

Rebuttal Testimony

Of

Christopher L. Boggs

Rate Analyst
Rates Department
Financial Analysis Division
Illinois Commerce Commission

Northern Illinois Gas Company

d/b/a Nicor Gas

Proposed General Increase in Rates and
Revisions to Other Terms and Conditions of Service

Docket No. 08-0363

October 23, 2008

1 **Q. Please state your name and position.**

2 A. My name is Christopher Boggs. I am a Rate Analyst with the Illinois Commerce
3 Commission (“Commission”). I work in the Financial Analysis Division on rate design
4 and cost-of-service issues.

5

6 **Q. Are you the same Christopher Boggs who filed direct testimony in this case?**

7 A. Yes I am.

8 **Q. What is the purpose of your pre-filed rebuttal testimony?**

9 A. The purpose of my rebuttal testimony is to respond to tariff language-related issues
10 discussed in Northern Illinois Gas Company d/b/a Nicor Gas Company (“Nicor Gas”
11 or “Company”) witness Robert R. Mudra’s (Co. Exhibit 29.0) and witness Kevin
12 Kirby’s (Co. Exhibit 21.0) respective rebuttal testimony.

13

14 **Q. Did the Company address the questions that you had regarding its proposal to**
15 **include language to Rider 8, Adjustments for Municipal, Local Governmental**
16 **Unit and State Utility Taxes, clarifying its authority to collect payments as the**
17 **result of local governing authority audit adjustments?**

18 A. Yes. Company witness Mudra responded to Staff Data Request (“DR”) CB 2.07 that
19 sought to obtain Nicor Gas’ reasoning for the proposed language clarification for each
20 of the stated tax charges in Rider 8.

21

22 **Q. Have you reviewed your initial stance on not allowing the Company’s**
23 **proposed language changes to Rider 8, Adjustments for Municipal, Local**
24 **Governmental Unit and State Utility Taxes, regarding clarifying its authority to**
25 **collect payments as the result of local governing authority audit adjustments?**

26 A. Yes. Nicor Gas provided information regarding the basis for the Company’s proposal
27 in response to my DR CB 2.07. (See Attachment Ex. 21.1, Co. Resp. to CB 2.07) In
28 the response the Company makes references to Illinois law and statutes of limitation,
29 which are not within my area of expertise. The issue of who is liable for the payment
30 of potential back taxes, or other potential payment, as a result of a local governing
31 authority audit adjustment, is a much larger legal issue that I, as a non-attorney, am
32 not prepared to address. I am aware that the Illinois Administrative Code contains
33 language that addresses billing customers for unbilled or misbilled service. For
34 example, Illinois Administrative Code Section 280.100 states that

35

- 36 a) A utility may render a bill for services or commodities provided to:
37
38 1) A residential customer only if such bill is presented within one year
39 from the date the services or commodities were supplied, or
40
41 2) A non-residential customer only if such bill is presented within two
42 years from the date the services or commodities were supplied.

43
44 b) No customer shall be liable for unbilled or misbilled service after
45 expiration of the applicable period except in those instances to which 83
46 Ill. Adm. Code 500.240(a), 83 Ill. Adm. Code 410.260(c), or the following
47 subsections of this Section apply.
48

49 In its response to DR CB 2.07, the Company discusses the statute of limitations
50 regarding a municipality's rights to collect for back taxes, as permitted in state law. I
51 am not a lawyer and do not have an opinion as to whether the application of the
52 statute of limitations referenced by the Company or the Illinois Administrative Code
53 would apply. Furthermore, I am not aware that this issue has been addressed by
54 another Illinois utility, which leaves me without any Commission precedent on which
55 to rely.
56

57 **Q. What is your recommendation regarding the Company's proposed language**
58 **changes to Rider 8?**

59 A. As discussed above, I am unable to opine about the legality of the Company's
60 proposal. On a rate design basis, I continue to have concerns about how this
61 proposed language change would be implemented, assuming that it is legal. For
62 instance,

- 63 1. Does each local governing authority have the same statute of limitations?
64 2. How will the Company know what the statute of limitations is for each local
65 governing authority?
66 3. Does the Company have appropriate historical billing information for the
67 customers?

- 68 4. Will the Company bill the current occupant, or account holder, of the premise?
69 5. What if the occupants have not lived in the premise for the amount of time that
70 taxes have not been collected. Is the current occupant of the premise
71 responsible for the full amount of the back taxes, even if the current occupant
72 did not live at the premise for the period in question?
73 6. Will the Company collect the full amount of back taxes in a lump sum or over a
74 period of time?
75 7. Would the Company's process for collecting back taxes be the same for non-
76 residential customers?

77

78 I have sent additional data requests (CB 4 series) that seek answers to these
79 questions. Answers to these questions may or may not allow for a more informed
80 opinion of the proposed language changes to Rider 8.

81

82 Consequently, I am not able to recommend approval of the Company's proposed
83 tariff language regarding this issue.

84

85 **Q. Has the Company provided additional documentation supporting its proposal**
86 **to increase the charge to a customer for damaging non-steel service pipes**
87 **sized 1 1/8" or less from \$360 to \$410?**

88 A. Yes. Company witness Mudra documented 224 incidents in DR response AG 4.07
89 Exhibit 1 where non-steel service pipes sized 1 1/8" or less were damaged and

90 provided documentation on the labor and material costs to repair those damages.
91 The average costs of those documented repairs were \$408.50 per the Company's
92 labor and material calculations.

93

94 **Q. Do you recommend approval of the Company's proposal to increase the fees**
95 **to repair the damaged non-steel service pipes 1 1/8" or less to \$410?**

96 A. No. Since the average documented cost of repairs to non-steel service pipes was
97 \$408.50, I recommend that the charge for the repair of those pipes be increased to
98 \$408.50.

99

100 **Q. Has the Company provided documentation supporting its proposal to increase**
101 **the returned checks for non-sufficient funds fee from \$16 to \$25?**

102 A. Yes. Company witness Mudra responded to Staff DR CB 2.02 and AG DR AG 4.07
103 Exhibit 2 by providing a breakdown of what it costs the Company to process each
104 returned check. While the cost breakdown shows \$17.59, the Company would like to
105 add in a "deterrent factor" by raising its non-sufficient funds fee to match what the
106 Commission approved for People's Gas and North Shore Gas in their previous rate
107 case (i.e., Docket Numbers 07-0421 and 07-0242).

108

109 **Q. Do you recommend approval of the Company's proposal to increase the**
110 **returned check fee for non-sufficient funds?**

111 A. Yes. It is my belief that the Company should be allowed to not only recover its cost
112 of processing a returned check due to non-sufficient funds, but to also deter
113 customers from writing bad checks by adding in a "deterrent fee." It is also
114 reasonable that Nicor Gas' fees for processing returned checks would be set similar
115 to the returned check fees charged by other Illinois regulated gas companies
116 contiguous to its general service area.

117

118 **Q. Has the Company provided documentation or justification for its proposal to**
119 **increase the fees for installation of a gas service pipe for residential customers**
120 **and small commercial customers (Meter Class A) exceeding the first 60 feet?**

121 A. Yes. Company witness Mudra responded to Staff DRs CB 2.03 and MEM 1.01, 3.02
122 and 3.03 and provided the requested justification for the Company's proposed
123 increase for the installation of gas service pipes for Meter Class A customers
124 exceeding the first 60 feet. He provided a time and materials breakdown as well as a
125 breakdown of labor costs.

126

127 **Q. Do you recommend approval of the Company's proposal to increase the fee for**
128 **installation of a gas service pipe for residential customers and small**
129 **commercial customers (Meter Class A) exceeding the first 60 feet?**

130 A. Yes. I believe the Company's response to Staff DRs CB 2.03 and MEM 1.01, 3.02
131 and 3.03 demonstrates that the proposed increase for installation of gas service
132 pipes is consistent with the costs to the Company to install the pipe. I recommend
133 that the proposed increases be approved.

134

135 **Q. Has the Company provided documentation supporting its proposal to increase**
136 **the charge for service reconnection from \$23 to \$42?**

137 A. Yes. Company witness Mudra's response to Staff DR CB 2.04 and AG DR 4.07
138 provided a cost breakdown showing that, on average, the costs to reconnect service
139 to customers for non-payment is \$41.82.

140

141 **Q. Do you recommend approval of the Company's proposal to increase the**
142 **charge for service reconnection from \$23 to \$42?**

143 A. Yes. I believe the Company's response to Staff DR CB 2.04 and AG DR 4.07
144 adequately justifies its proposed increase for this fee and I recommend that the
145 proposed increase to the Service Reconnection Charge be approved.

146

147 **Q. Has the Company provided documentation or justification to support its**
148 **proposal to eliminate the bi-monthly billing program?**

149 A. Yes. In response to Staff DR CB 2.05, Company witness Kevin Kirby explained that
150 the bi-monthly or “summer billing” program caused much customer confusion and
151 proved to be very unpopular. Many customers who received bills every other month
152 from June to October called the Company wondering why they had not received their
153 bill or, when they received their bi-monthly bill, why they were being billed for two
154 months. Customers also expressed a desire to get a breakdown of each month in
155 the summer so that they could better monitor their summer usage. Many times this
156 bi-monthly billing program would cause cash flow and budgetary problems for
157 customers. Other issues that resulted from this billing program were that customers
158 sometimes had to wait up to 60 days to try to resolve billing issues and kept the
159 Company from reinforcing their customer conditioning policy of “get a bill/pay a bill”
160 every month to keep payment practices at the forefront of customer’s minds. Finally,
161 Customer Service Representatives had many more inquiries and issues to resolve
162 during the “summer billing” program timeframe.

163

164 **Q. What is your recommendation now regarding the Company’s proposal to**
165 **eliminate the bi-monthly/summer billing program?**

166 A. The Company’s response to Staff DR CB 2.05, provided a detailed description of the
167 many problems this program has caused the Company and its customers.
168 Accordingly, I recommend the approval of the Company’s proposal to eliminate the
169 bi-monthly/summer billing program.

170

171 **Q. Has the Company provided adequate documentation or justification for its**
172 **proposal to eliminate item (g) on tariff Sheet No. 42?**

173 A. Yes. Company witness Mudra responded to Staff DR CB 2.06 by indicating that Nicor
174 Gas has completed only 3 projects in the last 10 years relating to item (g) on tariff
175 Sheet No. 42, which applies to buildings of 4 stories or more and states that the
176 Company will (1) install underground service pipe at no charge, and (2) will own,
177 operate and maintain vertical gas risers within the building. Witness Mudra also
178 indicated that there have been no work papers completed that prompted the
179 Company to come to the conclusion to eliminate item (g) on tariff Sheet No. 42.

180

181 **Q. What is your recommendation regarding the Company's proposal to eliminate**
182 **item (g) on tariff Sheet No. 42?**

183 A. Based on the extremely limited need to use item (g) in the last 10 years and the
184 Company's commitment that it will (1) install underground service pipe at no charge,
185 and (2) will own, operate and maintain vertical gas risers within the building, I
186 recommend approval of the elimination of the program under item (g) on tariff Sheet
187 No. 42 that applies to buildings of 4 stories or more.

188

189 **Q. Has the Company provided documentation or justification for its proposal to**
190 **change the final paragraph on tariff Sheet No. 38 pertaining to the Service**
191 **Reconnection Charge?**

192 A. Yes. The Company has proposed to change the Service Reconnection Charge
193 paragraph to reflect its proposed increase to the reconnection fee to \$42 from \$23
194 (Company response to Staff DR CB 2. 04). It also proposed various capitalization
195 changes to certain words and removal of certain words to make the paragraph easier
196 to read and grammatically correct.

197

198 **Q. What is your recommendation for the Company's proposed changes to tariff**
199 **Sheet No.38?**

200 A. As discussed earlier in this testimony, I recommend approval of the Company's
201 proposal to increase its Service Reconnection Charge to \$42. If the Commission
202 accepts my recommendation, then I would also recommend approval of the
203 Company's proposal to change the Service Reconnection Charge paragraph to
204 reflect the increased rate. The capitalization changes and the removal of the words
205 previously proposed by the Company should also be approved since they would
206 make the tariff easier to read.

207

208 **Q. Has the Company provided documentation or justification for its proposal to**
209 **the "housekeeping" changes to tariff Sheet No. 12?**

210 A. Yes. The Company's response to Staff DRs CB 3.01 and DAS 4.03 and provided an
211 adequate explanation for its proposal to change the Gas Supply Cost paragraph in
212 tariff Sheet No. 12. In that paragraph, the Company is proposing to change the Gas
213 Supply Cost charge from (1) 0.53 to 0.50 times the Customer's Maximum Daily
214 Contract Quantity multiplied by the Demand Gas Cost (DGC); and (2) the
215 Commodity Gas Cost (CGC) multiplied by the Customer's usage supplied by the
216 Company in the billing period. It provided a spreadsheet (Company response to
217 Staff DR DAS 4.03 (g) Exhibit 4) to illustrate that the underlying data used to
218 compute the factor has changed.

219
220 **Q. Do you recommend approval of the Company's proposal to include the**
221 **"housekeeping" changes to tariff Sheet No. 12?**

222 A. Yes. The spreadsheet and the explanation provided by the Company adequately
223 document and justify its proposed changes. Thus, I recommend approval of the
224 Company's proposed changes.

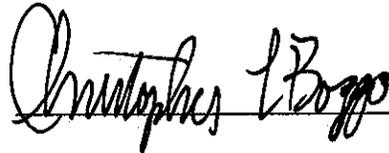
225

226 **Q. Does this conclude your prepared rebuttal testimony in this proceeding?**

227 A. Yes, it does.

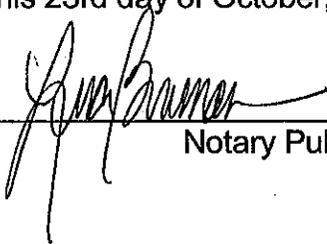
VERIFICATION

I, Christopher L. Boggs, being first duly sworn, depose and state that I am a Rate Analyst in the Rates Department of the Financial Analysis Division of the Illinois Commerce Commission; that I sponsor the foregoing Rebuttal Testimony of Christopher L. Boggs; that I have personal knowledge of the information stated in the foregoing Rebuttal Testimony; and that such information is true and correct to the best of my knowledge, information and belief.



Christopher L. Boggs
Rates Analyst
Illinois Commerce Commission

Subscribed and sworn to before me
this 23rd day of October, 2008.



Notary Public

Northern Illinois Gas Company d/b/a Nicor Gas Company
Response to: Illinois Commerce Commission
Ill.C.C. Docket No. 08-0363
CB Second Set of Data Requests

CB 2.07 Q. Referring to Company witness Mudra’s direct testimony (Co. Ex. 14.0 pg. 33), please provide an explanation of the basis for the Company’s proposal to amend the language within Rider 8 to clarify its authority to collect payments as the result of audit adjustments from any local governing entity to offset the effect of any taxes remitted as the result of the respective audit adjustments. The explanation should include, but not be limited to:

- a. A narrative of at least one factual situation to which this would apply;
- b. The need for the change to the tariff language;
- c. Any legal authority for the change;
- d. The benefit Nicor would receive from the change;
- e. The benefit ratepayers would receive from the change.

CB 2.07 A. The following explains the basis for the Company’s proposal to amend the language within Rider 8:

- a. A hypothetical example of this factual situation is described below: Nicor Gas collects and remits municipal utility tax from its customers to “Municipality A” based on the records Nicor Gas maintains of gas customers located within that municipality. Municipality A then conducts an audit of tax remittances. During the course of the audit, Nicor Gas first learns from Municipality A that 20 previously unincorporated homes were annexed into Municipality A four years ago. Municipality A never informed Nicor Gas of the annexation. Nonetheless, Municipality A asserts that, under Illinois law, Nicor Gas is liable, without regard to fault, for four years worth of back taxes for those 20 homes.
- b. Nicor Gas seeks to clarify that if, as a result of an audit such as that described in the hypothetical above, it were required to remit back taxes to Municipality A, Nicor Gas can collect these taxes from the 20 homes. By adding the proposed clarifying language to the last paragraph of Rider 8, it is clear that the effectiveness of the charge for the additional tax attributable to these 20 homes, relates to the date on which the audit by Municipality A is resolved. The

resolution date becomes the date when Nicor Gas actually pays the back taxes.

- c. The legal authority for “Municipality A” to assert a claim for up to 4 years of back taxes would be the statute of limitations set forth in Municipality A's ordinance adopting the tax. Furthermore, State law permits municipalities to extend a statute of limitation for up to 4 years for collection of back taxes. Municipality A also could argue that because Nicor Gas is the taxpayer under a municipal utility tax and because the tax is assessed against revenues Nicor Gas received from Sales customers located in the municipality, that Nicor Gas is strictly liable for undercollections even if it had never been notified of the annexation of the 20 homes.
- d. The benefit to Nicor Gas is that Rider 8 would squarely address an issue that utilities are confronted with today related to municipal tax audits. Nicor Gas currently has many pending municipal tax audits covering multiple prior year periods.
- e. Generally, the purpose of Rider 8 is to permit Nicor Gas to pass through the cost of a municipal tax directly to the residents of the municipality that imposes the tax. This change will help insure that all residents who enjoy the same benefits of living within Municipality A will be equally taxed, including in situations such as the 20 newly annexed homes described in the hypothetical above.

Witness: Robert R. Mudra