

STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

NORTH SHORE GAS COMPANY	)	
Proposed General Increase in	)	Docket No. 14-0224
Rates for Gas Service	)	
	)	
THE PEOPLES GAS LIGHT AND COKE COMPANY	)	
Proposed general increase in	)	Docket No. 14-0225
Rates for Gas Service	)	

**EXCEPTIONS AND BRIEF ON EXCEPTIONS  
OF  
THE PEOPLE OF THE STATE OF ILLINOIS**

**The People of the State of Illinois**

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The People of the State of Illinois (“the People”), by Lisa Madigan, Attorney General of the State of Illinois, pursuant to Part 200.830 of the Illinois Commerce Commission’s (“the Commission”) rules, 83 Ill.Admin.Code Part 200.830, herby file their Brief on Exceptions and Exceptions to the Proposed Order issued by the Administrative Law Judges (“ALJs”) in this proceeding on December 5, 2014.

**I. INTRODUCTION**

The People appreciate the efforts of the ALJs in the Proposed Order (“PO”) in their attempt to balance the interests of both ratepayers and Peoples Gas Light & Coke Company (“PGL,” “Peoples Gas” or “the Company”) and North Shore Gas Company (“NS” or “North Shore” or “North Shore Gas”) (collectively, “the Companies” or “the Utilities”) shareholders based on the evidentiary record in this case. The People applaud, for example, the Proposed Order’s well-reasoned adjustment to Peoples Gas’s forecast of 2014 Accelerated Main Replacement (“AMRP”) spending, thereby reducing what would have been a significantly

inflated rate base entry. While the Proposed Order, of course, does not grant the entirety of PGL's and NS's request for a \$100.5 million and \$6.5 million increase, respectively, it nevertheless continues the pattern of substantially increasing NS/PGL customer rates in this, the Companies' fifth rate case in seven years – this time by \$70.4 million for PGL and \$3.7 million for NS -- and thereby increasing, yet again, customer rates for the two companies that have the dubious distinction of having the highest natural gas delivery service rates in the State of Illinois.

While the People disagreed with conclusions in the Proposed Order on the Companies' proposed recovery on a variety of expense items (including proposed test year level of medical benefits, postal expense and legal expense), this Brief on Exceptions will focus on three key expense and rate design issues in the case that warrant closer examination and reconsideration by the Commission: (1) Employee level expense; (2) Integrys Customer Experience ("ICE") project affiliate expenses; and Residential Rate Design conclusions.

As discussed below, the Proposed Order fails to reconcile the Companies' forecast of employee numbers for the test year with its most recent reported actual employee numbers, as well as information received in Docket No. 14-0496 – the NS/PGL parent company's proposed merger with Wisconsin Energy Corporation. Second, with respect to the ICE expenses, information disclosed in ICC Docket No. 14-0496 and admitted into the record in the present cases and evidence of annualized expenses in 2014, establishes that the ICE project costs forecasted by the Companies for the 2015 test year should not be included in the test year revenue requirement. In particular, the information disclosed in ICC Docket No. 14-0496 shows that the ICE O&M expenses in 2015 are negligible, and that the ICE benefits (which completely offset the ICE costs) will begin concurrently with the IBS billings to the Companies for the costs of the ICE project.

Finally, while the People applaud the Proposed Order's sound rejection of Straight Fixed Variable pricing rate design, as well as the Companies' proposals to once again significantly increase Residential Heating (and Non-Heating) customer charges, the conclusion fails to address more fully the inequities of this refuted rate design by adopting a Staff-proposed rate design for both Residential Heating and Non-Heating customer rates that retains or increases the current SFV percentage of revenue recovery through the customer charge. As discussed below, the Commission should adopt the reasonable rate design recommendations of AG/ELPC witness Scott Rubin, which would collect (1) approximately 52% of PGL's Heating non-storage revenues and 64% of North Shore's Heating non-storage revenues through the customer charges, and (2) approximately 73% of PGL Non-Heating (non-storage) revenues and 78% of North Shore Non-Heating revenues through the customer charges. These proposals will start the process of restoring the Companies' residential customer charges to more traditional (and fairer) levels, and as the record evidence shows, end the cross-subsidization of higher-use customers by lower users, consistent with cost-causation principles, all while serving the Commission's and the General Assembly's goal of encouraging energy efficiency.

**II. EXCEPTION NO. 1: The Companies Failed To Establish That They Will Fill Open Employment Positions In the Test Year To Reach Their Forecasted Levels.**

As to each of the two Companies, the Proposed Order finds that the respective Company "offered detailed evidence regarding its current and planned hiring practices, and identified specific positions that are due to be filled." PO at 62, 66. Thus, the Proposed Order would allow recovery based on the Companies' projections of 1,356 Full-Time Equivalent ("FTE") employees at Peoples and 178 FTE employees at North Shore during the 2015 test year. This part of the PO, however, fails to take account of the full evidentiary record and lacks findings

sufficient to support a conclusion that the Companies have met their burden to establish their test-year employment levels. It is not enough that the Companies merely identify nominally open positions. While it is true that the Companies offered statements about intentions of future hiring, the People showed extensive evidence of the Companies' consistent past differentials between actual and authorized headcount. As the People stated in their Initial Brief at 25, and as PGL witness Lazzaro confirmed in cross-examination, in each and every month from January through July of 2014, the actual FTE employment level was below the authorized level. Tr. at 109:17-21. As a reference, the number of authorized and actual FTE employees at Peoples Gas for the last six months of 2013 and first seven months of 2014 is as follows, as shown in the People's Initial Brief at 26:

	Peoples Gas authorized FTE employment <sup>1</sup>	Peoples Gas actual FTE employment <sup>2</sup>
July 2013	1,358	1,323
August 2013	1,358	1,315.5
September 2013	1,358	1,305.5
October 2013	1,358	1,308.5
November 2013	1,358	1,305.5
December 2013	1,358	1,299.5
January 2014	1,356	1,305.5
February 2014	1,356	1,306.5
March 2014	1,356	1,304.5
April '14	1,356	1,298.5

<sup>1</sup> AG Cross Exhibit 10 at 4, 8, 11.

<sup>2</sup> AG Cross Exhibit 10 at 4, 8, 11.

May 2014	1,356	1,296.6
June 2014	1,356	1,322.6
July 2014	1,356	1,314.6

The number of authorized and actual FTE employees at North Shore Gas for the last six months of 2013 and first seven months of 2014 is as follows, as shown in the People’s Initial Brief at 29:

	North Shore authorized FTE employment <sup>3</sup>	North Shore actual FTE employment <sup>4</sup>
July 2013	170.68	165.7
August 2013	170.68	163.7
September 2013	170.68	162.7
October 2013	170.68	163.7
November 2013	170.68	164.7
December 2013	170.68	164.7
January 2014	177.68	164.7
February 2014	177.78	165.70
March 2014	177.68	166.70
April 2014	177.68	166.70
May 2014	178.68	165.70
June 2014	178.68	163.68
July 2014	178.68	163.68

Clearly, both Companies have been conducting operations for at least twelve months without filling the authorized employment levels, so the Commission should be highly skeptical of any stated plan to actually fill nominally open positions. The Commission should give a second or even a third thought to simply taking the Companies’ word that they will fill these openings.

<sup>3</sup> AG Cross Exhibit 1 at 2, 4, 5.

<sup>4</sup> AG Cross Exhibit 1 at 2, 4, 5.

Additionally, the Companies' "detailed evidence" regarding planned hiring does not support their narratives. For example, although North Shore witness Kinzle in his August 2014 rebuttal testimony forecasted hiring of thirteen new employees in September 2014 (NS-PGL Ex. 31.0 at 4), he could not confirm their actual hiring in either his surrebuttal testimony filed September 12th or his cross examination and re-direct examination on September 22nd. Tr. at 58:16-17. Similarly, PGL witness Lazzaro spoke in his August 2014 rebuttal testimony (NS-PGL Ex. 23.0 (2nd Rev.) at 10:204-205) about 20 new interns from Dawson Technical Institute who would start work in September 2014, but he could not confirm their hiring in either his surrebuttal testimony filed September 12th (NS-PGL Ex. 38.0 at 7:134-135) or his cross examination and re-direct examination on September 22nd. Mr. Lazzaro also admitted that the internship is merely a six-week evaluation by management and peers; permanent employment is not guaranteed. Tr. at 111.

Moreover, the predictable effect of attrition attenuates the net impact of any planned future hiring, even if the latter were plausible. For example, Peoples Gas hired 21 utility workers from Dawson Technical Institute in April 2014, but the number of Peoples Gas FTE employees decreased from 1,304.5 at the end of March 2014 to 1,298.5 employees at the end of April 2014 and then to 1,296.5 at the end of May 2014. AG Ex. 7.0 at 10:199-203; AG Cross Exhibit 10 at 8. Mr. Lazzaro admitted during cross-examination that attrition at the Company is generally positive. Tr. at 114:2-5. He also admitted that eight employees left the Company during July of 2014 due to "some retirements and possibly a termination." Tr. at 113. Similarly, North Shore witness Kinzle admitted that historically, the Company's employee attrition is positive, and the net effect of new hires versus attrition is zero (Tr. at 58:1-9), which implies that any new hires that are actually effected in the latter part of 2014 may very well be balanced by an equal

amount of employee departures. As the People stated in their Initial Brief at 27-28, it is clear that the Company would have to constantly hire *more than attrition* just to keep employment levels from falling; in order to prove a sustainable increase in employment levels, the Companies must show that hiring *net of attrition* will be positive, something the Companies did not do.

As the People showed in their Initial Brief at 24-32 and in their Reply Brief at 12, their proposed test-year employment forecasts are based on the Companies' last known actual headcounts. For example, the number of Peoples Gas FTE employees decreased from 1,304.5 at the end of March 2014 to 1,298.5 employees at the end of April 2014 and then to 1,296.5 at the end of May 2014. AG Ex. 7.0 at 10:199-203; AG Initial Brief at 24-25. This level is below the average actual FTE employment level of 1309.6 from the last six months of 2013. AG Cross Exhibit 10 at 4. Based on Peoples' recent actual employment levels, Mr. Effron proposed that PGL's test-year FTE employee level should be reduced to 1,319, the average for June and July of 2014. AG Ex. 7.0 at 10:205-2011. Moreover, the North Shore forecast was developed based on recent actual North Shore employment, which was stable around 166 or 167 in the first five months of 2014 and then actually *dropped* in June and July. AG Cross Exhibit 1 at 4, 5; Tr. at 54:18-55:1; AG Initial Brief at 29. Based on this level of actual employment, Mr. Effron proposed allowing recovery at a projected test-year employment level of 166. AG Ex. 1.0 at 16:341-342; AG Ex. 7.0 at 9:182-185.

The Proposed Order also takes no account of the Joint Applicants' response to data request ENG 1.23 from Docket No. 14-0496, the ICC proceeding for the merger application of the Utilities' parent company Integrys Energy Group, Inc. and Wisconsin Energy Corporation (the "Merger Case"). In that discovery response, the Joint Applicants stated that they commit to

preserve employment level in Illinois of 1,953 FTEs for two years after the proposed July 2015 merger closing, based on the following company-by-company breakdown:

- Peoples Gas; 1,294 FTEs
- North Shore: 166 FTEs
- Integrys Business Support: 493 FTEs

AG Cross Exhibit 11. Part of this proceeding's 2015 test year falls within the 24-month post-merger period for which the Joint Applicants in Docket No. 14-0496 are promising the 1,953 minimum FTE aggregate employment level. The North Shore employment figure in the Merger Case commitment is equal to Mr. Effron's recommendation in this rate case, while the Peoples figure in the Merger Case is *below* Mr. Effron's recommendation for the test year in this proceeding. As the People stated in their Reply Brief at 14, there seems no apparent reason why the Companies would choose to commit to levels of employee headcounts that are *lower* than the headcounts necessary to provide safe and reliable service; furthermore, the Companies have not explained why it would be appropriate to include headcounts in the test-year revenue requirement that *exceed* the numbers necessary to provide safe and reliable service. These figures provide an additional reason for the Commission to adopt Mr. Effron's downward adjustment to the Companies' forecasted test-year employment levels.

**Exception No. 1 Proposed Language**

For the reasons discussed above, the People recommend deleting the "Commission Analysis and Conclusion" sections on pages 62 and 66 of the PO for Peoples Gas and North Shore Gas, respectively. The People recommend inserting the following language in the place of those respective sections:

(Peoples Gas)

The Commission finds that, despite Peoples Gas’s evidence of its planned hiring practices, its past hiring practices suggest that there is a good chance it will leave the currently authorized but open positions unfilled during the 2015 test year. Moreover, while Peoples Gas mentioned in rebuttal testimony an intention to hire interns from a local college in the month of September, 2014, its surrebuttal testimony filed in September and its re-direct examination in September gave no indication that it actually hired the employees. The Company also did not explain how it would counter the effects of likely attrition; it also did not explain why its forecasted test-year employment level is so far above the level of 1,294 FTEs indicated as an employment commitment in Docket No. 14-0496. Mr. Effron’s proposal to allow recovery at a test-year FTE employment level of 1,319 is based on actual recent employment levels and is hereby adopted. This adjustment reduces PGL’s test-year operation and maintenance expense by \$1.904 million and related payroll taxes by \$129,000.

(North Shore Gas)

The Commission finds that, despite North Shore’s evidence of its planned hiring practices, its past hiring practices suggest that there is a good chance it will leave the currently authorized but open positions unfilled during the 2015 test year. Moreover, while North Shore mentioned in rebuttal testimony an intention to hire thirteen new employees in the month of September, 2014, its surrebuttal testimony filed in September and its re-direct examination in September gave no indication that it actually hired the employees. The Company also did not explain how it would counter the effects of likely attrition; it also did not explain why its forecasted test-year employment level is so far above the level of 166 FTEs indicated as an employment commitment in Docket No. 14-0496. Mr. Effron’s proposal to allow recovery at a test-year FTE employment level of 166 is adopted. This adjustment reduces North Shore’s test-year operation and maintenance expense by \$670,000 and related payroll taxes by \$48,000.

**III. EXCEPTION NO. 2: The Commission Should Reject the Proposed Order’s Conclusions Regarding ICE-Project-Related Expenses.**

At pages 86 and 89, respectively, the Proposed Order rejects Mr. Effron’s proposed adjustments to (1) the Utilities’ forecasts of depreciation and return on assets (“ROA”) related to the hardware and software and (2) their forecasts of Non-Labor expenses associated with the

Integrus Customer Experience (“ICE”) project. The Proposed Order rejects Mr. Effron’s essentially unchallenged analysis of the amounts PGL and NS have actually incurred as part of the project in favor of the Utilities’ cost projections; projections that have consistently been wrong and overstated the level of ICE Project-related expenses eventually allocated to North Shore and Peoples Gas. The Proposed Order also faults Mr. Effron’s adjustments for relying on 2014 actual data, a period during which, the PO alleges, “only a small portion of the ICE project was in service.” The Proposed Order’s conclusions are in error on both points and should be rejected.

**a. Return on Assets (“ROA”) and Depreciation**

The Proposed Order’s primary fault with Mr. Effron’s analysis is that he failed to “consider the Utilities’ forecasted expenditures and plant in service activity.” PO at 86. The Proposed Order is wrong. Mr. Effron reviewed – and considered “the Utilities’ forecasted expenditures” - and concluded correctly that the forecasts are lacking, stating that “[t]he Companies are forecasting substantial increase in the ROA and depreciation on the ICE project, but so far, based on the actual experience in 2014, there is little evidence that such increases are actually taking place.” AG Ex. 7.0 at 18-19:395-398.

In making this conclusion, Mr. Effron compared (1) the actual data for the first six months of 2014, annualized for the rest of the year and (2) the Utilities’ forecasted ROA/depreciation for the 2015 test year. The results of Mr. Effron’s comparison are below.

	<u>NS</u>	<u>PGL</u>
Forecasted 2015 ROA/Depreciation	\$1,378,000	\$7,263,000
Six Months 2014 Actual Data Annualized	\$124,000	\$652,000
Difference	\$1,254,000	\$6,611,000

*Id.* at 19:400-407. That is, North Shore and Peoples Gas’s 2015 test year depreciation/ROA estimates are more than *ten times greater* than the annualized actual depreciation/ROA allocations for 2014. Given such a great disparity, it is not surprising that Mr. Effron viewed the Utilities’ 2015 estimates with a wary eye. Mr. Effron concluded that the Companies’ untrustworthy projections warranted reducing North Shore’s test-year depreciation/ROA allocation by \$1,254,000 and Peoples Gas’s allocation by \$6,611,000. AG Ex. 7.0 at 19-20:4-17-423; AG Ex. 7.1; AG Ex. 7.2.

Information provided after the hearings concluded in the instant dockets in a separate proceeding – Docket No. 14-0496 – confirmed Mr. Effron’s suspicion of the Companies’ projections. In Docket No. 14-0496, the Commission is considering the proposed merger between Wisconsin Energy Company and the Utilities’ parent company, Integrys Energy Group, Inc. (the “Merger Case”). In that case, the Companies submitted a data request response and attachment to AG data request 3.05 that detailed the projected cost allocations and the benefits associated with the ICE Project.<sup>5</sup> As summarized below, the information regarding Project ICE included in the response in the Merger Case is dramatically different than the information submitted in these cases in several important respects.

- In the instant cases, the Utilities, in response to Staff Data Request DLH 5.07, stated that their budgeted depreciation and return on the ICE project was forecasted to increase from approximately \$11,000 in 2012 to almost \$1,378,000 in 2015 for North Shore and from about \$56,000 in 2012 to almost \$7,263,000 in 2015 for Peoples Gas. *See* NS Ex. 13.0 at 9:189-191; PGL Ex. 13.0 at 9:186-188; AG Ex. 1.0 at 33:722-725. In sharp contrast, in Attachment 1 to the response to AG data request 3.05 in the Merger Case, the Utilities forecasted that return on investment and depreciation related to the ICE Project would not even start until [REDACTED].

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<sup>5</sup> In response to the People’s Motion to Admit New Information, the ALJs admitted the data request response and attachment into the record in these consolidated cases. Notice of Administrative Law Judges’ Ruling (Nov. 10, 2014).

- Page 2 of Attachment 1 to the response shows that the estimated [REDACTED] ICE O&M expense allocated to Peoples Gas is approximately \$ [REDACTED] and to North Shore is approximately \$ [REDACTED]. However, in *this* proceeding, the Companies claimed that the 2015 non-labor ICE O&M expense allocated to Peoples Gas will be approximately \$9,058,000 - or nearly [REDACTED] times higher than the earlier estimate. AG Cross Ex. 5. The North Shore estimate increases more than [REDACTED] times from the earlier projection to \$1,504,000. AG Ex. 1.0 at 34:757-761.
- The Attachment to the response to AG 3.05 indicates that the Companies will experience net benefits from the ICE project at the same time that the [REDACTED] O&M billings to Peoples Gas and North Shore begin - information completely at odds with the Companies' statements<sup>6</sup> in the instant rate case that only costs (and no benefits) will be recorded during the test year. Attachment 1 to the Response shows on page 2 in the "Net Incremental Impact to Utilities" section that both PGL and NS will experience net *benefits* (\$ [REDACTED] and \$ [REDACTED], respectively) from the ICE project in [REDACTED], not net *costs*.

This last point is especially noteworthy. According to the information submitted in the Merger Case, the ICE project will generate cost savings adequate to totally offset the costs of the project so that on balance there will actually be a *net reduction to expenses*. In the instant proceedings, miraculously, the Companies have asserted that savings will not occur until 2016, a year after the test year in the present cases. AG Cross Ex. 7, 8.

It is no wonder Mr. Effron was skeptical of the Companies' ICE Project forecasts. To believe the Companies, one must unquestionably accept that, by happenstance, the 2015 test year will be the twelve-month period when the costs associated with ICE project – costs that are greatly in excess of those incurred in 2013 or 2014 - will be fully incurred, but any savings associated with the project are just outside the reach of the test year period. The Companies position strains credulity.

Thus, contrary to the Proposed Order's claim, Mr. Effron did consider the Companies' forecasts. In doing so, Mr. Effron concluded that the forecasts submitted in this case are not

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<sup>6</sup> See, e.g., AG Cross Ex. 7 ("The baseline plan calls for the ICE savings to be achieved starting in 2016, with no reductions in the 2015 Test Year"); see also Tr. at 89:7-11 (PGL witness Tracy Kupsh testified that "there will be no net savings from the ICE project in 2015"; AG Cross Ex. 8.

reliable because North Shore's and Peoples Gas's respective 2015 test-year depreciation/ROA estimates are more than *ten times greater* than the annualized actual depreciation/ROA allocations for 2014. In addition, the ICE Project-related information submitted in the Merger Case is drastically different in many important respects than the information submitted here. The discrepancies between the Utilities' data submitted in the two cases has not been explained, calling into question the Companies' forecasted level of ICE-related expenses. In short, the Utilities have not met their burden of proof and their position, not Mr. Effron's, "lacks factual and evidentiary support."

The Proposed Order's criticism that Mr. Effron's adjustment calculations are erroneous because they were based on 2014 data is also misguided. As shown above, the Utilities did not submit reliable, believable projections of ICE-Project-related allocations for the 2015 test year. Their projections are not support by the record evidence. Mr. Effron appropriately extrapolated six months of actual data in 2014 to determine a more realistic estimate of 2015 ICE Project allocations.

For the reasons described above, the Commission should adopt Mr. Effron's recommendations that North Shore's test year depreciation/ROA allocation should be reduced by \$1,254,000 and Peoples Gas's allocation be reduced by \$6,611,000. AG Ex. 7.0 at 19-20:4-17-423; AG Ex. 7.1; AG Ex. 7.2.

**b. Non-Labor**

In addition to the Depreciation/ROA-related expenses, Mr. Effron also proposed to adjust the forecasted 2015 test-year non-labor ICE Project expenses. The Proposed Order claims that Mr. Effron's non-labor ICE project expense adjustments "lack factual support." PO at 89. The Proposed Order's conclusion should be rejected.

Like the data submitted with respect to Depreciation/ROA-related expenses, the Companies failed to provide realistic estimates of their forecasted increases in the ICE Non-Labor expenses during the 2015 test year. *See*, AG Ex. 1.0 at 34-35:763-773; AG Ex. 7.0 at 21-222:460-468. In his Direct Testimony, Mr. Effron stated that North Shore's non-labor ICE Project expenses decreased from \$989,000 in 2012 to \$178,000 in 2013. Mr. Effron added that the actual expenses in the first four months in 2014 were \$83,000, which extrapolates to an annual non-labor ICE expense level of \$249,000, still well short of the actual 2012 expense. AG Ex. 1.0 at 34-35:763-773. The numbers for Peoples Gas are similar. "Non-labor ICE expenses charged to PGL decreased from \$5,140,000 in 2012 to \$954,000 in 2013. The actual expenses in the first four months in 2104 were \$443,000, which translates into an annualized non-labor ICE expense level of \$1,329,000, still well short of the actual 2012 expense." *Id.* at 34:769-773.

In his Rebuttal Testimony, Mr. Effron updated his analysis to include six months of non-labor ICE Project actual expenses in 2014. Based on the actual experience in the first half of 2014, the annualized ICE expenses allocated from IBS to North Shore is \$252,000, and the annualized non-labor ICE expenses allocated from IBS to Peoples Gas is \$1,352,000. This compares to forecasted expenses of \$1,504,000 to North Shore and \$9,058,000 to Peoples Gas for the 2015 test year. AG Ex. 7.0 at 21:444-450. Based on this analysis, Mr. Effron recommended that North Shore's 2015 test year non-labor ICE expenses be reduced by \$1,252,000. Mr. Effron recommended a \$7,706,000 reduction to 2015 test-year ICE non-labor allocated from IBS to PGL. *Id.* at 21:460-465; AG Ex. 7.1; AG Ex. 7.2.

As with the projections the Companies submitted with respect to depreciation/ROA Ice expenses, their 2015 test year non-labor ICE expense estimates are not credible. Mr. Effron relied on actual data provided by the Companies in their data responses in this case and the

information supplied in the Merger Case to support his analysis. The evidence shows that non-labor ICE expenses are not increasing as the Utilities have forecasted. In contrast to the Companies' grossly exaggerated forecasts, Mr. Effron's analysis is grounded in reality.

The Commission should reject the Proposed Order's conclusion regarding the AG's recommended adjustments for the Companies 2015 test-year non-labor ICE expense estimates. North Shore's 2015 test-year non-labor ICE expenses should be reduced by \$1,252,000. Peoples Gas's 2015 test-year non-labor ICE expenses should be reduced by \$7,706,000. AG Ex. 7.0 at 21:460-465; AG Ex. 7.1; AG Ex. 7.2.

**c. Burden of Proof**

Besides wrongly rejecting the AG's adjustments concerning depreciation/ROA- and non-labor-related ICE Project costs, the Proposed Order unlawfully shifts the burden of proof in reaching its conclusions. There is no question that the Companies bear the burden of proving that their proposed rates are just and reasonable in amount and prudently incurred. 220 ILCS 9-201(c). Other than criticizing the AG for failing to accept unquestioningly the Utilities' forecasts, the Proposed Order does not critically evaluate the Utilities' evidence concerning the ICE Project. There is no assessment of the quality of the Companies' cost forecasts despite uncontroverted evidence that (1) the Utilities' projected costs for the 2015 test year are more than ten times greater than the annualized actual depreciation/ROA allocations for 2014 and (2) the information the Companies submitted in the Merger Case regarding the ICE Project is dramatically different in several important respects from the data they submitted here.

For example, the Proposed Order does not comment on, much less critically assess, the fact that the information submitted in the Merger Case forecasts that the ICE Project will provide net benefits to ratepayers during the 2015 test year. Nor does the Proposed Order seem

concerned by the fortuitous fact that the Utilities' forecasts in these consolidated cases show that they will incur substantial ICE Project-related costs during the test year, but any savings derived from the program will not occur until 2016, too late to be captured in the rates to be established in this case. Not only does the Proposed Order seemingly blindly accept these dubious propositions, it criticizes the AG for failing to do the same. In so doing, the Proposed Order has unlawfully relieved the Utilities from meeting their statutorily-assigned burden of proof and shifted it to the People.

**d. Statement Regarding ICE Project Forecasts from Merger Case Admitted in These Cases**

In its penultimate sentence in the "Commission Analysis and Conclusion" section concerning depreciation/ROA ICE costs, the Proposed Order states "[t]he Commission notes as well that issues and speculation related to ICC Docket No. 14-0496 have no bearing here." PO at 86. It is not clear to what this statement is referring, but if it includes the information the AG successfully moved be admitted into the record in this case, the statement is particularly troubling for at least two reasons.

First, the "issues and speculation related to ICC Docket No. 14-0496" the Proposed Order refers to was the subject of a Motion to Admit New Information submitted by the AG on October 30, 2014 ("AG Motion"). The utilities submitted their response to the AG Motion on October 31, 2014, and the AG filed its reply on November 3, 2014. After considering the pleadings, on November 10, 2014, the Administrative Law Judges issued an Order stating "The Attorney General of the State of Illinois' Motion to Admit New Information, specifically the Response to data request AG 3.05 with its attachment in Docket No. 14-0496, is granted[.]" Notice of Administrative Law Judges' Ruling (Nov. 10, 2014). The Proposed Order provides no explanation of how information that was the subject of a fully-briefed motion can go from being

admitted into the record on November 10, 2014 to having “no bearing here” in a Proposed Order issued less than a month later. The Proposed Order’s unexplained, abrupt u-turn is arbitrary and capricious and tantamount to a game of evidentiary bait and switch. The Proposed Order’s rejection of evidence that was recently admitted into the record is not tenable.

Second, and perhaps more importantly, the Proposed Order’s statement invites mischief. In essence, the Proposed Order buries its head in the sand and says “It is not relevant that a party submitted contrary information in another case; we are only focusing on the evidence submitted in this case.” This suggests contrary information from a different case is unimportant. Parties need not try to impeach witnesses or parties with inconsistent evidence or information from another proceeding (or seek to have that information entered into the record of a current case), because, according to the Proposed Order, such evidence is not relevant. Moreover, the Proposed Order’s conclusion sends a message to parties that it is fine to submit contrary evidence or information from case-to-case because there is no penalty for doing so. The Proposed Order’s cavalier attitude about impeaching a party with contrary evidence or information from another case violates fundamental notions of due process and would be poor public policy if adopted by the Commission. The Proposed Order’s statement on this point should be stricken.

### **Exception No. 2 Proposed Language**

For the reasons discussed above, the Proposed Order’s conclusions regarding depreciation/ROA- and non-labor-related ICE Project costs should be modified in two ways. First, the “Commission Analysis and Conclusion” section regarding depreciation/ROA- ICE Project costs at page 86 should be deleted. The following language should be inserted in its place.

The Commission adopts the adjustments recommended by AG witness Mr. Effron. Mr. Effron correctly pointed out that the Companies' ICE Project forecasts are not reliable. The Commission understands that, by their nature, forecasts are not precise. However, that does not mean that the Commission should unquestionably accept projections utilities make regarding projected costs and benefits. This is especially true in the context of a future test year.

The Companies' ICE Project-related costs do not bear scrutiny. As Mr. Effron testified, the Utilities' estimated depreciation/ROA ICE Project costs for the 2015 test year are more than ten times greater than the 2014 annualized costs. On top of that, the Utilities submitted information concerning ICE Project-related costs in Docket 14-0496 (the "Merger Case") that differs greatly from the projections provided in these cases. A few of those differences are described below.

- In the instant cases, the Utilities, in response to Staff Data Request DLH 5.07, stated that their budgeted depreciation and return on the ICE project was forecasted to increase from approximately \$11,000 in 2012 to almost \$1,378,000 in 2015 for North Shore and from about \$56,000 in 2012 to almost \$7,263,000 in 2015 for Peoples Gas. See NS Ex. 13.0 at 9:189-191; PGL Ex. 13.0 at 9:186-188; AG Ex. 1.0 at 33:722-725. In sharp contrast, Attachment 1 to the response to AG data request 3.05 in the Merger Case, the Utilities forecasted that return on investment and depreciation related to the ICE Project would not even start until [REDACTED].
- Page 2 of Attachment 1 to the response shows that the estimated [REDACTED] ICE O&M expense allocated to Peoples Gas is approximately \$ [REDACTED] and to North Shore is approximately \$ [REDACTED]. However, in these proceedings, the Companies claimed that the 2015 non-labor ICE O&M expense allocated to Peoples Gas will be approximately \$9,058,000 - or nearly [REDACTED] times higher than the earlier estimate. AG Cross Ex. 5. The North Shore estimate increases more than [REDACTED] times from the earlier projection to \$1,504,000. AG Ex. 1.0 at 34:757-761.
- The Attachment to the response to AG 3.05 indicates that the Companies will experience net benefits from the ICE project at the same time that the [REDACTED] O&M billings to Peoples Gas and North Shore begin - information completely at odds with

the Companies' statements<sup>7</sup> in the instant rate case that only costs (and no benefits) will be recorded during the test year. Attachment 1 to the Response shows on page 2 in the "Net Incremental Impact to Utilities" section that both PGL and NS will experience net *benefits* (\$████ and \$████, respectively) from the ICE project in 2015, not net *costs*.

This last point is especially noteworthy. According to the information submitted in the Merger Case, the ICE project will generate cost savings adequate to totally offset the costs of the project so that on balance there will actually be a *net reduction to expenses*. In the instant proceedings, the Companies have asserted that savings will not occur until 2016, a year after the test year in the present cases. AG Cross Ex. 7, 8. The Commission is wary of such a fortuitous coincidence, one that would benefit the Utilities at the expense of ratepayers.

In contrast to the Companies' projections Mr. Effron used six months of actual data in 2014 and extrapolated that through the end of the year to derive his proposed adjustments. The Commission finds that Mr. Effron's adjustments are reasonable and should be adopted. Accordingly, North Shore's test year depreciation/ROA allocation should be reduced by \$1,254,000 and Peoples Gas's allocation be reduced by \$6,611,000. AG Ex. 7.0 at 19-20:4-17-423; AG Ex. 7.1; AG Ex. 7.2.

Second, the "Commission Analysis and Conclusion" section regarding non-labor ICE Project costs at page 89 should be deleted. The following language should be inserted in its place.

The Commission adopts the adjustment recommended by AG witness Mr. Effron. As with the Companies' forecasts for depreciation/ROA ICE Project expenses, the Commission finds that the Utilities' projections for non-labor ICE Project expenses are not credible. The Commission explained its problems with the Companies' projections in the depreciation/ROA section above. We will not repeat our concerns here. Suffice to say, the Commission finds that the Utilities failed to meet their statutorily-assigned burden of proof.

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<sup>7</sup> See, e.g., AG Cross Ex. 7 ("The baseline plan calls for the ICE savings to be achieved starting in 2016, with no reductions in the 2015 Test Year"); see also Tr. at 89:7-11 (PGL witness Tracy Kupsh testified that "there will be no net savings from the ICE project in 2015"; AG Cross Ex. 8.

Like his analysis of depreciation/ROA ICE Project expenses, Mr. Effron used six months of actual data in 2014 and extrapolated that through the end of the year to derive his proposed non-labor ICE Project expense adjustment. The Commission concludes Mr. Effron's adjustment is credible and is adopted. Accordingly, North Shore's 2015 test year non-labor ICE expenses should be reduced by \$1,252,000. Peoples Gas's 2015 test-year non-labor ICE expenses should be reduced by \$7,706,000. AG Ex. 7.0 at 21:460-465; AG Ex. 7.1; AG Ex. 7.2.

#### IV. EXCEPTION NO. 3 – RESIDENTIAL RATE DESIGN

The Proposed Order correctly finds that the Companies' "proposed increases in the customer charges pursuant to its SFV based rate design are inconsistent with public policy," as thoroughly discussed in the "Fixed Cost Recovery" section of the Proposed Order. Proposed Order at 187-190, 195-196 and 209. In doing so, the Proposed Order states that it "finds that Staff's and Intervenor's arguments in favor of assigning demand based costs to volumetric charges are consistent with energy efficiency and the avoidance of cross subsidies." *Id.* at 209. Indeed, the Proposed Order rejects all of the Companies' arguments in favor of higher customer charges, including the PGL/NS assertions that:

(1) All cost are fixed: *"If demand costs are recovered through the distribution charge, the recovery method assumes the costs are not the same for all customers to serve them and that customers with higher usage will have higher peak demands and be more costly to serve than small use customers. As Staff notes, while this may not be true in each and every case, it is more reasonable than the Companies' proposed rate design's implied assumption that all customers within a class cause the utility to incur the same amount of demand costs."*<sup>8</sup>

(2) Energy efficiency incentives are addressed through other means than customer charges: *"The Companies' rate design encourages increased consumption through lower per therm*

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<sup>8</sup> Proposed Order at 188.

*distribution charges. Thus, the price signal for ratepayers to conserve is weakened.”*<sup>9</sup>

(3) Heating and Non-Heating classifications address cross-subsidy issues of low-users subsidizing high-users: “*It is patent that high customer charges mean the Companies’ lowest users bear the brunt of rate increases, and subsidize the highest energy users.*”<sup>10</sup> and

(4) The sole purpose of rate design is to ensure the recovery of revenues: “*The Commission rejects the Companies’ claim that customer charges must be raised to ensure cost recovery.*”<sup>11</sup>

These well-supported findings are contradicted, and indeed effectively muted, however, by the remainder of the Proposed Order’s Rate Design conclusions for Residential Heating and Non-Heating customers, which favor Staff’s more “conservative” rate design over AG/ELPC witness Rubin’s proposed design. In doing so, the Proposed Order sets the Companies’ Residential Heating rates at a rate that the AG estimates would *increase* the amount of fixed costs recovered through the customer charge for PGL customers from 62% to 63%, and essentially retain the amount of fixed costs recovered through the customer charge for North Shore customers, from 73% to 72%, notwithstanding its clear rejection of SFV pricing. It does so, apparently, out of concern that because Mr. Rubin proposes a rate design that collects a generous 52% of non-storage revenue from HTG customers through customer charges and 73% from NH customers, “even if the Commission grants Peoples its full proposed revenue increase, the HTG customer charge would remain at \$26.91.” Proposed Order at 189. The Non-Heating conclusion is similarly opaque, with Non-Heating customer charges under the Proposed Order reflecting a *higher* percentage of fixed cost recovery through the customer charges.

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<sup>9</sup> *Id.* at 189.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 188-189 (emphasis added).

Second, having adopted Staff's proposed rate design, the Proposed Order appears to then set customer charges at levels that *exceed* and indeed are inconsistent with the revenue requirement adopted in the Proposed Order.

As discussed below, adoption of AG/ELPC witness Scott Rubin's proposed rate design is, in fact, more conservative than the Commission's most recent rate design orders, which establish a clear retreat from SFV pricing, and sets monthly flat customer charges at rates that recover substantially less than 50% of fixed costs through the customer charge. The Commission should revise the Proposed Order's rate design conclusions and adopt AG/ELPC witness Rubin's more equitable recommendations, which – more so than Staff's proposal – represent a tangible retreat from SFV pricing, and remedy the inequity of the Companies' lowest users of natural gas subsidizing the highest PGL/NS users, while serving the Commission's and the General Assembly's public policy goals of encouraging efficiency and conservation.

**A. Staff's Recommended Rate Design Fails to Recognize the Risk-Free Revenue Recovery Environment that Peoples Gas and North Shore Enjoy and In Fact Does Not Provide Relief From High Customer Charges.**

While Staff witness Johnson concurred with Mr. Rubin that the Commission should continue its recent rejection of SFV price trends, his proposal that the Companies' fixed cost recovery through customer charges be set at approximately 63% based on a strict allocation of demand-related costs to variable charges not only does not go far enough in retreating from SFV pricing, but actually *increases* the amount of revenues recovered through the fixed customer charges for Peoples Gas Heating customers and essentially retains the amount of revenues recovered through fixed customer charges for North Shore customers, as shown in the table below:

<b><u>% of Non-Storage Rev. from Customer Chg. at Prop. Order Revenue Requirement<sup>12</sup></u></b>				
<b><u>Peoples Gas</u></b>				
	<u>Company</u>	<u>Staff</u>	<u>AG/ELPC</u>	<u>(Current)</u>
Heating	75%	63%	52%	62%
Non-heat	90%	90%	73%	81%
<b><u>North Shore Gas</u></b>				
	<u>Company</u>	<u>Staff</u>	<u>AG/ELPC</u>	<u>(Current)</u>
Heating	85%	72%	68%	73%
Non-heat	94%	94%	82%	85%

This result is simply inexplicable and irreconcilable with the Proposed Order’s correct and clear rejection of SFV pricing (at pages 189-190), consistent with Commission orders in the recent Commonwealth Edison Company (“ComEd”) and Ameren Illinois Company (“Ameren”) rate design proceedings<sup>13</sup>, which set rates that recover 38% and 36% of revenues, respectively, through fixed customer charges – significantly lower than the 63% and 72% adopted here. Adoption of the Staff-proposed rate design, too, fails to provide the Companies’ Residential Heating customers with the relief they need from the highest customer charges and overall rates in the State of Illinois, and a correction of the cross-subsidization of the Companies’ highest users of natural gas receive from the PGL/NS’s lowest users.

In addition, the Proposed Order fails to tangibly address -- despite its concurrence with arguments presented in briefs by the AG and other Intervenors -- that the Companies face *zero*

<sup>12</sup> The percent of non-storage revenue (from NS/PGL Ex. 15.2-15.5 [Schedule E-5]) recovered in the customer charge is calculated by taking the customer charge revenue divided by base rate revenues less base rate revenues from Rider SSC.

<sup>13</sup> See ICC Docket No. 13-0387, *Commonwealth Edison Co.*, Order of December 18, 2013 at 75 (“ComEd Order”). In that Order, the Commission adopted AG/ELPC witness Scott Rubin’s rate design, which recovered 38% of revenues through the fixed customer charge. ComEd Order at 69.

See also ICC Docket No. 13-0476, *Ameren Illinois Co.*, Order on Rehearing of September 30, 2014 at 26 and 42 (“Ameren Order”). In its Order on Rehearing, the Commission rejected Ameren’s request to recover 44.8% of revenues through the customer charge, and adopting a rate design that recovered 36% of revenues through the customer charge. In doing so, the Commission noted that “there are policy reasons for adopting a rate design with greater emphasis on traditional ratemaking principles like cost causation.” Ameren Order at 41.

risk of recovery of the revenue requirement set in this case, and accordingly cannot justify higher customer charges.<sup>14</sup> While past Commission orders have responded to utility company claims that revenue stabilization is needed through ever-increasing customer charges<sup>15</sup>, the Commission over the last year has begun to re-think that policy, for good reason. In the recent ComEd rate design proceeding, for example, the Commission rolled back the amount of revenues recovered through the customer charge for ComEd from 50% to 38%, noting in particular that because there is little risk of non-recovery of costs for ComEd because of its adoption of formula rates, a lowering of the percentage of revenues recovered through the customer charge was justified.<sup>16</sup> The Commission adopted a similar reduction of revenues recovered through the customer charge in the recent Ameren docket, rolling back the percentage of revenues recovered in the customer charge from 44.8% to 36%.<sup>17</sup>

The Proposed Order acknowledges this retreat from SFV pricing and the essentially risk-free environment Peoples Gas and North Shore Gas similarly enjoy:

The Companies' revenue recovery is virtually guaranteed through the existence of Rider VBA, which acts as a decoupling mechanism for S.C. Nos. 1 and 2 and reduces the Companies' financial risk of under-recovery of revenues. In addition to Rider VBA, PGL has also implemented Rider QIP, which allows PGL to recover a return of and on the Company's investment in qualifying plant, further mitigating any concern about the Companies' revenue stability. The Companies also enjoy recovery of storage costs through Rider SSC. Further, PGL is essentially guaranteed a designated level of revenues for uncollectible accounts through Rider UEA, which provides monthly adjustments to customers'

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<sup>14</sup> The Companies have made no secret as to why they seek to recover more revenues through the Residential customer charge: When a utility's sales are declining and natural gas usage is primarily weather-sensitive, the utility would like to collect more of its revenues through the flat, non-usage based customer charge, thereby eliminating risk of under-recovery of the set revenue requirement.

<sup>15</sup> See, e.g. ICC Docket No. 07-0241/0242, Order of February 5, 2008 at 250; ICC Docket Nos. 09-0166/0167, Order of January 21, 2012 at 218; ICC Docket No. 11-0280/81, Order of January 10, 2012 at 188.

<sup>16</sup> See ICC Docket No. 13-0387, Order of December 18, 2013 at 75.

<sup>17</sup> ICC Docket No. 13-0476, Order on Rehearing at 42.

bills for over or under collection of PGL’s actual uncollectible expenses.

Proposed Order at 188-189. Yet, the Proposed Order nevertheless fails to set rates that reflect this shareholder-favored revenue recovery scenario. Simply put, like the formula rate electric companies that enjoy nearly risk-free recovery of their actual and projected costs, Peoples Gas and North Shore simply do not need the Staff-recommended 63% level of fixed cost recovery through the customer charges. Adoption of the Staff proposal, too, will perpetuate (1) the inequitable cross-subsidies between high and low users that have occurred since the march toward SFV rates began in 2008, and (2) burdening some of the poorest residents in the State with the highest customer charges in the State.

Based on the evidence in the record and the revenue requirement set in the Proposed Order, the People have estimated what the customer charges would be under the rate design approved by the Administrative Law Judges. They are as follows:

<b><u>Residential Customer Charge Using Proposed Order’s Revenue Requirement<sup>18</sup></u></b>				
<b><u>Peoples Gas</u></b>				
	<b><u>Company</u></b>	<b><u>Staff</u></b>	<b><u>AG/ELPC</u></b>	<b><u>(Current Rates)</u></b>
Heating	\$ 35.72	\$ 30.02	\$ 24.97	\$26.91
Non-heat	\$ 15.99	\$ 15.99	\$ 13.02	\$13.60
<b><u>North Shore Gas</u></b>				
	<b><u>Company</u></b>	<b><u>Staff</u></b>	<b><u>AG/ELPC</u></b>	<b><u>(Current Rates)</u></b>
Heating	\$ 28.61	\$ 24.15	\$ 22.99	\$23.75
Non-heat	\$ 15.47	\$ 15.47	\$ 13.37	\$13.65

<sup>18</sup> Sources are as follows: Proposed Order, Ordering paragraphs 18, 19; Schedule E-5; ICC Staff Ex. 4.0, pp. 27-30 (NS) and 45-48 (PGL); AG/ELPC from AG/ELPC Ex. 3.0, pp. 22 (PGL) and 30 (NS).

See **Appendix A**, attached to this Brief. As can be seen, the Proposed Order's adoption of the Staff proposed rate design provides no relief from the high customer charges that contribute to Peoples Gas and North Shore having the highest rates in the State.

The rates designed by AG/ELPC witness Rubin, on the other hand, reduce the Companies' customer charges, *while still recovering more than 50% of revenues through the customer charge for Peoples Gas and 64% of fixed costs through the customer charge for North Shore Gas*. AG/ELPC Ex. 3.0 at 24, 29. The rationality and equity of Mr. Rubin's proposed rate design is detailed in AG/ELPC Exhibits 3.3 and 3.4, which provide a calculation of the impact on customer rates of the AG-proposed rates. As can be seen in these exhibits, lower-use customers in each class receive modest rate increases, while those customers who use more gas see greater impacts on their bills, consistent with cost-causation principles. *Id.* at 24, 29. These exhibits are attached to this Brief on Exceptions as **Appendix B**. Mr. Rubin's approach to revenue recovery, thus, is hardly radical, as the Proposed Order implies, and result in equitable distribution of the Commission-ordered rate increase in this case.

Other state commissions have considered the amount of risk of revenue recovery in assessing the need for high customer charges. Mr. Rubin noted that the Minnesota Public Utilities Commission assessed revenue recovery risk when considering a revenue decoupling mechanism (like Rider VBA) and the residential customer charge for another natural gas utility. In *CenterPoint Energy Resources*, Docket No. G-008/GR-13-316 (Minn. PUC June 9, 2014), that commission rejected the utility's request for a large increase in the customer charge (from \$8.00 to \$12.00) and set the customer charge at \$9.50 for all residential customers (heating and non-heating). That commission stated: "full revenue decoupling achieves a revenue-stabilization objective that might otherwise be accomplished by an increased customer charge. Both

effectively reduce revenue volatility for the Company, protecting its ability to recover fixed costs from unexpected usage variations caused by weather or other factors. ... Given the protection provided by revenue decoupling, the Commission will not approve the Company's proposed increase ..." AG/ELPC Ex. 3.0 at 19, citing *CenterPoint Energy Resources*, Docket No. G-008/GR-13-316 Minn. PUC, June 9, 2014 slip op. at 51.

In other words, because of the various adjustment riders in PGL's tariff, it is no longer necessary (assuming for the sake of argument that it ever was necessary) for PGL to have high customer charges. The issue of revenue stability is addressed through the riders; it does not need to be addressed again through the rate design. AG/ELPC Ex. 3.0 at 20. The Proposed Order, which agrees with these concepts and public policy findings, nevertheless would set Residential Rates at levels for Peoples Gas Residential Heating customers that increase the customer charges and percentage of revenue collected through the customer charge (from 62% to 63% for PGL). This is directly contrary to the well-reasoned rejection of SFV pricing in recent Commission orders.

**B. Principles of Efficiency Support Adoption of AG/ELPC  
Witness Rubin's Rate Design.**

In its adoption of Staff's proposed rate design, the Proposed Order simply removed the recovery of demand costs from the customer charges – a welcome and long overdue first step in setting equitable rates. Yet, there are other bases for designing rates than simply basing them strictly on cost study allocations. Indeed, one of the fundamental rate design principles is to promote efficiency -- encouraging conservation and the efficient use of natural gas -- so that customers have more control over their gas bill. That principle justifies lowering the percentage of costs recovered through the customer charge. Even with the Proposed Order's rejection of SFV pricing and the removal of demand costs from the customer charge, the goals of efficiency

will not be served because the percentage of revenues recovered through the customer charge slightly increases for Peoples Gas and remains that same for North Shore Gas, as noted in part A of this Brief on Exceptions.

This Commission has specifically recognized that the PGL/NS Rider VBA and high fixed charges are redundant ways to address the issue of revenue stability, and disincentivize conservation and energy efficiency. In its August 30, 2013 report to the General Assembly entitled, *Report to the Illinois General Assembly Concerning Coordination Between Gas and Electric Utility Energy Efficiency Programs and Spending Limits for Gas Utility Energy Efficiency Programs* (cited below as "ICC Report"), the Commission stated that because of Rider VBA, "the Commission can provide a mechanism for revenue stability that *lowers the monthly customer charges* and increases the volumetric charges. Such a change can decrease energy use by providing a greater price signal" to customers. ICC Report, p. 23 (emphasis added). In other words, because of the various adjustment riders in PGL's tariff, it is no longer necessary (assuming for the sake of argument that it ever was necessary) for PGL to have high customer charges. The issue of revenue stability is addressed through the riders; it does not need to be addressed again through the rate design. AG/ELPC Ex. 3.0 at 20.

Other policy implications should be considered by the Commission when examining the customer charge issue in this case. The Illinois General Assembly, in its passage of Section 8-104 of the Public Utilities Act, made clear its interest in reducing the amount of natural gas delivered to utility customers and reducing the cost of utility bills that customers pay. Specifically, Section 8-104(c) requires specific reductions in the use of natural gas on an annual basis. As AG/ELPC witness Rubin aptly testified, moving even closer to SFV rates, as Peoples Gas proposes, undermines this public policy objective by reducing the amount of the customer

bill that can be reduced through conservation and energy efficiency. AG/ELPC Ex. 3.0 at 20. Giving PGL's customers more control over their natural gas bills by reducing the customer charge gives customers an important incentive to reduce energy usage.

In the aforementioned ICC Report on Energy Efficiency, the Commission recognized that moving away from SFV rates could help the State meet its energy efficiency goals. The Commission, in particular, recognized that reducing the customer charge while increasing variable charges could reduce overall natural gas usage and assist in the achievement of statutory natural gas usage reduction goals in a cost-effective manner:

The importance of these findings is that increasing the volumetric distribution charge by even 10% (the distribution charge is approximately 40%-50% of the bill) could lead to a 0.4%-0.5% short term reduction and 0.88%-1.1% long-term reduction in gas use over what it would be with the lower volumetric price. Since altering the volumetric charge does not affect the average cost of delivery service to retail customers (it does affect the costs to individual customers but on average a customer pays the same amount), these additional savings can be achieved without increasing the [energy efficiency program] budget limitations. If prices and weather are similar to what was experienced in 2009, one should expect that increasing the volumetric distribution charge by 10% would achieve a usage reduction that is about half of the May 31, 2015 goal of 0.8%.

ICC Report, p. 24. Thus, the Commission agreed that enabling customers to have more control over their natural gas bills serves the statutory goal of reducing natural gas consumption in a cost-effective manner.

Given these clear public policy pronouncements that require that conservation and efficiency be encouraged in the establishment of utility rates, the Commission's final Order should embrace these tenets, rather than leave the status quo unchanged. Adopting Staff's rate design, as the Proposed Order does, however, thwarts these goals. On the other hand, setting PGL and NS Residential Heating customers charges at a level that recovers, respectively, 52%

and 64% of revenues through the customer charge strikes the right balance of moving toward cost-based rates and encouraging efficiency. Mr. Rubin’s rate design enables just that.

**C. The Need to Minimize the Impact of the Highest Natural Gas Rates in the State on Peoples Gas and North Shore Customers Supports Adoption of Mr. Rubin’s Rate Design.**

Commission adoption of Staff’s proposed rate design leaves static the existing cross-subsidies between low and high users that PGL’s and North Shore’s modified SFV rate engenders, and does nothing toward lowering customer charges for PGL/NS customers. Even with the adoption of Mr. Rubin’s rate design, Peoples Gas and North Shore Gas customer would continue to face the highest customer charges in the State. As noted in the AG’s Initial Brief, current rates for Illinois gas delivery companies are as follows:

<b>Residential Heating Rates: Illinois Natural Gas Utilities /a/</b>				
	Heating		Non-Heating	
Rates	Customer Charge	Distribution Charge	Customer Charge	Distribution Charge
Ameren Illinois (Zone 1)	\$22.31	\$0.09320	These utilities do not distinguish “heating” and “non-heating” rates.	
Ameren Illinois (Zone 2)	\$19.97	\$0.07692		
Ameren Illinois (Zone 3)	\$22.31	\$0.09320		
MidAmerican	\$15.97 /b/	\$0.07664		
NICOR Gas	\$13.55	\$0.0485		
NSG (existing) /c/	\$23.75	\$0.10385	\$13.65	\$0.25208
PGL (existing) /c/	\$26.91	\$0.18885	\$13.60	\$0.42032
NOTES:				
/a/ Excluding riders.				
/b/ Basic Service Charge plus Meter Class 1 Charge.				
/c/ NSG/PGL Exhibit 15.4				

AG Ex. 10.0 at 9. Adoption of AG/ELPC witness Rubin's rate design, which under the Proposed Order's revenue requirement would set Peoples Gas and North Shore Gas Residential Heating customer charges at \$24.97 and \$22.99, respectively, at least, minimizes the burden of increased rates.

Other policy reasons exist as to why the Companies' proposed rate design should be rejected. AG witness Roger Colton, a lawyer and economist who has analyzed the impact of utility rates on low-income customers for state agencies, federal agencies and private utilities for more than 20 years, offered testimony on the impact of the North Shore and Peoples Gas rate increase proposals on low-use ratepayers, particularly their effect on low-income gas customers.<sup>19</sup>

Colton's testimony (AG Ex. 4.0, 4.1 and 4.2 and AG Ex. 10.0, 10.1-10.5), examined the impact on low-use ratepayers of North Shore's proposal to increase its fixed monthly customer charge by 24% and Peoples' plan to increase its own customer charge by 43%, as well as the unfairness of the rate design plans proposed by each utility, which compel low-use customers to subsidize high-use customers. He recommended that the Commission instead approve the cost-based rate design proposed by AG witness Scott Rubin (AG/ELPC Ex. 3.0) and reduce the monthly customer charge, rejecting the Straight-Fixed Variable rates that have unfairly allocated North Shore's and Peoples' delivery costs, and thwarted consumers attempts to control their electric bills.

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<sup>19</sup> Mr. Colton's experience includes work in 2011 with the U.S. Department of Health and Human Services (the federal LIHEAP office) to develop the Home Energy Insecurity Scale as a tool to measure the impact of LIHEAP grants. AG Ex. 4.0 at 2. In 2010, Colton worked as part of a team organized to study the responses of water utilities to the payment problems of residential customers the U.S. Environmental Protection Agency and the Water Research Foundation. He has authored more than 80 articles in scholarly and trade journals on low-income utility and housing issues. AG Ex. 4.2.

Colton explained how the need to balance the interests of ratepayers and utility shareholders dictates that low-use customers should not be forced to bear the normal operating and financial risks faced by public utility companies, either through an unfair rate structure or through the recovery of questionable or excessive utility costs. AG Ex. 4.0 at 32-33. Colton first reported on the fact that the fixed monthly customer charges imposed on North Shore and Peoples ratepayers are outliers in the Illinois utility industry, as noted above. A customer of one of these utilities is being asked to spend these high amounts even if they do not consume a single therm of natural gas. AG Ex. 4.0 at 5-6.

Mr. Colton further noted that fixed customer charges of this size, combined with the Companies' regressive rate design, impose disproportionately higher percentage increases on low-use customers. Analyzing both U.S. Census and other economic data for the Companies' service territories, Colton concluded that a substantial proportion of the Chicago-area ratepayers cannot afford to pay their home natural gas bills *even under current rates*. He noted that balancing the relative benefits and burdens of proposed rates is essential to the Commission's review of the Companies' rate proposals and the establishment of just and reasonable rates. He concluded that, upon balancing the relative benefits and burdens on ratepayers to the benefits to investors, the relative benefits and burdens supports the recommendations of the Attorney General to (1) reduce the current and proposed PGL/NSG customer charges and their associated cross subsidies between low and high users, and (2) to adopt specific proposed accounting adjustments that eliminate questionable or excessive costs, ultimately minimizing any rate increase granted to the Companies. AG Ex. 4.0 at 28-29.

As it considers its rate design objectives, the Commission, too, is obliged to balance the interests of ratepayers as well as shareholders. As Mr. Colton noted, Integrys most recently told

its investors that the company can grow its consolidated earnings in the range of 4% to 6% per year on an average annualized basis “for the foreseeable future.” Certain structural changes are occurring that benefit Integrys, including propane price increases and supply shortages, which have elevated natural gas conversions throughout the respective service territories. Mr. Colton noted that, indeed, Integrys has had better-than-expected performance in the past year. In the Fourth Quarter 2013 Earnings conference call, an Integrys executive said: “I’m pleased to report that our fourth quarter and full year 2013 consolidated financial results were at the higher end of the expectations we set in our third quarter earnings conference call last November and were significantly better than our financial results for the same periods in 2012. Our utilities performed well and continue to be the core of our earnings.” An Integrys executive said that Integrys’ good performance is “based solely on our strong utility growth, and that “our regulated businesses are our core. . . [T]hey continue to perform well and provide the vast majority of our earnings and our growth.” AG Ex. 4.0 at 31-32.

On the other hand, customers in the Companies’ service territories have not fared as well, to say the least. In its most recent report on poverty in Illinois, the Heartland Alliance study found that poverty in Illinois has increased by three percent (3%) from 2007 to 2013. Moreover, the income of the poorest 20% of Illinois residents (the “bottom quintile”) has decreased by more than 15% since the mid-1990s. Contrary to the optimistic projections for Integrys (and its subsidiary utilities), the projection for the poor in Chicago, which represents 65% of the poverty population in Illinois, is not only that the low-income population is expanding in numbers, but that the low-income population is also becoming poorer. AG Ex. 4.0 at 32-33. The failure of PGL and NSG, along with the failure of Integrys, to consider the

impacts of rate levels and rate designs on low-income customers even further contributes to the breadth and depth of the problems.

The impact of SFV pricing structures on low-income customers, Colton observed, is particularly egregious. Low-income customers tend to be, in general, low-use customers,<sup>20</sup> because low-income customers tend to live in substantially smaller housing units than do higher income customers. Colton presented data from the U.S. Department of Energy's 2009 Residential Energy Consumption Survey for the Midwest Census region, which includes Illinois, showing that natural gas consumption increases as income increases, and that higher incomes lead to occupation of larger sizes of housing units. AG Ex. 4.0 at 11-12; AG Ex. 4.1, RDC-5, p.1-3.

The balance of interests by regulators of both investors and customers requires recognition of the needs of the customers, including the low-income customers, of both PGL and NSG. AG witness Colton concluded that this balancing of interests supports Commission adoption of the Attorney General's recommendations (1) to reduce the current and proposed PGL/NSG customer charges and their associated cross subsidies between low and high users, and (2) to adopt specific proposed accounting adjustments that eliminate questionable or excessive costs, ultimately minimizing any rate increase granted to the Companies. *Id.*

This interest in looking out for the interest of utility customers is shared by no less authority than Illinois courts. The Illinois Supreme court early on established that a just and reasonable rate must be less than the value of the service to consumers. *State Public Utilities*

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<sup>20</sup> While the Companies have defined low-income customers, at least for purposes of this proceeding, as customers enrolled in LIHEAP or Illinois' Percentage of Income Payment Program (PIPP), Colton correctly reports that this definition is much too narrow. The LIHEAP and PIPP populations in Illinois represent only "a fraction" of Illinois' total low-income population. Illinois had 924,152 households income-eligible for LIHEAP as of 2009, the last year for which data was available, but in fiscal year 2013, LIHEAP served only 332,756 households. AG Ex. 4.0 at 10.

*Comm'n ex rel. City of Springfield v. Springfield Gas & Electric Co.*, 291 Ill. 209, 216, 125 N.E. 891 (1919). The appellate court elaborated on this pronouncement in *Camelot Utilities, Inc. v. Illinois Commerce Comm'n*, 51 Ill.App.3d 5, 10, 365 N.E.2d 312 (1977), wherein the Court declared that it is the ratepayers' interest which must come first:

The Commission has the responsibility of balancing the right of the utility's investors to a fair rate of return against the right of the public that it pay no more than the reasonable value of the utility's services. While the rates allowed can never be so low as to be confiscatory, within this outer boundary, if the rightful expectations of the investor are not compatible with those of the consuming public, it is the latter which must prevail.

*Camelot Utilities*, 51 Ill.App.3d at 10; *Citizens Utility Board v. Illinois Commerce Comm'n*, 276 Ill.App.3d 730, 658 N.E.2d 1194 (1995). Both concern for PGL/NS customers, including impoverished, low usage customers, as well as the General Assembly's and Commission's policy of encouraging more efficiency investments through the recovery of more revenues through variable charges, support adoption of Mr. Rubin's rate design.

Again, the AG/ELPC-proposed rate design would collect approximately 52% of PGL's Heating non-storage revenues and 64% of North Shore's Heating non-storage revenues through the customer charges. *Id.* at 24, 30. Because North Shore currently recovers a higher percentage of costs through the customer charge than Peoples Gas, Mr. Rubin's 64% proposal for North Shore promotes gradualism in the return to traditional rate design that allocates demand-related costs into the fixed customer charge. Mr. Rubin calculated the impact on customer rates of the AG-proposed rate design, as is described on AG/ELPC Exhibit 3.3 and 3.4. It can be seen that lower-use customers in each class receive modest rate increases, while those customers who use more gas see greater impacts on their bills, consistent with cost-causation principles. *Id.* at 24, 29.

In sum, approval of the AG/ELPC proposed rate design will rationalize the rate design, give customers more control over their bills (thereby ensuring consistency with the State's energy efficiency and conservation goals), and start to alleviate some of the impacts of modified SFV rate design approved to date by the Commission have had on low-income customers that AG witness Colton discusses in his testimony. *See* AG Initial Brief at 94-97. It should be adopted by the Commission.

**D. Mr. Rubin's Non-Heating Rate Design Better Minimizes Cross-Subsidies Between Low and High Usage Customers and Should Be Adopted.**

With respect to Non-Heating customer rates, the Proposed Order likewise rejects SFV rate design, highlighting the inequities of the cross-subsidization of high-users of natural gas by low-users and the pursuit of efficiency, but then adopts Staff's proposed rate design, *which mirrored the Companies' proposed Non-Heating rate design proposals*. Proposed Order at 195.

AG/ELPC witness Rubin's analysis of the Companies' usage data, was more robust than Staff's simple examination of customer-related costs. Using PGL's actual billing data for the test year, Mr. Rubin determined that the range of rate impacts is very diverse – and unwarranted – for the Companies' NH customers. As shown on AG/ELPC Ex. 3.3, the impacts range from annual increases approaching 20% (customers using 25 therms or less *per* year) to sizeable bill reductions for those customers using more than 200 therms *per* year. AG/ELPC Ex. 3.0 at 22. Once again, there will remain customers at the high end of the class whose annual bills would be lower under PGL's rate design than they are now, even though PGL is proposing nearly a 10% increase in revenues collected from the NH class.

For NS NH customers, the impacts range from annual increases approaching 15% (customers using 25 therms or less *per* year) to sizeable bill reductions for those customers using

more than 200 therms *per* year. *Id.* at 28. Once again, there will remain customers at the high end of the class whose annual bills would be lower under the NS rate design than they are now.

This phenomenon violates all principles of equity and cost-causation.

To remedy these cross-subsidization inequities between low and high users, Mr. Rubin recommended that PGL and NS should move toward collecting no more than 75% of their respective Non-Heating class revenues, from the customer charges. Under the Companies' proposed revenue requirements, Mr. Rubin's proposed rate design would collect approximately 73% of PGL Non-Heating (non-storage) revenues and 78% of North Shore Non-Heating revenues through the customer charges. This change will start the process of restoring the Companies' residential customer charges to more traditional levels. Further, Mr. Rubin's proposals will rationalize the rate design, consistent with the Companies' own cost studies, give customers more control over their bills (thereby ensuring consistency with the State's energy efficiency goals), and start to alleviate some of the impacts of the rate design on low-income customers that AG witness Colton discusses in his testimony. It, too, should be adopted by the Commission.

**E. The Proposed Order Appears to Mistakenly Establish Customer Charges At The Companies' Proposed Revenue Requirements.**

Finally, it must be noted that the Proposed Order appears to set rates based on Staff's proposed rate design *under the Companies' proposed revenue requirements*, rather than the modified rate increase approved in the Proposed Order. Specifically, the Proposed Order states,

If North Shore's total customer charge revenues derived from the proposed customer charge (\$25) are greater than the customer costs found on the final Commission approved ECOS study in this proceeding, then the final customer charge should be lowered to recover ECOS study-based customer costs only. Likewise if Peoples Gas' total customer charge revenues derived

from the proposed customer charge (\$32.35) are greater than the customer costs found on the final Commission approved ECOS study in this proceeding, then the final customer charge should be lowered to recover ECOS study customer costs only. The Commission orders that increases in the revenue requirement for non-storage demand-classified distribution costs shall be collected through volumetric charges.

Proposed Order at 209. These dollar figures are wrong because they reflect rates that Staff's proposed rate design would generate under the full \$100.5 million and \$6.5 million rate increases that Peoples Gas and North Shore, respectively, request in this case.

A similar mistake is made in the Non-Heating Residential rate design Commission conclusion. Specifically, the Proposed Order states:

The Commission accepts Staff's rate design proposal for this customer class. If North Shore's total customer charge revenues derived from the proposed customer charge (\$15.80) are greater than the customer costs found on the final Commission approved ECOS study in this proceeding, then the final customer charge should be lowered to recover ECOS study-based customer costs only. Likewise if Peoples Gas' total customer charge revenues derived from the proposed customer charge (\$16.70) are greater than the customer costs found on the final Commission approved ECOS study in this proceeding, then the final customer charge should be lowered to recover ECOS study customer costs only. The Commission orders that increases in the revenue requirement for non-storage demand-classified distribution costs shall be collected through volumetric charges.

Proposed Order at 195-196.

Of course, dollar figures for the customer charges and variable rates for both Heating and Non-Heating classes – no matter the rate design chosen – must reflect the final revenue requirement established in the Commission's final order. For this reason, too, the Proposed Order's rate design findings should be modified.

**Exception No. 3 Proposed Language:**

In accordance with the recommendations and arguments provided above, the People urge the Commission to revise the Proposed Order's conclusions for Fixed Cost Recovery, Residential Heating and Non-Heating Rate Design as shown below.

**Fixed Cost Recovery – page 189, beginning with the sixth paragraph:**

Commission Analysis and Conclusion

...The exact amount of the customer charge depends on the amount of the rate increase. Mr. Rubin proposes a rate design that collects approximately 52% of non-storage revenue from HTG customers through customer charges for PGL customers and and 64% of North Shore's Heating non-storage revenues through the customer charges, and no more than 75% 73% from NH customers. *Id.* at 24. ~~Based on this recommendation, even if the Commission grants Peoples its full proposed revenue increase, the HTG customer charge would remain at \$26.91~~

It is patent that high customer charges mean the Companies' lowest users bear the brunt of rate increases, and subsidize the highest energy users. Steadily increasing customer charges diminish the incentives to engage in conservation and energy efficiency because a smaller portion of the bill is subject to variable usage charges and customer efforts to reduce usage.

The Commission rejects the Companies' claim that customer charges must be raised to ensure cost recovery. The Commission finds that SFV based rates that assume that non-storage demand related distribution costs should be allocated on a *per* customer basis are inconsistent with the public policies of attributing costs to cost causers, encouraging energy efficiency and eliminating inequitable cross-subsidization of high users by low users of natural gas.

Although Staff and Intervenors agree on the shift away from SFV based rates, they disagree on the percentage of fixed costs. Consistent with the Commission's conclusions in recent electric rate design cases, the Commission finds that the AG/ELPC-proposed rate design minimizes cross-subsidies of high users by low users of natural gas, serves the General Assembly's and the Commission's goal of encouraging efficiency by giving the customer more control over their bills, and begins to address the

rate inequities of Peoples Gas and North Shore residential heating customer charges rising by nearly 200% and 179%, respectively, since 2007, the year PGL/NS began filing a steady stream of rate cases under its then new parent company, Integrys Energy Group. more conservative rate design proposed by Staff, the Commission directs that that any increase in non storage demand classified distribution costs beyond the revenue provided by Staff's proposed customer charges be collected through volumetric charges. The Commission finds that the Companies' risk of not recovering their authorized revenue requirement are minimal in light of the guaranteed revenue recovery that the Companies enjoy through decoupling, uncollectibles and infrastructure riders.

**Non-Heating – page 196:**

Commission Analysis and Conclusion

The Commission finds that the Companies proposed increases in the customer charges pursuant to its SFV based rate design are inconsistent with public policy as discussed in Section IX, B 2 (Fixed Cost Recovery) of this order. The Commission finds that IIEC's proposal for an across the board increase in rates is not supported by the evidence. The Commission rejects both the Companies' proposal, which AG/ELPC witness Rubin confirmed would create substantial cross-subsidies, and Staff's proposal, which accepte the Companies' proposals. Staff's proposal to move away from SFV based rates is reasonable and supported by the record

AG/ELPC witness Rubin's analysis of the Companies' usage data, was more robust than Staff's simple examination of customer-related costs. Using PGL's actual billing data for the test year, Mr. Rubin determined that the range of rate impacts under the Companies' rate design is very diverse – and unwarranted – for the Companies' NH customers. As shown on AG/ELPC Ex. 3.3, the impacts range from annual increases approaching 20% (customers using 25 therms or less per year) to sizeable bill reductions for those customers using more than 200 therms per year. AG/ELPC Ex. 3.0 at 22. Once again, there will remain customers at the high end of the class whose annual bills would be lower under PGL's rate design than they are now, even though PGL is proposing nearly a 10% increase in revenues collected from the NH class.

For NS NH customers, the impacts range from annual increases approaching 15% (customers using 25 therms or less per year) to sizeable bill reductions for those customers using more than 200 therms per year. Id. at 28. Once again, there will remain customers at the high end of the class whose annual bills would be lower under the NS rate design than they are now.

This phenomenon violates all principles of equity and cost-causation and is hereby rejected.

To remedy these cross-subsidization inequities between low and high users, Mr. Rubin recommended that PGL and NS should move toward collecting no more than 75% of their respective Non-Heating class revenues, from the customer charges. Under the Companies' proposed revenue requirements, Mr. Rubin's proposed rate design would collect approximately 73% of PGL Non-Heating (non-storage) revenues and 78% of North Shore Non-Heating revenues through the customer charges. This change will start the process of restoring the Companies' residential customer charges to more traditional levels, and is hereby adopted by the Commission.

~~The Commission accepts Staff's rate design proposal for this customer class. If North Shore's total customer charge revenues derived from the proposed customer charge (\$15.80) are greater than the customer costs found on the final Commission approved ECOS study in this proceeding, then the final customer charge should be lowered to recover ECOS study-based customer costs only. Likewise if Peoples Gas' total customer charge revenues derived from the proposed customer charge (\$16.70) are greater than the customer costs found on the final Commission approved ECOS study in this proceeding, then the final customer charge should be lowered to recover ECOS study customer costs only. The Commission, too, orders that increases in the revenue requirement for non-storage demand-classified distribution costs shall be collected through volumetric charges.~~

## **Heating Rate Design – page 209**

### Commission Analysis and Conclusion

The Commission finds that the Companies proposed increases in the customer charges pursuant to its SFV based rate design are inconsistent with public policy as discussed in Section IX, B 2 (Fixed Cost Recovery) of this order. The Commission finds that Staff's and Intervenor's arguments in favor of assigning demand based costs to volumetric charges are consistent with energy efficiency and the avoidance of cross subsidies. But simply

removing demand costs from the Companies' current customer charges does not go far enough in correcting the inequitable cross-subsidization of high-users by low-users of natural gas. Currently, Peoples Gas recovers 62% of its revenues through customer charges. North Shore recovers 73% of revenues through customer charges. In recent rate design orders, the Commission has reduced customer charges below the 50% level – both for Commonwealth Edison Company and Ameren Illinois Company. In those orders, the Commission recognized the nearly risk-free revenue recovery environment those companies' shareholders enjoyed under formula ratemaking. Likewise, Peoples Gas and North Shore enjoy similar revenue stability given the existence of their decoupling rider, Rider VBA, Rider QIP, which recovers a return of and on infrastructure investment between rate cases, and three other cost recovery riders. Peoples Gas and North Shore simply do not need the Staff-recommended 63% level of fixed cost recovery through the customer charges. Adoption of the Staff proposal, too, will perpetuate (1) the inequitable cross-subsidies between high and low users that have occurred since the march toward SFV rates began in 2008, and (2) the burdening of some of the poorest residents in the State with the highest customer charges in the State.

Based on the evidence in the record, the Commission hereby adopts the AG/ELPC-proposed rate design, which would collect approximately 52% of PGL's Heating non-storage revenues and 64% of North Shore's Heating non-storage revenues through the customer charges. Because North Shore currently recovers a higher percentage of costs through the customer charge than Peoples Gas, Mr. Rubin's 64% proposal for North Shore promotes gradualism in the return to traditional rate design that allocates demand-related costs into the fixed customer charge. Mr. Rubin calculated the impact on customer rates of the AG-proposed rate design, as is described on AG/ELPC Exhibit 3.3 and 3.4. It can be seen that lower-use customers in each class receive modest rate increases, while those customers who use more gas see greater impacts on their bills, consistent with cost-causation principles. It is hereby adopted. The Commission accepts Staff's rate design proposal for this customer class. The Commission finds that a \$25 monthly customer charge North Shore is appropriate. The Commission also finds that a \$32.35 monthly customer charge for Peoples Gas customers is appropriate.

Final customer and variable charges for the residential class shall be based on the revenue requirement and updated cost studies approved in the Commission's final Order. If North Shore's total

~~customer charge revenues derived from the proposed customer charge (\$25) are greater than the customer costs found on the final Commission approved ECOS study in this proceeding, then the final customer charge should be lowered to recover ECOS study-based customer costs only. Likewise if Peoples Gas' total customer charge revenues derived from the proposed customer charge (\$32.35) are greater than the customer costs found on the final Commission approved ECOS study in this proceeding, then the final customer charge should be lowered to recover ECOS study customer costs only.~~ The Commission orders that increases in the revenue requirement for non-storage demand-classified distribution costs shall be collected through volumetric charges.

## V. CONCLUSION

WHEREFORE, the People of the State of Illinois respectfully request that the Commission enter a final order consistent with the recommendations in this Brief and adopt the Exceptions provided above.

Respectfully submitted,

**PEOPLE OF THE STATE OF ILLINOIS**  
By Lisa Madigan, Attorney General

By: \_\_\_/s/\_\_\_\_\_

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