

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

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| Northern Illinois Gas Company |) | |
| d/b/a Nicor Gas Company |) | 08-0363 |
| |) | |
| Proposed general increase in natural gas rates. |) | |

**INITIAL BRIEF ON REHEARING OF
THE CITIZENS UTILITY BOARD**

CITIZENS UTILITY BOARD

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Dated: June 24, 2009

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Pursuant to Section 200.800 of the Rules of Practice¹ of the Illinois Commerce Commission (“Commission” or “ICC”) and the briefing schedule set by the Administrative Law Judges (“ALJs”), the CITIZENS UTILITY BOARD (“CUB”) submits its Initial Brief on Rehearing in this proceeding. The Commission granted Northern Illinois Gas Company d/b/a Nicor Gas Company’s (“Nicor,” the “Company” or the “utility”) Application for Rehearing with regard to a single issue: Whether an amount of short-term debt, other than the entire average balance of short-term debt (and greater than \$0), should be included in Nicor Gas’ test year capital structure.² The Commission’s May 13, 2009, Notice confirms at least some portion greater than none of the Company’s short-term debt should be included in its capital structure.

A Stipulation between the Staff of the Commission (“Staff”) and Nicor was filed on June 4, 2009, which consists of Nicor data request responses and schedules regarding Company working gas storage volumes, activity and balances; accounts receivable; and short-term debt balances. Staff filed an Agreed Motion to Admit Stipulation into Evidence on June 24, 2009. This is the only new evidence entered in the record on Rehearing. This data confirms Staff witness Freetly’s conclusion from the first phase of the case that the balances of some of the

¹ 83 Ill. Adm. Code Part 200.

² As stated in the Identification of Issue on Rehearing, filed on June 4, 2009 by CUB, Nicor, the Illinois Attorney General and the Staff of the Commission.

components of the Company's rate base proposal fluctuate with the seasons and that fluctuation is highly correlated with fluctuations in the Company's balance of short-term debt. Staff Ex. 18.0C at 13, LL. 271-273.

It is a well-accepted principle that capital is fungible by nature and cannot be traced from source to use. See, *e.g.*, Staff Ex. 18.0C at 6, LL. 111-112. Nicor has not, and indeed cannot, show that short-term debt, or more specifically that any balance other than that accepted in the Commission's Order, is not used to finance rate base assets. Therefore, as Staff witness Freetly concluded, "since Nicor Gas consistently relies on short-term debt as a source of funds, short-term debt should be included in Nicor Gas' capital structure unless it is shown that short-term debt does not support rate base." Staff Ex. 18.0C at 6, LL. 114-117. Nicor Gas failed to demonstrate that it does not use short-term debt to fund rate base assets, which is only confirmed by the evidence in the Stipulation. The Commission agreed with Staff in its final Order in this proceeding and reached two strong and entirely supportable conclusions with respect to Nicor's usage of short-term debt: that short-term debt should be excluded from the capital structure and that "the methodology employed by Staff to quantify the proportion of short-term debt that should be reflected in the capital structure is reasonable." Order at 49. The only question on Rehearing is whether Staff's methodology of calculating the level of short-term debt included in Nicor's capital structure is reasonable. The evidence clearly supports the Commission's original conclusion that it is.

The Commission determined that Staff's approach to quantifying the cost of short-term debt to be included in Nicor's capital structure was reasonable. Order at 49. Staff witness Freetly calculated the cost of Nicor's short-term debt by subtracting the balances of CWIP

accruing AFUDC from projected monthly balances of short-term debt balances to avoid double counting. Staff Ex. 18.0C at 14, LL. 291-293. CUB witness Thomas used Staff's capital structure in computing his cost of capital recommendation. CUB Ex. 2.0 at 2, L. 37.

The Commission's Order correctly concluded that the fact the short-term debt balance is projected to be zero during some months in the test year does not demonstrate that some portion of short-term debt is not used to finance assets included in rate base. Order at 49. The mere fact that both Nicor's outstanding short-term debt balance, as well as the value of certain assets included in rate base, "vary over time during the test year," did not dissuade the Commission from concluding that the entire balance of short-term debt was properly included in Nicor's capital structure. *Id.* Staff witness Freetly demonstrated that the monthly amounts of short-term debt outstanding closely track the sum of gas in storage and customer accounts receivable. Staff Ex. 18.0C at 6, LL. 122-123. Ms. Freetly further observed that short-term debt is a permanent source of seasonal funds for Nicor. *Id.* at 7, LL. 132-133. Thus, the entire balance of short-term debt must be included in the Company's capital structure.

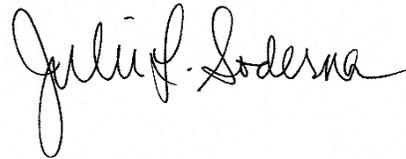
Taken together, the Order's findings, the supporting evidence presented by Staff, and the Stipulation clearly substantiate the Commission's conclusion that, because Nicor is unable to directly track each dollar of short-term debt that it borrows and deposits into its general accounts, it is appropriate to include the full test year average balance of short-term debt, less the adjustments proposed by Staff, into Nicor's capital structure. No new evidence has been produced on Rehearing that alters the Commission's prior conclusion in any way. Thus, the methodology employed by Staff to quantify the proportion of short-term debt reflected in the capital structure should be accepted, and the conclusion to include a balance of \$255,640,082

should be upheld.

Respectfully submitted,

CITIZENS UTILITY BOARD

Dated: June 24, 2009

A handwritten signature in black ink that reads "Julie L. Soderna". The signature is written in a cursive style with a large, looping initial "J".

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