

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

WINDY CITY ENERGY, INC.,)	
Complainant,)	
)	
vs.)	Docket No. 14-0709
)	
NORTHERN ILLINOIS GAS COMPANY)	
d/b/a NICOR GAS COMPANY,)	
Respondent.)	

**NICOR GAS COMPANY’S
MOTION FOR SUMMARY JUDGMENT**

Northern Illinois Gas Company d/b/a Nicor Gas Company (“Nicor Gas” or the “Company”) respectfully moves, pursuant to Section 200.190 of the Rules of Practice of the Illinois Commerce Commission (“ICC” or the “Commission”), 83 Ill. Adm. Code § 200.190, Section 2-1005 of the Illinois Code of Civil Procedure, 735 ILCS 5/2-1005, and the schedule established by the Administrative Law Judge (“ALJ”), for summary judgment as to Count V of Windy City Energy, Inc.’s (“Windy City”) First Amended Complaint. In support, Nicor Gas submits the accompanying memorandum and affidavit and states as follows:

1. The ALJ’s Ruling of February 17, 2016 granted Nicor Gas’ Motion to Dismiss Counts I through IV of Windy City’s First Amended Complaint (“FAC”). Therefore, the only remaining claim in this proceeding is Count V of the FAC.

2. Count V of Windy City’s FAC seeks declaratory relief under the Illinois Declaratory Judgment Act, 735 ILCS 5/2-701, regarding Windy City’s “rights and obligations” as to Nicor Gas’ 2014 deposit calculation for Windy City. FAC at ¶¶ 55-59. There is no issue of material fact with respect to this claim – Nicor Gas calculated the amount of the deposit pursuant to the terms of its tariff, which, in pertinent part, requires suppliers like Windy City to “provide

adequate assurances of payment to the Company” and further provides that “[s]uch assurances may include prior payment of an amount equivalent to two months of service, including gas costs, under this rider or an irrevocable standby letter of credit drawn on a bank acceptable to the Company.” Ill.C.C. No. 16 – Gas, 6th Revised Sheet Nos. 71-71. Accordingly, judgment should be entered in favor of Nicor Gas on Windy City’s claim for declaratory relief.

WHEREFORE, Northern Illinois Gas Company d/b/a Nicor Gas Company respectfully requests that the Commission grant this Motion for Summary Judgment, deny the First Amended Complaint for the reasons stated in this Motion as to Count V and the ALJ’s Ruling of February 17, 2016 granting the Motion to Dismiss as to Counts I through IV, and grant such further relief as the Commission deems just and appropriate.

Dated: October 19, 2016

Respectfully submitted,

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

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

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CERTIFICATE OF SERVICE

I, Anne W. Mitchell, an attorney, hereby certify that I caused a copy of Nicor Gas Company's Motion for Summary Judgment to be served upon all parties on the service list in Docket No. 14-0709 by electronic mail on the 19th day of October, 2016.

/s/ Anne W. Mitchell

Anne W. Mitchell