STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

North Shore Gas Company	)	
	)	ICC Docket No. 11-0280
Proposed General Increase in Natural Gas Rates.	)	
	)	consolidated with
The Peoples Gas Light and Coke Company	)	
	)	ICC Docket No. 11-0281
Proposed General Increase in Natural Gas Rates.	)	

ATTACHMENT A
PROPOSED REPLACEMENT LANGUAGE

To the

BRIEF ON EXCEPTIONS

On behalf of

Interstate Gas Supply of Illinois, Inc.

Christopher J. Townsend
Christopher N. Skey
Michael R. Strong
DLA Piper LLP (US)
203 N. LaSalle Street, Suite 1900
Chicago, IL 60601
christopher.townsend@dlapiper.com
christopher.skey@dlapiper.com
michael.strong@dlapiper.com

November 17, 2011

TABLE OF CONTENTS

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

North Shore Gas Company	)	
	)	ICC Docket No. 10-0280
Proposed General Increase in Natural Gas Rates.	)	
	)	consolidated with
The Peoples Gas Light and Coke Company	)	
	)	ICC Docket No. 10-0281
Proposed General Increase in Natural Gas Rates.	)	

PROPOSED REPLACEMENT LANGUAGE SUPPLEMENTING THE BRIEF ON EXCEPTIONS OF INTERSTATE GAS SUPPLY OF ILLINOIS, INC

Interstate Gas Supply of Illinois, Inc. ("IGS"), by and through its attorneys, DLA Piper LLP (US), pursuant to Section 200.830 of the Rules of Practice of the Illinois Commerce Commission ("Commission") (83 Ill. Admin. Code 200.830), respectfully submits Attachment A to its Brief on Exceptions in the instant proceeding, which consists of replacement language for Administrative Law Judges' Proposed Order ("Proposed Order") in this proposed general increase in electric rates of North Shore Gas Company ("North Shore") and the Peoples Gas Light and Coke Company ("Peoples") (collectively, the "Companies" or "Utilities").

I.

INTRODUCTION

IGS Brief on Exception presents several exceptions to the Proposed Order, focusing primarily on three issues. The primary issue is the Proposed Order's treatment of issues associated with administrative fees associated with the Companies' Choices For You program, and the Proposed Order's rejection of IGS's preferred and alternative recommendations. (*See* IGS Brief on Exceptions at 12-19.). In connection with that issue, IGS's Brief on Exceptions notes the Proposed Order's incorrect placement of IGS arguments regarding double charges for Choices For You customers and charges to the Choices For You customers did not cause. (*See*

IGS Brief on Exceptions at 9-11.) Finally, IGS's Brief on Exceptions comments on the Proposed Order's treatment of warranty issues, including the Proposed Order's direction for an investigation of the Companies' warranty-related practices. (*See* IGS Brief on Exceptions at 5-6.) Accordingly, , IGS offers the following replacement language to the Proposed Order.

V.

OPERATING EXPENSES

C. Contested Issues

8. Revenues

c. Warranty Products (Revenue and Non-Revenue)

4. Commission Analysis and Conclusion

~~The Commission agrees with the Utilities' argument and will not adopt IGS' recommendations inasmuch as this proposal was not made by any party in their direct testimony and that their suggestion would impose obligations on the Utilities in relation to unaffiliated parties.~~

As set forth in Section V.C.b.4 of this Order, the Commission endorses Staff's recommendation for an investigation of the Utilities' warranty-related practices. That investigation will provide a forum to examine issues raised by IGS, and IGS has indicated that it is supportive of such an investigation. To avoid any confusion, we specifically note that in accord with the Staff testimony in this proceeding, the investigation shall include the examination of access of non-tariffed services to non-affiliates, including, without limitation, issues relating to access to billing and solicitation services. Accordingly, we need not make further findings at this time regarding the IGS proposal.

XI.

TRANSPORTATION ISSUES

C. Administrative Charges

~~3. Commission Analysis and Conclusion~~

~~The decision of the Commission is found in Section XI.D.1, infra.~~

3. IGS

IGS presented significant and substantial evidence that the Companies' proposed generally applicable administrative charges include (1) numerous costs attributable to sales customers only and (2) costs that Choices For You customers do not cause. (*See* IGS Initial Brief at 12-14.) Compounding the problem, according to IGS, is the fact that similar costs caused by Choices For You customers are recovered only from Choices For You customers through the Choices For You administrative fee. (*See* IGS Initial Brief at 11.) IGS noted three examples in particular that it explored in the cross examination of Companies' witness Mr. McKendry, juxtaposing the collection of those costs with how similar costs supporting Choices For You customers are proposed to be recovered:

- **Call center. IGS established that if a sales customer has a question related to the PGA, the customer's call goes through the call center that takes "general calls," whose costs are recovered through generally applicable administrative fees; however, Choices For You questions are routed to the Gas Transportation Department, whose costs are recovered through the Choices For You administrative fee. (*See* IGS Initial Brief at 12.)**

- **Bill generation. IGS noted that while commodity-related billing costs are recovered through base rates, costs for Choices For You billing are recovered through the Choices For You administrative fee. (*See* IGS Initial Brief at 12.)**

- **Bill reconciliation. IGS pointed out that costs incurred to reconcile commodity-related bills are recovered through base rates, while costs for reconciling Choices For You bills are recovered through the Choices For You administrative fees. (*See* Tr. 678:5-21; *see also* IGS Cross Ex. 11.)**

IGS explained what these examples demonstrate a stark inequity: although sales-specific charges are recovered through base rates (*i.e.* administrative fees to all customers, including Choices For You customers), Choices For You-specific costs are borne only by Choices For You customers. (*See* IGS Initial Brief at 12.) The Choices For You customers do not receive any credit associated with the components of sales-specific services recovered through base rates. As a result, the Choices For You customers are improperly billed twice for certain services (once through generally applicable administrative fees and then again through the Choices For You administrative fee). (*See id.* At 12-13.)

In addition to the topics explored with Companies' witness Mr. McKendry, IGS also presented evidence about additional costs that should be attributed to sales customers in whole or in larger part:

- Over ten additional functions described in IGS Cross Exhibit 11. Although IGS acknowledges that it did not go through each potentially overlapping or similar function with Companies' witness Mr. McKendry, IGS notes that the Companies did not provide specific evidence disputing that, for the listed functions, the Companies recovered sales-related charges from all customers and similar Choices For You-related costs only from Choices For You customers. (*See, e.g.*, IGS Initial Brief at 13; IGS Cross Ex. 11.)

- Non-commodity uncollectable charges. IGS notes that, due to market rules -- most notably the payment priority rules and the lack of a Purchase of Receivables program -- alternative retail gas suppliers cannot afford to take on customers who are credit risks or retain customers that are not paying in full, because the Companies must be fully compensated for non-commodity charges before the alternative supplier sees the first dollar of current billing. (*See* IGS Initial Brief at 13-14.) IGS further noted that because the Companies did not calculate a non-commodity uncollectable rate for sales customers and Choices For You customers, the Companies cannot establish that Choices For You customers -- in spite of the realities of the market -- contribute equally to non-commodity uncollectables as sales customers. (*See id.*)

IGS points out that neither the Commission nor any party can know based on the current record precisely how much Choices For You customers are overcharged due to this inequity, because the Companies failed to produce any information about the costs associated with the functions that IGS highlighted. (*See* IGS Initial Brief at 15.) Thus, IGS explains that although the competitive market and the Commission's policy favoring competition would be best served by assigning costs to causers, there is only sufficient evidence in the record for the Commission to order the Companies to undertake a detailed analysis of cost causation. (*See id.* at 14-16.) IGS notes that there simply is not enough evidence in the record to properly establish a credit for Choices For You customers. (*See id.* at 14.) As a result, IGS proposes that the Commission mitigate the inequity in the near term by charging Choices For You administrative fees the same way the Companies charge generally applicable administrative fees, so Choices For You customers will no longer both pay for some of sales customers' costs and all of their own. (*See id.* at 15.)

4. Commission Analysis and Conclusion

The evidence demonstrates that the allocation and collection of administrative fees has a material impact on the proper functioning of the competitive market. The Commission has long-encouraged the development of a robust competitive natural gas market for eligible customers, and nothing in this docket suggests any reason to change that approach. On the contrary, we reiterate that a well-functioning competitive natural gas market for small customers is an integral part of the Illinois natural gas landscape.

The evidence demonstrates that the Companies are attempting to charge administrative fees in an inconsistent manner, and in a way that unfairly and inappropriately burdens the competitive market. This problem is exacerbated by the Companies' failure to provide complete information regarding how it calculates and recovers administrative fees – both the information and the explanation provided by the Companies is less than transparent and does not deserve a presumption of accuracy. The

Commission, as well as several litigants, spent significant time and effort attempting to remove barriers to competition in the Companies' last rate case. However, due to the mystifying lack of cost causation information -- most notably that the Companies cannot identify the costs associated with individual functions for which it recovers its costs – further action is necessary. Under normal circumstances, the best approach would be to assign costs to their causers, because that approach best fosters a competitive environment. However, the Companies themselves could not provide adequate information to make that type of accurate cost assignment feasible at this stage. Accordingly, the Commission approves IGS's alternative proposal under which the Companies are directed to charge Choices For You administrative fees to all customers eligible to participate in the Choices For You program. This approach to correcting this problem is not only compelled by the evidence in this proceeding, but is also consistent with our approach to cost recovery in other analogous circumstances where *all* customers who have the opportunity to participate in a program contribute to the cost of that program, even if some of those customers may not actually use the program.

The approach outlined above is a first step toward correcting the Companies' inaccurate allocation and recovery of costs. In their next rate case proceeding, the Companies are directed to provide specific and verifiable cost causation information with regard to the functions for which it recovers costs through any administrative fee. That cost causation information must, at a minimum, indicate which customer groups cause the costs, and all costs associated with individual functions. The Companies are also directed to calculate the non-commodity uncollectable rate for Choices For You and Large Volume Transportation customers, by rate class, to determine whether transportation customers

should receive a credit for non-commodity uncollectables. IGS raised several good points with regard to both non-commodity uncollectables and apparently overlapping/redundant functions, but there simply is not evidence in the record to quantify the credit, if any, transportation customers of a particular service class or subclass should receive.

D. Large Volume Transportation Program

1. Administrative Charge

~~**c) IGS**~~

~~IGS presented evidence that the Companies' proposed generally applicable administrative charges included numerous costs attributable to sales customers only or that the Companies cannot show that Choices For You customers cause. (See IGS Initial Brief at 12-14.) Compounding the problem, according to IGS, is the fact that similar costs caused by Choices For You customers are recovered only from Choices For You customers through the Choices For You administrative fee. (See IGS Initial Brief at 11.) IGS noted three examples in particular that it explored in the cross examination of Companies' witness Mr. McKendry, juxtaposing the collection of those costs with how similar costs supporting Choices For You customers are proposed to be recovered:~~

- ~~Call center. IGS established that if a sales customer has a question related to the PGA, the customer's call goes through the call center that takes "general calls," whose costs are recovered through generally applicable administrative fees; however, Choices For You questions are routed to the Gas Transportation Department, whose costs are recovered through the Choices For You administrative fee. (See IGS Initial Brief at 12.)~~

~~• Bill generation. IGS noted that while commodity-related billing costs are recovered through base rates, costs for Choices For You billing are recovered through the Choices For You administrative fee. (See IGS Initial Brief at 12.)~~

~~• Bill reconciliation. IGS pointed out that costs incurred to reconcile commodity-related bills are recovered through base rates, while costs for reconciling Choices For You bills are recovered through the Choices For You administrative fees. (See Tr. 678:5-21; see also IGS Cross Ex. 11.)~~

~~IGS explained that these examples demonstrate a stark inequity: although sales-specific charges are recovered through base rates (i.e. administrative fees to all customers, including Choices For You customers), Choices For You-specific costs are borne only by Choices For You customers. (See IGS Initial Brief at 12.) The Choices For You customers do not receive any credit associated with the components of sales-specific services recovered through base rates. As a result, the Choices For You customers are improperly billed twice for certain services (once through generally applicable administrative fees and then again through the Choices For You administrative fee). (See Id. At 12-13.)~~

~~In addition to the topics explored with Companies' witness Mr. McKendry, IGS also presented evidence about additional costs that should be attributed to sales customers in whole or in larger part:~~

~~• Over ten additional functions described in IGS Cross Exhibit 11. Although IGS acknowledges that it did not go through each potentially overlapping or similar function with Companies' witness Mr. McKendry, IGS notes that the Companies did not provide specific evidence disputing that, for the listed functions, the Companies recovered sales-related charges~~

~~from all customers and similar Choices For You-related costs only from Choices For You customers. (See, e.g., IGS Initial Brief at 13; IGS Cross Ex. 11.)~~

- ~~Non-commodity uncollectable charges. IGS notes that, due to market rules -- most notably the payment priority rules and the lack of a Purchase of Receivables program -- alternative retail gas suppliers cannot afford to take on customers who are credit risks or retain customers that are not paying in full, because the Companies must be fully compensated for non-commodity charges before the alternative supplier sees the first dollar of current billing. (See IGS Initial Brief at 13-14.) IGS further noted that because the Companies did not calculate a non-commodity uncollectable rate for sales customers and Choices For You customers, the Companies cannot establish that Choices For You customers -- in spite of the realities of the market -- contribute equally to non-commodity uncollectables as sales customers. (See Id.)~~

~~IGS points out that no party -- IGS, the Companies, or the Commission -- can know based on the current record precisely how much Choices For You customers are overcharged due to this inequity, because the Companies failed to produce any information about the costs associated with the functions that IGS highlighted. (See IGS Initial Brief at 15.) Thus, IGS explains that although the competitive market and the Commission's policy favoring competition would be best served by assigning costs to causers, there is only sufficient evidence in the record for the Commission to order the Companies to undertake a detailed analysis of cost causation. (See Id. at 14-16.) IGS notes that there simply is not enough evidence in the record to properly establish a credit for Choices For You customers. (See Id. at 14.) As a result, IGS proposes that the Commission mitigate the inequity in the near term by charging Choices For You administrative fees the same way the Companies charge generally applicable administrative fees,~~

~~so Choices For You customers will no longer both pay for some of sales customers' costs and all of their own. (See Id. at 15.)~~

d) Commission Analysis and Conclusion

The Commission finds that the evidence presented by the Utilities supports Staff's contention that they have overbudgeted costs associated with transportation customers in each of the past three years including amounts from the Companies' future test year used in the Companies' last rate case. Staff maintains that ratepayers should pay for what administrative costs the company is likely to incur while the Utilities find that the test year should include the budgeted amounts. We agree with Staff that it is not reasonable to make ratepayers pay for the full amount of these forecasted expenses. The test year expenses recovered in transportation tariffs will be adjusted downward by the amount proposed by Staff witness Sackett.

~~The Commission's decision regarding IGS' arguments is found in Section XI.E.1, infra.~~

E. Small Volume Transportation Program (Choices for You^{SM} or "CFY")

1. Aggregation Charge

d) Commission Analysis and Conclusion

~~The Commission agrees with Staff and the Utilities and finds that IGS's recommendation will not be adopted inasmuch as sales customers do not cause the costs that are incurred by the GTS department and related IT costs and therefore they should not be assessed any of the costs. There is no reason for sales customers to bear any portion of this cost. We further find no need to mandate the Utilities to undertake a detailed cost-causation analysis.~~

<u>As discussed in Section XI.C above, a vibrant competitive small volume transportation program is an integral part of the Illinois natural gas landscape, and we reiterate our policy in favor of encouraging the development of that market in a manner</u>

that treats all interested parties fairly and equitably. Accordingly, as described above in the Commission's Analysis and Conclusions in Section XI.C above, the Commission directs the Companies to charge the Aggregation Charge, also known as the Choices For You administrative fees, to all eligible customers through base rates. The Commission further orders that Large Volume Transportation administrative fees be charged to all eligible customers so that the two charges are not inconsistent.

IGS raises several compelling arguments based on credible evidence in favor of Choices For You-related costs to all eligible customers. We note that the Companies admitted that current transportation customers pay for excess GTS capacity that allows current sales customers to become transportation customers at any time, thus benefitting current sales customers who may one day become Choices For You customers. Assigning costs to customers who benefit from a program is fully consistent with the Commission cost causation policies, an approach the Commission allows the Companies to take with other programs (including the call center and energy efficiency programs). Although Staff and the Companies argued that only Choices For You customers benefit from the Choices For You program, neither rebutted the evidence presented by IGS that all eligible customers do, in fact, benefit from Choices For You. As a result, the Companies are ordered to charge GTS costs allocated to small volume and large volume customers to all eligible customers for the respective programs.

As IGS points out, the Commission has a strong policy of assigning costs to cost causers. Had the Companies provided even basic cost causation information, the parties could have at least credibly argued the issue. However, the Companies provided an allocator for Gas Transportation Services ("GTS") department that IGS has established

does not reflect cost causation. In addition to the detailed study of cost information ordered in Section XI.C above, the Commission directs the Companies to provide more detailed allocation factors for Gas Transportation Services that take into account all costs involved.

XII.

FINDINGS AND ORDERING PARAGRAPHS

(24) **as permitted and required by this Order, North Shore and Peoples Gas shall revise their small volume transportation program tariffs to charge all eligible customers for the costs of administering the Choices For You℠ program through its base rate administrative charges;**

(25) as permitted and required by this Order, North Shore and Peoples Gas shall, with its initial filing in its next Rate Case, provide a detailed cost study of all administrative fees as described in Section XI.C above;

(26) as permitted and required by this Order, the Commission shall, within 30 days of this Order, initiate an investigative proceeding regarding the warranty-related practices of North Shore and Peoples Gas, consistent with Staff witness Mr. Sackett's recommendation, which investigation shall include in its scope at minimum the issues raised by Mr. Sackett and IGS witness Mr. Parisi;

~~(24)~~(27) as permitted and required in this Order, North Shore and Peoples Gas shall revise their large volume transportation program tariffs to implement the storage unbundling proposals approved above, including Rider SSC; and

~~(25)~~(28) new tariff sheets authorized to be filed by this order should reflect an effective date consistent with the requirements of Section 9-201(b) as amended.

. . . .

IT IS FURTHER ORDERED that North Shore and Peoples Gas shall revise their small volume transportation program tariff to charge all eligible customers for the costs of administering the Choices For You[SM] program through its base rate administrative charges.

IT IS FURTHER ORDERED that North Shore and Peoples Gas shall, with its initial filing in its next Rate Case, provide a detailed cost study of all administrative fees as described in Section XI.C above.

IT IS FURTHER ORDERED that the Commission shall, within 30 days of this Order initiate an investigative proceeding regarding the warranty-related practices of North Shore and Peoples Gas, consistent with Staff witness Mr. Sackett's recommendation, which investigation shall include in its scope at minimum the issues raised by Mr. Sackett and IGS witness Mr. Parisi;

Respectfully submitted,

INTERSTATE GAS SUPPLY OF ILLINOIS, INC.

By: /s/ Christopher J. Townsend
One Of Its Attorneys

Christopher J. Townsend
Christopher N. Skey
Michael R. Strong
DLA Piper LLP (US)
203 N. LaSalle Street, Suite 1900
Chicago, IL 60601
christopher.townsend@dlapiper.com
christopher.skey@dlapiper.com
michael.strong@dlapiper.com