

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

The Peoples Gas Light and Coke Company)	
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Petition Pursuant to Rider VBA of Schedule of Rates for Gas Service to Initiate a Proceeding to Determine the Accuracy of the Rider VBA Reconciliation Statement))))))	Docket No. 09-0124

DRAFT ORDER

By the Commission:

I. PROCEDURAL HISTORY

On February 27, 2009, The Peoples Gas Light and Coke Company (“Peoples Gas” or “PGL”) filed a Petition to initiate an annual reconciliation proceeding to determine the accuracy of the statement that Peoples Gas submitted pursuant to Rider VBA of its Schedule of Rates for Gas Service (“Rider VBA”). On that date, Peoples Gas also filed the direct testimony and exhibit of Valerie H. Grace, Manager, Gas Regulatory Services.

At a March 23, 2009 status hearing, the Administrative Law Judge granted the intervention on behalf of the Attorney General of the State of Illinois (“Attorney General” or “AG”).

On October 28, 2009, pursuant to Notice of the Administrative Law Judge, the Staff of the Illinois Commerce Commission (“Commission”) filed the direct testimony and exhibits of Dianna Hathhorn, Accountant, Accounting Department of the Financial Analysis Division.

On December 11, 2009, Peoples Gas filed the rebuttal testimony and exhibits of Valerie H. Grace.

An evidentiary hearing was held on December 17, 2009. Appearances were entered by counsel on behalf of Peoples Gas, the Staff, and the Attorney General. Peoples Gas presented the direct and rebuttal testimony of Valerie H. Grace. Staff presented the direct testimony of Dianna Hathhorn.

On December 17, 2009, the record was marked “Heard and Taken.”

On December 22, 2009, Peoples Gas filed a draft proposed order.

On _____, _____ filed an initial brief and comments on the draft proposed order.

On _____, Peoples Gas _____ each filed a reply brief.

On January __, 2010, the Administrative Law Judge issued a Proposed Order.

On January __, 2010, _____ filed briefs on exception.

Peoples Gas, Staff and the parties waived replies to exceptions.

II. ISSUES

Peoples Gas

Peoples Gas' Schedule of Rates for Gas Service includes Rider VBA, Volume Balancing Adjustment. The Commission approved Rider VBA in Docket Nos. 07-0241 and 07-0242 (Cons.). *In re North Shore Gas Co., et al.*, ICC Docket Nos. 07-0241/07-0242 (Cons.) (Order Feb. 5, 2008). Rider VBA became effective February 14, 2008. Peoples Gas witness Ms. Grace explained that Peoples Gas submits a statement to the Commission each month ("Filing Month"), beginning in April 2008, showing the adjustments to be effective for the next month ("Effective Month") based on an analysis of actual data for the prior month ("Reconciliation Month"). Thus, there is a two month difference between the Reconciliation Month and the Effective Month under Rider VBA. Section C of the rider requires Peoples Gas to file annually, no later than February 28 or 29, as applicable, a statement of the reconciliation adjustment ("RA") components that apply to the ten-month period beginning March 1. The first such filing was due February 27, 2009. Section D of the rider requires that Peoples Gas, at the time it files its reconciliation statement, file a petition seeking initiation of an annual reconciliation to determine the accuracy of the statement. Grace Dir., NS Ex. VG-1.0 at 3.

Ms. Grace stated that Rider VBA requires a reconciliation of revenues for a fiscal year ending December 31. This initial reconciliation reflects only a partial year as the first adjustments under Rider VBA were based on actual data for March 2008. The first reconciliation period is March 1, 2008, through December 31, 2008. *Id.*

Over the 10-month period beginning March 1, 2009, Ms. Grace stated that Peoples Gas will refund \$2,339,101.29 to Service Classification ("S.C.") No. 1 sales customers and \$234,382.82 to S.C. No. 1 transportation customers through factor RA. *Id.* at 4; NS Ex. VG-1.1. The RA components for S.C. No. 1 sales and transportation customers are credits of .54 cents and .58 cents per therm, respectively. Grace Dir., NS Ex. VG-1.0 at 4-5; NS Ex. VG-1.1.

Over the 10-month period beginning March 1, 2009, Ms. Grace stated that, Peoples Gas will refund \$398,059.22 to S.C. No. 2 sales customers and \$1,625,557.10 to S.C. No. 2 transportation customers through factor RA. Grace Dir., NS Ex. VG-1.0 at 5; NS Ex. VG-1.1. The RA components for S.C. No. 2 sales and transportation customers are credits of .18 cents and .51 cents per therm, respectively. *Id.* at 5.

Commission Staff

Commission Staff witness Ms. Hathhorn stated that she reviewed Peoples Gas' reconciliation. She presented the 2008 reconciliation by adjusting factor VBAR (Rider VBA Revenues), and she recommended that the Commission adopt her presentation. Ms. Hathhorn made two additional recommendations.

Ms. Hathhorn stated that her schedule showing the reconciliation adjustments to be determined in this proceeding is identical to Peoples Gas', except for factor VBAR. Hathhorn Dir., Staff Ex. 1.0 at 3-4; Sch. 1.1. Ms. Hathhorn's presentation of factor VBAR includes revenues for the November and December 2008 Reconciliation Months that were billed in the January and February 2009 Effective Months. She stated that her adjustment results from comparing ten months of rate case margin revenues with the same ten months of actual margin revenues. While the adjustment would correct itself over the four-year Rider VBA pilot period, she stated that adjustments would be mismatched without her proposed adjustment. Hathhorn Dir., Staff Ex. 1.0 at 4-5; Sch. 1.2. The resulting Factor O, including interest, to be collected (refunded) would be \$2,421,798.71 for S.C. No. 1 sales; (\$32,571.92) for S.C. No. 1 transportation; \$654,484.45 for S.C. No. 2 sales; and \$1,279,126.89 for S.C. No. 2 transportation. Ms. Hathhorn recommended that the Factor O amounts be recovered (refunded) through the Effective Component of Rider VBA in full or amortized up to 11 months. Hathhorn Dir., Staff Ex. 1.0 at 8; Sch. 1.1. During the hearing, Ms. Hathhorn agreed that, if the Commission issued its Order prior to February 16, 2010, it would be acceptable for the Factor O amount to be included in the Reconciliation Adjustment, as proposed by Peoples Gas.

Ms. Hathhorn further recommended that the filing date for the annual reconciliation be moved from the last day of February to March 31. The February filing makes it impossible to calculate the adjustment including all revenues as of the end of February. Ms. Hathhorn recommended that Peoples Gas be ordered to file a tariff change within 15 days of a final order in this proceeding. Hathhorn Dir., Staff Ex. 1.0 at 6.

Additionally, Ms. Hathhorn recommended that the Commission order Peoples Gas to work with the Staff to revise the procedures for phasing out the final reconciliation adjustments at the end of the pilot period, ending Rider VBA in a more efficient and effective manner. Staff's concern is that the last effective component filing would be no later than March 20, 2012, but the refund or collection of reconciliation

adjustments could extend through March 2014 at a minimum. Ms. Hathhorn stated that, if Peoples Gas requests and the Commission approves the continuation of Rider VBA, this concern would be moot. *Id.* at 6-7.

Finally, Ms. Hathhorn described an annual report of Peoples Gas' rate of return and the impact of Rider VBA for 2008. Ms. Hathhorn referenced a data response from Peoples Gas and stated that the report shows that the return on equity for 2008 including the Rider VBA results was 5.65% and excluding the Rider VBA results was 6.08%, meaning that Rider VBA reduced the return on equity for Peoples Gas by 0.43%. The report also shows that the rate of return for 2008 including Rider VBA was 5.19% and the rate of return excluding Rider VBA was 5.44%, meaning that Rider VBA reduced the rate of return for Peoples Gas by 0.25%. *Id.* at 8-9.

Peoples Gas Response

Ms. Grace stated that Peoples Gas generally accepts Ms. Hathhorn's recommendations. First, Peoples Gas does not oppose adoption of her presentation of the reconciliation. However, Ms. Grace recommended that Peoples Gas include the resulting Factor O in the reconciliation adjustment ("RA") and not the Effective Component. Second, Peoples Gas agrees to change the date of the annual reconciliation adjustment filing from the last day of February to March 31. According to Ms. Grace, this change requires some additional changes to Rider VBA. Third, Peoples Gas agrees to work with the Staff on procedures to phase out Rider VBA if it is not made permanent after the initial four-year pilot program period with Ms. Grace noting that Rider VBA currently includes language that will allow, if necessary, a timely phase-out of the pilot program. Grace Reb., NS Ex. VG-2.0 at 2.

Ms. Grace explained that Ms. Hathhorn's presentation includes revenue amounts billed under Rider VBA ("VBAR") for January and February 2009. She said that Peoples Gas did not include these amounts in its presentation because, under its current tariff, these amounts would have been included as VBAR amounts in the annual reconciliation for 2009, which would be filed in February, 2010 and billed to customers effective March 1, 2010. However, Ms. Hathhorn's presentation is acceptable with one caveat, namely, if the Commission's order is issued after the next reconciliation is filed, Ms. Hathhorn's presentation would be moot as her recommended Factor O amounts would be subsumed in the RA filed no later than the last day of February 2010 and billed to customers effective March 1, 2010. *Id.* at 2-3.

Ms. Grace stated that the Factor O should be included in the RA and not the Effective Component, as recommended by Ms. Hathhorn. She explained that Rider VBA includes Factor O amounts in the RA formula, thereby allowing any Factor O amounts to be billed to customers in the RA over a 10-month period. Ms. Hathhorn's proposal does not consider the ramifications of inclusion in the Effective Component. Including Factor O amounts in the Effective Component would shift such amounts into

the fiscal year 2010 annual reconciliation and the resulting RA that would be billed beginning in 2011, thereby reversing the entire adjustment amount instead of accomplishing the timelier matching of amounts recommended by Ms. Hathhorn. Ms. Grace stated that her proposal to include Factor O in the RA would ensure that these amounts are fully and accurately billed to customers in 2010. *Id.* at 3-4.

Ms. Grace stated that Peoples Gas agrees to move the reconciliation filing from the last day of February to the last day of March. She stated that this requires some additional changes to Rider VBA and included revision-marked tariff sheets to show the proposal if the Commission order is issued by February 16, 2010. *Id.* at 4; NS Ex. VG-2.1. Ms. Grace also presented tariff sheets that would apply if the Commission order is issued subsequent to February 16, 2010. NS Ex. VG-2.2. According to Ms. Grace, if the Commission issues an order after February 16, Peoples Gas would be in the process of preparing its reconciliation filing for 2009 pursuant to the current terms of Rider VBA. It would have limited time to prepare and make a compliance filing that would delay the filing of the annual reconciliation to March 31. If the order timing is such that Peoples Gas has submitted its annual reconciliation filing for 2009, additional tariff revisions would be needed to redefine VBAR to include the January and February amounts for 2010 and January and February for 2011 to fully implement Ms. Hathhorn's recommendations. Grace Reb., NS Ex. VG-2.0 at 4-5.

Finally, Ms. Grace stated that Peoples Gas agrees to work with Staff to revise the procedures for phasing out the final reconciliation adjustments. *Id.* at 6.

V. FINDINGS AND ORDERING PARAGRAPHS

The Commission, having considered the entire record and being fully advised in the premises, is of the opinion and finds that:

- (1) The Peoples Gas Light and Coke Company is an Illinois corporation engaged in the distribution of natural gas to the public in the State of Illinois and, as such, is a public utility within the meaning of the Public Utilities Act;
- (2) the Commission has jurisdiction over The Peoples Gas Light and Coke Company and of the subject matter of this proceeding;
- (3) the recitals of fact and the conclusions reached in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact;
- (4) The Peoples Gas Light and Coke Company has filed a reconciliation of rate case margin revenue and actual margin revenue under Rider VBA,

Volume Balancing Adjustment, of its Schedule of Rates, for the period March 1, 2008, through December 31, 2008;

- (5) Staff filed an adjusted presentation of the reconciliation that included revenues for the November and December 2008 Reconciliation Months that were billed, respectively, in the January and February 2009 Effective Months;
- (6) The Peoples Gas Light and Coke Company should implement Factor O refunds to be collected (refunded) of \$2,421,798.71 for S.C. No. 1 sales; (\$32,571.92) for S.C. No. 1 transportation; \$654,484.45 for S.C. No. 2 sales; and \$1,279,126.89 for S.C. No. 2 transportation if the amounts are not subsumed into an RA previously filed with the Commission;
- (7) the Commission approves Staff's presentation of The Peoples Gas Light and Coke Company's reconciliation statement as reflected in Appendix A (Staff Schedules 1.1 and 1.2) to this Order if the amounts on line 8 are not subsumed into an RA previously filed with the Commission;
- (8) The Peoples Gas Light and Coke Company should revise Rider VBA to change the reconciliation filing date from the last day of February to the last day of March and make other changes to Rider VBA required by the change in filing date;
- (9) The Peoples Gas Light and Coke Company should work with the Commission Staff to revise the procedures for phasing out the final reconciliation adjustments, ending Rider VBA in a more efficient and effective manner if the pilot program is not implemented on a permanent basis;
- (10) The Peoples Gas Light and Coke Company's return on equity for 2008 including Rider VBA results was 5.65% and excluding Rider VBA results was 6.08%, and its rate of return for 2008 including Rider VBA was 5.19% and the rate of return excluding Rider VBA was 5.44%; and
- (11) all motions, petitions, objections or other matters in this proceeding which remain undisposed of should be disposed of consistent with the conclusions herein.

IT IS THEREFORE ORDERED that, consistent with Appendix A of this Order, The Peoples Gas Light and Coke Company implement Factor O refunds to be collected (refunded) of \$2,421,798.71 for S.C. No. 1 sales; (\$32,571.92) for S.C. No. 1 transportation; \$654,484.45 for S.C. No. 2 sales; and \$1,279,126.89 for S.C. No. 2 transportation, with such adjustments included in the Reconciliation Adjustment if the

amounts are not subsumed into an RA previously filed with the Commission;

IT IS FURTHER ORDERED that, within fifteen days of the date of this Order, The Peoples Gas Light and Coke Company file to revise Rider VBA to change the reconciliation filing date from the last day of February to the last day of March and make other changes to Rider VBA required by the change in filing date;

IT IS FURTHER ORDERED that The Peoples Gas Light and Coke Company work with the Commission Staff to revise the procedures for phasing out the final reconciliation adjustments, ending Rider VBA in a more efficient and effective manner if the pilot program is not implemented on a permanent basis; and

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By Order of the Commission this ____ day of _____, 2010.

(SIGNED) CHARLES E. BOX

Chairman