STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Northern Illinois Gas Company d/b/a Nicor Gas Company Proposed general increase in rates, and revisions to other terms and conditions of service	))))))	 Docket No. 08-0363

SUMMARY OF POSITIONS
OF STAFF OF THE ILLINOIS COMMERCE COMMISSION

NOW COMES Staff of the Illinois Commerce Commission, by and through its attorneys, and as and for its Summary of Positions, states as follows:

<u>Overall Revenue Requirement and Revenue Deficiency</u>

Staff recommends revenues of $631,078,000. This is an increase of $63,494,000 or 11.19%, to Nicor Gas' pro forma present revenues of $567,584,000. (Staff IB, p. 2; Staff RB, p. 2)

<u>Rate Base</u>

Uncontested Issues

1. Incentive Compensation

Staff recommends and the Company has accepted disallowance of half the cost of the goal for at-fault hit ratio per 1,000 locates since the Company's historical performance of this goal indicates it has never achieved the level required for a 100% payout of the goal. Staff recommends and the Company has accepted a ($7,000) (Co. Ex. 45.3) rate base deduction. A resulting operating expense deduction and a payroll taxes deduction are discussed under operating expenses.

2. Northern Regional Reporting Center ("NRRC")

Staff and the Company agree on the position regarding the construction of the NRRC and to include $5.9 million in the 2009 test year rate base. (Co. Schedule F-4; Staff Group Cross Ex. 1, MEM 9.01 and NRC Staff 2.01). Therefore, the parties have consented that Nicor Gas' proposed rate base should include $5.9 million for the construction of the NRRC.

3. Plant Additions – Original Cost Finding

Staff recommended that the Commission conclude and make a finding in the Order for this proceeding that the Company's December 31, 2007, plant balances as reflected in Company Schedule B-5, column (L), are approved for purposes of an original cost determination, subject to any adjustments ordered by the Commission in this proceeding. Staff testified that 83 Ill. Adm. Code 510, The Preservation of Records of Gas Utilities, Appendix A, contains requirements for the preservation of specific records. For example, journal vouchers and journal entries which support plant accounts are to be maintained – 7 years prior to date as of which original cost of plant has been unconditionally determined or approved by this Commission in|| an original cost determination proceeding or a rate case. (Staff Ex. 4.0R, pp. 6-8) Staff, in its testing of the original cost determination, relied upon a review of the Company's invoices selected through a statistical sampling methodology. (Staff Ex. 12.0) The Company has requested that the Commission make Staff's recommended finding regarding the original cost. (Co. IB, pp. 9-10)

Contested Issues

1. Cash Working Capital ("CWC")

Staff is proposing to reduce the amount of CWC added to rate base by applying revenue lag days of zero to pass-through taxes in the CWC calculation. Pass-through taxes are not revenue, and therefore cannot have a revenue lag. Ratepayers provide pass-through taxes for the Company to hold and later remit to taxing bodies. If a revenue lag for pass-through taxes is included in CWC and added to rate base, Investors will earn a return on ratepayer supplied funds. Staff recommends a reduction of CWC, and therefore rate base, of $25,010. (Staff Ex. 1.0, pp. 8-11; Staff Ex. 14.0, pp. 5-10; Staff IB, pp. 4-9; Staff RB, pp. 3-7; Staff IB, App. A, p. 10)

2. Pension Asset

Staff opposes the Company's inclusion of its pension asset in rate base since it was paid for with ratepayer funds. The Commission has twice ruled with Staff on this issue and no facts have changed to merit a reversal. Staff recommends a ($142,044,000) (Co. Ex. 26.2) rate base deduction. (Staff Ex. 2.0, pp. 3-10 and Sch. 2.01; Staff Ex. 15.0, pp. 3-8 and Sch. 15.01) The AG/CUB also recommend disallowing this same amount from rate base. (AG IB, pp. 10-12; CUB IB, pp. 5-6)

3. Gross Plant

Staff recommends a finding that 2008 and 2009 estimated plant additions are overstated based on the Company's historical pattern of overestimating its projected plant additions. Budgeted plant additions for 2008 and 2009 are not an accurate indicator of actual plant additions for those years because the Company has overestimated plant additions by 2.87% between 2004 and 2007. In the Company's last rate case, the Commission accepted an adjustment to reduce the Company's forecasted plant additions based on an average of historical under budget variances that was only 0.8%. Staff recommends reducing gross plant by $8.8 million and the related impact on accumulated depreciation, accumulated deferred income taxes and depreciation expense. (Staff IB, App. A, p. 19; Staff Ex. 4.0, pp. 3-4; Staff Ex. 17.0, pp. 3-4)

Operating Expenses

Uncontested Issues

1. Incentive Compensation

Staff recommended and the Company accepted in rebuttal testimony to disallow the costs of several incentive compensation plans charged from its consolidated pool charges for costs related to shareholder oriented goals. There will be a ($2,393,000) operating expense deduction, plus payroll taxes. CUB also recommends disallowing $2,276,000 in incentive compensation allocated to the Company from Nicor, Inc. (CUB IB, pp. 8-9) However, the Company has already agreed to Staff's adjustment in direct testimony to remove these costs from the test year. (Staff IB, p. 18; Co. IB, p. 25)

2. Pension Credit

Staff concurs with Nicor Gas' summary of the record for the pension credit in this proceeding. (Co. IB, pp. 26-27)

3. Environmental Expenditures

The Company accepted Staff's adjustment to disallow costs associated with the clean up of mercury regulators. Staff's adjustment reduces G & A expense by $392,000. (Staff Ex. 16.0, pp. 11-12; Staff IB, p. 19) In its rebuttal revenue requirement, the Company included $564,000 for expenditures related to a new environmental waste disposal program initiated in 2008. $282,000 was capitalized and $282,000 was included in O&M expense. Staff does not oppose the adjustment. (Staff IB, p. 19; Co. IB, p. 17)

4. Invested Capital Taxes

The Company accepted Staff's methodology to calculate the increase in invested capital taxes based upon the approved operating income in this case rather than included as a part of the gross revenues conversion factor. Therefore, Staff's initial brief, Appendix A, operating expense adjustment of ($367,000) will have to be updated for the final Commission conclusions in this case. (Staff Ex. 2.0, pp. 19-20, Sch. 2.04; Staff Ex. 15.0, p. 3, Sch. 15.04)

5. Promotional Expenses

Staff and AG/CUB proposed similar adjustments to disallow branding costs, which are of a promotional nature and are prohibited by Section 9-225(2) of the PUA. The Company accepted the adjustment, which reduced G&A expense by $264,000. (Staff Ex. 3.0, pp. 12-15; Staff IB, pp. 19-20; Co. IB, p. 28)

6. Training/Seminar Expenses/Economic

Staff proposed an adjustment to reduce the projected amounts of training and seminar expenses in the test year by $404,000 because they appear to be excessive, based on historical spending patterns. Staff also proposed an adjustment to disallow contributions of $92,000 for economic development, which are not recoverable contributions under Section 9-227 of the PUA. The Company accepted Staff's adjustments. (Staff Ex. 3.0, pp. 16-18; Staff IB, p. 20; Co. IB, p. 28)

7. Membership Dues

Staff proposed an adjustment to disallow test year expense of $128,000 for memberships and dues to community and economic development organizations. The reasons for disallowance are similar to the reasons stated above for disallowing promotional expenses. The Company accepted Staff's adjustment. (Staff Ex. 3.0, pp. 18-20; Staff IB, pp. 20-21; Co. IB, pp. 28-29)

8. Certain Charitable Expenses

Staff proposed adjustments to disallow test year charitable contributions of (1) $25,000 to Chicago United and $6,000 to The Conference Board, which are organizations focused on economic development, and (2) $53,000 in "Contributions less than $5,000," which is the unexplained portion of the projected increase over the actual amount expended for this category in 2007. The adjustments were accepted by the Company. (Staff Ex. 3.0, pp. 9-12; Staff IB, p. 21; Co. IB p. 29)

Contested Issues

1. Incentive Compensation Costs and Expenses

Staff recommends disallowance of the Incentive Compensation Units ("ICU") plan cost since it is based solely on achievement of financial goals, and the Company has demonstrated no benefits to ratepayers, as it cannot, since the employees no longer work for the Company. Staff recommends a ($325,000) operating expense deduction. (Staff Ex. 2.0, pp. 11-19, Sch. 2.03; Staff Ex. 15.0, pp. 9-12, Sch. 15.03) The AG and CUB both support Staff's adjustment. (AG IB, p. 14; CUB IB, pp. 7-8)

2. Uncollectible Accounts Expense

Staff opposes the Company's level of uncollectibles expense calculated from an assumed 2.25% uncollectibles rate. Staff uses Company 2007-2008 experience to recommend a more appropriate increase to 2.02% from its prior level of 1.4%. Staff recommends a ($6,981,000) operating expense deduction. (Staff Ex. 2.0, pp. 10-11, Sch. 2.02; Staff Ex. 15.0, pp. 8-9, Sch. 15.02) The AG/CUB recommends adoption of its own adjustment rather than Staff's. (AG IB, pp. 14-16; CUB IB, pp. 9-11)

3. Rate Case Expense

Staff proposes to amortize rate case expense over 4 years instead of 3 years, as proposed by the Company. Staff's rationale is that Proposed Riders VBA and EEP are structured as 4-year pilot programs; Nicor Gas has a history of long periods of time between rate proceedings; there is no mechanism for returning an over-recovered amount to ratepayers. The Company's argument that Staff's proposal is inconsistent because Staff has simultaneously recommended rejecting Rider VBA has no merit because Staff has not recommended that the Commission reject Rider VBA. Staff's proposed adjustment reduces G & A expense by $529,000. (Staff Ex. 3.0, pp. 3-5; Staff Ex. 16, pp. 2-4; Staff IB, pp. 28-30; Staff RB, pp. 11-12)

4. Payroll / Headcount

Staff opposes adopting the Attorney General's payroll expense adjustment. (Staff Ex. 15.0, p. 12)

5. Customer Records & Collection Expenses

Staff maintains its position that, with the analysis provided by the Company, the adjustment to Customer Records & Collection Expenses proposed by AG witness Effron is not necessary. (Staff Ex. 14.0, pp. 12-13; Staff IB, p. 31; Staff RB, p. 12)

6. Charitable Contributions

Staff is proposing to disallow Company contributions to the Aurora Foundation and to the Salvation Army-Chicago.

a. Aurora Foundation

The Company contribution specifically funds the Nicor Gas Scholarship Fund, which is administered by the Aurora Foundation. Scholarship benefits are limited to the children of Nicor Gas' employees. The contribution is not for the public welfare or for charitable purposes and should not be recovered from ratepayers. Staff's proposed adjustment reduces G & A expense by $100,000.

b. Salvation Army-Chicago

The contribution represents the Company's match of contributions from Nicor Gas customers and employees to the Nicor Gas Sharing Program, which is administered by the Salvation Army-Chicago. The cost should be paid by shareholders. Otherwise, ratepayers are paying twice – once through direct contributions and again through base rates. Staff's proposed adjustment reduces G & A expense by $220,000. (Staff Ex. 3.0, pp. 6-9; Staff Ex. 16.0, pp. 4-10; Staff IB, pp. 31-33; Staff RB, pp. 12-14)

8. Depreciation and Amortization Expenses

The Company and Staff agree upon the calculation methodology to be used to adjust depreciation expense due to adjustments to utility plant that the Commission accepts. (Staff Ex. 17.0, pp. 3-4)

Rate of Return

Uncontested Issues

The parties agree that the embedded cost of Nicor Gas' long-term debt is 6.80% and the embedded cost of Nicor Gas' non-redeemable preferred stock is 4.77%. (Staff Ex. 5.0, Sch. 5.1; Staff Ex. 18.0C, Sch. 18.1; Co. Ex. 24.1; CUB Ex. 2.0, p. 14)

Contested Issues

1. Capital Structure (Inclusion of Short-Term Debt)

Staff recommends a capital structure for Nicor Gas comprising $255,640,082 (18.21%) of short-term debt, $495,195,694 (35.27%) of long-term debt, $1,386,144 (0.10%) preferred stock, and $651,818,845 (46.42%) of common equity. (Staff Ex. 18.0C, Sch. 18.1)

The primary issue with regard to the capital structure is whether or not short-term debt should be included in Nicor Gas' capital structure. Staff maintains that Nicor Gas uses short-term debt to finance a portion of its rate base, and therefore, short-term debt should be included in the Company's capital structure. (Staff Ex. 5.0, pp. 3-6; Staff Ex. 18.0C, pp. 6-14) CUB agrees with Staff's position to include short-term debt in the capital structure (CUB Ex. 2.0, p. 14).

2. Adjustments to Other Capital Components Based on the Calculation of AFUDC Balances

Staff adjusts all of the components of its recommended capital structure to reflect the Commission's methodology for calculating the allowance for funds used during construction (AFUDC), which assumes that short-term debt is the first source of funds for financing construction-work-in-progress (CWIP) and that any CWIP not funded by short-term debt is funded proportionally by the remaining sources of capital. (Staff Ex. 5.0, pp. 7-8; Staff Ex. 18.0C, pp. 13-14)

3. Cost of Short-Term Debt

Staff estimates the Company's cost of short-term debt is 2.50%. Staff's estimate is based on the current interest rate on commercial paper and includes the bank commitment fees required for the Company to maintain the bank lines of credit that support its commercial paper program. (Staff Ex. 18.0C, pp. 15-16) CUB adopted Staff's cost of short-term debt recommendation. (CUB Ex. 2.0, p. 14)

4. ROE Calculation

Staff estimates the investor-required rate of return on common equity for Nicor Gas is 9.68%. Staff measured the investor-required rate of return on common equity for Nicor Gas with non-constant DCF and CAPM analyses, which it applied to a sample of utility companies similar in operating risk to Nicor Gas. To reduce issues in this case only, Staff recommended using published beta estimates in the CAPM analysis. The ratio analysis for Nicor Gas and the companies in Staff's sample indicate that Nicor Gas is significantly less risky than Staff's sample. Accordingly, Staff adjusted the investor-required rate of return for its sample downward to derive its estimate of the investor-required rate of return for Nicor Gas. (Staff Ex. 19.0C, pp. 10-12; Staff Ex. 6.0C, pp. 21-25) The Company (Co. Exs. 10.0, 25.0, and 44.0), CUB (CUB Exs. 1.0 and 2.0), and Staff (Staff Exs. 6.0C and 19.0C) disagree on the proper ROE for Nicor Gas. The Company requests an ROE of 11.15%. (Co. Ex. 25.0, p. 1) CUB recommends an ROE of 9.455%. (CUB Ex. 1.0, p. 3)

5. Effect of Proposed Riders

Staff has recommended a 13 basis point reduction to the cost of equity for Riders VBA and UEA (6.5 basis points each). (Staff Ex. 6.0C, pp. 28-30) CUB and Staff agree that a downward adjustment is necessary. However, CUB recommends a downward adjustment of 58 basis points. (CUB Ex. 1.0, p. 38) The Company argues that no adjustment is necessary. (Co. Ex. 25.0, p. 38)

6. Overall Cost of Capital (Derivative)
Staff recommends a 7.35% rate of return on rate base on Nicor Gas' rate base. (Staff Ex. 18.0C, Sch. 18.1)

<u>Cost of Service and Allocation Issues</u>

Uncontested Issues

Allocation Factor Based on Services Investment by Customer Class
Staff recommends that the Company be allowed to use the allocation factor proposed by the Company in this docket, but that the Company be directed in its next rate filing to prepare an allocator for services that reflects the level of services investment by customer class. (Staff Ex. 7.0, p. 28) The Company recommends that it be directed to evaluate the use of an allocation factor based on the amount of services investment by customer class and it would agree to present its conclusions in its pre-filed testimony during its next rate case. Staff accepts this position.

Contested Issues

1. Main Size Allocation
IIEC's arguments for its proposed revision to the average demand component of the Company's proposed A&P allocator should be rejected. The IIEC proposal conflicts with the principles on which the A&P allocator was developed. The average demand component of the allocator "recognizes the role of year-round demands in shaping transmission and distribution investments." (Staff Ex. 7.0, pp. 25-26) Stated otherwise, the Company requires year-round demands by all customers to justify the investment in a T&D system which consists of both large and small mains. Therefore, IIEC's proposed revision to the Company's A&P allocators should be rejected. No other party supports the IIEC proposal.

2. Interclass Allocation Issues
IIEC argues against the Company proposal to bring the residential class to only 97.5% of its full cost of service. Staff opposes the IIEC's argument. Even with this limitation, the Company proposes to recover approximately 80% of its proposed base rate increase from the residential class. (Tr. Nov. 19, 2008, pp. 541-542) Thus, the Commission can be safely assured that the residential class is paying a reasonable share of the proposed increase under the revenue allocation proposed by Nicor Gas and it would be onerous to require the class to pay even more as the IIEC recommends.

<u>Rate Design</u>

Contested Issues

1. Rate 1 Design - Alternative Straight Fixed Variable
The proposal for significant increases in customer charges based on the Single Fixed Variable ("SFV") approach presents a number of problems in that it reduces ratepayers' incentive to conserve gas; raises a consistency issue between how costs are caused

and how revenues are collected; conflicts with the Company's beliefs concerning cost causation for distribution costs; creates an inequity for smaller customers who are required to pay the same for plant components as larger customers despite their smaller contribution to these costs; and could make it more difficult for ratepayers in financial distress to control their natural gas costs. The more reasonable alternative is to limit customer charges to recovery of customer costs only. (Staff Ex. 7.0, pp. 34-39; Staff Ex. 20.0, pp. 19-23) The Company supports the SFV while the Staff and AG are opposed.

2. Rate 4 and Rate 74 Design

The Company's proposed declining block rates present problems because declining block rates would encourage more gas use, leading to higher rates and bills in the long term and the Company has failed to show that a declining block rate is consistent with cost-causation principles. Flat rates provide a more reasonable alternative because they are more consistent with cost and conservation principles. This is an issue between the Company and Staff. (Staff Ex. 7.0, pp. 41-42; Staff Ex. 20.0, pp. 12-16, 24-25)

3. Rate 5 and Rate 75 Design

VES and Nicor Gas reached an agreement at the hearing in which the Company determined to provide seasonal service to customers with a seasonal load profile and annual usage up to 700,000 therms to qualify for seasonal service under Rates 5 and 75. Staff supports this proposal because it offers greater flexibility to transportation customers without unduly degrading service for Sales customers or putting reliability at risk. (Staff Ex. 24.0R2, pp. 40-41) However, Staff asserted that a related issue is the assumed subscription rate used in ratemaking. Staff believes that the correct assumption given actual experience and the Company's own testimony is 10%. (Staff IB, p. 96; Staff RB, pp. 36-38) Nicor Gas objects to this rate and insists that the appropriate rate is 100%. (Co. RB, pp. 78-80)

4. Rate 7 and Rate 77 Design

Staff proposes rates for Rate 7 and 77 customers based on the same principles that drive Staff's rate design for other residential and nonresidential customers. These include customer charges that collect customer costs only and flat charges to collect remaining costs. (Staff Ex. 7.0, pp. 40-41) IIEC supports the Company's proposed rate design featuring higher customer charges and severe declining block charges.

Tariff Revisions Affecting Transportation Customers

Uncontested Issues

1. Individual and Group Administration Charges

Nicor Gas proposes to decrease the Individual Administration Charge from $25 to $23 per account and increase the Group Administration Charge from $7 to $10 per account. (Co. Ex. 14.0, pp. 23, 26) Nicor Gas provided further justification in its response to Staff DR DAS 4.03. (See Staff Group Cross Ex. 1) No party objected to the changes in either of these charges. Staff recommends that the Commission approve these charges.

2. Recording Device Charges

Nicor Gas proposes to increase the Recording Device Charge from $5 to $10 per diaphragm meter and from $12 to $17 per meter for all other meters. (Co. Ex. 14.0, pp. 23, 26-27) Nicor Gas provided further justification in its response to Staff DR DAS 4.03 Ex. 2. (See Staff Group Cross Ex. 1) No party objected to the changes in either of these charges. Staff recommends that the Commission approve these charges.

3. Group Change Fees

Nicor Gas proposes to increase the Group Change Fee from $15 to $25 per change. (Co. Ex. 14.0, pp. 23, 27-28) Nicor Gas provided further justification in its response to Staff DR DAS 4.03. (See Staff Group Cross Ex. 1) No party objected to the changes in this fee. Staff recommends that the Commission approve these charges.

4. Transportation Service Credit

Nicor Gas proposes to increase the components of the Transportation Service Credit ("TSC") from $.0058 per therm to $.0127 per therm for the Company's uncollectible gas expense, and from a $.0044 per therm to $.0062 per therm credit for storage withdrawal credit. (Co. Ex. 14.0, pp. 23, 28-29) Nicor Gas provided further justification in its response to Staff DR DAS 4.03 Ex. 3. (See Staff Group Cross Ex. 1) No party objected to the changes in either of these credits. However, in its Memorandum of Understanding with CSGS (Co. Ex. 29.3), Nicor Gas agreed to add a $.0045 per-therm credit for the carrying costs of working gas to the TSC. Staff recommends that the Commission approve these changes to the TSC.

5. Gas Supply Cost / Demand Gas Cost

Nicor Gas proposes to adjust the Gas Supply Cost from .53 times Maximum Daily Contract Quantity ("MDCQ") times Demand Gas Cost to .5 times MDCQ times Demand Gas Cost to reflect the portion of peak day demand that can be met from on-system storage, which is .5. (Co. Ex. 14.0, pp. 23, 30) Nicor Gas provided further justification in its response to Staff DR DAS 4.03 Ex. 4. (See Staff Group Cross Ex. 1) No party objected to the changes in either of these changes. Staff recommends that the Commission approve these changes.

6. Timing of MDCQ

VES has proposed that Nicor Gas calculate MDCQ for transportation customers based solely on the most recent heating season. (VES Ex.1.0, p. 7) Nicor Gas objected to this proposal, stating this is not workable because the timing of two other tariff requirements makes inclusion of most recent months impossible. (Co. Ex. 29.0, pp. 30-31) Staff originally supported a modification of this approach that would still use annual data but shift the calculation so that it could use the data for the most recent heating season. This approach more accurately reflects annual usage for seasonal customers while still using the most up-to-date information. (Staff Ex. 24.0, pp. 37-38)

However, Nicor Gas and VES arrived at an agreement and VES withdrew its proposal. (Tr., p. 631, Nov. 19, 2008) Staff agrees with the decision to withdraw the proposal because any transportation customers can have its MDCQ recalculated at any time. (Co. Ex. 29.0, p. 31)

Contested Issues

In its Reply Brief, Nicor Gas revealed that it had reached an agreement on most of these contested issues with one of the intervenors in this case, CNE. The details of the agreement require passage of all parts by the Commission in order for the agreement to be binding. However, the Commission is not bound by this agreement and it should not link the separate decisions but rather should evaluate the merits of each independently. Staff and other parties had no chance to refute the various agreements.

1. Proposed Reductions in Nomination Rights

a. Reduction of Maximum Daily Nominations ("MDN") in the months of July through October

Nicor Gas had proposed to reduce the nomination rights during the months of July through October to incent transportation customers to cycle their banks in April. Staff opposes this reduction because it would reduce the flexibility for transportation customers. Staff disputes Nicor Gas' assertion that transportation customers' actions raise sales customers' gas costs. (Staff Ex. 11.0R, pp. 6-16; Staff Ex. 24.0R2, pp. 6-13) Staff, IIEC and CNE all argued against this reduction and recommended that the Commission retain current nomination rights. In their Reply Briefs, Nicor Gas and CNE stated that they had reached an agreement to withdraw this recommendation. (Co. RB, pp. 82-85; CNE RB, pp. 5-9)

b. Reduction of Maximum Daily Nominations ("MDN") in the months of March and April

Nicor Gas had proposed to reduce the nomination rights during the months of March and April to make it more difficult for transportation customers to inject gas into their banks when the Company is attempting to cycle its storage fields. Staff opposes this reduction because it would reduce the flexibility for transportation customers. Staff disputes Nicor Gas' assertion that transportation customers' actions raise sales customers' gas costs. (Staff Ex. 11.0R, pp. 16-20; Staff Ex. 24.0R2, pp. 6-9, 13-15) Staff, IIEC and CNE all argued against this reduction and recommended that the Commission retain current nomination rights. In their Reply Briefs, Nicor Gas and CNE stated that they had reached an agreement to find middle ground here. (Co. RB, pp. 82-85; CNE RB, pp. 5-9) While Staff and other parties had no chance to refute this agreement, this reduction still suffers from most of the same flaws as the original proposal and should be rejected. Specifically, there has been no conclusive evidence of a need for these reductions.

2. Storage Calculations

Nicor Gas presented the amount 134.6 Bcf as the targeted inventory that should be used to determine the Storage Banking Service ("SBS") entitlement, the SBS Charge and the Storage Withdrawal Constant. Staff, IIEC and CNE all argued against this value and recommended that the Commission retain its use of Nicor Gas' non-coincident historical capacity of 149.74 Bcf. In their Reply Briefs, Nicor Gas and CNE stated that they had reached an agreement to set the value at 142.37 Bcf, which is an historic non-coincident inventory metric. (Co. RB, pp. 85-90; CNE RB, pp. 9-11) While Staff and other parties had no chance to refute this agreement, this value still suffers from most of the same flaws as the 134.6 Bcf and should be rejected. Specifically, it is not a capacity and, as such, requires the Commission to depart from its decision in the past rate case which found that a capacity was the only appropriate metric.

a. SBS Entitlement

Nicor Gas had proposed to keep the number of days of SBS entitlement at 28 days. However, since the Company's peak design day has decreased, this really means a lower share of that deliverability. Staff opposes this approach because Nicor Gas has not demonstrated why its new "operationally available" capacity-like measurement (134.6 Bcf) is more appropriate than the capacity that the Commission ordered in the last rate case. This results in an SBS entitlement of 31 days. (Staff Ex. 24.0R2, pp. 15-25) In its Reply Brief, Nicor Gas proposes to use the same formula from the past case but to replace the established capacity to an inventory metric of 142.37 Bcf. This results in an SBS entitlement of 28 days. (Co. RB, p. 88)

b. SBS Charge

Nicor Gas had proposed to change SBS charge from $.0029 per therm to $.0042 per therm. Staff opposes this approach because Nicor Gas has not demonstrated why its new "operationally available" capacity-like measurement (134.6 Bcf) is more appropriate than the capacity that the Commission ordered in the last rate case; Staff recommends the charge to be $.0038 per therm. (Staff Ex. 11.0R, pp. 20-24; Staff Ex. 24.0R2, pp. 15-22, 25-29) In its Reply Brief, Nicor Gas proposes to use the same formula from the past case but to replace the established capacity to an inventory metric of 142.37 Bcf. (Co. RB, p. 89)

c. Storage Withdrawal Factor

Storage Withdrawal Constant

The Storage Withdrawal Constant ("SWC") determines the level of storage withdrawal for a transportation customer on normal winter and critical days. Nicor Gas has proposed to change the SWC from 1.7% to 1.8%. Staff opposes this approach because Nicor Gas has not demonstrated why its new "operationally available" capacity-like measurement (134.6 Bcf) is more appropriate than the capacity that the Commission ordered in the last rate case. Staff holds that since none of the inputs have changed, the SWC should remain at 1.7%. (Staff Ex. 24.0R2, pp. 15-22) In its Reply Brief, Nicor Gas proposes to use the same formula from the past case but to replace the established capacity to an inventory metric of 142.37 Bcf. This results in a SWC of 1.8%. (Co. RB, p. 90)

Timing of the Storage Withdrawal Multiple Calculation

Staff opposes IIEC's proposal to change Storage Withdrawal Multiple from a one-time calculation on November 1 to a maximum amount between October 15 and November 15 because Nicor Gas does not have accurate SBS inventory data on a daily basis between billing periods. (Staff Ex. 24.0R2, pp. 29-31)

3. Costs Associated with Storage and System Losses

a. Storage Loss Adjustment ("SLA") Factor

Staff recommends that the Commission direct Nicor Gas to review its treatment of the allocation and recovery of the system and storage losses at the same time that it is reviewing the methodology for calculating the amount of storage losses and the procedures for accounting for these losses. Nicor Gas should be directed to consult with Staff in this regard and, if warranted, to revise its treatment of the allocation and recovery of these losses. (Staff IB, p. 25)

b. Unaccounted-For Gas Adjustment ("UFGA")

Staff now recommends that the Commission order that during Nicor Gas' review of the methodology for calculating the amount of storage losses and the procedures for accounting for these losses, that Nicor Gas review with Staff and, if warranted, revise its treatment of the allocation and recovery of both storage and system losses through the UFGA. (Staff IB, pp. 25-26) Nicor Gas objects to this proposal. (Co. RB, p. 91)

4. Intra-day Nominations

CNE proposed that Nicor Gas provide Intra-day nominations. (CNE Ex. 2.0, pp. 7-14) Nicor Gas objects to CNE's recommendation. Nicor Gas asserts that this proposal was rejected in the last case and it creates additional and unacceptable operational uncertainty. (Co. Ex. 19.0, pp. 27-31) Staff recommends that the Commission order Nicor Gas to implement a pilot program to provide the evening nomination (6 PM) on a firm basis and the Intra-day 1 nomination (10 AM) on a best-efforts basis to allow review of the effects and feasibility of this service. (Staff Ex. 24.0R2, pp. 34-36) In their Reply Briefs, Nicor Gas and CNE stated that they had reached an agreement to find middle ground here. (Co. RB, pp. 91-93; CNE RB, pp. 12-13) While Staff had no chance to refute this agreement, this middle ground still does not offer the same benefits of a best efforts approach at the beginning of the gas flow day and the Company still has provided no evidence that the considerations in the agreement are necessary. Specifically, if Nicor Gas is able to provide the services offered in its agreement, they certainly can provide the limited measures of Staff's pilot program.

5. Trading of Stored Gas

Staff supports VES' proposal that Nicor Gas allow transportation customers to trade gas in their banks even when their banks are not over filled because it offers greater flexibility to transportation customers without unduly degrading service for Sales customers or putting reliability at risk. (Staff Ex. 24.0R2, pp. 36-37) At the evidentiary hearing, VES and Nicor Gas reached an agreement to offer a one-time benefit only to customers on Rate 25. (Co. Cross Ex. No. 5, "Rider 25, Firm Transportation Service, 5th Revised Sheet No. 78", Tr., pp. 629-630, Nov. 19, 2008) While VES states that all of its concerns are met in the agreement, Staff does not agree with the solution reached. (Staff IB, pp. 27-28)

6. Super-pooling on Critical Days

Staff supports CNE's proposal that Nicor Gas calculate the penalties for Critical Days based on the net usage for all of their customers as opposed to the net usage of each group internally because it offers greater flexibility to transportation customers without unduly degrading service for Sales customers or putting reliability at risk. (Staff Ex. 24.0R2, pp. 38-40) Nicor Gas objects to CNE's recommendation. (Co. Ex. 29.0, pp. 33-35) In their Reply Briefs, Nicor Gas and CNE stated that they had reached an agreement to find middle ground here. (Co. RB, pp. 94-95; CNE RB, pp. 13-14) While Staff had no chance to refute this agreement, this middle ground still does not offer the same benefits of a completely refunding the gas portion of the unauthorized use billing and the Company still has provided no evidence in the record as to why it is unable to provide that complete refund.

Tariff Revisions Affecting Customer Select Customers

Uncontested Issues

1. Customer Select Balancing Charge ("CSBC")

There were three basic issues that came up regarding the CSBC. The first is whether Customer Select ("CS") customers use upstream resources equally as Nicor Gas maintains. The second is whether Nicor Gas is using the appropriate procedures to assess the proportion of upstream asset costs to CS customers. The third is whether CS customers balance on a daily basis. (Staff Ex. 11.0R, pp. 28-30; Staff Ex. 24.0R2, pp. 42-44) Nicor Gas has settled with CSGS in their Memorandum of Understanding ("MOU") on this issue by expanding the flexibility of CS customers to use those upstream assets that they are allocated (Co Ex. 29.3, p. 2). Staff has accepted the MOU. (Staff IB, pp. 127-129)

2. Carrying Cost of Capital for Working Gas

CSGS proposes to credit the carrying costs of capital associated with working gas via a throughput credit. (CSGS Ex. 1.0, pp. 10-13) Nicor Gas accepted this proposal in the MOU. (Co Ex. 29.3, p. 1) Staff agrees with the MOU's treatment of this issue and recommends that the Commission approve it.

3. Customer Select Administrative Fee

CSGS proposes to recover the costs associated with the administration of the CS program from all eligible customers. They argued that this is reasonable because all eligible customers benefit from the choice to take service under CS. Also, this is consistent with the Company's position on the fee for the Energy Efficiency Program. (CSGS Ex. 1.0, pp. 13-16) Nicor Gas accepted this proposal in the MOU. (Co. Ex. 29.3, p. 3) Staff agrees with the MOU's treatment of this issue and recommends that the Commission approve it.

4. Access to Nicor Gas Assets

The Coalition for Equal Access and Fair Utility Rates ("CEAFUR") objected to various components of Nicor Gas' administration of its CS Program. In particular, Staff identified four affiliate issues that are important and should be addressed. These issues involve the use of Nicor Gas' website which links to its affiliate website and the Nicor Gas call centers that sell affiliate products and services to utility customers who call in, the Gas Line Comfort Guard Program and the Third-Party Billing Service. (Staff Ex.

24.0R2, pp. 47-52) On November 5, 2008, Staff and Nicor Gas filed a Stipulation and Notice of Withdrawal ("Stipulation"). In the Stipulation, Nicor Gas indicates that it does not object to a Commission proceeding being initiated to investigate whether the Company's Operating Agreement is in the public interest and make to appropriate revisions. The concerns regarding the affiliate issues will be addressed in that proceeding. In its Initial Brief, Staff clarified that the investigation should begin no later than 120 days after an order is entered in this proceeding, and that it should begin by Nicor Gas filing a petition and testimony with the Commission to either re-approve its Operating Agreement or approve a new updated affiliated interest transaction agreement. (Staff IB, p. 191) In its Reply Brief, Nicor Gas did not object to Staff's clarification of its proposal. (Co. RB, p. 128)

Existing Riders

1. Rider 2 – Franchise Cost Adjustment

Staff recommended the Company provide workpapers with its annual informational filing. The Company accepted Staff's recommendation. (Staff Ex. 2.0, pp. 32-33)

2. Rider 8 – Adjustments for Municipal and State Utility Taxes

Staff is satisfied that the Company has the ability to implement the change. Thus, Staff recommends approval of the proposed change subject to the following change: 2, **Local Governmental Utility Tax Charge,** under Rider 8 in point (3) should be amended as follows: "the increase, <u>or decrease</u> in taxes and other payments to governmental bodies resulting from the additional charge." (NRC Staff 3.01) The Company has agreed that the change is acceptable. In addition, the Company and Staff agree that if the Commission adopts the Company's proposed language change, then the word "payments" in the first sentence of the **Municipal Utility Tax Charge, Local Government Unit Utility Tax Charge** and the **State Utility Tax, Gas Use Tax and State Utility Fund Tax Charge** paragraphs should be changed to the word "amounts." (Co. Ex. 29.0, p. 49; Staff Ex. 8.0, pp. 6-9; Staff Ex. 21.0, pp. 1-4; Staff IB, pp. 129-131)

New Riders

Rider 26 – Uncollective Expense Adjustment

Rider UEA should be rejected because Rider UEA would shift risk associated with higher gas prices away from the Company onto ratepayers. Uncollectibles are not volatile in comparison to other system costs and therefore do not warrant rider recovery. The evidence does not show that the Company increased its efforts to address uncollectibles as the problem has grown. The Company would receive inappropriate incentives concerning the control of uncollectibles costs under its proposed rider. (Staff Ex. 7.0, pp. 5-6, 8, 9-15; Staff Ex. 20.0, pp. 4-6, 7-9) Staff recommends several changes to the Rider if the Commission rejects Staff's primary position to reject the Rider. The Company accepted all of Staff's recommendations. (Staff Ex. 2.0, pp. 26-29) Staff and the AG oppose the Company's proposal to implement this rider.

Rider 27 – Company Use Adjustment
Staff recommends that the Commission reject Rider CUA. Staff's concern with Rider CUA are (i) whether the volatility of natural gas prices causes Company use gas costs to rise to a level that justifies recovery through a Rider; (ii) whether lost and unaccounted for gas storage losses are being measured properly and whether any incorrect measurement leads to improper financial accounting; and (iii) whether proposed Rider CUA adversely affects the Company's incentive to seek new business practices or incorporate new equipment that reduce the usage of natural gas and reduce the Company's exposure to price volatility. (Staff Ex. 13.0, p. 22-23, 26-27; Staff Ex. 25.0, pp. 3-4)

If Rider CUA is approved, Staff proposes removing the reference to ACUT from the definitions of RCCUT and RCTSCT and disallowing recovery of Company use gas costs associated with account 823 from Rider CUA. (Staff Ex. 2.0, pp. 29-32)

Staff recommended several changes to the Rider if the Commission rejects Staff's primary position to reject the Rider. The Company accepted all of Staff's recommendations, if Rider CUA is approved.

Rider 28 – Volume Balancing Adjustment
Staff proposed several enhancements to the language in Rider VBA. Also, Staff described an alternative form of Rider VBA that the Commission may wish to consider should it decide to approve another Rider VBA pilot program. This alternative is not tied to rate case margin per customer; it looks only at total distribution revenues to cover fixed costs as approved in a rate proceeding. Staff is not making a recommendation regarding which form of Rider VBA is appropriate, and there is no proposed adjustment to the revenue requirement. The Company accepts the enhancements to Rider VBA as originally filed in the instant proceeding, but opposes the alternative form of Rider VBA described by Staff. (Staff Ex. 3.0, pp. 27-31; Staff Ex. 16.0, pp. 12-14; Staff IB, pp. 152-155; Staff RB, pp. 57-59)

Rider 29 – Energy Efficiency Plan
Staff recommends that the Commission reject Rider EEP. Staff's concern's with the proposed Rider EEP is that there is no clear evidence that this program is cost effective. The proposed management structure makes it difficult to hold the Company or the Advisory Board accountable to ratepayers for any improper expenditure. Placing clear accountability on Nicor Gas, while maintaining the program as a pilot, may give the Company the incentive to subvert the intended autonomy of the proposed management structure by threatening to discontinue the program upon completion of the pilot. The Conservation Stabilization Adjustment ("CSA") is problematic because those measuring the lost therms have an incentive to overstate reductions, and the lost therms from some proposed programs are very difficult to measure and ex-post evaluations of overall program effectiveness are not incorporated into the reconciliation of the CSA. If Rider EEP is approved, Staff proposes changing the management structure so that Nicor Gas is clearly in charge of the decisions being made, but allow for open meetings where interested stakeholders are still capable of lending any experience and expertise

to the process, and removing the CSA clause from Rider EEP. (Staff Ex. 13.0, pp. 6-11, 15-16, 18; Staff Ex. 25.0, pp. 9-11, 14-15)

Staff witness Jones proposed several changes to the language in Rider EEP, should the Commission determine that Rider EEP is appropriate. The Company accepted all of the changes proposed by Staff witness Jones. (Staff Ex. 3.0, pp. 31-37; Staff Ex. 16.0, pp. 14-15; Staff RB, p. 63)

Rider 30 – Qualifying Infrastructure Plant
Rider QIP should be rejected because the Company is seeking extraordinary recovery through the rider of costs to provide ordinary gas service; the Company has failed to identify ratepayer benefits from rider treatment of these costs; the associated costs are not volatile; the Company fails to identify how an acceleration of the mains and services replacement program would benefit ratepayers; and the relatively small amount of dollars at stake each year calls into question whether the establishment of an oversight process for Rider QIP can be cost-justified. (Staff Ex. 7.0, pp. 17-22; Staff Ex. 20.0, pp. 9-10) Staff believes Nicor Gas has failed to demonstrate the need to drastically increase its replacement of cast iron main and copper services. (Staff Ex. 9.0, pp. 4-8; Staff Ex. 22.0, pp. 2-6) Staff recommended several changes to the Rider if the Commission rejects Staff's primary position to reject the Rider. The Company accepted all of Staff witness Hathhorn's recommendations. (Staff Ex. 2.0, pp. 20-26) Staff and the AG oppose the Company's proposal to implement this rider.

<u>Terms and Conditions</u>

Uncontested Issues

Proposed Changes
The Company proposed, and Staff has no objection to, several changes to miscellaneous fees, charges, or language of its tariff sheets. The proposed changes include:

- The Company's proposal to increase the charge to a customer for damaging non-steel service pipes sized 1 1/8" or less from \$360 to \$410. Staff recommended that the charge for the repair of those pipes be increased to \$408.50. The Company agreed to Staff's recommendation. (Staff Ex. 21.0, pp. 4-5; Staff IB, p. 173)
- Staff recommends the increase in charges for installation of a gas service pipe for residential customers and small commercial customers (Meter Class A) exceeding the first 60 feet to follow the proposed schedule on Co. Sch. E-2, p. 59. (Staff Ex. 21.0, pp. 6-7)
- Staff recommends the elimination of the Company's bi-monthly billing program. (Staff Ex. 21.0, pp. 7-8)
- Staff recommends the elimination of the program listed as item (g) on Tariff Sheet No. 42, regarding installation of underground service pipe buildings in excess of 4 stories. (Staff Ex. 21.0, p. 9)
- Staff recommends the change in Tariff Sheet No. 38 which allows the fee for service reconnection to be increased from \$23 to \$42. Staff also recommends

capitalization changes and removal of words to make the tariff easier to read. (Staff Ex. 21.0, p. 10)

- Staff recommends the housekeeping changes to Tariff Sheet No. 12, specifically to the Gas Supply Cost Paragraph, where the Company is proposing to change the Gas Supply Cost charge from (1) 0.53 to 0.50 times the Customer's Maximum Daily Contract Quantity multiplied by the Demand Gas Cost (DGC); and (2) the Commodity Gas Cost (CGC) multiplied by the Customer's usage supplied by the Company in the billing period. (Staff Ex. 21.0, p. 11)
- Staff recommends the changes proposed in Tariff Sheet No. 33 where the Company would like to add verbiage to paragraph 2 so that the first sentence reads: Subject to the conditions of service stated in this Schedule, any prospective Customer can obtain gas service by first making <u>an</u> application, <u>either orally or in writing</u>, or by signing a contract in certain cases, for the particular class of the service desired. The Company also proposes the Selection of Rate paragraph should read: The Company's rates as legally in effect are on file with the Illinois Commerce Commission and available for public inspection at any business office of the Company <u>which is regularly open to the public</u>. (Staff Ex. 8.0, pp. 17-18)
- Staff recommends the changes proposed in Tariff Sheet No. 34 where the Company proposes to further clarify what a Degree Day is so that the definition would now read: A degree day is 65 degrees <u>Fahrenheit</u> minus the average of the day's high and low temperatures. The Company would also like to modify the Market Price paragraph to read: "The Market Price is the cost of gas on a particular day to the Company in order to obtain additional supplies. Such price shall be the average of the low and high prices reported for the Chicago City Gate deliveries in <u>Gas Daily</u>. In the event that <u>Gas Daily</u> is unavailable, then a reported Chicago City Gate price of another appropriate publication shall be used." (Staff Ex. 8.0, pp. 18-19)
- Staff recommends updating the list of municipalities and unincorporated contiguous territories to which the schedule of rates on Tariff Sheet Nos. 2 through 9 apply. (Staff Ex. 8.0, p. 20)
- Staff recommends the Company's proposal to standardize the language within its non-residential tariffs to indicate that the initial term of service shall commence when the Company begins to supply service. (Staff Ex. 8.0, p. 21)
- Staff recommends the Company's proposal to clarify its telephone line requirements for daily metered Rates 6 and 7. (Staff Ex. 8.0, p. 21)
- Staff recommends the changes proposed in Tariff Sheet No. 14 where the word "service" should replace the word "gas" in the first sentence of the first paragraph, and to insert the following sentence in the second paragraph: <u>Customer should provide a telephone line conforming to the specifications of the Company's metering equipment and the daily usage recording device</u>. (Staff Ex. 8.0, p. 23)
- Staff recommends the change that should be made to the Company's third revised Sheet No. 7, which incorrectly lists the Municipality of Niota as being in Cook County. It should list the municipality as being in Hancock County. (Staff Ex. 8.0, p. 24)

Contested Issues

Non-Sufficient Funds ("NSF")
Staff agrees with the Company's proposal to increase the charge for returned checks for non-sufficient funds from $16 to $25. AG/CUB witness Scott Rubin (AG/CUB Ex. 5.0, pp. 3-4) does not support this increase.

<u>Revenues</u>

Nicor Energy Services Billing Adjustment
Staff recommends the Company's billings to Nicor Energy Services be charged at the prevailing rate, rather than fully distributed costs, since it performs essentially the same services to Nicor Solutions and charges Nicor Solutions a prevailing rate. The Operating Agreement requires the affiliate to charge a prevailing rate if that rate is higher than fully distributed costs. Staff recommends a ($588,000) operating expense deduction. (Staff Ex. 15.0, pp. 12-14, Sch. 15.05) The AG supports Staff's adjustment. (AG IB, p. 98)

<u>Other Issues</u>

Accounting for Storage Gas Losses
Staff recommends the Company record its physical gas losses in Account 823 and performance variations in Account 352.3. (Staff Ex. 2.0, pp. 33-35; Staff Ex. 15.0, pp. 14-18) Staff recommends Nicor Gas track all storage losses into two components: 1) physical losses and 2) performance variations and account for them appropriately. Nicor Gas failed to support use of 2% loss factor associated with company owned storage losses. On a going forward basis, the Company must develop written procedures to track storage losses into their two components and provide sufficient documentation to support these values in next rate case. (Staff Ex. 9.0, pp. 9-30; Staff Ex. 22.0, pp. 7-19)

Reporting of Affiliate Transactions
The Company accepted Staff's recommendation for annual reporting of its affiliated interest transactions as a supplemental page to its Form 21. (Staff Ex. 2.0, pp. 35-36; Staff Ex. 15.0, p. 18)

Operating Agreement
The Company has stipulated that it does not oppose Staff's recommendation to investigate and revise its Operating Agreement for affiliated interest transactions. (Staff Ex. 15.0, pp. 18-22) Accordingly, Staff recommends the Commission order to include finding and ordering paragraphs directing Nicor Gas to file a petition within 120 days of an order in this proceeding seeking either re-approval of its current Operating Agreement or approval of a new affiliated interest transaction agreement. The petition shall be supported by Company testimony in either scenario. (Staff IB, p. 191)

WHEREFORE, Staff respectfully prays that this Summary of Positions be considered.

January 20, 2009

Respectfully submitted,

Janis E. Von Qualen

JANIS VON QUALEN
JENNIFER LIN
Staff Counsel

JAN VON QUALEN
Office of General Counsel
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62701
Phone: (217) 785-3402
Fax: (217) 524-8928
jvonqual@ icc.illinois.gov

JENNIFER LIN
Office of General Counsel
Illinois Commerce Commission
160 North LaSalle St., Suite C-800
Chicago, IL 60601
Phone: (312) 793-8183
Fax: (312) 793-1556
jlin@icc.illinois.gov