

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

	)	
North Shore Gas Company	)	
The Peoples Gas Light and Coke Company	)	
	)	Docket No. 16-0033 and
Proposed Addition of a New Service Called	)	Docket No. 16-0034
Rider Purchase of Receivables	)	

**THE ILLINOIS COMPETITIVE ENERGY ASSOCIATION AND  
THE RETAIL ENERGY SUPPLY ASSOCIATION  
REPLY TO BRIEFS ON EXCEPTIONS**

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Pursuant to Section 200.830 of the Commission’s Rules of Practice and the Administrative Law Judge’s Ruling, the Illinois Competitive Energy Association<sup>1</sup> (“ICEA”) and the Retail Energy Supply Association<sup>2</sup> (“RESA”) hereby submit their Reply to Briefs on Exceptions in this proceeding.

**I. INTRODUCTION**

On December 18, 2015, North Shore Gas Company (“North Shore”) and The Peoples Gas Light and Coke Company (“Peoples Gas”), (collectively referred to as “the Gas Utilities”) each filed with the Illinois Commerce Commission (“Commission”) to

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<sup>1</sup> The comments expressed in this filing represent the position of the Illinois Competitive Energy Association (ICEA) as an organization but may not represent the views of any particular member of the Association. Founded in October 2008, ICEA represents some of the most active retail energy suppliers operating in the Illinois retail electric and natural gas markets and serving residential, small commercial, commercial and industrial customers. More information on ICEA can be found at [www.illinoiscompetitiveenergy.com](http://www.illinoiscompetitiveenergy.com)

<sup>2</sup> The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of more than twenty retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at [www.resausa.org](http://www.resausa.org).

add Rider POR, Purchase of Receivables, to its schedule of rates and to make other tariff changes necessary to add this rider. On January 20, 2016, the Commission entered orders suspending the filings. The following parties filed Direct and Rebuttal Testimony: the Gas Utilities, the Commission Staff, RESA and ICEA, and the Citizens Utility Board (“CUB”). Initial and Reply Briefs were filed by ICEA and RESA, North Shore and Peoples Gas, the Staff of the Commission, the Citizens Utility Board (“CUB”), and the Attorney General of the State of Illinois (“AG”).

The positions of the parties are as follows. North Shore and Peoples Gas each request that the Commission approve its Rider POR, stating that the evidence shows that their proposed tariff changes are just and reasonable. Similarly, the Commission Staff requests that the Commission approve the proposed tariff changes which Staff asserts meet the just and reasonableness test required by Section 9-201 of the Public Utilities Act for tariff filings. ICEA and RESA also support the Commission’s approval of the Gas Utilities’ proposed tariff changes and offered evidence that the POR Programs would provide benefits to customers. Only CUB and the AG argue that the Commission should reject the Gas Utilities’ proposed tariff changes.

On October 6, 2016, the Administrative Law Judge (“ALJ”) issued his Proposed Order (“ALJPO”) in this proceeding. After fully summarizing the evidence and analyzing the arguments of the parties, the ALJPO concluded that the Commission should approve the Gas Utilities’ POR Programs, as modified by two tariff changes proposed by Staff and a clarification proposed by the Gas Utilities in their rebuttal testimony. The ALJPO finds that the POR Programs protect customers and non-participating suppliers from any costs and only charge participating suppliers their share

of the costs. The ALJPO rejects the arguments of CUB and the AG that the POR Programs are not just and reasonable. (ALJPO, pp. 34-35) However, acknowledging the concerns of CUB and the AG regarding possible impacts on low-income customers, the ALJPO added two undertakings for Staff. First, Staff is to review the individual and aggregate rates of Alternative Gas Suppliers (“AGS”) participating in the POR Programs. Second, Staff is to monitor complaints and market activity that could be adverse to customers. (Id., p. 35)

Neither the Gas Utilities nor ICEA and RESA filed a Brief on Exceptions to the well-reasoned ALJPO which reaches the correct result in this proceeding. The Staff filed a Brief on Exceptions which did not challenge the ALJPO’s approval of the POR Programs, but which sought clarification of the two undertakings imposed on the Staff. Only CUB and the AG filed Briefs on Exceptions opposing the ALJPO’s findings and conclusion. However, their Briefs on Exceptions merely repeat the same arguments made in their Initial and Reply Briefs. Those arguments were fully reflected in the ALJPO at pages 11-20 and 21-27, respectively, and were rejected in the ALJPO. Moreover, those arguments were fully refuted by the evidence and the briefs of the Gas Utilities, Staff, and ICEA and RESA in this proceeding. CUB’s and the Attorney General’s restatements of their positions rejected in the ALJPO add no merit to them.

## **II. CUB’S ARGUMENTS AGAINST THE ALJPO’S APPROVAL OF THE POR PROGRAMS ARE WITHOUT MERIT.**

CUB continues to take the position that the Commission should reject the POR Programs or, in the alternative, approve them with a condition that makes the Programs

unworkable and effectively kills them.<sup>3</sup> Although characterized as four arguments, CUB basically makes two arguments. First, there has been no showing that the POR Programs would benefit customers. Second, the POR Programs would have adverse effects on low-income customers and on the Low Income Home Energy Assistance Program (“LIHEAP”). Neither argument has any merit.

A. **The Evidentiary Record Shows that the POR Programs Will Provide Benefits to Customers.**

Contrary to CUB’s claims, ICEA/RESA witness Mr. Kevin Wright identified the benefits of having a POR Program. These benefits were detailed in Mr. Wright’s Direct Testimony at pages 5-15. The following is a brief summary<sup>4</sup>.

**1. Efficiency in Billing and Collection**

Absent a POR Program, AGS have to separately collect non-payments from customers who are simultaneously in collection with the Gas Utilities for charges that appeared on a single bill. By reducing the collection costs to AGS, AGS can pass that savings on to customers with a lower price. (*Id.*, pp. 4-5)

**2. A POR Program Helps to Eliminate Customer Confusion**

The current billing process can create confusion for customers who may end up in collection with their AGS but never have a disruption in service and, because they paid the utility, might assume the AGS was also paid. POR resolves all of these issues. It ensures that the entity which has a copy of the bill and knows how payments were applied to the total bill is the single collection entity from start to finish. (*Id.*, pp. 6-7)

**3. A POR Program Will Help Create a Competitive Retail Market Place to the Benefit of Customers**

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<sup>3</sup> CUB’s alternative proposal will be addressed in Section IV of this Reply to Briefs on Exceptions.

<sup>4</sup> For a full summary, see pages 3-12 of ICEA/RESA’s Initial Brief.

Without a POR program, it is difficult for AGS to compete with the utility, and, as a result, fewer AGS have entered into the market in Illinois because it is not cost effective to do so. A POR program reduces the redundancy of collections expenditures and enhances the success of collecting on unpaid accounts. This net cost reduction will be passed on to customers through lower prices and more diverse products offered by AGS. This will happen because in a competitive natural gas market AGS will have to reduce prices if they wish to remain competitive with other suppliers, as well as the utilities.

As more AGS enter the market, the existing AGS will have to lower their prices if they wish to be competitive. In short, a POR program will enable AGS to offer customers lower prices, and ultimately make the natural gas market in the Gas Utilities' service territories more competitive, to the benefit of customers. (*Id.*, pp. 5-6, 7-8)

**B. CUB's Claims of Adverse Impacts of the POR Programs Are Based on Sheer Speculation.**

CUB claims to have "debunked" these benefits in its briefs in this proceeding and to have demonstrated that the POR Programs would adversely affect customers. (CUB BOE, pp. 3-4) However, these claims are without merit because they are based on the testimony of its witness, Mr. McDaniel, who, without empirical support or any real evidence, assumes that AGS' prices will always be higher than the Gas Utilities' PGAs and that AGS' business model is to mislead customers. ICEA and RESA demonstrated in their rebuttal testimony and in their briefs that Mr. McDaniel's testimony was unsubstantiated and without merit. ICEA and RESA will limit this Brief on Exceptions to a few examples of the unsupported claims of CUB's witness.

First, CUB claims, based on Mr. McDaniel's testimony, that POR suppliers could target neighborhoods with large numbers of high credit risk customers. (CUB BOE, p.

10) However when asked, in discovery, to identify by dates and neighborhoods all instances in which such targeting has occurred, CUB answered, in relevant part, as follows:

Notwithstanding the objections, CUB responds that the testimony suggests what suppliers could do, and does not suggest that Mr. McDaniel based the statement on documented evidence of the referenced activity. (ICEA/RESA Ex. 2.2, CUB response to ICEA-RESA-CUB DR 2.02)

Second, CUB claims that POR suppliers could target neighborhoods with a high proportion of non-English speaking residents who might be less likely to fully comprehend the marketing offers of their bill implications. (Id.) However, once again, when asked for supporting documentation, CUB admitted that Mr. McDaniel's statement was based on his speculation as to what suppliers could do, not what they've done.

Notwithstanding the objections, CUB responds that the testimony suggests what suppliers could do, and does not suggest that Mr. McDaniel based the statement on documented evidence of the referenced activity. (ICEA/RESA Ex. 2.2, CUB response to ICEA-RESA-CUB DR 2.03)

Third, CUB claims that POR suppliers' sales people have incentives to sign customers to lengthy sales contracts. (CUB BOE, p.10) However, once again there is no empirical support for CUB's claim: "CUB's responds that the testimony suggests what suppliers could do, and does not suggest that Mr. McDaniel based his statement on documented instances of the referenced activity. (ICEA/RESA Ex. 2.2, CUB response to ICEA-RESA-CUB DR 2.04)

Fourth, CUB's claim (CUB BOE, p. 10) that sales people could leave the impression with potential customers who are having trouble paying their bills that they may be at less risk of disconnection or penalty, or that they will save money if they switch to an alternative supplier, is similarly based on what suppliers could do, not on



documented instances that they have done this. (ICEA/RESA Ex. 2.2, CUB response to ICEA-RESA-CUB DR 2.05)

Fifth, CUB's claim (CUB BOE, p. 11) that POR suppliers could intensify marketing of fixed rate long-term supply contracts during periods of relatively high short-term market rates is also based on Mr. McDaniel's speculation as to what suppliers could do, not what they've done. (ICEA/RESA Ex. 2.2, CUB response to ICEA-RESA-CUB 2.06)

CUB's speculations make no sense in the real world. For example, CUB fails to recognize that there are high acquisition costs associated with obtaining customers. Thus, there is no incentive to acquire customers who cannot afford their sales contracts. If a customer defaults early, utility payments to the AGS would cease and the AGS would have no continuing buyer for supply (or hedges) secured in advance to lock in a contract price. (ICEA/RESA Ex. 2.0, p. 8)

CUB also claims that POR Programs would not benefit consumers because AGS' prices are higher than the Gas Utilities' PGAs based on its witness' observations of historical data. (CUB BOE, pp. 8-9) However, Mr. McDaniel's observations missed the point of his own data. The most important matter that his data illustrated is the volatility of gas charges. For North Shore, gas charges for a period of 29 months ranged from a low of 32 cents per therm to a high of \$1.22 per therm, almost four times higher. For Peoples, gas charges for the same period ranged from a low of 24 cents per therm to \$1.19 per therm, almost five times higher. It is due to this extreme volatility that fixed rate products which can be offered by AGS, but not by gas utilities, can be advantageous to customers. (ICEA-RESA Ex. 2.0, pp. 8-9) A second important point of Mr.

McDaniel's observations is what they don't demonstrate. For obvious reasons, they don't show what Peoples' and North Shore's gas charges will be for the future. In his Rebuttal Testimony, Mr. Wright sponsored a table showing circumstances under which an AGS product would save customers money compared to PGAs. (*Id.*, pp. 9-10)

CUB's comparisons are also misleading because they fail to recognize differences between the only product the Gas Utilities "offer"—the PGA—and the offers that AGS can make, including fixed price offers, "green products", and bundled offers. For example, the product called "Comfort & Control 24" shown on pages 3-4 of CUB Ex. 1.1 includes a Nest Learning Thermostat which has a retail value of approximately \$250. Not only does the customer benefit by receiving a \$250 energy efficiency device, the customer also benefits from the reduction in gas (and electric) usage that should result from use of the Nest Thermostat. (ICEA-RESA Ex. 2.0, pp. 11-12)

CUB also expressed concern about the impact of Rider POR on low-income customers and LIHEAP. (CUB BOE, pp. 6-8) Again, this concern is not based on facts, but on CUB's unsupported assumption that POR programs would result in higher charges for customers. ICEA and RESA do not agree with this belief. This assumption ignores the fact that the Commission's adoption of POR programs for Peoples and North Shore will result in more suppliers and more competitive offers for their residential customers, including low-income customers. (ICEA/RESA Ex. 2.0, p. 13)

In support of its position regarding adverse impacts for low-income customers, CUB notes that the New York Public Service Commission ("NYPSC") recently issued an order imposing a moratorium on energy service companies' signing up and retaining participants in a New York utility low-income assistance program. (CUB BOE, pp.7-8)

Unlike the AG, which also relies on the NYPSC decision, CUB fails to acknowledge that the New York Supreme Court issued a temporary restraining order on implementation of the NYPSC's decision.<sup>5</sup> The Court ordered NYPSC officials to present evidence at a hearing on November 18, 2016, to show why the new rules should not be permanently blocked. Before the Commission takes CUB's advice to follow the actions of the NYPSC, the Commission should consider the fact that in a similar case in July of this year, a court overturned a NYPSC order that would have prohibited suppliers from serving residential customers unless the supplier offered renewable energy or could guarantee a price lower than that of the utility, finding the NYPSC's regulations to be irrational, arbitrary and capricious.<sup>6</sup>

### **III. THE ATTORNEY GENERAL'S BRIEF ON EXCEPTIONS DOES NOT DETRACT FROM THE SOUNDNESS OF THE ALJPO.**

The AG did not sponsor a witness in this proceeding. Having not sponsored a witness, the AG instead relies upon the unsupported claims of CUB's witness and misstatements of the testimony of ICEA/RESA's witness, Mr. Wright, and the Commission Staff's witness, Dr. Rearden. ICEA and RESA have already demonstrated in Section II, *supra*, of this Reply to Briefs on Exceptions that there is nothing of substance to the testimony of CUB's witness. The AG's reliance on that testimony does not add any merit to that testimony.

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[http://www.syracuse.com/news/index.ssf/2016/09/strike\\_two\\_judge\\_again\\_blocks\\_ny\\_effort\\_to\\_rein\\_in\\_energy\\_market.html#incart\\_river\\_index](http://www.syracuse.com/news/index.ssf/2016/09/strike_two_judge_again_blocks_ny_effort_to_rein_in_energy_market.html#incart_river_index)

<sup>6</sup> *Id.*

The AG, in requesting that the Commission reject the POR riders, effectively asks that the Commission ignore the record in this proceeding and base its decision on a Commission order entered over three years ago in a Northern Illinois Gas Company (“Nicor Gas”) case and on the recent order of the NYPSC.

The AG also argues that customers may be at risk of paying for Rider POR utility investment through future rate base treatment. (AG BOE, p. 15) However, this argument was previously made in the AG’s Initial Brief and completely rebutted by Staff in its Reply Brief: “The AG’s argument is without merit because the Utilities do not seek rate base treatment for POR assets in this case. The AG’s argument is based on a hypothetical proposal that has not been presented to the Commission for approval and, thus, should be given no weight in this proceeding.” (Staff Reply Br., p. 3)

**A. Contrary to the AG’s Claims, the Record in this Proceeding Supports Commission approval of the Gas Utilities’ POR Riders.**

The AG claims that the Gas Utilities’ POR Riders are not just and reasonable and that the ALJPO’s reliance on the evidence supplied by ICEA and RESA and Staff is mistaken because ICEA and RESA’s evidence that customers will benefit is not credible and Staff’s evidence is speculative. (AG BOE, pp. 4-9) However, the benefits of the POR Programs are set forth in the ALJPO at pages 27-29. Moreover, Dr. Rearden’s testimony is based on sound economic theory. Lower collection costs will result in more entrants to the marketplace creating competition for customers. Suppliers will lower prices to compete for customers in order to stay in business. (ALJPO, p. 7) What lacks credibility is Mr. McDaniel’s testimony as shown in the ALJPO at pages 9-11 and 31-33.

The AG’s Brief on Exceptions repeats the same disingenuous arguments made in its Initial Brief in this proceeding and which were rejected in the ALJPO. For example, the

AG claims that there is no evidence in this proceeding that describes how the absence of a POR tariff confuses customers. (AG In. Br., p. 10; AG BOE, p. 7) In support of this claim, the AG cites a single statement of ICEA/RESA witness, Mr. Wright. (Id.) However, a review of Mr. Wright's entire testimony on this subject shows that he explained, in detail, how customer confusion can arise when a customer is subject to collection by both the utility and the supplier. (ICEA/RESA Ex. 1.0, pp. 6-8)

Similarly, the AG's Brief on Exceptions repeats its claim that no AGS provided specific evidence that particular plans or monthly per charges would decline as a result of approval of the POR tariffs, citing the response of ICEA and RESA to CUB Data Request No. 2.01. (AG In. Br., p. 10; AG BOE, p. 8) However, the data request is absurd on its face, basically asking AGS to predict the future. The data request specifically asks:

Specifically, on behalf of each individual RESA member, identify the amount the rate offer in Peoples Gas Light & Coke Company's ("PGL") service territory will decrease if the POR tariff is approved as it is proposed. Please identify the amount of decrease in either cents/therm or a percentage change from the RESA member's current offers in PGL's service territory.

RESA made numerous objections to this request, including that the request was directed to individual members of RESA which are not parties in this proceeding and that "the information requested is speculative, because pricing depends on many factors besides a POR tariff, and those factors will both vary by supplier and year, thus rendering the calculation sought by this data request impractical". (CUB Cross Ex. 1) Consequently, lacking the ability to predict the future, Mr. Wright relied on economic theory and his experience, to answer the request:

Responding further, based on Mr. Wright's understanding of economic theory and his experience in competitive energy, Mr. Wright believes that in a competitive marketplace that there will be pressure on each market participant to maximize value to the customer. One method of maximizing value would be passing

through available savings (i.e. reducing cost while keeping product quality the same), which could include savings due to a well-designed POR tariff. For example, a POR Program will result in a reduction of bad debt risk and associated overhead costs, which reductions can be reflected in the per unit price offered to customers.

(Id.)

The AG also repeats its baseless disagreement with ICEA/RESA's evidence that a POR program would benefit customers because more AGS would enter the market due to the reduction in collection costs and, in turn, increased competition would lower costs to customers. According to the AG, this testimony is contradicted by statistics from the Illinois electric retail market that shows that, during a one-year period, there was an increase in the number of Alternative Retail Electric Suppliers ("ARES"), but ARES' prices were, on the whole, higher than the rates of the electric utilities. (AG In. Br., pp. 11-12; AG BOE, pp. 8-9) However, the electric utilities had POR programs in effect for many years prior to the year in question. Consequently, the AG's comparison has nothing to do with the impact of POR programs on ARES' prices and is completely irrelevant to this proceeding.

**B. The Commission Must Base its Decision in this Proceeding on the Evidence in this Proceeding, not on a Past Order, or an Order in another Jurisdiction.**

The AG continues to argue that the Commission should reject the Gas Utilities' POR Riders because a previous Commission, in an order issued over three years ago, rejected a POR rider filed by Nicor Gas in Ill. C. C. Docket 12-0569. (AG In. Br., pp. 6-8; AG BOE, pp. 6-7) However, prior Commission orders are not binding on this Commission because they are not *res judicata*. (*Abbott Laboratories, Inc. v. Illinois Commerce Com'n*,

289 Ill. App. 3<sup>rd</sup> 705, 682 N.E. 2<sup>nd</sup> 340 (1<sup>st</sup> District, 1997); *Lakehead Pipeline Co. v. Illinois Commerce Com'n*, 296 Ill. App. 3<sup>rd</sup> 942, 696 N.E. 2d 345 (3<sup>rd</sup> District, 1998) (modified on denial of rehearing, appeal denied 179 Ill. 2d, 705 N.E. 438). Thus, this Commission is not bound to follow prior Commission decisions. The Commission must base its decision on the record of this proceeding, which is far different from that in Docket 12-0569.

In the instant proceeding, the Gas Utilities have designed POR Programs that insulate sales customers from paying increased costs. Nicor's POR filing contained a critical feature which both the Commission Staff and CUB referred to as a "poison pill"—an intangible cost recovery factor. (Transcript of Oral Argument in Docket 12-0569, July 9, 2013, pp. 15, 28). In addition, the Commission had serious concerns about both the intangible cost recovery factor and a discount rate that was not based on actual uncollectible costs. (Order in Docket 12-0569, dated July 29, 2013, pp. 19-24) Moreover, the Commission Staff opposed approval of Nicor's POR tariff. In this proceeding, the Commission Staff supports the Gas Utilities' POR tariffs, finding them to be just and reasonable.

In short, other than the similarity that both Nicor Gas and the Gas Utilities filed POR tariffs, the tariff filings are completely different as are the evidentiary records in the two proceedings. The Commission must base its decision on the evidentiary record in this proceeding, which demonstrates that North Shore's and Peoples Gas' POR tariffs are just and reasonable.

Just as the Commission is not bound by a Commission order from over three years ago, it is not bound by a recent decision of another commission, the NYPSC. The

AG notes that the NYPSC recently issued an order imposing a moratorium on energy service companies' signing up and retaining participants in a New York utility low-income assistance program, while acknowledging that that order has been stayed by a temporary restraining order. (AG In. Br., pp. 16-17; AG BOE, pp.13-14) However, as demonstrated in Section II, *supra*, the Commission should reject the AG's advice that it should follow the lead of the NYPSC which has had two orders relating to suppliers stayed by the New York Courts this year.

#### **IV. CUB'S ALTERNATIVE PROPOSAL IS UNWORKABLE AND WAS PROPERLY REJECTED BY THE ALJPO.**

As an alternative to rejection of the POR Programs, CUB continues to propose to limit the price per therm that AGS can pass through Rider POR for each customer to Gas Utilities' PGA prices. (CUB BOE, pp. 18-19)

ICEA and RESA opposed CUB's alternative proposal, which would basically eliminate all of the benefits of having POR programs and effectively kill such programs. First, under CUB's alternative proposal, the customer is now potentially faced with receiving two bills in the event that the customer is unable to pay the full amount of both the utility and AGS charges. With POR, the utility leverages already-existing infrastructure to manage receivables, including: IT, Accounting, Call Center and telephone systems, Collections, and Field Systems to handle the receivable throughout the lifecycle. (ICEA-RESA Ex. 2.0, p. 16)

Second, requiring separate bills for collection further exacerbates the confusion for customers because now the amount collected by the AGS is potentially split between the utility and the AGS bills. POR allows one party (the utility) to provide a consolidated



bill for supply and delivery charges, and follow through with the customer on all collection issues associated with the bill, thus reducing customer confusion. Further, POR avoids the potential complications of proration where misapplications of payments occur, problematic synchronization of receivable balances between the utility and supplier, and the potential of inconsistent information being provided to consumers. (Id., pp. 16-17)

Third, the POR Programs reduce the redundancy of collections expenditures and enhance the success on collecting on unpaid accounts. This net cost reduction will be passed on to customers through lower prices and more diverse products offered by AGS. (Id., pp 16-17)

The Gas Utilities also opposed CUB's alternative proposal, stating that it would add additional complexity and costs to implement and administer the rider. It could also cause customer confusion as there could be collection activity from both the Gas Utilities and AGS for their respective receivables. This confusion could drive additional customer calls to the Gas Utilities' call centers, further increasing costs. (NSG-PGL Ex. 3.0, p. 8)

Commission Staff witness Dr. Rearden also opposed CUB's alternative proposal. First, the restriction is asymmetric. Second, it would require AGS to send separate bills to customers in some, but not all circumstances, reducing the single-bill benefits of POR. Third, the administrative complications might make the proposal unworkable by itself. Fourth, the proposal re-introduces uncertainty into how AGS formulate their prices, negating that benefit for customers and AGS. Dr. Rearden concluded that CUB's proposed alternative undermines the very advantages that POR is otherwise intended to provide. (ICC Staff Ex. 4.0, pp. 7-8)

Based on the evidence in this proceeding, the ALJPO was correct in rejecting CUB's alternative proposal, finding that it is impractical and likely to lead to customer confusion and billing difficulties. (ALJPO, p. 37) The Brief on Exceptions of CUB adds nothing of merit to support its poorly thought out and unworkable alternative.

**V. ICEA AND RESA SUPPORT STAFF'S EXCEPTIONS TO THE ALJPO, WITH SOME MODIFICATION.**

Staff does not oppose the ALJPO's approval of the Gas Utilities' POR Programs, nor dispute the ALJPO's ultimate conclusion that the POR tariffs are just and reasonable. Staff, however, proposes exceptions to clarify that the Gas Utilities are to give Staff sufficient billing information to review AGS' pricing and to clarify its requirements relating to complaints made by customers participating in the POR Programs. (Staff BOE, pp. 1-4)

ICEA and RESA agree with Staff that it would not be able to obtain billing information without the cooperation of the Gas Utilities and that language should be added to protect the confidentiality of such information. ICEA and RESA also agree with Staff that the reporting requirement for complaints relates to complaints made to the Commission's Consumer Services Division. However, ICEA and RESA are concerned about how confidentiality of AGS' prices will be maintained. They are also concerned that pricing data is analyzed in a manner which results in an apples to apples comparison. ICEA and RESA, therefore, propose the following modifications to Staff's language:

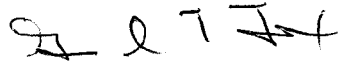
However, the Commission shares the concerns of CUB and the AG concerning the potential effects on low income and/or credit challenged customers arising from increased or aggressive AGS marketing as a result of Rider POR.

The Commission also appreciates the importance of acting quickly to remedy potential abuse of low income and disadvantaged customers. The Commission therefore directs North Shore and Peoples Gas to provide Staff with access to customer data in order to facilitate an annual to-review by Staff on a monthly basis, of the individual and aggregate AGS supplier rates that sales customers pay during each month for each 12 month period. Staff shall take measures to protect confidential and competitive sensitive information. Staff shall consult with ICEA and RESA to determine how appropriate comparisons of AGS' prices and the Utilities' PGAs can be made and to determine appropriate confidentiality measures to protect the proprietary pricing information of AGS. In addition, the Commission directs Staff to monitor complaints to the Commission's Consumer Services Division as well as the AGS market for data of activity that could harm vulnerable consumers or constitute a threat to LIHEAP funding. Staff is directed to report to the Commission on the individual and aggregate AGS supplier rates that sales customers pay during each month for each 12 month period these issues annually or more often if merited by market developments. Staff is to include in the annual report any data of market activity which could hurt vulnerable customers or constitute a threat to LIHEAP funding which Staff becomes aware of through complaints made to the Consumer Services Division.

## **VI. CONCLUSION**

In conclusion, North Shore and Peoples Gas have proposed POR Riders that are efficient and that will not impose any costs on non-participating AGS and customers. The Commission Staff supports the proposed POR Riders. ICEA and RESA support the Gas Utilities' Riders and have demonstrated the significant benefits that will be derived through implementation of the riders. Only CUB and the AG oppose the POR Riders. However, their opposition is based on unfounded speculation that does not even rise to the level of anecdotal evidence. Their arguments in their Briefs on Exceptions in opposition to the POR Riders are without merit and have been fully refuted by ICEA and RESA, the Commission Staff, and the Gas Utilities. The Commission should accept the ALJPO's approval of the POR Riders filed by North Shore and Peoples Gas.

Respectfully submitted,



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**NOTICE OF FILING**

Please take note that on October 20, 2016, I caused to be filed via e-docket with the Chief Clerk of the Illinois Commerce Commission, the attached Illinois Competitive Energy Association's and the Retail Energy Supply Association's Reply to Briefs on Exceptions 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 Illinois Competitive Energy Association's and the Retail Energy Supply Association's Reply to Briefs on Exceptions upon the parties on the service list maintained on the Illinois Commerce Commission's eDocket system for Ill. C. C. Dockets 16-0033/16-0034 (consolidated) via electronic delivery on October 20, 2016.

/s/ GERARD T. FOX  
Gerard T. Fox

