

REBUTTAL TESTIMONY

of

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Illinois Commerce Commission

Northern Illinois Gas Company

d/b/a Nicor Gas Company

Proposed General Increase in Gas Rates

Docket No. 08-0363

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1 **I. Witness Qualifications**

2 **Q. State your name and business address.**

3 A. David Brightwell, Illinois Commerce Commission, 527 East Capitol Avenue,
4 Springfield, Illinois, 62701.

5 **Q. Are you the same David Brightwell who previously testified in this proceeding?**

6 A. Yes.

7 **II. Purpose of Testimony and Background Information**

8 **Q. What is the subject matter of your direct testimony?**

9 A. My direct testimony concerns Rider 27: Company Use Gas Cost Adjustment
10 (“CUA”) and Rider 29: Energy Efficiency Plan (“EEP”) proposed by Northern
11 Illinois Gas Company d/b/a Nicor Gas Company (“Nicor Gas” or “Company”)

12 **III. Rider 27: Company Use Gas Cost Adjustment (“CUA”)**

13 **Q. What conclusions and recommendations did you make regarding Rider
14 CUA in your direct testimony?**

15 A: My primary recommendation was that the Commission should reject Rider
16 CUA. My two major concerns were that Rider CUA diminishes the Company’s
17 incentive to conserve natural gas and that it is debatable whether the costs the
18 Company seeks to recover through Rider CUA are significant.

19 I also recommended that should the Commission approve Rider CUA, it
20 should remove the component that sets the baseline volume as the lesser of the
21 previous year or the test-year forecast volume. Instead, the Company’s
22 conservation incentive is stronger if only the test-year volume is used as a

23 baseline rather than the lesser volume of the test-year and the most recent year.

24 Mr. Mudra agreed with this alternative recommendation. (Co. Ex. 29.0, p. 52).

25 **Q. Since you filed your direct testimony, have you reviewed any additional**
26 **materials regarding Rider CUA?**

27 A. Yes. I read the direct testimony of Attorney General (“AG”) and Citizen’s Utility
28 Board (“CUB”) (collectively “AG/CUB”) witness Scott J. Rubin and the rebuttal
29 testimonies of Company witnesses O’Connor, Bartlett, and Mudra. Mr. Rubin’s
30 direct testimony referred to pages 39-40 of the Commission’s final order in
31 Docket No. 04-0779, Nicor Gas’ last rate case. I read those pages of the
32 Commission’s 2004 order as well.

33 **1. Mr. Rubin’s direct testimony.**

34 **Q. Please summarize Mr. Rubin’s testimony.**

35 A. Mr. Rubin argues that there should not be an automatic recovery
36 mechanism for costs the Company seeks to recover in Rider CUA (AG/CUB EX.
37 2.0 pp. 13-18). He bases this opinion on the facts that Rider CUA causes the
38 Company’s customers to bear all risks from natural gas price fluctuations (p. 14),
39 the lack of substantial fluctuation in costs and usage from year to year (p. 14),
40 and the ability of the Company to request amortization from the Commission of
41 the portion of Rider CUA costs in Account 823 if these costs were to change
42 significantly.

43 **Q. Did Mr. Rubin’s direct testimony cause you to alter your overall**
44 **recommendation to reject Rider CUA?**

45 A. No. I believe Mr. Rubin's direct testimony strengthens my
46 recommendation to reject Rider CUA. In the event that prices are substantially
47 above the test-year forecasted level, the Company, with Commission approval,
48 can amortize a large percentage of the costs that Rider CUA seeks to recover.

49 **Q. What recommendations would you make based on this new evidence?**

50 A. Should the Commission feel that Rider CUA is warranted, I recommend
51 that it only allow recovery of expenses from Accounts 819 and 931 through Rider
52 CUA and that it continues to allow the Company the ability to amortize the costs
53 associated with account 823.

54 **2. Response Mr. O'Connor's rebuttal testimony**

55 **Q. Please summarize Mr. O'Connor's rebuttal testimony regarding Rider CUA.**

56 A. Mr. O'Connor's rebuttal testimony addresses my statement that "[n]atural
57 gas prices are very volatile" (Staff Ex. 13.0, p. 22) and makes an incorrect
58 assertion that I concur "that the impact of a dollar change to the price of company
59 use gas is significant when measured against Nicor Gas net income." (Co. Ex.
60 27.0, p. 14).

61 Mr. O'Connor responds to Mr. Rubin's testimony by asserting that Mr.
62 Rubin fails to recognize the volatility of prices (Co. Ex. 27.0, p. 16.), or the impact
63 of this volatility on cost recovery (Co. Ex. 27.0, p. 16.). Further, Mr. O'Connor
64 believes that seeking Commission approval to recover significant costs under
65 account 823 is not adequate to address the volatility of Company use gas costs
66 because this procedure is intended for "protection for volumetric gains or losses

67 arising from cumulative inaccuracies of gas measurement” and that this method
68 “does not allow for the recovery of higher costs, it merely postpones recognition
69 of the costs over an amortized period.” (Co. Ex. 27.0 p. 17).

70 **Q. Do you agree with Mr. O’Connor’s position regarding amortizing costs in**
71 **account 823?**

72 A. I am not an accountant. However, Staff’s position is that these costs can
73 be recovered through amortization with Commission approval. Staff witness
74 Hathhorn addresses the accounting details. (Staff Ex. 15.0)

75 **Q. Do you concur that the dollar change in the price of gas is significant when**
76 **measured against Nicor Gas net income?**

77 A. No. In my direct testimony, I stated that a \$1 change from the test-year
78 forecasted average price of natural gas leads to about a 2.2% change in the
79 Company’s proposed operating income. I also noted that the 2.2% figure
80 appears more significant in terms of being a much higher percentage than the
81 0.2% if one compares it to the Company’s original cost rate base.

82 Also, the Commission removed the portion of this Rider associated with
83 account 823 from Rider 6 in the Company’s 2004 rate case order (Docket No.
84 04-0779, pp. 39-40) and ordered it recovered from base rates, because account
85 823 allows for amortization with Commission approval in the case of significant
86 adjustments. This provision further diminishes the potential impact of gas prices
87 on company use gas costs.

88

89 **Q. Please elaborate on your statement that natural gas prices are very volatile.**

90 A. Overall, I believe there is volatility in the price of natural gas. However,
91 that statement from my direct testimony should be amended to say natural gas
92 future prices are very volatile rather than natural gas prices are very volatile. I
93 believe this is supported by the remainder of my answer in direct testimony. The
94 very next sentence begins to describe the New York Mercantile Exchange
95 (“NYMEX”) settlement prices for January 2009. Later in my answer, I address
96 Henry Hub spot prices and discuss the volatility in those prices.

97 However, the real concern facing the Company is the volatility in annual
98 average prices not the price for the same month across different years. There is
99 much less volatility in annual average prices than in monthly prices.

100 **Q. Why is the average annual price more important than the monthly prices?**

101 A. The Company uses gas over the course of the year. In some months the
102 price may be higher than the test-year forecasted price and in other months it
103 may be lower. Overall, the test-year forecasted gas use relevant to Rider CUA is
104 3,080,000 MMBtu (Co. Resp. to Staff DR DB2.07 Ex. 1-Supp.) and \$26.8 million
105 is the approximate test-year forecasted cost (Co. Ex. 12.0, Figure 5, p. 18). This
106 amounts to an average test-year price of approximately \$8.70 per MMBtu (\$26.8
107 million/3,080,000 MMBtu) for company use gas.

108 The analysis I performed in my direct testimony examined the volatility of
109 future prices within individual months and the range of spot prices for the same
110 month in different years. Neither method addressed the volatility of average

111 annual prices. In Co. Ex. 27.5, Mr. O'Connor used the coefficient of variation to
112 measure cost volatility. I conduct a similar analysis later in this testimony.

113 **Q What is the coefficient of variation?**

114 A. The coefficient of variation ("CV") is a measure of how compactly
115 distributed a random variable is around its mean. The lower the value of the
116 coefficient of variation, the more compact the distribution and the less volatility.
117 The mathematical formula for CV is the standard deviation of a random variable
118 divided by its mean.

119 **Q. How volatile are prices using the coefficient of variation?**

120 A. If I use the coefficient of variation as a measure of price volatility, similar to Mr.
121 O'Connor's analysis in Co. Ex. 27.5, the value for annual average spot prices for
122 the years 2000-2007 is 0.30 (see Staff Ex. 25.1). This represents a much less
123 volatile impact than the 0.62 CV that Mr. O'Connor calculates for "Total Company
124 Use Impact" in CO. Ex. 27.1.

125 **Q. Why do you think price volatility is a more appropriate measure of volatility
126 rather than the "total company use impact" that Mr. O'Connor reports?**

127 A. As Mr. O'Connor points out, "Rider CUA seeks only to address the impact of
128 the volatility of natural gas prices not the level of consumption" and "[t]here are
129 essentially two components that comprise company use expense, price and
130 volume." (Co. Ex. 27.0, p. 16). Mr. O'Connor's method fails to separate the impact
131 of changes in natural gas prices from the impact of changes in volume. The result
132 is that he is measuring the total impact that both prices and volumes have on

133 company use expenses, not the impact that just price volatility has on company use
134 expenses. My method more accurately portrays the impact of price volatility, which
135 is a more important measure, since Rider CUA is intended to address the impact of
136 price volatility on company use gas costs.

137 **3. Response to Mr. Mudra's Rebuttal Testimony**

138 **Q. Please summarize Mr. Mudra's testimony regarding Rider CUA.**

139 A. Mr. Mudra replied to my recommendations with respect to the
140 conservation incentives in the originally proposed Rider CUA. Specifically, the
141 Company removed the reference to the lesser of the most recent year and test-
142 year forecasted volumes in the definitions of the RCCUT and RCTSCT portions
143 of Rider CUA. RCCUT and RCTSCT are variables used within the calculation for
144 the money the Company recovers through Rider CUA¹.

145 **Q. What was the reason for your recommendation?**

146 A. By always referencing back to the most recent year, Rider CUA
147 significantly reduces the incentive of the Company to invest in conservation or to
148 make expenditures that reduce natural gas usage. This occurs because it
149 reduces the recovery period on these investments to only one year since the
150 impact of the investment would be reflected in lower use in the next year's

¹ The original definition of RCCUT is The lesser of (i) the amount of Company Use that would be included in Account 819 and Account 932, measured in therms, and that used in the computation of base rates in the Company's most recent rate case, or (ii) ACUT. RCTSCT was originally defined as The lesser of (i) the amount of Company Use that would be included in Account 823, measured in therms, and that used in the computation of base rates in the Company's most recent rate case, or (ii) ACUT. ACUT is the amount of Company use, measured in therms, purchased in the previous calendar year.

151 baseline.. In the next year, the originally proposed Rider CUA takes into account
152 the savings that occurred in the previous year and prevents further recovery on
153 this investment until the next rate case.

154 Deleting the reference to the most recent year permits Nicor Gas to
155 benefit from the investment in the years between the investment and the next
156 rate case. In this sense, it serves as a sort of regulatory lag that increases the
157 incentive for the Company to behave efficiently.

158 **Q. Is this your primary recommendation?**

159 A. No. My primary recommendation is to reject Rider CUA on the grounds
160 that it distorts the Company's incentive to conserve gas. Conservation is
161 motivated by both high prices and a desire to mitigate risk. The alternative
162 recommendation to remove the reference to the lesser volume of the most recent
163 year and test-year mitigates the effect that high prices have on company use
164 volumes, but it does nothing to preserve the incentive associated with risk
165 mitigation. Rider CUA transfers the Company's gas cost risk to its customers
166 and distorts the Company's incentive to conserve gas.

167 **4. Conclusions regarding Rider CUA**

168 **Q. Please summarize your overall conclusions and recommendations**
169 **regarding Rider CUA.**

170 A. I recommend that the Commission reject Rider CUA. More than half the
171 costs the Company seeks to recover through Rider CUA are potentially
172 recoverable through a request for amortization. The remainder of these costs

173 does not rise to the level of being significant. Alternatively, I recommend that,
174 should the Commission approve Rider CUA, it should remove the portion of the
175 costs that are associated with account 823 from Rider CUA, and it should
176 remove the reference to the lesser volume of the most recent year or the test-
177 year forecast from the definitions of RCCUT and RCTSCT.

178 **IV. Rider 29: Energy Efficiency Plan (“EEP”)**

179 **1. Summary of Conclusions from direct testimony**

180 **Q. Please summarize your recommendations regarding Rider EEP.**

181 A. My overall recommendation was to reject Rider EEP on the grounds that it is
182 unclear whether there are any detectable savings that arise from natural gas
183 energy efficiency programs. There is a clear trend in per household reductions in
184 natural gas usage nationwide, in Illinois, and within the Nicor Gas service territory.
185 It is not clear whether the per household usage reductions are greater in states
186 with natural gas energy efficiency programs than they are in Illinois, or in the Nicor
187 Gas service territory. Based on the lack of discernable reductions in per
188 household use, I believe that it is not advisable to compel customers to spend \$13
189 million for this program.

190 I also recommend that if the Commission disagrees with my overall
191 recommendation that it should remove the Conservation Stabilization Adjustment
192 (“CSA”) from Rider EEP and change the management structure of the Program.

193 The CSA is a clause that allows the Company to recover revenue that is lost as a
194 result of program induced therm reductions. The problem with this recovery

195 mechanism is that parties who have a vested interested in the success of the EEP
196 will be deeming the therm reductions used to determine lost revenues under CSA.
197 The proposed change in management structure that I propose would make Nicor
198 Gas' EEP similar to that of the ComEd and Ameren electric energy efficiency
199 programs. Under my proposed structure, Nicor Gas would ultimately make the
200 decisions about which programs are is clearly responsible for the reasonableness
201 of any program costs that are incurred and interested and knowledgeable
202 stakeholders are able to provide their insights, experiences and expertise. The
203 Comed/Ameren type of structure may also streamline the implementation of
204 programs because placing the responsibility of the program on a solo entity rather
205 than a committee usually provides for a more efficient process.

206 **2. Issues from Nicor Gas witness Gerald O'Connor's testimony**

207 **Q. What issues from your direct testimony does Mr. O'Connor respond to in his**
208 **rebuttal testimony?**

209 A. Mr. O'Connor's rebuttal testimony addresses whether an energy efficiency
210 program is warranted and whether a Conservation Stabilization Adjustment ("CSA")
211 is an appropriate recovery mechanism for revenue losses that result from EEP-
212 sponsored energy efficiency projects.

213 **Q. Please summarize your objections to the need for an energy efficiency plan.**

214 A. I noted in my direct testimony that "[e]nergy conservation is a desirable goal"
215 (Staff Ex. 13.0, p. 6) but that there are downward trends in residential natural gas

216 usage within the Company's service territory as well as across Illinois and
217 nationwide. I also noted that despite not having any energy efficiency plans in
218 effect and despite experiencing lower average increases in natural gas prices,
219 average residential natural gas usage declined by a greater quantity in Illinois than
220 it did in the states of Minnesota, Iowa, and Wisconsin. These other Midwestern
221 states all have energy efficiency plans in place.

222 Since these other states have little or no detectable improvement in per
223 household consumption reductions relative to Illinois that does not have these
224 programs, I question the effectiveness of the programs.

225 **Q. How did Mr. O'Connor respond to this evidence?**

226 A. Mr. O'Connor made no attempt to refute the evidence I presented regarding
227 whether there was a need for an energy efficiency plan. Instead, he questioned
228 why I would present such evidence after the Commission has approved energy
229 efficiency programs for Commonwealth Edison ("ComEd") in Docket No. 07-0540,
230 Ameren CILCO, Ameren CIPS, and Ameren IP (collectively "Ameren") in Docket
231 No. 07-0539, and the Peoples Gas in Docket No. 07-0241/07-0242 consolidated.
232 (Co. Ex. 27.0, pp. 23-24).

233 **Q. Why did you present this evidence?**

234 A. The Commission must make reasoned decisions based upon facts and
235 analysis. The evidence I presented is valid. The Commission should consider how

236 small the benefits are likely to be to the ratepayers who will be compelled to pay
237 \$13 million annually if the Commission approves Rider EEP.

238 Nicor Gas witness Nichols points out in her rebuttal testimony that the
239 energy efficiency plans approved for ComEd and Ameren were legislatively
240 mandated. (Co. Ex. 28.0, p. 3). The Final Order in the Peoples Gas/North Shore
241 Gas case indicates that Peoples Gas and North Shore Gas were required to submit
242 an energy efficiency plan as condition to approval of a merger between those
243 companies. (Docket No. 07-0241/07-0242 cons., Final Order p. 183). In addition to
244 the cases Mr. O'Connor cited, the Commission also approved a natural gas
245 efficiency program for the Ameren utilities (Docket No. 08-0104). This program was
246 not required by a merger agreement or a legislative mandate but is intended to run
247 in conjunction with Ameren's electric energy efficiency programs (Docket 08-0104,
248 Final Order p. 2 and p. 22)

249 However, there is neither a merger condition nor a legislative mandate
250 requiring Nicor Gas to present an energy efficiency plan. The burden of proof is on
251 the utility to support and demonstrate that these charges are just and reasonable.
252 (Public Utility Act 220 ILCS 5/9-201). In Ms. Nichols' rebuttal testimony, she
253 testifies that "[w]e do not know, however, how much more efficiency is reasonable
254 or proper." (Co. Ex. 28.0, p. 7). She continues by stating that a market analysis is
255 one of the first steps the Company envisages: apparently, no such study currently
256 exists. The benefits of an energy efficiency program are the monetary savings that
257 accrue to ratepayers due to additional conservation resulting from EEP projects.

258 However, the company admits that it does not know these savings. If the natural
259 gas savings, the “condition of customer homes and businesses within the Nicor
260 Gas territory, availability of products or implementers of natural gas efficiency
261 measures, and other factors” (Co. Ex. 28.0, p. 7) are not currently known, then
262 implicitly, the company cannot meet its burden of proof. The Company apparently
263 knows neither the potential benefits nor the potential costs since it has presented
264 no evidence of either.

265 **Q. Has the testimony of Mr. O’Connor or any other witness caused you to**
266 **change your recommendation to reject Rider EEP and the Energy Efficiency**
267 **Program that would result?**

268 A. No. Rider EEP should be rejected. I provided my reasons for rejecting
269 Rider EEP in the “Summary of Conclusions” section that begins on page 9.
270 Although Staff is not opposed to energy efficiency programs, the specifics of this
271 program are too vague to evaluate the potential effectiveness and Staff cannot
272 endorse the proposal as presented.

273 **Q. Please summarize your concerns about the Conservation Stabilization**
274 **Adjustment (“CSA”).**

275 A. The CSA provision is intended to allow the Company to recover revenues
276 that are lost due to usage reductions occurring because of the Energy Efficiency
277 Program.

278 The problem with the CSA clause is that the therm savings used in the
279 calculation are proposed to be estimated by Program Implementers who request
280 approval to implement a project. (Co. Ex. 12.0, p. 28). These Program
281 Implementers are likely to have an incentive to overstate the therm savings in order
282 to receive approval from the Advisory Board. Mr. O'Connor also believes that no ex
283 post evaluation of these projects should be used to determine the accuracy of the
284 ex ante estimates of therm savings. (Co. Resp. to Staff DR BCJ 10.02).

285 **3. Response to Nicor Gas witness Kristine Nichols Rebuttal**
286 **Testimony**

287 **Q. What issues from your direct testimony does Ms. Nichols rebuttal testimony**
288 **address?**

289 A. Ms. Nichols' rebuttal testimony discusses my concerns about the Company's
290 proposed management structure for the energy efficiency plan ("EEP").

291 **Q. Please summarize these concerns.**

292 A. I continue to have two main concerns related to the management structure
293 that Nicor Gas proposed for its EEP. The first concern relates to the pilot nature of
294 the program potentially giving Nicor Gas undue influence over the Advisory Board.
295 Nicor may have the ability to determine that the program does not warrant
296 continuation after the four-year pilot is complete. The Company's ability to
297 influence the Advisory Board with the threat of discontinuation could influence the
298 decisions of the Advisory Board to accept or reject certain projects. This influence

299 is much more likely to occur if the Commission rules that the Company is
300 responsible for the prudence of expenditures authorized by the Advisory Board,
301 which is my second concern.

302 The Company's proposal may lack fiscal accountability. The Company
303 believes that it is inappropriate to hold it accountable for imprudent expenditures
304 made by the board. The expenditures are approved and executed by an advisory
305 board which has up to five members, and Nicor Gas has only one vote and is
306 therefore a minority among the stakeholders. (Co. Resp. to Staff DR BCJ 9.04) If
307 the Commission agrees with the Company's position about its accountability for
308 expenditures, accountability for the prudence of expenditures becomes tenuous. If
309 the Commission rules that the Company is accountable for the expenditures that
310 the Advisory Board authorizes, the Company has an incentive to threaten
311 discontinuation of the program as a negotiating tool.

312 **Q. What recommendations did you make based upon these concerns?**

313 A. I recommended that if the Commission decides to approve a Rider EEP for
314 Nicor Gas that it alters the management structure to provide an advisory board of
315 interested parties similar to the structure approved for ComEd and Ameren in
316 Dockets 07-0539 and 07-0540. Under a structure similar to that of the electric
317 energy efficiency programs, stakeholders are still able to provide feedback,
318 experience, and expertise to the EEP and fiscal accountability and prudence review
319 is still possible.

320 **Q. Does Ms. Nichols agree with your recommendations?**

321 A. No. Ms. Nichols holds instead that the Company has limited experience in
322 energy efficiency programs (Co. Ex 28.0 p. 2). As a result, the Company prefers to
323 “put the decisions of what portfolio of programs would best serve Nicor Gas
324 customers into the hands of a qualified, experienced, and *independent* Board.”
325 (Co. Ex. 28.0 p. 3). She continues by stating that I fail to consider the voluntary
326 nature of the Nicor Gas EEP compared to the legislatively mandated EEPs for
327 ComEd and Ameren. The structure I propose, she asserts, will delay the
328 anticipated rollout of programs by one heating season, because it requires
329 contested proceedings in a docketed case before the Commission. (Co. Ex. 28.0
330 pp. 3 – 4.)

331 Finally, Ms. Nichols makes five arguments to address my concerns
332 regarding the potential for undue influence that the four-year pilot nature of this EEP
333 may allow the Company to exert over the advisory board. (Co. Ex. 28.0 pp. 5-6).

334 **Q. Did Ms. Nichols’ five arguments change your opinion about the potential for**
335 **abuse from the management structure proposed by the Company?**

336 A. No. Of the five arguments that Ms. Nichols made, only the fourth argument
337 attempts to directly address my concerns. That argument states that “its [the
338 advisory board’s] continued existence would be dependent on the EEP’s
339 performance, the perceived need for the continuing energy efficiency measures in
340 the Nicor Gas territory, and Commission approval.” (Co. Ex. 28.0 p. 5).

341 Ultimately, Nicor Gas will make the recommendation to the Commission
342 about whether the EEP's performance was adequate, and whether there is a need
343 for continuing energy efficiency measures beyond the pilot period. The
344 Commission's final order in the Company's 2004 rate case interpreted section 9-
345 201 of the Public Utilities Act (220 ILCS 5/9-201) to mean that "[i]ntervenors do not
346 have standing to make a proposal that expands the utility's burden of proof" to
347 establish the justness and reasonableness of the proposed rates and other charges
348 (Docket 04-0779 Final Order pp. 191-192). In light of this, it is difficult to ascertain
349 how the Commission will continue Rider EEP charges if the Company does not
350 support the justness and reasonableness of these charges.

351 This gives the Company a strong negotiating tool that can be used to
352 subvert the autonomy that this proposed structure is intended to provide. As a
353 result, there is a potential for stakeholders to approve expenditures that may not be
354 in the interest of ratepayers in order to continue or increase the scope of the EEP
355 beyond the four-year pilot.

356 **Q. Do you agree that your proposed alternative structure would delay the rollout**
357 **of programs?**

358 A. No. I recommend that the Commission authorize an advisory board similar
359 to the one approved in the ComEd and Ameren electricity energy efficiency
360 programs. Three advantages of this approach are that it allows for interested
361 parties to have input into the process and to provide expertise, it places clear

362 responsibility for program expenditure on Nicor Gas which is under the
363 Commission's jurisdiction, and it may streamline the process.

364 Nothing in my recommendation suggested that the entire process of
365 contested proceedings with item-by-item analysis of benefits and costs for each
366 potential project be replicated. My recommendation provides a framework for
367 stakeholders to provide meaningful feedback and expertise into the process while
368 simultaneously protecting ratepayers from excessive or unnecessary expenditures.
369 Under my proposal, a prudence review where the Company justifies its
370 expenditures can be done as part of the annual reconciliation.

371 My proposal may in fact expedite the process beyond that proposed by the
372 Company. It is well known that committees do not act as efficiently as solo entities.
373 This is the result of balancing competing interests. If the Company is ultimately
374 responsible for the expenditure and execution of the program, it streamlines the
375 process and may lead to a quicker rollout of projects.

376 **Q. Ms. Nichols also states that you believe the Commission erred when it**
377 **approved a similar management structure in the Peoples Gas Order. Please**
378 **comment!**

379 A. My criticism of the Nicor Gas EEP does not apply to the Peoples Gas' EEP.
380 The Peoples Gas' EEP was not approved as a pilot. It was approved as a
381 permanent EEP. As a result, the potential threat of discontinuation of the program
382 is not available as a negotiating tool to the Peoples Gas. .

383 However, it appears that the Company’s most compelling argument
384 regarding the EEP as currently proposed is that the Commission approved a very
385 similar program for the Peoples Gas and that it should do the same for Nicor Gas. I
386 believe Ms. Nichols’ rebuttal testimony about what the Company envisages for the
387 evolution of the EEP compared to the direct testimony of Environmental Law and
388 Policy Center (“ELPC”) witness Kubert should give the Company pause about its
389 proposed structure. The ELPC is a stakeholder in the Peoples Gas EEP and may
390 become a stakeholder in Nicor Gas’ EEP as well. Mr. Kubert already indicates a
391 desire to consolidate the Peoples Gas and Nicor Gas programs. (ELPC Ex. 1, lines
392 164-166) and the Company indicates a desire to not consolidate the programs (Co.
393 Ex. 28, p.9).

394 **Q. Are there any conditions that would make your alternative management**
395 **structure less attractive than the structure proposed by the Company?**

396 A. Yes. If the Commission approves an energy efficiency plan that includes a
397 Conservation Stabilization Adjustment (“CSA”), I would strongly advocate against a
398 management structure that gives the Company the ability to determine the projects
399 developed and the level of gas savings that result from the projects. The potential
400 for abuse under this scenario is much greater than it is with an independent
401 governance board. Giving the Company control over program implementation and
402 selection and the ability to recover lost revenues from therm savings that it deems
403 is not advisable.

404 **4. Response to ELPC witness Kubert's direct testimony.**

405 **Q. What issues do you address from Mr. Kubert's direct testimony?**

406 A. I disputed many of Mr. Kubert's claims about the potential for energy savings
407 in Illinois (Staff Ex 13.0, pp. 9-12). In particular, Mr. Kubert does not accurately
408 compare residential usage per customer in Illinois to that of surrounding states that
409 have energy efficiency programs. Illinois residential natural gas usage per
410 household has been higher than the Midwestern states of Iowa, Wisconsin, and
411 Minnesota at least since 1990, but Illinois customers have reduced usage by a
412 greater volume despite not enacting any energy efficiency programs and having
413 smaller price increases than these other states. A new issue in Mr. Kubert's direct
414 testimony is his proposal to increase funding levels beyond those proposed by the
415 Company.

416 **Q. What is Mr. Kubert's increased funding proposal?**

417 A. Mr. Kubert believes that the Company's proposal of \$13 million per year is
418 too low and that the amount should increase each year of the pilot. Specifically, he
419 requests funding levels of \$15 million in year 1, \$17.5 million in year 2, \$20 million
420 in year 3 and \$25 million in year 4. (ELPC Ex. 1, lines 142-143).

421 **Q. Do you agree with Mr. Kubert's recommendation?**

422 A. No. My overall recommendation is to reject Rider EEP in its proposed form.
423 Staff is not opposed to energy efficiency programs per se. However, Staff is
424 concerned that no evidence about the effectiveness of this proposal has been

425 presented. It is debatable whether the proposed energy efficiency program will be
426 effective at all. Given the uncertainty about the proposed EEP's effectiveness, it is
427 extremely premature to ramp up EEP expenditures in the absence of an evaluation
428 of the pilot.

429 **Q. What expenditure recommendations do you recommend?**

430 A. I recommend that if the Commission approves an EEP, \$13 million is the
431 maximum the Commission should allocate. On the other hand, the Commission
432 could determine that a smaller dollar amount provides the necessary information to
433 evaluate the EEP's effectiveness. If an independent evaluation of the pilot
434 determines that the program is cost effective and that greater expenditures will
435 increase the overall effectiveness of the program, then the Commission can
436 increase expenditure at that time. Indeed, and maybe more conservatively, the
437 Commission may consider deferring judgment about approving an energy efficiency
438 program in the Nicor Gas service territory until it receives evaluations of the
439 effectiveness of the natural gas energy efficiency programs conducted in the
440 Peoples/North Shore Gas and the Ameren territories.

441 **V. Conclusion**

442 **Q. Does this conclude your rebuttal testimony?**

443 A. Yes.

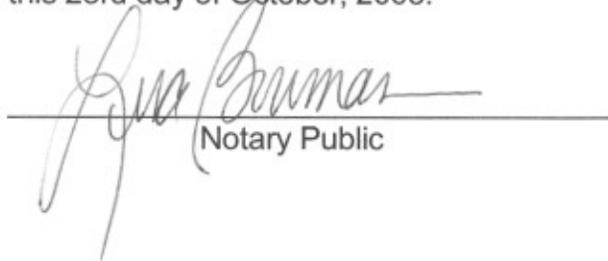
VERIFICATION

I, David Brightwell, being first duly sworn, depose and state that I am an Economic Analyst in the Policy Program of the Energy Division of the Illinois Commerce Commission; that I sponsor the foregoing Rebuttal Testimony of David Brightwell; 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.



David Brightwell
Economic Analyst
Illinois Commerce Commission

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



Notary Public

Prices in Dollars per MMBtu

Month/Year	2001	2002	2003	2004	2005	2006	2007
January	8.18	2.26	5.44	6.15	6.13	8.68	6.55
February	5.62	2.31	7.78	5.39	6.13	7.54	7.98
March	5.16	3.03	5.95	5.38	6.92	6.89	7.10
April	5.17	3.43	5.28	5.71	7.20	7.16	7.59
May	4.21	3.50	5.82	6.29	6.49	6.24	7.63
June	3.71	3.23	5.82	6.30	7.16	6.22	7.36
July	3.11	2.99	5.03	5.93	7.64	6.15	6.21
August	2.96	3.09	4.97	5.44	9.46	7.15	6.23
September	2.15	3.55	4.62	5.11	11.88	4.91	6.08
October	2.45	4.12	4.65	6.39	13.42	5.77	6.80
November	2.37	4.03	4.47	6.16	10.28	7.40	7.14
December	2.42	4.75	6.15	6.62	13.05	6.82	7.14
Avg Annual Price	3.96	3.36	5.50	5.91	8.81	6.74	6.98

Year	Avg Price
2001	3.96
2002	3.36
2003	5.50
2004	5.91
2005	8.81
2006	6.74
2007	6.98
Avg	5.89
St. Dev	1.72
CV	0.29