

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

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| NORTHERN ILLINOIS GAS COMPANY |) | |
| d/b/a NICOR GAS COMPANY |) | |
| |) | |
| Petition Pursuant to Rider 29 of Schedule of |) | Docket No. 10-0567 |
| Rates for Gas Service to Initiate a Proceeding to |) | |
| Determine the Accuracy of the Rider 29 |) | |
| Reconciliation Statement |) | |

Rebuttal Testimony of

JAMES J. JEROZAL JR.

General Manager Energy Efficiency
Nicor Gas Company

July 28, 2011

1 **I. INTRODUCTION**

2 **Q. Please state your name and business address.**

3 A. James J. Jerozal Jr., 1844 Ferry Road, Naperville, Illinois 60563-9600.

4 **Q. Are you the same James J. Jerozal, Jr. that provided direct testimony in this**
5 **proceeding on behalf of Nicor Gas Company (“Nicor Gas” or the**
6 **“Company”)?**

7 A. Yes.

8 **II. PURPOSE OF TESTIMONY AND CONCLUSION**

9 **Q. What is the purpose of your rebuttal testimony?**

10 A. The purpose of my rebuttal testimony is to respond to the testimony of the
11 Citizens Utility Board (“CUB”) and the Office of the Illinois Attorney General
12 (“AG”) (collectively “CUB/AG”) witness Rebecca Devens. Specifically, I will
13 address Ms. Devens’ proposal that the Commission disallow \$103,200 of prudent
14 and reasonable expenses.

15 **Q. Were there other issues raised by other interveners in this proceeding in**
16 **their direct testimony?**

17 A. Yes. Illinois Commerce Commission (“Commission”) Staff (“Staff”) witness Ms.
18 Burma C. Jones proposed to disallow recovery of certain wages and benefits
19 incurred during the first plan year. Company witness Mr. Donald Martino
20 responds to those concerns in Nicor Gas Exhibit 3.0.

21 **Q. Please summarize your conclusions.**

- 22 A. Ms. Devens' proposed disallowance is without merit for the following reasons:
- 23 • As part of Nicor Gas' last rate case, the Commission approved Rider 29, Energy
24 Efficiency Plan ("Rider 29 " or "EEP"). Docket No. 08-0363 (Order entered
25 March 25, 2009) ("Rate Case Order"). Nothing in the Rate Case Order suggests
26 that the EEP Advisory Board was required to approve each and every EEP
27 expenditure. Consequently, Ms. Devens' claim that such approval is required is
28 without merit.
- 29 • Ms. Devens neither provides evidence nor argues that the expenses in question
30 are imprudent or unreasonable. In fact, KO Solutions and Bass & Company
31 ("Bass") provided critical expertise and assistance to Nicor Gas and the Advisory
32 Board to develop and implement the EEP. There is no basis to find expenditures
33 related to their work imprudent or unreasonable.
- 34 • Even assuming that the Advisory Board had some type of role in approving EEP
35 expenditures, the Advisory Board never rejected payment of the disputed
36 expenses.
- 37 • Not only is Ms. Devens' position wrong, her calculation of \$103,200 as the
38 purported refund amount is incorrect. The real amount at issue appears to be
39 \$58,375.

40 **III. ITEMIZED ATTACHMENTS**

41 **Q. Are any exhibits attached to your testimony?**

42 A. Yes, Nicor Gas Exhibits 4.1 through 4.5 are included with this rebuttal testimony.

43 **Q. Please identify each of the attached exhibits.**

44 A. Exhibit 4.1 and Exhibits 4.3 through 4.5 are copies of the EEP Advisory Board
45 minutes for the following meetings:

46 • Exhibit 4.1 July 21, 2009

47 • Exhibit 4.3 October 22, 2009

48 • Exhibit 4.4 November 18, 2009

49 • Exhibit 4.5 November 3, 2009

50 • Exhibit 4.2 is a copy of the Board Facilitator Roles and Responsibilities

51 **IV. COSTS PROPOSED TO BE DISALLOWED**

52 **Q. What are the costs that CUB/AG witness Ms. Devens proposes be disallowed**
53 **by the Commission?**

54 A. Ms. Devens recommends that the Commission disallow \$103,200 paid to KO
55 Solutions from May 2009 to December 2009, inclusive of \$8,800 billed by KO
56 Solutions but paid to Bass & Company. (CUB/AG Ex. 1.0 page 3, lines 30-32)

57 This amount is inclusive of work KO Solutions performed as a consultant, as the
58 Board Facilitator elected by the Advisory Board on July 21, 2009, and as the
59 developer of Request For Proposals (“RFPs”) for the Plan Administrator and for
60 implementation contractors, which was also approved by the Advisory Board.

61 Bass assisted KO Solutions with the development of these RFPs which is referred
62 to as “RFP Consultant Support” in the Advisory Board’s minutes.

63 **Q. What is Ms. Devens' rationale for her proposed disallowance?**

64 A. It appears that her only reason for disallowing these prudent and reasonable
65 expenses is that the Advisory Board did not expressly approve these expenditures.

66 **Q. On what basis did Ms. Devens rely upon for her adjustment?**

67 A. It appears that she relied on minutes from the Advisory Board meetings.

68 **Q. Did Ms. Devens appear or participate in any of the Advisory Board meetings**
69 **that took place?**

70 A. No.

71 **Q. What parties are represented on the Advisory Board?**

72 A. The Advisory Board is comprised of one representative each from Nicor Gas,
73 Commonwealth Edison (“ComEd”), CUB, AG, Natural Resources Defense
74 Council (“NRDC”) and the North American Insulation Manufacturers Association
75 (“NAIMA”).

76 **V. REASONS TO REJECT CUB/AG PROPOSAL**

77 **Q. Is Ms. Devens’ proposed disallowance reasonable?**

78 A. No.

79 **Q. Why?**

80 A. There are two reasons. First, when the Commission approved the EEP, it
81 expressly recognized the limited authority of the Advisory Board, stating:

82 “...the Advisory Board will be determining what programs best suit ratepayers in
83 Nicor’s service territory. It will also commence the process of setting up those
84 programs.” (Rate Case Order, p. 162.)

85 Nowhere in the language of the Rate Case Order does it require the Advisory
86 Board to approve EEP-related expenditures. Thus, Ms. Devens' claims regarding
87 the authority of the Advisory Board are wrong.

88 Second, Ms. Devens never claims, nor can she, that the actual
89 expenditures are imprudent or unreasonable. Absent any showing that the
90 expenditures are either imprudent or unreasonable, her proposed disallowance
91 should be rejected.

92 **Q. You testify that the Commission did not require the Advisory Board to**
93 **approve each EEP-related expenditure. Does this mean that the Advisory**
94 **Board was unaware of the work that KO Solutions and Bass did to**
95 **implement the EEP?**

96 A. No. Nicor Gas took every necessary and reasonable step to engage, consult, and
97 update the Advisory Board as the EEP was being developed. Nicor Gas utilized
98 the Advisory Board as envisioned in the Commission's Rate Case Order. Indeed,
99 no party has claimed that the Company's EEP development and implementation
100 costs were imprudent or unreasonable.

101 **Q. What did KO Solutions and Bass provide to Nicor Gas' EEP?**

102 A. KO Solutions and Bass brought much needed knowledge and expertise to the
103 process as evidenced further by the fact that the Advisory Board unanimously
104 elected KO Solutions to take on multiple roles and tasks throughout the process.

105 **Q. What services did KO Solutions provide prior to the creation of the Advisory**
106 **Board?**

107 A. The Commission approved Rider 29 on March 25, 2009 with the understanding
108 that every attempt would be made to implement programs for the coming heating
109 season. The efforts to start-up the EEP in March of 2009 required significant
110 effort and transparency. Part of that effort included understanding how an
111 Advisory Board, as ordered by the Commission, would be constituted and who
112 would be involved. It required research and planning on the Advisory Board's
113 design and initial coordinating efforts among other things. All of these efforts
114 were necessary if there was to be any chance at having programs available to
115 Nicor Gas customers by October 1, 2009, the beginning of the 2009/2010 winter
116 heating season. Moreover, Nicor Gas did not yet have the experience or
117 capability to perform these tasks at that time. Ms. Mary O'Toole of KO
118 Solutions, with Bass as a subcontractor (primarily Ms. Alecia Ward), provided the
119 necessary experience and capabilities to perform the tasks and requirements
120 noted, as well as providing additional guidance. Without Ms. O'Toole and Ms.
121 Ward's assistance, this process would have been considerably lengthier and
122 would have pushed the starting date for the EEP back many more months.

123 **Q. Did the Advisory Board approve the use of KO Solutions and Bass to do the**
124 **initial work for implementing the EEP?**

125 A. Yes. On July 21, 2009 the Advisory Board (inclusive of a representative from
126 CUB) unanimously chose KO Solutions to operate as the Board Facilitator.
127 Please see Nicor Gas Exhibit 4.1, Minutes of July 21, 2009 Advisory Board
128 Meeting pages 2 and 3. The Advisory Board also approved the Board Facilitator
129 Roles and Responsibilities. Attached as Nicor Gas Exhibit 4.2 is a copy of the

130 approved Board Facilitator Roles and Responsibilities which clearly shows that as
131 Board Facilitator, KO Solutions, would be responsible for assisting in the finding
132 of the Plan Administrator and other entities involved in the implementation of the
133 EEP. Thus, it was proper for KO Solutions to develop the RFPs for the Plan
134 Administrator and implementation contractors. It would seem, based on these
135 decisions, that the Advisory Board had no doubts that KO Solutions would
136 provide much needed knowledge and expertise to the program. These are the
137 same qualities that had also led me to hire KO Solutions as consultant soon after
138 the Order was issued.

139 **Q. Was the Advisory Board aware of Bass & Company's work on the RFPs?**

140 A. Absolutely. In fact, as noted in the minutes for the October 22, 2009 Advisory
141 Board meeting, attached as Nicor Gas Exhibit 4.3, I was requested to negotiate
142 charges with Bass. These negotiations resulted in an immediate reduction to
143 Bass' charges.

144 **Q. In summary, would you agree that KO Solutions and Bass preformed the**
145 **work they were requested to do by the Advisory Board at reasonable**
146 **charges?**

147 A. Absolutely.

148 **Q. Ms. Devens states that, "I recommend disallowance of these expenses which**
149 **include a significant amount of RFP Consultant expenses which were**
150 **disallowed by the Board but for which Nicor seeks recovery." (Devens Dir.,**
151 **CUB/AG Ex. 1.0, 3:38-40). She further states "[t]he Board explicitly rejected**

152 **the RFP Consultant expense....” (Id., 8:142-43) Are these statements**
153 **correct?**

154 A. Absolutely not. Ms. Devens' statements are a gross mischaracterization of the
155 facts. I believe her support for these misleading claims is that at the November
156 18, 2009 Advisory Board meeting a vote on the RFP Consultant Support budget
157 amount of \$70,800 resulted in a two to two tie, with one abstention. The costs
158 were neither accepted nor rejected by the Advisory Board. Consequently, while
159 the matter did not pass, it also was most certainly not rejected. The minutes of the
160 November 18, 2009 meeting are attached as Nicor Gas Exhibit 4.4.

161 **Q. How did the Advisory Board parties vote on the RFP Consultant Support**
162 **expense?**

163 A. The representative from NAIMA was not present for the vote. Nicor Gas and
164 ComEd voted for approval of the expense. CUB and AG voted against the
165 motion. The representative from the NRDC abstained from the vote.

166 **Q. Are the expenses related to the RFP Consultant Support, the only expenses**
167 **prior to December 31, 2009 that were not directly approved by the Advisory**
168 **Board?**

169 A. Yes. At the November 3, 2009 Advisory Board meeting, all other expenses were
170 approved by a four to two vote. See Nicor Gas Exhibit 4.5.

171 **Q. Which parties voted against approval of all the other expenses?**

172 A. CUB and AG.

173 **Q. Would you agree then that CUB and AG have never voted to approve any**
174 **Rider 29 EEP expenses?**

175 A. Yes. While they voted for KO Solution and Bass to perform work, they never
176 voted to pay for the work.

177 **Q. Ms. Devens claims that the Advisory Board approved a budget of no more**
178 **than \$50,000 for KO Solution’s services as a Board Facilitator. (CUB/AG**
179 **Ex. 1.0 page 9, line 170) Is that correct?**

180 A. No. Again, this is a mischaracterization of what occurred. However, Ms. Devens
181 did properly state the matter in her direct testimony stating “Mr. Jerozal explained
182 that he negotiated the rate of \$250 per hour with assumptions of \$10,000 per
183 month and \$50,000 for 2009 for Ms. O’Toole of KO solutions as Board
184 Facilitator” (Devens Dir., CUB/AG Ex. 1.0, 7:121-24)(emphasis added). In the
185 Advisory Board minutes from October 22, 2009, (Nicor Gas Ex. 4.3) I
186 communicated a negotiated rate with KO Solutions but never implied or
187 suggested that the \$50,000 was a hard cap. What I did provide to the Advisory
188 Board was a rough estimate of what I anticipated would be billed by KO
189 Solutions based on expected workload. As additional hours of work became
190 necessary, the amount payable to KO Solutions went up accordingly.
191 Furthermore, it is worth pointing out that there was never a vote approving or, for
192 that matter, making any decision concerning the \$50,000 amount communicated
193 to the Advisory Board, contrary to Ms. Devens’ assertions. In fact, the Advisory
194 Board explicitly gave me the authority to negotiate the rate with KO Solutions at
195 the July 21, 2009 meeting, Nicor Gas Ex. 4.1. I also find it curious that Ms.

196 Devens is attempting to argue that the Advisory Board approved *only* \$50,000 for
197 KO Solutions while in the same testimony stating that the *entire* amount paid to
198 KO Solutions should be denied.

199 **Q. Was the Advisory Board aware of Bass’ role as RFP Consultant Support?**

200 A. Most certainly. Ms. Devens states that the October 22, 2009 Advisory Board
201 minutes included that, “RFP Consultant Support was noted as being provided by
202 Alecia Ward...” (*Id.*, 7:124) Moreover, the Advisory Board directly requested
203 that I negotiate her rate, Nicor Gas Ex. 4.3. Obviously, the record shows that the
204 Advisory Board was fully aware of the relationship between KO Solutions and
205 Bass and had no issues with that arrangement.

206 **Q. If the Commission were to somehow approve Ms. Devens’ proposed**
207 **adjustment, do you agree that Ms. Devens properly calculated the \$103,200**
208 **amount in question?**

209 A. No. While I cannot be sure of how exactly Ms. Devens intended to calculate her
210 adjustment, it would appear based on comments made in her direct testimony, that
211 Ms. Devens is seeking to deny any amounts billed by KO Solutions and Bass
212 spanning May 2009 through December 2009. (CUB/AG Ex. 1.0 page 8 lines 158
213 to 163) Referencing the same cost information, I arrived at \$99,575 for KO
214 Solutions, not the \$94,400 being proposed at page 8, line 161 of Ms. Devens’
215 direct testimony. (*Id.*, 8:161) Adding to that amount the \$8,800 billed by KO
216 Solutions and paid to Bass yields \$108,375 and not \$103,200.

217 However, this amount, as does the \$103,200, grossly overstates any
218 disputed amount. While it would appear that Ms. Devens seeks to deny the entire
219 amount billed by KO Solutions, she contradicts herself by also suggesting that the
220 Advisory Board had approved some of the amounts paid to KO Solutions. As
221 noted above, she argues that the Board approved \$50,000 and goes on to state that
222 “*most* if not all of [\$103,200] was not approved by the Board” (CUB/AG Ex. 1.0
223 page 3, line 32). Why she proposes to deny the entire amount paid to KO
224 Solutions despite her claims that at least \$50,000 met her own standards, albeit
225 misguided, is unclear. Reducing the total amount of \$108,375 noted above by the
226 “approved” \$50,000 reduces the disputed amount to \$58,375. Even this amount
227 should not be disallowed. As demonstrated above, the Advisory Board approval
228 was never a prerequisite to recovery of otherwise prudent and reasonable
229 expenditures.

230 **Q. Does this conclude your rebuttal testimony?**

231 A. Yes.