

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Wisconsin Energy Corporation, :
Integrys Energy Group, Inc., :
Peoples Energy, LLC, :
The Peoples Gas Light and Coke Company, :
North Shore Gas Company, :
ATC Management Inc., :
And :
American Transmission Company LLC :
: 14-0496
Application pursuant to Section 7-204 of the :
Public Utilities Act for authority to engage in :
a Reorganization, to enter into agreements :
with affiliated interests pursuant to Section :
7-101, and for such other approvals as may :
be required under the Public Utilities Act to :
effectuate the Reorganization. :

DIRECT TESTIMONY OF
JOSEPH CLARK ON BEHALF OF
THE RETAIL ENERGY SUPPLY ASSOCIATION

1 I. BACKGROUND AND QUALIFICATIONS

2 Q. Please state your name and business address.

3 A. My name is Joseph Clark. My business address is 21 East State Street, 19th Floor,
4 Columbus, Ohio 43215.

5 Q. On whose behalf are you testifying in this proceeding?

6 A. I am testifying on behalf of the Retail Energy Supply Association.¹

¹ RESA's members include AEP Energy, Inc.; Champion Energy Services, LLC; ConEdison *Solutions*; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; GDF SUEZ Energy Resources NA, Inc.; Homefield Energy; IDT Energy, Inc.; Integrys Energy Services, Inc.; Interstate Gas Supply, Inc. d/b/a IGS Energy; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions LLC; NRG, Inc.; PPL EnergyPlus, LLC; Stream Energy; TransCanada Power Marketing Ltd.; and TriEagle Energy, L.P.. The comments expressed in this

7 **Q. Please describe the operations of RESA.**

8 A. RESA is a non-profit trade association of independent corporations that are
9 involved in the competitive supply of electricity and natural gas. RESA and its
10 members are actively involved in the development of retail and wholesale competition in
11 electricity and natural gas markets throughout the United States.

12 **Q. What is RESA's interest in this proceeding?**

13 A. As a trade organization of retail natural gas suppliers, RESA is concerned the
14 reorganization could impact the Large Volume Transport ("LVT") and Choices For You
15 ("Choice") programs behind The Peoples Gas Light and Coke Company ("Peoples Gas")
16 and North Shore Gas Company ("North Shore"), which would become subsidiaries of
17 Wisconsin Energy Corporation ("WEC"), if the reorganization is approved by the Illinois
18 Commerce Commission ("Commission"). Specifically, RESA is concerned with any
19 potential elimination of those programs and is also concerned with the erosion
20 operationally of the LVT and Choice programs that could result from the reorganization.
21 Additionally, RESA is concerned with any costs and changes to the existing systems
22 which would impede customer participation in the LVT and Choice programs. Any of
23 these results would adversely impact competition in the market areas of Peoples Gas and
24 North Shore.

25 **Q. Please describe your educational and work history background.**

26 A. I graduated from Muskingum University in 1999 with a Bachelor of Arts degree,
27 majoring in International Affairs and minoring in French. After working a temporary job

filing represent the position of RESA as an organization but may not represent the views of any particular member of RESA.

28 after graduation, in January 2000 I began working in the Ohio legislature full time. I left
29 the legislature in August of 2003 to attend law school. While in law school I clerked in
30 the charitable law section of the Ohio Attorney General's Office and at the private firm
31 McNees Wallace and Nurick, LLC. I graduated from law school in May 2006 and also
32 passed the Ohio Bar Exam and was admitted to the Ohio Bar in 2006. After law school, I
33 worked for approximately five (5) years at McNees Wallace and Nurick, LLC as an
34 associate, representing large industrial and commercial customers on electricity matters
35 and two natural gas utilities on natural gas matters. In November 2010, I left the firm for
36 an in-house role at Vectren Source, a natural gas supplier with customers in Ohio,
37 Indiana, and New York. At Vectren Source, I performed our government affairs,
38 compliance, and legal functions. Direct Energy purchased Vectren Source at the
39 beginning of 2012 and I came into the government affairs function of Direct Energy full
40 time in approximately June 2012. Since then I have performed different roles in Direct
41 Energy government affairs, including leading a team responsible for all Direct Energy's
42 administrative litigation filings in all of the jurisdictions where we sell electric and
43 natural gas on the retail level. My current role places me on a team focusing on the
44 Midwest, including Illinois gas and electricity matters.

45 **Q. What is the purpose of your testimony in this proceeding?**

46 A. In this proceeding, Peoples Gas and North Shore, along with WEC and Integrys
47 Energy Group ("Integrys") and other subsidiaries of WEC and Integrys (collectively
48 referred to as the "Joint Applicants") are seeking approval of a proposed reorganization.
49 Pursuant to Section 7-204 of the Public Utilities Act, in order to approve the proposed
50 reorganization, the Commission must find, among other things, that the proposed

51 reorganization is not likely to have a significant adverse effect on competition in those
52 markets over which the Commission has jurisdiction. In my opinion, absent a
53 requirement that Peoples Gas and North Shore maintain and improve their existing LVT
54 programs and Choices for You Programs, including offering a Purchase of Receivables
55 program for customers who are participating in the Choices for You Programs, approval
56 of the proposed reorganization would have a significant adverse effect on competition in
57 the gas markets of Peoples Gas and North Shore.

58 **II. SUMMARY OF POSITION**

59 **Q. Are there specific recommendations that RESA is making to avoid significant**
60 **adverse effects of the proposed reorganization on competition in the gas markets of**
61 **Peoples Gas and North Shore?**

62 A. Yes. As I will explain in detail in my direct testimony, the following items must
63 be addressed in this proceeding to ensure a competitive landscape continues to exist after
64 the reorganization of the Joint Applicants:

- 65 i. A commitment to maintain and improve both the LVT and Choice
66 programs other than for legal or regulatory changes that are not
67 initiated by WEC or Integrys prior to or after closing;
- 68 ii. A commitment by Peoples Gas and North Shore to file tariffs for
69 purchase of receivables (“POR”) programs;
- 70 iii. Re-instatement of the expired intraday nomination tariff;
- 71 iv. A reduction in Peoples Gas’ and North Shore’s pooling fees to be
72 more in line with other utilities;

- 73 v. Elimination of the per minute charge for PegaSys (the electronic
74 bulletin board employed by Peoples Gas and North Shore) system
75 access;
- 76 vi. Allow Percentage of Income Payment Plan (“PIPP”) customers to
77 enroll with an Alternative Gas Supplier (“AGS”) without being
78 dropped from Peoples Gas’ and North Shore’s PIPP Programs;
- 79 vii. Email, rather than mail, enrollment confirmations;
- 80 viii. Changes to billing service agreement language for the Choices for You
81 Programs related to liquidated damages;
- 82 ix. “Enroll from your wallet” capability to ease the ability of customers to
83 enroll in the Choices for You Programs; and
- 84 x. The ability for suppliers to invoice and collect for non-commodity
85 products and services using the consolidated bill.

86 **III. LVT AND CHOICE PROGRAMS**

87 **Q. Can you explain RESA’s need for a commitment to maintain and improve**
88 **the LVT and Choice Programs?**

89 A. The acquiring entity in this reorganization is a Wisconsin company that does not
90 have a gas Choice or similar program. However, WEC’s utility subsidiaries in Wisconsin
91 do have LVT programs. These factors lead to two concerns of RESA. First, with no
92 current experience with a Choice program, WEC could make decisions which would
93 result in the Choices For You Program being eliminated or difficult to participate in.
94 Second, if WEC makes operational process changes to the transport programs for
95 uniformity purposes it could result in the programs becoming unwieldy or difficult to

96 participate in. Therefore, RESA would like a commitment from the Joint Applicants that
97 the existing programs will remain in place with changes only intended to improve the
98 programs and not to create barriers or requirements which will result in suppliers no
99 longer participating, which would be an anti-competitive result.

100 **Q. What types of actions is RESA concerned with which could result in the**
101 **elimination or deterioration of LVT and Choice Programs?**

102 A. A decision by WEC to require Peoples Gas and North Shore to make filings to
103 eliminate the tariffs would be the most extreme situation. However, there are much more
104 subtle actions which could slowly kill or seriously injure a program. For example, any
105 filings that increase penalties while simultaneously limiting flexibility to correct
106 nominations could make a program so unworkable that suppliers would no longer
107 participate. Any fees for operating on the system which become excessive or are
108 unnecessary and not directly correlated to costs could make it too costly to serve
109 customers at market competitive prices. Finally, WEC could seek to implement changes
110 that make it operationally difficult to serve customers or otherwise lead to delays to AGS'
111 ability to serve their customers properly ultimately leading to customer dissatisfaction
112 with the Choice and LVT programs.

113 **Q. Has RESA received any statements or signals that WEC plans to shut down**
114 **the LVT and/or Choice Programs?**

115 A. No. However, we have also not received a commitment that it won't happen.
116 The Joint Applicants' responses to RESA Data Request Nos. RESA-JA-1.04 and 1.05
117 (copies attached hereto as RESA Exhibits 1.1 and 1.2, respectively), basically indicate
118 that WEC does not **currently** have plans to change either the LVT or Choice Programs

119 following the close of the reorganization. Moreover, as with many programs that have
120 been in place for the past decade there are often things that are not in tariffs which
121 suppliers and utilities do in partnership to ensure the programs operate efficiently. One
122 such example is that if a supplier makes a typographical error in an EDI transaction,
123 Peoples Gas and North Shore allow a supplier to go back and correct the error. We hope
124 to continue this type of good relationship between Peoples Gas and North Shore and
125 suppliers. However, given the uncertainty due to the reorganization and the vagueness of
126 the Joint Applicants' response to RESA's data requests, RESA would like a written
127 commitment to ensure there is no change in policy or major change in the employees
128 responsible for the LTV and Choice Programs that could result in deterioration of the
129 good working relationships that Peoples Gas and North Shore currently have with AGS.
130 Absent that voluntary written commitment, RESA requests that the Commission make
131 such a commitment a condition of its approval of the proposed reorganization. In
132 addition, as I discuss below, RESA would like Peoples Gas and North Shore to improve
133 some of the antiquated policies and processes of their LTV and Choice Programs, as
134 WEC takes over, to bring the programs into the modern world. Generally speaking, the
135 LTV and Choice Programs for Peoples and North Shore lag behind Choice programs in
136 other utility service territories.

137 **Q. Peoples Gas and North Shore have already committed to a POR program,**
138 **depending upon the Commission's actions in the Ameren SVT proceeding. What is**
139 **RESA seeking in this proceeding?**

140 A. Peoples Gas' and North Shore's commitments were made in their pending rate
141 case and prior to the announcement of the proposed reorganization:

142 The Utilities [Peoples Gas and North Shore] observed that Ameren filed for
143 approval of a small volume transportation program, and its proposal includes
144 language to allow utility consolidated billing/purchase of receivables. The
145 Utilities plan to review Ameren’s filing and monitor the Commission’s
146 proceeding. Based on what the Commission determines for Ameren, they plan to
147 develop and file, in 2015 for 2016 implementation, a purchase of receivables
148 tariff. (Peoples Gas/North Shore Initial Brief in Dockets 14-0224/14-0225, p.
149 139, citing the Direct Testimony of Ms. Egelhoff).

150 RESA would like a firm commitment as part of this case that WEC will honor that
151 commitment. Moreover, RESA would like to see that commitment strengthened. RESA
152 sees no reason why Peoples Gas’ and North Shore’s filing of POR programs should be
153 dependent upon the Commission’s actions in Docket 14-0097, the Ameren case to which
154 Ms. Egelhoff was referring. The Commission approved the SVT Program, which
155 includes a POR component, in Docket 13-0192, Ameren’s last gas rate case, concluding
156 that “there is ample evidence that a UCB/POR program enhances the success of a
157 successful competitive program” (Order in Docket 13-0192, dated December 18, 2013, p.
158 248). The issue in Docket 14-0097 is the approval of specific terms for the SVT Program
159 and the cost of designing a new program from scratch. As shown above, the POR portion
160 of the pending tariff is not disputed in Docket 14-0097. RESA is asking the Commission
161 to order Peoples Gas and North Shore to not only honor their commitment to POR post-
162 reorganization but to also require a tariff filing for a POR program which is designed
163 similarly to those already approved on the electric side for Ameren and Commonwealth
164 Edison Company.

165 **IV. SPECIFIC PROPOSALS RELATING TO LVT AND CHOICE**
166 **PROGRAMS**

167
168 **NOMINATION PROCESS**

169
170 **Q. What change is RESA proposing to the LVT and Choice Programs’**

171 **nomination process?**

172 A. Peoples Gas and North Shore should be required to reinstate the intraday
173 nomination in Rider P which expired on January 31, 2014. While RESA understands
174 this was a pilot that was rarely used, when it was used the flexibility was needed to help
175 control gas into Peoples Gas' and North Shore's systems. In addition, the rare use
176 should indicate that this process was not abused nor did it create an unnecessary burden
177 on the utilities. RESA would like to see the intraday process made a permanent part of
178 Peoples Gas' and North Shore's tariffs. RESA would also like to ensure the on-going
179 ability of suppliers to fix upstream cuts or typographical errors to timely nominations
180 intra-day with Peoples Gas and North Shore as we do today in order to avoid penalties
181 and to continue as good participants in ensuring the balancing and reliability of their gas
182 pipeline systems.

183 **POOLING CHARGES**

184 **Q. What changes to pooling charges is RESA proposing?**

185 A. Peoples Gas' Rider P currently has a pooling charge of \$200 per month plus a
186 charge of \$5.39 per account in a customer group.² Given a customer group can include
187 up to 300 accounts this amounts to a maximum charge of \$1,617 per month. North
188 Shore currently has a pooling charge of \$200 per month plus a charge of \$1.97 per
189 account in a customer group.³ In contrast, Nicor has a pooling charge of \$95 per month,
190 Ameren recently eliminated the pooling charge, and utilities in other states have moved to
191 a single monthly charge with no per account charge. For example, DTE and Consumers

² Peoples Gas is proposing to decrease the per account charge in the current rate case to \$4.19.

³ North Shore is proposing to increase the per account charge in the current rate case to \$2.98.

192 Gas in Michigan charge a flat \$100 fee per month and Vectren in Ohio has no pooling
193 charge. In comparison with other gas utilities, Peoples Gas' and North Shore's pooling
194 charges are excessive and should be reduced in order not to inhibit competition in the
195 market areas of Peoples Gas and North Shore.

196 **PEGASYS SYSTEM**

197 **Q. What changes to the PegaSys system charges is RESA proposing?**

198 A. Peoples Gas and North Shore charge a connect charge of \$0.50 per minute a
199 supplier is logged onto their PegaSys system. The PegaSys system is used for everything
200 from pulling usage reports, to enrolling customers to daily nominations. This charge
201 seems to harken back to the days of dial up internet and is not only antiquated but costly.
202 Most gas utilities have moved away from these types of system access charges
203 completely. Some utilities still have a connect fee that is a one-time charge or charge for
204 individual reports. I know of no other utility that charges a per minute fee to be logged
205 onto its system. In fact, Peoples Gas' and North Shore's affiliates in Michigan (Michigan
206 Gas Utilities Corporation) and Minnesota (Minnesota Energy Resources Corporation) do
207 not assess a separate charge to customers for access to or use of their electronic bulletin
208 board systems.⁴ PegaSys is essentially a self-serve system that has been in place for
209 years. Moreover, if a supplier forgets to log out of the system it is likely to incur
210 significant costs. This seems to be a legacy charge without justification and should be
211 eliminated. To the extent there are costs associated with a supplier downloading
212 information from Pegasys, Peoples Gas and North Shore should set fees that more
213 accurately track those costs.

⁴ Joint Applicants' Response to RESA Data Request JA 2.03.

214 **PIPP PROGRAM**

215 **Q. What changes is RESA proposing to Peoples Gas' and North Shore's PIPP**
216 **Programs?**

217 A. First, PIPP customers should have the opportunity to choose a competitive
218 supplier and competitive products just like all other customers. Further, the statute which
219 creates the PIPP program specifically allows for customers in the PIPP program to enroll
220 with a supplier and maintain their PIPP status. (305 ILCS 20/18) In fact, consistent with
221 Illinois statute, the Illinois Department of Commerce and Economic Opportunity
222 ("DCEO") worked to develop a process in which electric customers can enroll with a
223 Alternative Retail Electric Supplier and remain on PIPP. There is no reason why this
224 cannot be done for customers of Peoples Gas and North Shore. Not allowing PIPP
225 customers to choose a competitive supplier is contrary to the law and constitutes
226 discriminatory treatment.

227 **Q. Please explain how the Illinois electric utilities were able to develop a process**
228 **for PIPP customers to participate in electric choice programs.**

229 A. For electric customers the process is as follows. If a supplier uses utility
230 consolidated billing the utility systems are already synced to the state system and
231 therefore the customer could remain on PIPP because the information was already set up
232 to flow. If a supplier dual bills a customer the supplier is responsible for syncing its
233 system to DCEO or the customer would be dropped from PIPP. This solution focused
234 solely on the ability to pass the information between systems and recognized a
235 customer's right to choose a supplier and participate in PIPP.

236 **Q. How have Peoples Gas and North Shore failed to allow PIPP customers to**

237 **participate in their Choices for You Programs?**

238 A. Peoples Gas and North Shore have mandated that a customer who enrolls with a
239 supplier will be dropped from PIPP, even when the supplier utilizes consolidated billing.
240 This creates a disconnect and confusion for customers who are used to remaining on PIPP
241 for their electric service. Many suppliers sell dual fuel contracts especially in the Peoples
242 Gas/North Shore territories where electric switching is prevalent. Despite suppliers
243 informing customers their eligibility for PIPP is lost when they switch for gas we
244 continue to see complaints from customers who do not understand this. Peoples Gas and
245 North Shore should be required as part of the reorganization to allow customers on PIPP
246 to switch to AGS similar to what is happening on the electric side.

247 **EMAIL CONFIRMATIONS**

248 **Q. Are there any other processes that Peoples Gas and North Shore should**
249 **improve in order to justify Commission approval of the reorganization?**

250 A. Yes. Today suppliers are able to fax or email their enrollments to Peoples Gas
251 and North Shore. However, Peoples Gas and North Shore send the confirmation of
252 enrollment via U.S. mail. This means suppliers must wait days to receive a confirmation
253 of enrollment. In this day with email, secure FTP sites, and even fax (though this is also
254 not preferred) there is no reason to incur the expense of printing, paper and postage for
255 enrollment confirmations. Peoples Gas and North Shore should be required, if the
256 reorganization is approved, to use email, a secure FTP site, or fax for enrollment
257 confirmations.

258 **BILLING SERVICES AGREEMENT**

259 **Q. Are there other LVT or Choice Program changes that RESA seeks to resolve**

260 **prior to the merger?**

261 A. Yes. While, to my knowledge, it has never been used, the existing Choices For
262 You Billing Services Agreement includes a liquidated damages provision that is not
263 consistent with the service provided. The provision appears to seek liquidated damages
264 for collection of supplier charges. While these provisions are appropriate in pooling and
265 service agreements for supply there is no need for this in the billing service agreement as
266 written. Again this is an issue that has never had to be pursued due to good relationships
267 with Peoples Gas and North Shore. However, with WEC becoming the parent company,
268 it may take a narrow view of these provisions. Therefore, RESA is asking the
269 Commission to resolve this matter now in order to avoid future problems.

270 **“WALLET READY” ENROLLMENT**

271 **Q. Are there any other changes that Peoples Gas and North Shore should make**
272 **to facilitate customer enrollment with Alternative Gas Suppliers?**

273 A. Yes. RESA has found that enrollment for residential and small commercial customers
274 requires that customers have their utility account number with them at the time of
275 enrollment. This leads to customers only enrolling at their homes where they
276 traditionally have their bill. RESA recommends that Peoples Gas and North Shore
277 develop an account lookup tool available to AGS. The look up tool would allow
278 customers as part of their LOA to authorize the supplier they are enrolling with to obtain
279 the account number from the utility. The LOA and enrollment process would be
280 prohibited for door to door sales and would require an identity verification based on
281 information that is known to the customer such as birthdate, photo ID, or some other
282 verification. The Pennsylvania Public Utility Commission has recognized the need for
283 this type of functionality and utilities in Pennsylvania have filed proposals for this type
284 of look up tool. In addition to making the enrollment process easier for customers by

285 allowing them to enroll without hunting down a utility bill, RESA believes this will
286 encourage suppliers to use marketing channels outside of door to door. Door to door
287 sales currently are a channel which finds the customer at the place where they have all
288 information necessary for enrollment and therefore existing enrollment processes
289 encourage the use of door to door sales. This new look up tool would allow suppliers to
290 have face to face conversations at trade fairs or physical retail outlet locations and enroll
291 customers at that time.

292 **BILLING FOR NON-COMMODITY PRODUCTS AND SERVICES**

293 **Q. Are there other changes that RESA would like the Commission to address as**
294 **part of this proceeding?**

295 A. Yes. At a minimum, the Commission should order Peoples Gas and North Shore
296 to allow competitive suppliers to bill non-commodity services or products to the extent
297 Peoples Gas and North Shore are billing for similar services for any other company.
298 This is something the Commission has previously ordered in Docket 11-0046, the Nicor
299 Gas reorganization proceeding. In that case, Nicor Gas was billing for utility line
300 warranty products for its non-utility affiliates on the utility bill. Competitive suppliers
301 also offer these products and services, but Nicor was not allowing competitive suppliers
302 the same access to billing services as Nicor was giving its affiliate. In that case, the
303 Commission ordered that if Nicor was allowing its affiliate to place such charges on the
304 bill then other suppliers could have bill access for similar products. Similarly, Peoples
305 Gas and North Shore should offer non-commodity billing services to non-affiliates if they
306 are offering such services to their affiliates.

307 **Q. If Peoples Gas and North Shore are not currently billing for non-commodity**

308 **products and services offered by their affiliates, should they still be required to offer**
309 **non-commodity billing services to non-affililates?**

310 A. Yes. It is my understanding that at one point an affiliate of Peoples Gas and
311 North Shore offered a utility warranty product similar to that offered by Nicor 's affiliate
312 and Peoples Gas and North Shore billed for that product. I am not aware of whether
313 Peoples Gas and North Shore continue to bill that product through the utility bill.
314 However, in the spirit of furthering the competitive market and providing customers with
315 products and services that help them manage their energy usage, the Commission should
316 direct Peoples Gas and North Shore to make this functionality available to AGS if
317 requested. Peoples Gas and North Shore have the functionality already programmed and
318 customers should get the programming benefits they have already paid for if they choose
319 to purchase a non-commodity product or service from AGS.

320 **Q. Does this conclude your direct testimony?**

321 A. Yes, it does.

NOTICE OF FILING

Please take note that on November 20, 2014, I caused to be filed via e-docket with the Chief Clerk of the Illinois Commerce Commission, the attached Direct Testimony of Joseph Clark on behalf of the Retail Energy Supply Association in this proceeding.

/s/GERARD T. FOX
Gerard T. Fox

CERTIFICATE OF SERVICE

I, Gerard T. Fox, certify that I caused to be served copies of the foregoing Direct Testimony of Joseph Clark on behalf of the Retail Energy Supply Association upon the parties on the service list maintained on the Illinois Commerce Commission's eDocket system for Ill. C. C. Docket 14-0496 via electronic delivery on November 20, 2014.

/s/ GERARD T. FOX
Gerard T. Fox