

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

<b>Northern Illinois Gas Company</b>	:	
<b>d/b/a/ Nicor Gas Company</b>	:	
	:	
<b>Petition pursuant to Rider QIP of</b>	:	<b>16-0198</b>
<b>Schedule of Rates for Gas Service to</b>	:	
<b>Initiate a Proceeding to Determine the</b>	:	
<b>Accuracy and Prudence of Qualifying</b>	:	
<b>Infrastructure Investment.</b>	:	

**ILLINOIS PROPANE GAS ASSOCIATION  
REPLY TO RESPONSE IN OPPOSITION TO ITS PETITION TO INTERVENE**

Pursuant to 83 Illinois Administrative Code 200.190, the Illinois Propane Gas Association ("IPGA") hereby replies to the August 25, 2016 response of Northern Illinois Gas Company ("Nicor") to IPGA's August 17, 2016 Petition to Intervene. Nicor objects to the Petition to Intervene because it allegedly "fails to state an interest sufficient to support intervention in this proceeding" and because denial of intervention will allegedly "not prejudice IPGA in any manner because its purported interest is protected by parties already participating in this docket." (Nicor Response, page 1) Nicor's arguments should be accorded little weight and IPGA's Petition to Intervene should be granted because it meets the standard for intervention in an Illinois Commerce Commission ("ICC") docket. In further support of its Petition to Intervene, IPGA states as follows:

1. In determining whether to grant a petition to intervene as of right, Illinois courts consider whether: (1) the intervention petition is timely; (2) whether the petitioner's interest is sufficient; and (3) whether that interest is being adequately represented by someone else in the lawsuit. (*Soyland Power Cooperative v. Illinois Power Co.*, 213 Ill. App. 3d 916, 918, 572 N.E.2d 462, 464 (4<sup>th</sup> Dist. 1991))

2. Although Nicor filed its petition initiating the reconciliation of its qualifying infrastructure plant ("QIP") expenses on March 18, 2016, the initial status hearing was not held until August 17, 2016. IPGA participated in this hearing and filed its Petition to Intervene later the same day. Prior to that time, the Citizens Utility Board ("CUB") petitioned to intervene and the Attorney General ("AG") entered an appearance. The Administrative Law Judge granted Nicor's motion seeking the entry of a protective order as well. No other substantive activity has occurred in the docket. IPGA accepts the status of the record as it existed on August 17, 2016. Accordingly, IPGA filed its Petition to Intervene in a timely manner.

3. With regard to IPGA's interest in this proceeding, Illinois courts have held that "[w]hile a party need not have a direct interest in the pending suit in order to intervene, the intervenor must stand to gain or lose by the direct legal operation and effect of a judgment in the suit. If a party's interest is speculative or hypothetical, this does not constitute an interest sufficient to warrant intervention." (*Soyland Power Cooperative*, 213 Ill. App. 3d 916, 919, 572 N.E.2d 462, 464 (citations omitted))

4. IPGA has a sufficient interest in the instant proceeding. As noted in its Petition to Intervene, IPGA members serve customers in every county within the State of Illinois. (IPGA Petition to Intervene, para. 2) Therefore, IPGA members and customers of IPGA members exist in areas served by Nicor.

5. One purpose of this proceeding is to ensure that the expenses Nicor has recorded under its Rider 32-Qualifying Infrastructure Plant ("Rider 32") as QIP expenses in 2015 are in fact qualifying expenses and do not include "costs or expenses incurred in the ordinary course of business for the ongoing or routine operations of the utility,

including, but not limited to: (1) operating and maintenance costs; and (2) costs of facilities that are revenue-producing, which means facilities that are constructed or installed for the purpose of serving new customers.” (220 ILCS 5/9-220.3(c))

6. Another purpose of this proceeding is to ensure that amounts collected under Rider 32 are accurately reconciled with Nicor’s actual and prudently incurred costs recoverable under Rider 32.

7. Multiple recent ICC dockets demonstrate Nicor’s interest in expanding into areas traditionally served by propane suppliers. Docket No. 15-0218 concerns Nicor’s Rider 33-Designated Extension Service Area (“Rider 33”), which would facilitate lower cost connections of new customers to Nicor’s gas distribution system. Docket No. 15-0476 pertains to Nicor’s petition for a certificate of public convenience and necessity (“CPCN”) in LaSalle County authorizing it to extend a gas main approximately 10 miles to serve a group of nearly 200 new customers. Docket No. 13-0361 relates to Nicor’s petition for a CPCN in Carroll County authorizing it to extend a gas main approximately 50 miles to serve a group of nearly 900 new customers. In each of these proceedings, there is reference to replacing propane with natural gas. (See Docket No. 15-0218, Nicor Ex. 1.0, lines 185-190; Docket No. 15-0476 March 29, 2016 Order, page 3; and Docket No. 13-0361 September 10, 2013 Order at 3)

8. IPGA members do not merely operate alongside Nicor. They have an interest in ensuring that Nicor’s reported QIP expenses are in fact limited to the expenses authorized under Section 9-220.3 of the Public Utilities Act (“Act”), 220 ILCS 5/1-101 et seq. Specifically, IPGA is interested in ensuring that infrastructure expenses associated with main extensions into areas previously not served by Nicor are not

included in QIP accounts. Any inappropriate recovery of such expenses through Rider 32 arguably amounts to the subsidization of the connection of new customers by existing customers. To the extent that a consumer taking propane service is enticed by an artificially low cost to connect to Nicor's distribution system, IPGA members will be directly impacted. Therefore, to help ensure an accurate accounting under Rider 32 and a level playing field in the marketplace of energy choices, IPGA members should be able to participate in this proceeding. Accordingly, IPGA has a sufficient and legitimate interest in the outcome of this proceeding.

9. To be clear, in defending its right to intervene in this proceeding, IPGA is not accusing Nicor of any wrong doing in its administration of Rider 32. IPGA also recognizes that Nicor is not proposing in this docket to expand its service territory. But for the same reasons that ICC Staff and other parties do not accept Nicor's representations and calculations without question, IPGA wishes to participate in this proceeding. If IPGA's interests are presumed to be meritless, there is no reason for any entity to review Nicor's submissions under Rider 32.

10. Finally, no other party can adequately represent the interest of propane suppliers. CUB and the AG generally concern themselves with the interests of end-users rather than commercial entities, such as IPGA members. Similarly, ICC Staff generally takes a broader approach in its review. IPGA's resources will also arguably augment the limited resources available to review and consider Nicor's evidence. Moreover, IPGA should not be forced to rely on others to look out for the interests of its members. The Commission should be able to hear directly from IPGA, whose members (unlike ICC Staff, CUB, and the AG) are at a direct risk of loss if Nicor's calculations

under Rider 32 include infrastructure expenses that allow it to offer connections to its distribution system at an artificially low cost.

11. In addition to the legal standard for intervention “as a right,” it is important to remember that the Commission has discretion to approve any intervention. The Act “grants to the Commission the power, in its discretion, to allow any person or corporation to intervene.” (*Egyptian Electric Cooperative Ass’n v. Illinois Commerce Commission*, 33 Ill. 2d 339, 342, 211 N.E.2d 238, 240 (1965)) The ICC should exercise its discretion and grant intervention in order to compile a complete record.

12. In support of its opposition to IPGA’s intervention in this proceeding, Nicor cites the recent denial of intervention to an entity that provides software solutions in ICC Docket No. 16-0259, which is Commonwealth Edison Company’s formula rate update proceeding. A better comparison, however, is to the aforementioned Docket No. 15-0218. In the latter proceeding, Nicor objected to IPGA’s intervention—claiming that IPGA lacked a sufficient interest in Nicor’s proposed Rider 33 and making many of the same arguments raised in Nicor’s August 25, 2016 filing this docket. In Docket No. 15-0218, the Administrative Law Judge granted IPGA’s intervention over Nicor’s opposition. (See December 4, 2015 Administrative Law Judge ruling in Docket No. 15-0218)

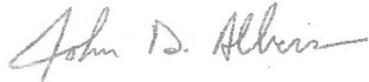
13. In the interest of initiating any discovery that may be necessary in the event that IPGA receives a favorable ruling on its Petition to Intervene, IPGA respectfully requests that the Administrative Law Judge issue a ruling expeditiously.

Wherefore, for the reasons stated above, IPGA respectfully requests that its Petition to Intervene be granted.

Dated: September 1, 2016

Respectfully submitted,

Illinois Propane Gas Association



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