

**STATE OF ILLINOIS**  
**ILLINOIS COMMERCE COMMISSION**

The Illinois Commission	)	
On Its Own Motion	)	
	)	Docket No. 06-0703
Revision of 83 Ill. Admin. Code 280	)	
	)	
	)	

**Statement of Position**  
**of The Peoples Gas Light and Coke Company**  
**And North Shore Gas Company**

**October 14, 2011**

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**Statement of Position  
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And North Shore Gas Company**

**I. INTRODUCTION**

Pursuant to the schedule established by the Administrative Law Judge, The Peoples Gas Light and Coke Company (“Peoples Gas”) and North Shore Gas Company (“North Shore”) respectfully submit their Statement of Position in this proceeding. In this proceeding, Peoples Gas and North Shore offered the Direct Testimony of Vincent Gaeto (which was subsequently adopted by James G. Robinson, Jr.), the Rebuttal Testimony of James G. Robinson, Jr. and the Surrebuttal Testimony of James G. Robinson, Jr. Mr. Robinson is the General Manager, Customer Relations, of Integrys Business Support, LLC. In that position, Mr. Robinson is responsible for all aspects of Customer Relations activities for Peoples Gas and North Shore, including managing the Customer Contact Center, Billing and Collection Operations, Managing Informal and Formal Illinois Commerce Commission (“Commission”) Complaints, Customer bankruptcies and insuring general compliance with 83 Ill. Admin. Code Part 280, the amendment of which is the subject of this proceeding. (PGL/NSG Ex. JR-2.0, p. 2, lines 11-16)

## **II. SECTION BY SECTION ANALYSIS OF THE PROPOSED RULES**

### **A. PROPOSED SECTION 280.15, COMPLIANCE, WHICH WOULD PROVIDE UTILITIES WITH 24 MONTHS TO IMPLEMENT THE RULES ADOPTED IN THIS PROCEEDING, SHOULD BE INCLUDED IN THE PROPOSED RULES.**

Peoples Gas and North Shore state that the Commission Staff's Proposed Rules did not include any provision regarding the amount of time utilities would be given to implement the final rules adopted by the Commission in this proceeding. However, Nicor Gas proposed a new Section 280.15 to be added to the Commission Staff's Proposed Rules which would provide: "Each utility subject to this Part shall have two (2) years after the effective date of this Part to comply with all Sections that require it to modify its existing IT and business processes to come into compliance."

Peoples Gas and North Shore state that while, initially, the Commission Staff took the position that it does not have the expertise to address the amount of time required to implement the final rules adopted by the Commission in this proceeding, in its Reply Brief, the Commission Staff asserted that the Commission should allow the utilities six months to implement the final rules in this proceeding. (Staff In. Br., pp. 12-14) Peoples Gas and North Shore state that six months is not sufficient time to implement the final rules. The evidentiary record shows that it will take utilities two years to make the necessary IT and business practice changes to implement the rules to be adopted in this proceeding. (PGL/NSG In. Br., pp. 56-57)

Specifically with respect to Peoples Gas and North Shore, they prepared an estimate of the time it would take to implement fully the Commission Staff's Proposed Rules. Due to the need for extensive programming, as well as the hiring and training of additional personnel, Peoples Gas and North Shore recommended that the Commission Staff's Proposed Rules be implemented over a period of 18-24 months after final rules are adopted by the Commission.

They also recommended that the final rules be phased in over this 18-24 month period. There may be certain provisions in the proposed rules that are easier to implement than other provisions. For example, there may be revisions that require little or no programming and little additional training of existing personnel. Utilities should not have to wait the maximum time period before implementing such rule changes. (*Id.*, p. 56) Peoples Gas and North Shore propose that the Commission direct utilities to provide an implementation plan to the Commission's Consumer Services Division within 30 days after the adoption of final rules setting forth anticipated timelines for the implementation of specific revised provisions of the final rules. Peoples Gas and North Shore assert that would be a reasonable way for the Commission Staff to make sure that utilities were not prioritizing changes favorable to the utility.

Peoples Gas and North Shore oppose the proposal of the Governmental and Consumer Intervenors ("GCI") that the final rules be implemented immediately. Peoples Gas and North Shore respond to the specific arguments of GCI as follows.

First, it is appropriate that Proposed Section 280.15 would apply to all utilities, because all of the utilities demonstrated, in unrebutted evidence, that implementation would take at least two years.

Second, GCI claims, incorrectly, that the two year compliance timeline would apply to all the revisions in the final rules adopted by the Commission. Peoples Gas and North Shore have already indicated their position that utilities should be able to implement changes prior to the end of the two year period; the two year period is the maximum time to implement all revisions.

Third, with respect to GCI's statement this proceeding has been going on for a long time and further delay requires compelling justification which is "absent from this record", Peoples Gas and North Shore respond that the length of the proceeding has nothing to do with how much

time it will take a utility to perform the necessary IT programming and make changes in business practices to conform to the final rules adopted by the Commission in this proceeding. Whether this proceeding took one month or six years, the amount of time necessary would depend on the number of revisions to the current rules, and the resulting changes in business practices and IT programming.

Fourth, with respect to GCI's claim that this proceeding has provided ample opportunity for utilities to prepare for revised rules and procedures, Peoples Gas and North Shore respond that this claim demonstrates a misunderstanding of both the litigation and the rulemaking process. The Commission can revise its rules up to the date that the rules are adopted, including by accepting some of the multitude of proposed changes sponsored by GCI. Additionally, the Joint Committee on Administrative Rules of the Illinois General Assembly can propose modifications to the proposed rules as part of the second notice period under the Illinois Administrative Procedure Act. Peoples Gas and North Shore argue that it would be counterproductive and needlessly expensive to make programming changes based on proposed rules, then have to redo the programming if the final rules differ from the adopted rules.

Finally, instead of a provision that would set forth the implementation timeline, GCI recommends that each utility make an individualized waiver request. Peoples Gas and North Shore respond that all of the utilities have submitted un rebutted evidence that it will take them approximately two years to implement final rules in this proceeding. Therefore, requiring each utility to file a waiver petition seeking two years to implement the final rules would be a complete waste of resources.

Peoples Gas and North Shore assert that the Commission Staff's proposal to allow six months for implementation of the final rules in this proceeding is only marginally better than the

proposal of GCI and, similarly, lacks any basis in the record. Peoples Gas and North Shore urge the Commission to add Proposed Section 280.15, Compliance, to the Commission Staff's Proposed Rules, thereby allowing utilities adequate time to implement final rules in this proceeding.

**B. PROPOSED SECTION 280.30, APPLICATION, SHOULD BE ADOPTED WITH ONE MODIFICATION.**

**1. Proposed Subsection 280.30 (d), Application Content, should be modified to allow utilities to require applicants to provide a state or federal picture ID.**

Peoples Gas and North Shore recommend that proposed Subsection 280.30 (d) (2) be revised to allow utilities to decide one form of ID and that form should be a state or federal issued picture ID. Accordingly, Peoples Gas and North Shore recommend that proposed Subsection 280.30 (d) (1) be modified to read: "Positive identification (ID) of applicants may be required by two forms of ID, one of which must be a federal or state issued photo ID, and one of the following to be chosen by the applicant". With that modification, Proposed Subsection 280.30 (d) needs to be modified by replacing "forms" with "remaining form" in the first sentence. In support of Peoples Gas' and North Shore's recommendation, Mr. Robinson testified that utilities have an obligation to know who their customers are and giving customers exclusive control to choose whatever two forms of identification they want to present does not satisfy this obligation. (PGL/NSG Ex. JR-2.0, pp. 7-8) Moreover, Mr. Robinson clarified, during cross-examination, that photo IDs are requested only when necessary. A photo ID is requested from only a small percentage of applicants (TR. 633)

Peoples Gas and North Shore's position is consistent with the position of the other utilities: Commonwealth Edison Company ("ComEd") (ComEd Ex. 1.0, pp. 5-6, lines 105-112);

Illinois American Water Company (IAWC Ex. FLR-1.0, pp. 5-6, lines 112-133); Mt. Carmel Public Utility Company (Mt. Carmel Ex. 1.0, p. 7, lines 108-131); MidAmerican Energy Company (MEC Ex. 1.0, p. 6, lines 104-110); and Nicor Gas (Nicor Gas Ex. 1.0, p. 10, lines 205-217). Peoples Gas and North Shore state that the record provides ample support for the utilities' request to demand a state or federal picture ID.

**2. The Commission Staff's Proposed Subsection 280.30 (j) (1) and (2), Timeline for Service Activation, sets forth reasonable timelines for activation of service; the recommendations to drastically reduce those timelines should be rejected.**

Peoples Gas and North Shore support the Commission Staff's proposal to allow gas utilities seven calendar days to activate service. AARP's and GCI's attempt to lower that timeline to five days is completely unrealistic as demonstrated in the rebuttal testimony of Mr. Robinson. Mr. Robinson has experience in the matter of service activation and testified that there are times of the year when meeting even Staff's proposed timeline requirement would be problematic; accelerating that timeline requirement as proposed by AARP and GCI is simply unworkable. (PGL/NSG Ex. JR-2.0, p. 8, lines 163-165)

Mr. Robinson testified that Peoples Gas and North Shore would experience a problem in activating service in a shorter accelerated time frame in the months of September, October, and November. Moreover, the problem would be exacerbated depending upon how quickly cold weather develops in their service territories. In addition, during this time period, there is dual demand because not only do utilities have to activate service for new customers, they have to restore service to disconnected customers.<sup>1</sup>

Peoples Gas and North Shore state that in the months of September through November, as cold weather arrives, there is a tremendous demand for service activation. In particular,

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<sup>1</sup> AARP and GCI have similar unrealistic proposals with respect to restoring service to disconnected customers (see, *infra*, discussion re Proposed Section 280.170).

customers who had been disconnected for nonpayment since the previous winter may have been willing to forego gas service for the summer. However, as the cold weather comes, these customers call to request that their service be restored. For example, at the beginning of the previous heating season, on October 1, 2010, Peoples Gas and North Shore had approximately 30,000 premises disconnected and not yet reconnected. (*Id.*, p. 9, lines 174-180)

Mr. Robinson explained in detail the factors that make turn-on within seven days sometimes problematic and turn-on within five days unrealistic and unworkable. Emergency assistance grants under LIHEAP become available in September for senior citizens and disabled persons and in November for the rest of utility customers. Many customers wait for these funds before requesting service, resulting in a huge demand for reconnection of service between September and November. In addition, utilities are required by 83 Ill. Admin. Code Section 280.138 to contact certain former customers on October 1 of each year and offer reconnection under special terms. The increased demand resulting from the availability of LIHEAP emergency grants and the special reconnection provisions of Section 280.138, coupled with increased demand due to cold weather, affect Peoples Gas' and North Shore's ability to activate service to new customers and restore service to former customers. (*Id.*, pp. 9-10, lines 187-198)

Peoples Gas and North Shore state that the Commission Staff's Proposed Rules appropriately reflect the different nature of activating service for natural gas, as compared to electric, customers by providing seven calendar days for gas utilities and four calendar days for electric utilities. Mr. Robinson explained in detail why activation or restoration of gas service is not an easy matter; it is a multistep process which can take approximately 45 minutes to perform at each premise. (*Id.*, pp. 10-11, lines 201-230)

Peoples Gas and North Shore state that they accept the Commission Staff's proposed seven-day activation requirement in the spirit of cooperation and achieving a balanced rule. However, a time frame less than seven days for gas utilities would be completely unworkable and increase expenses for Peoples Gas and North Shore due to having to hire additional employees and/or paying additional overtime to existing employees. In turn, these increased expenses would be passed on to their customers in the form of higher rates when the increased costs of service are reflected in Peoples Gas' and North Shore's future rate cases. (*Id.*, p. 11, lines 219-230) In summary, Mr. Robinson provided overwhelming facts to support that the seven days activation timeline is reasonable.

3. **The Commission Staff's Proposed Subsection 280.30 (j) (7) sets forth a reasonable temporary exception for demonstrable unforeseen circumstances; proposals to delete that exception should be rejected.**

Peoples Gas and North Shore agree with the Commission Staff that it is appropriate to include a temporary exception for unforeseen circumstances which make it impossible to meet the proposed rules' time limits for service activation. According to Peoples Gas and North Shore, GCI's proposal to initiate a formal waiver proceeding under Proposed Section 280.10 does not make sense. For example, if a utility experienced an ice storm or flooding, because of the need to restore service to customers who were without service due to the natural occurrence, it may have difficulty complying with the timeline to activate service to new customers—it may need two or three days beyond the timeline. Peoples Gas and North Shore argue that filing a petition for a waiver would not be a practical alternative to Staff's temporary exception because it is difficult to imagine a situation in which an Order granting a waiver, even if there were no hearing and briefs, could be issued in less than a month. Peoples Gas and North Shore conclude that by the time the proceeding contemplated by GCI would be concluded, the need for a temporary exception would have expired and rendered the petition moot.

C. **WITH ONE MINOR MODIFICATION, PROPOSED SECTION 280.40, DEPOSITS, SHOULD BE ADOPTED.**

1. **The Commission Staff's Proposed Rules appropriately continue the current Commission rule allowing the use of credit scoring to determine whether to impose deposits; recommendations to discontinue use of credit scoring should be rejected.**

Peoples Gas and North Shore agree with the Commission Staff that utilities should be allowed to continue to use credit scoring to determine when to impose deposits and, accordingly, AARP's and GCI's recommendations should be rejected. Peoples Gas and North Shore have been using credit scoring as part of the deposit process since September 2003 and the use of credit scoring has been a success. Credit scoring has been helpful in collecting deposits from customers, the absence of which would have resulted in higher uncollectibles. For example, in calendar 2009, approximately \$5.3 million was paid in deposits to Peoples Gas based upon credit scoring. Approximately \$2.7 million was charged off from accounts going final that were billed a credit score deposit. Approximately \$2.6 million of credit scoring deposits was applied to past due bills, which otherwise could have become uncollectibles. In short, the continued use of credit scoring for non-low income applicants benefits both the utilities and their customers and should not be eliminated.<sup>2</sup> (PGL/NSG Ex. JR-2.0, pp. 14-15, lines 299-313)

In his surrebuttal testimony, Mr. Robinson updated the data provided for calendar 2009 with calendar 2010 data. In calendar 2010, approximately \$5.6 million was paid in deposits to Peoples Gas from applicants based on credit scoring. Approximately \$15.2 million was charged-off from accounts going final that were billed a credit scoring deposit. Approximately \$2.2 million of credit scoring deposits was applied to past due bills, which otherwise could have

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<sup>2</sup> Proposed Section 280.45 of the Commission Staff's Proposed Rules continues to exempt low income customers from deposits based on credit scoring.

become uncollectibles. Peoples Gas' experience in calendar 2010 clearly demonstrates the continued need for credit scoring. Peoples Gas and North Shore conclude that credit scoring allows utilities to collect a deposit from customers and subsequently apply such deposits, thereby collecting amounts that would otherwise have to be collected from the utilities' other customers, as demonstrated by the above statistics for calendar years 2009 and 2010. (PGL/NSG Ex. JR-3.0, p. 7, lines 125-136)

2. **Proposed Subsection 280.40 (e) correctly discontinues the current practice of exempting from deposit requirements persons who have been customers for 24 months; proposals to reinstate that practice ignore the risk that would be placed on utilities and, ultimately, on customers.**

With one exception, Peoples Gas and North Shore found Proposed Subsection 280.40 (e) to be reasonable. In PGL/NSG Ex. VG-1.2, Peoples Gas and North Shore proposed the following change to Proposed Subsection 280.40 (e): Subsection 280.40 (e) (1) (A) should be revised to read: "The customer has paid late four times or paid less than the billed amount three times in the past 12 months." The basis for the proposal is that the proposed rules should draw a distinction between paying the billed amount late and paying less than the billed amount, which is a more serious matter.

In particular, Peoples Gas and North Shore agree with the Commission Staff witnesses that it is appropriate to remove the current restriction against billing for deposits after someone has been a customer for 24 months. As recognized by the Commission Staff, the issue is one of changed risk. The current restriction fails to recognize that a long-term customer's payment behavior may shift from one of non-risk to risk. Waiting until after disconnection would fail to properly secure the utility against this change in risk and increase uncollectibles which have to be recovered from all customers. Peoples Gas and North Shore conclude that their customers

will not benefit from GCI recommendations that, if adopted, would only exacerbate the utilities' uncollectibles problems. (PGL/NSG Ex. JR-2.0, pp. 15-16, lines 317-328)

In support of GCI's position, Ms. Barbara Alexander, one of its witnesses, offered a chart showing the number of residential customers that would have been eligible for a deposit under the proposed rule change, based on data from Docket 05-0237. That chart shows that the number for Peoples Gas was 40,000 residential heating customers and that the amount of deposits associated with those 40,000 customers was \$6.2 million. In rebuttal, Mr. Robinson testified that those numbers do not support Ms. Alexander's argument that deposits should be eliminated after 24 months. Instead, they support the elimination of the exemption for persons who have been customers for 24 months or long. The numbers show that, even six years ago, Peoples Gas had a serious risk of not collecting from customers who have been customers for a period longer than 24 months. Insulating such customers from deposit requirements simply because they have been customers for the arbitrary period of 24 months does not make any financial sense. In conclusion, Peoples Gas and North Shore assert that the Commission Staff's proposal to remove this arbitrary limitation on deposits is both reasonable and appropriate. (PGL/NSG Ex. JR-3.0, pp. 8-9, lines 158-170)

**D. PROPOSED SECTION 280.60, PAYMENT, IS REASONABLE AND SHOULD BE ADOPTED.**

**1. Proposed Subsection 280.60 (b) reasonably charges customers who choose to utilize a fee based payment option; it should not be revised to prohibit charging customers additional fees associated with certain payment methods chosen by the customer.**

Peoples Gas and North Shore agree with the Commission Staff that AARP's and GCI's proposals to prohibit charging customers additional fees associated with payment options chosen by the customer should be rejected. Peoples Gas and North Shore allow their customers a choice to pay by credit card as a convenience to them. The customers who elect to utilize this service

pay a fee directly to the credit card company, not to Peoples Gas and North Shore. This convenience fee never appears on the utility bill. Therefore, Peoples Gas and North Shore do not profit from customers' election to pay by credit card. Absent payment of the fee, the credit card company would not offer the service. If utilities were required to pay the fees, those fees would be a cost of service and would have to be recovered from all customers, including those who pay by other means, such as mailing a check (note that those customers are already paying for the stamp and possibly a fee for checking account services). Peoples Gas and North Shore argue that AARP's and GCI's proposals are unfair in that they would require such customers to pay fees for a convenience that other customers choose to utilize. (PGL/NSG Ex. JR-2.0, pp. 18-19, lines 389-397)

**E. PROPOSED SECTION 280.90, ESTIMATED BILLS, PROVIDES A FAIR BALANCE BETWEEN THE INTERESTS OF UTILITIES AND ALL OF THEIR CUSTOMERS**

Peoples Gas and North Shore support the Commission Staff's proposed Section 280.90 as originally drafted. In particular, Peoples Gas and North Shore oppose GCI's proposal to replace the proposed rule with a rule from Missouri, a proposal which suffers from numerous problems.

First, Peoples Gas and North Shore point out that both the current rules and the Commission Staff's Proposed Rules provide for the bi-monthly reading of meters. Requiring utilities to read meters every month, as the Missouri rule would mandate, would basically require utilities to double the number of meter readers they employ and, generally, double the costs that will be passed on to customers. (PGL/NSG Ex. JR-2.0, pp. 24-25, lines 526-535)

Second, Peoples Gas and North Shore state that GCI's proposal would encourage customers to deny access to have their meters read in order to take advantage of GCI's proposed replacement rule. If nothing else, GCI's proposal would encourage unnecessary argument and potentially litigation at the Commission. (*Id.*, p. 25, lines 536-544)

Third, Peoples Gas and North Shore support the Commission Staff's rejection of GCI's proposal to prohibit utilities from issuing final bills based on estimated readings. Peoples Gas and North Shore agree with the Commission Staff's assessment that the costs of having a utility take actual readings when a person is moving in or out of a residence outweighs any benefit to consumers. Peoples Gas and North Shore state that their estimation procedures have been approved by the Commission and are reasonable. With a good meter reading history, a final bill based on an estimated reading should be close to the actual. Moreover, Proposed Subsection 280.90 limits estimated final readings to the situation in which the utility has taken an actual reading within the past 60 days. Peoples and North Shore state that this is an appropriate limitation which ensures that the final, estimated reading will be accurate. In this situation, it is hard to see the benefit to the consumer of requiring an actual reading. At any rate, if the final bill, based on an estimate, is objected to by the customer, Peoples Gas and North Shore's testimony indicated that they would take the necessary steps to obtain an actual reading to confirm the estimated reading. (PGL/NSG Ex.-JR 3.0, p. 11, lines 225-233)

**F. WITH TWO MODIFICATIONS, PROPOSED SECTION 280.110, REFUNDS AND CREDITS, IS REASONABLE AND SHOULD BE ADOPTED.**

**1. Proposed Subsection 280.110 (b) has an appropriate limitation on refunds, it should not be amended to require a utility to issue a refund based on the records of which party has the oldest records.**

Peoples Gas and North Shore oppose the proposal of GCI witness, Ms. Marcelin-Reme, to require a utility to issue a refund based on the records of which party has the oldest records. GCI's witness provided no reason to go beyond the two year period set forth in Proposed Subsection 280.110 (b) of the Commission Staff's Proposed Rules, which sets forth the time limits for refunds and credits. Peoples Gas and North Shore recommend that GCI's proposal should be rejected. (PGL/NSG Ex. 2.0, p. 28, lines 604-608)

Peoples Gas and North Shore argue that Ms. Marcelin-Reme confuses two separate issues: the amount of time for which a utility can bill for unbilled service and the amount of time for which utilities can collect for a past due bill. The amount of time for which a utility can bill for unbilled service is set forth in proposed Subsection 280.100 (b) of the Commission Staff Proposed Rules. Generally, it is two years for residential customers, with certain exemptions such as when tampering is involved. In contrast, once a bill has been issued for utility service, neither the Commission's current Part 280 nor the Commission Staff's Proposed Part 280 sets forth a time limitation on collecting that bill. Neither does the Public Utilities Act.

2. **Proposed Subsection 280.110 (c) should be revised to increase the amount triggering a refund, as opposed to a credit, from 25% of the customer's average monthly bill to 125%.**

Peoples Gas and North Shore recommend that Subsection 280.110 (c) be revised by replacing the requirement that a utility refund, as oppose to credit, an overpayment so long as the overpayment credit amount exceeds 25% of the customer's average monthly bill with a requirement that such a refund occur only when the overpayment credit amount exceeds 125% of the customer's average monthly bill. If this revision is not made, utilities would be required to issue refund checks on small amounts. Moreover, the customer will realize immediate value of a credit of approximately 100% of the average monthly bill very shortly with the issuance of the next bill. (PGL/NSG Ex. JR-2.0, p. 28, lines 614-616)

3. **Proposed Subsection 280.110 (d) should be revised to only require utilities to pay interest when an overpayment is the result of utility error.**

Peoples Gas and North Shore recommend that Proposed Section 280.110 (d) be revised to provide that utilities should only be required to pay interest when an overpayment is the result of utility error. To accomplish this, the heading of Subsection 280.110 (d) would be revised to read

“Interest on refunds and credits due to utility error”. The first sentence would be revised to read: “All refunds and credits due to utility error shall be accompanied with interest calculated at the rates set by the Commission for customer deposits.” (PGL/NSG Ex. JR-2.0, p. 26, lines 558-562)

In support of this recommendation, Mr. Robinson noted that the Commission’s current rules provide procedures for customers receiving credits and refunds for overpayments and overcharges for utility service. Under the current rules, 83 Ill. Admin Code 280.75, utilities are required to pay interest on overcharges for utility service only when the overcharge is the fault of the utility. However, under the Commission Staff’s Proposed Subsection 280.110 (d), utilities would be required to pay interest on all overpayments and overcharges regardless of whether they are the fault of the utility or not. Peoples Gas and North Shore assert that it is not fair to require the utility to pay interest when a customer overpays through no fault of the utility. Moreover, requiring the utility to pay interest in this situation increases expenses for the utility which ultimately would have to be collected from customers. (*Id.*, pp. 26-27, lines 572-581)

Mr. Robinson offered the following examples of how an overpayment could be made without fault of the utility. First, a utility may send a bill to a customer for \$95.11 cents. Rather than paying the \$95.11, the customer may write a check for \$100 for the sake of simplicity. Under the Commission Staff’s Proposed Rules, the utility would have to calculate and pay interest on the \$4.89 overpayment. This is not appropriate. Another example would be the situation in which a customer deliberately makes an overpayment on his or her account because the amount of interest on overpayments (under the Commission Staff’s Proposed Rules, this would be the interest rate established by the Commission for customer deposits) may be substantially greater than the interest that customer could earn elsewhere, for example in a

savings account at a bank. Again, Peoples Gas and North Shore argue that interest on this overpayment would not be appropriate. (*Id.*, p. 27, lines 584-592)

**G. PROPOSED SECTION 280.120, DEFERRED PAYMENT ARRANGEMENTS, PROVIDES AN APPROPRIATE BALANCING OF THE INTERESTS OF UTILITIES AND ALL OF THEIR CUSTOMERS.**

With one exception, Peoples Gas and North Shore support Proposed Section 280.120, as drafted by the Commission Staff. Peoples Gas and North Shore assert that Proposed Subsection 280.120 (b) (1) (B) should be revised to allow customers to be eligible for a deferred payment arrangement (“DPA”) only up to the “day of scheduled utility disconnection” in order to clarify any timing confusion that might arise between field scheduling and actual order updating. There is ample opportunity for a customer subject to disconnection to make arrangements to avoid disconnection. (see Proposed Subsection 280.130 (g) (2)) Peoples Gas and North Shore argue that allowing a customer to enter into a DPA up to the minute that the field employee is disconnecting service would only create confusion and encourage gaming and may lead to increased violence in the field. (PGL/NSG Ex. JR-2.0, p. 29, lines 624-635)

With this single exception, Peoples Gas and North Shore support the Commission Staff’s Proposed Section 280.120. In particular, Peoples Gas and North Shore oppose the proposal of AARP and GCI to require utilities to offer individualized DPAs. The Commission Staff’s Proposed Rules apply to all customers of gas, electric, water and sewer utilities. The purpose of the rules is to specify uniform standards to be applied to customers. Peoples Gas and North Shore serve approximately one million customers. Tailoring individual DPAs, as proposed by AARP and GCI, based on the specific financial and personal circumstances of each customer simply is not realistic for such a large number of customers. Moreover, it could result in claims of preference and discrimination. The Commission Staff’s Proposed Section 280.120 does an

excellent job of providing protection against disconnection of service by setting forth reasonable standards of general applicability for DPAs. (PGL/NSG Ex. 2.0, pp. 29-30, lines 644-652)

Specifically, Peoples Gas' and North Shore's customer service representatives ("CSR") are well-trained to do their jobs; however, they are not trained to be financial aid counselors. For example, Peoples Gas and North Shore doubt that customers would like the CSRs to ask them the intrusive questions required by the Ohio rule, supported by AARP and GCI, such as how old they are, how's their health, and what are their family circumstances, intrusive questions that are within the scope of AARP's and GCI's proposals. The record shows that Peoples Gas and North Shore enter into over 100,000 DPAs each year. Given that volume, Proposed Section 280.120 establishes reasonable requirements for DPAs, AARP's and GCI's proposed revisions do not. (*Id.*, p. 30, lines 659-664)

**H. PROPOSED SECTION 280.130, DISCONNECTION OF SERVICE, IS REASONABLE AND SHOULD BE ADOPTED.**

Peoples Gas and North Shore state that the Commission Staff's Proposed Section 280.130 provides adequate notice and allows a sufficient time for persons subject to disconnection of service to make arrangements to retain their service. In particular, Peoples Gas and North Shore assert that utility field employees dispatched to terminate service should not be required to attempt to contact customers an additional time. Requiring customer contact at the time of disconnection, as advocated by AARP and GCI, can put utility employees in a dangerous situation. Peoples Gas and North Shore employees often receive verbal abuse and/or threats when disconnecting service. Adding a requirement that would require them to spend more time in a potentially dangerous situation is an unacceptable risk. (PGL/NSG Ex. JR-2.0, pp. 35-36, lines 781-789)

Peoples Gas and North Shore disagree with AARP's and GCI's claim that field employees provide a safety function by having a face-to-face encounter with a customer immediately prior to disconnection is erroneous. While field employees are highly trained in the work they do, they are not trained to assess social conditions. In this particular situation, they are at the premises to disconnect service; they should do so professionally and expeditiously and leave the premises as soon as reasonable in order to minimize safety concerns. (*Id.*, p. 36, lines 793-798) Peoples Gas and North Shore note that the potential danger faced by utility workers was acknowledged by the Illinois lawmakers when they enacted legislation amending the Criminal Code to increase the criminal penalties for attacking a utility worker. (720 ILCS 5/12-2 (a) (19))

With respect to GCI's proposed requirement that utilities attempt telephone contact over two different days during day and evening hours, Mr. Robinson testified that the Commission Staff's Proposed Rules provide more than adequate notices and warnings to customers who are subject to disconnection of service. (PGL/NSG Ex. JR-2.0, p. 39, lines 869-871)

Peoples Gas and North Shore also object to AARP's and GCI's proposals to restrict the utility's ability to disconnect service on evenings, weekends and holidays. Both the Commission's current rules and the Commission Staff's Proposed Rules contain adequate safeguards. Both allow disconnection during the evening hours or during weekends or holidays, only if the utility is prepared to restore service that same day under appropriate circumstances. Peoples Gas and North Shore believe that this is a fair balance of the rights of the utility and the protection of the customer. Moreover, some businesses only operate in the evening and/or on weekends. (*Id.*, p. 39, lines 852-857) Peoples Gas and North Shore recommend that AARP's and GCI's proposed limitations on disconnections should be rejected.

I. **PROPOSED SECTION 280.140, DISCONNECTION FOR LACK OF ACCESS, PROVIDES AN APPROPRIATE REMEDY, INCLUDING MANDATORY SAFEGUARDS, FOR A SERIOUS PROBLEM OF COLLECTING FOR SERVICE TO MULTI-METERED BUILDINGS; GCI's RECOMMENDATION TO DELETE THE SECTION SHOULD BE REJECTED.**

Peoples Gas and North Shore support the Commission's Staff's Proposed Section 280.140, which is a reasonable response to customers who avoid disconnection by refusing access to their meter in their building. Moreover, the proposed section provides appropriate protections to other customers in that building.

In his direct testimony, Mr. Vincent Gaeto (whose testimony was subsequently adopted by Mr. Robinson) supported Proposed Section 280.140. That testimony demonstrated that the proposed new section allows utilities to deal with non-paying customers who deny utilities access to their equipment in order to prevent disconnection of service. Under the Commission's current rules, utilities are unable to disconnect such customers from outside their premises, when there are other, current accounts in the building. (PGL/NSG Ex. VG-1.0, p. 11, lines 218-225)

Peoples Gas and North Shore state that while the Commission's current rules (specifically Section 280.130 (a) (1) (B)) permit utilities to discontinue service to a customer due to non-payment of the bill, many customers will not allow their utilities access to their meters in order to effectuate the discontinuance of service. This is a particular problem for Peoples Gas which has approximately 85% of its active meters located inside premises. While it is possible, in some circumstances, to discontinue service to a customer from outside the premises; *i.e.* by disconnecting service at the service pipe or at the main, this is not currently permissible in situations in which there are multiple meters inside a premises and at least one of these meters is for an account that is not subject to discontinuance of service under current Section 280.130 (a)

(1) (B). Therefore, while the Commission’s current rules represent an attempt to balance the interests of the utilities and their customers, in general, the practical application of the rules, based upon the large number of inside meters, creates a problem for Peoples Gas. (*Id.*, p. 11, lines 228-240)

Moreover, Peoples Gas and North Shore state that the problem of discontinuance of service for non-payment to multi-metered premises has been exacerbated for Peoples Gas because of its investment in new technology. Due to the fact that the vast majority of Peoples Gas’ meters are located inside customers’ premises, Peoples Gas made a major investment in new automated meter reading (“AMR”) technology. Approximately 96% of Peoples Gas’ inside meters are equipped with electronic reading devices, which allow Peoples Gas to obtain monthly meter readings without gaining access to the meter inside the premises. Peoples Gas’ major investment in AMR technology allowed it to substantially eliminate the number of estimated bills, which had been a major concern of the Commission and Peoples Gas’ customers. However, the irony of the situation is that implementation of AMR technology exacerbated the problem of disconnecting service for non-payment to customers with inside meters. This is because prior to the implementation of AMR technology, Peoples Gas had to gain access to inside meters in order to read meters. Failure to gain access for reading the meter would have allowed Peoples Gas to discontinue service to customers, who would otherwise not be subject to discontinuance, pursuant to 83 Ill. Admin. Code Section 280.130 (a) (1) (F) of the Commission’s current rules: a customer’s service can be discontinued due to the customer’s failure to “provide utility representatives with access to the meter after receiving consecutively estimated bills...” However, with the installation of AMR technology, access is not needed for the readings. In

effect, Peoples Gas and North Shore argue that Peoples Gas is being penalized because of its substantial investment in AMR technology. (*Id.*, p. 12, lines 241-262)

Mr. Robinson rebutted all of the arguments offered by the City's witness, Mr. Steven McKenzie, in support of the City's opposition to Proposed Section 280.140. In response to Mr. McKenzie's statement that disconnection of service would subject Chicago residents to dangerous and hazardous conditions, Mr. Robinson agreed that lack of utility service in the City of Chicago can be hazardous. Accordingly, Mr. Robinson testified that this is why disconnection of service is a last resort for utilities and why the Commission's current rules (and the Commission Staff's Proposed Rules) provide many safeguards before utilities can disconnect service; for example, deferred payment arrangements, stringent notice requirements, temperature restrictions, and medical certificates. (PGL/NSG Ex. JR-2.0, p. 41, lines 911-916)

Moreover, Peoples Gas and North Shore point out that, in addition to the safeguards set forth in the Commission Staff's Proposed Rules that apply to all disconnections of service, Proposed Section 280.140 provides additional safeguards to customers in multi-metered buildings subject to disconnection under that proposed section. Customers subject to disconnection under Proposed Section 280.140, who would otherwise not be subject to disconnection, would receive many notices under the Commission Staff's Proposed Rules allowing them to avoid disconnection by providing access. Beyond notices, in the event that disconnection to the building takes place because access has not been provided despite the numerous notices, customers would be entitled to an inconvenience credit. Moreover, Peoples Gas and North Shore would be prepared to give such customers priority for restoration of service once access to the building is provided. Most significantly, Peoples Gas and North Shore would restore service to such customers on the same day that they provide the necessary access. (*Id.*, p.

42, lines 921-930) During cross-examination, Mr. Robinson confirmed that Peoples Gas would not disconnect service to a building pursuant to Proposed Section 280.140 if it did not have the necessary resources to restore service that same day if access were provided. (Tr. 625-626)

Mr. Robinson also responded to a statement by the witness for the City of Chicago that despite the seasonal restrictions in Proposed Section 280.140 (disconnections pursuant to that section can only take place between April 1 and November 30) he was concerned because that period is not always a period of mild weather. (City Ex. 1.0, pp. 7-8, lines 135-149) Mr. Robinson agreed that the weather in Chicago is not always mild on every day from April 1 through November 30. However, the point here is that Proposed Section 280.140 would not allow disconnection during the Commission's "moratorium period". Moreover, the current temperature restrictions would apply to buildings subject to disconnection pursuant to Proposed Section 280.140 and all of the temperatures cited by the City's witness were higher than those current restrictions.

In response to GCI's argument that Proposed Section 280.140 would strain the City of Chicago's resources, Mr. Robinson testified that the purpose of Proposed Section 280.140 is obviously not to strain the City of Chicago's resources; it is to provide a reasonable mechanism to allow utilities to disconnect service to customers avoiding disconnection by refusing access to their meters, while protecting other customers in the building. Peoples Gas and North Shore state that that the City of Chicago may incur additional costs is an unfortunate consequence. However, Peoples Gas and North Shore note that the City of Chicago provides no quantification of this consequence. Section 280.130 of the Commission's current rules has allowed utilities to disconnect service to buildings for failure to allow access to meter readings for over 30 years. Peoples Gas and North Shore submitted a data request to the City of Chicago asking if the City

experienced these types of expenses due to such disconnections and to provide the amount of such expenses for the last five years. The City of Chicago did not provide any information about such expenses. (*Id.*, p. 42, lines 943-953)

In response to Mr. McKenzie's claim that Proposed Section 280.140 would lead to additional litigation between tenants and landlords, Mr. Robinson responded that there are many reasons for litigation between tenants and landlords that have nothing to do with utility service, including rent disputes and disputes about the condition of rental property. Moreover, as stated previously, the Commission's current rules allow utilities to shut off service to a building due to lack of access for meter readings. According to Peoples Gas and North Shore, the City of Chicago provides no reason to believe that Proposed Section 280.140, with the safeguards provided by the Commission Staff, such as numerous notices and priority restoration of service, is going to have any impact on tenant-landlord litigation. (*Id.*, p. 43, lines 957-963)

Moreover, Peoples Gas and North Shore state that Peoples Gas has experience that indicates that Proposed Section 280.140 can be implemented without an undue impact on customers. Peoples Gas, under the Commission's current rules and Peoples Gas' current rate schedule, disconnects service to buildings, even though there are customers who are not otherwise subject to disconnection in that building, where one or more customers in that building have not provided access for necessary regulatory work. Peoples Gas provides multiple notices before disconnection of service in such buildings and such notices often result in access to the building without the need to actually disconnect service. However, when Peoples Gas has had to disconnect service in such situations due to lack of access, Peoples Gas' experience is that customers will quickly contact Peoples Gas to provide access and get service restored. As is the case with disconnections under Proposed Section 280.140, Peoples Gas provides priority

restoration service to customers in a building that has been disconnected for lack of access to perform necessary regulatory work, such as inside safety inspections; Proposed Section 280.140 should operate similarly. (*Id.*, p. 44, lines 966-978)

**J. THE COMMISSION STAFF'S PROPOSED SECTION 280.170, TIMELY RECONNECTION OF SERVICE, CONTAINS REASONABLE PROVISIONS FOR RECONNECTION OF SERVICE; AARP'S AND GCI'S PROPOSED REVISIONS ARE ONE-SIDED AND SHOULD BE REJECTED.**

**1. The time limits established for reconnection of service in Proposed Subsection 280.170 (b) are appropriate; recommendations to severely reduce those time limits should be rejected.**

As explained previously in this Statement of Position in addressing similar recommendations of GCI and AARP with respect to Proposed Section 280.30, regarding activation of service for new customers, there are times of the year when even meeting the seven day standard set forth in the Commission Staff's Proposed Rules will be problematic for reconnection of service to disconnected customers. However, Peoples Gas and North Shore accept the timelines set forth in the Commission Staff's Proposed Rules as reasonable, but assert that the 48 hour reconnection requirement argued by AARP and GCI is not. (PGL/NSG Ex. JR-2.0, pp. 47-48, lines 1050-1052)

**2. Proposed Subsection 280.170 (f) provides an appropriate exception for temporary unanticipated circumstances; GCI's recommendation to eliminate that exception is inappropriate and should be rejected.**

Peoples Gas and North Shore disagree with GCI's proposal to eliminate the exception for temporary unanticipated overload. This is a very limited exception and the Commission Staff has made it clear that it's only for extreme circumstances, such as ice storms. The exception should not be deleted. (PGL/NSG Ex. JR-2.0, p. 48, lines 1059-1060)

**K. PROPOSED SECTION 280.210, PAYMENT AVOIDANCE BY LOCATION (PAL), IS A REASONABLE SOLUTION TO A REAL PROBLEM AND SHOULD BE ADOPTED.**

Peoples Gas and North Shore accept the Commission Staff's revised version of Proposed Section 280.210, as described in the Commission Staff's surrebuttal testimony. (Tr., p. 590) In its surrebuttal testimony, the Commission Staff offered a revised version of Proposed Section 280.210, stating that the previous version was too complicated and would accomplish very little as written. The Commission Staff eliminated the denial of service remedy from the PAL section and, accordingly, made the standards to require a deposit under that section simplified and less rigorous: proof of Payment Avoidance by Location is co-habitation of the former customer and the new applicant during both the accrual of the former customer's debt and the new application for service. For this, a single remedy is proposed by the Commission Staff—a refundable deposit that must be paid in full before service is granted to the new applicant. (Staff Ex. 3.0, pp. 21-22; lines 476-496)

GCI, in its Initial Brief for the first time, opposes the Commission Staff's Proposed Section 280.210, claiming that that section, as modified in the Commission Staff's surrebuttal testimony, is inconsistent with fundamental Illinois contract law. GCI argues that Proposed Section 280.210 is illegal because it does not require a showing of fraud. (GCI In. Br., p. 91-92) However, PGL and NSG argue that GCI's discussion of the law is irrelevant because Section 280.210, as modified, does not require an applicant for service to pay for the debt incurred by the former customer. Instead, Section 280.210 allows a utility, under limited circumstances, to impose a deposit on an applicant. Those limited circumstances are such that would indicate that the former customer and the applicant are acting together to avoid payment, which creates a risk that the bills incurred by the applicant may similarly be difficult to collect, thereby justifying the

deposit under Proposed Section 280.210. Moreover, that deposit, like all deposits, is fully refundable, with interest.

Peoples Gas and North Shore assert that the following example demonstrates the error of GCI's arguments. Assume that a former customer at a premise owes \$1,000, that there is an applicant for service at that premise, and that all of the conditions required to impose the deposit under Proposed Section 280.210 apply. GCI's arguments would only make sense if Proposed Section 280.210 required the applicant to pay the \$1,000. It does not and the utility cannot deny service to the applicant for failure to pay the \$1,000. Rather, Proposed Section 280.210 allows the utility to impose a deposit on the applicant. Again, that deposit will be refunded, with interest, to the applicant when he or she meets the conditions set forth in Proposed Section 280.40, Deposits. Proposed Section 280.210 does not need to require a showing of fraud and the cases cited by GCI are irrelevant.

Peoples Gas and North Shore note that GCI makes the observation that, unlike other creditors, gas and electric utilities have the ability to collect uncollectible expense through riders authorized by the Illinois General Assembly in 2009. (GCI In. Br., p. 93) However, Peoples Gas and North Shore argue that the availability of uncollectible riders is not an excuse to allow some customers to avoid payment by placing that obligation on the remaining customers.

**L. WITH ONE MODIFICATION, PROPOSED SECTION 280.220, UTILITY COMPLAINT PROCESS, IS REASONABLE AND SHOULD BE ADOPTED.**

- 1. The Commission Staff's Proposed Rules continue the current rules' requirement of a utility response to a complaint in 14 days; GCI'S recommendation to revise Proposed Subsection 280.220 (e), Customer Complaint Timeline, to shorten the utility response time to seven days is unreasonable and should be rejected.**

Peoples Gas and North Shore disagree with GCI's recommendation to shorten the utility's response time to a complaint from 14 to seven days. The Commission's current rules, as well as the Commission Staff's Proposed Rules, allow a utility 14 days to respond to a customer's complaint. According to Peoples Gas and North Shore, this 14 day time frame continues to work and GCI offers no valid reason to alter it. (PGL/NSG Ex. JR-2.0, p. 52, lines 1144-1146)

- 2. Proposed Subsection 280.220 (i), Appeal to Supervisor, should be revised to eliminate the requirement of a separate tracking system.**

Peoples Gas and North Shore object to the requirement that utilities assign a complaint number to all complaints. The Commission Staff's Proposed Rules, without this revision proposed by GCI and accepted by the Commission Staff, provide an appropriate process for the handling of customer complaints to the utility. The requirement is simply not necessary and would result in utilities having to create an official docketing system, an expense which does not appear to have any significant benefit. Moreover, a single complaint could have several parts and create multiple complaint numbers for the same customer/premise. (PGL/NSG Ex. JR-2.0, p. 52, lines 1156-1162)

**III. CONCLUSION**

Peoples Gas and North Shore commend the Commission Staff for its consistent efforts to develop a rule that is fair, reasonable, and balanced. With the relatively minor modifications

explained in this Statement of Position, the Commission Staff's Proposed Rules should be adopted.

Respectfully submitted,

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**ILLINOIS COMMERCE COMMISSION**

The Illinois Commission )  
On Its Own Motion )  
 ) Docket No. 06-0703  
Revision of 83 Ill. Admin. Code 280 )  
 )

**CERTIFICATE OF SERVICE**

I, Gerard T. Fox, hereby certify that I served a copy of the Statement of Position of The Peoples Gas Light and Coke Company and North Shore Gas Company upon the service list in Docket No. 06-0703 by email on October 14, 2011.

/s/GERARD T. FOX  
Gerard T. Fox  
An Attorney for The Peoples Gas Light and  
Coke Company and North Shore Gas Company

**NOTICE OF FILING**

I, Gerard T. Fox, hereby certify that I filed a copy of a copy of the Statement of Position of The Peoples Gas Light and Coke Company and North Shore Gas Company on the Commission’s e-docket system on October 14, 2011.

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