STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Northern Illinois Gas Company d/b/a NICOR Gas Company	)	
	)	Docket No. 12-0569
Proposed Establishment of Rider 17, Purchase of Receivables with Consolidated Billing	)	

PROPOSED ORDER OF
THE RETAIL ENERGY SUPPLY ASSOCIATION
AND INTERSTATE GAS SUPPLY OF ILLINOIS, INC.

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I. INTRODUCTION

On September 5, 2012, Northern Illinois Gas Company (d/b/a Nicor Gas Company) ("Nicor Gas" or the "Company") filed, pursuant to Section 9-201 of the Public Utilities Act, a new tariff—Rider 17, Purchase of Receivables with Consolidated Billing ("PORCB")—with the Illinois Commerce Commission ("Commission"). On October 17, 2012, the Commission suspended Rider 17 pending investigation and a Commission decision. On January 24, 2013, the Commission entered an order re-suspending Rider 17.

The following parties petitioned for, and were granted, leave to intervene in this proceeding: the Retail Energy Supply Association ("RESA"), Interstate Gas Supply of Illinois ("IGS"), the Citizens Utility Board ("CUB"), the Illinois Attorney General ("AG"), and the Illinois Competitive Energy Association. On December 12, 2012, Nicor Gas filed the direct testimony of Mr. Robert Mudra in support of its tariff. On March 1, 2013, direct testimony was filed on behalf of the Commission Staff (Dr. David Rearden, Ms. Teresa Ebrey, Ms. Rochelle Phipps, and Mr. Christopher Boggs), RESA/IGS (Ms. Teresa Ringenbach), and CUB/AG (Mr. Martin R. Cohen). On March 25, 2013, Nicor Gas filed the rebuttal testimony of Mr. Mudra. On

April 23, 2013, rebuttal testimony was filed on behalf of the Commission staff (Dr. Rearden, Ms. Ebrey and Ms. Phipps), RESA/IGS (Ms. Ringenbach) and CUB/AG (Mr. Cohen). On April 30, 2013, Nicor Gas filed the surrebuttal testimony of Mr. Mudra. An evidentiary hearing was held on May 6, 2013, at the close of which the record was marked "Heard and Taken".

Initial and Reply Briefs were filed by Nicor Gas, the Commission Staff, RESA/IGS and CUB/AG.

II. DESCRIPTION OF RIDER 17

The Direct Testimony of Mr. Mudra contained a complete description of Rider 17. The purpose of Rider 17 is to provide a new tariffed service whereby a Qualifying Alternative Gas Supplier ("Q-AGS") may, at its option, sell to Nicor Gas qualifying receivables for natural gas commodity service for eligible residential and non-residential customers. Rider 17 provides the terms by which Nicor Gas will purchase receivables from Q-AGS, including the manner in which the Company will recover its costs incurred in providing service under the rider, and then reflect those charges on bills where the receivables have been purchased by Nicor Gas. Rider 17 also sets forth the terms and conditions of the new tariff service.

Rider 17 would be available in conjunction with Nicor Gas' competitive alternative retail supply services under its Rider 15, Customer Select, and its Rider 16, Supplier Aggregation Service. Rider 17 adds a purchase of receivables option for Q-AGS' gas supply charges to Nicor Gas' existing consolidated billing program. Nicor Gas will purchase these receivables, without recourse, at a discount of 1.5% as part of the mechanism for the Company to recover the costs of providing the new service. After the purchase of these receivables, Nicor Gas will include on the customer's bill both Nicor Gas' distribution charges and the balance of the outstanding charges purchased from the Q-AGS, and these charges will enter the Company's collection process.

Any Q-AGS electing to have Nicor Gas purchase its receivables is required, by Rider 17, to sell to Nicor Gas such Q-AGS' Qualifying Receivables, as defined in Rider 17, for (a) all eligible residential customers and all eligible non-residential customers, (b) all eligible residential customers only, or (c) all eligible non-residential customers only. However, a Q-AGS is not precluded from serving specific non-residential customers, without Rider 17, through either dual billing or through the supplier's own consolidated billing program in which the Q-AGS consolidates both the utility and supplier charges on the supplier's bill.

Further, Nicor Gas proposes to exclude from Rider 17 any residential customer participating in the State of Illinois' Percentage of Income Payment Plan ("PIPP"), as provided for in the Illinois Energy Assistance Act. RESA and IGS have agreed that inclusion of PIPP customers should not be part of the initial information technology ("IT") system changes, but will be considered for inclusion in the PORCB Program at a later date.

In providing the new service under Proposed Rider 17, Nicor Gas anticipates incurring developmental, implementation, administrative and operational costs. Rider 17 sets forth two categories for these costs—Administrative and Operational Costs ("AOCs") and Capital Recovery Costs ("CRCs"). The AOCs are the incremental expenses incurred by or for Nicor Gas in association with services provided under Rider 17 and are described more fully in the tariff. The CRCs are the revenue requirements necessary to recover the Company's investment in IT systems necessary for the PORCB Program.

According to Nicor Gas, all of the costs that it seeks to recover under Rider 17 represent new, incremental costs that are not reflected in its current, Commission-approved revenue requirement. Therefore, Nicor Gas proposes to recover all costs to provide this new service from the Q-AGS that elect the service under Rider 17 and from the Q-AGS' eligible customers.

Q-AGS electing service under Rider 17 will be subject to several costs. First, any Q-AGS electing service under Rider 17 will continue to pay the existing Third Party Billing Service charge of $0.25 per bill. Second, a Q-AGS electing service under Rider 17 will pay a Discount Factor of 1.5%, which includes 0.5% for CRCs, as applied to Qualifying Receivables purchased by Nicor Gas from the Q-AGS.

Q-AGS' eligible customers also will be subject to some costs and credits. In particular, Rider 17 includes a customer adjustment, which will be a per-customer per-month charge or credit calculated separately for eligible residential and non-residential customers. The charge will be based on AOCs, estimated uncollectible costs, intangible cost recovery and a reconciliation component and will be determined pursuant to the specific conditions set forth in Rider 17. Nicor Gas will make regular filings with the Commission on or before the 20th day of the month preceding the adjustment's effective date. The adjustment will be added to or deducted from the customer's Monthly Customer Charge and will be applicable by customer class (residential and non-residential).

Nicor Gas proposes a reconciliation process under Rider 17 that reflects the major features commonly implemented for the oversight of tracking riders, including (1) an internal audit report, and (2) a Commission-initiated proceeding to reconcile costs and revenues, review the costs incurred, and order adjustments to correct errors in any. Nicor Gas proposes to file a petition with the Commission to initiate the reconciliation process on or before August 31 following each 24-month reconciliation period. The petition will include a reconciliation of the actual purchase of receivables adjustment costs incurred with the actual revenues booked and the actual CRCs incurred with the Capital Recovery revenues booked.

In his Rebuttal Testimony, Mr. Mudra accepted some modifications proposed to Rider 17 by Staff and CUB/AG. Mr. Mudra sponsored Nicor Gas Ex. 2.2, a revised version of Rider 17 reflecting the modifications of Staff and CUB/AG which were accepted by Nicor Gas. Nicor Gas Ex. 2.2 is the version of Rider 17 for which the Company seeks Commission approval.

Nicor Gas estimates that it will incur start-up costs of $3.88 million to implement the changes required by Rider 17. In calculating this estimate, Nicor Gas reviewed its current systems and identified the programs, processes and reports that will need to be modified to implement Rider 17. Nicor Gas proposed a rate of return related to the PORCB Program equal to its overall cost of capital. While Staff witness, Ms. Phipps, originally opposed this rate of return, Staff withdrew its opposition in its Initial Brief.

In his Rebuttal Testimony, Mr. Mudra stated that, from Nicor Gas' perspective, Rider 17 was drafted with three goals in mind:

(1) Hold Nicor Gas supply and delivery customers *(i.e.* those customers not purchasing supply from Q-AGS using PORCB service under Customer Select) harmless in the provision of this new, optional PORCB service to AGS;

(2) Provide for the recovery of all costs incurred by Nicor Gas to provide this new PORCB service, none of which costs are currently being recovered through Nicor Gas' base rates; and

(3) Propose a balanced program in response to the request of certain AGS to offer an optional service to AGS.

Mr. Mudra testified that proposed Rider 17 accomplishes all of these goals and ensures that the new, incremental costs of Rider 17 would be recovered from the Q-AGS that elect the service and from their eligible customers.

III. COMMISSION'S AUTHORITY TO APPROVE RIDER 17

CUB/AG POSITION

CUB/AG argues that the Public Utilities Act does not grant the Commission authority to approve a PORCB tariff for a gas utility and that Nicor Gas failed to describe any authority in the PUA providing such authority to the Commission. In support of its argument, CUB/AG cites certain cases for the principle that the Commission is limited to the General Assembly's grant of authority. Noting that the Illinois General Assembly granted specific authority to review and approve PORCB tariffs by electric utilities, CUB/AG claim that the General Assembly chose not to ascribe this authority to the Commission with respect to PORCB tariffs filed by gas utilities.

Also in support of its argument, CUB/AG states that the gas and electric supply markets in Illinois are different retail markets and the General Assembly has recognized such inherent differences by drafting different sets of statutes to govern activities in these markets. In particular, CUB/AG notes that the Public Utilities Act requires PORCB Programs for electric utilities, the Public Utilities Act includes a legislative finding supporting an effectively competitive electricity market, the General Assembly created the Office of Retail Market Development which is charged with promoting retail electric competition for residential and small commercial customers, and the General Assembly enacted municipal aggregation language. CUB/AG concludes that the Commission, based on the above, has no authority to approve a PORCB tariff for a gas utility.

COMMISSION STAFF POSITION

Staff disagrees with CUB/AG's arguments that the Commission lacks authority to approve Rider 17.

NICOR GAS POSITION

Nicor Gas contends that CUB/AG's argument that the Commission has no authority to approve Rider 17 is based on false premises. Nicor Gas made its filing pursuant to Section 9-201 of the Public Utilities Act. The Commission recognized this statutory authority when it suspended Nicor Gas' filing in its October 17, 2012 Order in this proceeding. Nicor Gas points out that CUB/AG referred to Section 9-201 of the Public Utilities Act in making its argument that the Commission should not approve Rider 17 on the separate basis that it is not just and reasonable, the standard set forth in Section 9-201.

Nicor Gas argues that Illinois case law does not support CUB/AG's argument. Rather, it shows that the Commission has broad authority to set and design utility rates, including the ability to approve riders, such as Rider 17, as a preferred mechanism for cost recovery.

Nicor Gas also states that it has offered its residential and small commercial customers the option to purchase their natural gas from AGS for more than a decade through a Commission-approved tariff, Rider 15—Customer Select Program. There is no specific statutory provision authorizing a gas utility to offer a choice program to customers. Instead, the Commission approved Nicor Gas' offering of its Customer Select Program pursuant to Section 9-201 of the Public Utilities Act, the same Section applicable to proposed Rider 17.

RESA/IGS POSITION

Nicor Gas filed its proposed Rider 17 pursuant to Section 9-201 of the Public Utilities Act and its filing was suspended by the Commission pursuant to the same section. Section 9-201(c) states, in pertinent part:

> If the Commission enters upon a hearing concerning the propriety of any proposed rate or other charge, classification, contract, practice, rule or regulation, the Commission shall establish the rates or other charges, classifications, contracts, practices, rules or

regulations proposed, in whole or in part, or others in lieu thereof, which it shall find to be **just and reasonable**.

(Section 9-201 (c)**, emphasis added)**

RESA and IGS respond to the differences noted by CUB/AG in the gas and electric supply markets, by stating that the only meaningful difference for purposes of this proceeding is that while Section 16-118 (c) required electric utilities to implement PORCB Programs for Alternative Retail Electric Suppliers, there is no comparable requirement that gas utilities implement PORCB Programs for AGS. Nicor Gas is not required by the PUA to implement a PORCB Program. Consequently, Nicor Gas filed this proceeding pursuant to Section 9-201 to request the Commission's permission to implement Rider 17. As previously stated, Section 9-201 gives the Commission authority to approve Rider 17 if it finds that Rider 17 is "just and reasonable".

RESA and IGS stated that, in this respect, the situation in this proceeding is no different from Nicor Gas' implementation of Customer Select Program, its transportation program for small-volume customers. Nicor Gas was not required by the PUA, nor by the Commission, to implement Customer Select. Instead, Nicor Gas filed its Customer Select Program, pursuant to Section 9-201 and the Commission, using its authority under that section, approved the program. Similarly, The Peoples Gas Light and Coke Company and North Shore Gas Company operate their own versions of Choice Programs, both named Choices For You, having filed tariffs implementing those programs pursuant to Section 9-201 of the PUA and having received Commission approval pursuant to that section.

RESA and IGS acknowledge that the Illinois General Assembly does not require gas utilities to offer PORCB Programs. However, neither has the General Assembly prohibited gas utilities from offering such programs. Nicor Gas has the authority under Section 9-201 of the

Public Utilities Act to file Rider 17 and the Commission has the authority under Section 9-201 to approve Rider 17 if it finds it to be just and reasonable.

COMMISSION ANALYSIS AND CONCLUSION

The Commission agrees with CUB/AG that the Public Utilities Act does not require gas utilities to implement PORCB Programs. However, the Commission agrees with the Commission Staff, Nicor Gas and RESA/IGS that it has the authority to approve a PORCB Program filed by a gas utility pursuant to Section 9-201 of the Public Utilities Act, assuming that the utility meets the requirements under that Section. Whether or not Nicor Gas' Rider 17 meets those requirements will be addressed in the next section of this Order.

IV. STANDARD OF REVIEW UNDER SECTION 9-201

COMMISSION STAFF

Staff argues that the Commission should only approve Rider 17 if the expenditures to implement Rider 17 are prudently incurred. In turn, Staff argues that the expenditures to implement Rider 17 are prudently incurred only if the benefits are greater than the costs of implementation. Staff contends that Nicor Gas has not demonstrated that it would be prudent to initiate Rider 17 at this time.

According to Staff, Nicor Gas has estimated the start-up costs for Rider 17 to be $3.88 million. The potential benefit is that the retail market may become more competitive due to the PORCB Program and that customers may be able to buy gas at a lower price from AGS than if the program did not exist. However, the prices that AGS offer to customers are not regulated. There is no law or rule that mandates that AGS must offer prices lower than the Purchased Gas Adjustment ("PGA") charged by Nicor Gas. Markets cannot guarantee that AGS' prices will be lower than non-PORCB prices or the PGA rate.

Staff notes that RESA/IGS witness Ms. Ringenbach described many benefits of a PORCB Program. Of these, Staff stated that the two substantial potential benefits from a PORCB Program are (1) it could lower AGS' costs, which, in turn, would increase the number of active sellers and thus increase competition and reduce prices to customers; and (2) a PORCB Program may permit AGS to competitively serve a broader segment of customers. Staff acknowledges that a competitive market ensures that cost reductions from lower collection costs benefit customers and that, if the assumption that the market is or will be competitive with a PORCB Program is true, then by definition, cost reductions will be passed on to customers. However, Staff argues that while the factors cited by Ms. Ringenbach are believable, they are not objective data.

In response to Nicor Gas' and RESA/IGS' legal challenge of Staff's position that the Commission should only approve Rider 17 if the expenditures are prudently incurred, meaning the benefits are greater than the costs, Staff argues that the Commission has relatively broad authority to determine what is in the public interest. Staff contends that the Commission can reasonably conclude that Rider 17 is not in the public interest if the benefits do not exceed the costs. According to Staff, Nicor Gas has not provided evidence that the benefits of Rider 17 exceed the costs and, therefore, the Commission should reject Rider 17.

CUB/AG

CUB/AG argues that if the Commission rejects its argument that it lacks authority to approve Rider 17, the Commission should, nonetheless, reject Rider 17 unless it finds it to be "just and reasonable" as required by Section 9-201 of the Public Utilities Act. According to CUB/AG, Nicor Gas has identified approximately $3.8 million in capital costs associated with Rider 17 and if customers are not receiving benefits under Rider 17, the PORCB Program cannot

be considered prudent. CUB/AG cites the conclusion of Staff witness Dr. Rearden that because neither Nicor Gas, nor any other party, has demonstrated that the benefits of Rider 17 outweigh the costs, the Commission cannot conclude that the expenditures for Rider 17 are prudent. CUB/AG recommends that the Commission reject Rider 17.

NICOR GAS

Nicor Gas states that it is a well-established fact that the Commission has broad authority to set and design utility rates and that, included within this broad authority, is the ability to approve riders in proper situations and under circumstances that are lawful and reasonable. The established test under Section 9-201 of the Public Utilities Act is whether the tariff is "just and reasonable". The burden of proving the justness and reasonableness of the proposed rates or other charges is upon the utility. Moreover, the Commission has held that a just and reasonable rate is a question of sound business judgment and not a product of a legal formula.

Nicor Gas notes the non-legal opinions of Staff's witness, Dr. Rearden, and CUB/AG's witness, Mr. Cohen, that the Commission should only approve Rider 17 if the costs to implement it are reasonably incurred, meaning Rider 17 provides net benefits to customers. Nicor Gas argues that because neither Dr. Rearden nor Mr. Cohen is an attorney, the Commission should ignore their novel legal theories, which have no legal basis. There is no Commission rule or decision, or any other authority supporting the application of a "prudently incurred" or "net benefits" test to a new cost tracker like Rider 17. In fact, Nicor contends that these theories are contrary to well-established standards applicable to the approval of riders. Moreover, according to Nicor Gas, the question of prudently incurred costs is premature. The question of prudence is one for a reconciliation proceeding, not in a proceeding to determine whether a tariff proposing a PORCB Program and a cost recovery mechanism is just and reasonable. Nicor Gas concludes

that the tests advanced by Staff and CUB/AG are inappropriate for use by the Commission in this proceeding.

RESA/IGS

The Commission Staff and AG/CUB both argue that the Commission should reject Rider 17. Their positions appear to go far beyond the issue in this proceeding—whether Nicor Gas' Rider 17 is just and reasonable. They appear to want to question the Customer Select Program itself. The Commission has already approved Nicor Gas' Customer Select Program. The only issue in this proceeding is whether the Commission should approve a PORCB Program in Nicor Gas' service territory. However, Staff and AG/CUB don't seem to realize that Rider 17 creates an optional service for suppliers—a PORCB Program. Suppliers will make their own determinations as to whether the service is one to which they should subscribe. Whether or not a supplier decides to participate in Rider 17 is going to be based on that supplier's analysis of the costs to itself compared to the benefits it would derive. There is nothing that compels a supplier to participate in Rider 17. Thus, if a supplier's analysis does not result in the benefits outweighing the cost of Rider 17 for that supplier, the supplier need not participate in the Rider.

In response to Staff's recommendation that the Commission should only approve Rider 17 if the Commission believes that the expenditures to implement Rider 17 are prudently incurred, RESA and IGS respond that Staff's prudently incurred criteria, based on an undefined cost/benefit analysis, is not the appropriate criteria for the Commission to use in determining whether to approve Rider 17 and that it is not supported by any reference to any Commission rule or decision or any other authority. In this regard, RESA and IGS note that the Customer Select Program itself, Nicor Gas' transportation of customer-owned gas program for small-

volume customers, was not subjected to a prudently incurred test based on a cost benefit analysis.

RESA and IGS also note that when the Illinois General Assembly desires a prudence test, it has established one. For example, Section 9-220 of the Public Utilities Act, which provides generally for purchased gas adjustment clauses and purchased fuel adjustment clauses, states in pertinent part:

> Annually, the Commission shall initiate public hearings to determine whether the clauses reflect actual costs of fuel, gas power, or coal transportation purchased to determine whether such purchases were **prudent**, and to reconcile any amounts collected with the actual costs of fuel, power, gas or coal transportation **prudently purchased**. In each such proceeding, the burden of proof shall be on the utility to establish the **prudence** of its cost of fuel, power, gas, or coal transportation purchases and costs.

(Subsection 9-201 (a) of the Public Utilities Act, emphasis added)

RESA and IGS respond similarly to the recommendation of CUB/AG, noting that while it cites the correct criteria under Section 9-201 of the Public Utilities Act, it does not consider for whom the tariff is not just and reasonable. Rider 17 is an optional service for AGS. If the terms of Rider 17 are not reasonable, AGS do not have to apply for the service. With respect to cost recovery, the Rider 17 mechanism is structured so that Nicor Gas recovers the costs of the PORCB program from AGS and their customers. If a customer does not like the offer from an AGS using PORCB the customer may also choose not to participate. Nothing about this program is mandatory.

With respect to CUB/AG's proposed requirement of a "net benefits" test, RESA and IGS argue that CUB/AG does not cite any authority as to why that is the criterion that the Commission should, or must, use in making its decision in this proceeding. Once again, CUB/AG does not appear to understand the nature of the service—it is an optional service for AGS. AGS and their customers will decide for themselves whether Rider 17 benefits them. If it

does not, then they will not apply for service thereunder. However, clearly other PORCB programs both on the electric side in Illinois and on the gas and electric sides in other states have proven that customers do see value in competitive offerings and suppliers see value in participating in PORCB.

RESA and IGS contend further that, besides the fact that both Staff and CUB/AG are proposing criteria not required by Section 9-201, neither addresses the fact that their proposed criteria are not possible to be tested. While the costs of implementing the PORCB program are, to some degree, capable of quantification—for example, Nicor Gas has a current estimate of $3.88 million in capital costs—the customer benefits, described in detail in the direct testimony of RESA/IGS' witness, Ms. Ringenbach, of the PORCB program, while significant, are largely qualitative.

While it is not possible, because of many unknown factors, to predict whether the 1.5% discount rate in Rider 17 will result in a refund or surcharge to customers, RESA and IGS note that discount rates in other jurisdiction with PORCB for gas utilities have decreased. For example, in Ohio, Columbia Gas passes both supplier and utility uncollectibles through its uncollectible rider. Since Columbia's uncollectible rider was approved in 2003, switching has increased to 40% but switching has not been cited in any of its annual uncollectible rate filings as creating an increase in bad debt. In fact, Columbia Gas recently filed for a reduced uncollectible rate. Specifically, on April 15, 2013, Columbia Gas filed to reduce the rate under its uncollectible rider from $0.0781/MCF to $0.0173/MCF, a decrease of almost 78%. Other Ohio gas utilities have similar uncollectible riders. Although switching has increased for these utilities, there has not been any correlated increase in uncollectible riders.

RESA and IGS state that the experience of Ohio gas utilities is corroborated by the experience of Illinois electric utilities. In Illinois, there are no gas PORCB programs, but there are PORCB programs operated by ComEd and Ameren on the electric side. ComEd's uncollectible rate for its PORCB Program, established in Ill. C. C. Docket 10-0138, started out at 1.84% in January 2011. The current uncollectible rate for that program is 0.66%. Again, this demonstrates that ComEd's PORCB program has not created a higher uncollectible rate for it. In addition, Ameren experienced a significant increase in electricity switching over the past year and recently filed for a reduced PORCB discount rate. Specifically, Ameren recently filed to reduce the current PORCB discount rate from 1.29% to 1.22% effective June 2013. RESA has not seen utility higher bad debt rates as a result in any state when supplier uncollectibles from the purchase of supplier receivables are also included in utility uncollectible recovery.

In her Direct Testimony, Ms. Ringenbach described the benefits of Rider 17 to AGS, who are the customers being served under the Rider. AGS use utility consolidated billing to bill their products. This allows for a single bill for all gas charges to be sent to the customer. Because they are the owners of the bill, utilities are better suited for collections and can do so at a lower cost. Absent a PORCB program, AGS would have to separately collect non-payments from customers who are simultaneously in collection with the utility for charges that appeared on a single bill. Each AGS would have to develop its own systems and employ its own labor to engage in these activities which would come at a higher cost because the AGS only has the amount applied to its portion of the bill and must do further research to understand whether or not the non-payment was through utility error or true customer non-payment, prior to beginning the collection process.

RESA and IGS contend that a PORCB Program will level the playing field so that AGSs can effectively compete against Nicor Gas to supply gas to customers. Utilities have inherent advantages when it comes to collecting outstanding accounts from customers. Utilities are better suited for collections because a utility has greater recourse in the event a customer does not pay. The utility can shut off a customer's gas supply for non-payment whereas an AGS cannot shut off delivery of gas to the customer's home. The AGS' only recourse is to stop supplying gas to the customer and turn the account back to the utility. If a customer knows that there are consequences for not paying a bill, that customer is much more likely to pay the bill. For example, if a customer thinks that non-payment will result in the shut off of natural gas to his or her home, the customer will be more likely to pay the bill. On the other hand, the customer is much less likely to pay his or her bill when a customer knows there are limited consequences for not paying a bill, such as the case with an AGS.

Moreover, RESA and IGS assert that the rate of collection is increased when the same party that bills customers collects on the outstanding accounts. Utilities bill AGS customers, and the AGS customers pay the utility which later remits the payment to the AGS. However, after a customer account becomes past due, the utility relinquishes all collections responsibility and it becomes the AGS' responsibility to collect on the past due accounts. It is more difficult for AGSs to collect on these accounts because the customer is not accustomed to receiving a bill from the AGS. The customer is less likely to view the AGS as having a continuing business relationship and therefore the customer is less likely to pay. Moreover, the customer may be confused as to why he or she is receiving a bill from the AGS when the bill had previously come from the utility.

RESA and IGS state that the effect of the utility's inherent advantage associated with collections is that a utility has much more success at collecting from customers and thus utilities receive a greater percentage of the accounts billed. This is so even though a utility's cost of collection is typically less. Ultimately this means an AGS' bad debt expense (amount on unpaid accounts plus cost of collections) is much greater than a utility's bad debt expense. This is harmful for AGSs because a high bad debt expense increases the cost an AGS incurs in serving customers. The negative effect of this additional cost is compounded by the fact that a high bad debt expense compared to that of a utility makes it more difficult for an AGS to compete.

According to RESA and IGS, an AGS factors its overall costs into the pricing it offers customers. Therefore, if an AGS' overall costs are increased, the AGS must increase prices in order to make it profitable to offer service to customers. In addition, a utility's price is based on its cost to serve customers. If a utility has a significantly lower cost (because of a lower bad debt expense) than an AGS' cost, then a utility will be able to offer a lower price to customers.

RESA and IGS state that a PORCB Program helps AGS because the utility purchases these receivables without recourse. That is, the AGS will receive payment for the customer's account regardless of whether a customer pays. This means that an AGS no longer has to assume the risk of a customer not paying or expend resources on collecting past due accounts. While the AGS will receive less than the total amount due on the accounts, this reduced revenue is more than made up for by the AGS' elimination of bad debt expense and collection costs which can be quite high.

In addition to providing benefits to AGS, according to RESA/IGS, Rider 17 will also benefit customers. Beyond reducing a customer's confusion and negative experience from dealing with two separate collection entities over a single bill, a PORCB Program leverages the

utility's inherent advantage in collections to reduce the net bad debt expense for all customers. Rather than every supplier expending resources to collect on accounts with limited success, a PORCB 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 AGSs.

In response to CUB/AG questioning whether AGS will provide lower prices to customers as a result of adoption of Rider 17, RESA/IGS responded that in a competitive natural gas market AGS will have to reduce prices if they wish to remain competitive with other suppliers. Currently in Nicor Gas' service territory, many AGS are not offering products because their costs are too high to be profitable. However, as the costs to AGS are reduced substantially by the implementation of a PORCB, AGS will be able to enter the market offering a lower price to customers. As more AGS enter the market, the existing AGS will have to lower their prices if they wish to be competitive. RESA and IGS noted that Dr. Rearden acknowledges this when he states that if the premise that the market is or will be competitive is true, then, by definition, the cost reductions will be passed on to customers.

Also, RESA and IGS assert that it is important to remember that customers can choose whether they want to buy from a supplier and, moreover, which supplier. A PORCB Program will encourage more suppliers to make offers in Nicor Gas' service territory, the result being a more competitive market. More competitive markets generally result in better offers and lower prices.

With respect to the competitive market, RESA and IGS identified other jurisdictions in which natural gas utilities have successfully implemented PORCB Programs as part of their customer Choice programs. PORCB is part of Choice programs in at least 9 other states,

including Indiana (Northern Indiana Public Service Company), Ohio (Dominion East Ohio, Columbia Gas, Vectren, Duke), Michigan (Consumers Energy, Michigan Consolidated (MichCon) a version of PORCB), Pennsylvania (Columbia Gas of Pennsylvania, PECO, NFG), Kentucky (Columbia Gas of Kentucky), New York (Orange and Rockland, Central Hudson, National Grid, National Fuel, ConEd, Keyspan, Rochester Gas and Electric), Maryland (Baltimore Gas & Electric, Washington Gas & Light), Wyoming (Source Gas) and Nebraska (Source Gas).

According to RESA and IGS, utility PORCB Programs have increased competition in a number of states. According to the United State Energy Information Agency statistics, all the states that have a greater than 10% customer participation in Choice programs have utilities that offer some form of PORCB Program. In contrast, there is no state without a utility PORCB Program that has greater than 10% Choice participation. RESA and IGS contend that states without PORCB Programs have not seen significant migrations because AGS' bad debt expenses in those states greatly increases the cost for AGS to serve customers. Because it costs more to serve customers, it is more difficult for AGS to offer competitive pricing, and without competitive prices, customers do not switch to AGS. Further, without a PORCB Program, AGS must limit their customer offers only to the most credit-worthy customers, further limiting the customer pool to which AGS market. In contrast, in most states with PORCB Programs there are many suppliers actively offering a multitude of products to residential natural gas consumers. RESA and IGS pointed to Ohio, where there is an over 50% migration rate and dozens of suppliers are marketing to customers.

RESA and IGS also noted that, in Illinois, on the electric side, both ComEd and Ameren have PORCB programs. It is well known that the Illinois residential competitive market has

expanded greatly since the implementation of PORCB. PORCB is not the only factor that has contributed to the success of the competitive electric market. To be sure, the relatively high utility price-to-compare has resulted in high levels of customer switching in 2011 and 2012; however, without PORCB, several suppliers offering products likely would not be in the market and governmental aggregation would not likely be as effective or vibrant as it has been. PORCB is part of the fundamental foundation for competition, without which large-scale residential customer switching simply would not have occurred.

According to RESA and IGS, the evidence is overwhelming that PORCB programs contribute to increased customer access to the benefits of participation in the competitive market and, therefore, increased customer migration. The implementation of PORCB would be a significant step towards achieving a competitive and robust natural gas market in Nicor Gas' service territory.

In response to the claims of the Commission Staff and CUB/AG that the absence of a PORCB tariff has not proven to be a significant impediment to competition, RESA and IGS disagree. They point to RESA/IGS Ex. 2.1 which contains a list of states having gas PORCB programs and the number of suppliers participating in each program. The exhibit shows that the number of suppliers participating in Choice programs having a PORCB component generally far exceeds the number of suppliers participating in Nicor Gas' Customer Select Program. For example, in New Jersey, 42 suppliers are in the service territory of Elizabethtown Gas, 48 in the service territory of New Jersey Natural Gas, 56 in the service territory of Public Service Electric & Gas, and 45 in the service territory of South Jersey Gas. High numbers of suppliers are also shown for Ohio, Pennsylvania, and New York. In contrast, there are only ten AGS actively serving customers in Nicor Gas' service territory.

In Illinois, on the electric side, one need look no further than the experience of Commonwealth Edison Company ("ComEd")—there were virtually no Alternative Retail Electric Suppliers making residential offers in ComEd's service territory until the Commission approved ComEd's Rider PORCB in Docket 10-0138 (order dated December 15, 2010).

In response to Staff's and CUB/AG's claim that there is an upward trend in Customer Select, based on Nicor Gas' Response to Staff DR POL 4.1, RESA and IGS argue that this claim is false. In fact, according to RESA and IGS, there has been a downward trend in non-residential customers on Customer Select over the 50-month period shown in Nicor Gas' response to Staff Data Request No. POL 4.1, the document relied upon by Staff and CUB/AG. Neither does that document show an upward trend in residential customers' participation in Customer Select. Rather there has been upward and downward movements over the 50-month period. In fact, from January 2013 to March 2013, there was a downward trend.

RESA and IGS concluded, with respect to customer benefits that, on the positive side, a PORCB Program will enable AGS to offer customers lower prices, and ultimately make the natural gas market in Nicor Gas' service territory more competitive, resulting in a wider array of competitive products customers and offer the following benefits to AGS and their customers:

- *Reduced customer confusion regarding collections.*
- *Leverage existing systems, reducing overall costs.*
- *Continuity of message and consistency in treatment of receivables.*
- *Expanded access to the competitive market for higher risk customers.*
- *Efficient utilization of effective recovery tools.*
- *Diminished counterparty risk.*

COMMISSION ANALYSIS AND DECISION

The parties appear to agree that the correct standard under Section 9-201 of the Public Utilities Act is whether the tariff is just and reasonable. However, the parties disagree as to how the utility, which has the burden of demonstrating that its tariff is just and reasonable, must meet that burden. While the Commission agrees, generally, that to be reasonable a tariff should provide benefits, it finds no statutory support for the application of a net benefits test in a Section 9-201 proceeding. In particular, the Commission finds that such a net benefits test would be unreasonable here where the benefits described in detail by RESA and IGS are substantial, but not quantifiable. The Commission finds that Rider 17 will provide benefits to AGS and their customers, while protecting Nicor Gas and customers that not participating in the PORCB Program. In particular, the Commission is supportive of fostering a competitive market place in Nicor Gas' service territory and finds that Rider 17 will improve the competitive marketplace for transportation of gas to residential and small non-residential customers. Furthermore, that improvement will benefit all customers who are eligible for Nicor Gas' Customer Select Program. On that basis, the Commission finds that Rider 17 is just and reasonable and should be and is hereby approved.

V. WHETHER RIDER 17 IS PREMATURE

COMMISSION STAFF

Three of Staff's arguments basically go to the question of whether it would be premature for the Commission to approve Rider 17.

First, Staff argues that approval of Rider 17 would be premature because many specific details have not been worked out. Staff recommends that Nicor Gas complete a final design of

the PORCB Program, including IT programming, and then return to the Commission to request approval.

Second, Dr. Rearden noted that the Commission's Office of Retail Market Development ("ORMD") is in the process of compiling a report, pursuant to Section 19-130 of the Public Utilities Act, that investigates the state of retail gas competition in Illinois, including the barriers to development of competition. Dr. Rearden recommended that the Commission wait until after this report is issued to address the issue of PORCB Programs for Illinois gas utilities.

Third, Staff argues that Rider 17 should be rejected because Nicor Gas did not submit, as part of its surrebuttal testimony, sample templates of a billing service agreement and title transfer documents that would be used in the PORCB Program, as requested by Mr. Boggs.

NICOR GAS

Nicor Gas disagrees that approval of Rider 17 would be premature. With respect to Staff's first argument, Nicor Gas responds that Rider 17 outlines the cost recovery mechanism, the requiring ongoing obligations of Nicor Gas and participating AGS, and the required administrative and Commission reconciliation processes. All that remains to be developed is the IT processes which are estimated to cost $3.88 million. However, it would not make sense for Nicor Gas to conduct full scale development for a new, optional service, with an estimated IT start-up cost of almost $4 million without first obtaining Commission approval.

In response to Dr. Rearden's suggestion to reject Rider 17 pending issuance of the ORMD report, Nicor Gas argued that this suggestion is premised upon the same unsupported rational that the benefits of a PORCB program must be demonstrated to be greater than the costs of implementing it before such a program may be approved. Nicor Gas does not agree that Dr. Rearden's suggested criteria should be applied to the Commission's review and approval of

Rider 17. Consequently, the fact that the Commission later this year may have additional information about the development of retail gas competition in Illinois is not a sufficient reason to reject Nicor Gas' proposed Rider 17.

RESA/IGS

With respect to Staff's first argument, RESA and IGS agree with Nicor Gas that Rider 17 is in the preliminary design stage only from an IT perspective. However, the tariff and structure of the program itself are not in any way preliminary. It is appropriate for Nicor Gas to delay IT design because it would be imprudent for Nicor Gas to spend almost $4 million on IT programming to fully develop an optional new service, without obtaining approval from the Commission first.

With respect to Staff's second argument, RESA and IGS agree with Nicor Gas that the pending process for the ORMD Report is not a basis for rejecting Rider 17 at this time. This proceeding was initiated by the filing of Rider 17 by Nicor Gas. The Commission should make a decision on the merits of the evidence in this proceeding, not the outcome of a report that is being prepared by a department of the Commission which is not represented in this proceeding. Furthermore, in the ORMD process, the absence of a PORCB program has been identified as a barrier to competition. In the comments submitted to the ORMD regarding the report that is to be compiled, the absence of a PORCB program as a barrier to competition has been echoed by RESA, IGS, the Illinois Competitive Energy Association, Good Energy, Rock River Energy Services, and Illinois Gas and Electric Company. Moreover, there is nothing to suggest that the ORMD report will contain any analysis of the costs versus the benefits of Choice programs, let alone a cost-benefit analysis of a PORCB component of a Choice program.

With respect to Staff's third argument, RESA and IGS note that Nicor Gas estimates that it will take approximately two years to complete the IT programming for the PORCB Program. Thus, there is ample opportunity for Nicor Gas to develop the billing service agreement and title transfer documents that will be used in the PORCB Program and to submit them to Staff and other interested parties for their review and comment. According to RESA/IGS, Staff's concern does not justify rejection of Rider 17; at most, the Commission could, in its order in this proceeding, establish a process for submission and review of such documents.

COMMISSION ANALYSIS AND CONCLUSION

The Commission agrees with Nicor Gas and RESA/IGS that none of Staff's three arguments justify rejecting Rider 17 at this time. The Commission agrees that it would not be prudent for Nicor Gas to spend nearly $4 million in IT processes that a program that could be rejected by the Commission. With respect to the ORMD report, it is a separate process entirely from this proceeding and does not provide any basis for delay. Finally, the Commission agrees that Nicor Gas should complete the template documents requested by Staff; however, this is no basis for rejecting Rider 17. Instead, the Commission directs Nicor Gas to work with RESA and IGS to prepare the template documents and submit those documents for Staff's review within one month after this Order is entered.

VI. STAFF'S PROPOSED MODIFICATIONS TO RIDER 17

A. Intangible cost recovery

COMMISSION STAFF

Staff contends that if the Commission approves Rider 17, it should require Nicor Gas to strike any reference to or recovery of what Nicor Gas calls "intangible costs". Nicor Gas proposes that up to 0.5% of gross receivables be applied to intangible costs. Staff does not

believe that intangible, or unquantifiable costs, are an appropriate ratemaking concept. According to Staff, if costs cannot be quantified, then they may be nonexistent or very small. An unquantifiable cost, even one that may be quantified in the future, but for which no mathematical certainty can be adduced, is inherently incapable of being known and measurable and, thus, arbitrary in that there can be no evidence to report its recovery. Staff concludes that if the Commission approves Rider 17, then only the costs that are expended should be recovered. Nicor Gas should not be allowed to recover what it refers to as intangible costs.

CUB/AG

CUB/AG also opposes Nicor Gas' recovery of intangible costs. CUB/AG argues that intangible costs are not actual costs incurred by Nicor Gas, but rather are unquantifiable cots that may or may not be incurred by the Company. According to CUB/AG, while Rider 17 may have negative consequences for Nicor Gas, the idea that these risks should be monetized and the Company be compensated by customers for them is novel and unjustifiable. CUB/AG takes the position that because Nicor Gas is already receiving a generous return on its investment in Rider 17, recovery of intangible costs would overcompensate Nicor Gas for unsubstantiated risk created by the Company itself through its proposed Rider 17.

NICOR GAS

According to Nicor Gas, the evidence demonstrates that intangible cost recovery should be permitted for the following reasons. First, it was part of the settlement agreement with RESA and IGS wherein the commercial terms of Rider 17 were deemed to be acceptable to both the suppliers and the Company and properly identified that Nicor Gas would incur additional costs associated with the program. Second, intangible cost recovery provides an incentive for Nicor Gas to keep its PORCB Program administration costs down. Third, it encourages innovation in

areas in which utilities may further support the growth and development of unregulated retail energy markets.

Nicor Gas also asserts that the intangible cost recovery component of Rider 17 is an important component of the risk/reward structure developed with RESA and IGS. Due to the concentrated nature of recovering capital costs and return from a limited number of Q-AGS, their customers, and an optional program, the intangible cost recovery component represents a reasonable level of compensation necessary to recover other costs associated with the PORCB Program and provides enough incentive for Nicor Gas to agree to participate in the program.

RESA/IGS

RESA/IGS agree that Nicor Gas has established the need to recover intangible costs in Rider 17. The recovery of intangible costs is an important component of the risk/reward structure of the settlement agreement entered into by Nicor Gas with RESA and IGS.

COMMISSION ANALYSIS AND CONCLUSION

The Commission finds the arguments of Nicor Gas and RESA/IGS to be persuasive. The Commission, therefore, approves Nicor Gas' recovery of intangible costs in the manner reflected in Rider 17.

B. Below-the-line treatment for intangible cost recovery

COMMISSION STAFF

Staff opposes Nicor Gas' proposed below-the-line treatment of intangible costs, contending that the impacts on the Company's bottom line that allegedly result from its incurring intangible costs all stem from changes to regulated costs. The Commission should not grant below-the-line treatment to cost recovery that relates solely to regulated services. The Commission should keep the revenues above-the-line to make sure that Nicor Gas does not make

excess profits from the accounting treatment of alleged intangible costs. According to Staff, if the Commission approves below-the-line recovery, then Nicor Gas does not have to offset those revenues in its next rate filing, which could lead to the Company earning higher revenues than it otherwise would earn to provide regulated service.

CUB/AG

CUB/AG also opposes Nicor Gas' proposed below-the-line accounting for intangible costs. CUB/AG argues that allowing Nicor Gas to account for intangible cost recoveries below-the-line would increase Nicor Gas' earnings without counting as regulated revenues in a ratemaking proceeding. The result is that Nicor Gas could earn more than its authorized return. If the Commission does not eliminate intangible costs from Rider 17, it should require these costs to be recovered from Q-AGS, not from customers. According to CUB/AG, these revenues should be accounted for above-the-line in Nicor Gas' revenue requirement.

NICOR GAS

Nicor Gas' position is that below-the-line treatment of intangible cost recovery is appropriate. The purchase of third-party receivables is a non-utility service that will give rise to intangible costs which are appropriately accounted for below-the-line, consistent with the Commission's Uniform System of Accounts for Gas Utilities. While the Company would only receive $438,609 return on equity under Rider 17, it would incur intangible costs and financial risks associated with purchasing as much as $181 million, or significantly more, of receivables from Q-AGS. Therefore, Rider 17 includes an incentive to recover intangible costs of only up to 0.5% of qualifying receivables annually if, and only if, Nicor Gas can keep its AOCs at or below 1% of qualifying receivables. Due to the optional nature of the PORCB service and the attendant risks and uncertainty of future intangible cost recovery and full cost recovery under Rider 17,

recording the intangible cost recovery revenues below-the-line in Account 417, Revenues from Non-Utility Operations, is appropriate. By definition, below-the-line revenues are not included in the net operating income of the utility for ratemaking purposes, so it is impossible for such revenues to cause Nicor Gas to over-earn on its utility rate base. Nicor Gas concludes that below-the-line treatment for intangible cost recovery properly recognizes the non-utility nature of this service (receivables factoring) and its risk, while providing Nicor Gas with some opportunity to recover its intangible costs associated with providing the proposed PORCB service.

RESA/IGS

The negotiation of the intangible costs was in recognition that Nicor Gas is the first Illinois utility on the gas side to develop a POR program. As such, RESA and IGS are willing to pay for unforeseen costs which may occur as the program is put in place. The proposed method for intangible costs creates a definitive amount to be paid by AGS without concerns for additional charges going forward outside of normal bad debt adjustments. RESA and IGS support a below the line recovery of these costs as an incentive for Nicor Gas not to seek additional recovery if the amount of intangibles is higher than the actual costs. RESA and IGS support Nicor Gas proposed below-the-line accounting treatment for intangible cost recovery revenues.

COMMISSION ANALYSIS AND CONCLUSION

The Commission agrees with Nicor Gas and RESA/IGS that below-the-line accounting is appropriate for intangible cost recovery revenues. The Commission agrees with Nicor Gas that such accounting would not cause it to earn more than its authorized rate of return. The Commission, therefore, approves Nicor Gas' proposed accounting treatment.

C. Administrative and operational costs

COMMISSION STAFF

Staff takes issue with the 8% overhead factor for AOCs. Staff contends that the Company has not provided any data to support the calculation of the 8%.

NICOR GAS

Nicor Gas' position is that it presented evidence that the 8% factor is completely different than the AOCs defined in Rider 17, which does not include any reference to an "overhead factor". The 8% overhead factor referenced by Staff was included in the Company's preliminary IT design estimate of $3.88 million and is the standard overhead rate used for IT projects at the time the estimate was prepared. Thus, Nicor Gas concludes that the AOCs must be considered separate and apart from the 8% overhead factor used by Nicor Gas in its estimate of the start-up costs to implement changes required by the PORCB Program. To the extent that Staff is dissatisfied with Nicor Gas' data provided in support of the 8% factor relating to its IT design estimate, that does not have any bearing on whether the Company has provided sufficient information to support its proposed mechanism to recover its actual start-up costs.

RESA/IGS

RESA and IGS note that, in his rebuttal testimony, Mr. Mudra accepted some of Staff's proposed revisions, proposed modified versions of some of Staff's proposed revisions, and rejected some of Staff's proposed revisions. Mr. Mudra sponsored Nicor Gas Ex. 2.2, a modified version of Rider 17, reflecting the changes to the rider. RESA and IGS take the position that Nicor Gas' revised Rider 17, as set forth on Nicor Gas Ex. 2.2, , including the treatment of AOCs, represents a reasonable accommodation of Staff's concerns and should be approved by the Commission.

COMMISSION ANALYSIS AND CONCLUSION

The Commission believes that Nicor Gas has explained its use of an 8% overhead factor. Consequently, Staff's proposal is rejected.

D. Capital recovery costs

COMMISSION STAFF

Staff proposes to revise the definition of Capital Recovery Costs ("CRCs") to incremental costs incurred through one year following the commencement of service under Rider 17. Staff states that there is no evidence that the PORCB Program will be operated under an IT system that is not integrated into Nicor Gas' current IT system. Moreover, Staff's proposed one year limitation for Rider PORCB implementation costs is consistent with the PORCB tariffs and Ameren and ComEd. Finally, Staff asserts that the Company has never explained why the three-year period to accumulate PORCB implementation costs is inadequate.

NICOR GAS

Nicor Gas argues that Staff's proposal to limit the definition of CRCs should be rejected. The definition of CRCs specifically includes future system modifications required to maintain IT system integrity and functionality, insuring that the appropriate cost causers (the Q-AGS) pay for all of the capital costs required to install and maintain the PORCB system on an ongoing basis. The costs at issue do not relate to the Company's existing IT system, but only to costs that would be required for the PORCB Program. Nicor concludes that the Commission should reject Staff's proposed changes to the definition of CRCs because it does not improve Rider 17 from a rate design, cost recovery or equity perspective between customer classes.

RESA/IGS

RESA and IGS take the position that Nicor Gas' revised Rider 17, as set forth on Nicor Gas Ex. 2.2, including the treatment of CRCs, represents a reasonable accommodation of Staff's concerns and should be approved by the Commission.

COMMISSION ANALYSIS AND CONCLUSION

The Commission is of the opinion that Staff's proposal to limit the recovery of CRCs would not allow Nicor Gas to recover all future costs associated with implementation of Rider 17. Staff's proposal is therefore rejected.

E. Supply Uncollectible Adjustment

COMMISSION STAFF

Staff proposes a number of changes to the language for Factor SUA (Supply Uncollectible Adjustment). Staff argues that its proposed changes make Nicor Gas' Rider 17 similar to that utilized in the PORCB tariffs of Ameren and ComEd. Staff states that the record contains no reason as to why the process for Nicor should be more complex than it was for ComEd or Ameren. Staff concludes that its proposed language for Factor SUA should be approved by the Commission.

NICOR GAS

Nicor Gas responds that while Staff contends that its proposal for Factor SUA is less complicated than the Company's proposal, the evidence demonstrates that the Company's proposed rate design formulas are designed to address the complexities and business process changes necessary to provide a new service to purchase millions of dollars of third-party receivables each year.

Nicor Gas states that it identified the following reasons why Staff's proposal would impede the timely and accurate recovery of the Company's cost to provide PORCB service. First, Nicor Gas' proposal to estimate and adjust the purchase of receivables cost for the customer class on a monthly basis for each respective customer class based on actual experience is more precise and equitable for each customer class. Second, the Company's proposal uses forward looking estimates, which, according to the Company, are more appropriate than historical data points to establish the accurate and relevant charges for each effective future month of PORCB service. Third, Nicor Gas states that its proposal is superior to Staff's approach, which sets an historical cap on SUA recoveries until the two-year reconciliation process is complete, which creates additional financial risk for the Company. Fourth, unlike Nicor Gas' method, Staff's method does not account for actual customer payment experience on a monthly basis. Fifth, Nicor Gas worked with RESA and IGS to develop a structure for Rider 17 that considers the risks and rewards of the PORCB Program.

RESA/IGS

RESA and IGS take the position that Nicor Gas' revised Rider 17, as set forth on Nicor Gas Ex. 2.2, including Factor SUA, represents a reasonable accommodation of Staff's concerns and should be approved by the Commission. Consequently, RESA and IGS do not support Staff's proposed revisions to the SUA formula.

COMMISSION ANALYSIS AND CONCLUSION

The Commission appreciates Staff's concerns about consistency with the PORCB tariffs of other Illinois utilities. However, Nicor Gas has offered many reasons why its proposed SUA formula is appropriate for itself. The Commission, therefore, accepts Nicor Gas' methodology.

F. Tracking of internal IT costs

COMMISSION STAFF

Staff recommends that the Company be required to specifically track revenues and costs of Rider 17 so that they are readily identifiable for reconciliation purposes. While the Company agreed to specifically track revenues and costs of Rider 17, it takes issue with the tracking of the costs of the internal information system employees' time which will be capitalized. Staff contends that Nicor Gas has not explained why tracking capitalized internal labor for Rider 17 would be any different than tracking internal labor as it relates to any other capital project that the Company undertakes.

NICOR GAS

Nicor Gas states that contrary to Staff's claims, Nicor Gas presented evidence that IT programming will be incremental capitalized work and, therefore, 100% of that cost should be included for cost recovery. Accordingly, the Company should not be required to verify that the internal costs are incremental and not otherwise included in recovery under any other tariffs currently in effect.

RESA/IGS

RESA and IGS take the position that Nicor Gas' revised Rider 17, as set forth on Nicor Gas Ex. 2.2, represents a reasonable accommodation of Staff's concerns and should be approved by the Commission. For the reasons stated by Nicor Gas, RESA and IGS do not see a need for the tracking of the Company's internal costs and, therefore, do not support Staff's proposal.

COMMISSION ANALYSIS AND CONCLUSION

For the reasons stated by Nicor Gas, the Commission does not see any need for tracking internal costs. Therefore, the Commission will not accept Staff's proposal.

VII. CUB/AG'S PROPOSED MODIFICATIONS TO RIDER 17

A. Separate line item for Rider PORCB charges

CUB/AG

CUB/AG claims that Rider 17 is designed to be hidden from customers because customer charges arising out of Rider 17 would be buried in the customer charge and not separately identified on the customer's bill. Basic notification and identification of charges should be a pre-requisite for approval of a tariff that, according to CUB/AG, has unknown economic consequences for customers. CUB/AG recommends that there be a separate line item for Rider 17 charges.

NICOR GAS

Nicor Gas contends that the evidence demonstrates that a separate line item on the bill for Rider 17 charges and credits would not be more beneficial to customers. In fact, it would create confusion for customers because Nicor Gas currently includes its uncollectible costs within the monthly customer charge. It could also increase operating costs in situations when the extra line creates more two-page bills or through additional customer calls and inquiries. Moreover, Nicor Gas publishes its rates and tariffs on its website and provides historical monthly rate information so that market participants can review the costs and credits associated with the Customer Select Program. Nicor Gas states that it will publish Rider 17 charges and credits on its website and will provide the historical charges for both residential and non-residential customers (similar to the manner in which it currently provides history on items such as Rider 6, Purchased Gas Adjustment, and Rider 26, Uncollectible Expenses). Thus, Nicor Gas concludes that all participants in the competitive marketplace would be able to readily access this information.

RESA/IGS

RESA and IGS take the position that the treatment of Rider 17 charges is consistent with the treatment of charges under Nicor Gas' Rider 26, its uncollectible recovery rider. There is no benefit in creating a separate line item for Rider 17.

COMMISSION ANALYSIS AND CONCLUSION

The Commission agrees with Nicor Gas that CUB/AG's proposal would not provide any benefit to customers. Adequate information is available for customers regarding Rider 17 charges. Consequently, the Commission rejects CUB/AG's proposal.

B. Price caps on monthly Rider PORCB charges

CUB/AG

CUB/AG recommends that, if any portion of Rider 17 costs is charged to customers, such portion should be capped or limited to an amount of 50 cents per month for residential customers and $2 per month for commercial customers. Furthermore, to ensure that small volume customers do not pay an unreasonably high proportion of their bills toward POR costs, there should be a further limit of 1% of any monthly supply costs. The result would be a maximum charge to a residential customer of $0.50 per month or 1% of the customer's supply charges for the month, whichever is less. According to CUB/AG, any costs incurred by Nicor Gas above the proposed caps should be paid by the Q-AGS. Responding to RESA/IGS' position that the caps are arbitrary, CUB/AG claims that they are no more arbitrary than the 1.5% discount factor.

NICOR GAS

Nicor Gas states that the Commission should reject CUB/AG's proposal for caps on monthly PORCB customer charges. The variable per customer price caps proposed by CUB/AG would create operational complexities that are far greater than Nicor Gas had envisioned for

itself and its customers in designing the PORCB tariff. According to Nicor Gas, even if the operational requirements of the CUB/AG recommendation could be implemented, they would introduce significant new billing and computing issues which could delay customer bills and collections, complicate the AGS pool billing process, and significantly increase administrative costs as compared to Nicor Gas' Rider 17 proposal.

In addition, Nicor Gas contends that the evidentiary record demonstrates numerous other reasons to reject CUB/AG's cap proposal. First, its proposal ignores the symmetrical nature of Nicor Gas' proposal and arbitrarily caps charges to customers, but does not cap the credits that may be provided to customers. Second, its recommendation is based on the premise that there is an intra-class cross subsidy within the residential and commercial customer classes; however no such subsidy exists. Third, CUB/AG's proposal fails to account for the fact that Q-AGS are able to design their products and service offerings in a uniquely tailored fashion to small volume and large volume customers because Q-AGS prices charged on a monthly basis are not regulated by the Commission. Fourth, CUB/AG's position fails to consider that the competitive retail natural gas industry may significantly change in the future; Nicor Gas' proposed rate design for Rider 17 would appropriately recover costs under changing business and economic conditions and the Commission should not modify the rate design to introduce arbitrary pricing limitations that increase risk and administrative complexity.

RESA/IGS

RESA/IGS witness, Ms. Ringenbach, testified that the 50 cents, $2, and 1% figures are completely arbitrary and have no empirical support, as acknowledged in AG/CUB's response to RESA/IGS Data Request No. 1.01. While CUB/AG attempts to justify those unsupported figures by claiming that the 1.5% Discount Rate in Rider 17 is arbitrary, the record shows that

the 1.5% Discount Rate is in line with discount rates in other jurisdictions. On the other hand, RESA and IGS are not aware of any jurisdictions imposing caps of the type contemplated by CUB/AG.

COMMISSION ANALYSIS AND CONCLUSION

The Commission finds that the caps proposed by CUB/AG are completely arbitrary. Moreover, Nicor Gas has pointed out numerous problems associated with CUB/AG's proposed caps. The Commission, therefore, rejects CUB/AG's proposal.

C. Administrative and operational costs assignment

CUB/AG

CUB/AG takes the position that if the Commission finds that a PORCB tariff should be approved, Rider 17 should be modified so that all costs of implementing and operating the PORCB Program, as well as any excessive costs of uncollectibles associated with supply service to Q-AGS customer accounts, are recovered from participating Q-AGS, through the Discount Factor, not their customers.

NICOR GAS

Nicor Gas states that its proposed tariff design recovers AOCs directly from Q-AGS through the Discount Factor to the extent that the Discount Factor is high enough to cover the future expenses. If the Discount Factor is not adequate to recover the monthly expenses, then an adjustment, which includes the AOCs, is placed on the customer's bill to recover the difference. Thus, according to Nicor Gas, costs are allocated to the appropriate cost causers—Q-AGS and their customers. Similarly, if the Discount Factor is too high, the adjustment will provide credits to customers with the objective of recovering actual costs incurred over the course of the program and through the Commission reconciliation process. Nicor Gas notes that, in addition,

the initial terms and structure of Rider 17 were acceptable to the marketplace as represented by RESA and IGS. Nicor Gas concludes that because there is nothing inappropriate about recovering the AOCs as proposed in Rider 17, the Commission should reject CUB/AG's proposal to recover the AOCs directly from Q-AGS as a component of the Discount Factor.

RESA/IGS

RESA and IGS support Nicor Gas' Rider 17, as revised in Nicor Gas Ex. 2.2. However, as a fallback position, RESA and IGS would not object to a modification which would require all costs, including Administrative and Operating Costs, to be recovered from participating Q-AGS.

COMMISSION ANALYSIS AND CONCLUSION

For the reasons stated by Nicor Gas, the Commission finds that the Company's proposed cost recovery structure is reasonable. CUB/AG's proposal to assign all costs to Q-AGS is rejected.

D. Allocation of costs by customer class and volume

CUB/AG

CUB/AG claims that AOCs are not fairly and appropriately charged because lower usage customers, such as residential customers, would pay the same amount as higher usage commercial customers. According to CUB/AG, to charge a very small volume customer the same fixed monthly amount as a large commercial customer is unreasonable. The appropriate way to correct this potential inequity is to charge AOCs directly to Q-AGS, rather than allocate them among customers and customer classes—Nicor Gas should recover AOCs as a component of the Discount Factor, not as a charge on an individual customer's bill.

NICOR GAS

Nicor Gas contends that its proposed allocation of AOCs by customer class is consistent with the tariff design intended to ensure that each customer class ultimately pays the appropriate costs caused by that class. Costs should not be allocated on a volumetric basis, as proposed by CUB/AG because that allocation methodology is not superior to the Company's proposal to collect bad debt expenses as a customer cost included within the monthly customer charge. Under Nicor Gas' proposal, costs are first incurred and then tracked by customer class where possible. The direct costs of residential uncollectibles are recorded directly in the residential customer class and the direct costs of non-residential uncollectibles are recorded directly in the non-residential class. The common costs of administering the program for both residential and non-residential customers included in the AOCs are recorded on a per customer basis from all customers. In proposing to recover these costs on a volumetric basis, CUB/AG assumes that higher volume customers cause a greater proportion of the AOCs. However, administrative costs are not likely to be primarily spent on the larger customers; instead, they can be fairly recovered from all customers. Finally, according to Nicor Gas, use of a volumetric billing determinant assumption within the Rider 17 tariff design introduces more uncertainty and error because weather and monthly gas volumes change considerably each month and each year making cost/therm charges harder to estimate and collect than cost/customers charges, which are more stable. For all of these reasons, Nicor Gas contends that the Commission should reject CUB/AG's proposed volumetric rate design for AOCs.

RESA/IGS

RESA and IGS support Nicor Gas' Rider 17, as revised in Nicor Gas Ex. 2.2. However, as a fallback position, RESA and IGS would not object to a modification which would require all costs, including Administrative and Operating Costs, to be recovered from participating Q-AGS.

COMMISSION ANALYSIS AND CONCLUSION

For the reasons stated by Nicor Gas, the Commission finds that the Company's allocation methodology is appropriate. In particular, the Commission finds that CUB/AG has not shown that AOCs are related to volumes consumed by customers. The Commission, therefore, rejects CUB/AG's proposal.

E. Separate uncollectible rates for each Q-AGS

CUB/AG

CUB/AG argues that the discount rate should be calculated separately for each Q-AGS because the level of uncollectibles associated with each Q-AGS may differ because of different marketing strategies and retail prices, terms and conditions of service provided to their customers. According to CUB/AG, because the costs to Q-AGS for uncollectibles are limited to the discount rate, the risk of uncollectibles above the Discount Rate is then shifted to all Q-AGS customers. Consequently, Rider 17, as proposed, may encourage Q-AGS to engage in marketing that may increase the level of uncollectibles. CUB/AG offered the following two examples. A Q-AGS could target neighborhoods with large numbers of high credit risk customers or neighborhoods with a high proportion of non-English speaking residents who might be less likely to fully comprehend the marketing offers or the bill implications of those offers.

CUB/AG argue that because the uncollectible percentage may vary significantly among Q-AGS, due at least in part to the type of marketing practices employed, the uncollectibles factor

in the discount rate should be calculated separately for each Q-AGS to protect customers and to avoid anti-competitive effects. For Q-AGS without an uncollectible factor established through at least one year of customer pay history, the uncollectibles factor in the Discount Rate should be set initially at the Q-AGS average.

NICOR GAS

Nicor Gas recommends that the Commission reject CUB/AG's proposal to set the uncollectibles portion of the Discount Factor separately for each Q-AGS based on their uncollectibles history. The evidence demonstrates that Rider 17 is properly designed with a uniform discount rate for all suppliers and adjustment based on forward looking, not historical, data. Nicor Gas states that, due to the dynamic nature of the natural gas industry, it should not be required to establish discount rates based on historical information. In addition, CUB/AG's recommendation would significantly increase administrative, IT programming and maintenance costs. It would require Nicor Gas to segregate receivables by supplier and, by relying on historical information, would not provide Nicor Gas with a timely or efficient cost recovery mechanism.

Moreover, Rider 17 builds in consumer and Q-AGS protections. Q-AGS will not be able to bring older, more difficult to collect, bad debt into the PORCB Program. Q-AGS will be incentivized to look for customers with good credit and the ability to pay because otherwise Q-AGS will be dealing with the customer's future uncollectibles.

RESA/IGS

RESA and IGS oppose CUB/AG's proposal to calculate separate uncollectible factors for each Q-AGS. This proposal would add to the complexity of the Rider and significantly increase Nicor Gas' administrative, IT program and maintenance costs as compared to the design

reflected in Rider 17. In addition, RESA and IGS rebutted CUB/AG's speculation about deceptive marketing practices. RESA/IGS' witness testified that PORCB Programs are available for electric customers in Illinois, but that she was not aware of any Alternative Retail Electric Suppliers ("ARES") that target residential neighborhoods with large numbers of high credit risk customers or neighborhoods with a large proportion of non-English speaking residents. RESA and IGS point out that neither is CUB/AG's witness aware of any such ARES. Moreover, CUB/AG is ignoring several consumer protections which prohibit this starting with the Public Utilities Act and ending with the AGS licensing requirements. Any AGS which misleads customers would be subject to losing its ability to serve customers.

COMMISSION ANALYSIS AND CONCLUSION

The Commission agrees with Nicor Gas and RESA/IGS that CUB/AG's proposal is unnecessary. Moreover, it would add to the complexity of Rider 17 and significantly increase the Company's administrative and IT program and maintenance costs. Therefore, the Commission rejects CUB/AG's proposal.

VIII. FINDINGS AND ORDERING PARAGRAPHS

The Commission, having considered the record herein, is of the opinion and finds that:

(1) Nicor Gas is an Illinois corporation that is engaged in the distribution and sale of gas to the public in Illinois; as such, it is a public utility, as is defined in Section 3-105 of the Public Utilities Act;

(2) This Commission has subject matter jurisdiction and jurisdiction over the parties;

(3) The proposed tariff sheets filed by Nicor Gas on September 5, 2012 to implement a PORCB service do not reflect the modifications made by Nicor Gas during the course of

this proceeding, as reflected in Nicor Gas Ex. 2.2, and therefore, they should be permanently canceled and annulled in a manner that is consistent with the findings herein;

(4) New tariff sheets that are in conformance with this Order should be filed by Nicor Gas within five (5) business days from the date upon which this Order is entered, to be effective immediately;

(5) Within one month of this Order, Nicor Gas shall submit to the Staff and the parties to this proceeding the template documents requested by Mr. Boggs; and

(6) All motions, petitions, objections, and other matters in this proceeding that remain unresolved shall be disposed of in a manner that is consistent with the conclusions herein.

IT IS THEREFORE ORDERED that the tariff sheets at issue in this proceeding are hereby permanently cancelled and annulled, effective at the time when new tariff sheets approved herein become effective.

IT IS FURTHER ORDERED that Nicor Gas is authorized to and shall file new tariff sheets in accordance with Finding (4) of this Order.

IT IS FURTHER ORDERED that Nicor Gas shall submit the template documents in accordance with Finding (5) of this Order.

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

IT IS FURTHER ORDERED that, subject to Section 10-113 of the Public utilities Act, this Order is Final; it is not subject to the Administrative Review Law.

IT IS FURTHER ORDERED that Nicor Gas has five (5) business days from the date of a final order in this docket to file tariffs that comply with that order.

Respectfully submitted,

Retail Energy Supply Association

By: /s/Gerard T. Fox
Gerard T. Fox

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NOTICE OF FILING

Please take note that on May 29, 2013, I caused to be filed via e-docket with the Chief Clerk of the Illinois Commerce Commission, the attached Proposed Form of Order of Interstate Gas Supply of Illinois, Inc. and the Retail Energy Supply Association in this proceeding.

Dated: May 29, 2013

/s/GERARD T. FOX
Gerard T. Fox

CERTIFICATE OF SERVICE

I, Gerard T. Fox, certify that I caused to be served copies of the Proposed Form of Order of Interstate Gas Supply of Illinois, Inc. and 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 12-0569 via electronic delivery on May 29, 2013.

/s/ GERARD T. FOX
Gerard T. Fox