

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

NORTHERN ILLINOIS GAS COMPANY)
d/b/a NICOR GAS COMPANY)
) Docket No. 10-0096
Application pursuant to Section 9-201 and)
Section 19-140 of the Illinois Public Utilities)
Act for consent to and approval of Rider 31,)
On-Bill Financing Program and related)
changes to Nicor Gas’ tariffs, and approval)
of the Energy Efficiency On-Bill Financing)
Program.)

**VERIFIED REPLY COMMENTS
OF NICOR GAS COMPANY**

Northern Illinois Gas Company d/b/a Nicor Gas Company (“Nicor Gas” or “Company”) respectfully submits its Verified Reply Comments pursuant to the schedule established in this proceeding.

I. Introduction

On February 2, 2010, Nicor Gas filed its proposed tariff and Plan for its On-Bill Financing Program (“OBF Program” or “Program”), as required by Section 19-140 of the Public Utilities Act (“the Act”). 220 ILCS 5/19-140. On March 2, 2010, the Staff of the Illinois Commerce Commission, (“Staff”), the People of the State of Illinois (“AG”), and the Citizens Utility Board (“CUB”) filed verified comments responding to Nicor Gas’ proposed OBF Program. On March 12, 2010, Staff, AG and CUB filed Verified Reply Comments responding to each other’s initial comments. The following are Nicor Gas’ Verified Reply Comments to both the direct and reply comments of Staff, AG and CUB.

II. Reply to Staff Comments

A. Cost Effectiveness Methodology

Staff first recommends that loan origination fees be paid by customers receiving the loans rather than collected from all eligible customers through an automatic adjustment clause tariff, and that Nicor Gas modify its eligibility screening method for energy efficiency measures to include such fees as a customer cost. Staff Comments, p. 12.

CUB, in its reply comments, disagrees with Staff's position arguing that such costs should be recovered as administrative costs. According to CUB, increasing the cost to participate in the program by the amount of the loan origination fees would needlessly reduce the number of potential participants. Moreover, CUB claims that Staff ignores the benefits that society receives by having more participants in the program and the corresponding reduction in energy use. Consequently, CUB recommends that loan origination fees be included in program costs and not assessed to individual participants. CUB Reply Comments, pp. 2-3.

Nicor Gas does not object to Staff's position. Accordingly, the Company would make this change to allow loan origination fees, if any, to be included in the costs paid by the participating customer. Additionally, Nicor Gas would include an estimate of such fees in its final economic assessment of potential eligible energy efficiency measures. At this time, Nicor Gas is proposing to offer a limited number of measures, mainly high-efficiency furnaces and boilers. The Company believes that the economic benefit of installing these products will remain positive even after assigning loan origination fees to the responsible customer. Moreover, Nicor Gas anticipates the fees will be minimal and have a minor impact on the economic analysis.

Nicor Gas would modify its Request for Proposals ("RFP") to lenders to specify that any loan origination fees should be reflected in the interest rate charged, or to include the fee in the

loan amount to be financed. Thus, an initial upfront payment would not be required to participate in the program as specified in Section 19-140(a) of the Act.

B. Data Collection

Staff next recommends that Nicor Gas collect data on the types and characteristics of both the energy efficiency measures installed and the equipment replaced. Staff Comments, p. 15. CUB shares Staff's concern for the need for additional data, stating that more data is better. CUB Reply Comments, p. 3. Additionally, in its direct comments, CUB proposes that a sampling of one-third of all furnaces installed have both a pre- and post-verification to ensure customers realize the full efficiency of their investment. CUB Comments, p. 5.

Nicor Gas agrees that obtaining additional data on measures is a worthwhile goal. Certainly, the loan application would specify the measures being purchased. However, the participant may not have much, if any, information on the equipment being replaced. Nicor Gas proposes to track the characteristics of both the installed and replaced measures, to the extent they are available, through the loan application process. Thus, Nicor Gas would require the lender to include a section in the loan application to specify what equipment is being removed and what is being installed.

With respect to CUB's proposal to sample one-third of all furnaces installed, it is Nicor Gas' position that such testing is costly and not necessary, particularly with respect to existing equipment that is being replaced. Moreover, this is an on-bill financing program, not an energy efficiency program that contains specific energy efficiency requirements. Consequently, data collected should be related to items such as acceptance of the loan program, number of participants, amount financed, duration of loans, type of equipment financed, etc. Additionally, while CUB argues against increasing costs for loan origination fees, it apparently has no

objection recommending that an even greater potential cost, that of equipment testing, be added to the program. For these reasons, the Commission should accept Staff's and Nicor Gas' position that information be collected on the type of measures removed and installed, as well as financing related data, and reject CUB's proposal to test old and new equipment as not being a function of the OBF Program.

C. RFP/Lenders

Staff identifies a potential issue, in its opinion, that some lenders might be affiliated interests of the Company. To rectify this problem, Staff proposes three options: 1) if a lender that is an affiliated interest is chosen, the utility would file a petition for Commission approval under Section 7-101 of the Act; 2) such lenders would be excluded from participating; or 3) have the RFP process meet the Commission's criteria for competitive bidding waiver. Staff

Comments, pp. 15, 16

CUB finds Staff's presentation of this issue to be confusing, but recommends that the Commission direct the lender Evaluation Committee to consider the issue. CUB Reply Comments, p. 4.

Nicor Gas agrees with CUB's position. Further, the Company is unaware of any affiliation it has with any potential lenders and, thus, believes that its draft RFP, as filed, is proper and should be approved by the Commission.

D. Cost Recovery

First, Nicor Gas agrees to Staff's recommendation that the Company provide a draft of its proposed cost recovery rider filed in response to Section 8-104 to Staff on or before September 1, 2010. Staff Comments, p. 18.

Second, as Staff recommended, Nicor Gas has attached to these reply comments as Attachment A, a corrected three-year OBF Program proposed budget. Staff's Comments, p. 19

Lastly, Staff recommends that Nicor Gas indicate if there is an agreed-to cost sharing mechanism in place with other utilities implementing OBF programs and provide evidence of the agreement. Staff Comments, p 20.

At this time, the only shared cost among the utilities is for work in preparing the utilities' plans and the RFP. The utilities have an unwritten agreement to share these costs equally among five entities (1)Nicor Gas, 2)Commonwealth Edison Company, 3) The Peoples Gas Light and Coke Company and North Shore Gas Company, 4)the Ameren Illinois gas companies, and 5)the Ameren electric companies) with each entity paying 20 percent of the cost.

E. Company Filings

Nicor Gas agrees to Staff's recommendation that the requirement for a Program participant to be an active customer for last 12 months be removed as a requirement for participation. Staff Comments, p. 21.

F. Consumer Information

Staff recommends that Nicor Gas develop additional consumer information to be given to each participant. The additional information would cover: 1) how a customer's bill is impacted if the customer moves within or out of Nicor Gas' service territory; 2) information on disconnection for nonpayment of on-bill financing charges; 3) the conditions under which an outstanding balance would become due; and 4) actions the participant may take if they are disconnected from utility service. Staff Comments, p. 22.

Both the AG (AG Reply Comments, p. 9) and CUB (CUB Reply Comments, p. 5) agree with Staff that additional information on these items should be provided to participants. Nicor Gas also concurs on this issue. Nicor Gas will include a discussion of the above items in its marketing materials.

III. Reply to the Illinois Attorney General's Office

A. Program Budget

The AG recommends a cap on the three-year expenses of the program at \$250,000 or 10 percent of the \$2,500,000 limit “provided for the Program under Section 19-140(c) (7) of the Act.” AG’s Comments, p. 4.

CUB responds that without additional information, an arbitrary 10 percent cap proposed as by the AG is premature. CUB Reply Comments, p. 6.

It is Nicor Gas’ position that Staff has correctly identified two major reasons why the AG’s proposal is flawed and should be rejected. First, Section 19-140(f) provides that the utility shall recover all prudently incurred costs including start-up and administrative costs and program evaluation costs. 220 ILCS 5/19-140(f). Therefore, the Commission can not set a limit on costs. Second, the budget data provided by Nicor Gas is hypothetical. The Commission will review actual costs incurred during the course of reconciliation proceedings and will then determine the prudence of the expenses. Consequently, the Commission should reject the AG’s recommendation.

B. Customer/Vendor Disputes

The AG recommends that the Company be required to state what form of customer acceptance of the installed energy efficiency measures is required and how acceptance will be communicated to the lender. AG's Comments, p. 6.

CUB agrees with the AG's proposal to formalize the process by which a customer accepts the vendors work, the vendor notifies the lender, and the lender pays the vendor. CUB also notes that the rights of the vendor must also be protected in the transaction. CUB Reply Comments, p. 6- 7.

It is Nicor Gas' position that disputes between the participant and vendor with respect to acceptance of the measure being purchased are best handled by those parties. As in any business transaction there are rules to be followed for such disputes, such as the Uniform Commercial Code. It is not necessary for Nicor Gas to impose itself into such disputes, and neither the AG nor CUB offers any reasonable basis to mandate such a requirement. Additionally, Nicor Gas states that the vendor and lender would work out the details of when payment will be made for the work provided by the vendor that is acceptable to the participant. Nicor Gas' role in the OBF Program is to be a financial conduit, receiving payments from the participants and giving them to the lender – nothing more, nothing less.

C. Credit Check Methodology

The AG recommends that the Company provide details of the lender's credit check methodology and be required to have one criterion for loans under \$1,000 and another criterion for loans of \$1,000 and above. AG Comments, p. 8.

CUB originally proposed that a participant's payment history be used as a credit check. CUB Comments, p. 6. In its Reply Comments, CUB reiterates this position but states that based on the size of the loan, the tiered approach may be better. CUB Reply Comments, p. 7.

Nicor Gas respectfully points to Section 19-140(c)(4) which states: "(4) The lender shall conduct credit checks or undertake other appropriate measures to limit credit risk, and shall review and approve or deny financing applications submitted by customers identified in subsection (b) of this section." Therefore, it is Nicor Gas' position that it is the lender's responsibility to determine what methods it will use for credit checks and the criteria for credit checks. The Commission should reject both the AG's and CUB's proposals because the Act specifically provides that the lenders will conduct the credit check.

D. Security Interest

The AG recommends that Nicor Gas determine a reasonable cost to obtain a security interest and conduct a cost-benefit analysis. Without such an analysis, the AG claims that the Commission should disallow any costs associated with obtaining a security interest for being imprudent.. Additionally, the lender should enumerate its security interest costs in its response to the RFP. AG Comments, p. 9.

Nicor Gas supports Staff's reply to this issue. Staff is in agreement with the utilities that the cost to implement a security interest may outweigh the benefits. Staff further points out that these costs would be subject to a prudence review by the Commission during a reconciliation proceeding. Thus, Staff recommends that the security interest only be considered for measures having a value great enough that lenders would normally seek a security interest. Inclusion of security interest costs as recoverable costs would be prudent only if similarly situated lenders

would have incurred such costs in connection with loans of similar size and value. Staff Reply Comments, pp. 7-10.

E. Loan Repayment

Nicor Gas agrees with the AG's recommendation that Nicor Gas be required to describe that the participant may prepay the loan early without penalty and make a timely payment to the lender for the early payment amount. AG's Comments, p.10

F. Commercial Customer Costs

The AG recommends that if the OBF Program is offered to small commercial customers, as provided in Section 19-140(b), that costs related to small commercial customers be separated from those of residential customers. AG Comments, p. 11.

Nicor Gas is offering its OBF Program to small commercial customers. The cost to include a small commercial customer in the program would be no different than that of a residential customer. Thus, the Company proposes to allocate the costs between residential and small commercial customers based on the number of participants in each group. For the first year of the program, cost recovery under the Company's Section 8-104 rider would be based on the total number of residential and small commercial customers eligible for the Program. In subsequent years, the cost would be based on the actual number of residential and commercial customers participating in the program.

Nicor Gas also notes that, based on the estimated three-year cost of \$880,000 and the 2.2 million customers eligible for the Program, the average cost per month to a customer would be about a penny.

IV. Reply to the Citizens Utility Board

A. Selection of Lender(s)

CUB recommends that CUB, the AG, and Staff be added to the Evaluation Committee that would be responsible for selecting the financial institution(s) that would be the lender(s) in the OBF Program. CUB Comments, p. 3.

While the AG agreed with CUB to be added to the Evaluation Committee, Staff had no response to this proposal. Moreover, the AG proposes that the AG, CUB and Staff be voting members of the Committee in order to have a meaningful input on the process. AG Reply Comments, p. 3.

Nicor Gas objects to adding these parties to the Evaluation Committee. Section 19-140(c)(2) specifically states that the utility shall select the winning bidders based on evaluation of criteria. While the Illinois Energy Association may play a role in assisting in the selection of a lender, it is ultimately the responsibility of the utilities to select the lender that best matches the criteria of the program. Therefore, CUB's and AG's proposal to insert themselves into the selection process is not permitted under the Act and should be rejected. However, Nicor Gas would not object to updating interested stakeholders on the selection process as it proceeds.

CUB also recommends that the loan selection process give more weight to "Loan Pricing" and less weight to "Loan Marketing & Geographic Coverage" and "Additional Services". CUB Comments, p. 3.

With respect to the selection criteria, Section 19-140(c)(2) only lists interest rate, origination fees and credit terms as items that must be included in the list of criteria. Other criteria have been added to the evaluation process in order to select a lender that best meets the

overall goals of the OBF Program. Nicor Gas urges the Commission to reject CUB's proposals to add parties to the evaluation committee and to adjust the selection criteria.

B. State Gross Receipts Tax

CUB proposes that OBF Program revenues be exempt from the Illinois State Gross Receipts Tax. CUB Comments, p. 4. Based on Staff's Reply Comments and its own discussions with the Illinois Department of Revenue, Nicor Gas will not apply the State Gross Receipts Tax to OBF Program charges shown on the customer's bill.

Additionally, Nicor Gas respectfully requests that the Commission, in its final order, also determine whether or not OBF Program revenues should be subject to the Public Utility Fund Tax. It is Nicor Gas' position that a clear statement from the Commission is necessary to support the inclusion or exclusion of these revenues from the tax.

C. Determination of Eligible Measures

Nicor Gas objects to CUB's recommendation to have another workshop to discuss the final selection of eligible measures once the final lender(s) and loan provisions are determined. CUB Comments, p. 5.

It is the responsibility of the utility to determine the measures that meet the criteria specified in the Section 19-140. Nicor Gas will apply the same methodology for selecting eligible measures as it did before this filing, updating for the final financial costs as determined through the lender selection process. Other than the need to update information included in the selection methodology, no party has objected to the methods used by Nicor Gas to select eligible measures. As always, Nicor Gas will comply with the Commission's order and select the best

measures that meet the final criteria and data approved in this proceeding. Another workshop is not necessary and, thus, the Commission should reject CUB's proposal for a workshop.

D. Pre and Post Verification of Furnace Installation Savings

See above comments to Staff item B.

E. Credit Check Criteria

See above response to AG item C.

F. Continuation of Program During Evaluation

CUB proposes that the program continue during the evaluation process period. CUB Comments, p. 7. Meanwhile, the AG disagrees with CUB's recommendation on the basis that there may be many issues, including costs that may need to be resolved. AG Reply Comments, pp. 2-3.

CUB's concern is unfounded. Section 19-140(g) provides for an evaluation of the program after three years, with a report to the Commission within the fourth year. Nowhere within Section 19-140 is there a provision for the programs to terminate after three years. The only provision in Section 19-140 that Nicor Gas finds related to the termination of the program is sub-paragraph (g) which states, "...the Commission shall issue a report to the Governor and General Assembly including a summary of the information described in this Section as well as its recommendation as to whether the program should be discontinued, continued with modification or modifications or continued without modification..." Consequently, it is Nicor Gas' position that the programs will continue until the Commission recommends that they stop and the legislature agrees.

G. Reconnection Amounts

CUB proposes that the payment made by a customer to be reconnected after being disconnected for non-payment include only the amount of the OBF Program payments missed and not the entire loan balance amount. CUB Comments, p. 8. The AG supports CUB's recommendation. AG Reply Comments, p. 6.

It is Nicor Gas' position that all customers disconnected for non-payment should be treated in the same manner. If the customer is reconnected within 60 days of being disconnected, only those OBF Program payments missed would be included in addition to other reconnection amounts. However, after 60 days the account becomes "finaled" and all payments due the Company must be repaid before the customer is reconnected, including the outstanding amount of the loan.

H. Role of Program Administrators

CUB proposes that the Commission ask for and receive a clarification on the role of contractors hired to oversee the vendor network and related costs before approving the OBF Program. CUB Comments, p. 9. The AG agrees with CUB. AG Reply Comments, pp. 6-7.

Nicor Gas finds CUB's proposal to lack specificity in that it does not state what items, if any, should be included in the consideration of the vendor overseer. Certainly, as stated by CUB, experienced candidates with existing vendor networks would be given priority over inexperienced candidates. It is in the best interest of the utilities to select the best overseers and vendors. As discussed above with respect to program costs, the Commission's role is to determine that all costs recovered were prudently incurred. The Commission does not select vendors or lenders, that is the utilities' responsibility. Therefore, Nicor Gas recommends the

Commission reject CUB's proposal for the Commission to receive additional clarification on the role of contractors.

V. Conclusion

Nicor Gas respectfully requests that the Commission approve its OBF Program, subject to the modifications set forth in these Verified Reply Comments. The Company's proposed OBF Program meets the statutory requirements of Section 19-140 of the Act, and fairly balances the interests of all stakeholders.

Dated: March 22, 2010

Respectfully Submitted,

NORTHERN ILLINOIS GAS COMPANY
D/B/A NICOR GAS COMPANY

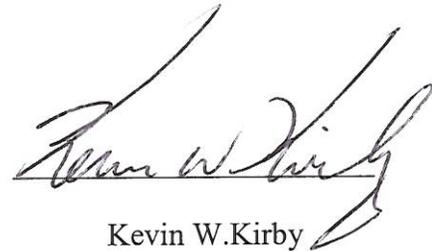
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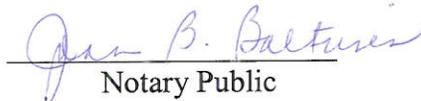
STATE OF ILLINOIS)
COUNTY OF DUPAGE)

VERIFICATION

Kevin W. Kirby, being first duly sworn upon oath, states that he is a Vice President of Northern Illinois Gas Company d/b/a Nicor Gas Company; that he has read the foregoing Verified Reply Comments of Nicor Gas Company Petition by him subscribed and knows the contents thereof; and that the statements therein contained are true to the best of his knowledge and belief.


Kevin W. Kirby

Subscribed and sworn to
Before me this 22nd day
of March, 2010


Notary Public

