

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Northern Illinois Gas Company d/b/a :
Nicor Gas :
 : 08-0363
Proposed general increase in gas :
delivery service rates. :
 :

**STAFF OF THE ILLINOIS COMMERCE COMMISSION'S
OBJECTION TO NOTICES OF WITHDRAWAL**

NOW COME the Staff witnesses ("Staff") of the Illinois Commerce Commission ("Commission"), through its undersigned attorneys, and files this Objection to the Notice of Withdrawal of Testimony, Intervention, and Appearance of Attorney filed by the Coalition for Equal Access and Fair Utility Rates ("CEAFUR") ("CEAFUR's Notice") and the Notice of Withdrawal of Testimony filed by Northern Illinois Gas Company d/b/a/ Nicor Gas Company ("Nicor Gas") ("Nicor Gas' Notice") (collectively "Notices of Withdrawal"). In support thereof, Staff states as follows:

1. On August 26, 2008, CEAFUR filed a Petition for Leave to Intervene ("Petition") in this matter. In its Petition, CEAFUR alleged *inter alia*:

12. CEAFUR wishes to participate as an active party..., to produce evidence and cross-examine witnesses ... CEAFUR will be directly impacted by Nicor Gas' proposed changes in rates and charges...

13. ... Furthermore, CEAFUR is concerned that Nicor Gas is not recognizing the revenue generated by utility assets, such as the call center and internet sites. This issue has not been addressed by current intervenors in this proceeding... CEAFUR Petition, pp. 3-4.

2. CEAFUR's Petition was granted on August 5, 2008.

3. Pursuant to the procedural schedule in this proceeding, CEAFUR filed the direct testimony of Arnold Schramel on August 27, 2008.

4. In its direct testimony, CEAFUR raised issues regarding, among other things, third party billing (CEAFUR Ex., pp. 5-9), website advertising (*Id.*, pp. 9-10), marketing on inbound utility calls (*Id.*, pp. 10-11) and treatment of Gas Line Comfort Revenues (*Id.*, pp. 12-15) which were raised by no other party.

5. Nicor Gas responded to these issues in its supplemental rebuttal testimony filed on September 30, 2008.

6. On October 21, 2008, CEAFUR filed its Notice of Withdrawal seeking to withdraw its direct testimony, intervention and appearance of attorney from the proceeding.

7. On October 22, 2008, Nicor Gas filed its Notice of Withdrawal, seeking to withdraw its supplemental rebuttal testimony responsive to CEAFUR from the proceeding.

8. Staff's rebuttal testimony, filed October 24, 2008, included testimony responsive to the testimonies which CEAFUR and Nicor Gas now seek to withdraw.

9. Staff witnesses Dianna Hathhorn and David Sackett considered CEAFUR's direct testimony and Nicor Gas' supplemental rebuttal testimony and reviewed and issued discovery to both parties in regards to the issues raised in CEAFUR's direct testimony when preparing its rebuttal testimony in this proceeding.

- Ms. Hathhorn proposes an adjustment to operating expenses identified as Nicor Energy Billing Services Adjustment (Staff Ex. 15.0, pp. 2-3, 12-14, Sch. 15.05, Att. E) and recommends that a proceeding be initiated within 120 days of an order in this proceeding to investigate whether Nicor Gas' affiliated transaction agreement, the Operating Agreement, is in the public interest and to make

appropriate revisions (*Id.*, pp. 2-3, 18-22, Att. F).

- Mr. Sackett identified concerns regarding the use of Nicor Gas' website and Call Centers for affiliate advertising, concerns with the Gas Line Comfort Guard program and third party billing system. (Staff Ex. 24.0, pp. 5 & 47-52) Mr. Sackett concurs with Ms. Hathhorn's recommendation that a proceeding be initiated to investigate the Operating Agreement.

10. Having petitioned for leave to intervene and having filed direct testimony raising issues about Nicor Gas' transactions with affiliate interests, CEAUFUR now seeks to withdraw its intervention and testimony from the proceeding. CEAUFUR's Notice states:

"... CEAUFUR no longer has an interest in participating in this proceeding. Therefore, CEAUFUR is filing this notice that it is withdrawing its intervention in this proceeding and that it is withdrawing, and will not be introducing, the direct testimony of Mr. Schramel. ..." (CEAUFUR Notice, p. 1)

11. Although CEAUFUR may "no longer ha[ve] an interest in participating in this proceeding" the issues raised in CEAUFUR's direct testimony, regarding Nicor Gas' affiliate transactions, have not been resolved and raise serious issues with Staff. CEAUFUR has raised broad issues which affect not only CEAUFUR, but all of Nicor Gas' ratepayers. These issues have a direct impact on Nicor Gas' proposed increase in rates in that Nicor Gas' expenses may be overstated by insufficient revenue offsets from affiliates and that its actions with regard to its affiliates may be prejudicial to the development of a competitive market. Therefore these matters should be examined in this proceeding.

12. CEAUFUR should not be allowed to withdraw its intervention and testimony if the result would be that Staff is prohibited from addressing issues raised by CEAUFUR and

which have broad implications for all ratepayers.

13. Notwithstanding CEAFFUR's Notice, the record reflects that CEAFFUR did request and was granted leave to intervene and did file testimony. The record reflects that within its testimony, CEAFFUR raised issues relating to Nicor Gas' affiliate transactions and their effect on Nicor Gas' revenue requirement. Furthermore, the record also reflects that Nicor Gas responded to CEAFFUR's issues in its supplemental rebuttal testimony.

14. It would be contrary to public policy to allow a party to intervene in a proceeding before a regulatory agency, to provide testimony raising issues which should be considered by the regulatory agency, and then to withdraw from the proceeding taking with it the ability of the regulatory agency to consider the issues brought before it.

15. The result of such a circumstance would be that the Commission would not have a full and complete record upon which to base its determination of just and reasonable rates.

16. Therefore, regardless of CEAFFUR's Notice, administrative notice should be taken that CEAFFUR raised affiliate transaction issues in its direct testimony and Staff and other parties should be allowed to develop the record concerning those issues. Staff and other parties should be allowed to rely upon the responses of Nicor Gas to data requests previously propounded by CEAFFUR. Further, to enable Staff and other parties to develop the record, CEAFFUR should be required to respond to data requests seeking disclosure of any matter relevant to the issues raised by CEAFFUR in its direct testimony.

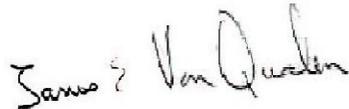
17. Nicor Gas will have the opportunity to respond to Staff's rebuttal testimony when it files surrebuttal testimony on November 5, 2008.

18. No party will be prejudiced by allowing Staff to address issues raised in CEA Fur's direct testimony and Nicor Gas' supplemental rebuttal testimony responding to these issues.

Wherefore, Staff respectfully prays that CEA Fur not be allowed to withdraw its direct testimony and that Nicor Gas not be allowed to withdraw its supplemental rebuttal testimony. In the alternative, should CEA Fur and Nicor Gas be allowed to withdraw their testimonies, Staff respectfully requests that it be allowed to address the issues raised in CEA Fur's direct testimony and Nicor Gas' supplemental rebuttal testimony. In either event CEA Fur and Nicor Gas should be required to respond to data requests as described herein.

October 30, 2008

Respectfully submitted,



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