff of the Illinois Commerce Commission ("Staff"), by and through its undersigned counsel, pursuant to Section 200.800 of the Illinois Commerce Commission's ("Commission") Rules of Practice (83 Ill. Adm. Code 200.800), respectfully submits its Reply Brief in the instant proceeding. On February 15, 2008, Initial Briefs were filed by Consumers Gas Company ("Consumers" or the "Company") and Staff. Staff replies herein to the Initial Brief ("IB") filed by Consumers.

I. ARGUMENT

A. The Evidence Supports Staff's Position that Consumers' June 8, 2005 Gas Purchase from its Unregulated Affiliate was Imprudent

Consumers argues against Staff's comprehensive and convincing analysis in the instant reconciliation proceeding by inappropriately turning the issue into

one that is personal. (Consumers IB, pp. 4-12.)[1] Staff will not succumb to this faulty thought process and suggests that the Commission not do so either. The appropriate focus of this proceeding is whether the costs of Consumers' June 8, 2005 gas purchase from its unregulated affiliate, Egyptian Gas Storage ("Egyptian"), were imprudently incurred. Staff has uncontrovertibly proven that, on that date, Consumers incurred imprudent gas costs as a result of purchasing gas from its unregulated affiliate.

Staff has demonstrated that on June 8, 2005, Consumers reached an agreement with Egyptian to purchase sufficient in-place storage gas for its June and July injections into the leased storage service which Consumers leased from Egyptian. On that same day, Egyptian reached an agreement with Atmos Energy Corporation ("Atmos") to purchase in-place inventory at the same storage facility. The evidence clearly proved that a conflict of interest existed and, as President of both Consumers and Egyptian, C.A. Robinson purchased the gas on behalf of Consumers from Egyptian at an imprudently high cost. (Staff IB, pp. 7-26.)

Staff's review identified three areas which supported its conclusion that these gas costs were imprudently incurred: (1) the knowledge of the pending in-place inventory transaction between Egyptian and Atmos caused Consumers to deviate from its past practice regarding how it purchased its storage inventory gas; (2) the purchase was a clear conflict of interest between Consumers and its

[1] Staff contends that the portion of Consumers' Initial Brief, inaccurately titled "Section IV - Background and Statement of Facts" (pages 4-9), contains more of Consumers' opinion and argument than fact and, as such, is part of the Company's Initial Brief Argument. In no way does Staff agree that Consumers' alleged "Statement of Facts" consists of accurate or agreed-to facts in the instant proceeding.

unregulated affiliate, Egyptian; and (3) the agreements in place between Consumers and Egyptian were neither designed nor intended for an in-place transfer of storage gas. Staff also proved that since Consumers purchased the gas in-place from Egyptian, Egyptian had no right to charge an injection fee from Consumers; in fact, an injection fee for this gas had already been collected by Egyptian from Atmos. (Id., pp. 8-20.)

Staff fully supported both the logic of its pricing adjustment as a result of the imprudent costs incurred by Consumers as a result of its June 8, 2005 purchase of gas from its unregulated affiliate (Id., pp. 20-21) and the quantification of its pricing and injection adjustments (Id., pp. 21-22). Staff's recommended disallowance was explained and demonstrated via two Tables (Id., pp. 4, 5) and Appendix A attached to Staff's Initial Brief, which is also attached hereto.

Further, Staff made two recommendations regarding Consumers' actions based upon its findings that: 1) Consumers' knowledge of the imminent purchase of Atmos' in-place inventory by Egyptian altered its historical purchasing practices; 2) the purpose of the Gas Sales Agreement ("GSA") was only to allow the purchase of local gas production from Egyptian; and 3) Consumers did not have the appropriate authority to expressly conduct in-field transfers of storage gas with its affiliate, Egyptian. First, Staff recommended that the Commission order Consumers not to engage in any transactions involving the in-place inventory transfers between Consumers and Egyptian until an agreement expressly covering the potential for that occurrence is approved by

the Commission. Staff also recommended that the Commission order Consumers to cease any sales for resale transactions involving the GSA. (Id., pp. 22-23.)

Finally, Staff has previously and resoundingly refuted each and every one of Consumers' arguments (Consumers IB, pp. 10-12) against Staff's finding of imprudency. (Staff IB, pp. 23-26.) Of particular concern to Staff, however, is Consumers' argument that "Staff did not present any evidence in contradiction of Consumers' evidence." (Consumers IB, p. 11.) Staff reminds Consumers that **Consumers** has the burden of proof in its PGA reconciliation proceedings – not Staff. As Section 9-220 of the Illinois Public Utilities Act, 220 ILCS 5/9-220, clearly provides:

> In each such proceeding, **the burden of proof shall be upon the utility** to establish the prudence of its cost of fuel, power, gas, or coal transportation purchases and costs. (Emphasis added.)

Staff maintains that Consumers has not met its burden of proof in the instant 2005 PGA reconciliation proceeding. Accordingly, Staff requests that the Commission approve all of Staff's adjustments and recommendations in this proceeding.

B. The Commission Should Address Consumers' Inadequate Responses to the Accounting Department's Standard Interim and Year-End Data Requests

In both direct and rebuttal testimony, Staff witness Kahle noted the inadequacy of many of the Company's responses to the Accounting Department's interim and year-end data requests and requested that the Commission order Consumers to prepare its responses in a more thorough and

complete manner in the future. Not only did Consumers disagree with this recommendation, but Staff witness Kahle underwent considerable cross-examination regarding the matter. (Staff IB, pp. 26-27.) Consumers' only argument now is that this recommendation is "based upon Mr. Kahle's individual expectation of the manner in which responses are to be prepared and submitted." (Consumers IB, p. 9.)

As Staff witness Kahle has aptly explained, the generic interim and year-end data requests are standard questions that have been routinely used for quite some time by the Accounting Department Staff for all gas companies. These data requests elicit information that is highly quantifiable and not subject to misinterpretation. (Staff IB, p. 27.) Consumers' suggestion that Mr. Kahle reviews the Company's data request responses in a lone and arbitrary manner is misplaced and inappropriate. As such, Staff maintains that the Commission's Final Order in the instant proceeding should order Consumers to prepare its responses to the Accounting Department's standard interim and year-end data requests in a more thorough and complete manner.

II. CONCLUSION

For the foregoing reasons and the reasons set forth in Staff's Initial Brief, Staff respectfully requests that the Commission adopt Staff's reconciliation of revenues collected under Consumers' purchased gas adjustment clause with actual costs as reflected on ICC Staff Exhibit 4.0, Schedule 4.01, attached hereto as Appendix A, and order Consumers to refund $36,210, as a Factor O refund, in the first monthly PGA filed after the date of the Final Order in the instant

proceeding. Staff also requests that the Commission order Consumers to reduce 2006 gas costs by $25,431 for pricing and injection charge adjustments. Staff further requests that the Commission order Consumers to reduce the balance of Cushion Gas shown on the Company's general ledger by $955 for pricing and injection charge adjustments.

Additionally, Staff requests that the Commission order Consumers not to engage in any transactions involving the in-place inventory transfers between Consumers and its affiliate, Egyptian, until an agreement expressly covering the potential for that occurrence is approved by the Commission. Staff further requests that the Commission order Consumers to cease any sales for resale transactions involving its GSA with Egyptian. Finally, Staff requests that the Commission order the Company to prepare its responses to the Accounting Department standard interim and year-end data requests in a more thorough and complete manner.

Respectfully submitted,

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March 7, 2008

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Consumers Gas Company
Reconciliation of Purchased Gas Adjustment Clause
For the Twelve Months Ended December 31, 2005
(In Dollars)

Line No.	Description	Amount per Company Statement 1	Staff Adjustments to include interest and to correct balances	Staff Adjustment for Pricing (Schedule 4.02)	Staff Adjustment for Injection (Schedule 4.03)	Amount per Staff
	(A)	(B)	(C)	(D)	(E)	(F)
						Columns (B + C + D + E)
1	Unamortized Balance as of 12/31/2004 per 2004 Reconciliation	$ 30,000	$ 62	$ -	$ -	$ 30,062
2	Factor A Adjustments Amortized to Schedule 1 at 12/31/2004	64,039	-	-	-	64,039
3	Factor O Collected/(Refunded) During 2005	14,765	360	-	-	15,125
4	Balance to be Collected/(Refunded) During 2005 from prior periods (sum of lines 1-3)	$ 108,804	$ 422	$ -	$ -	$ 109,226
5	2005 Gas Costs	$ 6,061,363	-	$ (23,293)	$ (3,776)	$ 6,034,294
6	2005 PGA Revenues	(6,298,617)	-	-	-	(6,298,617)
7	Pipeline Surcharges/(Refunds)	-	-	-	-	-
8	Other Adjustments (Rounding)	-	-	-	-	-
9	Interest	244	-	-	-	244
10	2005 Under/(Over) Recovery (sum of lines 5-9)	$ (237,010)	$ -	$ (23,293)	$ (3,776)	$ (264,079)
11	Under/(Over) Recovery Balance at 12/31/2005 (line 4 + line 10)	$ (128,206)	$ 422	$ (23,293)	$ (3,776)	$ (154,853)
12	Factor A Adjustments Amortized to Schedule 1 at 12/31/2005	(38,231)	-	-	-	(38,231)
13	Unamortized Balance as of 12/31/2005	(80,112)	(300)	-	-	(80,412)
14	Factor O to be Collected / (Refunded) (Line 11 - Line 12 - Line 13)	$ (9,863)	$ 722	$ (23,293)	$ (3,776)	$ (36,210)