

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

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| Northern Illinois Gas Company d/b/a Nicor Gas Company |) | |
| |) | Docket No. 12-0569 |
| |) | |
| |) | |
| Proposed Establishment of Rider 17 Purchase of Receivables with Consolidated Billing |) | |

**INITIAL BRIEF OF THE
STAFF OF THE ILLINOIS COMMERCE COMMISSION**

The Staff of the Illinois Commerce Commission (“Staff”), by and through its counsel, and pursuant to Section 200.800 of the Illinois Commerce Commission’s (“Commission” or “ICC”) Rules of Practice (83 Ill. Adm. Code 200.800), respectfully submits its Initial Brief in the above-captioned matter.

I. PROCEDURAL HISTORY

On September 5, 2012, Northern Illinois Gas Company d/b/a Nicor Gas Company (“NICOR” or the “Company”) filed a new tariff Rider 17, which was a Purchase of Receivables with Consolidated Billing. On October 17, 2012, the Commission suspended Rider 17 pending investigation and a Commission decision. On January 24, 2013, the Commission re-suspended Rider 17.

The following parties petitioned for, and were granted, leave to intervene in this proceeding: Retail Energy Supply Association (“RESA”); Interstate Gas Supply Of Illinois, Inc. (“IGS”); Citizens Utility Board (“CUB”); the Illinois Attorney General on Behalf of the People of Illinois (“AG”); and the Illinois Competitive Energy Association

("ICEA"). On December 12, 2012, the Company filed direct testimony in support of the Rider 17 tariff. On March 1, 2013, Staff, CUB/AG, and RESA/IGS filed direct testimony. On March 25, 2013, the Company filed rebuttal testimony. On April 23, 2013, Staff, CUB/AG, and RESA/IGS filed rebuttal testimony. On April 30, 2013, the Company filed surrebuttal testimony. An evidentiary hearing was held on May 6, 2013.

II. SUMMARY OF STAFF'S POSITION

Staff has numerous issues with this proposed Rider 17. First, for reasons fully explained below, this record simply does not support a finding that Rider 17 is in the public interest. Also, many of the details of the proposed PORCB program have yet to be determined, so approval of Rider 17 is at best premature. Finally, Rider 17 calls for the Company to recover what it calls the "intangible or unquantifiable costs" of implementing the PORCB program. These costs are inherently "unknown and unmeasurable." If the Commission sees, fit to approve Rider 17, it should not allow Nicor to recover intangible costs or allow Nicor to record any allowed recovery below-the-line.

During the course of the proceeding, Staff and the parties proposed various modifications to Nicor's proposed revised tariff filings implementing its PORCB Program. The Company accepted certain of Staff's proposed tariff modifications, but did not accept others. For the reasons stated below, should the Commission authorize Rider 17, Staff's modifications to the Companies' proposed tariff revisions as presented in Staff's rebuttal testimony, and this Initial Brief, Appendix A, attached hereto, should be approved by the Commission.

III. ARGUMENT

A. Staff Recommends That The Commission Reject Rider 17

1. Rider 17

Northern Illinois Gas Company (“Nicor” or the “Company”) filed a petition for a Purchase of Receivables/Consolidated Billing (“PORCB”) program with the Commission. Rider 17, Purchases of Receivables with Consolidated Billing, applies to residential customers and small commercial customers.¹ It is available to customers on Rates 1, 4 and 5 and Riders 15 and 16. Nicor Ex. 1.1.

During Nicor’s reorganization docket, Docket Nos. 11-0046 and 09-0301, Nicor signed an agreement with intervenors IGS and RESA. In that agreement, the intervenors withdrew their testimony from both dockets. Nicor in turn consented to remain neutral on proposed legislation before the Illinois legislature that mandated PORCB. (Nicor Ex. 1.2, first page (not paginated).) If that bill failed to pass, Nicor further agreed to file a PORCB tariff with the Commission. (*Id.*, second page.) The proposed bill failed in the Illinois legislature, thus Nicor has filed its petition before the Commission. Staff Ex. 1.0, pp. 6-7.

There are currently approximately 270,000 SVT customers in Nicor’s Customer Select program. Residential customers and small commercial customers that take service under Customer Select buy their commodity gas from unregulated, albeit certificated, retail sellers. Retail sellers are sometimes called transporters, and their customers are also sometimes called transportation customers. Customers that remain

¹ Small commercial customers are defined in Illinois law as commercial customers using less than 5,000 therms. See 220 ILCS 5/19-105.

on sales service (i.e., do not buy from transporters) buy gas from the utility at rates that are regulated.² *Id.*, at 4.

Under Rider 17, Nicor buys the retail sellers' receivables, which are the bills that the sellers charge their customers, at a discount. In effect, Nicor purchases the right to the revenue generated by the sellers' bills. Nicor attempts to collect the bills and keeps the entire amount collected without recourse from the sellers. The discount on the receivables compensates Nicor for uncollectible bills and capital costs. Also, there is a charge to recover, from Alternative Gas Suppliers ("AGSs") in the Supplier Aggregation Service bills, any difference between actual capital costs and costs recovered in the discount rate. There is also a customer charge to recover: (1) administrative and operational costs; (2) the difference between the uncollectibles that Nicor collects through the discount on receivables and actual uncollectibles; and (3) alleged intangible costs. *Id.*, pp. 2-3.

2. There Is No Evidence That Rider 17 Is In The Public Interest

Staff recommends that the Commission not approve Rider 17. The Commission should only approve the rider if it believes that the expenditures to implement Rider 17 are prudently incurred. The expenditures are prudently incurred for this program if the benefits to customers are greater than the costs required to implement it. Staff Ex., 1.0, at 8. Nicor has not demonstrated that it would be prudent to initiate a PORCB0-like Rider 17 at this time. Nicor argues that only prudently incurred costs are recovered from cost causers, that statement avoids the issue. It presumes that the expenditures

² Sales customers pay the rate in the Purchased Gas Adjustment ("PGA") tariff, Rider 6-Gas Supply Cost. This rate is simply the utility's cost to purchase, transport and hedge the gas sold to sales customers. The rate is regulated since there is annual PGA reconciliation during which the Commission examines whether the purchases were prudent.

are prudent regardless of who pays the costs. Staff Ex. 1.0, at 7. However, if the Commission does approve the rider the Commission should not allow Nicor to implement a charge for intangible costs from customers. And if it does allow intangible cost recovery, it should not permit Nicor to record those revenues below the line. Staff Ex., 1.0, at 8.

The costs that Nicor incurs stem from its need to update its information technology (“IT”) and data systems to implement the program, and organize and implement policies to accommodate the tracking and recovery of additional receivables from eligible transportation service customers. Nicor estimates the start-up costs for Rider 17 will be \$3.88 million. The potential benefit to customers is that the retail market may become more competitive due to the PORCB program. The hope is that customers may perhaps be able to buy gas at a lower price from transporters than if the program did not exist. If the retail market does not become more competitive, then it becomes more difficult to ascribe benefits to the program. *Id.*, at 3-5.

However, the prices that AGSs offer to customers are not regulated. There is no law or rule that mandates that AGSs offers must undercut the Purchased Gas Adjustment (“PGA”) charged by Nicor. Markets cannot guarantee that AGS prices will be lower than non-PORCB prices or the PGA rate. Nicor and the IGS-RESA argue that customers and AGSs will only choose to participate in the competitive marketplace using Rider 17 when their benefits exceed the costs. However, Nicor does not provide an estimate for the value of customer benefits. *Id.*, at 5.

Nicor notes three factors with respect to prudence. One, as noted above, the service is being provided pursuant to a request by Interstate Gas Supply (“IGS”) and

Retail Energy Supply Association (“RESA”). Two, “Rider 17 is designed to provide Nicor Gas with full recovery of the prudent and reasonable costs it incurs to provide service under this rider[.]” And three, “under Rider 17, as proposed, only the actual, prudent and reasonable costs associated with Nicor Gas’ provision of the proposed optional PORCB service will be recovered from Q-AGS³ and their customers[.]” *Id.*, at 5-6.

Staff notes that, with respect to the second and third points, the program might be voluntary, but that characteristic does not overcome the need for the program to be prudent. Rider 17 would be a regulated service, and as such, Nicor should have to demonstrate that the expenditures are prudently incurred. That is, the program benefits should exceed its economic cost, and the expenditures on the program should not exceed a reasonable amount. Customers can only benefit if the amount charged to for uncollectibles by the AGSs falls due to Rider 17. Nicor seems to contend that AGSs are overcharging their customers for uncollectibles, so that filtering receivables through PORCB reduces charges to customers. *Id.*, at 6.

Nicor argues that it is responding to a request from marketers. That is, Nicor agreed to the stipulation, because it presumably found that was in its best interest. That is uninformative concerning whether or how Nicor’s response makes the resulting expenditures prudent. *Id.*, at 6-7.

Nicor disagrees with Staff’s criterion that benefits must exceed costs. Nicor insists that Staff’s testimony does not specify the Commission rule or decision, or other authority that underlies that criterion. Nor is the Staff’s notion of ‘prudently incurred’

³ Q-AGS refers to Qualified Alternative Gas Suppliers, which is the same as AGS.

supported. Staff Ex. 5.0, at 5. But the definition that Staff offered for prudently incurred costs for this voluntary program is that the benefits of the program should exceed the costs of the program. If the Commission does not approve Rider 17, Nicor will continue to provide the services in its tariffs that have already been approved by the Commission. If the benefits of the program do not exceed its costs, then the Commission is authorizing a program that makes Nicor customers worse off. Also, the Commission has relatively broad authority to determine what is in the public interest. The Commission can reasonably conclude that Rider 17 is not in the public interest if it decides that benefits do not exceed costs. Finally, given that the bill that is the subject of the stipulation in Nicor's reorganization docket failed to pass in the legislature, the PUA does not mandate that gas distribution companies have a PORCB. *Id.*, at 5-6.

Since Nicor already has an SVT program, customers already have the choice to purchase commodity gas from certificated suppliers at unregulated prices. The support for increased benefits from an SVT with a PORCB rests upon the hope that the PORCB makes the retail market more competitive. Depending on how costs are allocated, transportation customers may benefit while sales customers do not, or pay higher costs. Nicor did not investigate this issue. There are utility expenditures that are prudently incurred without conducting a cost-benefit analysis, such as expenditures for reliability and safety reasons. Rider 17 does not fall into that category. For a voluntary program, there must be evidence that the benefits from developing a PORCB are, or could be expected to be, higher than its costs. There is no such evidence in the record, and the Commission should reject the application. Staff Ex. 1.0, at 7-8.

RESA-IGS argues that POR is good public policy. In her direct testimony on behalf RESA-IGS, Ms. Ringenbach makes several claims for why a POR program benefits customers and AGSs. The benefits she lists are: Reduction of customer confusion regarding collections; Leverage of existing systems, Reduction of overall costs; Continuity of message and consistency in treatment of receivables; Expanded access to the competitive market for higher risk customers; Efficient utilization of effective recovery tools; and Diminished counterparty risk. Staff Ex. 5.0, at 2-3.

The two substantial potential benefits from a POR are (1) that it could lower AGS costs, which in turn increases the number of active sellers and thus increases competition and reduces customers' prices; and (2) a POR may also permit AGSs to competitively serve a "broader segment of customers." *Id.*, at 3.

According to RESA-IGS, PORCB lowers collection costs, since the utility's collection efforts are more effective due to the Nicor Gas's ability to terminate service for non-paying customers. Currently, if a transportation customer pays only the delivery charges owed to the utility, it can retain gas service even if the customer does not pay the commodity portion of the bill. A sales customer is subject to being cut off if it does not pay any part of the bill. An AGS must pursue any past due amount on its own. She also alleges that the utility's collection costs are less than AGSs' collection costs. Thus, when the utility purchases the marketer's receivables, she concludes that the overall cost to collect amounts past due is lower. *Id.*

In RESA-IGS formulation, cost changes are passed along to customers in a competitive market. If a supplier tries to raise profits by keeping prices high when costs fall, it will lose market share. Thus a competitive market ensures that cost reductions

from lower collection costs benefit customers. If marketers do have higher collection costs without a PORCB, they are then at a disadvantage in competing with utility sales service. As a result, customers may buy gas in a less competitive market and may pay higher costs than they would with a PORCB. *Id.*, at 4. While RESA-IGS accurately describe competitive market dynamics, there is no empirical evidence for the claims that PORCB will actually lower costs. Ms. Ringenbach cites various factors for why a POR increases the “rate of collections.” While the factors she cites are believable, they are not objective data. RESA-IGS does not empirically examine whether cost reductions will be passed on to transportation customers in the form of lower rates either. If the assumption that the market is or will be competitive with a PORCB is true, then by definition, the cost reductions will be passed on to customers. *Id.*

3. Intangible Cost Recovery

If the Commission approves Rider 17, it should require Nicor to strike any reference to or recovery of what Nicor terms “intangible” costs. Nicor witness Mr. Mudra defines intangible costs:

The unquantifiable intangible costs associated with collecting the past due receivables of Alternative Gas Suppliers include possible drops in customer goodwill and drops in employee morale, which can reduce productivity. In the event that Nicor Gas’ customers have a bad experience with their Alternative Gas Suppliers’ gas supply terms and conditions, pricing, or service, which impact the receivables collection process, it may create unintended consequences and costs that are real but cannot be directly measured or applied to a specific line item of expense at Nicor Gas.

See Nicor Response to Staff DR TEE 1.10.

Nicor proposes that up to 0.5% of gross receivables be applied to intangible costs. Intangible cost recovery is also to be recovered below the line, which means that

the resulting revenues are not used to offset any other costs. If operational costs exceed 0.5% of gross receivables, intangible cost recovery decreases dollar for dollar with operational cost recovery above 0.5%. When operational costs are equal to or exceed 1%, then intangible cost recovery is set to zero. Staff Ex. 1.0, at 9.

Staff does not believe that intangible or unquantifiable costs are an appropriate ratemaking concept. If costs cannot be quantified, then they may be nonexistent or very small. Intangible costs may not be real or substantial enough to merit rider recovery, and including intangible costs recovery in the rider, especially accounting for the revenues below-the-line, may lead to double recovery of costs by Nicor. *Id.*, at 10. In fact, costs that are not known and measurable simply cannot be recovered. See *e.g.*, *Governor's Office of Consumer Services v. Illinois Commerce Comm'n*, 242 Ill.App.3d 172, 190 (1st Dist. 1993) ("The record contains no proof that the increase in postage costs would occur in the test year. Only known or measurable charges are to be included in the budget."). An unquantifiable cost, even one that may be quantified in the future, but for which no mathematical certainty can be adduced, is simply inherently incapable of being known and measurable and thus arbitrary in that there can be no evidence to support its recovery.

Nicor provides two examples of intangible costs in its Response to Staff DR TEE 1.10. The first example is a loss in customer goodwill due to a bad experience with AGSs, which may have "unintended consequences" and force Nicor to incur costs that are real, but are nonetheless difficult to account for. The second example is "drops in employee morale," which in turn allegedly reduce productivity. Staff Ex. 1.0, p. 10.

Staff responded that, in the example of loss in customer goodwill loss, bad experiences by customers with an AGS may cause customers to withhold payment, which has real effects on billing and payments, which can be quantified. If uncollectibles are affected, then the uncollectible percentages are changed, and there is a tangible cost that is covered through the uncollectible process. Similarly, if employee morale suffers due to Nicor's PORCB,⁴ then the lost productivity appears as higher labor costs, which are already recovered from customers through base rates. On the other hand, morale may also increase if increased tasks increase job security. *Id.*

If these alleged intangible costs do significantly affect Nicor's shareholders, then those impacts should be recovered based on the changes not only to recorded costs but also to recorded revenues. Otherwise, Nicor might double recover its costs. Staff Ex. 1.0, p. 11.

The impacts on Nicor's bottom line that allegedly result from its incurring intangible costs all stem from changes to regulated costs. The Commission should not grant below the line treatment to cost recovery that relates solely to regulated services. The Commission should keep the revenues above the line to make sure that Nicor does not make excess profits from the accounting treatment of alleged intangible costs. *Id.*

In his Rebuttal Testimony, Nicor witness Mudra offers three reasons that intangible cost recovery should not be disallowed. First, he states that their recovery is part of the settlement agreement with RESA and IGS. He also avers that it provides an incentive to restrain administrative costs. And he asserts that "they encourage

⁴ Note, however, that employee morale has many causes, and it is very difficult to attribute changes in employee morale to one particular set of tariffs.

innovation in areas where utilities may further support the growth and development of unregulated retail energy markets.” Nicor Ex. 2.0, at 47.

The first reason highlights Rider 17’s voluntary nature and the importance that only AGSs and their customers pay for Rider 17. Although the rider is an agreement between the marketers and Nicor, it imposes costs on customers, and it is a tariff over which the Commission has authority. The Commission should not approve a tariff that makes customers worse off. Nicor and the AGSs have not shown that the tariff benefits customers more than the costs it imposes on them. Staff Ex. 5.0, pp. 6-7.

Also, Nicor can be provided incentives to restrain administrative costs aside from intangible cost recovery. Staff gave as an example that the Commission could cap its recovery at 1% of qualifying receivables to prevent Nicor from recovering more than its costs. On the other hand, under Nicor’s proposal, Nicor could recover up to 0.5% of qualifying receivables below the line, but those are not costs that Nicor has actually incurred. *Id.*, p. 7.

Intangible cost recovery will only “encourage innovation in areas where utilities may further support the growth and development of unregulated retail energy markets” in the sense that if the revenues from providing a service exceed its cost, then Nicor is going to be more willing to provide it, especially when the revenues are recorded below the line. If the Commission determines that Rider 17 is compatible with the public interest and approves it, then only the costs that are expended should be recovered. Nicor should not receive excess revenues as an additional incentive to provide a Commission- approved, regulated service. *Id.*

Nicor witness Mudra argues that it is at risk of failing to recover its allowed Rider 17 costs absent intangible cost recovery. *Id.*, at 48. The intangible cost recovery in Rider 17 could lead to over-recovery through Rider 17. If the Commission approves below-the-line recovery, then Nicor does not have to offset those revenues in its next rate filing. This could lead to Nicor earning higher revenues than it otherwise would earn to provide regulated service. *Id.*, at 8.

Staff's primary recommendation is that the Commission should not approve Rider 17, because Nicor does not provide sufficient information to allow the Commission to conclude that the costs incurred are prudent. The secondary recommendation from Staff is that if the Commission does approve Nicor's PORCB, intangible costs should not be recovered in the rider. Finally, if Commission approves intangible cost recovery, then it should not permit Nicor to account for that revenue below-the-line. Staff Ex. 5.0, at 8.

4. Approval of Rider 17 Is At Best Premature

Approval of Rider 17 as proposed by the utility would be premature since many of the specific details of the program have yet to be determined. The Company is in effect asking the Commission to approve a blank check for any and all costs that the Company may decide are associated with PORCB to be recovered through Rider 17. This the Commission may not do. See *e.g.*, *Governor's Office of Consumer Services v. Illinois Commerce Comm'n*, 242 Ill.App.3d 172, 190 (1st Dist. 1993) ("The record contains no proof that the increase in postage costs would occur in the test year. Only known or measurable charges are to be included in the budget.").

Further, Staff continues to take issue with the 8% overhead factor for Administrative and Operational Costs (“AOCs”) and the 1.5% Discount Factor since no support for those percentages has been provided. While the Company provided a supplemental response to Staff Data Request (“DR”) 1.15, as Nicor Gas Ex. 3.1, with its surrebuttal testimony, no data to support the 8% AOC calculation was provided. The only support for the 1.5% discount factor remains the discussions between RESA and IGS, to which neither Staff nor the Commission were parties. Tr. at ___ (May 6, 2013). Evidence supporting reasonableness must be provided for the record. Lacking such evidence, the Commission cannot find that the Discount Factor proposed by the Company is reasonable, regardless of the “opinion” of the Intervenors. Staff Ex. 6.0R at 2-3.

While the Company argues that it is only seeking approval of the Rider 17 mechanism, Nicor Gas Ex. 2.0 at 12, specific tariff language has also been presented for the Commission’s consideration. The tariff language does not sufficiently set forth the specific costs to be recovered under the Rider 17 mechanism. Until the concerns addressed in Staff’s testimony have all been resolved, in Staff’s view the approval of the tariff language is at best premature. Staff Ex. 6.0R at 3.

B. If The Commission Were To Approve Rider 17 – Contrary To Staff’s Recommendation, Staff Recommends The Following Changes Be Made To Rider 17

1. Rider 17 - Definitions Section

If the Commission were to approve Rider 17 – contrary to Staff’s recommendation, the Commission should accept Staff’s proposed definitions for Rider 17 which strive for consistency in the definitions of costs recoverable under PORCB

tariffs for gas and electric utilities, unless specific differences are fully supported in the record. Nicor has not provided any basis for straying from the definitions of recoverable costs approved for Ameren and ComEd electric PORCB Riders. Definitions for these types of costs have already been thoroughly explored by the Commission in the Ameren (Docket No. 08-0619/0620/0621 (Cons.)) and ComEd (Docket No. 10-0138) electric utilities' tariffs.

Staff's definitions, which differ from those proposed by the Company, included:

- a) AOCs,
- b) Capital Recovery Costs ("CRC"),
- c) Discount Factor ("DF"),
- d) Qualifying Receivables ("Q-REC"), and Non-Residential POR Adjustment ("PORA_{NR}"), and Residential POR Adjustment ("PORA_R").

2. Administrative and Operations Cost ("AOCs")

Staff recommends that the following language be approved for the definition of AOCs:

Administrative and Operational Costs (AOCs)

Administrative and Operational Costs (AOCs) shall mean incremental expenses incurred by or for the Company in association with services provided under this Rider 17 including, ~~without limitation,~~ (a) ongoing electronic data transfer costs; (b) costs for obtaining Commission approvals and participation in regulatory proceedings; (c) staffing required to address questions from Q-AGS and others regarding services provided under this Rider; (d) financial tracking, audit, and reconciliation activities with respect to the this Rider; ~~(e) other staffing required to administer and address questions from Q-AGSs and others regarding services provided under this Rider;~~ and (fe) fees, charges, billings or assessments related to receivables purchased under this Rider; (g) ~~costs or expenses associated with equipment, devices, or services that are purchased, provided, installed, operated, maintained or monitored for services provided under this Rider;~~ and (h) ~~legal, auditing and consultant costs related to this Rider.~~ AOCs

may not include any expenses that are otherwise recovered under other effective tariffs.

Staff Ex. 6.0R at 5.

The Company continues to argue that item (h) above should be retained. However, Staff pointed out that the legal, audit, and consultant costs are already included in items (b) and (d). Therefore item (h) is not necessary.

3. Capital Recovery Costs (“CRC”)

Staff recommends that the following language be approved for the definition of CRCs:

Capital Recovery Costs (CRC)

Capital Recovery Costs (CRC) shall mean the revenue requirement necessary to recover the Company’s investment in information technology systems necessary for implementing the PORCB Program. CRC shall include: (a) initial programming changes to implement the PORCB Program; (b) general billing system and related enhancements required for the PORCB Program; and (c) development of information technology to implement the PORCB Program; ~~and (d) future system modifications required to maintain information technology system integrity and functionality related to the provisions of the PORCB Program.~~ Such investment costs are not already included in base delivery service rates and shall be treated as a regulatory asset. CRC will be limited to incremental costs incurred through one year following the commencement of service under this Rider.

Staff Ex. 6.0R at 6-7.

The Company rejected these tariff revisions entirely, claiming for the first time in surrebuttal testimony that it intends to develop separate Information Technology (“IT”) functionality for the PORCB program, claiming that the costs included under CRC do not relate to the Company’s existing IT system. Nicor Ex. 3.0 at 5. This statement is contrary to Mr. Mudra’s direct testimony which described the CRCs as programming

changes and billing system and related *enhancements*. Nicor Ex. 1.0 at 10. The Company has never explained how system integrity and functionality of the PORCB program would be isolated from Nicor's overall IT system integrity and functionality, even in the surrebuttal testimony. Nothing in the Company's rationale indicates that PORCB will be operated under an IT system that is not integrated into Nicor's current IT system. Further the Company neglected to address the fact that Staff's one-year limitation for the implementation costs for the PORCB program is consistent with the Ameren and ComEd electric tariffs with a similar limitation. Finally, the Company has never explained why the three-year period to accumulate the implementation costs associated with the PORCB program is inadequate. Staff Ex. 6.0R at 7-8.

4. Discount Factor ("DF")

Staff accepted the Company's proposed tariff revision for the definition of the DF with the caveat that the additional phrase "after the levelized revenue requirement for capital costs has been recovered by the Company" does not allow for the recovery of future IT system modifications beyond the period reflected in Staff's definition for CRCs. Staff Ex. 6.0R at 8. The Company provided no response to this caveat in surrebuttal testimony. The Commission should accept Staff's definition of CRCs and also note that the levelized revenue requirement as used in the phrase quoted above does not extend the period for IT system modifications beyond the three-year period included in the CRC definition.

5. Qualifying Receivables (Q-REC)

Staff recommends that the following language be approved for the definition of Q-RECs:

Qualifying Receivables (Q-REC) shall mean receivables that satisfy all of the following requirements: (i) such receivables are for natural gas commodity service provided by a Q-AGS to residential retail customers and commercial customers, who are Customer Select Participants to the extent such Q-AGS has included its charges for such natural gas commodity service on the Company's bill pursuant to Section 19-135 of the Act; (ii) such receivables consist only of charges for the purchase of natural gas supplies and do not include any charges for any other goods or services; (iii) such receivables are not subject to any Legitimate Billing Dispute; (iv) such receivables are owned by such Q-AGS free and clear of any liens, security interests, pledges, encumbrances and other charges or restrictions on transfer; and (v) such receivables have arisen from providing gas supply to Customer Select Participants who were, at the time immediately prior to entering the PORCB program, ~~or during the prior billing period,~~ not in arrears with either the Company or the Q-AGS.

Staff Ex. 6.0R at 9.

The Company provided clarification in response to Staff DR TEE 6.05 that explained the eligibility requirement for a Q-REC must be met only once. Therefore, the phrase stricken above is not necessary. *Id.* at 8-9. The Company did not respond to Staff in its surrebuttal testimony.

6. Non-Residential POR Adjustment (PORA_{NR}) and Residential POR Adjustment (PORA_R)

Staff recommends that the following language be approved for the definition of PORA_{NR} and PORA_R:

Non-Residential POR Adjustment (PORA_{NR})

The Non-residential POR Adjustment (PORA_{NR}) shall be applied to all Eligible Non-residential customers receiving service from a Q-AGS participating in the PORCB Program. The PORA_{NR} is intended to recover the ~~working capital necessary to operate the PORCB Program for Non-residential customers,~~ its ongoing Administrative and Operational Costs, ~~Intangible Costs,~~ and Net Actual Uncollectible Costs ~~to the extent that they are not recovered through collection of the Q-AGS Discount Factor.~~

Residential POR Adjustment (PORA_R)

The Residential POR Adjustment ($PORA_R$) shall be applied to all Eligible Residential Customers receiving service from a Q-AGS that has elected service under this Rider. The $PORA_R$ is intended to recover the ~~working capital necessary to provide service under this Rider for residential customers, its ongoing Administrative and Operational Costs, Intangible Costs, and Net Actual Uncollectible Costs to the extent that they are not recovered through collection of the Q-AGS Discount Factor.~~ Staff Ex. 6.0R at 10.

The formulas for the Non-Residential and Residential PORA adjustments include only factors for AOCs, Net Actual Uncollectible Costs (“NAUC”), and Intangible Cost Recovery (“ICR”). Nicor Exs. 2.1 and 2.2, Rider 17 Original Sheet 75.9.10. Therefore the reference to working capital should be removed – it appears nowhere else in the Rider 17 tariff. The definition of NAUC, which was proposed by Staff and accepted by the Company (Nicor Ex. 2.1, Original Sheet 75.9.11), already indicates that NAUC is net of the amount recovered through the discount factor; therefore, the last phrase in the Company’s definition above should be stricken since it is redundant. The deletion of Intangible Costs in the definition (as well as in the formula for PORA) is addressed above.

7. Supply Uncollectible Adjustment

Staff recommends that the following language be approved for the Supply Uncollectible Adjustment, Factor SUA, component of the POR Adjustment:

SUA = the Supply Uncollectible Adjustment, in dollars (\$) rounded to the nearest cent, may be either positive or negative and shall be equal to the ~~Estimated Discounted~~ Qualified Receivables paid to purchased from Suppliers relating to applicable customers during the effective month (M) ~~less the Estimated Gross Collections to be received from applicable customers during the month plus the portion of the Estimated Gross Collections associated with the Capital Cost Recovery component of the Discount Factor and~~ times the net of the uncollectible rate as determined

in the most recent delivery service rate case for the Company less the 1% uncollectible component of the Discount Factor, an amortization of the Supply Uncollectible Balance as necessary, by customer class.

$$SUA = E-D-\sum Q-REC_M - E-GC_M + (E-GC_M \times (UR - .01)) + A$$

~~E-DQ-REC_M = the sum of the Estimated Discounted Receivables, in dollars (\$) rounded to the nearest cent, expected to be paid to Q-AGS for applicable customers during the effective month. It is based on estimates of the following: Qualifying Receivables, estimated gas consumption volumes, supplier commodity service costs, customer payment experience and the discount factor of 1.5%. the sum of the Qualifying Receivables, in dollars (\$) rounded to the cent, equal to the gas supply service related receivables of a Q-AGS, for customer c, on the consolidated monthly bill for gas service issued by the Company for gas supply service provided to such retail customer, c, by the Q-AGS.~~

~~E-GC_M = the sum of the Estimated Gross Collections, in dollars (\$) rounded to the nearest cent, expected to be received from applicable customers during the effective month. It is based upon estimates of the following: Qualifying Receivables, estimated gas consumption volumes, supplier commodity costs and customer payment experience.~~

~~UR = the uncollectible rate in decimal format (0.000) as included in the Gross Revenue Conversion Factor in the Company's most recent delivery service base rate case.~~

~~A = Amortization of the cumulative Supply Uncollectible Balance (SUB), in dollars (\$) rounded to the nearest cent, as necessary, for the appropriate customer class. Factor A may be amortized over a period not to exceed 24 months and may result in either a charge (positive) or credit (negative) to the customer's monthly PORA_c~~

~~SUB_c = shall equal the Supply Uncollectible Balance, in dollars (\$) rounded to the nearest cent, by customer class (c) in dollars (\$), equal to the cumulative balance resulting from the application of the SUA through the POR Application Period. The SUB shall equal:~~

$$\text{SUB}_c = \sum DREC - (\sum GC \times .995)$$

~~DREC = the cumulative sum of the actual prior months Discounted Receivables, in dollars (\$), rounded to the nearest cent, for customer class, (c).~~

~~GC = the cumulative sum of the actual prior months Gross Collections, in dollars (\$), rounded to the nearest cent, for customer class, (c).~~

The Company rejected Staff’s revisions for the following reasons: (1)The overall rate approved in the last rate case did not reflect separate rates for residential versus non-residential classes; (2) The Company’s proposal uses forward looking estimates rather than historical data points; (3) The Company’s approach does not set an “artificial cap” on SUA recoveries until the two-year reconciliation occurs; (4)The Company’s proposal accounts for actual customer payment experience; and (5)The Company will not accept additional financial risk it perceives in Staff’s proposal. Nicor Ex. 2.0 at 16-18.

Staff continues to contend, however, that the Company’s proposal for computing the SUA component including an additional Factor SUB only complicates the calculation with little, if any benefit, especially given the annual reconciliation of uncollectibles that will occur. While Ameren and ComEd PORCB Riders also include an uncollectible factor, the recovery process is similar to that proposed by Staff rather than the complex process suggested by Nicor. Nicor Ex. 3.0 at 5. There is no indication in the record as to why the process for Nicor should be more complex than it was for either ComEd or Ameren. In order to maintain consistency among the PORCB Riders for utilities in Illinois, Staff’s proposed language for Factor SUA should be approved by the Commission.

8. Reconciliation Factor of PORA

Staff recommends that the following language be approved for the Reconciliation Factor of the POR Adjustment (“PORA”):

$$R_C = \text{Actual PORA}_{(C)} \text{ Costs} - \text{Actual PORA}_{(C)} \text{ Revenues}$$

Where:

$$\text{Actual PORA}_{(C)} \text{ Costs} = \text{AOC}_{\Delta(C)} + \text{NAUC}_{(C)} + \text{ICR}_C$$

Actual $PORA_{(c)}$ Costs = The actual Purchase of Receivables Costs ~~adjustment~~ for the customer class (c), in dollars (\$) rounded to the nearest cent, which equals the sum of the Administrative and Operational Costs, and the Net Actual Uncollectible Costs ~~and the Intangible Cost Recovery component~~ for the reconciliation period.
Staff Ex. 6.0R at 14-15.

This language removes the Intangible Cost Recovery Factor from the formula in order to be consistent with Staff's position regarding the recovery of intangible costs addressed above.

9. Tracking of Costs and Revenues

Staff recommends that the Company specifically track revenues and costs of Rider 17 so that they are readily identifiable for reconciliation purposes. The Company has agreed to specifically track revenues and costs of Rider 17. Company witness Mudra stated that the Company will use specific "revenue identifiers" to track the specific revenues associated with Rider 17. Nicor Ex. 2.0 at 19. The Company also agreed to maintain specific information for PORCB-related external costs as well as most other internal labor costs.

However, the Company took issue with the tracking of the costs of the internal information systems employees' time which will be capitalized. *Id.* at 19-20. Staff requested the Company explain in its surrebuttal testimony why the tracking of capitalized internal labor would be any different than tracking internal labor as it relates to any other capital project the Company undertakes. No explanation was included in the Surrebuttal testimony filed by the Company on April 30.

Staff also recommends that the Company provide detailed information for PORCB-related costs on a quarterly basis to include at a minimum:

- a) Vendor,
- b) Date,
- c) Dollar amount,
- d) Description of service provided,
- e) Invoice or other third-party documentation to support the costs, and
- f) Contracts or other agreements to the extent that the services are covered by such a document.
- g)

For internal company costs, the detail should also include information to verify that the internal costs are incremental and not otherwise included in recovery under any other tariffs currently in effect. Since the Company did not explain why any of this detail should not be provided, the Commission's Order should include a provision setting forth these quarterly reporting requirements.

10. Treatment of Uncollectibles

After Staff pointed out inconsistencies in the Company's testimony and DR responses, Staff Ex. 6.0R at 17, the Company provided a supplemental response to Staff DR TEE 5.02 along with an errata to the rebuttal testimony of Mr. Mudra to clarify that uncollectibles under the CRA would be rolled back into the amounts to be charged to the Q-AGS and not recovered from the supply customers of the Q-AGS. Nicor Ex. 3.0 at 6. With that clarification, Staff no longer takes issue with the Company's proposed treatment of uncollectibles associated with PORCB.

11. Journal Entries

The Company presented its revised proposed Accounting Journal entries to be made in the event Rider PORCB is approved by the Commission. Nicor Ex. 3.2. Staff does not take issue with those entries with the exception of the accounting for the intangible cost recovery revenues. Staff Ex. 6.0R at 18. Since Staff does not agree with recovery of "intangible costs" such accounting is unnecessary. However, in the

event that the Commission grants recovery of those costs, Staff disagrees that the costs should be accounted for “below-the-line” as shown in Nicor Ex. 3.2. Rather, Staff recommends that if intangible cost recovery is approved, those revenues should be included in Account 495, Other Gas Revenues, and accounted for above-the-line and reflected in the Company’s revenue requirement to offset to any such “intangible” costs incurred by the Company. Staff Ex. 6.0R at 18.

i. Response to CUB-AG witness Cohen

As explained in more detail above, Staff agrees with CUB-AG’s proposal that PORCB charges imposed directly on retail customers should be listed as a separate line item on the customer’s bill. CUB-AG Ex. 1.0, at 16-17. Customers should know what they are paying for. Identifying the charges on the bill also allows them to better compare sales service and offers from AGSs. Staff Ex. 5.0, at 2.

12. Billing Services Agreement

The Company failed to develop and provide a sample Billing Service Agreement. As Staff witness Boggs explained in his direct testimony, Rider 17 would require a Q-AGS to submit a completed Billing Services Agreement before receiving service under Rider 17. Thus, the Billing and Services Agreement constitutes part of the terms and conditions under which a Q-AGS would receive service under Rider 17. ICC Staff Exhibit 4.0 at 3-4. In his rebuttal testimony, Company witness Mr. Mudra indicated that Nicor Gas was committed to working with RESA and IGS to agree upon a template Billing Services Agreement, and would submit a sample template with its surrebuttal testimony. Nicor Ex. 2.0REV at 31. However, in surrebuttal testimony, Mr. Mudra indicated that Nicor Gas has

not yet had the opportunity to agree upon the form nor the sample template. Nicor Ex.3.0 at 9.

The Commission should not be precluded from reviewing the substance of the Billing and Services Agreement, which is effectively part of Rider 17, simply because the Company has not yet drafted a sample template. Nicor should have provided a sample Billing Services Agreement form for review by all parties to this proceeding in the event that the Commission approves the Company's proposed Rider 17. This would have allowed the parties to this proceeding and the Commission to evaluate whether that draft form includes any provisions, in addition to those otherwise set forth in Rider 17, which they might find unreasonable or that should be otherwise modified in the event the Commission approves the Company's proposed Rider 17. The Company's failure to develop and provide a sample Billing Service Agreement is further reason for the Commission to reject Nicor's proposed Rider 17, in addition to those presented by Staff witness Dr. Reardon.

13. Title Transfer Documents

The Company failed to develop and provide a draft of the title transfer documents referenced in Rider 17. As Staff witness Boggs explained in his direct testimony, Rider 17 would require a Q-AGS to submit Title Transfer documents before receiving service under Rider 17. ICC Staff Exhibit 4.0 at 3-4. In his response to Staff DR CB 1.02, Company witness Mudra indicated that "Title transfer documents and any such templates, if deemed necessary, will be

formulated if the Company's proposed Rider 17 is approved." The Company's approach, again, is inadequate.

As with the Billing Services Agreement, the Commission and the other parties in this proceeding should not be precluded from reviewing the template for title transfer documents at the same time they review Rider 17. The sample title transfer document(s) that Nicor intends to require any Q-AGS to complete in order to effectuate the sale of Qualifying Receivables as a prerequisite of service under Rider 17 should be available for review by all parties to this proceeding. This would allow the parties and the Commission to evaluate whether the sample title transfer document(s) include any provisions that should be modified in the event the Commission approves the Company's proposed Rider 17. ICC Staff Exhibit 4.0 at 4-6. The Company's failure to develop and provide sample title transfer document(s) is further reason for the Commission to reject Nicor's proposed Rider 17, in addition to those presented by Staff witness Dr. Reardon.

C. Rider 17 Proposed Rate of Return

Nicor proposes to recover prudently incurred capital costs associated with implementing a PORCB program and to apply a carrying charge that equals the Commission-authorized rate of return on rate base to the unrecovered PORCB costs (*i.e.*, the PORCB assets). Nicor Gas Ex. 1.1. Staff witness Rochelle M. Phipps evaluated the Company's rate of return proposal, as well as presented her rate of return recommendation for the PORCB assets and related tariff language recommendations for the Company's proposed Rider 17, should the Commission approve the Company's proposal to implement a PORCB program. Staff Ex. 3.0.

The Company's proposed rate of return equals the cost of capital for gas delivery services, which implies that the risk inherent in the recovery of PORCB assets equals the risk of the Company's gas delivery services assets. Staff recommended applying a lower rate of return on common equity to PORCB assets, which equals the midpoint of the five-year yield on AAA-rated debt and the Company's rate of return on rate base, as adjusted to reflect a five-year maturity instead of perpetuity. Staff Ex. 1.0 at 2-3. The methodology Staff used in this case is the same methodology the Commission adopted in Docket No. 10-0138 (Commonwealth Edison Company Proposal to establish Rider PORCB) and Docket Nos. 08-0619/08-0620/08-0621 Cons. (Ameren Illinois utilities' proposal to implement a combined Utility Consolidated Billing (UCB) and Purchase of Receivables (POR) service). Staff Ex. 1.0 at 6-8; Staff Ex. 7.0 at 10 (*citing* Final Order at 39-40, Docket No. 10-0138 (Dec. 15, 2010); Final Order at 31-32, Docket Nos. 08-0619/0620/0621 (Cons.) (Aug. 19, 2009).

Staff's opposition to the rate of return agreed upon by the Company and RESA/IGS was based on Staff's understanding that customers of participating Q-AGS would be guarantors of their suppliers' risk given they could be subject to uncollectible costs that reflect a Commission-authorized rate of return on Capital Recovery Costs ("CRC"). That is, the Company would recover from customers any CRC that it was unable to recover from suppliers. Staff Ex. 7.0 at 2-3.

In surrebuttal testimony, Nicor Gas confirmed that the CRC will be recovered exclusively from participating Q-AGS and would not be recovered from customers of those Q-AGS. Nicor Gas Ex. 3.0 at 6. Therefore, Staff withdraws its opposition to the Company's proposed rate of return and recommends the Commission's final order

acknowledge that the arguments presented by the Company against Staff's rate of return proposal did not cause Staff to withdraw its opposition regarding the rate of return for PORCB assets. Rather, Staff withdraws its recommendation regarding the rate of return on PORCB assets because the Company's proposal no longer results in Q-AGS customers effectively guaranteeing the obligations of the Q-AGS.

IV. CONCLUSION

WHEREFORE, the Staff of the Illinois Commerce Commission respectfully requests that its recommendations be adopted in their entirety consistent with the arguments set forth herein.

Respectfully submitted,

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