

**REBUTTAL TESTIMONY**  
**OF**  
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**ILLINOIS COMMERCE COMMISSION**  
**ENERGY DIVISION -- POLICY SECTION**

**NORTHERN ILLINOIS GAS COMPANY**  
**d/b/a Nicor Gas Company**

**DOCKET NOS. 00-0620/00-0621**

**CUSTOMER SELECT PROGRAM**

**February 9, 2001**

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## ATTACHMENTS

Exhibit 3.1 - Staff response to Nicor Data Request CCSI 28

Exhibit 3.2 - Nicor’s response to the Citizen’s Utility Board’s Data Request 2.9

1 **I. Introduction**

2 Q. Please state your name and business address.

3 A. Charles C. S. Iannello, 527 East Capitol Avenue, Springfield, IL 62701.

4

5 Q. Are you the same Charles C. S. Iannello that previously testified in this case?

6 A. Yes.

7

8 Q. What is the purpose of your Rebuttal Testimony?

9 A. I will respond to the Rebuttal Testimony of Nicor Witnesses Harms and Gilmore and  
10 the Direct Testimony of Governmental and Public Intervenor ("GCI") witnesses  
11 Alexander and Mierzwa.

12

13 Q. Are there any corrections that you would like to make to your Direct Testimony?

14 A. Yes, the statement on page 6, lines 138-139, of my Direct Testimony is incorrect  
15 and should be eliminated.

16 Q. Does this change have any effect on the recommendations that you have made  
17 throughout this proceeding?

18 A. No.

19 **II. Rebuttal to Nicor Witness Harms**

20 **A. Group Additions Fee**

21 Q. Please restate your proposal for recovering the costs associated with customer  
22 switching.

23 A. Nicor proposes to charge suppliers a \$10.00 Group Additions charge each time  
24 they sign-up a new customer. I propose to eliminate the Group Additions charge  
25 and recover the costs of customer switching through the monthly Customer Account  
26 charge. The Customer Account charge is assessed to each supplier based on the  
27 number of customers served by the supplier. Given Nicor's estimate for the level of  
28 customer switching, my proposal would increase the monthly Customer Account  
29 charge by \$.04 per customer.

30

31 Q. Please describe the advantage of your proposal for recovering customer switching  
32 costs and the effect it will have on suppliers and customers in the Customer Select  
33 Program.

34 A. Nicor's proposal, to charge suppliers \$10.00 each time they sign up a new  
35 customer, has the potential to act as a barrier to switching by raising the cost of  
36 signing away customers from other suppliers. If this charge becomes too  
37 burdensome, suppliers may drop out of the program altogether and, in so doing,  
38 reduce the extent of competitive behavior by the remaining smaller group of  
39 competitors. All customers would be harmed if Nicor's proposed Group Additions  
40 Charge reduced the level of competition in the Customer Select program.  
41 Conversely, all Customers would benefit if my proposal, to recover the costs of  
42 switching through the Customer Account Charge, resulted in a more competitive  
43 market. I expect that Nicor's proposed \$10.00 Group Additions charge would have

44 the most detrimental effect on residential customers because of the narrow profit  
45 margin for serving residential customers.

46

47 Q. Mr. Harms refers to your claim that there are narrow profit margins for serving  
48 residential customers as an "unsubstantiated assumption". Do you have any  
49 information that supports your claim?

50 A. Yes, I have participated in both formal and informal discussions with representatives  
51 from natural gas marketing companies and local distribution companies that have  
52 unbundled residential natural gas service. The statement made in my direct  
53 testimony was based on these discussions and my knowledge of natural gas prices,  
54 costs associated with gas supply purchasing, and an average residential  
55 customer's annual consumption. Since preparing that Direct Testimony, I have also  
56 discovered a reference that quantified the margin for serving a residential customer  
57 as an average of \$25.00 per year while the cost of pursuing and signing a  
58 residential customer was calculated to be \$200. This information is included in my  
59 response to Nicor's data request CCSI 28, which is attached to my Rebuttal  
60 Testimony as ICC Exhibit 3.1.

61

62 I have found additional information since I responded to Nicor's data request. This  
63 information is included in a response by Nicor witness Harms to Citizens' Utility  
64 Board's ("CUB") data request CUB 2.9, which is attached to my Rebuttal Testimony  
65 as ICC Exhibit 3.2. In this data request response, Mr. Harms discusses the

66 difficulties Nicor has had in attracting suppliers to the Customer Select program.  
67 He states that, "Additionally, Nicor Gas has been a low cost provider of gas and it  
68 may be difficult for some suppliers to earn, in their opinion, a satisfactory return on  
69 their investment." While not referring specifically to suppliers serving residential  
70 customers, Mr. Harms nevertheless concedes that margins for serving customers in  
71 the program in general may be what suppliers consider to be insufficient.

72  
73 Finally, the number of suppliers actively marketing to residential customer in the  
74 Customer Select program may be evidence of the narrow margin for serving  
75 residential customers. There are currently 280,000 residential customers eligible  
76 for service under the Customer Select program, but there are only three suppliers  
77 actively marketing to these customers. Higher margins would attract more than  
78 three suppliers.

79  
80 Q. Mr. Harms points out that the Peoples Gas Light and Coke Company's ("Peoples")  
81 Group Additions charge in its small volume transportation program is the same as  
82 that proposed by Nicor. Does Nicor's proposed Customer Select program differ  
83 from Peoples' small volume transportation program in any fundamental way?

84 A. Yes. Peoples' program is available to commercial customers for whom recovery of  
85 the additional fee is likely to be a smaller component of the total bill than for  
86 residential customers. Nicor's proposed Customer Select program would be

87 available to approximately 1.9 million residential customers whereas Peoples' small  
88 volume transportation program is not available to any residential customers.

89

90 Q. Mr. Harms claims that you suggest that any fee charged by the Company could  
91 pose a "barrier to entry" and therefore be anti-competitive. How do you respond to  
92 Mr. Harms' claims?

93 A. While any fee charged to suppliers has the potential to be a barrier to entry, I  
94 certainly would not claim that all fees are "anti-competitive". Just like any other cost  
95 input, fees and charges assessed in the Customer Select program directly reduce a  
96 supplier's profit margin. Nicor is not assessed any of the Customer Select fees for  
97 providing sales service and, therefore, does not pass these costs on to customers  
98 through its PGA charge. Thus, a limit exists on the amount of charges and fees that  
99 suppliers can incur before they would lose the ability to compete with Nicor's PGA  
100 rate. Suppliers serving residential customers will suffer the greatest impact  
101 because, as I stated on page 15 of my Direct Testimony, the margin for serving  
102 residential customers is relatively minimal.

103

104 In addition, fees and charges may be anti-competitive by disadvantaging suppliers  
105 that compete with Nicor's affiliate Nicor Energy L.L.C.. If the revenues collected  
106 from the charges and fees assessed to suppliers exceed the incremental cost of  
107 offering the Customer Select program, non-affiliated suppliers would incur greater  
108 costs while the corporate entity Nicor would simply experience a transfer of

109 revenues from one sister company to another. GCI witness Mierzwa raised this  
110 same point on page 13 of his Direct Testimony.

111

112 Q. On page 3, lines 8 -18, Mr. Harms claims that the tax savings, which Nicor can not  
113 avoid, are enough to offset Nicor's proposed charges for a supplier with 10,000  
114 customers and a level of 5% customer additions. How do you respond to this  
115 characterization?

116 A. First, there is only one supplier participating in Customer Select with more than  
117 10,000 residential customers. For suppliers serving a smaller number of  
118 customers, fixed per supplier charges will have a greater impact on these suppliers.  
119 Second, I do not expect taxing bodies to ignore the fact that their tax revenues are  
120 dwindling away if the number of customers taking service under Customer Select  
121 grows substantially. If local and state government realize a substantial reduction in  
122 tax revenues and begin to tax suppliers, suppliers will have to overcome additional  
123 cost burdens. Finally, Nicor may have significant economies of scale in supply  
124 purchasing and capacity management due to the approximately 1.7 million  
125 customers that it serves. These economies may reduce Nicor's supply costs and  
126 allow the Company to offer natural gas commodity at a relatively low price.  
127 Suppliers may also have to overcome these economies of scale.

128

129 Q. That depends on the scope of the "competitive atmosphere", as Mr. Harms uses the  
130 term. On page 5, line 22, of his rebuttal testimony, Mr. Harms states, "A healthy and

131 vibrant competitive atmosphere already exists in the natural gas industry.” Do you  
132 agree with this statement?

133 A. That depends on the specific segment of the natural gas industry to which Mr.  
134 Harms is referring. If Mr. Harms is referring to wholesale markets for natural gas or  
135 even retail markets for large volume customers in Nicor’s service territory, I would  
136 tend to agree with his statement. However, I would strongly disagree if Mr. Harms is  
137 referring to the Customer Select Pilot Program. The level of competition in  
138 wholesale markets or even in retail markets for large volume customers is not  
139 indicative of the level of competition in Nicor’s Customers Select Pilot Program.

140

141 **B. Single Billing**

142 Q. In his rebuttal testimony, Mr. Harms objects to your proposal for Nicor Gas to allow  
143 Customer Select suppliers to offer a single bill. Will you be responding to Mr.  
144 Harms?

145 A. Not at this time. Staff witness Schlaf will be adopting my testimony on the single  
146 billing issue and addressing Mr. Harm's objections to single billing for suppliers.

147

148 **C. Customer Responsibility for Services Rendered to Supplier**

149 Q. Mr. Harms continues to defend the Company’s proposal to collect charges owed by  
150 defaulting suppliers from customers if the supplier fails to remit payment. Please  
151 restate your opinion of this proposal.

152 A. As I stated in my Direct Testimony, customers have no idea what types of charges  
153 that the Company assesses to suppliers. Suppliers are responsible for paying  
154 charges assessed by the Company under Rider 16, Supplier Aggregation Service.  
155 These charges include: Cash-Out Amounts, Gas Supply Charge, Firm Delivery  
156 Charge, Critical Day Non-Performance Charge excluding the \$6.00 per therm  
157 charge, Operational Flow Order Non-Performance Charge, and the Required Daily  
158 Delivery Non-Performance Charge. Under the Company's proposal, customers  
159 would be asked to evaluate the risk of supplier default and the expected costs that  
160 they would incur if such an event took place. It is not appropriate or customers,  
161 particularly residential customers, to have to measure and bear such risks. This is  
162 an unfair practice that should not be allowed. Nicor is in a much better position to  
163 collect from defaulting suppliers, and I encourage them to do so.

164 ***D. Additional Recommendations by Nicor Witness Harms***

165 Q. On page 1, lines 15 - 19, and page 2, lines 1-5, of his rebuttal testimony, Company  
166 witness Harms proposes to change the implementation date from March 1, 2001 to  
167 March 1, 2002. Do you have any concerns regarding Mr. Harms proposal?

168 A. Obviously, it is too late to implement the program by March 1, 2001. However, I  
169 believe that attempting to set an implementation date at this stage would be  
170 presumptuous given the range of recommendations from the various parties to this  
171 proceeding.

172

173 Q. In his Rebuttal Testimony, Mr. Harms proposes an additional Standard for the  
174 Standards of Conduct section of Rider 16, Supplier Aggregation Service. Is this a  
175 reasonable Standard to be included in the Company's tariff?

176 A. Mr. Harms proposes the following Standard:

177 (l) in the event a supplier is found by the Illinois Commerce Commission  
178 or court of law to be in breach of a contract with a customer, the  
179 Commission may impose an appropriate reparation, to be  
180 administered by the Company

181  
182 It is not appropriate for me to comment on the above-proposed language  
183 because it requires an interpretation of the law and Commission authority.

184

### 185 **III. Rebuttal to Nicor Witness Gilmore**

#### 186 **A. *Operational Flow Orders***

187 Q. On page 4, lines 9 through 14, of his Rebuttal Testimony, Mr. Gilmore claims that  
188 you have focused on one particular type of Opeerational Flow Order ("OFO"). Have  
189 you focused on a particular type of OFO?

190 A. Yes, I have focused on the type of OFO that would enable Nicor to limit the quantity  
191 of gas delivered to a potentially constrained city-gate station by Customer Select  
192 suppliers and require Customer Select suppliers to deliver gas to an unconstrained  
193 city-gate station. If suppliers are unable to arrange for delivery to an unconstrained  
194 city-gate station when such an OFO is called, the Company will assess an  
195 Operational Flow Order Non-performance Charge for each therm of under-delivery  
196 below the Required Daily Delivery Range. The non-cost based Operational Flow

197 Order Non-Performance Charge has been arbitrarily set at 200% of the high price  
198 of gas reported for Chicago citygate for under-deliveries and 50% of the low price  
199 for over-deliveries.

200

201 If suppliers' actions were insufficient to remedy the operational problem, Nicor would  
202 remedy the operational problem and pass the costs on to Customer Select  
203 suppliers only. I have focused on this type of OFO because I believe it is the most  
204 burdensome requirement that Nicor would be able to impose on Customer Select  
205 suppliers. Furthermore, this type of OFO best illustrates the inherent inequity of  
206 Nicor's proposal.

207

208 Q. Why is Nicor's proposed System Operational Controls section inequitable?

209 A. Nicor's proposed System Operational Controls section is inequitable because it  
210 would enable Nicor to impose requirements on Customers Select suppliers in order  
211 to resolve operational problems that were created by the actions all shippers  
212 including Nicor and non-Customer Select transportation customers. Thus, imposing  
213 OFOs on Customer Select suppliers would shift the costs of alleviating operational  
214 problems from all shippers onto Customer Select suppliers only.

215

216 Q. Please explain how OFOs would shift the cost of alleviating operational problems  
217 from all shippers to Customer Select suppliers.

218 A. OFOs would apply only to Customer Select suppliers because Nicor proposes to  
219 include the System Operational Controls section in Rider 16, Supplier Aggregation  
220 Service, which applies only to Customer Select suppliers. If multiple shippers were  
221 delivering gas to a specific city-gate station and Nicor determined that an  
222 operational problem could arise, Nicor would have the ability to issue an OFO  
223 limiting the deliveries of Customer Select suppliers only. Although all shippers may  
224 have had primary rights to deliver gas to that city-gate station, Nicor's OFO would  
225 have singled out Customer Select suppliers as the cause of the operational  
226 problem.

227

228 Q. How can Nicor determine which suppliers are responsible for creating operational  
229 problems at a specific city-gate station if all suppliers have the same delivery rights  
230 to that city-gate station?

231 A. It is normally impossible to pinpoint responsibility for operational problems because  
232 suppliers are not required to deliver gas to Nicor's system based on the location of  
233 the load they serve. That is, Nicor does not require suppliers to deliver gas to  
234 specific city-gate stations on Nicor's system under normal operating conditions.  
235 Any determination of responsibility for operational problems, other than a pro-rata  
236 application to all shippers, would be purely arbitrary and potentially discriminatory if  
237 left in the hands of Nicor. If all shippers have the same delivery rights to a specific  
238 city-gate station and Nicor determines that an operational problem may arise unless

239 deliveries to that city-gate station are limited, OFOs should place limitations on  
240 deliveries from **all** shippers, not just Customer Select suppliers.

241

242 Q. Did Mr. Gilmore explain why OFOs of the type that limit deliveries to a specific city-  
243 gate station should apply to Customer Select suppliers only?

244 A. No. Instead, Mr. Gilmore stated that, "While not termed an "OFO", Nicor Gas has  
245 the authority to limit the volume of gas supply that it will confirm at pipeline  
246 interconnects when a system imbalance threatens system integrity." (Gilmore  
247 Rebuttal Testimony, p. 7) This authority is derived from the following language in  
248 the "Limitations on the Rendering of Gas Service" section of the Terms and  
249 Conditions in Nicor's tariff:

250 The Company also reserves the right to limit, on any day, the volumes  
251 of Customer-owned gas delivered into the Company's system when,  
252 in the Company's sole judgement, the total gas supply to be delivered  
253 into the Company's system may cause an adverse effect on system  
254 operations.  
255

256 The above language differs significantly from Nicor's proposed OFO language in  
257 several aspects. Most importantly, the above tariff provisions apply to all shippers  
258 delivering gas into Nicor's system rather than a specific class of shippers, such as  
259 Customer Select suppliers. Furthermore, the above language does not require  
260 shippers to arrange for deliveries to alternate city-gate stations nor does it make  
261 any mention of city-gate stations whatsoever. Despite these differences, Mr.  
262 Gilmore likens the above tariff provisions to the type of OFO that would limit  
263 deliveries at specific city-gate stations. Although I tend to disagree with Mr. Gilmore

264 for the reasons listed above, I question why the OFO provision is necessary if the  
265 Company already has the ability to impose such restrictions on all shippers as Mr.  
266 Gilmore claims. If Mr. Gilmore's claim is true, then Nicor's proposed OFOs, which  
267 limit deliveries to specific city-gate stations, are merely redundant, but I do not  
268 believe this to be the case.

269

270 Q. Mr. Gilmore claims that non-Customer Select suppliers should not be subject to  
271 OFOs of the type that would increase or decrease the Required Daily Delivery  
272 because they are "responsible for the daily balancing of usage, storage and gas  
273 deliveries under the provisions of their tariff or are required to pay for full backup  
274 gas service as would a sales service customer." How do you respond to this claim?

275 A. Mr. Gilmore seems to suggest that transportation customers with full back-up  
276 service should be exempt from OFOs because they pay for the same balancing  
277 services as sales service customers. If this is correct, then Customer Select  
278 customers should also be exempt from the type of OFOs described above because  
279 Nicor recovers the same balancing costs from both Customer Select suppliers and  
280 sales service customers. The base rates charged to Customer Select customers  
281 and sales service customers are identical. Base rates include the cost of on-  
282 system storage facilities that are used by the Company for balancing both sales and  
283 Customer Select customers. Sales service customers are also assessed a Non-  
284 Commodity Gas Cost charge ("NCGC") that recovers the cost of balancing on  
285 interstate pipelines. Customer Select suppliers are assessed an Aggregator

286 Balancing Service Charge ("ABSC") that recovers the cost of balancing on  
287 interstate pipelines. Nicor's tariff refers to the ABSC as the "...usage level based  
288 counterpart to the NCGC." (Rider 6 - Gas Supply Cost). Mr. Gilmore's claim that  
289 non-customer select suppliers should be exempt from certain types of OFOs  
290 because they pay for additional balancing services should be rejected.

291

292 Q. On page 4, lines 15 through 20, of his Rebuttal Testimony, Mr. Gilmore asserts that  
293 you have ignored the possibility that Nicor Gas "...could have a legitimate concern  
294 related to the expansion of unbundling to all remaining sales customers." How do  
295 you respond to this assertion?

296 A. Actually, I find it quite plausible that Nicor Gas is concerned about the effects of  
297 expanding transportation service to all customers. Indeed, I recommend going  
298 beyond Nicor's proposal to include additional provisions in its tariff that allow it to  
299 impose certain restrictions on Customer Select suppliers. If Nicor is concerned  
300 about expanding transportation, I recommend that Nicor file a petition seeking  
301 authority to impose the same or similar conditions on all suppliers rather than  
302 Customer Select suppliers only. The cost of maintaining system reliability should  
303 not be born by a single class of Customer Select customers. To avoid undue  
304 discrimination, the cost of maintaining reliability should be born by all customers.

305

306 Q. Please discuss Mr. Gilmore's responses to your other concerns with the Company's  
307 proposed System Operational Control system and the manner in which OFOs would  
308 be implemented.

309 A. I discussed several concerns with OFOs in my Direct Testimony that were in  
310 addition my concern over the discriminatory nature of OFOs that I addressed above.  
311 These concerns are secondary to my concern over the discriminatory nature of  
312 Nicor's proposal and involve details about OFOs that would be more appropriately  
313 address in a separate proceeding. In my view, it is appropriate to consider OFOs  
314 in the broader context of all customers rather than piecemeal consideration of OFOs  
315 for Customer Select suppliers only. If Nicor were to file a comprehensive proposal, I  
316 believe that my concerns regarding varying costs among suppliers, information  
317 deficiencies, and incentive problems would need to be addressed in greater detail.

318  
319 Q. On pages 14 and 15 of his rebuttal testimony, Mr. Gilmore proposes modifications  
320 to the program that he believes would be necessary if the Commission rejects  
321 Nicor's proposed System Operational Controls section in Rider 16, Supplier  
322 Aggregation Service. How do you respond to Mr. Gilmore's assertion that  
323 additional measures would be necessary if Nicor's proposal to implement OFOs  
324 through the Customer Select program is rejected by the Commission?

325 A. On page 15, lines 14-15, Mr. Gilmore characterizes these alternatives as inferior to  
326 Nicor's primary proposal. I agree with Mr. Gilmore. Not only are these proposals  
327 inferior, but both proposals exhibit the same shortfall as Nicor's primary proposal

328 because they only apply to Customer Select customers and are, therefore,  
329 discriminatory in nature.

330

331 **IV. Rebuttal to GCI Witness Alexander**

332 **A. *Customer Education***

333 Q. Ms. Alexander makes several recommendations concerning the level of education  
334 customers must receive in order to make rational decisions when choosing a  
335 natural gas supplier. Do you believe additional consumer education would benefit  
336 customers that are eligible to participate in the Customer Select program?

337 A. Yes. The Company's educational materials have been made available to  
338 Commission Staff since the inception of the Customer Select Pilot Program. I have  
339 reviewed these materials periodically, as they were made available to Staff. I have  
340 also reviewed these materials for the purpose of testifying in the instant proceeding.

341

342 I believe that the Company's effort to spread the message of the availability of  
343 Customer Select has been more than adequate. However, as Ms. Alexander noted  
344 in her Direct Testimony, Nicor did not teach customers how to shop for natural gas.  
345 The Company did take steps in that direction by providing customers with a list of  
346 questions to ask suppliers regarding pricing options, contract terms and length,  
347 billing options, points of contact and cancellation fees. The Company did not  
348 provide education that would assist customers in understanding the various pricing

349 options offered by suppliers, the utility's PGA rate, and the volatility of natural gas  
350 prices.

351

352 While my opinion differs from Ms. Alexander's on some of the measures that the  
353 Commission must take to ensure that customers are able to make rational  
354 decisions when choosing a natural gas provider, I believe customers would benefit  
355 from additional education if it were properly designed. I recommend that a  
356 workshop process be initiated after the Commission's Order in the instant  
357 proceeding is issued. This workshop would focus on providing customers with  
358 additional tools to evaluate the differences between suppliers' offers and the utility's  
359 PGA rate and gain a better understanding of the natural gas industry. All parties  
360 would be welcome to participate in this workshop. This is not to suggest that the  
361 Commission initiate a customer education campaign from within the agency as Ms.  
362 Alexander recommends. I am unaware of any funding that is earmarked for such an  
363 endeavor. Rather, the workshop would allow interested parties to provide Nicor with  
364 guidance on how customer education should be designed for the Customer Select  
365 program. Based on the cooperation that Nicor has exhibited with Staff in  
366 developing the Customer Select Pilot Program, I would expect Nicor to be very  
367 receptive to input from outside parties.

368

369 Q. On page 17, lines 3-7, of her Direct Testimony, Ms. Alexander proposes that Nicor  
370 Gas "...develop a local consumer education plan that reflects the input and

371 participation by local community-based organizations. This local education effort  
372 should target consumer information to hard to reach customers.” What is your  
373 opinion of Ms. Alexander's proposal?

374 A. I do not object to this proposal. Consumer education may be more effective if it  
375 comes from varying sources such as local community-based organizations.  
376 Because consumers may tend to have an increased level of trust in these  
377 organizations, they may be more effective at educating customers on how to shop  
378 for natural gas. I have several concerns about Ms. Alexander's proposal that I would  
379 like see addressed before I can fully endorse such a plan. I would like to have a  
380 stronger understanding of how Ms. Alexander's proposal would be implemented. I  
381 would also like to know the success rate and popularity of such programs in other  
382 states. These are details that were omitted from Ms. Alexander's testimony, but  
383 could be explored further in a customer education workshop. I do believe that these  
384 efforts would ultimately have to be coordinated by Nicor but could be guided by the  
385 recommendations of workshop participants.

386 **B. Uniform Price Disclosure**

387 Q. In the above response, you stated that your opinion differs from Ms. Alexander's on  
388 some of the necessary measures that the Commission must take to ensure that  
389 customers are able to make rational decisions when choosing a natural gas  
390 provider. How does your opinion differ from Ms. Alexander's?

391 A. I am skeptical of uniform price disclosure as described by Ms. Alexander in her  
392 Direct Testimony. Uniform price disclosure can be problematic due to the

393 fundamental difference between fixed prices and variable prices (such as the  
394 indexed rates charged by suppliers or the utility's PGA charge). The future value of  
395 variable prices could only be estimated due to the volatile nature of market indices  
396 and the utility's PGA charge. Fixed prices, on the other hand, would be known with  
397 certainty and would not require estimation. If historical prices were used to estimate  
398 variable rates, uniform disclosure of fixed and variable prices would actually be a  
399 comparison of expected future prices to historical prices respectively - two sets of  
400 prices that bear no necessary relationship to one another.

401  
402 Natural gas prices have been among the most volatile prices of any publicly traded  
403 commodity. Natural gas prices are affected by innumerable factors including, but  
404 not limited to, weather, production levels, storage levels, oil prices, and electricity  
405 production. There is no reason to believe that this year's prices provide and  
406 accurate estimate of next year's prices. In short, historical prices are not good  
407 proxies for future prices.

408  
409 Uniform price disclosure that relies on historical prices has the potential to mislead  
410 customers. For example, if gas prices were decreasing prior to the period when a  
411 consumer is shopping for natural gas and were expected to continue to decrease  
412 during future periods, fixed rates would appear to be a better deal than an  
413 estimation of variable rates based on historical information. Comparing these

414 "uniformly" disclosed prices would lead the customer to enter into a fixed price  
415 contract prior to a period when prices were actually expected to decrease.

416

417 Finally, I should point out that the Commission has the legislative authority to require  
418 similar price disclosures for retail electric suppliers in Section 16-117(h) of the  
419 Illinois Public Utilities Act but has not exercised this authority to date. Perhaps  
420 consideration of uniform price disclosure requirements for natural gas suppliers in  
421 the Customer Select program should be contingent upon Commission action in the  
422 Illinois retail electricity market.

423

424 Q. Do you oppose disclosure of prices in a Terms of Service Disclosure?

425 A. No. I merely oppose forcing suppliers to characterize the price they offered based  
426 on historical data, performance against the utility's PGA charge, or any other  
427 characterization that could potentially mislead customers about the prices that they  
428 should expect to pay for natural gas under a particular offer.

429

430 **C. *Bill Format and Pricing and Usage Information***

431 Q. Ms. Alexander raises several concerns about the information included on Nicor's  
432 bills and the format of the Nicor bill. Do you share these same concerns?

433 A. Ms. Alexander recommends that each Nicor bill contain historical usage and pricing  
434 information similar to that discussed above. I believe that this information would be  
435 useful to customers and should be included on the bill. However, I recommend that

436 the inclusion of usage and pricing history on the bill complement, rather than  
437 replace, Nicor's system of providing usage and pricing information both annually  
438 and at the customers' request through the mail. If the Commission approves some  
439 form of single billing for suppliers, customers will no longer receive the Nicor bill  
440 containing the usage and pricing information and therefore would need to rely on an  
441 alternate source.

442

443 Ms. Alexander also identifies a problem with the supplier portion of Nicor's bill that  
444 is attached to her Direct Testimony as GCI Exhibit 1.2. She points out a  
445 discrepancy in the charges included in the supplier portion of the bill. Like Ms.  
446 Alexander, I do not know if the utility or the supplier assessed the charges in  
447 question. If the utility assessed the charges, they should not be included in the  
448 supplier's portion of the bill. The supplier's portion of the bill should be clearly  
449 subdivided and contain only charges assessed by the supplier.

450

451 Q. You mentioned usage and pricing information that Nicor provides to eligible  
452 customers on an annual basis and at the Customer's request. Do you have any  
453 recommendations about the format of this information?

454 A. Yes, I have reviewed the historical pricing and usage data that Nicor has provided to  
455 its customers, and I have the following recommendations. I propose that two  
456 additional columns be included to show total monthly natural gas supply cost and  
457 total monthly distribution charges. The difference between the regulated distribution

458 charges and the natural gas supply cost should also be explained, and customers  
459 should be informed that they would pay the same distribution charges regardless of  
460 whether they stay on sales service or choose an alternative supplier. I also  
461 recommend that Nicor's historical PGA charges and distribution rates be made  
462 available on Nicor's web site. The pricing information on the web site and the  
463 pricing and usage information in the mailings should be updated on a monthly basis.

464

465 Nicor has indicated that customers can obtain a free copy of the usage and pricing  
466 information by calling a toll free number. This is a valuable service for customers  
467 who are trying to decide what their best supply option and should remain available  
468 to all customers for the life of the Customer Select program

469

470 ***D. Certification of Suppliers***

471 Q. On page 35 and 36 of her Direct Testimony, Ms. Alexander urges the Commission  
472 to "...seek authority to license and directly enforce consumer protection programs  
473 and policies on natural gas suppliers for any large-scale choice program." Do you  
474 agree with this recommendation?

475 A. No, I view open access programs such as Customer Select as experiments in  
476 competition and not in alternative regulation. The Commission's primary role should  
477 remain the regulation of local monopoly utility companies, whether those utilities are  
478 providing bundled services or unbundled transportation services. Once consumers  
479 find their way to a competitive market for such things as natural gas commodity, the

480 Commission's expertise is not required or desirable, from my perspective. Having  
481 said all of that, I would certainly agree that the experiments (which seem to have  
482 proven extremely effective for large volume customers) may turn out to be less than  
483 fully successful for small volume customers, such as those targeted by "Customer  
484 Select." If that is the case, then the Commission should to revisit the consumer  
485 protection issues raised by Ms. Alexander. Depending on the degree and nature of  
486 such hypothetical failures, the Commission might reasonably conclude that the  
487 experiment should be terminated and small consumers returned to bundled rates for  
488 the foreseeable future. Certainly, we are not at that stage, now. In any event, I think  
489 the least attractive alternative is a mixed system of partial regulation and partial  
490 deregulation of marketers.

491 ***E. Problems with Competitive Suppliers***

492 Ms. Alexander noted on page 34 lines 1-14, suppliers have "defaulted on their  
493 obligations to customers and failed to return prepayments or deposits owed to  
494 customers." I fully expect that similar incidents may take place in Illinois as the  
495 market weeds out suppliers because they operated inefficiently and could not  
496 compete with more efficient suppliers. These incidents have occurred in states that  
497 have either passed specific legislation requiring unbundling or required unbundling  
498 through Commission Order. Some of these states have the same consumer  
499 protections and supplier certification requirements that Ms. Alexander is  
500 recommending. If this program is approved as proposed or with the  
501 recommendations of **any** witness to this proceeding, the Commission should be

502 prepared for incidents such as those referenced by Ms. Alexander and others that  
503 have already occurred in Nicor's pilot program.

504

505 I do not believe that it would be appropriate for the Commission to take on the  
506 responsibility of determining whether contracts between suppliers and customers  
507 were violated. I believe that customers should rely on the same protections that they  
508 have when they purchase any unregulated product. Direct Commission oversight of  
509 natural gas suppliers is not necessary to approve the Customer Select program with  
510 Staff's proposed modifications, nor is it desirable in my opinion.

511

512 That being said, the question of whether the Commission has the authority to pass  
513 rules allowing it to regulate gas suppliers is a legal question that would not be  
514 appropriate for me to answer. If the Commission does not have this authority, then  
515 such authority could only be attained through legislation. In any event, if the  
516 Commission decides to seek such authority, it is an issue that will have to be  
517 addressed outside of the instant proceeding.

518

519 Q. Ms. Alexander describes two concerns regarding the actions of Customer Select  
520 suppliers that have been the source of consumer complaints and confusion. Please  
521 discuss these concerns.

522 A. Overall, complaints about the program have been few. However, two significant  
523 concerns have been raised about supplier tactics. One concern involves Nicor

524 Energy L.L.C. and the other concern involves Santanna Energy Services  
525 ("Santanna").

526

527 Nicor Energy L.L.C.'s "Automatic Lock" option has been rightfully criticized as a  
528 confusing offer. Some customers apparently believed that they were receiving a  
529 fixed price for gas when, in fact, the conditions necessary for the "Automatic Lock"  
530 price to become effective were not satisfied. Customers that chose the "Automatic  
531 Lock" option are now purchasing gas at a market-based rate the monthly Chicago  
532 Area index plus 3.5¢.

533

534 A customer's greatest safeguard against unclear and ambiguous offers is the  
535 optional nature of service under the Customer Select program. An offer that is not  
536 clearly understood should not be accepted. While it is unfortunate that some  
537 customers may have been misled by the "Automatic Lock" option, Nicor Energy  
538 L.L.C.'s variable rate charges should be relatively close to Nicor Gas Company's  
539 PGA charges<sup>1</sup>. To the extent that customers chose Nicor Energy L.L.C. over other  
540 supplier's offering what, in hindsight, was a relatively low fixed price, customers may  
541 have been somewhat disadvantaged by their choice of supplier. However, the  
542 market will discipline Nicor Energy L.L.C. because customers that are unhappy with  
543 Nicor Energy L.L.C.'s services may choose a different supplier next year.

---

<sup>1</sup> One should expect Nicor Gas Company's rates to closely follow the monthly Chicago Market Area index that Nicor Energy L.L.C. uses to determine its monthly charge. That is, the PGA is generally reflective of the variable prices that Nicor Gas Company pays to deliver gas into the Chicago area market.

544

545 The issue concerning Santanna is more troubling since Santanna is alleged to have  
546 violated contractual provisions. Santanna declared "*force majeure*" and shifted  
547 customers from a fixed rate to a floating rate. Customers may have legal recourse if  
548 Santanna violated its contracts. Like the Nicor Energy L.L.C. case, customers are  
549 not likely to incur charges on Santanna's variable rate that are significantly higher  
550 than Nicor's PGA rates. To the extent that customers chose Santanna over other  
551 suppliers offering a similar or higher but guaranteed price, those customers were  
552 disadvantaged by their choices. In any event, if it is determined that Santanna has  
553 violated contractual obligations, that history will likely tarnish Santanna's reputation  
554 in the long run.

555

556 Ms. Alexander refers to the Santanna incident as support for Commission regulation  
557 of suppliers. However, there would be no immediately obvious remedy for  
558 Santanna incidents, if the Commission had jurisdiction over suppliers. Gas prices  
559 have increased substantially since Santanna contracted with its customers. Gas  
560 prices rose from \$2.90 per Mcf in March to almost \$4.20 per Mcf in June when  
561 Santanna declared force majeure (and have subsequently increased to more than  
562 \$10.00 per Mcf). If Santanna would have gone bankrupt absent the force majeure  
563 action, the Commission could have done little to help the customers anyway. GCI  
564 Exhibit 1.3, which includes two articles on a supplier bankruptcy in Western New

565 York, seems to confirm that customers are not likely to reimbursed when suppliers  
566 declare bankruptcy.

567

568 Q. On page 38 of her Direct Testimony, Ms. Alexander describes a generic complaint  
569 handling process that Nicor should follow when handling complaints about supplier  
570 conduct or the supplier portion of the bill. Do you believe that Nicor should have  
571 such procedures?

572

573 A. Yes. I believe that such procedures would aid in future evaluations of the program.

574

575 Q. On pages 39 -43 of her Direct Testimony, Ms. Alexander discusses a need for an  
576 affiliate code of conduct to prevent cross-subsidies and other affiliate abuses that  
577 allow affiliates to gain an unfair advantage in the competitive market. Do you  
578 recognize a need for standards that regulate interaction between gas utilities and  
579 their affiliates?

580

581 A. Yes. I believe that the evidence presented in the instant proceeding and elsewhere  
582 demonstrates a strong need for rules governing affiliate transactions between all  
583 gas utilities and their affiliates. Docket No. 00-0586 is an affiliate transaction  
584 rulemaking proceeding currently before the Commission. In addition, Nicor has filed  
585 a new operating agreement in Docket No. 00-0537. It is my opinion that Docket  
586 Nos. 00-0586 and 00-0537, rather this instant proceeding, are the appropriate

587 areas to address the potential for cross-subsidization and other actions by utilities  
588 that allow affiliates to gain advantages in competitive markets that may reduce the  
589 efficiency of the marketplace.

590

591 Q. On page 46, lines 12 - 15, of her Direct Testimony, Ms. Alexander recommends that  
592 the Commission prohibit the use of the name and logo by an affiliate of Nicor Gas.  
593 If the use of similar name and logo is not prohibited, Ms. Alexander recommends  
594 that the Commission require affiliates who use similar name and logo "...to make  
595 specific disclosures and refrain from advertising designed to confuse the public."  
596 What is your position on the use of similar name and logo by affiliates of the  
597 incumbent utility?

598 A. I am aware of the confusion that Nicor Energy L.L.C's use of a similar name and  
599 logo may have created and the advantages that the use of this name and logo may  
600 have provided Nicor Energy L.L.C in the Customer Select program.

601

602 With respect to electric utilities and their affiliates, the Commission has already  
603 addressed the issue of prohibiting affiliates from using a similar name and logo in  
604 83 Illinois Administrative Code Part 450 - Non-discrimination in Affiliate  
605 Transactions for Electric Utilities. Specifically, Section 450.25 states the following:

606 Section 450.25 - Marketing and Advertising

607

608 a) An electric utility shall neither jointly advertise nor jointly market  
609 its services or products with those of an affiliated interest in  
610 competition with ARES.

611

612                   b)     Nothing in subsection (a) shall be construed as prohibiting an  
613                   affiliated interest in competition with ARES from using the  
614                   corporate name or logo of an electric utility or electric utility  
615                   holding company.  
616

617                   A similar provision exists in Part 550.30 of the draft gas affiliate rule.

618                   With respect to Ms. Alexander's disclosure recommendation, I am unaware of any  
619                   Commission precedents. The Pennsylvania Public Utility Commission's disclosure  
620                   provision listed on page 45 of Ms. Alexander's Direct Testimony seems like a  
621                   reasonable requirement that could be added into the Standard of Conduct section  
622                   of Rider 16, Supplier Aggregation Service.  
623

624     **V.     Rebuttal to GCI witness Mierzwa**

625     Q.     On pages 13 and 14 of his Direct Testimony, Mr. Mierzwa discusses cost  
626             reductions that Nicor may experience as a result of offering the Customer Select  
627             program. Mr. Mierzwa identifies the potential cost reductions as "...lower cash  
628             working capital for gas in storage inventory, and lower cash working capital  
629             requirements for purchased gas costs and administrative and general costs  
630             associated with the acquisition and delivery of gas supplies." ?

631     A.     I have reviewed Mr. Mierzwa's testimony on the potential cost savings, and I agree  
632             that areas of potential cost savings may exist that could offset some or all of the  
633             costs associated with offering the Customer Select program. I would like to see  
634             further analysis of such cost savings before I offer a recommendation on this issue.  
635

636 Q. Does this conclude your testimony?

637 A. Yes.