STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

NORTHERN ILLINOIS GAS COMPANY	)	
d/b/a NICOR GAS COMPANY	)	
	)	Docket No. 13-0549
Application pursuant to Section 8-104 of the	)	
Public Utilities Act for Consent to and	)	
Approval of an Energy Efficiency Plan	)	

INITIAL BRIEF OF NICOR GAS COMPANY

Dated: March 17, 2014

Table of Contents

I. Introduction 1

II. Statutory Framework 4
A. Savings Goals 4
B. Spending Limits 5
C. Filing Requirements for EEP Approval 5

III. Section 8-104(f) Filing Requirements 6
A. Section 8-104(f)(1) 6
1. Statutory Requirements 6
2. Modified Savings Goals 8
3. The Second EEP Meets the Modified Savings Goals 11
B. Section 8-104(f)(2) 11
C. Section 8-104(f)(3) 12
D. Section 8-104(f)(4) 12
E. Section 8-104(f)(5) 13
1. Diversity of the Second EEP 13
2. Cost-Effectiveness of the Second EEP 13
3. Cost-Effectiveness of Individual Programs and Measures 15
F. Section 8-104(f)(6) 18
G. Section 8-104(f)(7) 18
H. Section 8-104(f)(8) 19

IV. Policy and Operating Issues 22
A. Management Flexibility 22
B. Coordination with Other Utilities and Market Actors 26
C. Stakeholder Advisory Group 27
D. Evaluation Risk 29
1. Revised NTG Framework 30
2. Adjustable Savings Goals 37
3. Residual Risk Adjustment 41
E. Energy Efficiency Policy Manual 44

V. Other Issues 45
A. Program Design 45
1. Behavioral Energy Savings Program 45
2. Business Energy Efficiency Rebate Program 46
3. Energy Savings Kits 47
4. Fuel Switching 48
5. Wasted Energy 49
B. Energy Efficiency Financing 50
C. Savings Goal Compliance Proceeding 52

VI. Conclusion 53

Pursuant to Section 200.800 of the Illinois Commerce Commission's ("Commission" or "ICC") Rules of Practice, 83 Ill. Admin. Code § 200.800, and in accordance with the schedule established by the Administrative Law Judge ("ALJ"), Northern Illinois Gas Company d/b/a/ Nicor Gas Company ("Nicor Gas" or the "Company") hereby submits this Initial Brief.

I. INTRODUCTION

In mandating energy efficiency programs for natural gas companies through Section 8-104 of the Public Utilities Act ("Act"), the Illinois General Assembly expressed the policy of the State that natural gas utilities use "cost-effective energy efficiency to reduce direct and indirect costs to consumers" and recognized that it is in "the public interest to allow natural gas utilities to recover costs for reasonably and prudently incurred expenses for cost-effective energy efficiency measures." 220 ILCS 5/8-104(a). Section 8-104 requires natural gas utilities serving more than 100,000 customers to file an energy efficiency plan ("EEP" or "Plan") with the Commission every three years on or before October 1, beginning in 2010. 220 ILCS 5/8-104(f).

In compliance with Section 8-104, Nicor Gas developed and presented its first three-year EEP ("First EEP") to the Commission for approval prior to October 1, 2010. The Company's First EEP, which encompassed Plan Years ("PY") 1, 2, and 3 from June 1, 2011 through May 31, 2014, was approved by the Commission in Docket No. 10-0562. *Northern Illinois Gas Co. d/b/a Nicor Gas Co.*, Docket No. 10-0562 (Final Order, May 24, 2011) ("First EEP Order"). By the end of the Company's First EEP, Nicor Gas will have invested over $140 million on energy efficiency programs and will have provided services to over 500,000 customers installing 750,000 energy efficiency measures. Jerozal Dir., Nicor Gas Ex. 1.0, 6:121-25. At the time the Company initiated this proceeding, Nicor Gas expected that these investments would help customers achieve net annual savings of almost 45 million therms and net lifecycle savings of

670 million therms over the life of the installed measures. *Id*. at 6:126-31. The natural gas savings Nicor Gas expects to achieve in PY3 are expected to exceed those achieved by all other natural gas portfolios in the United States for the PY3/2014 implementation year. Weaver Sur., Nicor Gas Ex. 12.0, 19:418-20:428.

In this proceeding, Nicor Gas presents its proposed second three-year plan ("Second EEP") for Commission approval. The Second EEP encompasses PY 4, 5, and 6, which run from June 1, 2014 through May 31, 2017. The Second EEP calls for an investment of almost $135 million by Nicor Gas, the Department of Commerce and Economic Opportunity ("DCEO"), and those large industrial customers who choose to self-direct their energy efficiency spending consistent with Section 8-104(m) of the Act. Nicor Gas' comprehensive portfolio of ten programs, which provides customers with extensive opportunities for participation, accounts for over $93 million of this amount. Nicor Gas' portfolio is projected to help customers save 21.5 million net therms on an annual basis, 301 million net therms over the lifecycles of the installed equipment, and will allow more than 200,000 customers to install over 400,000 energy efficiency measures. The evidence demonstrates that Nicor Gas' Second EEP is reasonable and meets the requirements of Section 8-104(f) of the Act.

In addition to approval of the programs, budgets, savings, and other features of the Second EEP, Nicor Gas seeks a Commission Order in this proceeding consistent with the following policy issues that are critical to the successful operation of the Second EEP.

<u>**Management flexibility.**</u> The Commission should allow Nicor Gas the flexibility to manage program budgets and savings across the three years of the Second EEP and across the different programs within the Second EEP. Further, the Commission should maintain the three conditions on flexibility that the Commission adopted in the First EEP Order, which proved to be

very successful, requiring Nicor Gas to: (1) discuss with the Stakeholder Advisory Group ("SAG"), prior to initiating the change, any shift in the budget that results in a 20% or greater change to any program's budget, or that eliminates or adds a program; (2) obtain Commission approval to shift more than 10% of spending between residential and business sectors; and (3) refrain from modifying its plans such that it no longer meets the statutory requirements for allocations to the low income and state and local government markets.

The Stakeholder Advisory Group. The Commission should direct Nicor Gas to participate in a combined electric and natural gas SAG, but should continue to find that extending decision-making authority to the SAG is not appropriate.

Evaluation risk. The Commission should adopt the comprehensive risk management approach recommended by Nicor Gas, including its recommendations for a revised Net-to-Gross ("NTG") framework, adjustable savings goals that will be adjusted after the start of the Second EEP to remain current with changes in the Illinois Technical Reference Manual ("TRM") and NTG assumptions that occur after the start of the Second EEP, and, if necessary, savings goals that include a residual risk adjustment to compensate for any remaining evaluation risk.

The Commission Staff ("Staff") and intervenors submitting evidence in this proceeding – the Illinois Attorney General ("AG"), Citizens Utility Board ("CUB") and Environmental Law and Policy Center ("ELPC") – took issue with different aspects of the Company's policy-related proposals. The Company responded to some of the concerns Staff and intervenors raised by accepting certain conditions proposed by Staff with respect to the adjustable savings goals and by modifying its proposed NTG framework. The Company also presented evidence demonstrating that other concerns of Staff and intervenors were unfounded.

The evidence demonstrates that Nicor Gas' Second EEP meets all of the statutory requirements of Section 8-104. In addition, the evidence demonstrates that Nicor Gas' policy-related proposals as revised in this proceeding are reasonable and should be adopted. Accordingly, for the reasons set forth herein, as well as in the Company's prior filings, the Commission should enter an Order approving the Company's Second EEP, as well as granting all other relief consistent with the Company's positions in this proceeding.

II. STATUTORY FRAMEWORK

Section 8-104 of the Act provides the requirements for natural gas energy efficiency programs. Among the pertinent provisions of Section 8-104 are those setting forth the policy objectives of the statute, the energy efficiency savings goals, the limitations on spending, and the filing requirements for plan approval. The language from each of these provisions appears below, with the exception of the policy objectives quoted above.

A. Savings Goals

Section 8-104(c) requires a natural gas utility to implement cost-effective energy efficiency measures to meet certain savings requirements specified in the Act. These savings requirements are based upon "the total amount of gas delivered to retail customers, other than the customers described in subsection (m) of this Section, during calendar year 2009 multiplied by the applicable percentage." 220 ILCS 5/8-104(c). The Act defines the combined annual incremental savings goals in each applicable year for a natural gas utility – including DCEO savings – as reaching 0.8% in PY4, 1.0% in PY5, and 1.2% in PY6. *Id.* Section 8-104(c) also allows the natural gas utility to meet savings goals for each individual year, or to meet savings goals by meeting cumulative savings targets. The spending limits provisions set forth below modify the savings goals defined in Section 8-104(c).

B. Spending Limits

Sections 8-104(d) and 8-104(e) of the Act place spending limits on a natural gas utility implementing an EEP. Section 8-104(d) limits the "estimated average increase in the amounts paid by retail customers in connection with natural gas service to no more than 2% in the applicable 3-year reporting period." 220 ILCS 5/8-104(d). In addition, Section 8-104(e) of the Act requires that the natural gas utility utilize 75% of the "available funding associated with energy efficiency programs approved by the Commission," and further requires that the utility provide the remaining 25% of the available funding to the DCEO for use in the implementation of "energy efficiency measures that achieve no less than 20% of the requirements of subsection (c) of this Section." 220 ILCS 5/8-104(e).

C. Filing Requirements for EEP Approval

Section 8-104(f) sets forth the elements that a natural gas utility must include in its EEP filed with the Commission. The utility's EEP must "set forth the utility's proposals to meet the utility's portion of the energy efficiency standards identified in subsection (c) of this Section, as modified by subsection (d) of this Section, taking into account the unique circumstances of the utility's service territory." 220 ILCS 5/8-104(f). In addition, in submitting its proposed EEP, each utility must:

> (1) Demonstrate that its proposed energy efficiency measures will achieve the requirements that are identified in subsection (c) of this Section, as modified by subsection (d) of this Section.
>
> (2) Present specific proposals to implement new building and appliance standards that have been placed into effect.
>
> (3) Present estimates of the total amount paid for gas service expressed on a per therm basis associated with the proposed portfolio of measures designed to meet the requirements that are identified in subsection (c) of this Section, as modified by subsection (d) of this Section.

> (4) Coordinate with the Department to present a portfolio of energy efficiency measures proportionate to the share of total annual utility revenues in Illinois from households at or below 150% of the poverty level. Such programs shall be targeted to households with incomes at or below 80% of area median income.
>
> (5) Demonstrate that its overall portfolio of energy efficiency measures, not including programs covered by item (4) of this subsection (f), are cost-effective using the total resource cost test and represent a diverse cross section of opportunities for customers of all rate classes to participate in the programs.
>
> (6) Demonstrate that a gas utility affiliated with an electric utility that is required to comply with Section 8-103 of this Act has integrated gas and electric efficiency measures into a single program that reduces program or participant costs and appropriately allocates costs to gas and electric ratepayers. The Department shall integrate all gas and electric programs it delivers in any such utilities' service territories, unless the Department can show that integration is not feasible or appropriate.
>
> (7) Include a proposed cost recovery tariff mechanism to fund the proposed energy efficiency measures and to ensure the recovery of the prudently and reasonably incurred costs of Commission-approved programs.
>
> (8) Provide for quarterly status reports tracking implementation of and expenditures for the utility's portfolio of measures and the Department's portfolio of measures, an annual independent review, and a full independent evaluation of the 3-year results of the performance and the cost-effectiveness of the utility's and Department's portfolios of measures and broader net program impacts and, to the extent practical, for adjustment of the measures on a going forward basis as a result of the evaluations. The resources dedicated to evaluation shall not exceed 3% of portfolio resources in any given 3-year period.

220 ILCS 5/8-104(f). Following the utility's submission of its EEP, the Commission is to seek public comment and issue an order approving or disapproving the EEP. *Id*. Nicor Gas addresses each of these filing requirements below.

III. <u>SECTION 8-104(F) FILING REQUIREMENTS</u>

A. <u>Section 8-104(f)(1)</u>

1. <u>Statutory Requirements</u>

Nicor Gas must demonstrate that its proposed energy efficiency measures will achieve the savings requirements of Section 8-104(c), as modified by Section 8-104(d). Taken together, these provisions of Section 8-104 require that the savings goals be modified in order to keep the rate impact on customers below 2%. 220 ILCS 5/8-104(c)-(d).

Nicor Gas calculated the savings goals and the 2% budget cap in accordance with Sections 8-104(c) and 8-104(d). Table 4 of the Company's Second EEP as originally filed reflected the statutory savings goals and the 2% budget cap. *See* Nicor Gas Ex. 1.1 at 21. Nicor Gas revised the statutory savings goals and budget cap twice during this proceeding to reflect changes in the identification of self-directing customers, which are exempt from the Company's EEP under Section 8-104(m) of the Act. *See* Jerozal Supp. Dir., Nicor Gas Ex. 5.0; Nicor Gas Ex. 5.1; Jerozal Supp., Nicor Gas Ex. 15.0; Nicor Gas Ex. 15.1. As so revised, the statutory annual savings goals for Nicor Gas' Second EEP are 33,027,000 therms for PY4, 41,283,000 therms for PY5, and 49,540,000 therms for PY6. Nicor Gas Ex. 15.1 at 2. Nicor Gas would be responsible for 80% of these amounts, which would be 26,421,000 therms for PY4, 33,027,000 therms for PY5, and 39,632,000 therms for PY6. *Id*. The 2% budget cap for the Second EEP is $124.1 million. Quick Supp., Nicor Gas Ex. 16.0, 2:36-37; Nicor Gas Ex. 15.1 at 2. As provided for in Section 8-104(e), Nicor Gas is allocated 75% of the available budget, which is approximately $93 million. Nicor Gas Ex. 15.1 at 2. Nicor Gas will provide the remaining 25% of the budget, approximately $31 million, to DCEO in accordance with Section 8-104(e). *Id*.; *see also* Jerozal Dir., Nicor Gas Ex. 1.0, 10:217-19. Nicor Gas' Second EEP must remain within the budget over the course of the three Plan Years, although individual years may deviate from the annual 2% budget cap. Jerozal Dir., Nicor Gas Ex. 1.0, 16:347-50. Nicor Gas' 75% share of the revised annual budget numbers is approximately $31,025,000 in each of PYs 4, 5, and 6, resulting in a total of approximately $93 million over the three years of the Second EEP. Nicor Gas Ex. 15.1 at 2. No party contested Nicor Gas' calculations of either the statutory savings goals or the budget cap, and there were no proposals to adjust these figures as presented by Nicor Gas.

2. Modified Savings Goals

Nicor Gas has demonstrated that it cannot meet the savings set forth in Section 8-104(c) without exceeding the 2% budget cap set by Section 8-104(d). Jerozal Dir., Nicor Gas Ex. 1.0, 9:190-94, 11:232-39. Accordingly, Nicor Gas requests Commission approval of modified savings goals pursuant to Section 8-104(d). More specifically, the Commission should require Nicor Gas to meet three-year cumulative savings goals of 21.5 million net therms by the end of PY6, which should be measured from June 1, 2014 (the start of PY4) through May 31, 2017 (the end of PY6). Jerozal Dir., Nicor Gas Ex. 1.0, 11:241-47; Nicor Gas Ex. 1.1 at 10 (Table 2). Measuring the savings goals from June 1, 2014, instead of from June 1, 2011, will focus on the performance of the Second EEP, will simplify the tracking of these goals, and will not require performance under the Second EEP to depend in any part on deviations from planned performance that occurred during the First EEP. Jerozal Dir., Nicor Gas Ex. 1.0, 11:247-49.

Nicor Gas revised its modified therm savings goals twice in this proceeding to reflect changes in the identification of self-directing customers under Section 8-104(m). *See* Jerozal Supp. Dir., Nicor Gas Ex. 5.0; Nicor Gas Ex. 5.1 at 1 (Table 3); Jerozal Supp., Nicor Gas Ex. 15.0; Nicor Gas Ex. 15.1 at 1 (Table 3). The first revision to the modified therm savings goals reflected a rounded total of 21,472,000 therms saved over the three years of the Second EEP. Nicor Gas Ex. 5.1 at 1 (Table 3). Broken down by Plan Year, the therm savings were 7,629,948 therms for PY4, 7,198,348 therms for PY5, and 6,644,135 therms for PY6. Chaudhry Reb., Nicor Gas Ex. 9.0, 8:159-61. The second revision to the modified therm savings goals increased slightly to reflect a rounded total of 21,478,000 therms saved over the three years of the Second EEP. Nicor Gas Ex. 15.1 at 1 (Table 3). Therefore, Nicor Gas seeks Commission approval of three-year cumulative modified savings goals of 21,478,000 therms by the end of PY6. If additional detail is required to show the finally revised modified therm savings goals broken down by Plan Year, Nicor Gas will provide that detail in its compliance filing in this proceeding.

In order for the Commission to approve modified goals, Section 8-104(d) requires that Nicor Gas demonstrate "that it is highly unlikely that the [savings] requirements could be achieved without exceeding the applicable spending limits in any 3-year reporting period." 220 ILCS 5/8-104(d). Nicor Gas presented substantial evidence showing that it cannot meet the savings requirements without exceeding the spending limits. The actual spending and savings results from the First EEP support this showing. At the time this proceeding commenced, Nicor Gas planned to spend $67 million in PY3, which accounts for approximately 216% of the average funding available during the Second EEP. Jerozal Dir., Nicor Gas Ex. 1.0, 12:256-58. However, even with this high level of funding, Nicor Gas expected at the time it originally filed the Second EEP to be able to provide savings of only 27 million therms, or 0.62% of 2009 sales. *Id.* at 12:259-60. In order to meet the requirements of Section 8-104(c), Nicor Gas would need to create savings averaging 0.80% of the 2009 sales, independent of additional savings delivered by DCEO, during the Second EEP. *Id.* at 12:260-64. Given that Nicor Gas cannot meet that savings level in PY3 without spending more than twice the amount allowed under the statutory budget cap for the Second EEP ($67 million in PY3 as compared to $31 million in PY4), it is highly unlikely that the statutory goals could be achieved in the Second EEP without exceeding the spending limits. *Id.* at 12:264-67.

Before this proceeding even commenced, the Commission recognized that utilities would likely require modified energy efficiency savings goals. On August 30, 2013, the Commission issued a *Report to the Illinois General Assembly Concerning Coordination Between Gas and Electric Energy Efficiency Programs and Spending Limits for Gas Utility Energy Efficiency Programs* ("ICC Report"). In the ICC Report, the Commission noted the significant decline in natural gas prices since the enactment of Section 8-104, and stated "the Commission expects that in the near future the gas utilities are unlikely to meet the unmodified savings requirements." Jerozal Dir., Nicor Gas Ex. 1.0, 12:268-72. The Commission approved modified savings goals in the recently concluded proceedings relating to the energy efficiency and demand response plans of Commonwealth Edison Company ("ComEd") and Ameren Illinois Company d/b/a Ameren Illinois ("Ameren Illinois"). *Commonwealth Edison Co.*, Docket No. 13-0495 (Order Jan. 28, 2014) ("ComEd Order"), at 36 ("The Commission recognizes that ComEd has proposed this portfolio with a constricted budget and agrees that ComEd's savings goals should be lower than that required by the statute."); *Ameren Illinois Co. d/b/a Ameren Illinois*, Docket No. 13-0498 (Order Jan. 28, 2014) ("Ameren Illinois Order"), at 23-24.

Importantly, Staff and intervenors do not contest the fact that the Commission should set modified savings goals for Nicor Gas. ELPC acknowledges that Nicor Gas is unable to meet the statutory savings goals because of lower gas costs and an increase in the statutory targets: "Nicor has less money to accomplish more energy efficiency than in the first EEP. By living within the constraints of the budget cap …, Nicor has insufficient money to achieve the statutory therm targets." Crandall Dir., ELPC Ex. 1.0, 5:94-99. The AG similarly acknowledges that "goals must be modified downward because of the budget limits." Mosenthal Dir., AG Ex. 1.0, 6:4-5.

The Commission should approve Nicor Gas' proposed modified savings goals because the evidence demonstrates that it is highly unlikely that the savings requirements established in Section 8-104(c) can be achieved without exceeding the 2% budget cap set by Section 8-104(d).

3. The Second EEP Meets the Modified Savings Goals

The energy efficiency measures included in Nicor Gas' Second EEP will achieve the requirements identified in Section 8-104(c), as modified by Section 8-104(d). In allocating the available funds available under the statutory budget cap, Nicor Gas developed a portfolio that provides substantial savings, but that also meets a number of additional objectives outlined in the Act that are important for long-term portfolio success. Specifically, Nicor Gas balanced the following six planning objectives that are discussed throughout this Initial Brief: (1) budget; (2) cost-effectiveness; (3) savings levels; (4) fairness; (5) market considerations; and (6) risk management. Jerozal Dir., Nicor Gas Ex. 1.0, 15:3339-20:437. Although Nicor Gas could have developed a portfolio that came closer to meeting the therm savings goals defined in Section 8-104(c), Nicor Gas demonstrated that no portfolio exists that would be likely to meet the savings targets in Section 8-104(c) without exceeding the spending limits of Section 8-104(d). Moreover, portfolios that come closer to meeting the statutory therm savings are not as successful as the Second EEP in meeting the Act's other objectives, which are important to long-term portfolio success. *Id.* at 19:419-21.

Based on the evidence presented, the Commission should approve Nicor Gas' modified savings goals and find that Nicor Gas' Second EEP meets the requirements of Section 8-104(f)(1).

B. Section 8-104(f)(2)

Nicor Gas' Second EEP provides specific proposals to meet new building and appliance standards as required by Section 8-104(f)(2), including a Residential New Construction program and a Business New Construction program. Jerozal Dir., Nicor Gas Ex. 1.0, 13:277-78. These programs include funding for coordinated, statewide efforts among utilities and DCEO to help municipalities better comply with Illinois building codes, and will include training and funding to support local compliance resources. *Id.* at 13:278-81. In addition, all programs set forth in the Second EEP are designed to educate customers and trade allies about building and appliance standards as part of ongoing communication efforts, to establish applicable building and appliance standards as minimum eligibility requirements for program enrollment, and frequently require customers to significantly exceed minimum standards in order to earn incentives. *Id.* at 13:282-86. Neither Staff nor any intervenor presented evidence contesting that Nicor Gas' Second EEP meets the requirements of Section 8-104(f)(2).

C. Section 8-104(f)(3)

Nicor Gas calculated the average per therm cost for each rate class under its Rider 30, Energy Efficiency Plan Cost Recovery, and revised those costs in this proceeding to reflect changes in the identification of Section 8-104(m) self-directing customers. Quick Dir., Nicor Gas Ex. 4.0, 4:77-85; Nicor Gas Ex. 4.2; Quick Supp., Nicor Gas Ex. 16.0, 3:47-50; Nicor Gas Ex. 16.2. Neither Staff nor any intervenor presented evidence contesting that Nicor Gas' Second EEP meets the requirements of Section 8-104(f)(3).

D. Section 8-104(f)(4)

Nicor Gas has coordinated with DCEO with regards to four low income programs that target customers at or below 150% of the poverty level and with incomes at or below 80% of the area median income. Jerozal Dir., Nicor Gas Ex. 1.0, 13:293-94. These programs include: the Illinois Energy Efficient Affordable Housing Construction program, the Residential Retrofit program, the Energy Savers Multi-Family Housing program, and the Illinois Public Housing program. *Id.* at 13:294-14:297.

In an effort to make the benefits offered by DCEO's programs available to a wider base of eligible customers and developers of new housing, Nicor Gas works with DCEO to coordinate several additional programs with DCEO's existing low income programs. *Id.* at 14:299-302. For example, the Residential New Construction program provides services for several Habitat for Humanity projects, the Energy Savers Multi-Family Housing program provides services to some building owners renting to low income residents, Nicor Gas' Behavioral Energy Savings program is available to all customers, and Nicor Gas' Elementary Energy Education program is open to all schools and serves low income children in many communities. *Id.* at 14:302-09. In addition, Nicor Gas ensures that the code compliance components of the new construction programs will also apply to all new buildings, including housing for low and moderate income residents. *Id*.

Neither Staff nor any intervenor presented evidence contesting that Nicor Gas' Second EEP meets the requirements of Section 8-104(f)(4).

E. Section 8-104(f)(5)

1. Diversity of the Second EEP

The Act requires Nicor Gas to provide "a diverse cross section of opportunities" for its customers to participate in energy efficiency. 220 ILCS 5/8-104(f)(5). Going beyond rate classes, Nicor Gas designed its portfolio to provide meaningful opportunities for all customers to participate, including large and small customers, owners and renters, customers in new construction and existing buildings, customers in the market to purchase new equipment, and customers interested in improving the efficiency of existing equipment, as well as a wide range of additional market segments. Jerozal Dir., Nicor Gas Ex. 7.0, 18:386-19:403.

2. Cost-Effectiveness of the Second EEP

In order to demonstrate that the overall portfolio of energy efficiency measures, not including low-income programs covered by Section 8-104(f)(4), are cost-effective under the total resource cost ("TRC") test, Nicor Gas must meet the standards set forth in Section 8-104(b). Under Section 8-104(b), cost-effectiveness is achieved and the TRC test is met when "the benefit-cost ratio is greater than one." 220 ILCS 5/8-104(b).

The TRC test measures the benefits and costs of an energy efficiency portfolio as an energy resource option based on the total costs and benefits to the utility's service territory, to the utility's EEP participants, and to the utility itself. Chaudhry Dir., Nicor Gas Ex. 3.0, 2:39-41. In order to measure these costs, a TRC test balances the investments that are made by program participants and the utilities at the outset of the EEP against the long-term benefits of reduced energy usage for both program participants and the utilities. *Id.* at 2:42-3:45. These benefits include costs of natural gas supplies, avoided as the result of the savings generated by the energy efficiency measures, as well as reasonable estimates for "financial costs likely to be imposed by future regulation of emissions of greenhouse gases," and "other quantifiable social benefits" as required by Section 8-104(b). *Id.* at 3:49-56; 220 ILCS 5/8-104(b). Costs that are included in the TRC calculation include, among others, direct installation costs incurred by the utility, costs incurred by participants to purchase, install, and maintain energy efficient equipment, and costs incurred by the utility to market and administer the EEP. Chaudhry Dir., Nicor Gas Ex. 3.0, 3:58-64. If a TRC measures greater than 1.0, this indicates that an energy efficiency portfolio has long-term benefits that exceed the costs. *Id.* at 3:45-7.

Nicor Gas' Second EEP portfolio has a TRC benefit-cost ratio of 1.34, meeting the statutory requirement and indicating that benefits exceed costs by 34%. Jerozal Dir., Nicor Gas Ex. 1.0, 14:316-17. Further, Nicor Gas expects the Second EEP portfolio to deliver lifecycle net

TRC benefits of over $40 million to Nicor Gas customers. *Id.* at 14:317-15:319. Neither Staff nor any intervenor presented evidence contesting that the Second EEP meets the requirements of Section 8-104(f)(5).

3. <u>Cost-Effectiveness of Individual Programs and Measures</u>

Although Section 8-104(f)(5) only requires that the overall EEP pass the TRC test and qualify as cost-effective, Nicor Gas analyzed the cost-effectiveness of individual programs and measures under the Second EEP. In so doing, Nicor Gas was able to adjust its portfolio, to eliminate investment in some cost-ineffective measures, and to adjust some delivery approaches to improve program cost-effectiveness. Jerozal Dir., Nicor Gas Ex. 1.0, 16:352-56. Nicor Gas determined that the TRC benefit-cost ratios for each individual energy efficiency program under the Second EEP range from 0.86 to 3.79. Chaudhry Dir., Nicor Gas Ex. 3.0, 7:147-48. The only individual programs that do not pass the TRC test are the Behavioral Energy Savings ("BES") program and the Home Energy Savings ("HES") program, with TRC benefit-cost ratios of 0.86 and 0.93, respectively. *Id.* at 7:147-52.

Although these two programs do not meet the TRC test, they should be included in the Second EEP. These two programs are important for meeting other portfolio objectives, they provide substantial sources of therm savings, and they increase opportunities for customers to participate. Jerozal Dir., Nicor Gas Ex. 1.0, 16:357-62; Weaver Dir., Nicor Gas Ex. 2.0, 24:528-25:549. Notably, Nicor Gas' HES program provides comprehensive energy assessments and retrofits to customers in existing single-family housing, creates an opportunity for these customers to achieve comprehensive savings, and provides what is essentially the only source of meaningful savings opportunities for these customers who are not eligible to participate in multi-family and new construction programs. Weaver Dir., Nicor Gas Ex. 2.0, 24:528-25:542. Similarly, Nicor Gas' BES program is targeted to approximately 20,000 customers and requires no initial investment from those customers. Jerozal Reb., Nicor Gas Ex. 7.0, 2:36-38; Nicor Gas Ex. 1.1 at 25. Because customers are not required to pay up front, the BES program is potentially attractive for lower income customers and renters with landlords who do not participate in Nicor Gas' multi-family programs. Jerozal Reb., Nicor Gas Ex. 7.0, 25:542-49.

Importantly, these two programs may prove cost-effective in the future; for example, Nicor Gas is changing the delivery model for the HES program in order to reduce costs associated with energy assessments and to gain economies of scale through a larger trade ally network. Weaver Dir., Nicor Gas Ex. 2.0, 25:558-26:561. In addition, cost-effectiveness could be achieved for these two programs with minor changes in avoided costs or delivery costs. *Id.* at 26:562-64. Lastly, these two programs may not be able to be reinstated if eliminated in the Second EEP; eliminating these programs may devastate local trade ally networks, which may be difficult to bring back in the future. *Id.* at 26:568-72.

In addition, the HES program is delivered jointly with ComEd, and when electric costs and savings for the HES program are considered, the combined TRC benefit-cost ratio for this program increases to 1.08. Chaudhry Reb., Exhibit 9.1.

As noted above, Section 8-104(f)(5) requires natural gas utilities to "provide a diverse cross-section of opportunities" for customers. 220 ILCS 5/8-104(f)(5). Inclusion of the BES and HES programs in the Second EEP is essential to meet this standard. Weaver Dir., Nicor Gas Ex. 2.0, 24:518-23. Nicor Gas' BES program is a critical aspect of the Company's balanced portfolio, which offers opportunities for all customers who pay into the program to participate: the BES program is intended to reach underserved markets, and elimination of this program will eliminate a significant participation opportunity. Jerozal Sur., Nicor Gas Ex. 11.0, 7:135-42. To the extent that Staff and intervenors have raised program design issues relating to the BES program, Nicor Gas addresses them below.

Certain individual measures in the Second EEP also do not pass the TRC test. Three such measures are included in four programs under the Second EEP: (1) tankless water heaters in the Multi-Family Comprehensive Energy Efficiency Program ("MCEEP") and in the Small Business Energy Efficiency Program ("SBEEP"); (2) furnace tune-ups in MCEEP and SBEEP, as well as boiler tune-ups in the Business Energy Efficiency Rebate program; and (3) attic insulation in MCEEP. Chaudhry Dir., Nicor Gas Ex. 3.0, 8:159-65. These measures have TRC benefit-cost ratios of below 1.0. *Id.* at 8:156-68. In addition, some individual water heater measures in the Home Energy Efficiency Rebate Program have TRC benefit-cost ratios below 1.0. *Id*. at 8:166-67.

Despite the low TRC benefit-cost ratios of these measures, Nicor Gas has bundled them with other cost-effective measures and has included them in the design of certain programs. *Id.* at 8:167-68. Even though these measures do not have a benefit-cost ratio greater than 1.0, they are included in the Second EEP because they provide additional benefits that contribute to overall program success, they provide opportunities to interest customers in participation, they eliminate market confusion by simplifying overall program offerings, and they provide bundling opportunities that enhance participation in more cost-effective measures. Jerozal Dir., Nicor Gas Ex. 1.0, 17:367-72; Chaudhry Dir., Nicor Gas Ex. 3.0, 8:170-9:189. Further, Nicor Gas' inclusion of these measures ensures that its portfolio satisfies the diversity requirement of Section 8-104(f)(5).

Because of these demonstrated benefits, the Commission should reject Staff's argument that the Company should shift the funds associated with its tankless water heater measure to more cost-effective measures. Hinman Dir., Staff Ex. 1.0, 22:512-14. Although the tankless water heaters have a TRC of less than 1.0, they are included in a comprehensive small business program, can be used in any type of small business facility, and provide opportunities for small business owners who may not have any other opportunities to save natural gas. Chaudhry Reb., Nicor Gas Ex. 9.0, 5:99-103. The costs associated with the tankless water heaters are minimal, but the benefits and participation opportunities are significant. *Id.* at 5:103-07. Therefore, the Commission should approve Nicor Gas' tankless water heater measure as part of its Second EEP.

In sum, although Nicor Gas' BES and HES programs and certain individual measures have a benefit-cost ratio of less than 1.0, they add clear and identifiable benefits to the Second EEP's overall portfolio. In light of these benefits, as well as the potential harm, customer confusion, and decrease in participation that would result from elimination of such programs, the Commission should approve the BES and HES programs as part of the Second EEP, as well as tankless water heaters, furnace/boiler tune-ups, and attic insulation.

F. <u>Section 8-104(f)(6)</u>

Section 8-104(f)(6) of the Act is not applicable to Nicor Gas as it is not affiliated with an electric utility. However, as further discussed below, wherever possible, Nicor Gas has integrated its programs under the Second EEP with ComEd, Ameren Illinois, and municipal electric utilities. Jerozal Dir., Nicor Gas Ex. 1.0, 22:490-94; Nicor Gas Ex. 1.1 at 11-12.

G. <u>Section 8-104(f)(7)</u>

The Company's Rider 30, Energy Efficiency Cost Recovery, was approved by the Commission in Docket No. 10-0562. First EEP Order at 49. The costs of Nicor Gas' Second EEP will be recovered under Rider 30. *See, e.g.*, Quick Supp., Nicor Gas Ex. 16.0, 3:47-50. No changes were proposed to Rider 30 in this proceeding. Therefore, the Commission should find that Nicor Gas' Second EEP meets the requirements of Section 8-104(f)(7).

ELPC argues in favor of a separate proceeding to alter Nicor Gas' tariffs purportedly "to provide enhanced incentives to improve energy efficiency." Crandall Dir., ELPC 1.0, 26:563-66. Nicor Gas presented evidence demonstrating numerous problems with ELPC's proposal, including its incorrect estimation of potential therm savings, its failure to demonstrate how conservation efforts would be quantified, and its failure to address how possible tariff alterations would impact other ratemaking objectives. Quick Reb., Nicor Gas Ex. 10.0, 11:222-15:325. Staff agrees with Nicor Gas that there are many problems presented by ELPC's proposal and that tariff design should be addressed, if at all, in the context of a full rate case proceeding. Brightwell Reb., Staff Ex. 4.0, 2:20-10:183; Quick Sur., Nicor Gas Ex. 14.0, 4:77-5:105. ELPC did not rebut the evidence presented by either Nicor Gas or Staff. Accordingly, the Commission should reject ELPC's recommendation to require Nicor Gas to submit tariff alterations.

H. <u>Section 8-104(f)(8)</u>

In accordance with Section 8-104(f)(8), Nicor Gas has budgeted 3% of total EEP spending to fund an independent evaluation, and plans to hire one or more external contractors to maintain responsibility for the independent evaluation. Jerozal Dir., Nicor Gas Ex. 1.0, 15:323-29. In addition, Nicor Gas has committed to continuing to file quarterly status reports and to complete cost-effectiveness analyses, which will be reviewed and validated by the independent evaluator. *Id.* at 15:330-32. Neither Staff nor any intervenor presented evidence contesting that the Second EEP meets the requirements of Section 8-104(f)(8). Accordingly, the Commission should find that Nicor Gas' Second EEP meets these requirements.

Staff did, however, make three policy/procedural recommendations regarding the independent evaluation contract. Hinman Dir., Staff Ex. 1.0, 6:119-27. Nicor Gas agreed to Staff's first two recommendations that the Company (1) file the independent evaluation contract and scope of work in this docket within fourteen days of execution, and (2) continue to include language in the independent evaluation contract such that the Commission can (a) terminate the contract if the Commission determines the evaluator was not acting independently, and (b) prevent the Company from terminating the contract without Commission approval. Jerozal Reb., Nicor Gas Ex. 7.0, 28:626-29:636. These matters relate to the contractual and day-to-day management of the independent contractor hired by the Company to perform evaluation, measurement and verification ("EM&V"). *Id*. at 29:636-38.

The Commission should reject Staff's third recommendation that the independent evaluator be responsible for performing the three-year cost-effectiveness analysis. Hinman Dir., Staff Ex. 1.0, 6:126-27. Staff's recommendation to impose this responsibility on the independent evaluator is problematic, because it will: (1) result in inefficiency, (2) create unneeded complexity, (3) create a certain "true-up error", (4) generate an inference that the current process somehow is not "independent", (5) reduce the capacity to conduct EM&V work, and (6) unnecessarily alter the methodology that has been successfully followed by ComEd and Ameren Illinois for several years. Jerozal Reb., Nicor Gas Ex. 7.0, 29:642-46.

Currently, the final cost-effectiveness analysis requires a significant amount of data and is performed by the Company's data management system – the program management tool ("PMT"). *Id.* at 29:650-55. All of the required inputs to perform an accurate ex-post analysis come from the PMT, including program costs, avoided costs, participation levels, and measure information. Chaudhry Reb., Nicor Gas Ex. 9.0, 2:41-3:45. Nicor Gas uses a customizable tool (the Energy and Environmental Economics, Inc. ("E3") Calculator) to build, operate, and calculate all of the widely varied factors associated with benefit-cost calculations. Jerozal Reb., Nicor Gas Ex. 7.0, 29:656-30:660. Nicor Gas has invested significant effort in modifying the basic E3 tool for use in accordance with the Act. Chaudhry Reb., Nicor Gas Ex. 9.0, 3:49-50.

This cost-effectiveness analysis is then provided to the independent evaluator for review and vetting. Chaudhry Reb., Nicor Gas Ex. 9.0, 3:46-48.

Under current practices, the EM&V independent evaluator vets and analyzes all of the Company's data and the E3 model during each Plan Year. Jerozal Reb., Nicor Gas Ex. 7.0, 30:661-63. This standard practice is reliable, transparent, and is an effective method to audit such a complex program. *Id*. at 30:663-65. If the EM&V contractor was required to perform the cost-effectiveness analysis, per Staff's recommendation, it would be required to attempt to duplicate all of the Company's prior activity in a time-consuming and complicated process. *Id.* at 30:665-67. Additionally, the PMT database contains hundreds of thousands of records. *Id.* at 30:669-72. Requiring the independent evaluator to import that data and run algorithms on a separate system, whatever system it may be, will inevitably result in true-up errors due to the complexity and size of the endeavor. *Id*. at 30:674-76. Identifying and resolving such errors would be expensive and time-consuming. *Id.* at 30:676-77. The problems synching the data would be further compounded if the independent evaluator used some tool other than the E3 tool as modified by Nicor Gas, which Staff fails to even address in its proposal . Chaudhry Reb., Nicor Gas Ex. 9.0, 3:50-52.

The Company bears the burden of ensuring that its targets are achieved and accurately reported. Jerozal Reb., Nicor Gas Ex. 7.0, 31:681-83. The independent evaluator currently has complete oversight of this process, and can investigate, examine, and test all aspects of the cost-effectiveness analysis. Chaudhry Reb., Nicor Gas Ex. 9.0, 2:31-37. The Company's proposed method provides complete transparency, and there is no compelling reason to shift responsibility for this process to a third party. Jerozal Reb., Nicor Gas Ex. 7.0, 31:685-87. Moreover, the Company has allocated 3% of its spending – or $2,793,000 – to activities associated with EM&V

as prescribed by Section 8-104(f)(8). *Id*. at 31:690-91, 31:694. If the time-consuming, complex, and expensive process described above was imposed upon the independent evaluator, this would add additional hours and cost to the limited EM&V budget. *Id*. at 31:691-92. Such a strain on limited resources could limit the contractor's ability to complete other, more important, EM&V tasks. *Id*. at 31:690-98. Finally, the Company's proposed method has been effectively utilized by other Illinois utilities, including ComEd and Ameren Illinois, for more than five years and there is no demonstrated need to change course. Jerozal Reb., Nicor Gas Ex. 7.0, 31:699-32:704. Indeed, AG supports the Company's approach and states that it provides sufficient assurance that the cost-effectiveness analysis will be done properly and will be transparent enough to undergo sufficient scrutiny. Mosenthal Reb., AG Ex. 2.0, 28:11-13.

For all of these reasons, the Commission should reject Staff's proposal to shift the responsibility for performing the cost-effectiveness analysis to the independent evaluator.

IV. POLICY AND OPERATING ISSUES

A. Management Flexibility

In Docket No. 10-0562, the Commission approved Nicor Gas' First EEP and granted Nicor Gas substantial flexibility in managing its portfolio across the three years of the First EEP and among different program activities. Jerozal Dir., Nicor Gas Ex. 1.0, 21:460-62. The Commission also confirmed that it would not require additional authorization for adjustment of spending or savings for individual years or programs, but imposed certain conditions for Nicor Gas with regards to this flexibility. First EEP Order at 43-44. Specifically, the Commission determined:

> Nicor should fully discuss with the SAG prior to initiating the change, any shift in budget that results in a 20% or greater change to any program's budget, or that eliminates or adds a program. Further, Nicor shall not shift more than 10% of spending between residential and [commercial and

> industrial] sectors without Commission approval; and Nicor shall not modify its plans such that it no longer meets the statutory requirements for allocations to the low income and state and local government markets.

Id. These conditions are reasonable restrictions on Nicor Gas' flexibility and the Commission should apply the same conditions to Nicor Gas' Second EEP.

The first condition, requiring notification to SAG prior to any change that results in a 20% or greater change to the budget, is reasonable. Jerozal Dir., Nicor Gas Ex. 1.0, 22:478-79. Nicor Gas' experience with the SAG indicates that these notifications are not unduly burdensome and can generate valuable feedback from stakeholders. *Id.* at 22:479-81. Similarly, although Nicor Gas has not yet shifted more than 10% of spending between residential and business sectors, the Company supports Commission approval for such shifts as it will ensure that different customers support the overall portfolio with similar funding levels. *Id.* at 22:482-86. Lastly, the third condition is necessary to maintain the statutory requirements related to allocations of funding between Nicor Gas and DCEO. Jerozal Dir., Nicor Gas Ex. 1.0, 22:478-88.

Staff supports Nicor Gas' request for flexibility, subject to certain requirements. Hinman Dir., Staff Ex. 1.0, 12:252-13:296. Staff's proposed conditions should not be imposed by the Commission as a prerequisite for maintaining the flexibility already granted to the Company, because these conditions are unrelated to the issue of management flexibility and deal largely with cost-effectiveness with respect to various programs and measures. Jerozal Reb., Nicor Gas Ex. 7.0, 21:460-23:499. While Nicor Gas does not agree to these conditions, the Company notes that all of the information that Staff has requested on a quarterly basis can be, or already is, available to all stakeholders and is contained in the Company's Annual Report of Activities filed at the end of each plan year. *Id*. at 23:501-03. The Company can collaborate with Staff to add pertinent and reasonable information to this end-of-year report that will achieve Staff's goals in a reasonable fashion. *Id*. at 23:504-06. The AG and CUB also oppose Staff's recommended conditions. *See* Mosenthal Reb., AG Ex. 2.0, 7:19-8:6; Devens Reb., CUB Ex. 2.0, 12:253-16:361.

The AG witness recognizes the need for flexibility: "I believe all parties support flexibility in general to allow for modifications that can improve strategies and respond to market changes and other things that might create new opportunities or constrain well-intentioned plans that are not working as well as expected." Mosenthal Reb., AG Ex. 2.0, 2:25-28. Nevertheless, the AG opposes Nicor Gas' request for flexibility as seeking to "make changes to its plan as it sees fit without any stakeholder or Commission approval." Mosenthal Dir., AG Ex. 1.0, 14:18-15:3. The AG's opposition ignores that Nicor Gas is requesting the very same flexibility that the Commission previously approved in Docket No. 10-0562 and that this flexibility strikes a balance between Commission oversight over any significant modification to the EEP and avoiding as unnecessary micro-management and approval of every adjustment. Jerozal Dir., Nicor Gas Ex. 1.0, 21:458-65; Jerozal Reb., Nicor Gas Ex. 7.0, 14:301-03.

The AG also claims that providing this continued flexibility would allow the Company to "easily game the system." Mosenthal Dir., AG Ex. 1.0, 15:11-12. The evidence demonstrates otherwise. Notably, the AG provides no examples to suggest that this has taken place during the Company's First EEP; instead, the AG attacks the modifications made to the Company's BES program, arguing that Nicor Gas made these modifications in order to "make up for goal shortfalls in Plan 1." *Id.* at 17:5-8. This claim is inaccurate – Nicor Gas demonstrated why such changes to the BES program were appropriate and resulted in enhancements to nearly every program in Nicor Gas' First EEP. Jerozal Reb., Nicor Gas Ex. 7.0, 17:371-19:405. Contrary to the AG's suggestions, Nicor Gas cannot unilaterally shift program funding to cheaper programs in order to meet approved goals. Mosenthal Dir., AG Ex. 1.0, 16:24-17:1. As previously described, the flexibility the Commission approved in Docket No. 10-0562 mandates SAG oversight of any shifting of funds within a program sector that will result in a 20% or greater change to any program's budget. First EEP Order at 43. This condition establishes a clear limit on the amount of flexibility that Nicor Gas is given with regards to shifting funding for its EEP programs. Nicor Gas is requesting the same condition with respect to its Second EEP.

The AG also proposes that the Commission impose limits on the Company's flexibility in the form of a flexible savings goal adjustment that would be triggered if Nicor Gas shifted budgets that resulted in a change of 20% or more. Mosenthal Dir., AG Ex. 1.0, 17:14-16. Nicor Gas demonstrated why the Commission should reject this proposal. For example, the AG fails to acknowledge that: (1) there may be instances in which it is appropriate to shift funds between programs, and (2) there are checks and balances already in place that provide oversight and accountability. Jerozal Reb., Nicor Gas Ex. 7.0, 20:433-47. Moreover, the AG opposes such an adjustment with regards to therm savings goals based on changes to the TRM and NTG values. Mosenthal Dir., AG Ex. 1.0, 34:5-6.

Although the AG attempts to explain this inconsistency away by arguing that its proposal is simpler and "more transparent," the evidence shows that the two proposals are not comparable. The AG proposes a goal adjustment for flexibility that relates to significant shifts in budgets, while the current flexibility employed by Nicor Gas and other utilities, and proposed here, permits the utilities to adjust their programs in reaction to changing markets and needs in order to provide options for customers who pay into the programs. Jerozal Sur., Nicor Gas Ex. 11.0, 4:77-85. These scenarios are distinct and unrelated. Finally, the Commission has already rejected the AG's claims in ComEd's recent EEP docket, finding that significant budget shifts will be brought to the Commission's attention and will not go unnoticed. ComEd Order at 56. *See also* Ameren Order at 139-40.

Nicor Gas requires flexibility to effectively and efficiently manage its Second EEP; thus, the Commission should reject as unnecessary the conditions submitted by Staff, reject as unsupported the AG's proposals, and grant Nicor Gas the flexibility to manage its program budgets and savings across the three Plan Years and the different programs of the Second EEP. In doing so, the Commission should adopt the conditions on flexibility that were previously adopted in Docket No. 10-0562.

B. Coordination with Other Utilities and Market Actors

Nicor Gas has identified numerous programs that it expects to jointly implement with ComEd and municipal electric utilities. These programs include: (1) Home Energy Savings; (2) MCEEP; (3) Residential New Construction; (4) Elementary Energy Education; and (5) Business New Construction. Jerozal Dir., Nicor Gas Ex. 1.0, 22:491-94; Nicor Gas Ex. 1.1 at 12. These joint programs call for a high degree of partnership, including hiring joint implementation vendors, sharing administrative costs, and occasionally offering joint financial incentives to customers. Jerozal Dir., Nicor Gas Ex. 1.0, 22:494-23:496. Additionally, Nicor Gas participates in a number of joint operating agreements with ComEd and with the Illinois Municipal Electric Association ("IMEA"). *Id.* at 23:496-98.

In addition to the jointly operated programs, Nicor Gas has identified numerous programs where it coordinates with electric utilities in areas such as lead sharing, bundling of electric and gas prescriptive measures, and joint marketing. *Id.* at 23:500-02; Nicor Gas Ex. 1.1 at 12. These programs involve coordination between utilities, but do not require formal joint operating agreements. Jerozal Dir., Nicor Gas Ex. 1.0, 23:500-02.

Notably, of the ten programs included in Nicor Gas' Second EEP, five include joint operation with an electric utility, three involve coordinated operation, one involves joint operation in one area with coordinated operation in others, and only one program involves solitary operation by Nicor Gas. *Id*. at 23:503-07. The single program that will be operated solely by Nicor Gas is the BES program. While this program is operated solely by Nicor Gas in an effort to reduce issues related to systems integration and to attribution, Nicor Gas notes that it will explore joint operation of this program in the future as these issues are overcome and as it becomes likely that joint operation would result in cost savings or other customer benefits. *Id.* at 23:508-24:519.

Moreover, Nicor Gas' Second EEP anticipates coordination with the Integrys utilities, DCEO, ComEd, and other non-utility organizations in order to lower administrative costs, expand customer offerings, or improve program operations. *Id.* at 24:522-25:549. Nicor Gas will also continue to participate in regional and national energy efficiency organizations, and in conferences and other industry events, in an effort to stay current with industry best practices and joint program development. *Id.* at 25:550-57.

C. Stakeholder Advisory Group

In Docket No. 10-0562, the Commission directed Nicor Gas to participate in a SAG process so that "consumer and environmental stakeholders can share their expertise and collaborate with the Company [on] issues relating to the utilities' energy efficiency programs." First EEP Order at 43. The Commission further ordered that the natural gas SAG should be structured to facilitate coordination with the electric SAG already in existence, but emphasized that it was not appropriate to extend "decision-making authority" to the SAG. *Id.* Since the Commission's Order in Docket No. 10-0562, the primary focus of the SAG has been to develop the TRM Technical Document and the TRM Policy Document, and to attempt to develop a consensus NTG policy. Jerozal Reb., Nicor Gas Ex. 7.0, 24:538-39.

Nicor Gas seeks similar direction from the Commission in this proceeding; specifically, Nicor Gas notes that the natural gas and electric SAGs have addressed nearly similar issues and have developed a fully integrated process. Jerozal Dir., Nicor Gas Ex. 1.0, 26:582-84. Thus, the Commission should direct Nicor Gas to continue to participate in the combined SAG. In addition, in light of the fact that performance under the EEP remains the sole responsibility of the utility, Nicor Gas asks the Commission to confirm the SAG's role as a purely advisory body, without any decision-making authority. *Id.* at 27:587-96.

In light of the extensive list of issues that have already been directed to the SAG in the ComEd and Ameren Illinois Orders, and the possible additional topics suggested by the AG, Staff and ELPC in this proceeding, Nicor Gas suggests that plan administrators act as a sub-committee to bring forth proposals to the broader SAG in order to initiate discussions on items to be addressed. Jerozal Reb., Nicor Gas Ex. 7.0, 26:577-84; *see* Mosenthal Dir., AG Ex. 1.0, 42:12-44:26; Hinman Dir., Staff Ex. 1.0, 40:932-33, 43:991-44:1017; Crandall Dir., ELPC Ex. 1.0, 15:302-17:366. The collaborative process Nicor Gas suggests is routine, reasonable, and efficient, and despite Staff's concerns, completely transparent and beneficial to the overall SAG process. Jerozal Sur., Nicor Gas Ex. 11.0, 9:192-10:205.

Finally, if the Commission directs the SAG to participate in initiatives associated with the EM&V issues Staff and intervenors raised in this proceeding, such as the spillover study that Staff suggests or the development of an Energy Efficiency Policy Manual that the AG suggests, the budget for all such activity should be attributed to the 3% portion of the Second EEP budget that is set aside for EM&V activities. Jerozal Reb., Nicor Gas Ex. 7.0, 27:601-07. Accordingly, to control the costs of these efforts, if so ordered, the Commission also should direct the SAG with a narrow focus and scope for such initiatives.

D. Evaluation Risk

Nicor Gas assumes certain risks, including both delivery and evaluation risks, when managing its EEP portfolio to meet its savings goals. Jerozal Dir., Nicor Gas Ex. 1.0, 27:600-03. In order to manage delivery risks, which are associated with achieving the participation targets outlined in the EEP within the allowed budgets, Nicor Gas adopts a number of approaches. These approaches include, but are not limited to, using a procurement process to select the best vendors at the most competitive prices, using information and accounting systems to track performance metrics, marketing strategies, and quality assurance systems. *Id.* at 27:605-28:614. In order to manage evaluation risks, which do not develop until after the end of the Plan Year and arise when future evaluation results differ from the planning assumptions used to develop EEP savings estimates, Nicor Gas relies on the NTG framework approved by the Commission in Docket No. 10-0562, as well as certain TRM policies approved by the Commission in Docket No. 13-0077.

Although the NTG framework and TRM policies may lessen Nicor Gas' evaluation risks, certain substantial risks remain. In light of the unreasonableness of certain evaluation risks, and in light of the growing attention paid to effective management of evaluation risks by the energy efficiency industry, Nicor Gas requests that the Commission adopt a comprehensive risk management approach to the Second EEP, including a revised NTG framework, adjustable savings goals, and, if necessary, savings goals that include a residual risk adjustment to compensate for any remaining evaluation risk. *See* Weaver Dir., Nicor Gas Ex. 2.0, 10:212-14, 16:345-53.

1. **Revised NTG Framework**

A revised NTG framework is integral to a comprehensive risk management approach. *See* Weaver Reb., Nicor Gas Ex. 8.0, 5:87-6:119. Accordingly, Nicor Gas proposes a revised NTG framework with the following four provisions:

1. For existing programs, when a Nicor Gas evaluation of a program has identified an estimated NTG ratio, that ratio will be used prospectively until a new Nicor Gas evaluation estimates a new NTG ratio. The prevailing NTG ratio provided by the independent evaluator by March 1 of any Plan Year is the NTG ratio value to be applied to the next Plan Year beginning June 1.

2. For new programs, planning NTG ratio values that have been provided by the independent evaluator by March 1 of any Plan Year will be applied prospectively to the next Plan Year beginning June 1. These values will be used until a Nicor Gas evaluation estimates a revised NTG ratio. If the revised NTG ratio is provided by the independent evaluator by March 1, then the ratio will be applied to the next Plan Year beginning June 1. Thereafter, NTG ratios shall be revised according to the framework for existing programs described above.

3. Excluding spillover from NTG calculations is likely to unfairly reduce a program administrator's calculated savings, but because it can be costly to determine spillover, the independent evaluator is not required to always include it in NTG ratio calculations. However, the independent evaluator should consider spillover, including, when appropriate, relying on deemed values developed from evaluations of other programs, while being mindful of any excessive costs to measure spillover in relation to the predicted impacts of such measurements.

4. Prior to March 1 of each year, the independent evaluator will present its proposed NTG values for each program to the SAG. The purpose of this meeting will be for the independent evaluator to present its rationale for each value and provide the SAG, in their advisory role, with an opportunity to question, challenge and suggest modifications to the independent evaluator's values. The independent evaluator will then review this feedback and make the final determination of values to be used for the upcoming year.

Weaver Sur., Nicor Gas Ex. 12.0, 3:54-4:82.

The Company's revised NTG framework improves upon the current NTG framework, approved in Docket No. 10-0562, as it "creates a defined schedule for completing the process, eliminates the possibility of unnecessary litigation, and decreases unreasonable evaluation risks faced by Nicor Gas." Weaver Reb., Nicor Gas Ex. 8.0, 6:123-28. Also, it removes the retrospective NTG application currently required in some cases and ensures that NTG ratios for existing programs will always apply prospectively. Weaver Dir., Nicor Gas Ex. 2.0, 18:389-90, 19:412-17.

In including the fourth provision in its revised proposal, Nicor Gas addressed recommendations made by Staff, the AG, and ELPC to include the SAG. Weaver Reb., Nicor Gas Ex. 8.0, 6:113-19, 7:131-34. Importantly, the Company's revised proposal is virtually identical to the NTG framework recently adopted by the Commission in ComEd's EEP docket. Weaver Sur., Nicor Gas Ex. 12.0, 4:84-5:95, ComEd Order at 102-103, 118-119. The AG proposes a NTG framework that it casts as more closely resembling that which the Commission adopted in Ameren Illinois' EEP docket. Mosenthal Reb., AG Ex. 2.0, 14:6-7. Nicor Gas suggests that the Commission's direction to ComEd in Docket No. 13-0495 is preferable to the approach approved for Ameren Illinois in Docket No. 13-0498. Weaver Sur., Nicor Gas Ex. 12.0, 5:93-110.

More specifically, in Docket No. 13-0498, the Commission adopted language that is identical to the fourth provision above, but, as a starting point, rather than adopt language similar to the Company's proposal, the Commission maintained the provisions of the NTG framework adopted in the Final Order in Ameren Illinois Docket No. 10-0568. *See* Ameren Illinois Order at 123. This earlier framework includes a number of problems that all parties to the current Nicor Gas EEP proceeding agree should be rectified, including, among others, retroactive application of NTG values under certain conditions, as well as uncertainty in applying the term "undergoing significant change" in triggering retroactive NTG application. Weaver Sur., Nicor Gas Ex. 12.0, 5:103-07. While the Commission direction to Ameren Illinois will allow the independent evaluator to circumvent these problems, it adds unnecessary confusion and should not be adopted for Nicor Gas. *Id*. at 5:107-10.

In fact, the Company's proposed NTG framework is consistent in many respects with the AG's recommendations. For example, the fourth provision of the Company's proposal ensures that the SAG has input into the process, the process is completed by March 1, and the independent evaluator will be the final arbitrator if SAG cannot reach consensus. *Id*. at 6:111-15. This fourth provision also allows evaluators and the SAG to rely on a wide range of information in finalizing NTG values. *Id*. at 6:116-17. This information would not be limited to the "prevailing value" developed by the evaluator in the most recent Nicor Gas evaluation, but could also include, as the AG recommends, prior evaluations, SAG discussions, market considerations, and other relevant information. *Id*. at 6:117-23; Mosenthal Reb., AG Ex. 2.0, 12:5-6, 13:13-14. Thus, the Company and the AG have agreed on the goals and approaches for the revised NTG framework. *See* Weaver Sur., Nicor Gas Ex. 12.0, 3:49-51; Mosenthal Reb., AG Ex. 2.0, 11:23-24. As such, the Commission should adopt the Company's proposed revised NTG framework and clarify in its final Order that the final NTG framework is consistent with the AG's recommendations in this proceeding.

a. <u>Spillover</u>

Unlike the current NTG framework, Nicor Gas' revised NTG framework explicitly addresses spillover. Weaver Dir., Nicor Gas Ex. 2.0, 18:392-93. In response to concerns raised by Staff, the AG, and ELPC, Nicor Gas modified its revised NTG framework to include language similar to what the Commission included in the ComEd and Ameren Illinois Orders. Weaver Reb., Nicor Gas Ex. 8.0, 13:269-287. However, the Company maintains its original position that the independent evaluator may rely on deemed values from secondary research. Weaver Dir., Nicor Gas Ex. 2.0, 17:373-75, 20:427-38; Weaver Reb., Nicor Gas Ex. 8.0, 13:276-78.

Notwithstanding these modifications, Staff objects to certain language in the Company's proposal. Brightwell Reb., Staff Ex. 4.0, 10:186-11:212. The Commission should reject Staff's objections to certain language contained in the Company's revised NTG framework proposal; the challenged language makes it clear that the independent evaluator may rely on all available information, including deemed values developed from evaluation of other EEPs not operated by Nicor Gas. Weaver Sur., Nicor Gas Ex. 12.0, 7:146-50. This language is essential, and addresses the concerns expressed by multiple parties regarding the costs of spillover evaluations. The inclusion of this language not only guarantees that spillover effects will not be ignored, it provides a mechanism through which spillover effects can be captured and measured at a fraction of the costs that are required for primary research. *Id.* at 7:150-55.

Although Staff argues that some of the revised language is "too vague," Brightwell Reb., Staff Ex. 4.0, 11:203, Nicor Gas disagrees with this contention. The language contained in the proposed revised NTG framework not only clearly defines the role of the independent evaluator, it mirrors that language adopted by the Commission in the ComEd and Ameren Illinois Orders. Weaver Sur., Nicor Gas Ex. 12.0, 8:160-165. However, if the Commission agrees with Staff that additional clarity is needed with regards to the phrase "when appropriate", Nicor Gas recommends that the Commission clarify this point in its final Order.

Staff made three additional recommendations with respect to spillover, two of which the Commission should adopt. *See* Weaver Reb., Nicor Gas Ex. 8.0, 14:296-305. First, Nicor Gas agrees to Staff's proposal to work with its independent evaluator and the SAG "to determine the feasibility of a portfolio-level spillover study." *Id.* at 14:307-15:310; Brightwell Dir., Staff Ex. 2.0, 10:224-26. Second, assuming that the Commission adopts the Company's adjustable savings goal, the Company agrees with Staff's recommendation that the Commission adjust portfolio goals in the future to reflect changes between actual spillover evaluation results and the initial planning assumptions that Nicor Gas relied upon to calculate the 21.5 million therm goal. Weaver Sur., Nicor Gas Ex. 12.0, 28:594-613; Brightwell Reb., Staff Ex. 4.0, 11:220-12:243. If, however, the Commission rejects the Company's adjustable savings goal proposal, the Commission also should reject Staff's proposal as unreasonably adjusting for spillover but not for free riders. Weaver Sur., Nicor Ex. 12.0, 29:614-18.

Staff's final issue regarding the Company's spillover proposal seeks an explanation of "what constitutes participant and non-participant spillover for each of its energy efficiency programs and exactly how it could reasonably be estimated through each of the program evaluations." Weaver Reb., Nicor Gas Ex. 8.0, 15:319-23; Hinman Dir., Staff Ex. 1.0, 42:976-

84. Nicor Gas believes Staff's request is unreasonable and unnecessary and should not be adopted by the Commission. Weaver Reb., Nicor Gas Ex. 8.0, 15:324-25. Because spillover can result from a wide range of potential measures and market effects, and can vary by program, market, individual customer, or trade ally, it would be premature to attempt to define all potential spillover effects. *Id*. at 15:325-29. Instead, it would be more appropriate for the independent evaluator to conduct surveys of real customers, trade allies, and implementation contractors in an effort to provide such a definition. *Id.* at 16:331-35.

b. <u>Other NTG Proposals</u>

The Commission should reject the NTG frameworks submitted by the AG, ELPC, and Staff for several reasons. These proposed frameworks are unclear, and both the AG and ELPC have made statements indicating a conflict with their respective proposed frameworks. Weaver Reb., Nicor Gas Ex. 8.0, 7:149 – 8:175. Further, their proposed NTG frameworks include an unreasonable retroactive evaluation risk in such cases where the SAG cannot come to a consensus. AG Ex. 1.2; ELPC Ex. 1.5; Staff Ex. 1.1. This approach would negate Nicor Gas' approach of applying evaluation risks prospectively, a goal which the AG supports. Weaver Reb., Nicor Ex. 8.0, 9:180-92; Mosenthal Dir., AG Ex. 1.0, 21:13-14. The AG, ELPC and Staff also recommend applying all NTG values retrospectively in cases where utilities miss deadlines for filing materials that are dependent on the independent evaluator, the SAG, or other SAG participants. Weaver Reb., Nicor Gas Ex. 8.0, 9:193-98. These punitive measures are unwarranted and unnecessary, and impose costs on utilities even when there are third parties involved over whom the utilities do not have managerial control. *Id.*

Finally, the NTG framework proposals of the AG, ELPC, and Staff create overly burdensome processes to be imposed on the SAG and the Commission. Weaver Reb., Nicor Gas Ex. 8.0, 10:199-11:236. Staff proposes a timeline that involves a 2-track, 11-step process that would require extensive SAG resources from November 1 through March 1 of each year. Hinman Dir., Staff Ex. 1.0, 37:862-63; Staff Ex. 1.1. Similarly, ELPC proposes a timeline that involves a single-track, 9-step process. Crandall Dir., ELPC Ex. 1.0, 15:316-19; ELPC Ex. 1.5. While the AG also originally proposed a multi-step process, the AG modified its approach to the schedule by recommending that the Commission not specify a schedule but rather give more general direction. Mosenthal Dir., AG Ex. 1.0, 21:15-19; AG Ex. 1.2; Mosenthal Reb., AG Ex. 2.0, 12:16-18.

Each multi-step proposal calls for numerous meetings, teleconferences, individual memos drafted by separate parties, and additional communications and negotiations outside of the specifically scheduled meetings. Weaver Reb., Nicor Gas Ex. 8.0, 10:201-12. Not only are these proposals burdensome, it is unclear whether such proposals even can be implemented. For example, in Nicor Gas' PY2, the independent evaluator was only able to meet the deadlines under Staff's timelines for one of eleven programs undergoing full impact evaluations. *Id.* at 10:213-18. Defining hard deadlines could force evaluators to cut short evaluation timelines and reduce the accuracy of evaluation results. Weaver Sur., Nicor Gas Ex. 12.0, 10:213-24.

Moreover, evaluators have struggled to meet evaluation schedules – these programs would be significantly compounded when compared to the schedules proposed by Staff, the AG and ELPC. Weaver Reb., Nicor Gas Ex. 8.0, 10: 219-11:225. Notably, the Commission did not impose similar timelines on either ComEd or Ameren Illinois in their respective EEP dockets. Weaver Sur., Nicor Gas Ex. 12.0, 10:202-07. The Commission should decline to order any particular NTG schedule while acknowledging that all parties understand the importance of finalizing NTG values by March 1. If, however, the Commission determines that guidance with respect to schedules is necessary, the Company supports the general direction the AG suggests in rebuttal. *Id.* at 10:212-13.

Similarly, the Commission should reject Staff's proposal to establish specific TRM timelines, which would unnecessarily advance evaluator deadlines and delay the TRM update process. *Id.* at 11:225-42. Additionally, Staff's proposal would serve to unduly constrain the input of Nicor Gas and its evaluator in the TRM update process. *Id*. at 11:243-47. Again, the Commission did not impose similar deadlines for the evaluators of ComEd, Ameren Illinois, or the DCEO in Docket Nos. 13-0495, 13-0498, and 13-0499, respectively.

In conclusion, the Commission should adopt Nicor Gas' revised NTG framework as reasonable and efficient. The Commission should reject the NTG frameworks submitted by Staff, the AG and ELPC as problematic in several respects, including lack of clarity, creating unreasonable retroactive evaluation risk, and imposing unnecessary burdens on the SAG and the Commission introduced by, among other things, accelerated and inflexible schedules.

2. <u>Adjustable Savings Goals</u>

As part of the Company's proposed risk management approach, Nicor Gas recommends that the Commission establish savings goals that will be adjusted after the start of the Second EEP in order to remain current with changes in NTG and TRM assumptions that also begin after the start of the Second EEP. Weaver Dir., Nicor Gas Ex. 2.0, 21:448-50. Illinois independent evaluators use a range of approaches and assumptions to calculate savings for individual EEP measures and programs, including: (1) participation; (2) gross unit savings; and (3) NTG ratio. *Id.* at 3:49-51. In order to decrease savings goals when evaluation results are lower than planning assumptions, or to increase savings goals when evaluation results are higher than planning assumptions, Nicor Gas recommends that all NTG ratios and gross unit savings for measures covered by the TRM be modified to reflect final NTG evaluations and updated TRM algorithms available by March 1 prior to the start of each Plan Year. Jerozal Dir., Nicor Gas Ex. 1.0, 33:718-29; Weaver Dir., Nicor Gas Ex. 2.0, 21:448-54.

This proposal is similar to the adjustable savings goals adopted by the Commission in Docket No. 10-0570, in which the Commission approved ComEd's second EEP. *Commonwealth Edison Co.*, Docket No. 10-0570 (Final Order, Dec. 21, 2010) at 46-47. The Company's proposal differs, however, in that the ComEd approach was limited to one measure in one program, and only included adjustments for changes in NTG results; in contrast, because the risk posed by changing NTG values cannot be confined to a single program, the Company's proposal would expand the evaluation adjustments to all programs. Jerozal Dir., Nicor Gas Ex. 1.0, 32:714-15, 34:749-54. More recently, the Commission adopted adjustable savings goals in Ameren Illinois' EEP case. Weaver Reb., Nicor Gas Ex. 8.0, 16:349-52; Ameren Illinois Order at 153.

Staff supports the Company's proposal in concept, but also recommends compliance with seven requirements. Hinman Dir., Staff Ex. 1.0, 27:618-29:660. Nicor Gas agrees to some, but not all, of Staff's recommendations. *See* Weaver Reb., Nicor Gas Ex. 8.0, 18:374-20:432. Staff's proposed conditions regarding management flexibility, reporting, the NTG framework, and the residual risk adjustment are addressed in other sections of this Initial Brief. Staff's final three conditions are addressed here.

The Company agrees to provide information that identifies the inputs and the basis of those inputs that were used in computing the unit savings estimates in Nicor Gas 1.2. Nicor Gas will provide this information to all parties in its compliance filing, to be conducted after the Commission enters its Final Order in this proceeding. Weaver Reb., Nicor Gas Ex. 8.0, 18:386-93; Chaudhry Reb., Nicor Gas Ex. 9.0, 5:108-6:120. Nicor Gas also agrees to file revised spreadsheets in the future, once changes to NTG ratios and Illinois TRM values are known. The Company notes that, if the Commission adopts Nicor Gas' revised NTG framework, this filing could be made by May 1 of each year, and the Commission would not have to adopt the language proposed by Staff that establishes alternative deadlines. Weaver Reb., Nicor Gas Ex. 8.0, 19:397-401.

The Commission should reject, however, Staff's recommendation that the Company maximize net benefits for ratepayers. Nicor Gas is statutorily required to demonstrate that its overall portfolio of energy measures represents a "diverse cross section of opportunities for customers of all rate classes to participate in the programs." 220 ILCS 5/8-104(f)(5). If Nicor Gas is strictly required to maximize net benefits for ratepayers, the Company could be forced to forego less cost-effective programs that target certain rate classes in order to maximize benefits. The AG supports the Company's rejection of Staff's proposal, noting that "all parties to the SAG have generally endorsed balancing net benefits with other important policy objectives such as pursuing long lived measures, market transformations, and equity." Mosenthal Reb., AG Ex. 2.0, 7:19-22.

The AG opposes the Company's proposed adjustable savings goals, arguing that adoption of this proposal is "administratively burdensome and impractical" because it would involve "literally thousands of TRM parameters" and "literally hundreds or even thousands of calculations." Mosenthal Dir., AG Ex. 1.0, 34:13; Mosenthal Reb., AG Ex. 2.0, 8:14, 16:17, 19:17-21, 21:17-18. These assertions are inaccurate, and the Commission should adopt the Company's proposed adjustable savings goals. The Company's proposal is far from administratively burdensome – the Company has already applied forecasted NTG ratios and TRM algorithms to calculate the savings goals proposed for the Second EEP, and is committed to providing all relevant assumptions and calculations with the Company's compliance filing after the Commission enters its Final Order in this proceeding. Weaver Reb., Nicor Gas Ex. 8.0, 22:469-76. Moreover, despite the volume of TRM measures in any given year, only a small fraction of those are updated, a subset of which applies to natural gas programs. Weaver Sur., Nicor Gas Ex. 12.0, 12:261-63. As such, only a small set of measures will be captured in the adjustable savings goal calculation. *Id.* at 12:263-67. Despite the AG's protestations, Nicor Gas has established straightforward calculations for the adjustment of savings goals for various measures, and Nicor Gas bears the risk that its estimates will prove to be incorrect once the independent evaluator applies actual program data to the TRM algorithm to calculate savings for PY4 through PY6. *Id.* at 13:274-89.

Even though, as the AG points out, some TRM or NTG changes may be minor over the years, the fact remains that a number of evaluation results could create major disruptions to the Nicor Gas portfolio. *Id.* at 14:314-16; Mosenthal Reb., AG Ex. 2.0, 9:13-14. For example, Nicor Gas has projected savings for two measure categories that represent almost a quarter of the Nicor Gas savings goal for the Second EEP. Weaver Sur., Nicor Gas Ex. 12.0, 14:316-15:318; Nicor Gas Ex. 1.2. Similarly, savings from two Nicor Gas programs represent almost half of the savings goal. Weaver Sur., Nicor Gas Ex. 12.0, 15:318-20. Thus, it would only take four evaluation results to have a significant impact on the majority of the Company's portfolio savings goal. *Id.* at 15:320-26.

The AG and CUB also suggest that the Company's proposed adjustable savings goals would "virtually eliminate[e] all performance risk," and that if the Commission were to adopt adjustable savings goals, the Company would not be incentivized to manage programs in a way that increases ratepayer benefits. Mosenthal Dir., 32:6-33:10; Devens Dir., CUB Ex. 1.0, 8:144-

45; Devens Reb., CUB Ex. 2.0, 4:48-52. These assumptions are incorrect – not only is the Company still responsible for all of the delivery risk associated with achieving the participation targets in the Second EEP while remaining within the budgets set in Section 8-104(d), the Company still faces a portion of evaluation risks, retroactive gross savings risk for all measures not covered by the TRM (which represent over 40% of projected savings), and realization rate risk. Weaver Reb., Nicor Gas Ex. 8.0, 21:448-58. Additionally, it is inaccurate to suggest that the Company may change its behavior and fail to efficiently manage its programs as no evidence has been presented to demonstrate that the Company has ever, or would ever, act in the imprudent manner suggested by the AG and CUB. Weaver Sur., Nicor Gas Ex. 12.0, 19:412-17. Moreover, Nicor Gas' proposal would not create any additional negative incentives; to the extent that these negative incentives do exist, they would also exist in the absence of adjustable savings goals in those circumstances where evaluation results increase TRM or NTG values. *Id.* at 18:389-93.

3. <u>Residual Risk Adjustment</u>

If the Commission does not adopt the Company's revised NTG framework and adjustable savings goals, the Commission should allow Nicor Gas to calculate its savings goals using downward residual risk adjustments in order to manage any additional risks that Nicor Gas cannot reasonably manage through normal program operations. Weaver Dir., Nicor Gas Ex. 2.0, 22:472-74. Nicor Gas has developed its budgets and savings targets for each program through detailed analyses of costs associated with each individual program, including calculation of participation, rebates, and delivery costs associated with each program, and through application of current evaluation information, including savings algorithms as defined in the most recent version of the TRM and the consensus PY3 NTG ratios developed through the SAG process. Jerozal Dir., Nicor Gas Ex. 1.0, 18:401-06. Because future evaluations may result in new TRM algorithms or NTG ratios, such changes may impact the savings that are available from those forecasted and budgeted savings targets. *Id.* at 18:406-19:408. In order to mitigate the risks of these future adjustments, Nicor Gas reduced its NTG ratios by 10% in order to calculate its final program and portfolio savings goals. *Id.* at 19:408-09. Even with such an adjustment, Nicor Gas will continue to bear risks from measures not covered in the TRM, which represent over 40% of the savings projected for the Second EEP. *Id*. at 29:633-35.

Although adoption of adjustable savings goals will not eliminate evaluation risks in their entirety, prospective evaluation policies provide Nicor Gas with certainty in knowing the evaluation parameters that will apply and will provide Nicor Gas with substantial risk protection. Weaver Dir., Nicor Gas Ex. 2.0, 21:460-65. If the Commission adopts adjustable savings goals and the Company's revised NTG framework, as discussed above, the Commission should recalculate Nicor Gas' savings goals to remove the 10% residual risk adjustment factors that are applied to the NTG ratios. This would increase Nicor Gas' three-year savings goals from 21.5 to 23.9 million therms, and savings for individual programs as well as savings for each Plan Year would increase by the same proportion. Jerozal Dir., Nicor Gas Ex. 1.0, 35:762-65; Weaver Dir., Nicor Gas Ex. 2.0, 22:481-23:494. If the Commission rejects the Company's revised NTG framework and declines to adopt the adjustable savings goals, however, the 10% residual risk adjustment is still warranted. Weaver Reb., Nicor Gas Ex. 8.0, 22:484-23:490. In addition, the Commission should approve the values provided in Nicor Gas Exhibit 1.2 to be used by Nicor Gas as the starting point for calculating adjusted savings goals. Jerozal Dir., Nicor Gas Ex. 1.0, 41:907-09.

The AG objects to the Company's 10% residual risk adjustment, arguing that Nicor Gas has already developed its "best estimate of savings" and that "there is no basis to modify goals downward even more." Mosenthal Reb., AG Ex. 2.0, 23:11-14. This argument ignores the nature of changing TRM and NTG assumptions – Nicor Gas has presented its best estimate of savings if – and only if – those TRM and NTG assumptions do not change. Weaver Sur., Nicor Gas Ex. 12.0, 21:445-47. Nicor Gas cannot accurately predict its proposed savings goals without knowing the TRM and NTG values; thus, under the Company's proposal, once changes to TRM and NTG values are known, they will be incorporated into the adjusted goals. *Id.* at 21:447-52.

The AG also argues that there is no reason to believe that Nicor Gas' estimates are biased upward. Mosenthal Reb., AG Ex. 2.0, 23:16-21. However, Nicor Gas' experience to date indicates that TRM and NTG evaluations are biased downward; for example, in PY1, the NTG evaluation resulted in savings reductions of 34% for the largest program in the First EEP. Weaver Sur., Nicor Gas Ex. 12.0, 22:462-65. Additionally, even if evaluation adjustments are symmetrical, Nicor Gas faces uneven outcomes. If Nicor Gas fails to meet its savings goals, it is subject to a $600,000 statutory penalty. However, there is no corresponding reward in the event that Nicor Gas exceeds its goals. *Id.* at 22:466-71. Thus, it is appropriate to provide the Company with a mechanism to manage the downside risk.

Nicor Gas asks the Commission to adopt the 10% residual risk adjustment in order to approve savings goals that are reasonable and fair, and to provide a mechanism through which the Company will be compensated for residual evaluation risks that are largely outside of the Company's control. *Id.* at 23:483-98. Customers will continue to receive substantial financial benefits after the adoption of this adjustment and evaluation results would have to lower savings by 25% before customers failed to reap financial benefits. *Id.* at 25:525-28. In contrast, should Nicor Gas miss its savings goal by a single therm, it is subject to a $600,000 penalty. *Id.* at 25:533-34. Additionally, this risk adjustment will only be adopted if the Commission does not approve Nicor Gas' revised NTG framework and adjustable savings goals. *Id.* at 25:543-47. The AG's objections are meritless, inaccurate, and disregard the unbalanced and unreasonable risks that the Company faces. If the Commission does not adopt the Company's revised NTG framework and adjustable savings goals, it should apply the 10% residual risk adjustment, so that the Company is not burdened with unreasonable savings goals and unmitigated risk.

E. Energy Efficiency Policy Manual

The AG argues that the SAG should develop an Illinois Energy Efficiency Policy Manual ("Policy Manual"). Mosenthal Dir., AG Ex. 1.0, 44:21-23. The AG has clarified during the course of this proceeding that it does not "not intend to limit the policies that SAG members could discuss and reach agreement on" and that it does not believe the Policy Manual should be limited to evaluation-related topics, as Staff suggests. Staff Group Cross Ex. 2 at 1-2; Hinman Reb., Staff Ex. 3.0, 8:163-65. Because the intended content and scope of the Policy Manual has not yet been determined, Nicor Gas urges the Commission to consider that its program resources are limited, and to determine whether these limited resources may be better invested in the Company's Second EEP instead of spent on further discussions surrounding a Policy Manual.

However, if the Commission directs SAG to address the Policy Manual, the Company agrees with Staff that it should be limited to evaluation-related topics and such topics should be presented and developed through the SAG process. Jerozal Sur., Nicor Gas Ex. 11.0, 9:187-91; Hinman Reb., Staff Ex. 3.0, 8:166-9:172. Nicor Gas further suggests that the SAG consider a similar national effort that is currently being coordinated by the Department of Energy ("DOE"). Jerozal Reb., Nicor Gas Ex. 7.0, 26:585-27:600.

V. **<u>OTHER ISSUES</u>**

A. **<u>Program Design</u>**

1. **<u>Behavioral Energy Savings Program</u>**

Nicor Gas' BES program offers numerous benefits, including that it "is available to all customers and requires no initial investment." Nicor Gas Ex. 1.1 at 25. The BES program provides substantial sources of therm savings (possibly as many as 693,000 gross therms) and opportunities for 20,000 customers to participate in each of the three years of the Second EEP. Jerozal Reb., Nicor Gas Ex. 7.0, 2:38-39, 3:46-47. In addition, the BES program may be tailored to rental and low-income markets. Nicor Gas Ex. 1.1 at 25. Further, "[c]ustomers will be selected for the pilot to represent a cross section of Nicor Gas' residential customer base." *Id.* at 46. While many behavioral programs target only high use customers, Nicor Gas plans to explore other options through a request for proposal ("RFP") process, and to seek new ideas on how to further modify the BES program to target apartment dwellers and other non-traditional customers that may be underserved by the EEP. Jerozal Reb., Nicor Gas Ex. 7.0, 3:56-60. This will provide important feedback to Nicor Gas on possibly developing and enhancing its BES program. *Id*. at 3:60-61.

Although the AG initially expressed several concerns regarding the BES program, Mosenthal Dir., AG Ex. 1.0, 9:6-7, the AG ultimately supported the Company's proposed RFP to solicit ideas for a new BES offering on the condition that the new offering should be cost effective. Mosenthal Reb., AG Ex. 2.0, 29:7-30:23. The Company agreed to this condition. Jerozal Sur., Nicor Gas Ex. 11.0, 6:123-28. If it is determined that it is not possible to offer a cost-effective program, Nicor Gas will allocate the funds into other residential offerings. *Id.* at 6:128-31.

The Commission should reject the AG's argument that the BES program would be more cost-effective if it were a combined behavioral program with ComEd. *See* Mosenthal Dir., AG Ex. 1.0, 13:10 – 14:14. The AG fails to account for the multitude of issues that would arise from attempts to coordinate data and two distinct utility platforms and systems, and fails to acknowledge that there are areas of Nicor Gas' service territory where ComEd is not the electric delivery provider. Jerozal Reb., Nicor Gas Ex. 7.0, 4:82-5:101. Nicor Gas is not a combination utility (unlike, for example, Ameren Illinois); if the Commission were to require Nicor Gas to implement a combined behavioral program with ComEd, it would impose high costs and require a significant and burdensome expenditure of time and energy.

Similarly, the Commission should reject Staff's proposal that the Commission "require Nicor Gas to implement residential programs in coordination with ComEd." Hinman Reb., Staff Ex. 3.0, 4:83-5:84. Nicor Gas' proposed EEP already includes numerous joint or coordinated energy projects with ComEd, and the Commission has not previously required Nicor Gas to implement its BES program jointly with ComEd. In Docket No. 10-0562, the Commission directed Nicor Gas to "collaborate" with ComEd because ComEd was offering a "similar behavior program." Jerozal Sur., Nicor Gas Ex. 11.0, 8:158-63; First EEP Order at 44. Nicor Gas has complied with the Commission's Order in that docket, and collaborated with ComEd on the BES program; notably, the topic of offering a combined behavioral program was explored, but determined to be unworkable due to the difficulty of synchronizing data from two separate utility information technology billing platforms. Jerozal Reb., Nicor Gas Ex. 7.0, 4:82-5:93; Jerozal Sur., Nicor Gas Ex. 11.0, 8:163-67.

2. <u>Business Energy Efficiency Rebate Program</u>

Nicor Gas' Business Energy Efficiency Rebates ("BEER") program applies to a wide range of business customers, including many small businesses, across a wide geographic territory. Jerozal Reb., Nicor Gas Ex. 7.0, 7:145-47. In order to make sure the program serves a diverse cross section of customers, as required by Section 8-104(f)(5), Nicor Gas invests in a significant effort of coordination and support. *Id*. at 7:147-49.

ELPC arbitrarily recommends that the Commission make certain adjustments to the Company's BEER program by doubling the amount of funding to direct customer incentives and correspondingly cutting administrative costs. Crandall Dir., ELPC Ex. 1.0, 6:118-19. In the first instance, ELPC's proposal fails to account for associated impacts, such as impacts to marketing, trade ally engagement, administrative tracking, controls, education and outreach, and EM&V. Jerozal Reb., Nicor Gas Ex. 7.0, 6:115-18. Thus, such a change would be significant in ignoring the current awareness levels and customer acquisition challenges that exist for a new program like the BEER. *Id*. at 6:118-20. The Commission should reject ELPC's adjustments to the Company's BEER program as arbitrary, unsupported by evidence, and unlikely to improve the savings generated utilizing the same program budget as ELPC suggests.

3. <u>Energy Savings Kits</u>

Nicor Gas' Second EEP includes a Home Energy Efficiency Rebate ("HEER") program, through which Nicor Gas offers energy savings kits to customers who make a request for one. Jerozal Reb., Nicor Gas Ex. 7.0, 8:159-61, 9:181-83. The Company offers two versions of the energy savings kit, so that customers may choose the kit that best suits their needs. *Id.* at 9:183-86. Under the current program offering, Nicor Gas has incorporated installation rate assumptions into its calculation of savings goals for the kits, and has implemented strategies to encourage high installation, including a "reach back" campaign through which the Company can follow up with customers who have requested the kits to evaluate whether the kits have been installed, and if not, why. *Id.* at 8:170-74, 9:190-10:199. Moreover, Nicor Gas has engaged in discussions with the independent evaluator to ensure evaluation of the installation rates of the home energy kits in PY3 of the Company's First EEP. *Id.* at 10:202-03.

ELPC expresses concerns with Nicor Gas' HEER program, arguing that Nicor Gas has not "properly accounted for insufficient installation rates." Crandall Dir., ELPC Ex. 1.0, 8:164-65. ELPC's concerns are unfounded. Both the reach back campaign and forthcoming evaluation results will provide sufficient data to establish a solid installation rate for the home energy kits. Jerozal Reb., Nicor Gas Ex. 7.0, 10:203-06. Nicor Gas will continue to develop and customize the home energy kits to maximize installation rates. *Id* at 10:202-10. Therefore, the Commission should reject ELPC's contentions that the Company has not sufficiently accounted for savings goals associated with these kits.

4. Fuel Switching

Section 8-104(b) of the Act defines "energy efficiency" as "measures that reduce the amount of energy required to achieve a given end use" and "that reduce the total Btus of electricity and natural gas needed to meet the end use or uses." 220 ILCS 5/8-104(b). Nicor Gas believes that this language explicitly allows electric and natural gas utilities to promote fuel switching measures that replace systems that utilize one fuel with more efficient systems that use a different fuel; Nicor Gas supports this interpretation, and notes that these measures may reduce overall energy use and support both national and statewide energy policies. Jerozal Dir., Nicor Gas Ex. 1.0, 36:780-37:808.

While Nicor Gas has not developed a separate fuel switching program, the Business Custom and Business New Construction programs contain enough flexibility to allow for the promotion of Combined Heat and Power ("CHP") systems, geothermal heat pumps, and other fuel switching measures. *Id.* at 37:810-13. Since these program designs include site-specific energy assessments of unique measures, they easily accommodate calculations of total Btu requirements. *Id.* at 37:813-14. If appropriate, the rebate structures and other delivery features in these programs could also be adjusted to the specific market barriers facing fuel switching measures. *Id.* at 814-16.

In support of the goals of reducing overall energy use and supporting national and statewide energy policies, the Commission should direct program administrators to work together to evaluate and develop certain technical aspects of a fuel switching program; after these initial discussions take place, the program administrators would present these findings to stakeholders and the SAG for further evaluation. Jerozal Reb., Nicor Gas Ex. 7.0, 11:236-12:241. ELPC and Staff also recommend that the SAG review these issues. *See* Crandall Dir., ELPC Ex. 1.0, 3:61-63; Hinman Dir., Staff Ex. 1.0, 57:1345-55.

The Commission should direct all stakeholders to work together in the SAG to develop approaches required for delivering fuel switching measures that are consistent with Section 8-104(b), including the development of standard analysis tools, assumptions for calculating total Btu usage and cost-effectiveness, and key design elements such as rebate levels and delivery strategies.

5. <u>Wasted Energy</u>

ELPC claims that, based on a study recently completed by ComEd, it is "likely that there are also significant behavioral efficiency opportunities for gas savings in the Nicor service territory." Crandall Dir., ELPC Ex. 1.0, 10:201-03. Based on ComEd's study, which ELPC admits was "conducted on customers using electricity in Illinois," ELPC argues that the Commission should direct Nicor Gas to "perform an analysis similar to the one performed by ComEd to determine the potential behavioral waste savings potential." *Id.* at 12:236-37, 13:262-63. ELPC asks the Commission to "require that Nicor conduct such an analysis within six months of the date of the order and include consideration of the assessment in delivering its programs during the second and third program periods of the EEP." *Id.* at 13:269-71.

The Commission should reject ELPC's proposal. ELPC has never conducted such a study, and is unable to identify any wasted energy study besides the study conducted by ComEd. Jerozal Reb., Nicor Gas Ex. 7.0, 13:262-63. Further, ELPC has conceded that it is unaware of the costs required to conduct such a study, and an examination of the ComEd study indicates that it took at least one year to complete. *Id.* at 13:278-84.

Nicor Gas has already accounted for potential therm savings associated with behavior change in its Second EEP; moreover, in light of the spending limits imposed by the Act, conducting a costly and lengthy study that has no quantifiable benefits would be detrimental to the Company's Second EEP. *Id*. at 14:285-96. The Commission should decline to order Nicor Gas to conduct a wasted energy study as the replication of such a study is wholly unsupported by the evidence.

B. Energy Efficiency Financing

While customer financing of energy efficiency projects is not a requirement of the Second EEP program design, filing, or obligation of the Company, Nicor Gas recognizes that there could be a barrier to some customers' involvement due to a lack of financial resources to overcome first costs of some energy efficiency measures. Quick Reb., Nicor Gas Ex. 10.0, 3:47-50. Nicor Gas has engaged in, and will continue to engage in, significant efforts to provide information and education to customers about the many financing opportunities available to them. *Id*. at 3:50-52, 5:91-92.

For example, Nicor Gas hosts a website providing EEP marketing collateral (www.NicorGasRebates.com), which has an entire page devoted to financing options for customers. *Id*. at 3:53-55. Nicor Gas presented evidence detailing the 13 financing options available to residential and business customers and included on the website: four different loan options for residential customers, seven options for businesses, and the newly amended On-Bill Financing ("OBF") Program option that is available to almost all customers and covers all measures offered in the EEP. *Id*. at 3:55-4:4:76.

Further, Nicor Gas presented evidence demonstrating that OBF options also are available and are part of a significant outreach and education effort that began January 1, 2014. *Id*. at 4:77-78. The OBF Program is prominently displayed on the Nicor Gas rebates home page and further details about the OBF options are explained on a separate linked web page exclusively designed to promote and educate customers about this offering (www.NicorGasRebates.com/programs/obf). Quick Reb., Nicor Gas Ex. 10.0, 4:81-85. There also is a state-wide website (www.ilenergyloan.com) where OBF loans are coordinated by one lender state-wide for all of the Illinois utilities participating in OBF. Quick Reb., Nicor Gas Ex. 10.0, 4:85-87.

Notwithstanding Nicor Gas' demonstrated efforts with respect to energy efficiency financing, ELPC and CUB appear to believe that the Company is somehow not doing enough. Specifically, ELPC recommends that the Company investigate additional financing options and CUB recommends that the Company provide additional information regarding its OBF Program and engage with the SAG regarding integration of the OBF Program. Crandall Dir., ELPC Ex. 1.0, 21:440-23:486; Devens Dir., CUB Ex. 1.0, 13:262-69; Devens Reb., CUB Ex. 2.0, 20:453-456. The Commission should summarily reject these recommendations as irrelevant to this proceeding. However, even if the Commission considers the substance of these recommendations, the Commission may reject them as based upon incorrect assumptions – such as CUB's lack of understanding of the Company's OBF Program – or unsupported by the evidence – such as ELPC's reliance upon financing options that use a model where the savings generated must exceed total costs, including financing costs, which is difficult if not impossible to achieve. *See* Quick Reb., Nicor Gas Ex. 10.0, 5:94-10:203; Quick Sur., Nicor Gas Ex. 14.0, 2:33-4:76.

C. <u>**Savings Goal Compliance Proceeding**</u>

Staff recommends that the Commission adopt the following findings:

> (1) The three-year cost-effectiveness results by program shall be reviewed and reported to the Commission in the three-year savings goal compliance proceeding per Section 8-104(f)(8) of the Act.
>
> (2) The Company is directed to petition the Commission to initiate the three-year savings goal compliance proceeding once the Section 8-104(f)(8) independent evaluation reports are available.

Hinman Dir., Staff Ex. 1.0, 10:214-20.

Nicor Gas does not oppose Staff's recommendations, which would initiate after the independent evaluation documents and cost-effectiveness analyses are available. Jerozal Reb., Nicor Gas Ex. 7.0, 23:511-13. Given that the Company's First EEP is not yet concluded, the Company notes that it has not yet had experience with the timing of when all necessary documents will be available such that the compliance proceeding recommended by Staff could commence. *Id.* at 24:515-16. However, Nicor Gas understands that the necessary independent evaluation documents and cost-effectiveness analyses may not become available until several months after the end of the First EEP. *Id.* at 24:516-17.

VI. CONCLUSION

For all the reasons set forth above, Nicor Gas respectfully requests that the Commission enter an Order in accordance with Section 8-104 of the Act approving Nicor Gas' proposed Second EEP and policy recommendations, as revised in this proceeding, and granting such further and additional relief as may be necessary.

Dated: March 17, 2014

Respectfully submitted,

NORTHERN ILLINOIS GAS COMPANY
D/B/A NICOR GAS COMPANY

By: /s/ Anne W. Mitchell
One of their attorneys

John E. Rooney
Anne W. Mitchell
ROONEY RIPPIE & RATNASWAMY LLP
350 West Hubbard Street, Suite 600
Chicago, Illinois 60654
(312) 447-2800
john.rooney@r3law.com
anne.mitchell@r3law.com

CERTIFICATE OF SERVICE

I, Anne W. Mitchell, hereby certify that I caused a copy of the Initial Brief to be served upon all parties on the service list in Docket No. 13-0549 on March 17, 2014 via electronic mail.

/s/ Anne W. Mitchell
Anne W. Mitchell