

**STATE OF ILLINOIS**

**ILLINOIS COMMERCE COMMISSION**

<b>Northern Illinois Gas Company d/b/a</b>	:	
<b>Nicor Gas Company</b>	:	
	:	
<b>Application for permanent Certificate</b>	:	
<b>of Public Convenience and Necessity,</b>	:	<b>15-0476</b>
<b>under Section 8-406 of the Public Utilities</b>	:	
<b>Act, to construct, operate and maintain gas</b>	:	
<b>distribution facilities and to transact the</b>	:	
<b>business of furnishing gas service to the</b>	:	
<b>public in LaSalle County, Illinois.</b>	:	

**ORDER**

By the Commission:

**I. Procedural History**

On August 17, 2015, Northern Illinois Gas Company d/b/a Nicor Gas Company (“Nicor Gas”, “Company”, or “Petitioner”) filed a verified Petition (“Petition”) with the Illinois Commerce Commission (“Commission”) requesting a permanent Certificate of Public Convenience and Necessity (“Certificate”) and an Order pursuant to Section 8-406 of the Public Utilities Act (“Act”) authorizing Nicor Gas to install, operate, and maintain natural gas distribution facilities and transact public utility business within certain portions of LaSalle County, Illinois.

Staff of the Commission (“Staff”) participated in this proceeding. A petition to intervene was filed by R.C. Farm Partnership (“RC Farm”), which was granted by the Administrative Law Judge (“ALJ”) on November 5, 2015. RC Farm filed a Notice of Withdrawal of its intervention on March 2, 2016.

Pursuant to due notice, hearings were held in this matter on September 17, 2015, November 5, 2015, December 15, 2015, February 23, 2016, and March 2, 2016, before a duly-authorized ALJ of the Commission. At the March 2 hearing, Nicor Gas presented the direct testimony, exhibits, and affidavits of Bob O. Buckles, Manager, Rates for Nicor Gas, and Daniel L. Fox, P.E., Managing Director, Engineering for AGL Services Company. Staff presented the direct testimony, exhibits, and affidavits of Janis Freetly, Senior Financial Analyst in the Finance Department of the Financial Analysis Division of the Commission, and Mark Maple, Senior Gas Engineer in the Energy Engineering Program of the Safety & Reliability Division of the Commission. On March 2, 2016, the record was marked “Heard and Taken.”

There were no contested issues at the completion of the March 2, 2016 hearing. On March 14, 2016, the Company filed a Draft Order that had been previously reviewed by Staff and to which Staff did not object.

## **II. Statutory Authority**

Section 8-406(b) of the Act states as follows:

No public utility shall begin the construction of any new plant, equipment, property or facility which is not in substitution of any existing plant, equipment, property or facility or any extension or alteration thereof or in addition thereto, unless and until it shall have obtained from the Commission a certificate that public convenience and necessity require such construction. Whenever after a hearing the Commission determines that any new construction or the transaction of any business by a public utility will promote the public convenience and is necessary thereto, it shall have the power to issue certificates of public convenience and necessity. The Commission shall determine that proposed construction will promote the public convenience and necessity only if the utility demonstrates: (1) that the proposed construction is necessary to provide adequate, reliable, and efficient service to its customers and is the least-cost means of satisfying the service needs of its customers ...; (2) that the utility is capable of efficiently managing and supervising the construction process and has taken sufficient action to ensure adequate and efficient construction and supervision thereof; and (3) that the utility is capable of financing the proposed construction without significant adverse financial consequences for the utility or its customers.

220 ILCS 5/8-406(b).

## **III. Nicor Gas Position**

### **A. Nicor Gas seeks the Certificate.**

Nicor Gas is an Illinois corporation engaged in the business of distributing and selling natural gas to approximately 2.2 million customers in the northern part of the State of Illinois, and is a public utility subject to the jurisdiction of the Commission pursuant to the Act.

In its Petition, Nicor Gas seeks the Certificate under Section 8-406(b) authorizing the Company to install, operate, and maintain gas distribution facilities and transact public utility business within certain portions of LaSalle County, Illinois. Specifically, Nicor Gas seeks the Certificate authorizing the Company to install, operate, and maintain

approximately ten (10) miles of new gas distribution main and related facilities to residences located near Sheridan and Serena in LaSalle County, Illinois (“Sheridan-Serena” or the “Project”).

Nicor Gas also seeks the Certificate for sections near Sheridan-Serena where Nicor Gas has identified the existence of improved properties or the potential for property development along defined roadways where the need for additional gas distribution facilities would reasonably be required in the near future. In addition, Nicor Gas is seeking certification for areas near Sheridan-Serena where Nicor Gas already has extended facilities within short distances (approximately one mile) of its certificated service territory as a means of providing expedient service to new customers. Nicor Gas believes that receiving certification for these areas at this time would potentially avoid additional proceedings involving only a modest expansion of the Company’s service territory, and would provide for more expedient and responsive service to potential new customers located near Sheridan-Serena.

The township sections located in the area of the Certificate (the “Certificate Area”) are shown from an aerial perspective on Nicor Gas Exhibit 1.1 and are legally described in Nicor Gas Exhibit 1.2. Both of these exhibits were attached to the direct testimony of Mr. Buckles.

**B. The Construction is necessary.**

Residents living near Sheridan and Serena have expressed an interest in receiving natural gas service. In particular, Nicor Gas identified 197 prospective customers in the area of the Sheridan-Serena main extension. In 2013, Nicor Gas conducted a survey of residents in this area to determine the level of interest in converting to natural gas service. Nicor Gas received survey responses from 106 prospective customers who expressed an interest in converting to natural gas service. In general, the residences along the Sheridan-Serena main extension are supplied by individual liquid propane tanks located at each household and propane is used primarily for space heating, cooking, clothes drying and water heating. Nicor Gas understands that this level of interest is driven, in large measure, by the net savings realized from converting to natural gas, as well as the benefits associated with the convenience and comfort of natural gas. Thus, Nicor Gas explains that there is a need to provide natural gas distribution service in the Certificate Area.

In sum, Nicor Gas explains that construction of the main extension and certification of the Certificate Area is necessary to meet the need for natural gas distribution service in Sheridan-Serena and the surrounding Certificate Area.

**C. The Construction is the least-cost means of providing adequate, reliable, and efficient service in the Certificate Area.**

Nicor Gas states that it will install approximately ten (10) miles of new gas distribution main, consisting of approximately 18,300 feet of 4” polyethylene (“PE”) main and 35,725 feet of 2” PE main. The proposed facilities will provide natural gas directly to

each property owner's residence or building through an underground piping network. The underground gas distribution network will provide each landowner with low cost, efficient, safe, and reliable natural gas service.

The Sheridan-Serena main extension will interconnect with the Company's existing 4" main located at North 38th Road (US 52) and East 2351st Road (Hoxsey Road) near Serena, Illinois. The primary route for the proposed main will run north along East 2351st Road to North 42nd Road, then run east along North 42nd Road to East 2551st Road, and then run north along East 2551st Road to North 4250th Road. Additional main extensions will be required to serve residences located just off the primary route.

Nicor Gas proposes to install the natural gas main within the apparent road right-of-way along the above-described roads. The road right-of-way stretches out from the centerline of the road by approximately 33 feet in either direction, for a total corridor of approximately 66 feet. The road right-of-way encompasses the paved road, as well as any shoulders, ditches, and road signage along the side of the road. The road right-of-way does not include any cropland, pastureland, or forested land. The use of the apparent road right-of-way is meant to minimize impact to the adjacent landowners and minimize impact to any fencing, landscaping or any cultivated areas from the installation of the gas main. Accordingly, construction of the main extension should not result in the removal of agricultural land from cultivation, nor does the Company anticipate that the proposed project will occupy historic property or have an impact on wetlands.

The Company's total estimated investment in the minimum system requirements for the Sheridan-Serena main extension, excluding any investment for unusual or unforeseen construction conditions, is approximately \$1.2 million in 2015 dollars.

Nicor Gas asserts that the main extension is the least-cost means of serving customers near Sheridan-Serena. Nicor Gas' existing facilities are in close proximity to Sheridan-Serena. Alternate natural gas supply sources, from other interconnections with Nicor Gas' facilities, other Illinois public utilities, or any other intrastate or interstate natural gas pipelines, are not in close proximity to Sheridan-Serena. All other natural gas supply sources would require installing more gas pipeline. As such, the costs to construct facilities originating from any other supply source would be substantially higher in cost than the Company's route and source for the Sheridan-Serena main extension.

The Company identified all the landowners whose property rights may be impacted by the construction and provided this list to the Commission with its Petition. Nicor Gas is not seeking authority from the Commission under Sections 8-503 and 8-509 of the Act, 220 ILCS 5/8-503 and 8-509, for purposes of utilizing the law of eminent domain or condemnation to acquire private right-of-way for the proposed facilities to serve the Sheridan-Serena area. Instead, Nicor Gas will engage in negotiations with landowners in order to secure necessary easements for portions of the project along East 2351st Road, North 40th Road, North 42nd Road, and East 2551st Road. These easements are necessary because many landowners appear to maintain ownership of property rights extending to the centerline of these roads. The easements at issue are commonly

referred to as frontage easements because they involve easement rights along the road frontage area of the privately owned land. Each of the easements would provide Nicor Gas with the rights to install within the apparent road right-of-way along each landowner's frontage (generally in a width of 33 feet).

Nicor Gas indicates that it will obtain all applicable permits or approvals prior to construction, including road right-of-way permits from the State of Illinois, LaSalle County, and the townships of Serena, Adams, and Northville.

For all these reasons, Nicor Gas maintains that the above-described main extension is the least-cost means of satisfying the service needs of customers in the Certificate Area.

**D. Nicor Gas is capable of efficiently managing and supervising construction in the Certificate Area.**

Nicor Gas explains that it will follow its normal construction practices and procedures and will adequately and efficiently manage and supervise the installation of facilities for the Sheridan-Serena main extension. Construction, operation, and maintenance of the gas distribution facilities that will furnish gas service to the Certificate Area will comply with all of Nicor Gas' specifications, as well as the rules and regulations of the Commission and the Federal Pipeline Safety Standards, as applicable. Thus, Nicor Gas states that it has the capability to efficiently manage and supervise construction in the Certificate Area.

**E. Nicor Gas is capable of financing the construction without significant adverse financial consequences for itself or its customers.**

Nicor Gas explains that its investment in plant in the Certificate Area will not impose a financial burden on Nicor Gas or its existing customers. Pursuant to its normal new business authorization process, and as prescribed in the Gas Main Extension provisions of the Company's tariff (Ill.C.C. No. 16 – Gas; Sheet Nos. 40-43), the Company conducted a feasibility study to determine the economics of providing service to the Sheridan-Serena area. In making such determination, Nicor Gas credited against the total cost of construction two hundred (200) feet of high-pressure gas main for each customer expected to attach to the Company's facilities as a result of the line extension. After deducting the total amount of gas main provided at no charge from the minimum system investment, the Company's feasibility study computed an 8.28% rate of return ("ROR") at the end of twenty (20) years. This ROR exceeds Nicor Gas' allowed ROR of 8.09% as approved by the Commission's Order on Rehearing in Docket No. 08-0363. Accordingly, Nicor Gas explains that there is no need for customer deposits to make the project economically feasible.

Nicor Gas further explains that it is well positioned financially to undertake the necessary investment in facilities to serve the Sheridan-Serena area. Nicor Gas states that the economic feasibility of serving customers in Sheridan-Serena is evidenced by the Company's current Standard & Poor's "A" bond rating, a rating which is representative of

a sound financial condition. In addition, the Company's anticipated investment in plant will not require any specific financing to support the necessary additions to its distribution system, nor any increases in its current cost-based rate structure. Rather, funds for the proposed expansion will be generated or obtained by the Company in its ordinary course of business. Nicor Gas asserts that its investment in plant in the Certificate Area will impose no financial burden on the Company or its existing customers, and suggests that Nicor Gas' existing customers will benefit from the Company's growth over time, as common costs are spread over a larger customer base.

#### **IV. Staff Position**

Staff states that it has reviewed Nicor Gas' Petition, testimony, exhibits, and data request responses to ensure that the requirements of Section 8-406(b) of the Act were satisfied. Staff found that Nicor Gas demonstrated: (1) that the Company's proposed construction of the Sheridan-Serena main extension is necessary for Nicor Gas to provide adequate, reliable, and efficient service to its customers and that constructing these facilities is the least-cost means for Nicor Gas to satisfy the service needs of its customers (Staff Ex. 1.0 at 4); (2) that the Company is capable of efficiently managing and supervising the construction process (Staff Ex. 1.0 at 5); and (3) that the Company is capable of financing the proposed main extension without significant adverse financial consequences for the Company or its customers (Staff Ex. 2.0 at 2). Staff recommends that the Commission issue the Company the requested Certificate authorizing Nicor Gas to construct, operate, and maintain gas supply and distribution facilities and to transact the business of furnishing gas service to the public in the Sheridan-Serena area. Staff Ex. 1.0, 2.

#### **V. Commission Analysis and Conclusion**

Having reviewed the record evidence, the Commission finds that a need exists for permanent provision of natural gas service by Nicor Gas to customers in and near Sheridan-Serena within the Certificate Area, and that Nicor Gas' proposal meets this need in the least-cost manner. Further, the Commission finds that Nicor Gas is capable of efficiently managing and supervising construction of the main extension, and that Nicor Gas is capable of financing the construction without significant adverse financial consequences for Nicor Gas or its customers. Further, Nicor Gas customers will benefit from the Certificate because common costs will be spread over a larger customer base over time. Accordingly, pursuant to Section 8-406 of the Act, the Commission finds that Nicor Gas' request for a permanent Certificate of Public Convenience and Necessity should be granted and that Nicor Gas should be issued a permanent Certificate of Public Convenience and Necessity as set forth herein.

#### **VI. Findings and Ordering Paragraphs**

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

- (1) Northern Illinois Gas Company d/b/a Nicor Gas Company is an Illinois corporation engaged in the distribution of natural gas to the public in the State of Illinois and, as such, is a “public utility” as defined in Section 3-105 of the Public Utilities Act;
- (2) the Commission has jurisdiction over the parties hereto and the subject matter of this proceeding;
- (3) the recitals of fact and conclusions reached in the prefatory portion of this Order are supported by the evidence in the record and are hereby adopted as findings of fact;
- (4) the expansion of facilities in the Certificate Area, as described in the prefatory portion of this Order and as legally described in Nicor Gas Exhibit 1.2, which is attached as Appendix A hereto, should be approved;
- (5) construction, operation, and maintenance by Petitioner of gas distribution facilities is and will be necessary to provide adequate, reliable, and efficient service to customers in the Certificate Area, and is the least-cost means of satisfying the service needs of those customers;
- (6) Petitioner has shown that it has the financial and managerial ability to construct, operate, and maintain the distribution facilities necessary to serve the Certificate Area described in Appendix A hereto, that Petitioner’s assessment of the economic feasibility of the expansion of facilities in the Certificate Area is consistent with the requirements set forth in the Gas Main Extension provisions of the Company’s tariff (Ill.C.C. No. 16 – Gas; Sheet Nos. 40-43), and that the construction, operation, and maintenance of distribution facilities necessary to serve the Certificate Area will not have significant adverse financial consequences on Petitioner or its customers; and
- (7) the construction, operation, and maintenance of gas distribution facilities in the Certificate Area described in Appendix A hereto and the transaction of a public utility gas distribution business by Petitioner in the Certificate Area will promote the public convenience and is necessary thereto, and a certificate of public convenience and necessity should be granted to Petitioner for the construction, operation, and maintenance of such gas distribution facilities in the Certificate Area described in Appendix A hereto.

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

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

IT IS HEREBY CERTIFIED that the public convenience and necessity require construction, operation, and maintenance of

gas distribution facilities in the area legally described in Appendix A hereto and the transaction of a natural gas public utility business by Northern Illinois Gas Company d/b/a Nicor Gas Company in that area.

IT IS FURTHER ORDERED that Northern Illinois Gas Company d/b/a Nicor Gas Company will serve customers in the Certificate Area using the rates and charges as in effect from time to time in its tariffs and riders.

IT IS FURTHER ORDERED that all motions, petitions, objections, and other matters in this proceeding that remain unresolved are disposed of consistent with the conclusions herein.

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

By Order of the Commission this 29th day of March, 2016.

(SIGNED) BRIEN SHEAHAN

Chairman