

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

NORTHERN ILLINOIS GAS COMPANY	:	
d/b/a Nicor Gas Company	:	
	:	No. 08-0363
	:	
Proposed general increase in natural gas rates	:	

INITIAL BRIEF OF THE ILLINOIS INDUSTRIAL ENERGY CONSUMERS

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I. Introduction/Statement of the Case

The Illinois Industrial Energy Consumers (“IIEC”) present this initial brief pursuant to the Case Management Order of July 18, 2008 in this proceeding.¹ IIEC has presented the direct and rebuttal testimonies of a single witness, Dr. Alan Rosenberg of the firm Brubaker & Associates, Inc. (Rosenberg, IIEC Ex. 1.0, IIEC Ex. 1.1 through IIEC Ex. 1.6; Rosenberg, IIEC Ex. 2.0, IIEC Ex. 2.1 through 2.3 and IIEC Ex. 2.4-C, 2.5-C, and 2.6-C).² IIEC represents a broad spectrum of transportation customers. They view with concern proposals that increase the cost of and unnecessarily limit the flexibility of transportation customers on the Northern Illinois Gas Company, d/b/a Nicor Gas (“Nicor” or “Company”) system.

Nicor provides two distinct types of service. It provides a commodity service to those customers who purchase their gas from Nicor, and it provides delivery service to all customers, including transportation customers. Nicor’s rates contain a component or charge to recover the cost of gas purchased on behalf of those customers taking commodity service from Nicor, and a component or charge to recover the cost of storing and delivering gas, (including transportation gas). In Illinois, the first charge or component is an automatic rider known as the Purchased Gas Adjustment clause (“PGA”). The latter charge or component is called the base rate and it is that rate which is the exclusive subject of this proceeding. It is only the base rate that applies to all Nicor customers (Sales customers and Transportation customers).

IIEC supports cost allocation and rate design practices that allow price signals to flow

¹ The IIEC Companies intervening in this case are ArcelorMittal USA; BP Amoco Corporation; Cargill Inc; Caterpillar Inc; ExxonMobil; and U.S. Silica Company.

² Citations to testimony and exhibits in the record will take the following format: “Witness, Party, Exhibit Number, Page.” Citations to the transcripts will take the following form: “Witness Name, Tr. Page; Citations to corrected exhibits will take the following form: “Ex. 1.0-C. or Ex. 1.0-Rev”

undistorted between service providers and gas consumers. That is, they support cost based rates.

This Commission has long followed the consistent and well reasoned policy of moving Local Distribution Companies' rates to cost of service, thereby giving appropriate price signals. (*see*, Illinois Power Company, ICC Dkt. 93-0183, Order, April 6, 1994, 1994 PUC LEXIS 139, *184-186; Central Illinois Light Company, ICC Dkt. No. 94-0040, Order, December 12, 1994, 1994 Ill. PUC LEXIS 577, *158; and Northern Illinois Gas Company, ICC Dkt. No. 95-0219, Order, April 3, 1996, 1996 Ill. PUC LEXIS 204, *110).

In this case, ensuring that rates properly and accurately reflect each customer rate class' cost of service is important considering the current economic climate and its adverse impact on large industrial and institutional customers served under Nicor's transportation rates. Under the Nicor proposal, Rate 1 customers will save approximately 50 cents per month, vis-à-vis, their indicated cost of service. Thus Nicor is asking that other rate classes pay rates in excess of their cost of service as measured by Nicor's unmodified embedded cost of service study ("ECOSS"), in order to subsidize Rate 1 customers and save them 50 cents per month. Given the current economic situation, it is not reasonable to impose above cost of service increases on Rate 76 and Rate 77 customers in order to save Rate 1 customers 50 cents per month.

IIEC focuses on issues relating to the Nicor ECOSS; proposed revenue allocation; proposed changes to transportation storage service charges, terms and conditions; and Staff's recommended change to the tail block for the demand charge for Rate 77.³

Specifically, IIEC has accepted the use of the Average and Peak ("A&P") main classification method in the context of the Nicor ECOSS, for the purpose of this case only, and

³ IIEC has incorporated in this memo only those captions from the Agreed Outline of November 6, 2008 relevant to the issues addressed by IIEC in its prefiled testimony.

the use of the Modified Distribution Main (“MDM”) study results in conjunction with the A&P method. IIEC believes that Nicor has properly used the MDM study to allocate the demand portion of distribution mains, but has incorrectly ignored the MDM study in allocating the portion of mains that is deemed to be related to average demand/volume. IIEC has proposed a modification to the Company’s ECOSS which applies the MDM study to the volume related portion of mains.

The Nicor ECOSS also inappropriately allocates storage related costs to transportation customers on the same basis as it does bundled customers. It is IIEC’s position that storage cost responsibility should be assigned to these customers, i.e., it should be equal to the revenue recovered from these customers through a cost based storage charge, the Storage Banking Service charge (“SBS”).

IIEC also believes that the results of a proper ECOSS (one that reflects extension of the MDM engineering study, and the proper allocation of storage costs), should be used to move rates to cost of service and eliminate existing rate subsidies.

If for any reason the Commission deviates from cost of service, IIEC suggests alternative approaches to revenue allocation. If the Commission decides to impose a cap on the Rate 1 increase, any revenue shortfall should be allocated to the Rate 4 and Rate 74 rate classes, which will still see an increase below the system average increase under such an allocation. In the further alternative, if the Commission is concerned about the accuracy or validity of the Company’s ECOSS, it should approve an across-the-board increase for all rate classes in this case.

IIEC addresses Staff’s proposal to increase the tail block for Rate 77 by approximately 1,000 percent. IIEC opposes the increase in the Rate 77 tail block, which could produce almost

triple digit rate increases for some Rate 77 customers. Rate design changes which produce triple digit increases for large customers in the current economic environment are by definition unreasonable.

IIEC addresses Nicor's new limits on the Maximum Daily Nominations ("MDN") for transportation customers and recommends they be rejected and the status quo on daily nominations be retained.

IIEC addresses Nicor's proposal to use the "operationally available capacity" (134.6 Bcf) as the numerator in the formula used to calculate transportation customers' SBS entitlement as opposed to the maximum non-coincident capacity (149.7 Bcf) approved by the Commission in Nicor Docket 04-0779.

IIEC also addresses Nicor's use of the operational available capacity (134.6 Bcf) as the denominator in the formula used to calculate the SBS charge itself. IIEC recommends the Commission continue to use 149.7 Bcf as the denominator.

Finally, IIEC proposes a modification of Nicor's current tariffs, terms and conditions, to allow transportation customers to have their Storage Withdrawal Factor ("SWF") determined on the basis of the customer's maximum storage inventory during the period between October 15 and November 15 of each year. Currently, Nicor's tariffs provide that the SWF is based solely on the customer's inventory balance on November 1 of each year.

VII. Cost of Service and Allocation Issues

A. Overview

IIEC has provided an overview of its position on cost of service and revenue allocation issues in Section I at pages 3-4 of this Brief.

B. Uncontested Issues

2. Allocation of Storage Losses

The initial Nicor cost of service study (Heintz, Nicor Ex. 15.1) incorrectly allocated storage losses to transportation customers, who already pay for those losses in kind. (Rosenberg, IIEC Ex. 2.0 at 8-13). In surrebuttal Nicor corrected its ECOSS to eliminate the allocation of storage losses to transportation customers. (Heintz, Nicor Ex. 49.0 at 2). Consequently, IIEC no longer believes this is a contested issue.

C. Contested Issues

1. Main Size Allocation

Nicor advocates that the ECOSS allocate distribution main costs using its MDM study results, in conjunction with the A&P allocation method. It should be noted, however, that Nicor's use of the A&P allocation method rather than the Coincident Peak ("CP") method is a concession made "for the purpose of narrowing the issues," (*See*, Heintz, Nicor Ex. 15.0 at 5). Nicor witness Mr. Alan Heintz identified his preferred allocation method, and his rationale for not using it in this case, when he stated:

"While Nicor Gas and I continue to believe that the CP methodology best reflects cost causation in the construction of an embedded cost of service study, the ECOSS that I have prepared for this case reproduces, without substantive change, the cost classification and allocation methodology authorized by the Commission in the last case. . . ." (*See* Heintz, Nicor Ex. 15.0 at 6).

IIEC witness, Dr. Rosenberg, made a similar concession when he used the A&P method. In his direct testimony he stated:

"On the issue of the ECOSS, I agree with the Company that a coincident peak allocation method would better reflect the link between customer behavior and the costs that this behavior imposes on Nicor. However, I also agree with the Company that the Average & Peak classification method is currently the method sanctioned by the Illinois Commerce Commission . . .

and that it would be fruitless to challenge that position unless and until the Commission signals that it is amenable to reconsider that topic.” (See Rosenberg, IIEC Ex. 1.0 at 2).

As Nicor witness Mr. Mudra acknowledged, the use of the Average Demand rather than Peak Demand for cost allocation tends to assign more costs to the high volume, high load factor classes, Rate 76 and Rate 77. (Mudra, Tr. 375). Thus, the use of the A&P method, which allocates the cost of mains partly on the basis of average demands or volumes, shifts costs to Rate 76 and Rate 77 in comparison to the CP method, which allocates such cost exclusively on the basis of peak demands.

The debate over whether, or to what extent, to use the results of the MDM study as part of the allocation methodology, is separate and distinct from the debate over the CP and A&P methods, (Rosenberg, IIEC Ex. 1.0 at 5), even though the two issues are often grouped together as if they were one and the same.

Under the A&P method the total cost of distribution mains is divided into two portions; a demand-related portion and a volume-related portion. (*Id.*). In this case the demand- and volume-related portions are 76.9% and 23.1%, respectively. (Mudra, Tr. 362-363). The allocation method used to distribute the 76.9% demand-related portion, incorporates the Company’s MDM study results. Up to this point, there is no difference among the parties.

The crux of this issue is whether or not to apply the MDM study results to the 23.1% portion of distribution mains that is deemed volume related. The Company does not apply the MDM study to that portion of the mains. The IIEC position is that it should.

The MDM study recognizes that Nicor’s system of mains is configured in such a way that not all customers in a class use all sizes of mains. (Rosenberg, IIEC Ex. 1.0 at 6). It does this by determining the peak day flows for each size of distribution main in service and the percentage of those peak day flows that are attributed to each customer class. By identifying the portions of each

diameter of main that are used to provide service to specific customer classes, the MDM study accurately assigns main-related costs to the appropriate customer classes. (Mudra, Nicor Ex. 14.0-C at 7-8; *see*, Lazare, Tr. 521).

For example, the MDM study results indicate that only a single Rate 77 customer, representing 3.374% of the total peak day usage for Rate 77, is served via 2-inch diameter mains. When allocating the peak demand-related portion of 2-inch diameter mains costs, Nicor's ECOSS uses the results of the MDM study to limit (or modify) the allocation to only those 2-inch mains actually used to serve this single customer. (Rosenberg, IIEC Ex. 1.0 at 6).

In contrast, Nicor's ECOSS allocates the average demand/volume component of distribution mains as if every Rate 77 customer takes service from 2-inch diameter mains. In other words, by *ignoring* the MDM study results when it allocates the volume-related distribution mains costs, Nicor's ECOSS assigns costs associated with small diameter mains (2", 4", or 6"), to customers that only take service from larger mains. (*see*, Rosenberg, IIEC Ex. 1.0 at 6 and IIEC Ex. 2.0 at 20-21). Under cross examination, Nicor witness Mudra admitted that "...if a customer were not connected to those specific main sizes, 2-inch 4-inch or 6-inch, then indeed, to be technically accurate, no costs related to those mains would apply to that particular customer in the physical – in the world." (Mudra, Tr. 367).

IIEC witness, Dr. Rosenberg extended Nicor's original MDM study to the volume-related portion of the Nicor distribution mains. (Rosenberg, IIEC Ex. 1.0 at 7). Dr. Rosenberg did not simply apply Nicor's MDM study results to volume-related costs, but instead extrapolated the MDM peak day flows, to the average day as well. In other words, he used the relationship between average day demand and peak day demand for each class – what is termed the class load factor – to impute

the average demand for each class on each size main. Dr. Rosenberg explains his rationale for extension of the MDM study when he states:

“Just as the accuracy of the allocation of the demand-related portion of mains is improved by recognizing the MDM study, the accuracy of the volume-related portion of mains can be improved by recognizing the physical fact that not all diameters of mains are used in serving some customers.” (Rosenberg, IIEC Ex. 1.0, at 7).

It is important to note that no party has questioned the logic or theory of applying a distribution main size study to the volume related portion of Nicor’s mains. After all no one can dispute that the same system of mains that is used on the peak day is used on every other day. As Mr. Mudra admitted during cross examination, when a customer is not connected to 2-inch, 4-inch, or 6-inch mains, no costs related to these mains would apply to that particular customer. (Mudra, Tr. 367). Mr. Mudra also stated that the purpose of the MDM study in this case, as in the last case, was to “. . . improve the accuracy of the imbedded (sic) costs (sic) of service study by more accurately allocating the distribution mains costs by all -- to all rate classes by size of pipe that -- you know, which customer class is using which size of pipe.” (Mudra, Tr. 382). In fact, Nicor has offered to review Dr. Rosenberg’s proposal (to extend the MDM results to volume-related costs) prior to Nicor’s next rate case. (Mudra, Nicor Ex. 29.0-C at 4).

However, Mr. Mudra has cited three objections to using Dr. Rosenberg’s extension of the MDM study in the immediate case. First, Mr. Mudra claims that Nicor “. . . has presented its ECOSS consistent with the Commission’s order in the 2004 Rate Case.” (Mudra, Nicor Ex. 29.0-C at 4). Second, Nicor claims that it has “. . . already proposed to move the residential customer class’ revenue allocation closer to its cost of service, . . .” and that Dr. Rosenberg’s extension of the MDM results would “serve to further increase residential rates and decrease commercial and industrial

rates... .” (*Id.*). Finally, Mr. Mudra questioned the accuracy of Dr. Rosenberg’s imputation of average demands. (Mudra, Nicor Ex. 48.0-2nd C at 5-6).

These three objections are insufficient to reject the application of the MDM study to the volume related portion of Nicor mains. Dr. Rosenberg’s method enhances the accuracy of the ECOSS by extending the MDM study to volume-related costs. To claim, as Nicor witness Mudra does in his first objection, that Dr. Rosenberg’s method should be ignored simply because Nicor’s unmodified ECOSS is “consistent” with one used in a previous case, is contrary to the objective of improving the accuracy of the cost allocation process.

By the same token, the second objection is without merit because it is nonsensical to reject a valid and more accurate ECOSS simply because an effort has already been made to move revenue allocation “closer to its cost of service” as indicated by a less accurate ECOSS. In the first place, it would be improper to reject a cost allocation methodology because one did not approve of the implications of the more accurate study. (Rosenberg, IIEC Ex. 2.0 at 23). Moreover, the adoption of Dr. Rosenberg’s recommendation on the MDM would only entail an additional 35 cents per month for the average Rate 1 customer. (IIEC/Nicor Stipulation, Tr. 359).

Finally, Mr. Mudra’s third objection is tantamount to saying that the perfect should be the enemy of the good. Apparently Nicor would rather be exactly wrong than approximately right. Moreover, there is relatively little that Dr. Rosenberg needed to assume. For very large size mains, those that all customers use, the ratio of average demand to peak demand is known precisely for each class, because it is the same for the whole system. At the other end of the scale, for the very small size mains, which are known to be scarcely used by the large volume classes, there is also little need for approximation. Consequently, there can be no doubt that Dr. Rosenberg’s study is more

accurate than the Company study and that conclusion is all that is necessary to adopt its use in this case.

In sum, the Nicor ECOSS should be modified to use the MDM study to allocate each component of distribution mains (peak demand related and average demand related). Doing so will significantly improve the accuracy of the Nicor study and ensure that the costs of smaller mains, which are in many instances not even used by larger customers, are not allocated to those customers.

2. Allocation of Storage Costs to Unbundled Rate Classes

The Nicor study inappropriately allocates storage related costs to transportation customers on the same basis as it allocates those costs to bundled service customers. (Rosenberg, IIEC Ex. 1.0 at 11-14; Rosenberg, IIEC Ex. 2.0 at 13-20). It is IIEC's position that storage cost responsibility should be assigned to these customers so that it equals the revenue recovered from these customers through a cost-based storage charge, i.e., the SBS charge. This is because, by definition, the SBS charge, if properly determined, is cost based. Consequently the test year revenue presumed to be derived from the SBS charge must, of necessity, be equal to the cost responsibility allocated to the transportation classes in the cost analysis.

In the surrebuttal testimony of Mr. Mudra, Nicor attempts to show that the transportation storage cost allocation in Nicor Exhibit 49.1 (Nicor's revised ECOSS) is ostensibly not that much different than the presumed revenues. (Mudra, Nicor Ex. 48.0-2nd C at 32, Table 2). However, because Nicor's total revenue requirement, and the amount of storage allotted to transportation customers, as well as the denominator to be used in deriving the SBS charge, are all in dispute, there is no guarantee that the cost and revenues will remain close when final rates are ultimately derived. Consequently IIEC still urges that these values (cost and revenues) be synchronized. If they are not, and rates are brought to cost per the ECOSS, then any mismatch between presumed SBS revenues

collected and storage costs allocated to the transportation customers, must of necessity, be made up by a mirror image mismatch between cost and revenues in the distribution charge. (Rosenberg, IIEC Ex. 2.0 at 20).

Mr. Mudra states that, despite his protestations in his rebuttal testimony, (Mudra, Nicor Ex. 29.0-C at 5). Nicor would not be opposed to Dr. Rosenberg's recommendation if and only if, the maximum storage allowance for Transportation customers remains at 28 days (28 times a customer's Maximum Daily Contract Quantity). (Mudra, Nicor Ex. 48.0-2nd C at 32). Mr. Mudra reasoned that acceptance of Dr. Rosenberg's recommendation should be conditioned upon retention of the 28 day storage allowance because the proposal was silent about adjusting SBS billing determinants if a larger storage allowance (e.g., 31 days) were approved in this case. (*Id.* at 32-33). This is not a reason to reject Dr. Rosenberg's proposal on its merits. IIEC urges the Commission to accept the recommendation of Dr. Rosenberg in any case. IIEC, however, does agree with Mr. Mudra that if the storage allowance is greater than 28 days, the presumptive billing units for storage service should be commensurately increased.

D. Interclass Allocation Issues

(i) Generally, the Commission has preferred to establish rates as close to cost as reasonably possible or appropriate. (Central Illinois Light Company d/b/a AmerenCILCO, et al., ICC Dkt. 07-0585, et al., (Consolidated), Final Order, September 24, 2008 at 279). The results of a proper cost of service study (one that reflects extension of the MDM engineering study, and reflects the proper allocation of storage costs) should be used to move rates to cost of service and eliminate existing rate subsidies. (Rosenberg, IIEC Ex. 1.0 at 8-14; Rosenberg, IIEC Ex. 2.0 at 3-8).

(ii) If the Commission is concerned about the validity of the cost of service study, the appropriate method for allocating the increase would be to increase base rates for all customers on a

uniform across-the-board percentage. (Rosenberg, IIEC Ex. 2.0 at 5-8). That is because such an approach would be the most likely to preserve the status quo, and absent a reliable cost of service study, there is no reason to abandon the status quo.

(iii) IIEC opposes Staff's and Nicor's recommendation to perpetuate interclass subsidies by bringing Rate 1 to only 97.5% of its full cost of service, and setting Rate 76 and Rate 77 at more than 106% of their cost of service.⁴ This is especially egregious considering that Nicor is of the opinion that the A&P method does not accurately reflect cost of service (*see*, Heintz, Nicor Ex. 15.0 at 5) and that "the allocation of any main related costs on a volumetric basis (as mandated by the A&P methodology) is an inappropriate deviation from the principle of cost causation." (Heintz, Nicor Ex. 49.0 at 5). Allocation of the cost of mains partly on a volumetric basis means that less of that cost is allocated to smaller volume customers (Rate 1 customers) than would rightfully be the case and conversely, too much is allocated to large volume customers such as Rate 76 and Rate 77 customers. (Mudra, Tr. 375).

Both Staff and Nicor support this singular treatment for Rate 1 on the grounds of gradualism. IIEC acknowledges that gradualism, which IIEC understands to be tempering the implications of strictly adhering to the indications of a cost of service study by giving consideration to the impact on customers, to be a legitimate principle of rate design. However it must be applied in an even-handed and objective manner. Even Staff witness Mr. Peter Lazare conceded that if bill impacts were an appropriate consideration, that consideration should apply to all classes, not just Rate 1. (Lazare, Tr. 529). Nicor's cost of service study, if strictly applied would result in a 35.6% increase in base

⁴ According to Nicor Exhibit 48.5, the Rate 77 "adjusted" revenue target would be \$10.856 million (Column E), while the cost of serving this class is \$10.235 million (Column C). (Mudra, Nicor Ex. 48.5 at 1).

rates to Rate 1, compared to a system wide average increase of 26%.⁵ (Mudra, Tr. 324-325, 321). However, the same study implies that a cost based increase for Rate 77 would be nearly a 46% increase in base rates. (Mudra, Tr. 333). Consequently if Rate 1 is deserving of having its increase capped at below its full cost of service, on the grounds of gradualism, then certainly Rate 77, *a fortiori*, would be deserving of the same consideration. To do otherwise, IIEC respectfully submits, is undue discrimination and thus contrary to the tenets of proper regulation. (*see*, 220 ILCS 5/9-241 of the Public Utilities Act which prohibits unreasonable difference in rates between customer classes). Mr. Lazare attempts to rationalize this discriminatory treatment on the grounds that Rate 1 customers are encountering economic difficulties and that other energy costs are rising. (Lazare, Staff Ex. 7.0 at 29). The flaw with Mr. Lazare's logic is that (a) he never demonstrated that this reasoning applies to all Rate 1 customers, and (b) even if it did, these same circumstances are apt to apply to customers in other rate classes as well. In fact, the argument supporting this undue discrimination is so weak that Mr. Mudra, in his surrebuttal testimony, states that he would not object if the Commission brought all classes to cost of service. (Mudra, Nicor Ex. 48.0-2nd C at 9). Furthermore, doing so would add only 50 cents per month to the average residential bill. (*See*, Mudra, Tr. 327).

(iv) Assuming *arguendo* that the Commission finds the Company ECOSS reasonably accurate and sufficiently reliable, and further assuming that the Commission finds the arguments to limit the Rate 1 class to only 97.5% of its cost of service to be persuasive, recouping the resulting shortfall should be confined to Rate 4 and Rate 74.⁶ While any reallocation of the reduction for Rate 1 is a

⁵ These figures are predicated on the presumption that Nicor would receive its full revenue request. Staff is proposing a significantly smaller revenue increase.

⁶ Mr. Mudra explained that Rate 4 and Rate 74 were companion rates and treated in conjunction with one another. (*See*, Mudra, Tr. 331-332).

departure from cost of service principles – which is why IIEC opposes it in the first place – if redistribution of revenues is justified by bill impact considerations, then this should be the determinative factor for all classes. Rate 4 and 74 are slated for increases of only 14.76% and 6.99% respectively (Mudra, Nicor Ex. 48.3). Thus, capping the remaining rate classes at cost of service and recovering the residual from Rate 4 and Rate 74 alone, would still leave the increase for those classes below the system-average. (Mudra, Tr. 335).

VIII. Rate Design

A. Overview

IIEC has provided an overview of its positions on rate design in Section 1 at pages 3-4 of this Brief.

C. Contested Issues

6. Rate 7 and Rate 77 Design

Rate 77 consists of a customer charge, a single volumetric charge, and a two-stepped demand charge. Staff proposes to increase the tail block demand charge in this rate, applicable to all therms above 10,000, from 2.63 cents per therm to 29.00 cents per therm, an increase of approximately 1,000 (one thousand) percent. (Rosenberg, IIEC Ex. 2.0 at 25). The tail block demand charge represents almost 80 percent of the billing demand units for this class. (Lazare, Tr. 531). Staff's proposal should be rejected. Staff hardly even justifies this specific proposal, but apparently Mr. Lazare believes that a flat (instead of a blocked) demand charge is more conducive to conservation. (Lazare, Staff Ex. 7.0 at 42). Mr. Lazare's claim has been convincingly refuted by Nicor (Mudra, Nicor Ex. 29.0-C at 13). Even assuming *arguendo* that the Commission finds Nicor's rebuttal testimony on this point unpersuasive, IIEC notes that Mr. Lazare's contentions were focused principally on declining block consumption charges for Rate 1, and not the declining block demand

charges for Rate 77. (See, Lazare, Staff Ex. 7.0 at 41-42 -- discussing Nicor's proposal to reduce the three block structure for Rate 1 to a two block structure). Moreover, there are compelling reasons for rejecting Mr. Lazare's rate design.

First, IIEC submits that on its face, a 1,000 percent increase clearly violates the principle of gradualism. Such an increase could produce close to triple digit increases for some Rate 77 customers. (See, Rosenberg, IIEC Ex. 2.0 at 26). If an increase of 35.69% percent for Rate 1 customers (Mudra, Tr. 324-325, 321) demands gradualism, then *a fortiori*, a triple digit increase for Rate 77 customers is beyond any reasonable justification.

Second, Mr. Lazare did not adequately consider the rate impacts of his proposal. The largest size customer on Mr. Lazare's bill comparison (Staff Ex. 7.0, Sch. 7.05 at 12) uses only 500,000 therms. However, the average customer on Rate 77 uses almost 1,000,000 therms per month and some customers use several times that number. (Rosenberg, IIEC Ex. 2.0 at 26). The impact on those customers could be devastating, leading to triple digit increases for the average customer on Rate 77. (Rosenberg, IIEC Ex. 2.0 at 25-26).

The third major problem is that eliminating the declining block structure on the demand charge is not cost based. In his unchallenged testimony Dr. Rosenberg pointed out that there are economies of scale in serving larger loads, and that indeed this is manifest in the cost of service study. (Rosenberg, IIEC Ex. 2.0 at 27-28). Indeed, Dr. Rosenberg's contentions regarding the economies of scale inherent in serving large customers were independently corroborated by Nicor witness Mr. Mudra. (Nicor Ex. 48.0-2nd C at 24).

The fourth problem with Mr. Lazare's proposal to eliminate the declining block is that it would greatly magnify the impact on Nicor's revenues should the demands of these large customers change from the presumptive use. (see, Lazare, Tr. 531). If usage increases, Nicor could experience

windfall profits. On the other hand, if usage decreases under Mr. Lazare's proposal, Nicor's profits would suffer and that could help precipitate another rate case.

For all the reasons identified above, IIEC urges that Mr. Lazare's proposal be rejected. Instead, the current demand charge blocks in Rate 77 be increased on an equal percent basis, as was done in Nicor's previous case and as proposed by Nicor in this case. (Rosenberg, IIEC Ex. 2.0 at 26-27).

IX. Tariff Revisions Affecting Transportation Customers

A. Overview

IIEC has presented an overview of its positions on tariff revisions affecting transportation customers in Section I at pages 4-5 of this brief.

C. Contested Issues

1. Proposed Reductions in Nomination Rights

- a. Reduction of Maximum Daily Nominations ("MDN") in the months of July through August**
- b. Reduction of Maximum Daily Nominations ("MDN") in the months of March and April**

Nicor proposes new limitations on the MDN of transportation customers in the months of July through October and the months of March and April. Because a transportation customer's injections (or more technically speaking, its increases to its storage account⁷) are deemed to be the positive difference between its nomination for that day and its usage for that day, Nicor's proposal will in effect restrict the amount of gas that transportation customers can place in storage. Nicor's

⁷ Strictly speaking, even when a transportation customer brings in more gas than it uses, this excess gas is not necessarily physically injected into Nicor's storage fields. (*see*, Bartlett, Tr. 171). This is because it says nothing about the difference between the total quantity of gas that is being brought into Nicor's system and the total sendout on that day.

new proposals add to the cost of energy for Nicor industrial customers. (Rosenberg, IIEC Ex. 1.0 at 17). This will diminish the flexibility that transportation customers have in economically managing their gas supply. In fact, Dr. Rosenberg's unchallenged and irrefutable testimony is that this new proposal will make it more difficult for customers to fill their storage banks to their total capacity, an objective that Mr. Bartlett encouraged in Nicor's last case. (*Id.* at 19).

Mr. Bartlett, Nicor's witness on storage matters, concedes that this change will diminish the benefits that these customers currently have. (Bartlett, Nicor Ex. 4.0-C at 26).⁸ This is contrary to Commission policy. In the previous case, the ICC found as follows:

"The Commission rejects Nicor's proposed change. To the extent possible, the Commission would prefer to increase rather than reduce the flexibility of customers, whether Transportation customers or Customer Select customers. Nicor has been operating under the existing maximum daily nomination for many years. While the Commission can understand Nicor's argument that storage injections in winter are inconsistent with Nicor's objectives to fully cycle its storage fields, winter injections also seem fully consistent with Nicor's objective of maintaining sufficient gas in storage to meet late winter demands for significant storage withdrawals.

The record contains no analysis that demonstrates Transportation customers intentionally interfere with Nicor's efforts to cycle its storage fields or that the activities of Transportation customers have ever actually interfered with Nicor's efforts to cycle its storage fields. In the absence of additional empirical evidence or a more compelling argument, the Commission has no choice but to reject Nicor's proposed change." (Northern Illinois Gas Company d/b/a Nicor Gas, ICC Dkt. 04-0079, Final Order, Sept. 20, 2005 at 131, emphasis added).

The situation in this case is parallel to the last case. Once again Nicor is proposing to change the terms and conditions under which it has successfully operated its storage fields, with absolutely no evidence that there is a problem, or that its proposed changes will solve the problem, even if one

⁸ Mr. Bartlett stated that by not changing the MDN in May and June, customers will retain the benefits conveyed by those MDN's for those months. (Bartlett, Nicor Ex. 4.0-C at 26). However, the inexorable corollary of this observation is that his proposal will leave the customers bereft of those benefits in the six months when the MDN is proposed to be reduced from current levels.

existed in the first place. When asked (in data request IIEC 1.09) whether the Company had any studies that purported to show the impact of transportation customers' use of SBS on the cost of purchased gas for sales customers, the Company conceded that it had not conducted or commissioned any such studies. (Rosenberg, IIEC Ex. 1.0, at 17).

Apparently realizing the weakness of his proposals, Mr. Bartlett, in his rebuttal testimony, sponsored Nicor Exhibit 19.3 ("Exhibit 19.3"), which ostensibly demonstrated that transportation customers, by virtue of their "deviant" storage activity, cost sales customers \$12 million. (Bartlett, Tr. 183-183). It is important to appreciate that Nicor Exhibit 19.3 is really the only evidence that Nicor has put forth that purports to show that there is a problem, which Mr. Bartlett's proposals are intended to ameliorate. (Bartlett, Tr. 182, 210). However, this Exhibit does not constitute anything of the sort. To say that there are flaws with Exhibit 19.3, however, is an understatement. In point of fact:

1. Nicor Exhibit 19.3 was only produced in conjunction with Nicor's rebuttal testimony, filed September 25th. (Bartlett, Tr. 183). However, Mr. Bartlett put forth his proposals on restricting the MDN in April. (*Id.*). Thus any so-called problem revealed in Exhibit 19.3 could not possibly have prompted the proposed changes to the MDN.
2. Exhibit 19.3 presumes that Nicor will, in fact must, always physically inject or withdraw the exact amount of gas specified in its storage plan. (Bartlett, Tr. 187). However, Nicor can and does deviate from its storage plan for reasons other than the activity of transportation customers, such as weather. (Rosenberg, IIEC Ex. 2.0 at 36; Bartlett, Tr. 189-191).
3. Exhibit 19.3 presumes that when transportation customers withdraw more (or less), or inject more (or less), than their "proportionate" share of the storage plan, that variance must be made up at the difference between the Chicago City Gate Price and the settlement price for the NYMEX futures price for the prompt month. (Bartlett, Tr. 187, 197-199). The problem is that, as Mr. Bartlett himself conceded, nowhere has Nicor demonstrated that this underlying assumption is correct. (Bartlett, Tr. 199). To the contrary, the available evidence is that this information is not correct. For example, Nicor has conceded that for the twelve month period encompassed by Exhibit 19.3, **the Company did not purchase any gas at the NYMEX futures**

prompt month price. In fact in the previous case Mr. Bartlett characterized Chicago City Gate First of Month prices as “actual” prices. (Bartlett, Tr. 200-201). Consequently, Exhibit 19.3 does not even use actual prices.

4. As Mr. Bartlett acknowledged, Exhibit 19.3 focuses solely on daily fluctuations in the price of gas (Bartlett, Tr. 185), thereby ignoring seasonal price differentials. Consequently, Mr. Bartlett could not describe the impact on sales customers were seasonal differentials to be incorporated into the analysis. (Bartlett, Tr. 186).⁹
5. Transportation customers are not even aware of Nicor’s seasonal storage plan and no party has suggested that their storage activity should be tied to some percentage of Nicor’s plan. (*See*, Bartlett, Tr. 188-190, 196).
6. Exhibit 19.3 implies consequences that are not only improbable, but that are outright counter-intuitive and illogical. Consider December 1, 2006, the first day shown on Exhibit 19.3, page 2, for example. On that day, Nicor was planning to withdraw 680,000 MMBTu, but ended up actually withdrawing far more than that amount. Gas prices on that day were the highest for the month, and indeed nearly the highest for the year. (Bartlett, Nicor Ex. 19.3 at 2, Col. A; Bartlett, Tr. 204-208). Nevertheless, on that cold day when Nicor required more gas to serve its sales customers, its transportation customers were actually bringing in more gas to the system than they were using. (Bartlett, Tr. 204-205). Incredibly, Exhibit 19.3 implies that the actions by the transportation customers were costing the sales customers money when clearly the transportation customers were saving the sales customers money on that day.

The only incontrovertible conclusion that one can possibly deduce from Exhibit 19.3, and which IIEC has demonstrated in the record in this case, is that *transportation customers use less storage than they purchase and pay for*. (*See*, Rosenberg, IIEC Ex. 2.0 at 37; Bartlett, Tr. 176-177).

All witnesses who responded to Nicor Exhibit 19.3, Staff witness Mr. Sackett, CNE-Gas witness Ms. Fabrizius, and IIEC witness Dr. Rosenberg, showed that this exhibit is riddled with

⁹ Mr. Bartlett was unable to say what the impact of reflecting seasonal differentials in Exhibit 19.3 would be. However, Dr. Rosenberg calculated that in the Month of December, where Mr. Bartlett calculated a cost to sales customers of \$2.6 million, transportation customers’ under-utilization of storage that month benefited sales customers by between \$5.3 and \$8.0 million. (Rosenberg, IIEC Ex. 2.0 at 36-37). CNE-Gas witness Ms. Fabrizius calculated that transportation customers under-utilization of storage (injecting less and withdrawing less than the amounts to which transportation customers are entitled), benefits sales customers by \$17.4 million. This is significantly more than the “cost” that Mr. Bartlett alleges. (Fabrizius, CNE-Gas Ex. 3.0 at 40-41). It should be noted that the evidence of Dr. Rosenberg and Ms. Fabrizius was unchallenged either by cross-examination or by Mr. Bartlett’s surrebuttal testimony.

problems. (Sackett, Staff Ex. 24.0 Rev. at 7-8; Fabrizius, CNE-Gas Ex. 3.0 at 27-38; Rosenberg, IIEC Ex. 2.0 at 35-37). However, the most remarkable thing about Exhibit 19.3 is that **even if we assume**, for the sake of argument, that it does demonstrate a “problem”, Nicor was unable to say how its proposed restrictions would solve the hypothetical “problem”. (Rosenberg, IIEC Ex. 2.0 at 35; Bartlett, Tr. 184).

In his surrebuttal testimony, Mr. Bartlett said the Company would accept Mr. Sackett’s alternative restrictions on MDN. (Bartlett, Nicor Ex. 38.0 at 33). This demonstrates that even Nicor acknowledges that the MDN restrictions it proposes are unnecessary. What Mr. Bartlett neglected to say was that Mr. Sackett offered these alternatives if and only if the Commission found Mr. Bartlett’s evidence of a problem compelling. Mr. Sackett’s position, however, is summarized in his affirmation, submitted as CNE-Gas Cross Exam Exhibit 1:

“His primary recommendation in the instant proceeding with respect to the proposed reduction in Maximum Daily Nominations (“MDN”) is that the Commission reject Nicor’s proposed changes to MDN during the months of March, April and July through October. Further, he does not recommend the Commission adopt his alternative proposal offered in ICC Staff Exhibit 24.0 at page 13 lines 258-266 and page 14 lines 291-298 unless the Commission disagrees with his primary recommendation and considers adopting Nicor’s proposed full cycle requirement to reduce Maximum Daily Nominations (“MDN”).” (CNE-Gas Cross Ex. 1, Par. 1).

IIEC opposes these proposed restrictions because Nicor has not demonstrated the need for them and because their adoption would run contrary to the expressed philosophy of this Commission to provide transportation customers maxim flexibility that is conformant to proper allocation of the capacity of the fields to transportation customers and the satisfactory operation of the fields. Dr. Rosenberg, in his testimony, noted that Nicor has been able to satisfactorily operate its storage fields without the new restrictions Nicor is proposing in this case. (Rosenberg, IIEC Ex. 1.0 at 17). Mr. Bartlett acknowledged that Dr. Rosenberg is correct in his observation, qualified only by the

ostensible problem portrayed in Nicor Exhibit 19.3. (Bartlett, Tr. 216). However, IIEC respectfully submits that the supposed analysis in Nicor Exhibit 19.3 has been thoroughly discredited by the rebuttal testimonies of Dr. Rosenberg, Ms. Fabrizius and Mr. Sackett, as well as through the cross examination of its sponsor, Mr. Bartlett. IIEC therefore recommends Nicor's proposed new restrictions on MDN be rejected and that the status quo on maximum daily nominations be maintained. (Rosenberg, IIEC Ex. 1.0 at 16-21; Rosenberg, IIEC Ex. 2.0 at 34-39).

2. Storage Calculations

a. Storage Banking Service ("SBS") Entitlement

The SBS entitlement is, by definition, the absolute maximum amount of gas that any individual transportation customer is allowed to maintain in its storage account with the Company. This entitlement is articulated as so many times the customer's Maximum Daily Contract Quantity ("MDCQ") or X days of storage. It is not contested by any party that this multiple of MDCQ should be established by dividing the maximum capacity of Nicor's storage field (the numerator), by the Company's design day sendout (the denominator), the Company's design day sendout is the Company's peak day sendout. The Company claims its peak day sendout to be 49 million therms. No party has contested the validity of the 49 million therm figure. However, there is a dispute concerning the numerator, or the maximum capacity of the storage field. The Staff, CNE and IIEC all recommend that the maximum capacity be set at what the Commission approved in the last case, 149.7 Bcf. (Sackett, Staff Ex. 11.0 at 20-23; Fabrizius, CNE-Gas Ex. 1.0 at 13-17; Rosenberg, IIEC Ex. 2.0 at 32-34). This is the non-coincident peak capacity of each of Nicor's eight storage fields, that is the sum of the maximum demonstrated capacity of each of those fields. As Staff witness Mr. Sackett affirmed in CNE-Gas Cross Examination Exhibit 1:

“Mr. Sackett’s primary recommendation in the instant proceeding with respect to the measurement of capacity in the Storage Banking Service (“SBS”) calculation is that the Commission continues to use peak non-coincident working gas storage of 149.74 Bcf as the measure of capacity in the SBS calculations for storage allocation, the factor for Storage Withdrawals and the SBS charge. He recommends the Commission adopt the 149.74 Bcf as the appropriate non-coincident working gas storage amount.” (CNE-Gas Cross Ex. 1, Par. 6).

No party claims that the non-coincident maximum capacity of Nicor storage fields has been diminished from the last case. To the contrary, the capacity figure of 149.7 Bcf has been reconfirmed. The 149.7 Bcf figure is established by an engineering study that Mr. Sackett submitted as ICC Staff Exhibit 24.0. This study was performed in 2004 to determine the actual amount of storage. Moreover, Nicor has confirmed that its storage field has not suffered any degradation in performance or capacity since the last case. (Bartlett, Tr. 213-214). Although the 149.7 Bcf was derived by adding achieved Mcf capacity in different years, Mr. Bartlett confirmed that even in a single year, the top storage capacity achieved was 149.2 Bcf. (Bartlett, Tr. 211-212). Notwithstanding that Nicor never *explicitly* proposed to change the formula, approved by the Commission in Docket 04-0779,¹⁰ (*see*, Bartlett, Nicor Ex. 4.0-C at 21-23) Nicor is proposing to make a *de facto* change to the formula by coining a new term “operationally available capacity”, which Nicor claims to be 134.6 Bcf. (Bartlett, Nicor Ex. 19.0 at 12). There are several fallacies with this position however. In the first place, Nicor never explains why this change is preferable. In the second place, unlike the sum of maximum non-coincident capacity levels, there is no easy way that this number can be confirmed by empirical evidence. In the third place, there is evidence that

¹⁰ In IIEC Data Request 2.02 Nicor was asked whether it was proposing any changes to the methodology approved by the ICC in the previous Nicor rate case, and if so to explain the changes and provide the calculations using the previously approved methodology. Nicor did not provide any explanation nor did it provide a different calculation. (Fabrizius, CNE-Gas Ex. 3.4).

the 134.6 Bcf is not even correct. The record shows that in the 2001-2002 withdrawal season, Nicor's working gas/top gas in storage equaled 149.2 Bcf. (*see*, Bartlett, Tr. 212).

Finally, even if we assume for the sake of argument, that the 149.7 was *not* operationally achievable (something which Nicor has failed to do on the record), it would be unfair and inappropriate to reject that number because transportation customers have never "operationally" achieved their theoretical maximum amount of storage that they select. (See, Bartlett, Tr. 173-175). In fact, even if it were pragmatically possible for a single transportation customer to achieve its absolute maximum entitlement, the only way that the transportation customers as a class could achieve that maximum, would be for every single one of the thousands of transportation customers on the Nicor system to achieve their maximum allowable storage balances on the same day. Thus, Nicor's proposal to use this notion of "operationally available capacity" to derive a "theoretical" but practically and empirically unachievable entitlement, is not comparing apples to apples and is thus unfair to transportation customers.

Mr. Mudra claims that sales customers would be unfairly treated if the storage entitlement is based on a total capacity of 149.7 Bcf, and analogized this to a grocer selling 150 bananas when he only has 135 bananas to sell. (See, Mudra, Nicor Ex. 48.0-2nd C at 42). However, Mr. Mudra's hypotheticals are predicated on the assumption that Mr. Bartlett is correct that there are only 134.6 Bcf of storage capacity available. (Mudra, Tr. 348-349). However, that is an invalid assumption. Moreover, if the Commission determines that Mr. Bartlett is incorrect on his assessment of the maximum capacity of the fields, then even Mr. Bartlett concedes that the Company's proposal would be unfair to transportation customers. (Mudra, Tr. 349-350).

IIEC recommends the formula for determining the SBS entitlement, as approved by the Commission in Nicor's last rate case, remain unmodified. Because Nicor's design day demand for

gas (now 49 million therms) has decreased since the last case, the use of the Commission approved formula would produce an entitlement of 31 days, instead of the 28 days determined by Nicor under its modified formula. (Rosenberg, IIEC Ex. 2.0 at 32-34). The Commission should continue to require the use of the maximum non-coincident capacity of the Nicor storage field (149.7 Bcf) as the numerator in the formula for determining the SBS entitlement.

b. Storage Banking Service (“SBS”) Charge

Nicor proposes to increase the SBS charge in this case from 0.29 cents to 0.42 cents per therm per month, an increase of 45%. (*see*, Mudra, Nicor Ex. 14.3 at 1-2, Col. M, Present Change; 14.2 at lines 45, 57 and 66; Rosenberg, IIEC Ex. 2.0 at 11). IIEC takes exception to the denominator Nicor used in the formula (storage cost divided by storage field capacity) to calculate the SBS charge. As with the issue of the correct denominator to use in the calculation of the SBS entitlement, the crux of this issue involves whether the denominator should be the empirically observable non-coincident maximum capacity of the storage fields, as approved in Docket 04-0779, (which is 149.7 Bcf) or to use the alleged “operationally available capacity”, (which Nicor claims is 134.6 Bcf). While there is no a priori reason why the Commission could not use a different capacity for the denominator of the SBS charge than for the numerator of the SBS entitlement, IIEC does agree with Nicor that the same capacity should be used for both purposes. (Mudra, Nicor Ex. 29.0-C at 38). Moreover, IIEC also agrees with Nicor that if the same capacity is used for the numerator of the SBS entitlement as well as for the denominator to derive the SBS charge, the total SBS revenue will be the same regardless of the measure of capacity chosen.¹¹

¹¹ This does implicitly assume that transportation customers will elect to choose the maximum allowable days of storage, regardless of the SBS charge.

As with the issue on the SBS Entitlement, IIEC concurs with the position of CNE-Gas and Staff that the correct measure of capacity is the one approved by the Commission in Docket 04-0779. (Fabrizius, CNE-Gas Ex. 3.0 at 3-6; Sackett, Staff Ex. 24.0 Rev. at 23-26). The reasons for IIEC's position are much the same that the Commission expressed in its Order in the last case (i.e., the charge is predicated on a maximum amount of capacity and not on usage (Northern Illinois Gas Company, d/b/a Nicor Gas, ICC Dkt. 04-0779, Final Order, September 20, 2005 at 120)), as well as the rationale that IIEC gives in Section IX.C.2.a. above to use the non-coincident maximum demand for the SBS entitlement. IIEC will not repeat its rationale here.

However, IIEC would like to draw the Commission's attention to Nicor's amorphous position on this issue. In the previous case, the Nicor witness on this issue, Mr. Harms, testified:

“This revenue requirement related to company-owned storage is then divided by 1 billion, 200 million therms, **which is the annual amount that the company can cycle from storage.**” (Mudra, Tr. 340, emphasis added).

As the record in this case makes abundantly clear, the Commission flatly rejected that methodology in Docket 04-0779. (Mudra, Tr. 340, 341; Sackett, Staff Ex. 24.0 Rev. at 17-18). Notwithstanding the expressed disapproval of that methodology in the last case, in this case Mr. Mudra continued to advocate that method in this case. He testified:

“The \$83,186,000 million storage revenue requirement was then divided by 1,346,330,000 therms **which is the amount of top gas inventory that the company expects to cycle from storage**”.¹² (Mudra, Nicor Ex. 14.0 at 24, emphasis added).

Note that Mr. Mudra's characterization of the denominator in his direct testimony is virtually the same as Mr. Harms' testimony in the previous case. Apparently becoming aware that Mr.

¹² The \$83.6 million figure was subsequently corrected to \$67.9 million in Nicor's surrebuttal testimony (see, Heintz, Nicor Ex. 49.1, Sch. E at 1, Ln. 17, Col. F) and, as corrected, IIEC is not taking issue with the storage revenue requirement used in these calculations.

Harms' position was discredited in the last case, Mr. Mudra characterized the denominator as follows in his surrebuttal testimony.

“Q (Mr. Robertson) There you state (Nicor Exhibit 48.0, page 49) that Nicor proposes to allocate storage capacity based on the maximum amount of noncoincident storage capacity. Is that Nicor's position at this time?

A Yes.” (Mudra, Tr. 344-345, explanation added).

Of course although the term maximum amount of non-coincident storage capacity was there used in the context of the SBS entitlement, it was Mr. Mudra's position that this same quantity should also be used for the formula deriving the SBS charge.

“The numerator of the SBS entitlement calculation is the same as the denominator in the SBS Charge calculation.” (Mudra, Nicor Ex. 29.0 at 38).

Thus, at this juncture, all parties, including Nicor, agree that the correct denominator for the SBS charge calculation is the maximum amount of non-coincident working gas capacity. The only question should be: “What is the correct amount of that maximum amount of non-coincident capacity? For the reasons already explained in Section IX.C.2.a. above, it is IIEC's position that this correct amount of capacity is the one approved by the ICC in Nicor's previous case (149.7 Bcf) and not the 134.6 Bcf claimed by Nicor. Use of the correct denominator would result in an SBS charge of 0.38 cents per therm per month. This still would represent a 31% increase over the current rate, well above the requested system average. (Rosenberg, IIEC Ex. 1.0 at 16; Rosenberg, IIEC Ex. 2.0 at 28-32).

c. Storage Withdrawal Factor

iii. Other

IIEC proposes that the Terms and Conditions provisions in Nicor's tariffs be modified so as to establish SWF on the basis of the customer's maximum storage inventory during the period

between October 15 and November 15 of each year. Currently, the tariffs provide that the SWF is based solely on the inventory on November 1. (Rosenberg, IIEC Ex. 1.0 at 21-22). In other words, Dr. Rosenberg was proposing to somewhat relax the currently rigid requirement that customers reach their absolute maximum capacity precisely on November 30, or be subject to diminished withdrawal capability. As Dr. Rosenberg expressed it in his direct testimony:

“I accept the concept and the objective of the SWF. However, I find that the November 1 date is somewhat arbitrary. While November 1 is notionally the date that Nicor attempts to hit its maximum inventory, I believe that the customers should have a little bit of latitude. Even Nicor does not always reach its maximum working gas inventory exactly on November 1. Thus, I propose replacing the customer’s “November 1 Inventory Balance” with the customer’s *Maximum Inventory Balance between October 15 and November 15*. This is in accord with the Commission’s expressed opinion to provide transportation customers with increased flexibility, yet it does not compromise the basic objective of the SWF.” (Rosenberg, IIEC Ex. 1.0 at 22).

Indeed there is evidence in the record, from Mr. Bartlett himself, that in recent years Nicor’s individual storage fields achieved their maximum inventory from as early as October 22nd to as late as December 13th. (Bartlett, Tr. 220-222). Despite Nicor’s own inability to achieve a maximum balance for each of its fields on precisely November 1, Nicor was critical of Dr. Rosenberg’s proposal. In his rebuttal testimony, Mr. Bartlett gave only one reason for rejecting Dr. Rosenberg’s proposal to relax the window, namely that “Dr. Rosenberg has taken one provision from NGPL’s DSS tariff” and “ignored all the other provisions”. However under cross examination, Mr. Bartlett conceded that Dr. Rosenberg did not base his recommendation on NGPL’s DSS tariff, although IIEC notes that the existence of this similar tariff provision speaks to the reasonableness of Dr. Rosenberg’s proposal. In fact the only really substantive objection to this proposal was voiced by Mr. Mudra, on pragmatic grounds. Mr. Mudra noted that (i) Nicor bills these customers at the end of the month and therefore has the data needed to calculate the SWF on October 31st but not on

November 15th and (ii) that Nicor is required by tariff to notify daily balanced customers, shortly after November 1st of their new SWF factor. (Mudra, Nicor Ex. 29.0 at 46-47). However these rationalizations are red herrings. In the first place, Nicor has daily meter readings for all of Rate 76 and 77 customers (*see*, Mudra, Nicor Ex. 14.2 at 66), and so it would be a simple matter to restrict Dr. Rosenberg's proposal to only daily metered customers.¹³ In the second place, if there were a critical day called between November 1 and November 15, Nicor could utilize the SWF based on the previous year's maximum storage.

Thus, for all the reasons stated above, IIEC's proposal to relax the requirement that the transportation customers reach their absolute maximum storage capacity on exactly November 1 each year and allow daily metered transportation customers to establish their SWF between October 15 and November 15 each year.

CONCLUSION

IIEC respectfully requests that the Commission take the actions set out below.

1. The Commission should direct modification of the Nicor ECOSS in this case to fully reflect the MDM study in the allocation of both the volume-related component and the peak-demand related component of the Nicor mains to the Nicor rate classes.
2. The Commission should direct modification of the Nicor ECOSS, such that Nicor's storage costs are allocated to transportation customers equal to the revenue received from these customers through the cost based SBS charge.
3. The Nicor ECOSS, as modified, should be used to allocate responsibility for the Nicor revenue requirement to all rate classes and to move rates to full cost of service for each rate class.
4. In the alternative, if the Commission approves a cap on the Rate 1 increase, any associated revenue shortfall should be assigned to Rate 4 and Rate 74.
5. If the Commission is concerned about the validity of the Nicor study, then the Commission should approve an across-the-board increase for all rate classes.

¹³ Customers who are not daily metered cannot be subject to the same restrictions on their daily withdrawals as are daily metered customers, because of the lack of data on their daily usage.

6. The Commission should reject the Staff's proposal to increase the tail block for Rate 77 by 1,000 percent. The Commission should increase the Rate 77 tail block on an equal percent basis.
7. The Commission should reject Nicor's proposal to use 134.6 Bcf for the numerator in the formula used to determine the SBS entitlement and should retain the use of the maximum non-coincident capacity of 149.7 Bcf approved in Nicor Docket 04-0779.
8. The Commission should reject Nicor's proposal to use 134.6 Bcf as the denominator in the formula used to determine the SBS charge and retain the use of the maximum non-coincident capacity of 149.7Bcf approved in Nicor Docket 04-0779.
9. The Commission should direct Nicor to modify its existing transportation service terms and conditions to establish a daily metered transportation customer's SWF on the basis of the customer's maximum storage inventory between October 15 and November 15 of each year instead of on November 1 of each year.

Respectfully submitted,

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