

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Northern Illinois Gas Company :
d/b/a Nicor Gas Company :
 : Docket No. 13-0361
Application for permanent Certificate :
of Public Convenience and Necessity, :
under Section 8-406 of the Public Utilities :
Act, to construct, operate and maintain gas :
distribution facilities and to transact the :
business of furnishing gas service to the :
public in Carroll County, Illinois. :

**DRAFT ORDER OF
NICOR GAS COMPANY**

Dated: August 8, 2013

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DRAFT ORDER OF NICOR GAS COMPANY

Northern Illinois Gas Company d/b/a Nicor Gas Company hereby submits its Draft Order for consideration. Commission Staff and Jo-Carroll Energy, Inc. have reviewed this Draft Order and have no objection to its entry.

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By the Commission:

I. PROCEDURAL HISTORY

On May 10, 2013, Northern Illinois Gas Company d/b/a Nicor Gas Company (“Nicor Gas” or “Company” or “Petitioner”) filed a verified Petition with the Illinois Commerce Commission (“Commission”) requesting a Certificate of Public Convenience and Necessity (“Certificate”) and an Order pursuant to Section 8-406 of the Public Utilities Act (the “Act”) that would authorize Nicor Gas to install, operate, and maintain gas distribution facilities and transact public utility business within certain portions of Carroll County, Illinois. Nicor Gas witnesses Bob O. Buckles, Manager, Rates for Nicor Gas, and Daniel L. Fox P.E., Managing Director, Engineering for AGL Services Company, presented testimony and exhibits to support the Company’s Petition.

Nicor Gas served copies of its verified Petition on other utilities providing utility service in closest proximity to the area for which certification is sought. Of those utilities, Jo-Carroll Energy, Inc. (“Jo-Carroll”) sought leave to intervene. Jo-Carroll’s petition to intervene was granted by the Administrative Law Judge (“ALJ”).

Commission Staff (“Staff”) presented the testimony of Eric Lounsberry, Supervisor of the Gas Section of the Energy Engineering Program of the Safety and Reliability Division of the Commission, and Michael McNally, Senior Financial Analyst in the Finance Department of the Financial Analysis Division of the Commission.

Pursuant to due notice as required by law and by the rules and regulations of the Commission, status hearings were held in this matter on June 4 and July 9, 2013, before a duly-authorized ALJ at the Commission's offices in Chicago, Illinois. Nicor Gas, Jo-Carroll, and Commission Staff all appeared through legal counsel. An evidentiary hearing was held on August 1, 2013, at which the written testimony and exhibits of Nicor Gas and Staff were admitted into the record and the record was marked "Heard and Taken."

There were no contested issues at the completion of the August 1 hearing and the parties agreed to file a Draft Order. On August 8, 2013, the Company filed a Draft Order that had been previously reviewed by Staff and Jo-Carroll and to which Staff and Jo-Carroll did not object.

II. STATUTORY AUTHORITY

Section 8-406 of the Act states, in pertinent part, as follows:

The Commission shall determine that proposed construction will promote the public convenience and necessity only if the utility demonstrates: (1) that the proposed construction is necessary to provide adequate, reliable, and efficient service to its customers and is the least-cost means of satisfying the service needs of its customers; (2) that the utility is capable of efficiently managing and supervising the construction process and has taken sufficient action to ensure adequate and efficient construction and supervision thereof; and (3) that the utility is capable of financing the proposed construction without significant adverse financial consequences for the utility or its customers.

220 ILCS 5/8-406(b).

III. NICOR GAS'S POSITION

A. Nature and Purpose of Relief Sought

Nicor Gas is an Illinois corporation, having its principal office at 1844 Ferry Road, Naperville, Illinois 60563. It is engaged in the business of purchasing, distributing, selling, and transporting natural gas to approximately 2.2 million customers in the northern third of Illinois. Nicor Gas is a public utility within the meaning of the Act.

In its Petition, Nicor Gas seeks a Certificate of Public Convenience and Necessity authorizing it to install, operate, and maintain gas distribution facilities and transact public utility business within certain portions of Carroll County, Illinois. Specifically, Nicor Gas seeks a Certificate that authorizes the Company to install, operate, and maintain approximately fifty miles of new gas distribution main, consisting of steel and polyethylene ("PE") piping of various pipe sizes and a new dual 5' x 5' vault to serve the existing residential lake home community of Lake Carroll ("Lake

Carroll subdivision”) located in Freedom and Cherry Grove Townships in Carroll County, Illinois. The Company seeks certification of the following geographic area: all or part of Sections 5, 6, 7, 8, 17, and 18, Township 25 North, Range 06 East of the 4th Principal Meridian, Cherry Grove Township, and all or part of Sections 1, 2, 3, 10, 11, 12, 13, 14, and 15, Township 25 North, Range 05 East of the 4th Principal Meridian, Freedom Township, all in Carroll County. Along with its Petition, Nicor Gas filed the direct testimony of Bob O. Buckles, identified as Nicor Gas Exhibit 1.0, which included both Nicor Gas Exhibit 1.1, consisting of an aerial view of the geographic area, and Nicor Gas Exhibit 1.2, containing a summary overview of the legal descriptions of the relevant township sections.

The Lake Carroll subdivision resides on 5,000 acres, including a 636 acre lake, and consists of over 2,000 individual land parcels. There are currently 952 developed residential properties and ten existing non-residential buildings that serve a variety of purposes. The Lake Carroll subdivision is currently supplied by individual liquid propane tanks at each household or commercial building with the exception of a few electric-only homes. The Lake Carroll Association (“Association”) initiated and established contact with representatives of the Company and requested that Nicor Gas provide natural gas service to the Lake Carroll subdivision.

Nicor Gas also seeks certification for several sections immediately adjacent to the Lake Carroll subdivision, where it identifies the current existence of improved properties or the potential for property development along defined roadways where the need for additional gas distribution facilities would reasonably be required in the near future. Nicor Gas believes that receiving certification for these areas at this time would potentially avoid additional proceedings involving only a modest expansion of the territory served, beyond the boundaries of the Lake Carroll subdivision, and would provide for the more expedient and responsive service to potential new customers.

B. Proposed Gas Facilities

Nicor Gas proposes to install gas facilities within the Lake Carroll subdivision based on the recommendation of its Engineering department. These facilities will provide slightly larger diameters than the minimum system design and will provide additional capacity for residential growth that reasonably is expected in the near future. The proposed facilities will provide natural gas directly to each property owner’s residence or building through an underground piping network. The underground gas distribution network will provide each landowner with low cost, efficient, safe, and reliable natural gas service. Construction, operation, and maintenance of the gas distribution facilities that will furnish gas service to the public in the area for which certification is sought will comply with all of Nicor Gas’s specifications, as well as the rules and regulations of the Commission and the Federal Pipeline Safety Standards, as applicable.

Also with respect to the proposed facilities, Nicor Gas requests that the Commission deem customers within the proposed certificated service area urban customers, as provided for in 83 Ill. Admin. Code 500.310, as the area exemplifies

conditions of service that reasonably approximate the conditions of service normally found in a recognized urban territory. For example, Nicor Gas states that there are over 2,000 identifiable lots within the subdivision, which is supportive of conditions of service that would normally be regarded as an urban territory. Nicor Gas also points to (1) the minimal distance the Company needs to extend its facilities to reach the subdivision, and (2) once inside the Lake Carroll subdivision, the relatively short distances of gas main required to reach each adjoining parcel. Nicor Gas asserts that the conditions for extending the Company's distribution system within Lake Carroll are very representative of conditions where the Company is already providing service in areas that are similarly certificated and designated as urban territories.

C. Cost Analysis

The Company's total estimated investment in the engineering-recommended system, excluding investment for unusual or unforeseen construction conditions, is approximately \$6.4 million in 2013 dollars. This investment includes the construction and installation of approximately 1,714 feet of 4" high-pressure steel main, a pressure reduction facility (vault), approximately 13,000 feet of 6" PE main, 53,300 feet of 4" PE main, and 194,000 feet of 2" PE main, plus individual meters, regulators, and the extension of service pipe for approximately 900 existing residential homes and ten non-residential buildings that are expected to take service in the first five years after the project is installed.

Pursuant to Nicor Gas's normal new business authorization process, and as prescribed in the Company's Terms and Conditions – Extension of Distribution System (Ill.C.C. No. 16 – Gas; Sheet Nos. 40-43), the Company conducted a feasibility study to determine the economics of providing service to the Lake Carroll subdivision. Per the Company's 3rd Revised Sheet No. 40, each customer expected to attach to the Company's facilities within the first two (2) years is entitled to two hundred (200) feet of high-pressure gas main at no charge. After deducting the total amount of gas main provided at no charge, the feasibility study computes a 4.28% rate of return ("ROR") at the end of twenty (20) years. This ROR is less than Nicor Gas's allowed ROR of 8.09% as approved by the Commission's Order on Rehearing in Docket No. 08-0363.

For the project to provide the Company with its approved ROR of 8.09% and make the Company's investment in the minimum system facility requirements economically feasible, the Lake Carroll Association will be required to make a refundable deposit of \$546,176.00. This deposit will be refundable over a period of one hundred twenty (120) months, or 10 years, as additional customers connect to the Company's facilities. The Lake Carroll Association also will be responsible for reimbursing Nicor Gas for the Company's investment in any necessary easements, as well as for any costs associated with, but not limited to, the occurrence of unusual or unforeseen conditions.

Nicor Gas asserts that it is well positioned financially to undertake the necessary investment in the facilities to serve the Lake Carroll subdivision. Nicor Gas states that the economic feasibility of serving customers in Lake Carroll is evidenced by the

Company's current Standard & Poor's "A" bond rating, a rating which is representative of a strong financial condition. Further, the Company's anticipated investment in plant will not require any specific financing to support the additions to its distribution system nor any increases in its current cost-based rate structure. Rather, funds for the proposed expansion will be generated or obtained by the Company in its ordinary course of business and will impose no financial burden on the Company or its existing customers. In addition, existing customers will experience a benefit from the Company's growth over time, as common costs will be spread over a larger customer base.

Nicor Gas further asserts that it is the only utility that currently has gas distribution facilities within the proximity of the Lake Carroll subdivision with sufficient existing and available capacity that can reasonably be tapped to provide for the current and future needs of Lake Carroll. Service from any other Illinois public utility would require significantly greater investment in the construction of facilities in order to reach the Lake Carroll subdivision and would result in higher costs for customers.

D. Right-of-Way Acquisition; Part 300 Variance

Nicor Gas is not seeking authority from the Commission under Sections 8-503 and 8-509 of the Act, 220 ILCS 5/8-503 and 8-509, for purposes of utilizing the law of eminent domain or condemnation to acquire private right-of-way for the proposed pipeline facilities to serve the Lake Carroll subdivision. Instead, Nicor Gas has engaged in negotiations with landowners in order to secure the necessary property rights. In particular, Nicor Gas contacted the individual landowners whose property abuts the road along which right-of-way frontage easements are being sought. The easements at issue are necessary because the landowners' property rights extend to the center line of Payne Road.

In its Petition, Nicor Gas requests a variance from certain requirements of 83 Illinois Administrative Code Part 300, which provides guidelines for right-of-way acquisitions by public utilities. In particular, Nicor Gas requests that the Commission grant the Company a variance from the requirements of Sections 300.20 and 300.30 in Part 300. 83 Ill. Admin. Code. §§ 300.20 and 300.30. Nicor Gas requests a variance because its personnel contacted the landowners regarding frontage easements prior to filing or sending out the information set forth in Sections 300.20 and 300.30. Nicor Gas represents that it made such contact because the Company's lengthy discussions with the Lake Carroll Association regarding the economic feasibility of the project necessarily included consideration of the possible costs of such easements. Nicor Gas states that it provided the individual landowners along Payne Road with project and related information, as set forth in Section 300.30, in connection with the filing of its Petition.

The Commission may grant a variance to Part 300 when it finds that "[n]o party will be injured by the granting of the variance." 83 Ill. Admin. Code § 300.70. Nicor Gas submits that its actions were taken in the best interests of the potential new customers located within the area identified herein, that the landowners have vested

interests in receiving gas service, and that no party will be injured by granting the Company a variance from the requirements of Sections 300.20 and 300.30 in Part 300.

IV. STAFF'S POSITION

Staff states that it has reviewed the Nicor Gas Petition, testimony, exhibits, and data request responses to ensure that the requirements of Section 8-406(b) of the Act were satisfied. Staff found that Nicor Gas demonstrated: (1) that the Company's proposed construction of the proposed new gas pipeline facilities is necessary for it to provide adequate, reliable, and efficient service to its customers and that constructing these facilities is the least-cost means for Nicor Gas to satisfy the service needs of its customers; (2) that the Company is capable of efficiently managing and supervising the construction process; and (3) that the Company is capable of financing the proposed main extensions without significant adverse financial consequences for the utility or its customers. In short, Staff found no reason to oppose Nicor Gas's request for a Certificate to serve the Lake Carroll subdivision and its surrounding area.

V. COMMISSION ANALYSIS AND CONCLUSION

Nicor Gas has presented substantial and compelling evidence to support its requested relief pursuant to Section 8-406(b) of the Act. In particular, Nicor Gas has demonstrated that its proposal is necessary to provide adequate, reliable, and efficient service to the Lake Carroll subdivision and those sections immediately adjacent thereto, as identified in Nicor Gas Exhibits 1.1 and 1.2, and that it is the least-cost means of providing service to customers in the proposed area. Nicor Gas also has demonstrated that it is capable of efficiently managing and financing the associated construction. Because the Lake Carroll Association will make a refundable deposit and bear the costs of any necessary easements and any costs associated with the occurrence of unusual or unforeseen conditions, Nicor Gas's provision of service to the Lake Carroll subdivision will not adversely impact its ability to provide reliable service to other customers. Further, Nicor Gas customers will benefit from this Certificate because common costs will be spread over a larger customer base over time. Accordingly, pursuant to Section 8-406(b) of the Act, the Commission grants Nicor Gas's request for a Certificate of Public Convenience and Necessity as set forth herein.

VI. FINDINGS AND ORDERING PARAGRAPHS

The Commission, having reviewed the entire record herein and being fully advised in the premises, is of the opinion and finds that:

- (1) Northern Illinois Gas Company d/b/a Nicor Gas Company is an Illinois corporation engaged in the distribution of natural gas to the public in the State of Illinois and, as such, is a "public utility" as defined in Section 3-105 of the Public Utilities Act;
- (2) the Commission has jurisdiction over the parties hereto and the subject matter of this proceeding;

- (3) the recitals of fact and conclusions reached in the prefatory portion of this Order are supported by the evidence in the record and are hereby adopted as findings of fact;
- (4) Northern Illinois Gas Company d/b/a Nicor Gas Company has satisfied the requirements of Section 8-406 of the Public Utilities Act and, therefore, should be authorized to construct, operate, and maintain gas distribution facilities necessary and appropriate to serve the proposed certificated service area and to transact the business of furnishing natural gas service to the public in such area where certification is so approved;
- (5) the proposed certificated service area legally described in Nicor Gas Exhibit 1.2, which is Appendix A hereto, should be approved;
- (6) 83 Illinois Administrative Code Section 500.310 should apply to Northern Illinois Gas Company d/b/a Nicor Gas Company's extension of distribution facilities within the approved certificated service area; and
- (7) Northern Illinois Gas Company d/b/a Nicor Gas Company's request for a variance from the requirements of 83 Illinois Administrative Code Sections 300.20 and 300.30 should be granted, as no party will be injured by granting such variance.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that a Certificate of Public Convenience and Necessity be, and hereby is, granted to Northern Illinois Gas Company d/b/a Nicor Gas Company pursuant to Section 8-406 of the Act, as follows:

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

IT IS HEREBY CERTIFIED that the public convenience and necessity require the issuance of a Certificate of Public Convenience and Necessity to Northern Illinois Gas Company d/b/a Nicor Gas Company for the construction, operation, and maintenance of gas distribution facilities and, in connection therewith, the provision of natural gas service in the geographic area legally described in Nicor Gas Exhibit 1.2, which is Appendix A hereto.

IT IS FURTHER ORDERED that 83 Illinois Administrative Code Section 500.310 will apply to Northern Illinois Gas Company d/b/a Nicor Gas Company's extension of distribution facilities within the approved certificated service area.

IT IS FURTHER ORDERED that Northern Illinois Gas Company d/b/a Nicor Gas Company's request for a variance from certain requirements of 83 Illinois Administrative Code Part 300 is granted.

IT IS FURTHER ORDERED that any objections, motions, or petitions filed in this proceeding that remain unresolved should be disposed of in a manner consistent with the ultimate conclusions contained in this Order.

IT IS FURTHER ORDERED that, subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Illinois Administrative Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By Order of the Commission this ___ day of _____, 2013.

(SIGNED) DOUGLAS P. SCOTT

Chairman

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WHEREFORE, Northern Illinois Gas Company d/b/a Nicor Gas Company respectfully requests that its Draft Order as submitted herein be adopted and that the Commission grant any and all other appropriate relief.

Dated: August 8, 2013

Respectfully submitted,

NORTHERN ILLINOIS GAS COMPANY
d/b/a NICOR GAS COMPANY

By: /s/ Anne W. Mitchell
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