STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

North Shore Gas Company Petition pursuant to Rider EEP of schedule of rates for gas service to initiate a proceeding to determine the accuracy of the Rider EEP Reconciliation statement.	:	**Docket No. 09-0436** **(Cons.)**
The Peoples Gas Light and Coke Company Petition pursuant to Rider EEP of schedule of rates for gas service to initiate a proceeding to determine the accuracy of the Rider EEP Reconciliation statement.	:	**Docket No. 09-0437**

BRIEF ON EXCEPTIONS OF THE STAFF OF THE ILLINOIS COMMERCE COMMISSION

JOHN C. FEELEY
Office of General Counsel
Illinois Commerce Commission
160 North LaSalle Street, Suite C-800
Chicago, IL 60601
Phone: (312) 793-2877
Fax: (312) 793-1556
jfeeley@icc.illinois.gov

Counsel for the Staff of the Illinois Commerce Commission

January 12, 2011

Table of Contents

Page

I. INTRODUCTION 1
II. ARGUMENT 2
A. Measuring Prudency – the TRC and the PAC (III, D.) 2
B. Whether Prudency Should be Assessed Only at the Portfolio Level (III., E.) 5
C. Disallowance Calculation (III., [G]) 9
III. CONCLUSION 14

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

North Shore Gas Company Petition pursuant to Rider EEP of schedule of rates for gas service to initiate a proceeding to determine the accuracy of the Rider EEP Reconciliation statement.	:	**Docket No. 09-0436**
	:	**(Cons.)**
The Peoples Gas Light and Coke Company Petition pursuant to Rider EEP of schedule of rates for gas service to initiate a proceeding to determine the accuracy of the Rider EEP Reconciliation statement.	:	**Docket No. 09-0437**

BRIEF ON EXCEPTIONS OF THE
STAFF OF THE ILLINOIS COMMERCE COMMISSION

The Staff of the Illinois Commerce Commission ("Staff"), by and through its counsel, and pursuant to Section 200.830 of the Commission's Rules of Practice (83 Ill. Adm. Code 200.830), respectfully submits its Brief on Exceptions ("BOE") in the above-captioned matter.

I. INTRODUCTION

On September 30, 2009, North Shore Gas Company ("North Shore") and the Peoples Gas Light and Coke Company ("Peoples Gas") (individually "Company" and

collectively "the Companies") each filed the requisite EEP Statement of Activity and Statement of Reconciliation Adjustment showing the program descriptions and the determination of the Reconciliation Adjustment ("RA") for the applicable period, May 1, 2008, through June 30, 2009. The Companies also each filed the necessary "Petition to Initiate Docket," requesting proceedings determining the accuracy of the Reconciliation Adjustment. On September 14, 2010 an evidentiary hearing was held at which time the following witnesses testified on behalf Staff: Dianna Hathhorn, an accountant in the Accounting Department of Staff's Financial Analysis Division; and David Brightwell, an economic analyst in the Policy Program of the Energy Division of the Commission. The following testified on behalf of the Companies: Edward M. Korenchan, the Companies' Coordinator, Rates; Patrick E. Michalkiewicz, the Companies' Manager, Energy Efficiency & Public Benefits; James Schott, the Companies' Vice President, External Affairs; Annette Beitel, President of Future Energy Enterprises, LLC; and John Plunkett, President, Green Energy Economics Group, Inc. Initial and Reply Briefs were filed by Staff, the Companies and The People of The State of Illinois ("AG"). On December 9, 2010, the ALJ issued a Proposed Order ("ALJPO"). Staff's BOE follows.

II. ARGUMENT

A. Measuring Prudency – the TRC and the PAC (III, D.)

At pages 8 and 9 of the ALJPO, the ALJPO addresses the issue of whether the Program Administrator Cost ("PAC") test should be used to determine prudence. The

ALJPO concludes that "[ ] it was not generally imprudent to apply the PAC test here, although its application in this specific instance could have been imprudent, depending upon its manner of use and the reliance placed upon it (discussed later in this Order)." (ALJPO, p. 9) Staff takes exception to the ALJPO on this issue.

The ALJPO takes the unreasonable position of adopting a prudency test which counts the benefits to both the utility customer implementing the measure and to other ratepayers but only considers the costs paid for by ratepayers, effectively disqualifying the portion of costs paid for by the utility customer purchasing and installing the measure from the analysis to justify including the various measures in the Companies portfolio. In addition, the ALJPO fails to appreciate that the Ameren's gas efficiency order (Docket No. 08-0104, Order Dated October 15, 2008) issued prior to the development of the Chicagoland program which was October 28, 2008 (Tr., 87) provided guidance on an appropriate test for gas utilities like the Companies to measure prudence. The Order in Docket No. 08-0104 made no reference to a PAC test, but rather discussed at length the TRC, which Ameren described as "the standard test of cost effectiveness." (Docket No. 08-0104, Order at 7)

Based upon the above arguments Staff recommends the following changes to the ALJPO:

<u>Proposed Modification</u>
(ALJPO, pp. 7-9)

D. Measuring Prudency - the TRC and the PAC

*** * ***

The Board began designing the Chicagoland Program in late October 2008[1]. At that time the Commission had issued its order in Docket No. 08-0104, a proceeding involving the approval of gas energy efficiency programs for the Ameren Companies, Rather than using the TRC test for prudency the Board used the PAC test. The TRC test estimates incremental costs for both the utility and the customer installing the [energy efficiency] measure and then compares it to the incremental avoided costs for both the customer and the utility to determine the savings. The TRC essentially estimates the private benefits of all savings to the costs to all parties that are necessary to achieve those savings. If the TRC is above 1, it means that the benefits that accrue to all parties exceed the costs that accrue to all parties. The PAC test only considers the costs paid for by ratepayers. The PAC test fails to account in its analysis for the portion of costs paid for by the utility customer purchasing and installing the measure to justify including the various measures in the Companies portfolio. The Commission finds the Boards adoption of a test which fails to account for all the costs to be unreasonable. Thus it was imprudent to apply the PAC test here. ~~Before then, the Commission had decided two energy efficiency cases in which only the TRC test was applied[2]. However, those dockets were governed by a statute pertaining only to electric energy (effective as of August 2007) that mandated application of the TRC[3]. The prudency of utilizing the PAC test was never an issue in those proceedings. Consequently, the Commission had not ruled out application of the PAC in late 2008 (and did not do so thereafter). Today, there is a statute requiring the TRC test for measuring the cost-effectiveness of energy efficiency for natural gas[4]. That statute took effect in July 2009. Therefore, the Utilities contravened no statute or Commission Order by employing the PAC test in October 2008.~~

~~The remaining question, then, is whether use of the PAC (here, in conjunction with the TRC) was, for some *other* reason, generally unreasonable or beneath the standard of care expected of an energy efficiency manager in late 2008. The Commission cannot reach that conclusion. NS-PGL witness Plunkett stated that the PAC has been utilized for evaluating cost-effectiveness in energy efficiency programs outside Illinois[5]. Staff witness Brightwell does not refute that point, emphasizing instead the conceptual differences between the tests.~~

---

[1] NS-PGL Ex. 4.0 at 9[Footnote reference would remain as #26 as stated in ALJPO].

[2] ~~Commonwealth Edison Co., Dckt. 07-0540, Order, Feb. 6, 2008 ("ComEd Electric Efficiency Docket"); Ameren CILCO, et al., Dckt. 07-0539, Order, Feb. 6, 2008 ("Ameren Electric Efficiency Docket"). The principles and conclusions in the two Orders are virtually identical.~~

[3] ~~220 ILCS 5/8-103.~~

[4] ~~220 ILCS 5/8-104. That statute took effect ten days after the end of the reconciliation period in this case. Thus, the import of the PAC in future reconciliation proceedings cannot be determined at this time. What is certain is that the TRC test will have to be employed as the statute requires.~~

[5] ~~NS-PGL Ex. 5.0 at 15; NS-PGL Ex. 7.0 at 5-6.~~

~~Indeed, he considers the PAC useful for determining rebate levels once an energy efficiency measure has passed the TRC test[6]. Thus, it was not generally imprudent to apply the PAC test here, although its application in this specific instance could have been imprudent, depending upon its manner of use and the reliance placed upon it (discussed later in this Order)~~.

B. Whether Prudency Should be Assessed Only at the Portfolio Level (III., E.)

The ALJPO's decision to affirm the portfolio level standard in this reconciliation docket is based on the Commission's decisions in the Ameren and ComEd energy efficiency dockets. The ALJPO finds that the Chicagoland Board could have reasonably assumed that the portfolio-level standard was acceptable. Staff does not take exception to this conclusion but requests that the Commission strengthens the requirements for cost-effectiveness. In order to strengthen the standard, the Commission should indicate that measure-level cost-effectiveness is an appropriate policy on a prospective basis unless there is a clear demonstration that any cost-ineffective measures are likely to provide long-term benefits that are not reflected in the TRC analysis. This approach will help ensure that programs will be cost-effective and that cost-ineffective measures are not unduly encouraged.

The record in this proceeding shows that there may be reasons to include measures that are cost-ineffective but that overall this approach serves to reduce the net benefits to ratepayers (Staff Ex. 2.0, pp. 9-10, and Staff Ex. 3.0, pp.15-16). Dr. Brightwell listed reasons based on synergies and high spillover as potential reasons to include measures that are not cost-effective. (Staff Ex. 2.0, pp. 9-10). He also testified

[6] ~~Staff Ex. 3.0 at 5.~~

that the reliance on unverified expert opinion was problematic and that a utility should be able to document its methods for determining whether long-term benefits are likely to occur from including measures that are not cost-effective (Tr., 215, September 14, 2010).

Additionally, Dr. Brightwell showed that it is incorrect to assert that the level of cost-effective energy savings increases when cost-ineffective measures are included in an overall portfolio. This occurs because adding measures with a TRC ratio less than 1 means that the benefits from these measures are less than the costs of these measures. Although the portfolio may still be cost effective and more energy savings occur, the incremental benefits from the cost-ineffective measures are less than the costs (Staff Ex. 3.0, pp. 15-16).

For these reasons, Staff recommends the following changes to the ALJPO:

Proposed Modification
(ALJPO, pp. 9-10)

E. Whether Prudency Should Be Assessed Only at the Portfolio Level

Staff avers that "the heart of this dispute…is whether individual measures must meet a cost[-]effectiveness standard or whether it is only necessary for a portfolio as a whole to be cost effective, regardless of whether some measures do not meet the standard."[7] Staff insists that cost-effectiveness must be evaluated at the efficiency *measure* level. "If a particular measure is not cost-effective under the TRC then it does not have sufficient value to society to make it worthwhile to incent. Every unit sold of a measure that is not cost effective serves to reduce the net benefit of the program."[8] Moreover, Staff argues, "portfolio level cost effectiveness calculations [have] more uncertainties than the measure level TRC test calculations…The program can mitigate the risk of uncertainty around their forecasted rebates for each measure by only including

[7] Staff IB. 3.0 at 8.[This footnote reference and subsequent references will adjust due to prior modifications to the ALJPO]
[8] *Id*. at 13.

measures with a TRC ratio greater than 1."[9] However, Staff adds that there are factors that may make cost-ineffective measures worthwhile to include in a portfolio. Although, there may be reasons to include cost-ineffective measures, Staff asserts that the Utilities should have the burden to prove through documentation that cost-ineffective measures are justifiable. Staff adds that portfolio-level assessment of energy efficiency measures was not even considered in a gas-related Order we issued shortly before development of the Chicagoland Program[10].

In contrast, the Utilities and the AG support portfolio-level analysis. The Utilities argue that "the portfolio-base[d] approach allows for a broad range in products in various stages of market penetration/maturity which reduces lost opportunities, maximizes consumer exposure to efficiency, and helps to transform markets by building demand and therefore increasing cost effectiveness of lower penetration products."[11] Utilities witness Plunkett characterizes portfolio-level measurement as a "standard approach" that produces the most cost-effective energy savings "over time."[12] The AG asserts that adoption of Staff's measure-level approach would discourage measures "that generate long-term interest in efficiency by both buyers and sellers of energy efficiency products - programs that may be deemed non[-]cost-effective in the short term, such as school-age education programs."[13] The AG and NS-PGL both emphasize that portfolio-level measurement was approved in the ComEd Electric Efficiency Docket and the Ameren Electric Efficiency Docket [14], and the Utilities emphasize that portfolio-level assessment was never addressed in the Ameren Gas Efficiency Docket[15].

Initially, the Commission agrees with the Utilities and the AG that we did not hold directly or impliedly in the Ameren Gas Efficiency Docket that measure-level assessment of an efficiency program is required or that portfolio-level assessment is imprudent. The Ameren Companies chose to apply the TRC test at three levels - measure, program[16] and portfolio - and we considered each of those steps. There was no dispute about TRC application at any level[17]. We

---

[9] *Id*.
[10] *Id*. at 10, citing Ameren CILCO, et al., Dckt. 08-0104, Order, Oct. 15, 2008 ("Ameren Gas Efficiency Docket").
[11] NGL-NS IB at 18.
[12] NGL-NS Ex. 5.0 at 14.
[13] AG RB at 6.
[14] NGL-NS IB at 18; AG IB at 16.
[15] NGL-NS RB at 9.
[16] In the Ameren Gas Efficiency Docket, at 11, we considered a "program" to be a group of measures "targeted at a specific market," as when insulation and infiltration reduction measures are bundled in a home performance program. All of Ameren's programs constituted its "portfolio." *Id*. at 11.
[17] Thus, Staff did not object to, or challenge the imprudence of, the Ameren Companies' program-level or portfolio-level analysis.

merely evaluated what the Ameren Companies presented. The Commission did not mention - much less rescind - our approval of portfolio-level measurement in the ComEd Electric Efficiency Docket and the Ameren Electric Efficiency Docket. It does not matter, as Staff suggests, that the latter dockets concerned electric utilities, while the Ameren Gas Efficiency Docket dealt with a gas utility. Indeed, we stated in the ComEd case that TRC calculation "at the portfolio level provides *utilities* with greater flexibility to assure that measures with less short-term energy savings value, but greater value over several years, will be included in any overall portfolio of measures and programs."[18]

It therefore follows that the Governance Board could justifiably employ portfolio-level measurement in reliance on our Order in the ComEd Electric Efficiency Docket. Putting that in terms relevant to this proceeding, the Board was not, in general, imprudent because it did so. Nor was the Board imprudent, as Staff asserts, because it contradicted any directive in the Utilities' 2007 Rate Order. There is no contradiction. Although Staff is certainly correct that we said there that "the selection of appropriate, cost-effective efficiency *measures*…will make a significant positive contribution to the benefit of all ratepayers,"[19] the Commission was not distinguishing measures from portfolios and did not address, let alone prohibit, portfolio-level evaluation. Our entire focus was on whether NS-PGL's energy efficiency programs would be generally approved and whether cost recovery via Rider EEP would be allowed. This occurred in the context of a general rate case, in which scores of issues are addressed. The Commission did not specifically consider application of the TRC test at the portfolio level until the following day, in the ComEd and Ameren electric energy efficiency dockets, in which we approved portfolio-level measurement.

Although the Commission chooses to maintain using a portfolio-level standard and does not find the Chicagoland Board's decision to apply this standard as imprudent, the Commission is troubled by the arbitrary and subjective method in which it was applied. It is beyond the scope of this proceeding to determine all the scenarios in which it may be prudent to include measures and programs which have TRC ratios less than 1.0. However, it is clear that not all measures with TRC ratios under 1.0 are justifiable on the grounds of long-term benefits. Since the Utilities are responsible for the prudent expenditure of ratepayer funds, we believe that the Utilities are responsible for documenting and estimating the likely existence of long-term benefits. The Commission cautions the Utilities that going forward, the documentation and estimation of the likely existence of long-term benefits must exceed what was presented by the Utilities in this proceeding.

[18] ComEd Electric Efficiency Docket, Order, Feb. 6, 2008 at 28 (emphasis added).
[19] NS-PGL 2007 Rate Order at 183 (emphasis added).

C. Disallowance Calculation (III., [G])

Staff agrees with the ALJPO that the costs associated with wall insulation were imprudently incurred. However, the ALJPO analysis to quantify this loss is impractical and will actually allow the Utilities to collect more revenue than was expended on this program.

The ALJPO reasons that "…the monetary benefits actually generated by wall insulation are clearly established by the record evidence – each dollar spent yielded $.70 in monetary benefits." (ALJPO, p. 20) The ALJPO continues to state that it seeks to establish the break-even point in the TRC test, a ratio of 1.0, to establish the proper amount of money the Companies can collect as prudent. (*Id.*) As a result the ALJPO states that "seventy cents of each dollar spent on wall insulation are approved recovery in this proceeding." (*Id.,* p. 21)

The flaw in this reasoning is that the TRC test measures the benefits and costs to both the utility and the consumer purchasing and installing the measure. The Companies' payments of rebates serve only as a transfer between the rebate recipient and ratepayers. It does not affect the total cost of the measure. The ALJPO correctly summarizes this point with a quote to Staff witness Dr. Brightwell's testimony:

> The TRC estimates incremental costs for both the utility and the customer installing the [energy efficiency] measure. It then compares it to the incremental avoided costs for both the customer and the utility to determine the savings. It essentially estimates the private benefits of all savings to the costs to all parties that are necessary to achieve those savings. If the TRC is above 1, it means that the benefits

> that accrue to all parties exceed the costs that accrue to all parties[20]. (emphasis added)

(*Id.,* p. 7). Allowing the Companies to collect seventy cents of each dollar spent on wall insulation will allow the utilities to collect more than was actually spent by the Utilities on wall insulation. This stems from the fact that the incremental cost was estimated as $4,107, assuming $1.22 per square foot for wall insulation (Tr, 216, September 14, 2010), while the maximum utility rebate was $750 (Tr, 229, September 14, 2010). Allowing the Companies to collect 70% of the costs allows the Companies to collect $2,874 per measure (70% of $4,107) when their expenditures were no more than $750.

If instead the ALJPO intended to collect only seventy cents of every dollar spent by the Companies, this too fails to meet the objective of reaching the break-even point in the TRC test. Allowing the Companies to collect seventy percent of $750 allows collection of $525 and a disallowance of $225 per measure. Reducing the collection by $225 does not reach the break-even point in the TRC test as the ALJPO states as its intention. Dr. Brightwell testified that the benefits from wall insulation were estimated as about $2,940 while the estimated costs were about $4,170 (Tr., pp. 215-216). The actual estimated costs, as indicated in Staff Ex. 3.0, Attachment F, are $4,107. The break even approach proposed by the ALJPO would actually require a disallowance of $1,167 per rebate ($4107 in costs – $2940 in benefits).

Staff witness Brightwell stated this upon cross examination:

[20] Staff Ex. 2.0 at 8. Incremental costs include the cost of equipment and labor, and represent only those costs that are incremental (additional) to the costs of a baseline piece of equipment or standard. Incremental benefits are the present value of savings over the lifetime of the efficiency measure (again, incremental to the benefits associated with baseline equipment or standards). NS-PGL Ex. 2.0 at 6.

> Q. All right. Would you agree that in all three measures that it is subject to your testimony you propose to disallow all of the costs?
>
> A. Yes.
>
> Q. Okay.
>
> A. That's not always to the detriment of the company though. But if you look at the case of wall insulation, as I stated earlier, the difference between the incremental measure cost and the benefits is about $1200, whereas, the rebate is capped at $750. So, in this case, if you look at the economic losses, the company would be worse off than if you just looked at the rebate level.

(Tr., pp. 228-229). Under the breakeven approach, where ratepayers are made whole by bringing the TRC test ratio to 1.0, the combined disallowance between Peoples Gas and North Shore Gas would be $81,690[21]. Under Staff's proposed method for disallowing costs, the total disallowance for wall insulation is $64,904 (Staff Ex. 2.0, p. 16)[22]. Since $64,904 represents the collective amount that ratepayers provided to the fund, Staff does not believe it is necessary to collectively compensate ratepayers in excess of this amount.

An additional technical change to the ALJPO serves to correct the Heading of this Section F. Section F appears to begin on page 10 with the title: "Whether the

[21] In response to Staff DR POL 3.01 the Companies indicate 70 rebates were provided between North Shore and Peoples Gas. Staff does not have the break down between utility. $81,690 is 70 rebates times $1,167 (the difference between benefits and costs). Staff acknowledges that the Companies Response to Staff DR POL 3.01 (Attachment A to this brief) is not in the record evidence currently. Therefore, if the Commission agrees with Staff's disallowance calculation, which it should, the Commission would need to direct the ALJ to order the Companies to provide a copy of the Companies' response to Staff DR POL 3.01 as a late filed exhibit in this proceeding. Staff would have no objection to the entry of this late filed exhibit into evidence.

[22] This is $52,720 for Peoples and $12,184 for North Shore. For the ALJ's and Commisson's benefit, revised reconciliation schedules reflecting this disallowance calculation are attached to this brief as Attachment B.

Utilities' Energy Efficiency Expenses Were Prudent." A second Section F begins on page 19 with the title: ""Disallowance Calculation."

For the reasons stated above Staff recommends the following changes to the ALJPO:

Proposed Modification
(ALJPO, pp. 19-21)

~~F~~ G. Disallowance Calculation

After concluding that costs associated with wall insulation were imprudently incurred, the Commission must quantify an appropriate cost recovery disallowance. Staff recommends *complete* disallowance of wall insulation costs, on the ground that "[t]here would have been no expenses and investments incurred on rebates for…wall insulation absent the imprudence on the part of [the Utilities]."[23] The Utilities reply that, at most, only the *incremental costs related to imprudence* should be disallowed, with other wall insulation costs approved for recovery. They argue that disallowance of all wall insulation costs would contravene our ruling in a 1994 case[24]. Staff contends that its recommendation is consistent with that ruling.

NS-PGL accurately summarizes the pertinent events and Commission holding in CILCO, the 1994 proceeding:

> Staff there proposed to disallow the incremental portion of the amounts spent by the utility that were due to imprudence, and the Commission agreed that that was the correct measure of the disallowance. [Citations omitted]. The Commission expressly rejected an intervenor's contention that the entire amount spent (apart from a certain amount already scheduled to be spent), rather than the incremental amount spent due to the imprudence, should be disallowed….[25]

[23] Staff RB at 12. [This footnote reference and subsequent references will adjust due to prior modifications to the ALJPO]
[24] Docket 94-0040, 158 P.U.R. 4th 1, 1994 Ill. PUC Lexis 577, Order, Dec. 12, 1994 ("CILCO"), cited in NS-PGL IB at 33.
[25] NS-PGL IB at 33.

The Utilities aptly support their summary by quoting what we agree is dispositive language for our purposes here: "`[t]he Commission concludes that the disallowances should be imposed only to the extent that the expenses and investment exceed the levels that would have been incurred absent imprudence on the part of CILCO.'"[26]

The remaining questions, then, are whether costs associated with imprudence can be separated from other costs and, if so, how they should be quantified. With respect to the first question, the Commission concludes that the cost of imprudence can be detached from reasonably incurred costs. The imprudence here consists of faulty assumptions about the cost of wall insulation, which caused the program to deploy a portfolio with less cost-effectiveness than the Governance Board calculated. In short, due to flawed judgment, money was spent to achieve less benefit than anticipated. Thus, the difference between the negative monetary benefit actually generated and the monetary benefit that would have likely been generated by reasonable decision-making constitutes the ratepayer loss due to imprudence.

Regarding quantification of this loss, the monetary benefits actually generated by wall insulation are clearly established by record evidence - each dollar spent yielded $.70 in monetary benefits (based on an actual insulation cost, including labor, of $1.22 per square foot, rather than the original and erroneous estimate of $.35 per square foot[27]). As for the likely net monetary benefit that reasonable decision-making would have generated, the Utilities suggest using 1.0, the break-even point in the TRC test[28]. The Commission will adopt this suggestion. <u>However, in the case of wall insulation, the maximum rebate was established as $750 and the record indicates that the net benefit was ($1,167). That is the harm to ratepayers was estimated to be in excess of the maximum rebate. Therefore, although the break even methodology suggested by the Utilities is reasonable, the Commission limits the disallowances to the dollar values actually paid in the form of rebates - $52,720 for Peoples Gas and $12,184 for North Shore Gas.</u> It provides a readily understandable quantification here of the likely outcome of reasonable efficiency planning. Practically speaking, within the context of designing an energy efficiency portfolio, there would be a range of estimated per-measure outcomes that would be reasonable. It would be unproductive to prolong and complicate this administrative litigation

[26] *Id.* at 33-34.
[27] NS-PGL Ex. 4.0 at 23-24. To preclude misinterpretation, we note that using actual costs to quantify ratepayer losses is not comparable to using hindsight to evaluate prudence. As in <u>CILCO</u>, it is only *after* finding imprudence without hindsight that we look to actual results to quantify losses.
[28] NS-PGL IB at 34.

by attempting to map out the boundaries of that range[29]. Given the relatively small amounts involved here[30], it is sufficient to approve ~~recovery~~ disallowances commensurate with the net ~~benefit~~ loss actually ~~provided~~ incurred ~~(70% of costs incurred)~~, ~~while disallowing recovery of remaining costs~~ while limiting those disallowances to no more than the amounts paid by the Utilities for these measures.

To be clear - the Utilities' error was not in selecting an efficiency measure with a sub-1.0 TRC result. As we stated above, it was permissible for the Governance Board to evaluate cost-effectiveness at the portfolio level, and it is implicit in that holding that measures with a TRC below 1.0 might be included for sound reasons. But just as a utility is responsible for computational errors that distort the estimated cost-effectiveness of a portfolio, so, too, is it responsible for judgment errors that cause such distortion. Ratepayers are entitled to the cost-effectiveness associated with reasonable and prudent decision-making.

In sum, ~~seventy cents of each dollar spent on wall insulation are approved for recovery in this proceeding. A~~ all wall insulation costs paid by the utility and proposed for recovery from ratepayers ~~exceeding that amount~~ are disallowed because these costs represent the lesser of the amount paid by ratepayers and the economic losses associated with the imprudent expenditures on wall insulation. Attached to this Order shall be Appendices provided by the Utilities', which shall consist of the Statements of Reconciliation Adjustment filed by each Utility, revised to reflect the cost disallowance required by this Order.

III. CONCLUSION

Staff respectfully requests that the Illinois Commerce Commission approve Staff's recommendations in these consolidated dockets.

---

[29] Even if we embarked on such analysis, we would not rely on the hindsight conjecture of an NS-PGL witness that the Board would have estimated that no more than one-third of customers would have used contractor insulation. NS-PGL Ex. 6.0 at 16.

[30] The *total* wall insulation rebates for Peoples Gas and North Shore, respectively, were $52,720 (rounded) and $12,184 (rounded), Staff Ex. 2.0 at 16, ~~with seventy cents of each dollar prudently expended.~~

Respectfully submitted,

_____

JOHN C. FEELEY
Office of General Counsel
Illinois Commerce Commission
160 North LaSalle Street, Suite C-800
Chicago, IL 60601
Phone: (312) 793-2877
Fax: (312) 793-1556
jfeeley@icc.illinois.gov

Counsel for the Staff of the
Illinois Commerce Commission

January 12, 2011

ICC Docket No. 09-0436/0437

North Shore Gas Company and The Peoples Gas Light and Coke Company's Response to Staff Data Request POL 3.01
Dated: August 6, 2010

Data Request: POL 3.01

Please provide the number of rebates provided in program year 1 for each measure listed below.

1) Ceiling Insulation R-38
2) Wall Insulation R-11
3) Storage Water Heater (Energy Star EF >/= 0.62)
4) Tankless Water Heater (Energy Star: EF >/= 0.82)
5) Gas Condensing Water Heater (Energy Star >/= 0.80)
6) Energy Star Clothes Washer (Energy Star: MEF >/= 1.72 and WF </=8.0)
7) High Efficiency Furnace AFUE 92%
8) High Eff Furnace AFUE 94%
9) High Eff Boiler Eff 85%
10) High Eff Boiler Eff 95%

Response:

The following table summarizes all rebates paid by measure type in Program Year 1 (July 1, 2008 – June 30, 2009). The details represent all rebates approved and/or invoiced, defined as prepared for payment having met all qualifying criteria (approved), or submitted to North Shore and Peoples Gas for payment (invoiced), within the specified timeframe.

Measure Type	**Number of Rebates**
Ceiling Insulation R-38	141
Wall Insulation R-11	70
Storage Water Heater (EF ≥0.62)	41
Tankless Water Heater (EF ≥ 0.82)	28
Gas Condensing Water Heater (EF≥0.80)	0
ENERGY STAR Clothes Washer	362
High Efficiency Furnace AFUE 92%	69
High Efficiency Furnace AFUE 94+%	231
High Efficiency Boiler AFUE 85%	2
High Efficiency Boiler AFUE 95+%	12

The Peoples Gas Light and Coke Company
Reconciliation Adjustment for SC 1
For the Program Period May 1, 2008 through June 30, 2009
(In Dollars)

Line No.	Description (A)	Amount (B)	Source (C)
1	EEP Expenses for SC 1 per Company	$ 1,015,863	Peoples Gas Ex. 1.1, p. 2, col. [B], line 6
2	Adjustment per Order	(52,720)	Appendix B, p. 2, line 2
3	EEP Expenses for SC 1 per Order	$ 963,143	Line 1 + line 2
4	EEP Revenues per Company	$ 4,058,972	Peoples Gas Ex. 1.1, p. 2, col. [B], line 14
5	RA1 to be Recovered/(Refunded) per Order	$ (3,095,829)	Line 3 - line 4
6	Annual Program Budget ("APB")	$ 4,100,000	Peoples Gas Ex. 1.1, p. 2, col. [B], line 3
7	Carry Over Budget (Lesser of: Tariff Maximum of 75% x Annual Program Budget or Under Budget Amount (APB - EEP Exp. per Staff)	$ 3,075,000	Line 6 x 75%
8	Interest	$ (36,118)	Line 5 x (1% / 12) * 14 months
9	Reconciliation Adjustment per Order	$ (56,947)	Line 5 + line 7 + line 8
10	Reconciliation Adjustment per Company	$ (3,612)	Peoples Gas Ex. 1.1, p. 2, col. [B], line 17
11	Difference: Factor O-Ordered Adjustment to be Collected/(Refunded) through RA2	$ (53,335)	Line 9 - line 10

The Peoples Gas Light and Coke Company
Adjustments for Brightwell Testimony
For the Program Period May 1, 2008 through June 30, 2009
(In Dollars)

Line No.	Description (A)	Amount (B)	Source (C)
1	Tankless Water Heater Adjustment	$ -	Per Order
2	Wall Insulation Adjustment	(52,720)	Per Order
3	Clothes Washers Adjustment	-	Per Order
4	Total Adjustments per Order	$ (52,720)	Sum of Lines 1, 2, and 3

North Shore Gas Company
Reconciliation Adjustment for SC 1
For the Program Period May 1, 2008 through June 30, 2009
(In Dollars)

Line No.	Description (A)	Amount (B)	Source (C)
1	EEP Expenses for SC 1 per Company	$ 344,105	North Shore Ex. 1.1, p. 2, col. [B], line 6
2	Adjustment per Order	(12,184)	Appendix B, p. 4, line 2
3	EEP Expenses for SC 1 per Order	$ 331,921	Line 1 + line 2
4	EEP Revenues per Company	$ 811,192	North Shore Ex. 1.1, p. 2, col. [B], line 14
5	RA1 to be Recovered/(Refunded) per Order	$ (479,271)	Line 3 - line 4
6	Annual Program Budget ("APB")	$ 825,000	North Shore Ex. 1.1, p. 2, col. [B], line 3
7	Carry Over Budget (Lesser of: Tariff Maximum of 75% x Annual Program Budget or Under Budget Amount (APB - EEP Exp. per Staff)	$ 493,079	Line 6 - line 3
8	Interest	$ (5,591)	Line 5 x (1% / 12) * 14 months
9	Reconciliation Adjustment per Order	$ 8,217	Line 5 + line 7 + line 8
10	Reconciliation Adjustment per Company	$ 8,358	North Shore Ex. 1.1, p. 2, col. [B], line 17
11	Difference: Factor O-Ordered Adjustment to be Collected/(Refunded) through RA2	$ (141)	Line 9 - line 10

North Shore Gas Company
Adjustments for Brightwell Testimony
For the Program Period May 1, 2008 through June 30, 2009
(In Dollars)

Line No.	Description (A)	Amount (B)	Source (C)
1	Tankless Water Heater Adjustment	$ -	Per Order
2	Wall Insulation Adjustment	(12,184)	Per Order
3	Clothes Washers Adjustment	-	Per Order
4	Total Adjustments per Order	$ (12,184)	Sum of Lines 1, 2, and 3