

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

ILLINOIS-AMERICAN WATER COMPANY	§	
Proposed general increase	§	Docket No. 09-0319
In water and sewer rates	§	

**JOINT BRIEF ON EXCEPTIONS WITH SUBSTITUTE LANGUAGE
FOR THE VILLAGE OF HOMER GLEN AND
THE CITIES OF CHAMPAIGN AND URBANA AND
THE VILLAGES OF ST. JOSEPH, SIDNEY, AND SAVOY
AND REQUEST FOR ORAL ARGUMENT**

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The Village of Homer Glen and the Cities of Champaign and Urbana and the Villages of St. Joseph, Sidney, and Savoy file this Joint Brief on Exceptions along with proposed substitute language and request for oral argument.

Homer Glen intervened separately and its residents are customers who receive both water and wastewater service from Illinois American Water Company (IAWC or Company) in the Chicago Metro district. The Cities of Champaign and Urbana and the Villages of St. Joseph, Sidney and Savoy intervened as a separate group. Their residents are customers of IAWC in the current Champaign District, which under IAWC's filing would be merged into a new Zone 1. While many revenue issues are common to both the Chicago Metro and Champaign districts, there are issues relating to the separate districts that are applicable only to either Homer Glen or the Champaign-Urbana group. For example, wastewater issues apply only to Homer Glen whereas base rate issues concerning moving the Champaign district into the new Zone 1 relate only to the Champaign-Urbana group. The Proposed Order (PO) fails to make this distinction, so references to Homer Glen when discussing base charges for Zone 1 should be references to the Champaign-Urbana group.

This docket involves IAWC's continuing efforts to impose back-to-back-to-back increases on water customers in Illinois. Indeed, the Company in its testimony announced that it will continue in the foreseeable future to seek rate increases every two years. The Company proposes in this docket to significantly increase its affiliate Service Company's management fee to \$21.1 million from \$17.3 million in current rates, increase the amount of rate case expenses in this docket, include more rate case expenses from the last IAWC rate case, and add more employees where at the same time the Company argues its affiliate Service Company can provide services more cheaply. While this case was pending, the Company embarked on a disinformation program to customers telling them that IAWC is providing water and sewer service to them at "around a penny a gallon," when in fact water service alone today is over a penny and a half. If the Company's rate increase is approved, water and wastewater service will cost consumers over two and a half cents per gallon. The PO finds no problem with the Company's proposed increases and its public relations disinformation campaign.

The PO gives little attention or consideration to the public interest in this docket, the turnouts at the public forums, and the fact that IAWC's rates for both water and wastewater are far in excess of those incurred by ratepayers in surrounding communities. To date, 591 persons have taken time to file written comments on the Illinois Commerce Commission's website and scores of ratepayers participated in the public forums mandated by the Public Utilities Act, 220 ILCS 5/8-306(n).

The PO's significant errors should be corrected and the public's concern recognized as outlined in this Brief on Exceptions.

EXCEPTION NO. 1

THE ADMINISTRATIVE LAW JUDGE FAILED TO FOLLOW THE REQUIREMENTS OF THE PUBLIC UTILITIES ACT TO REVIEW THE PUBLIC COMMENTS MADE AT THE PUBLIC FORUMS AND ONLINE ON THE COMMISSION'S WEBSITE WHEN DRAFTING THE PO.

There is no indication in the PO that the Administrative Law Judge (ALJ) complied with Section 5/8-306(n) of the Act by reviewing the transcripts made at the public forums “when drafting a recommended or tentative decision.” The PO only notes that a “transcript of each public forum was made.” PO at 3. No summary of the comments made at the public forums or online to the Commission is included in the PO. Had the transcripts actually been reviewed as required by the statute, the PO would recognize the plight of ratepayers, their outrage, and the fact that IAWC’s proposal would increase rates that already are too high. For example, a review of the transcript of the Homer Glen public forum would have revealed:

- “Both water and sewer rates have increased significantly since 2005. This time, Illinois American wants to increase our base rate for water by 30 percent. They want to increase our sewer rate by 51 percent. In this current economic environment, when other companies are cutting back and doing whatever they can do to cut their costs, it is unconscionable that Illinois American asks for such exorbitant increases for such a basic human necessity.” Jim Daley, mayor, Homer Glen, Tr. at 25¹.
- “What is being done to see that Illinois American has incentive to control costs? I don’t explain—I don’t need to explain the current state of the economy; we’re all

¹ Transcript citations for the public meeting are from the transcript of the October 19, 2009, public forum conducted in Homer Glen. It is available on the Commission’s website.

aware of that. All other companies are finding ways to control costs. What is Illinois American doing in this regard? Evidently not much if they're asking for another 30 percent on water and 50 percent on sewer." Robert Denton, Tr. at 58-59.

- "The ICC has been more than generous to Illinois American over the past several years. It's time for the ICC to force Illinois American to tighten their belts and make due [sic] with what they have, side with the consumers for once, give more incentive to Illinois American to control costs. Keep in mind that the role of the ICC, per your mission statement, is to protect both sides. The residents of Homer Glen are looking to you to uphold the consumer end of this mission statement. It's time the ICC says enough is enough, the rates are already higher than the norm than what they should be. Tell Illinois American they cannot have any more money. Find other ways to control costs, if need be, just like all other companies are doing." Robert Denton, Tr. at 61-62.
- "Other companies can do it, you guys can too and so I would respectfully ask, please deny this rate request. Other communities and municipalities are getting this already for much less than us. To ask us to pay more makes no sense because, you know, when it comes down to it, you got to ask a question, you've got to ask a question. Does this make sense?" Kevin Owen, Tr. at 96.
- "I left—five years ago, I left a house in Palos Park that was 9,000 square feet, I move into one here that's 2,800. My water bill in Palos Park every two months with garbage pickup was \$140. Here, it's quite a bit more a month." Ed Pell, Tr. at 101.

- “We have a family of six of us and it’s hard, you know, our bills are, you know, very high and compared to what—I have relatives in surrounding communities, it’s ridiculous.” Gary Litoborski, Tr. at 104-105.
- “[W]e really do have to use our water over and over and over and I’ll tell you, I know how those people got that \$50-something water bill. They had the daddy take the bath first, and then mommy takes a bath and the little guy gets in last and this is—I’m not kidding. This is not making fun. You take your water from the kiddie pool and you wash your car, okay, and you got to have it like two or three uses for all of your water. . . . I mean—you know, I hate to say it, but we do have to watch how many times we flush that toilet. This is true.” Sue Hojik, Tr. at 106-107.

By statute, the Commission must review all of the comments, and not merely report, as the PO states, that the unread transcripts are available. The PO should summarize the comments from the forum as well as the online comments to ensure that the law is followed.

EXCEPTION NO. 2

THE PO INCORRECTLY IGNORES COMPARISONS BETWEEN IAWC’S PROPOSED RATES AND RATES IN SURROUNDING COMMUNITIES.

The PO discards any comparison of IAWC’s rates to those in surrounding communities, even though the evidence demonstrates that residents compare bills and that IAWC’s high rates are hurting property values. The PO incorrectly states that the issue is not that IAWC’s rates are higher, but rather the task of comparing investor owned utilities to municipally owned utilities is too hard a task for the Commerce Commission to undertake. PO at 197.

The Public Utilities Act requires that the utility's rates be just and reasonable. One way to determine whether the rates are just and reasonable is to determine if the resulting charges are consistent with rates by other entities providing the same type of service.

Homer Glen witness Mr. Fundich compared two municipalities near Homer Glen. The utilities use Lake Michigan water. He took three snapshots of the rates to determine how rates were increasing relative to one another in terms of dollars per 1,000 gallons. In 2005, the results showed:

2005	WATER	SEWER	FIXED	TOTAL	
<i>Town</i>	<i>\$/1000 gal</i>	<i>\$/1000 gal</i>	<i>water/sewer</i>	<i>@ 8,000 gal</i>	
Mokena	\$3.96	\$3.00	\$5.83	\$61.51	
<u>New Lenox</u>	<u>\$3.85</u>	<u>\$2.75</u>	<u>--</u>	<u>\$52.80</u>	
2-town average (MOU)	\$3.51	\$2.87	\$2.71	\$57.15	<i>difference</i>
Homer Glen (IAWC)	\$7.38	--	\$58.05	\$117.09	\$59.94

Fundich Rebuttal, HG Ex. 4.0R at 9/185-190.

By 2009, the rates relative to one another showed:

2009	WATER	SEWER	FIXED	TOTAL	
<i>Town</i>	<i>\$/1000 gal</i>	<i>\$/1000 gal</i>	<i>water/sewer</i>	<i>@ 8,000 gal</i>	
Mokena	\$4.96	\$3.60	\$5.83	\$74.31	
New Lenox	\$5.00	\$3.76	\$7.00	\$77.08	
2-town average (MOU)	\$4.98	\$3.68	\$6.415	\$75.70	<i>difference</i>
Homer Glen (IAWC)	\$8.23	\$3.7891	\$40.33	\$136.48	\$60.78

Fundich Rebuttal, HG Ex. 4.0R at 10/203-208.

Using the rates proposed by IAWC in this docket, the difference is even more significant:

	WATER	SEWER	FIXED	TOTAL	
<i>Town</i>	<i>\$/1000 gal</i>	<i>\$/1000 gal</i>	<i>water/sewer</i>	<i>@ 8,000 gal</i>	
2-town average (MOU)	\$4.98	\$3.68	\$6.415	\$75.70	<i>difference</i>
Homer Glen (IAWC)	\$9.74	\$5.0507	\$75.15	\$193.47	\$117.77

Fundich Rebuttal, HG Ex. 4.0R at 10/216-219.

It is no wonder that ratepayers are concerned about IAWC’s costs and rates. It is a fact that ratepayers compare rates with surrounding communities. When a utility’s rates are far out of line, as are IAWC’s rates, the “unreasonably high water and sewer rates will drive builders and homeowners away,” thereby “creating a cycle where the remaining captive customers of IAWC will pay even higher rates.” Niemiec Direct, HG Ex. 2.0 at 61-65. Even IAWC’s own executives agree that in Homer Glen, a potential homeowner would have the perception that prices charged by IAWC for water and sewer are higher than other places. Tr. at 87/19-88/1.

By not considering what other communities are charged in comparison with IAWC, the PO ignores reality. Merely because it is a “difficult undertaking,” PO at 197, does not mean that the Commission should ignore the comparisons that already are in the record. If the Commission were to review the comparisons, it would find that there are fundamental problems with IAWC’s cost structure that should be addressed, not ignored.

The PO should be amended to include the comparisons with surrounding communities and find that IAWC must reduce its costs.

EXCEPTION NO. 3

IAWC FAILED TO PROVIDE THE REQUIRED SERVICE COMPANY STUDY TO JUSTIFY ITS COSTS. AS A RESULT, THE SERVICE COMPANY’S FEES SHOULD BE CAPPED AT THE LEVEL SET IN DOCKET NO. 07-0507.

In the last IAWC rate case, Docket No. 07-0507, the Utility was ordered to conduct a study comparing the cost of services obtained from American Water Works Service, Inc. with the cost of such services had they been obtained through competitive bidding. Docket No. 07-0507, Final Order at 30-31.

Rather than conduct such a study, the Company instead did a cost comparison with “market rates” for some, but not all, similar services provided by other entities. This is not the same as competitive bidding. For other costs, IAWC did a salary survey and compared it with salaries at IAWC. The Village of Bolingbrook filed a motion to strike the study and testimony, which the Administrative Law Judge took under advisement until the PO was issued. In making his ruling, the ALJ erroneously found that, in order to question IAWC’s analysis to see if it comported with the Commission’s previous order, the Intervenors had to put witnesses on the stand to say why the study did not comply with the previous order. Because Intervenors argued

the study was deficient as a matter of law, the PO found it could not be stricken since Intervenor's arguments "are not supported by evidence of record." PO at 46. The PO finds that since the arguments were not "supported by witness testimony," the Company's study must be accepted. PO at 46.

The PO later contradicts its own conclusion when it finds that the "Commission believes it is possible that an independent audit could be beneficial in evaluating the Service Company fees assessed to IAWC." The PO would require IAWC "to file a detailed estimate or estimated range" of the costs of the detailed audit within 60 days of the final order. PO at 47. The PO is silent as to what would be done with this estimate or whether the Commission would follow through with requiring an independent audit.

The PO errs in allowing IAWC to substitute a salary survey for a detailed competitive bidding study that the Commission ordered in the previous docket. It is not necessary for opponents to conduct a "counter study" to show why IAWC's salary survey was inadequate. The nature of the survey, the way it was conducted, and how it obtained results were all in evidence for the ALJ to examine to determine the sufficiency or insufficiency of the audit. The burden of proof is on the utility in a rate case. The PO instead incorrectly places the burden of proof on the intervenors to disprove a study when intervenors do not have access to the detailed books and records of the utility to perform a "counter study" as required by the ALJ.

The record shows that IAWC's affiliate, the Service Company, proposed to increase the annual fee to IAWC by some 28 percent over the \$17.251 million that was allowed in the last rate case based on a test year that ended only six months before the beginning of the test year in this case. In Docket 07-0507, the Commission questioned the validity of the \$17 million number, which is why, in part, the competitive bidding study was ordered. AG/Municipalities

joint witness Smith recommended that the service fee charged to IAWC be limited to a 5 percent increase over the \$17.25 million approved in Docket No. 07-0507. There is no evidence that IAWC has made any attempt to negotiate with its affiliate to keep the Service Company's costs in line, so it would be inappropriate to continue to give the affiliate a blank check at the expense of ratepayers.

The PO should be amended to find that IAWC failed to provide the Service Company study as mandated and outlined in Docket No. 07-0507. As a result of this failure, the Service Company costs should be limited to \$17.25 million as approved in Docket No. 07-0507.

EXCEPTION NO. 4

IAWC HAS NOT JUSTIFIED THE CONTINUATION OF PREPAYING THE FEES TO ITS AFFILIATED SERVICE COMPANY.

Not only is the Service Company fee too high, but IAWC requires its ratepayers to prepay the expense to its affiliated company. Homer Glen, Champaign, the AG, and IAWC all opposed continuing this pre-payment practice. The PO states that the "Commission is sensitive to concerns that affiliated interest transactions have the potential to have adverse consequences for ratepayers." PO at 17. The PO argues that if the pre-payments were eliminated, "costs" would shift to the Service Company, which in turn would impose them on IAWC. PO at 18. However, the PO provides no analysis of what costs in fact would shift or what the impact would be on ratepayers. The PO asserts that "the Commission sees no benefit to ratepayers from modifying the CWC requirement" to prepay. IAWC's lead-lag study showed that the Company's cash working capital requirements would be reduced if the prepayment were eliminated. Thus, the PO's conclusion is wrong and not supported by the evidence and must be modified.

EXCEPTION NO. 5

THE PROPOSED ORDER FAILS TO LIMIT THE CUSTOMER CHARGE TO COSTS DIRECTLY INCURRED TO ENABLE IAWC TO SERVE THE CUSTOMER.

The PO inappropriately shifts costs from the usage charge to the customer base charge, thereby requiring customers who use low volumes of water to pay higher rates. Not only does this present a hardship to low-income customers but it also discourages water conservation.

The PO rejects IAWC's request to use a minimum system charge approach for the customer base charge. PO at 165. Nevertheless, the PO more than fixed hook up-related costs in the fixed customer charge and "encourages" IAWC to identify more fixed costs to be recovered in the future. PO at 165. The PO seems more concerned about form rather than substance by chiding the parties for including what should be in fixed charges in their briefs as a rate design issue. The PO seems to suggest the discussion of the issue should have occurred elsewhere in the parties' briefs and thus loses track of the real issues at stake.

The costs IAWC proposes to collect in the customer charge are not appropriate. By front-loading the customer charge, IAWC causes customers to pay more up front. This has a negative impact on ratepayers, especially low-income ratepayers. A customer charge should recover the cost to provide a service hookup to a customer. "Typically, this would include the cost of the service line and meter. In addition, it would include operations and maintenance expenses associated with maintaining the meter and service line, as well as costs for meter reading, billing, and customer service." Rubin Direct, AG Ex. 2.09 at 5/110-113. Instead of examining how costs are incurred, the PO finds that if a cost is fixed, then it should be recovered in the customer base charge. If the cost varies, then it should be recovered in the usage charge.

PO at 166. While the PO's conclusion is simple, it is naïve and hurts ratepayers, especially low-income ratepayers and ratepayers who are suffering through the current economic recession.

“A water customer charge should be kept as low as possible, while still recovering costs, so that even the lowest-income customers can afford to be connected to the water system. A lower customer charge is particularly important for water service because of the essential, and indispensable, public health service that a water system provides.” Rubin Direct, AG Ex. 2.09 at 8/160-164. IAWC's witnesses believe the opposite. “One should not try to, I don't believe, to try to keep the customer charge as low as possible to cover all the customers, when his [Rubin's] concern is for the lowest income customers, which is only a fraction of those customers.” IAWC Herbert, Tr. at 279/4-9. In its Dickensian approach, the PO's conclusion ignores the issue of high customer base charges on low-income families and families struggling in this economy.

The PO should be modified to have the customer charge recover only those appropriate charges as noted by AG witness Rubin. Not only is this sound ratemaking, but it also relieves the economic burden on low-income and struggling ratepayers.

EXCEPTION NO. 6

THE CHAMPAIGN DISTRICT SHOULD NOT PAY A CUSTOMER CHARGE IN EXCESS OF THE COST OF SERVICE.

IAWC proposes to combine the Champaign District with Zone 1. In its filing, IAWC recognized that the costs to provide service to the Champaign District were lower than the cost to provide service to other Zone 1 customers. As a result, IAWC proposed that customers in the “old” Champaign district pay a customer base charge \$2 less than other Zone 1 customers.

The Champaign municipalities—Cities of Champaign and Urbana and the Villages of St. Joseph and Savoy—did not oppose the consolidation into Zone 1. This acceptance of the consolidation was based, in part, on the rate differential proposed by the Company.

The PO does away with the differential by recommending a uniform customer charge for all Zone 1 customers, including the “old” Champaign district customers. Not only does the PO do away with the differential, but the PO also sets the “old” Champaign district customer charge above the “calculated cost” associated with the base charge. PO at 167. The “calculated cost” for a monthly meter customer charge for Champaign is \$14.11 but the PO proposes an “approved customer charge” for the Champaign district of \$14.50. This is a 29.1 percent increase over the current customer charge of \$11.23. If the PO’s recommendation is adopted, Champaign would be the only IAWC district to pay a customer charge in excess of the calculated cost. PO at 167. In fact, no other district even pays a customer charge equal to the “calculated cost.” There is no explanation in the Commission conclusion as to why the Champaign district was singled out to have its customer charge higher than the calculated cost. This anomaly should be corrected and the Champaign district customer charge reduced to \$12.50 so that it is \$2 below the Zone 1 rate of \$14.50, as was originally proposed by IAWC.

EXCEPTION NO. 7

THE PO FAILS TO ADDRESS IAWC’S OUT-OF-CONTROL COSTS FOR ITS WASTEWATER SYSTEM.

There is no question but that IAWC is unable or unwilling to control its costs for its wastewater treatment facilities. The record shows that if the full cost of wastewater treatment were imposed on customers, the monthly bill for this service alone would exceed \$70 per month. PO at 188. IAWC’s proposed sewer rate is 210 percent to 518 percent higher than that of

surrounding communities. PO at 188. For Homer Glen residents, who represent the largest group of customers taking wastewater service from IAWC, their rates have increased from a flat rate of \$45.52 a month in 2005 to \$52.60/month today for 8,000 gallons and would increase to \$65.22, representing a total 43 percent increase since 2005. Niemiec Direct, HG Ex. 2.0 at 5/69-71. Base sewer collection would increase 61 percent to \$42 from \$26 a month. In addition, for all amounts over 1.33 ccf, there would be a charge of \$3.788 per ccf, a 33 percent increase over the current charge of \$2.84. In other words, the effective average rate per 1,000 gallons for a typical user of 8,000 gallons is \$8.08, which is 219 percent to 518 percent higher than surrounding communities.

But as AG witness Mr. Rubin notes, the huge increase proposed by IAWC does not even cover IAWC's claimed costs. To cover all of IAWC's claimed costs for wastewater treatment, rates would have to increase even further to about \$70 month. Rubin Direct, AG Ex. 2.0 at 24/474-481.

Rather than search for the root cause of these out-of-control costs, the PO first rejects comparisons to surrounding communities. Next, the PO rejects any type of independent study to determine who can provide reasonably priced wastewater service to the Homer Glen area, claiming that "there is insufficient information in the record to support a finding requiring an independent audit." PO at 190. Out-of-control costs that result in rates that are 5 times higher than surrounding communities is sufficient information to have an independent study conducted. As Homer Glen witness Ms. Niemiec testified, "it is unreasonable to continue to allow IAWC to continue to provide high-cost sewer collection and treatment services. All reasonable economic alternatives to providing economic sewer service to Homer Glen's residents should be explored by IAWC and the Commission." Niemiec Direct, HG Ex. 2.0 at 6/102-106.

The PO also errs in adopting the ICC Staff's proposal to mitigate the huge sewer rate increases proposed by IAWC. The ICC Staff is correct that IAWC's proposal would cause "rate shock" for customers. However, the ICC Staff's mitigation is insufficient. A more reasonable mitigation is to adopt the recommendation of AG witness Rubin to increase wastewater rates by no more than 50 percent. Coupling such an increase with an independent investigation to determine how to divest wastewater service from IAWC, which apparently is unable to control costs, is a more reasoned approach to deal with wastewater collection and treatment rates.

The PO should be modified to adopt Mr. Rubin's 50 percent cap on any sewer rate increase, and the Commission should order an independent investigation into IAWC's sewer service to determine how the service can be taken over by a competent entity that can provide service at a reasonable cost.

EXCEPTION NO. 8

THE PRIVATE FIRE PROTECTION CHARGE FOR THE CHICAGO METRO AREA SHOULD BE DECREASED TO THE COST OF SERVICE RATHER THAN LEAVING IT ARTIFICIALLY HIGH SO THAT COSTS CAN 'CATCH UP' TO THE FEE.

The private fire protection charge is the amount that IAWC assesses monthly to customers who have installed fire sprinklers in their residences or businesses. It is undisputed that the current fire protection charge is over-recovering the cost to provide the service since the charge is 138 percent of IAWC's cost of service. Tr. at 590/22-59.1/4. IAWC proposes to leave the charge above the cost of service. The PO agrees by stating, in essence, that the higher cost to customers is justified because someday IAWC's costs for the service will increase to the level the charge is recovering. PO at 178.

The PO's conclusion is wrong not only from a ratemaking perspective but from a public safety perspective as well. Rates should be set to recover the cost of service. It is inappropriate to leave a rate artificially high. A belief that the utility's "cost of providing water service in the Chicago Metro area is generally increasing," PO at 178, does not make the proposed charge just and reasonable. There is no evidence that the cost of private fire protection in and of itself is increasing or that by leaving in place a fire protection charge that more than recovers costs "actually represents movement toward rates that are reflective of costs." PO at 178. The PO in essence tells customers not to worry because IAWC will eventually spend its way up to the charge that the rate is recovering. This is faulty and inappropriate ratemaking and is contrary to the requirement that rates be just and reasonable.

The Public Utilities Act permits a surcharge for fire protection but only one that is "sufficient to cover a reasonable portion of the cost of providing the capacity, facilities and the water necessary to meet fire protection needs." 220 ILCS 5/9-223(a). The Act further provides that the charge "shall reflect the costs associated with providing fire protection service." The Act does not provide that IAWC is entitled to make a 38 percent profit on fire protection as it proposes to do in this docket when its rate is 138 percent of the cost of service.

Public safety is an additional concern that the PO declines to address in its findings. Homer Township Fire Protection District Fire Chief Michael Schofield testified that the fee is a disincentive for residents and businesses to install fire sprinkler protection. In other words, by keeping the private fire protection charge artificially high, this Commission would send a signal that residents and businesses should not install fire safety equipment merely because someday IAWC's costs will approach the fire protection charge rate. As Fire Chief Schofield testified, the only time a fire protection sprinkler system uses water is when it is charged or if there is a fire.

The fire department itself is required to pay \$69 per month to IAWC to connect its firehouse sprinkler system to IAWC.

IAWC's proposal, and if adopted the Commission's public policy regarding private fire protection charges, will discourage fire protection sprinkler systems. As Fire Chief Schofield explained:

While many insurance companies offer discounts to customers for having a sprinkler system, the discounts quickly can be wiped out by this type of monthly fee. In addition, several communities in our district, such as Homer Glen, require sprinkler systems in all new construction other than residential construction. IAWC's assessment of this monthly fee places progressive communities at a disadvantage and may put pressure on them to amend the ordinances that currently require sprinkler systems to no longer make them mandatory, thereby eliminating a significant safety system.

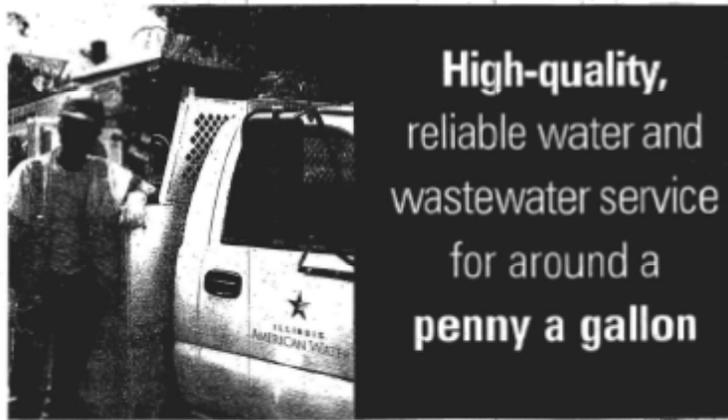
Schofield Direct, HG Ex. 3.0 at lines 36-40.

The PO should be changed to decrease the private fire protection charge to its cost of service to reflect proper ratemaking and to prevent this Commission from discouraging the installation of life-saving fire sprinkler systems.

EXCEPTION NO. 9

THE COMMISSION SHOULD INVESTIGATE IAWC'S DECEPTIVE ADVERTISING THAT FALSELY ASSERTS ITS WATER AND SEWER CHARGES ARE AROUND A PENNY A GALLON.

The ICC has the authority to protect the public from deceptive advertising by utilities under its jurisdiction. 220 ILCS 5/4-610. As part of IAWC's advertising, it has adopted the slogan "Water and Sewer Service for around a penny a gallon." The Company sent advertising with this deceptive slogan to IAWC ratepayers. The advertisement further declares that "it's a fact that water is a great value when you consider the quality and reliability of the water and wastewater service you receive. Around a penny a gallon." AG Cross Ex. 3.



The ad is false, deceptive, and misleading in violation of the Illinois Uniform Deceptive Trade Practices Act. 815 ILCS 510/2. IAWC is providing neither water nor sewer service to Illinois customers for “around a penny a gallon,” yet alone providing both “reliable water and wastewater service for around a penny a gallon” as the ad claims. AG Cross Ex. 3 itself demonstrates the falsity of the claim. The advertisement purports to show a customer’s bill using 3,000 gallons of water. The total bill is \$49.76, which makes the cost per gallon 1.66 cents before adding any increase in this docket. AG Cross Ex. 5 further shows the deceptive nature of the claim. It is a “Proposed Bill” for a Homer Glen customer. The total amount of the proposed bill for both water and wastewater service, as calculated by IAWC, is \$134.19 for 5,000. This computes to 2.68 cents per gallon, some 2.5 times what IAWC claims in its advertisement. IAWC’s advertisement is thus deceptive and false.

The PO finds that “while the heading of IAWC’s communication at issue could have been more clearly worded, the Commission does not believe the language cited warrants the initiation of a formal investigation into IAWC’s advertising polices at this time.” PO at 198. The PO is in error. Advertising that understates by 2.5 times the amount customers are paying for services, especially advertising targeted to ratepayers at a time a rate case is pending, is

deceptive. An advertisement is deceptive if it “creates the likelihood of deception or [has] the capacity to deceive.” *Williams v. Bruno Appliance and Furniture Mart, Inc.*, 62 Ill. App. 3d 219, 221 (1st Dist. 1978). A deceptive practice includes the advertisement of goods or services with the intent not to sell them as advertised. “[A] plaintiff states a claim for relief under section 2 of the Consumer Fraud Act if a trier of fact could reasonably determine that a ‘defendant had advertised goods with the intent not to sell them as advertised.’” *Garcia v. Overland Bond & Investment Co.*, 282 Ill. App. 3d 486, 490 (1st Dist. 1996). Furthermore, in determining whether the advertisement is deceptive, a court will look to the “net impression that it is likely to make on the general populace.” *Id.* IAWC has no intention of selling either water or sewer service at a penny a gallon to its customers. Thus, the advertisement is false and misleading and violates the Consumer Fraud Act. The Commission should investigate IAWC’s advertising program and the circumstances surrounding the distribution of this deceptive literature to customers during a pending rate case.

EXCEPTION NO. 10

THE PROPOSED ORDER UNDERSTATES THE APPROPRIATE LEVEL OF SHORT-TERM DEBT FOR IAWC AND OVERSTATES THE INTEREST RATE FOR SHORT-TERM DEBT.

The Proposed Order correctly rejects IAWC’s understated level of short-term debt. However, the PO’s adjustment for short-term debt does not increase the percentage of short-term debt to the appropriate level and overstates the interest rate on such short-term debt.

IAWC proposes to reduce the amount of its operations funded by short-term debt to 0.15 percent of its capital structure compared with the 3.26 percent upon which current rates are based. The PO recommends that IAWC’s capital structure include 2.83 percent in short-term

debt. PO at 84. IAWC requests that the cost of short-term debt be set at 1.97 percent. The PO recommends a cost of 1 percent as “the most reasonable cost rate proposed by any witness.”

The amount of short-term debt should be increased to the same 3.26 percent of the Utility’s capital structure that the Commission set in the Company’s last rate case, Docket No. 07-0507. AG/Municipalities joint witness Ralph Smith found 3.26 percent to be reasonable. The evidence in the record shows that even the amount recommended by Mr. Smith probably is too low and to lower it even further, as the PO recommends, is inappropriate. IAWC regularly uses short-term debt whenever there is a shortfall in revenues relative to expenses. It is the lowest-cost source of funds available to the Company. In December 2009, the Company delayed issuing long-term debt and carried forward \$25 million as short-term debt to at least May 2010. Tr. at 320. This amount itself is above the 3.26 percent recommended by Mr. Smith. ($\$612 \text{ million rate base} \times 3.26\% = \19.95 million).

Not only does the PO set the level of short-term debt too low, but the PO also sets the cost of short-term debt too high at 1 percent, based on the ICC Staff recommendation. However, the ICC Staff did not conduct a serious analysis of the cost of short-term debt because it erroneously agreed with the Company that the level of short term debt be 0.15 percent. At such a ridiculously low level, the rate was unimportant since it would have only a minor effect on rates. As a result, the cost of short-term debt for the ICC Staff was meaningless. This is not true when short-term debt is set at the proper 3.26 percent level. As Mr. Smith explained:

At Staff’s proposed cost of equity, the shift in rate base financing from short term debt to common equity would cost IAWC ratepayers approximately \$3.217 million per year of revenue requirement in the current case. At Staff’s proposed cost of debt of 1.0 percent, the cost to IAWC’s ratepayers financing this same approximately 3.11 percent of rate base would be approximately \$194,000 of revenue requirement. The shift in financing from short-term debt to common equity has the result of increasing the cost to IAWC ratepayers by approximately

\$3.023 million of revenue requirement using Staff's proposed cost of equity and short term debt from Staff's direct filing.

This additional cost to ratepayers of over \$3 million per year is unnecessary and can and should be avoided by using a more reasonable and normal level of short-term debt in the capital structure, rather than expensive common equity capital.

Smith Rebuttal, AG/JM Ex. 5.0 at 14/250-262.

When the level of short-term debt is set at a more realistic level, the cost of the debt becomes important as well. For the cost of short-term debt, the Commission should use the most recent costs. The actual cost of short-term debt issued by the Company in November 2009 was 0.3437 percent. PO at 85.

The PO should be corrected to increase the level of short-term debt to 3.26 percent of IAWC's capital structure and the cost of short-term debt should be 0.3437 percent, which represents the most current cost of such short-term debt.

EXCEPTION NO. 11

IAWC SHOULD NOT RECOVER ITS UNCOLLECTED AMORTIZED RATE CASE EXPENSES.

The PO allows IAWC to include in the new proposed rates its rate case expenses from Docket No. 07-0507 that were factored into but have not been fully recovered in current rates. This is retroactive ratemaking and should not be permitted.

As part of a rate case, a utility is allowed to include rate case expenses. These expenses are amortized over a period of time that the Commission believes the rates will be in effect. Because IAWC filed this case so close to the end of its last rate case, the Company states it has not fully recovered its rate case expenses from Docket No. 07-0507, so IAWC wants to include those costs in this case, essentially pancaking rate case expenses.

The PO states that if the Commission does not allow the utility to include past expenses in this case, the Commission would “decrease the revenue requirement approved in the prior docket.” PO at 70. This conclusion is wrong. Rates are set using revenues and expenses from a test year. The approved rates are in effect until the utility files another rate case. In this instance, IAWC filed another rate case before the three-year amortization period for rate case expenses expired. When to file a rate case is within the utility’s discretion. The fact that it sought another increase before the end of the amortization period expired does not give the utility the ability to charge ratepayers for those costs. This Commission does not review the utility’s actual costs between rate cases and order refunds when expenses are less. Nor does the Commission order the utility to pay refunds to customers when a utility does not file until after the amortization of rate case expenses from a previous case has passed. Selectively picking and choosing which expenses are to be tracked from case to case is single issue ratemaking, which is prohibited in Illinois.

The PO should be corrected to eliminate IAWC’s second amortization of rate case expenses from Docket No. 07-0507 in this docket.

EXCEPTION NO. 12

IAWC’S CURRENT RATE CASE EXPENSES SHOULD EXCLUDE THE EXPENSE OF THE SERVICE COMPANY STUDY SINCE IT FAILED TO FOLLOW THE COMMISSION’S MANDATE TO COMPARE COSTS WITH COMPETITIVE BIDDING.

The Company has requested rate case expenses of \$2.3 million, which is 58 percent higher than the \$1.48 million in IAWC’s last rate case. The Public Utilities Act was specifically amended to require the Commission to “specifically assess the justness and reasonableness of

any amount expended by a public utility to compensate attorneys or technical experts to prepare and litigate a general rate case filing.” 220 ILCS 5/9-229.

The PO inappropriately gives IAWC the entire amount requested. PO at 78. At the same time, the PO directs IAWC for future rate cases to “fully document its efforts to control rate case expenses.” PO at 78. The Commission should follow the revised Public Utilities Act and take action in this docket to reduce the rate case expenses, not give the Company a pass this time. “Given the poor economy, the high unemployment rate, and the sense that many of IAWC’s customers are desperately struggling just to make ends meet, one might expect that the Company would show a higher degree of sensitivity to holding down rate case costs.” AG/Municipalities Joint witness Smith Direct, Ex. 1.0 at 39/833-836. The PO ignores both economic reality and the law in giving the Company all it seeks in rate case expenses.

Part of IAWC’s rate case expenses include \$249,540 for the Service Company study. However, as noted elsewhere in this BOE, the service company study did not conform with the requirements mandated in Docket No. 07-0507. As a result, the entire amount of the study expenses should be excluded from rate case expenses.

In addition, the Company requests \$930,000 for legal fees, which is an increase of 43 percent over the 2007 rate case. For this case, IAWC made extensive use of outside attorneys with billing rates of \$320 to \$400 per hour or even higher at \$405 to \$525 and used consultants “at hourly billing rates of as much as \$425 per hour. The Company has not justified why it should not be required to hold its recoverable rate case costs for such items as legal fees to the amount approved for recovery in its last rate case or why a utility affiliated with a large Service Company cannot make more extensive and economical use of Service Company support for its

recurring rate cases, and thus economize on the cost of outside attorneys.” Smith Rebuttal, AG/JM Ex. 5.0 at 39/787-40/795.

The PO should be amended to eliminate the expenses associated with the Service Company study and reduce outside legal fees to the amount approved for such attorneys in Docket No. 07-0507.

EXCEPTION NO. 13

IAWC’S RATES MUST BE ADJUSTED TO EXCLUDE THE OVERRECOVERY OF REVENUES FROM THE NEW QIP RIDER.

IAWC has used the same test year for this rate case and for its new QIP surcharge rider for the Champaign and Chicago Metro Districts. The PO erroneously punts the issue of the same test year to Docket No. 09-0251. PO at 184. However, in that docket, the PO punts the issue to this docket. The result is that the Company is able to collect revenues in 2010 under the new rider without including the revenues from the QIP rider in the current revenues in this docket. The effect is to understate revenues and thus overstate the revenue requirements in the proposed rates.

The normal procedure for a QIP rider is that the revenues collected are included in the current revenues in the rate case test year. In this docket, however, only the revenues from the QIP rider for districts other than Champaign and the Chicago Metro districts are adjusted into IAWC’s existing revenues.

Since Docket No. 09-0251 failed to make any adjustment to the QIP rider surcharge, the rates in this Docket would collect these revenues twice. The revenue requirements of IAWC must be reduced to reflect the new QIP rider.

ORAL ARGUMENT REQUESTED

The Village of Homer Glen, and the Cities of Champaign and Urbana, and the Villages of St. Joseph and Savoy request oral argument pursuant to 83 Ill. Admin. Code 200.850.

Respectfully submitted,

Village of Homer Glen

Cities of Champaign and Urbana, and
Villages of St. Joseph, Savoy, and Sidney

By: _____/rcb/_____
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CERTIFICATE OF SERVICE

I, Richard C. Balough, hereby certify that a copy of the foregoing Brief on Exceptions was served upon all parties on the ICC eDocket Service List by electronic means on this 8th day of March 2010.

_____/rcb/_____
Richard C. Balough

APPENDIX TO BRIEF ON EXCEPTIONS
PROPOSED SUBSTITUTE LANGUAGE

EXCEPTION NO. 1

Proposed Order, Pages 2-3.

On October 1, 2009, a public forum was held at the Parkland Community College in the Champaign, Illinois for the purpose of receiving public comment concerning the general increase in rates proposed by IAWC. On October 8, 2009, a public forum was held in the Mt. Prospect City Council Chambers. On October 19, 2009, a public forum was held at the Homer Jr. High School. On November 4, 2009 a public forum was held at the Wheaton Community Center and on November 9, 2009, a public form was held at the Alton Square Mall. The public forums were held in conformance with Section 8-306(n) of the Act. A transcript of each public forum was made. On March 9-10, the undersigned Administrative Law Judge read each transcript and each public comment filed on the ICC's website relating to this Docket. Since reading the transcripts and comments, the undersigned has modified the PO to take the comments by the public into account in redrafting this tentative decision. A summary of the public forum comments and public comments was forwarded to the full Commission for consideration as part of the final order in this Docket.

Page 4, new language:

II. Public Policy Considerations.

The filing by Illinois American Water Company caused numerous citizens throughout the state to participate in both the Commission's statutory public forums and to post comments on the ICC's public comment portion of its website. As of the date of this PO, 591 persons posted comments on the ICC website. Participants at the public forum conducted in Homer Glen expressed concern about the 30 percent increase this filing would cause to their rates. The comments were especially critical in light of the fact that this is the third time that IAWC is increasing rates. Those making comments did not understand why IAWC cannot cut costs and hold rates steady, especially in these trying economic times. The participants pointed out that other companies, governmental agencies, and municipalities are cutting costs. Some participants asked the Commission to look at its mission statement and protect the consumers rather than give IAWC another rate increase. One consumer noted that rates were so high that they are concerned as to how many times they could flush their toilets in order to save costs. These are legitimate concerns that the Commission must consider when setting rates for IAWC.

EXCEPTION NO. 2.

Page 4, new language:

The Commission agrees with consumers, the Illinois Attorney General, the Municipalities, and Homer Glen that an important factor in determining whether IAWC's rates are just and reasonable is to take into account the public perception of the rates. When rates are too high in

comparison to surrounding communities, the areas in which the rates are too high will lose population and discourage economic growth and expansion. This results in a death spiral for existing, captive ratepayers who must pay higher and higher rates to support an ever increasing inefficient utility. The Commission is concerned that IAWC has entered into this death spiral. The record evidence shows that its rates are 200 to 500 percent higher than surrounding communities. While it may be difficult to compare an investor owned utility with a municipal owned utility on an expense by expense basis, it is a valid comparison to determine if IAWC's rates are severely out of line. In this case, the evidence is that both water and wastewater rates are out of line. There is no indication in the record that IAWC takes seriously its responsibility to keep costs in line. In fact, under the service company approach, IAWC takes no responsibility for keeping costs in line. The Commission believes that the time has come for this utility to take seriously its obligations to provide cost efficient service to its customers. IAWC must take steps to bring its costs in line.

Beginning at Page 197

4. Commission Conclusions

As described above and in our public policy section, both the AG and Homer Glen ~~complain~~ correctly demonstrate that IAWC's rates are higher than surrounding municipally-owned utilities. While IAWC does not dispute the AG's or Homer Glen's assertions, it does argue that direct comparison to MOUs is inappropriate. IAWC attempts to explain why its rates are higher than MOUs and to justify its position that its rates are reasonable.

In Docket No. 07-0507 the Commission found that "Due to the fundamental differences between MOUs and IAWC, it is the opinion of the Commission that a comparison of IAWC's rates and costs to those of MOUs is a very difficult undertaking." (Order at 44) The Commission believes that IAWC has placed too much into that statement. While it s true that a comparison is a difficult undertaking, it is not an impossible undertaking. Both the AG and Homer Glen have demonstrated that IAWAC's rates are 200 to 500 percent higher than surrounding communities. While the Commission will not engage in an expense by expense analysis, the Commission cannot ignore the findings that IAWC's rates are significantly higher than surrounding communities. As noted above, this Commission cannot ignore this truth. It is a fact that is hurting current ratepayers and the municipalities in which they live. IAWC's rates are adversely affecting property values and can lead to a death spiral for ratepayers. IAWAC is ordered as part of its next rate case to present to the Commission steps it is taking to bring its rates in line with the surrounding communities in which it serves. eonclusion remains true today. While the Commission understands the concerns of the AG and Homer Glen, as a practical matter, the record of this proceeding, combined with the statutory framework within which utility rates are established, provides the Commission with no method whereby these concerns may be fully resolved at this time.

EXCEPTION NO. 3

Beginning at Page 45:

6. Commission Conclusion

IAWC uses its affiliated Service Company to provide numerous services. The terms related to IAWC's use of and charges for services provided by the Service Company are set out in the Services Company Agreement previously approved by the Commission. Under the Service Company Agreement, the Service Company provides services for IAWC at the Service Company's cost, i.e., with no profit component.

The Company's requested level of expense in this docket, \$21.167 million excluding incentive compensation, ~~reflects~~ is the cost of the services IAWC claims it will ~~is projected to~~ receive from the Service Company in the 2010 test year.

In its Order in IAWC's last rate case in Docket No. 07-0507, the Commission stated on pages 30-31:

Because the Commission questions whether IWAC is doing everything possible to ensure low costs for ratepayers, the Commission directs IAWC to conduct a study comparing the cost of each service obtained from the Service Company to the costs of such services had they been obtained through competitive bidding on the open market. As part of the study, IAWC must also provide an analysis of the services provided by the Service Company to all of IAWC's affiliates. The analysis must provide details on the specific services provided to IAWC and how costs are allocated among affiliates of IAWC. IAWC shall include the study in its next rate filing.

As explained in some detail above, IAWC claims ~~asserts~~ that it met this requirement through a set of studies and the testimony of five witnesses. This evidence purportedly shows that for those services that (1) IAWC obtains from the Service Company; and (2) can be obtained from an affiliate or non-affiliate source, the amount paid by IAWC to the Service Company is well below the cost that IAWC would be required to pay a non-affiliate provider based on market prices for services.

Intervenors AG, Homer Glen et al. (Joint Municipalities) and the Village of Bolingbrook take issue with IAWC's request.

They ~~view~~ argue the 22.5% increase in the amount allowed in the last rate case, for the test year ending June 30, 2009, as excessive. The AG also states that for the 2010 test year, IAWC first budgeted a 9.4% increase from 2009, and a few months later increased its budgeted cost by approximately \$544,000, raising the amount requested in rates to 12.1% over the budgeted 2009 amount.

~~These Intervenor~~s also ~~argue assert, through arguments of counsel,~~ that the Company's cost study did not comply with the directive in the Order in Docket No. 07-0507. ~~On this issue, the Commission finds that the studies performed by IAWC represent a reasonable effort to comply with the directive of the Commission. Whether IAWC's analysis makes the proper cost comparisons contemplated in the Order is not solely a legal question, and references by Municipalities, Bolingbrook and the AG to competitive bidding procedures applicable to municipalities do not make it so. Rather, the issue involves, at least in part, questions of fact, and in that regard the conclusions of those Intervenor~~s are not supported by evidence of record. Further, from a practical standpoint, it is difficult to see how IAWC could have responded in the manner suggested by those Intervenors, and it does not appear that any such arguments by Intervenors were supported by witness testimony. The Commission agrees with the Intervenors. The Commission clearly stated in its order in Docket No. 07-0507 that IAWC's Service Company costs were questionable and that IAWC need to perform a study that compared the Service Company's costs to the costs that would be obtained by competitive bidding. The Company chose to ignore the explicit directive of this Commission and did so at its peril. The Commission agrees that the Village of Bolingbrook's motion to strike the study and all related testimony should have been granted by the ALJ before evidence was heard and taken. Since the motion was continued to the end of the hearing, the Commission hereby grants in full Bolingbrook's motion and all of IAWC's testimony relating to the Service Company study is hereby stricken.

Having stricken IAWC's Service Company study, the Commission must next deal with the amount of Service Company costs to be included in rates. The Commission believes that the best approach is to leave IAWC's Service Company costs at the same level it is in current rates; that is, \$17.25 million. With respect to the magnitude of the expenses, the AG and Municipalities raise concerns about the level and timing of increases in Service Company fees in the test year. In that regard, AG/JM witness Smith recommended that the fees allowed be limited to 5% over the amount approved in Docket No. 07-0507. According to the AG, the 5% figure is consistent with the actual fluctuation in Management Fees between rate cases.

~~As explained by the Commission in prior cases (e.g. Docket No. 02-0690), a test year is intended to be a representative period. Where there have been wide fluctuations in an expense item, the amount projected for the test year may not be fully representative of a normal year. Such concerns may be present when, as in the instant case, the forecasted test year expense or degree of increase is considerably higher than prior years, particularly where the test year expense also reflects large increases in the amount originally budgeted, and the expense item is one for which the Commission previously questioned the Company's efforts to ensure low costs.~~

~~Based on its review of the record, the Commission believes that the amount initially budgeted by IAWC for the Service Company fees for 2010, before subsequently increasing that amount by approximately \$544,000, would be a reasonably representative and normal test year amount for Service Company fees, and is otherwise appropriate for purposes of setting rates in this proceeding.~~

~~On this issue, the~~ The Commission remains skeptical of the \$17.25 million that the Service Company proposes to charge IAWC. ~~is not unmindful of continuing concerns over IAWC Service Company expenses. The Commission, however, is ultimately required to base its findings on actual evidence of record. In this case, subject to the adjustment adopted above, the evidence presented supports a finding that the Service Company fees approved in this Order are reasonable and should be included in revenue requirement to be recovered through rates.~~

As discussed above, Municipalities urge the Commission to order that an independent audit of the Service Company's fees be performed, and that such cost be borne by IAWC with no recovery of it from ratepayers. The AG suggests the Commission may want to consider ordering such an audit.

~~IAWC opposes such an audit as lacking any incremental benefit. Moreover, IAWC argues, the Municipalities' suggestion that the cost of this study be borne by the utility is inconsistent with language in Section 8-102 of the Public Utilities Act stating such costs "shall be recovered as an expense through normal ratemaking procedures."~~

The Commission believes a truly it is possible that an independent audit ewould be of benefit in evaluating the Service Company fees assessed to IAWC. ~~Whether such an audit would be cost beneficial, however, is not determinable at this time, as the cost of such an undertaking is unknown. As such, ordering such an audit in this Order would be premature. Therefore, the Commission orders that the ICC Staff, the Municipalities and the AG participate in determining an independent auditing firm to audit IAWC's Service Company costs and expenses. The results of the audit shall be provided to all parties to this docket and are to be presented in IAWC's next rate case. The costs of the audit shall not be included in any rates or charges of IAWC in the future, finds that IAWC should be ordered to file a detailed estimate or estimated range of such costs within 60 days after entry of this order. Other parties shall be given the opportunity to make such a filing if they choose to.~~

EXCEPTION NO. 4

Beginning at Page 17

5. Commission Conclusion

The next major issue relates to IAWC's prepayments to the Service Company. IAWC, Homer Glen and Champaign-Urbana, and the AG contend that such a practice is inappropriate and causes the CWC requirement to be overstated. IAWC claims that is appropriate for it to prepay for Services Company services and that doing so allows the Service Company to avoid incurring its own CWC requirement, which would be passed on to IAWC anyway. IAWC also argues that the Commission-approved Service Company Agreement requires IAWC to prepay for Services Company services. Finally, IAWC claims that because the Service Company agreement requires it prepay for services, if the Commission were to make an adjustment to the CWC requirement, it would be denied the opportunity to recover the reasonable cost of providing utility service.

The Commission is sensitive to concerns that affiliated interest transactions have the potential to have adverse consequences for ratepayers. It does not appear that in this instance any party is arguing that IAWC's actions are prohibited by the Services Company Agreement. Moreover, there is no indication that the Services Company Agreement mandates such treatment, either. Instead, the argument is that IAWC's CWC requirement could be lowered if it did not prepay for Service Company services. While that argument may be correct as far as it goes, there are other consequences to consider. If IAWC did not prepay for Service Company services, the cost would be shifted to the Service Company. Because the Service Company Agreement does not mandate that allows the Service Company to pass its costs directly on to IAWC, Illinois-American could not actually avoid the cost and ratepayers would ultimately be responsible for the costs. As a result, the Commission sees no benefit to ratepayers to continue this practice. IAWC is ordered to pay its affiliated Service Company after services from the Service Company have been performed. from modifying the CWC requirement to address this concern and the proposal to do so is hereby rejected.

EXCEPTION NO. 5.

Beginning at page 164:

5. Commission Conclusion

Putting aside, for the moment, IAWC's minimum system charge proposal, IAWC proposes movement toward a uniform customer charge as follows: a \$16.00 per month charge for Zone 1, including Sterling, and Pekin, a \$14.00 per month charge for Champaign, a \$13.50 per month charge for Chicago Metro - Water, a \$10.50 per month charge for Lincoln and a \$10.40 per month charge for South Beloit.

As discussed above, IAWC also performed what it calls a minimum system analysis and proposes that a minimum system charge be added to the customer charge. IAWC's analysis purportedly shows the cost of connecting a customer to its system with the minimum size main is \$4.67 per customer. IAWC proposes that the customer charge be increased by \$1.75 per month to begin recovery of the minimum system cost through a fixed charge. This proposal is opposed by both Staff and the AG, and is addressed below.

The AG asserts that cost of service supports maximum customer charges of \$13.47 for Zone 1, \$12.75 for Chicago Metro, \$11.78 for Lincoln and, \$13.37 for Pekin. For Zone 1, the AG recommends no change in the existing \$13.39 monthly customer charge. The AG asserts that IAWC improperly included costs associated with overheads and general plant in its customer costs. IAWC contends that such costs are properly reflected in the customer cost.

Staff recommends customer charges as follows: \$14.50 for Zone 1, including Sterling and Champaign; \$14.50 for Pekin; \$13.50 for Chicago Metro Water; and \$10.50 for South Beloit and Lincoln. Because the Commission has supported the recovery of fixed costs in the customer charge and has also approved recovery of fixed costs in the customer charge of 80% for certain gas utilities in Illinois, Staff recommends that 80% of the Company's statewide customer costs of \$18.14 per month, or \$14.50, be the maximum customer charge for 5/8" meter customers in each rate area of IAWC.

Homer Glen objects to IAWC's proposal to "shift costs" from the usage charge to the customer charge, noting that it would cause customers who use lower volumes of water to pay proportionately higher costs.

As noted above, IAWC proposes to assess a minimum system charge. As an initial matter, the Commission observes that IAWC described its proposal as a rate design proposal and included it in that portion of its briefs. Staff, on the other hand, addressed the proposal as if it were a cost of service issue. Despite IAWC's suggestions, the Commission agrees with Staff that the minimum system issue is essentially a cost of service issue. (See, e.g., Central Illinois Light Company d/b/a AmerenCILCO, et al., Docket No. 07-0585 et al. (Cons.), September 24, 2008, Order at 273-78 and 281-82) In the Commission's view, IAWC's characterization of the minimum system as a rate design issue does not somehow change the underlying nature of the issue or distinguish it from prior cases.

Staff correctly points out that minimum system approaches to cost of service have been presented to the Commission numerous times and have consistently been rejected. In response to the Commission's view that generally, fixed costs should be recovered through fixed charges, IAWC suggests that the minimum system approach represents a rate design proposal to achieve that goal. The Commission, however, is not prepared to fundamentally revise its approach to cost of service by framing the minimum system proposal as a rate design issue.

~~Thus, while the Commission continues to encourage IAWC to identify fixed costs and to propose reasonable methods for recovering fixed costs through fixed charges rather than through variable usage charges, the Commission does not believe the minimum distribution system as proposed in this proceeding represents an acceptable method for doing so.~~

~~Therefore, although the Commission remains open to the possibility that the minimum distribution approach may have merit, it will take a more convincing record than is presented in this proceeding. The Commission finds that the record does not support IAWC's minimum system approach or its proposed minimum system charge, and the proposal is therefore rejected.~~

~~With regard to the types of costs properly collected through the customer charge, the AG suggests that costs not directly related to connecting a customer to the system, reading the customer's meter and sending the customer a bill must be excluded from the monthly customer charge. As an initial matter, it appears to the Commission that the AG is making a cost of service argument rather than a rate design argument. Nevertheless, because this is a discrete argument and all parties addressed it under the rate design section of their briefs, the Commission will address it here. The Commission finds no reason to assume that all indirect or overhead costs are variable costs, rather than fixed costs, in nature. Similarly, the Commission believes there is no reason to assume that all customer costs are direct costs rather than a combination of direct and indirect costs.~~

~~From a rate design perspective, all other things being equal, the Commission believes it is preferable for fixed costs to be recovered through fixed charges, and for variable costs to be recovered through variable charges, such as usage charges. As IAWC and Staff note, this view has been reflected in recent rate orders including Docket No. 07-0507.~~

~~Based on the considerations above, the Commission finds the types of costs included in IAWC's calculations appear the testimony of AG witness Rubin to be a more accurate representation of ~~fixed~~ the type of costs to be properly recovered through the customer charge, and the AG's proposed calculations of the fixed customer costs ~~will not be~~ is hereby adopted.~~

EXCEPTION NO. 6.

Beginning at Page 166:

To assist in determining at what level the 5/8 inch meter customer charges should be set, the Commission has developed the table below, which excludes IAWC's minimum system charge rejected above.

Monthly 5/8 inch Meter Customer Charges for Water Service

District	Current Charge	IAWC Calculated Cost	IAWC Base Charge	Staff Proposed	AG Proposed
South Beloit	6.92	19.29	10.40	10.50	13.39
Champaign	11.23	14.11	14.00	14.50	13.39
Sterling	9.09	19.29	16.00	14.50	13.39
Streator	13.39	19.29	16.00	14.50	13.39
Pontiac	13.39	19.29	16.00	14.50	13.39
Southern	13.39	19.29	16.00	14.50	13.39
Pekin	12.74	20.05	16.00	14.50	13.39
Peoria	13.39	19.29	16.00	14.50	13.39
Lincoln	7.91	21.61	10.50	10.50	11.78
Chicago Metro	9.75	17.62	13.50	13.50	12.75

In determining reasonable monthly customer charges, there are numerous considerations, some of which are not directly aligned. Among others, those considerations include uniformity of charges, cost-based rates, as well as dollar and percentage impacts on customer bills. All things considered, the Commission believes that a combination of the customer charges proposed by IAWC, excluding the minimum system charge, and by Staff, will result in the most reasonable 5/8 inch meter customer charges. The table below shows the customer charges the Commission ~~herein approves~~ has computed. The Calculated Cost for the Champaign District is below the customer charge for Zone 1. It would be inequitable to charge the customers in the Champaign District more than the calculated cost when no other district would pay at or above its calculated costs. In its rate filing, IAWC proposed that the Champaign District be charged \$2 less than the customer charge for other Zone 1 customers. This approach is reasonable and appropriate. Thus, the customer charges approved are as follows:

Monthly 5/8 inch Meter Customer Charges

District	Current Charge	Calculated Cost	Approved Customer Charge	Percentage Increase
South Beloit	6.92	19.29	10.50	51.7%
Champaign	11.23	14.11	<u>12.50</u>	29.1%
Sterling	9.09	19.29	14.50	59.5%
Streator	13.39	19.29	16.00	19.5%
Pontiac	13.39	19.29	16.00	19.5%
Southern	13.39	19.29	16.00	19.5%
Pekin	12.74	20.05	16.00	25.6%
Peoria	13.39	19.29	16.00	19.5%
Lincoln	7.91	21.61	10.50	32.7%
Chicago Metro	9.75	17.62	13.50	38.5%

EXCEPTION NO. 7

Beginning at page 189

4. Commission Conclusion

It is the Commission's understanding that IAWC has proposed Chicago Metro sewer rates that are based upon its cost of service study. Importantly, IAWC has proposed to eliminate the declining block usage rate for residential customers and it appears no party objects to that proposal. In addition to objecting to ~~complain~~ ~~ing about~~ the overall level of IAWC rates for the Chicago Metro sewer district, the AG recommends that wastewater treatment rates increase by no more than 50%. Staff, for the most part, agrees with IAWC's proposed rate design. In an effort to mitigate bill impacts, promote gradualism and reduce rate shock, Staff proposes shifting a portion of the revenues to the residential class single-block usage rates in an effort to alleviate significant rate increases to the commercial customer class without an adverse impact to other classes.

While the Commission understands the AG's concerns, it does not appear to actually take issue with IAWC's cost of service study for the Chicago Metro sewer district. Additionally, Mr. Rubin indicates he does not know why IAWC's costs are "so high" and does not now why the Company would have such a high capital-related cost. (AG Ex. 2.0 at 24-25) ~~Finally, in the Commission's view, the AG has not provided an adequate explanation of how its proposed 50% rate cap could be implemented or how it would work. The Commission concludes that the rate~~

~~design proposal of the AG for the Chicago Metro sewer district is not supported by the record and it is not approved. The Commission agrees with Mr. Rubin that a rate cap is necessary for sewer rates and the 50 percent level is the most appropriate level in the record.~~

Staff asserts that its proposed rate design for the Chicago Metro sewer district, when compared to IAWC's, would reduce bill impacts for residential, commercial and multi unit residential from 56.97%, 128.92%, and 56.26%, to 42.41%, 82.93%, and 42.26% respectively. Staff also says that its proposed rates produce average bill impacts for residential, commercial and multi unit residential customers translate into approximately \$20.78, \$632.95, and \$18.57 average monthly increases, while the rates in IAWC's initial filing produce average monthly increases of approximately \$27.46, \$1,000.11, and \$24.24. It appears that the comparisons are based upon different revenue requirements, which reduces their usefulness to some extent. ~~The Commission nevertheless believes that~~ While the comparisons provide some context for the IAWC and Staff proposals, they do not require any further analysis since the Commission adopts Mr. Rubin's 50 percent proposal as being more appropriate at this time..

~~Having reviewed the positions of the parties, the Commission finds that Staff's proposal is more reasonable than IAWC's and should, therefore, be adopted. While the Commission generally favors cost-based rates, Mr. Rubin's the Staff proposal in this instance represents a reasonable deviation from cost, in that it mitigates the potentially large impact on commercial customers without having an unreasonably large impact on other rate classes. To the extent the approved revenue requirement deviates from that proposed by Staff, any change should to rates should be implemented in the same manner as for water rates, via an across the board modification to Staff proposed usage rates.~~

As indicated above, the AG witness recommended that IAWC be ordered to conduct an independent study, at IAWC's expense, of its wastewater treatment operations to assess, among other things, whether there are public or other wastewater treatment operators that can provide the service to IAWC water customers at a more reasonable and comparable cost. Municipalities Homer Glen et al. concur in that recommendation. IAWC opposes it.

As with the Service Company audit, the Commission finds it is appropriate to order an independent investigation to determine the best method for IAWC to transfer ownership of its wastewater system to an entity that has the expertise and ability to operate the systems in a cost-effective and efficient manner. The AG and Homer Glen should be involved in the selection of an appropriate audit firm. The cost of the study should be borne by IAWC's ratepayers. The results of the study should be submitted with IAWC's next rate case.

~~On this issue, the Commission does not believe there is sufficient information in the record to support a finding requiring an independent audit, the cost and specific scope of which are unknown. It is not clear that any such study or audit would produce a meaningful cost-effective result, or whether the Commission has the authority to implement the results of any such study or audit. The Commission declines to adopt the AG's recommendation at this time.~~

EXCEPTION NO. 8

Beginning at Page 178:

4. Commission Conclusion

IAWC proposes increasing private fire rates in all districts, except for Chicago Metro Water, in order to align revenues closer to cost. IAWC asserts that the private fire revenues did not sufficiently recover cost of service. Staff does not take issue with IAWC's proposed Private Fire Protection charges in Zone 1, including Sterling and Champaign. IAWC is not proposing an increase for Chicago Metro Water rates because the Company was recovering 138% of cost of service in that water district. Staff believes that the private fire service rates for Chicago Metro should be left unchanged. Homer Glen argues that at a minimum, the private fire charge for Chicago Metro should be reduced to cover only the cost of service.

Except with regard to the Chicago Metro area, the IAWC proposal for private rates appears to be uncontested. With regard to these other districts, the Commission finds IAWC's proposal for fire rates to be reasonable and they are hereby approved.

~~The cost of providing water service in the Chicago Metro area is generally increasing and the proposal to keep Chicago Metro fire rates at the current level actually represents movement toward rates that are reflective of cost. If the Commission were to adopt Homer Glen's recommendation to reduce the private fire protection charge for Chicago Metro, there would be no choice but to further increase other rates. That is, reducing private fire protection charges at this time would adversely impact other customers. While the Commission understands Homer Glen's position, the record does not support adopting it in this proceeding. Instead, the Commission finds that IAWC's proposal to keep the Chicago Metro private fire protection charges at the current level is in the public interest, is reasonable and, is hereby approved.~~

The Commission finds that the Public Utilities Act requires fire protection charges to be set no higher than the cost of service. In this Docket, the Chicago Metro private fire protection charge is at 138 percent of the cost of service. In addition, Homer Township Fire Protection District Chief Schofield testified that by keeping private fire protection costs high, it could discourage the installation of fire sprinkler systems. Without such systems, peoples' lives and property are at stake. This Commission does not want to be in the position of both violating the Public Utilities Act and endangering lives by artificially setting fire protection rates 138 percent above costs. The Commission finds that IAWC shall recalculate its private fire protection charge to reflect no more than 100 percent of the cost of service for this rate.

EXCEPTION NO. 9.

Beginning at Page 198:

In its Initial Brief, pages 26-27, Municipalities Homer Glen et al. state, “The Commission Should Investigate IAWC’s Statements that It Provides Water and Wastewater Services ‘For Around a Penny a Gallon.’”

In its Reply Brief, pages 110-113, IAWC disagrees. According to IAWC, calculations by the Municipalities combine water and sewer charges; whereas, the language of the communication at issue states that “around a penny a gallon” is what customers pay, respectively, “. . . for a gallon of water delivered to your home, *or* a gallon of wastewater taken away from your home.”

~~In any event, while the heading of IAWC’s communication at issue could have been more clearly worded, the Commission does not believe the language cited warrants the initiation of a formal investigation into IAWC’s advertising policies at this time.~~

The Commission is troubled by IAWC’s deceptive advertising. The clear intent of the advertisement that was sent to ratepayers during this rate case was to portray that they were receiving water and sewer service at a cost around a penny a gallon. The record shows that even under existing rates, water service costs ratepayers 1.5 times the amount in the advertisement. This Commission is aware that the Public Utilities Act requires water utilities to inform customers about pending rate cases. The Act does not allow for disinformation. There is a question as to whether such advertisement by IAWC violates the Public Utilities Act and the Consumer Fraud and Deceptive Trade Practices Act. The Commission does not condone such activity by an entity it regulates. The Commission hereby orders that an investigation be opened to investigate the circumstances surrounding the sending of this advertisement and, more generally, into the communications and advertising that the Company is sending to ratepayers that are contrary to the rates established by this Commission.

EXCEPTION NO. 10

Beginning at Page 84.

4. Commission Conclusion

IAWC proposes a forecasted 2010 capital structure consisting of 51.22% long-term debt, 0.15% short-term debt, and 48.63% common equity. IAWC's proposal is also supported by Staff. IAWC proposes a capital structure consisting of 52.24% long-term debt, 2.83% short-term debt, and 44.94% common equity, which was based on IAWC's December 31, 2008 capital structure. AG/JM recommended a capital structure consisting of 51.22% long-term debt, 3.26% short-term debt, and 45.52% common equity.

It is important to remember why a test year is utilized in the ratemaking process. Generally speaking, the test year is utilized so that revenues and expenses are matched relatively well for the period when rates will be in effect. The Commission is concerned that IAWC's forecast capital structure for 2010 may not be representative of what it has been in the past or what it will be in future periods when rates set in this proceeding are in effect. In other words, the Commission believes that IAWC's forecasted test year capital structure for the capital structure, while arguably reasonable for that year, may not be sufficiently representative of IAWC's typical capital structure. The Commission notes that in Docket No. 07-0507 the approved capital structure for IAWC was comprised of 52.97% long-term debt, 3.26% short-term debt, and 43.77% common equity.

The Commission finds that IAWC's capital structure should include more short-term debt than that the 0.15% it has proposed. As Intervenor have observed, when short-term debt is the least expensive component of capital, ratepayers will pay a higher return if the percentage of short-term debt is too low, since the overall cost of capital is used to calculate return on rate base. The Commission believes that the proportion recommended by AG/Municipalities witness Smith of 3.26 percent IAWC witness, Mr. Gorman, 2.83% is appropriate for purposes of this proceeding. Increasing the short-term will require that other components be reduced in some manner. The Commission believes it is appropriate to reduce IAWC's ~~long term debt and common equity percentage~~ to reflect this adjustment since it is the highest cost component of the cost of capital to the amounts that IAWC projects for 2010. This produces a capital structure comprised of 49.84% long term debt, 3.26% short term debt, and 47.33% common equity, which the Commission finds to be reasonable.

Beginning on Page 86:

With respect to the cost of short-term debt, IAWC proposes to use its average projected cost of short-term debt for the 2010 test-year, 1.97%. The AG recommends a cost of short-term debt at the “current rate,” 0.3437%, for purposes of setting rates. IAWC proposes using a short-term debt cost of 1.0%. Staff’s witness estimated the cost of short-term debt to be 1.0% but because the IAWC-proposed proportion of short-term debt is so small, Staff did not object to using IAWC’s proposed cost of short-term debt.

The Commission finds it is appropriate to use the most current rate to determine the cost of short-term debt. This amount is 0.3437% and should be used.

~~The cost of short term debt calculated by Staff witness Kight Garlisch, 0.9961%, and IAWC witness Gorman, 1.0%, are essentially the same and, in the Commission’s view, the most reasonable cost rate proposed by any witness. The method used by Staff witness Kight Garlisch is consistent with the method typically adopted by the Commission. Even though Staff does not object to the IAWC’s proposed cost of short term debt, the Commission concludes that for purposes of setting rates in this proceeding, a cost rate of 1.0% is reasonable and should be used.~~

EXCEPTION NO. 11

Beginning at Page 69:

3. Conclusion

As noted above, most rate case expense authorized in Docket No. 07-0507 was subject to a three-year amortization period and for that reason has not yet been fully recovered. The AG also takes issue with IAWC’s request to recover the unamortized balance from the previous case.

Having reviewed the arguments, the Commission finds that the AG’s proposal should not be adopted. Because rate cases do not occur every year, the Commission routinely orders that approved rate case expense be amortized over a multiple-year period; a ratable portion is included in test year expense, as it was in Docket No. 07 0507, and is recovered through rates. If the balance will not be fully amortized by the time new rates are approved in the next rate case, that is a matter entirely within the utility’s discretion. The utility determines when to file and if it files before rate case expenses are amortized, then the utility cannot recovery such costs. This is true in reverse as well. This Commission has not required utilities to refund rate case expenses when they have fully amortized rate case expenses. Thus, it is sound ratemaking policy not to engage in piecemeal, single issue ratemaking. IAWC’s request is denied. the Commission has allowed the unamortized amount to be recovered through rates approved in the new docket. Thus, IAWC’s proposal is in accord with prior Commission orders.

~~Further, although the AG has argued that allowing the recovery of the unamortized balance from Docket No. 07-0507 would be retroactive ratemaking, the opposite argument could just as easily be made. What the AG appears to proposing—using the instant rate docket to decrease to zero the unamortized balance of rate case expense approved in the prior rate case—is essentially the flipside of the IAWC adjustment rejected in the subsection of this Order immediately above; there IAWC was trying to use the instant case to change, i.e. increase, the amount of rate case expense approved in Docket No. 07-0507. Here, the apparent effect of the AG’s proposal, by denying recovery of the remaining portion of the amount authorized in Docket No. 07-0507, would be to use the current docket to retroactively change, i.e. decrease, the revenue requirement approved in the prior docket.~~

~~The Commission also notes that the fact the unamortized balance of rate case expense is not included in rate base actually helps ratepayers, as no return on the balance is recovered from ratepayers.~~

~~Regarding the amortization period for the unamortized, i.e., unrecovered balance of rate case expense approved in Docket No. 07-0507, the Commission finds that this amount, on a going forward basis, should be rolled into the same three year amortization period as is approved below for most current rate case expenses.~~

EXCEPTION NO. 12

Beginning at Page 77:

5. Commission Conclusion

The Company is requesting a total rate case expense of \$2,339,496. The AG and Municipalities takes issue with IAWC’s proposal. Staff, on the other hand, reviewed the Company’s rate case expenditures, and found them to be reasonable.

Among other things, the AG correctly notes~~complain~~, at the outset, that the \$2.34 million rate case expense requested by IAWC is 58% higher than the \$1.48 million 2007 rate case expense approved in Docket No. 07-0507, and that legal expenses are 43% higher.

IAWC responds that its actual rate case expense for Docket No. 07-0507 was \$2,347,164, which is \$7,668 more than the projected cost of the current case. (IAWC Schedule C-10.1) IAWC calculates the projected costs of legal fees and expenses, revenue requirement and CPA review to be lower than amounts actually incurred in the prior case by 7%, 51% and 47%, respectively.

The AG witness testified that legal expenses are excessive, and the amount allowed in this case should be no more than 10% higher than the amount approved in the last rate

proceeding. IAWC contends that the legal services are necessary, and reflect cost-control measures utilized by IAWC.

The AG asserts that the cost of the service company study is “outrageous” and should be disallowed. On this issue, the Commission has found, elsewhere in this Order, that the service company cost studies performed by IAWC failed to meet the requirements set forth in the Commission’s Order ~~in represent a reasonable effort to comply with the directive of the Commission~~ in Docket No. 07-0507. This cost should ~~not~~ be eliminated from allowable rate case expense.

Regarding other rate case expense, the Commission finds that the 43 percent increase by IAWC over its previous rate case is not justified. As a result, IAWC’s attorney fees should be reduced to the level in Docket No. 07-0507 as recommended by AG/Municipalities joint witness Smith. ~~including legal expenses, the Commission agrees with the conclusion of Staff, which entered into evidence numerous data request responses it reviewed in its assessment of fees to attorneys and technical experts, that the Company’s rate case expenses are just and reasonable within the meaning of Section 9-229 of the Act, 220 ILCS 5/9-229. The record shows that the services were reasonably necessary in the preparation and presentation of the case, and that the Company undertook reasonable measures to control the costs. Thus, while lowering rate case expense is a desirable goal, the record supports the inclusion, rather than disallowance, of the expense proposed by IAWC.~~

For future cases, the Commission directs IAWC to fully document its efforts to control rate case expense. Furthermore, in this order, in situations where future cost studies appear to offer potential benefits, the Commission is ordering IAWC to provide cost estimates for such studies so that the Commission will have the opportunity to determine if such studies are cost-effective before the costs are actually incurred and passed on to ratepayers.

With regard to the amortization period for rate case expense, the Commission finds that a five-year period should be used for the costs of the cost of service study, and demand study, ~~and~~ SCCS. For other rate case expenses, IAWC’s two-year proposal warrants consideration. However, upon consideration of the record, including intervals between prior rate cases, the Commission believes that a three-year period, proposed by the AG, should be used. As noted above, the Company will not earn a return, through rate base, on the unamortized balance, which is of benefit to ratepayers.

EXCEPTION NO. 13.

Beginning at Page 184:

A. K. Rider QIP

Homer Glen states that when the new rates in this case go into effect, the QIP rider must be reset to zero since the Act prohibits collecting QIP surcharges on projects that are otherwise reflected in the rate base. According to Homer Glen, the Final Order in this docket must ensure that the excess revenues that IAWC will collect under the new QIP Rider for the Chicago Metro and Champaign districts are deducted from the revenue requirements in this docket. (Homer Glen Initial Brief at 23)

IAWC states that Homer Glen's recommendation was not made in the testimony of any witness in this proceeding. IAWC asserts that it appears to ignore the rules relating to QIP riders: QIP projects, by definition, may only include replacements that were not included in the calculation of the rate base in the utility's last rate case. IAWC contends that projects that are included in the final test year rate base in this proceeding would not, by definition, be QIP projects. IAWC believes that Homer Glen's concern regarding excess revenues is unwarranted. IAWC says Homer Glen appears to be suggesting that IAWC's projection of QIP revenues for 2010 should reflect the possibility of more QIP revenues. According to IAWC, revenues at present rates for the test year do not reflect QIP revenues. IAWC says the revenues from these surcharges were eliminated from the forecast to reflect at present rates only base rates revenues. (IAWC Reply Brief at 109-110)

The Commission has reviewed the positions of the parties on this issue. Homer Glen is concerned about a possible double recovery of costs through this proceeding and through IAWC's proposed Rider QIP in Docket No. 09-0251. The Commission shares Homer Glen's concern. In the Commission's final order in Docket No. 09-0251, the Commission failed to take into account the possibility of double recovery or the Company's receiving QIP revenues in the test year that have not been adjusted as was done with the revenues from QIP riders that were previously in effect. The revenues from the new QIP rider must be recognized in this Docket and adjusted in a manner consistent with the treatment of IAWC's other existing QIP riders. The Commission finds that no action is necessary to address Homer Glen's concern in this proceeding. The Commission will address Homer Glen's concern, to the extent necessary in Docket No. 09-0251.