STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Northern Illinois Gas Company	)	
d/b/a Nicor Gas Company	)	
	)	Docket 17-0124
Proposed general increase in gas rates	)	

REPLY BRIEF OF
THE RETAIL ENERGY SUPPLY ASSOCIATION

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Pursuant to Section 200.800 of the Rules of Practice of the Illinois Commerce Commission (the "Commission"), the Retail Energy Supply Association ("RESA")[1] submits its Reply Brief in this proceeding, the rate case of Northern Illinois Gas Company d/b/a Nicor Gas Company ("Nicor" or the "Company").

I. INTRODUCTION

On September 29, 2017, Initial Briefs were filed in this proceeding by RESA, Nicor, the Commission Staff and other Intervenors. In its Initial Brief, RESA addressed only one issue in this proceeding—the proper allocation of customer care costs.[2] Nicor and the Commission Staff also addressed that issue. Both argue against RESA's recommendation that the Commission direct that Nicor unbundle customer care costs

[1] 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.

[2] Because RESA has only a single issue, it is not following the common outline for this initial brief, under which RESA's issue would fall under Section VII (C) (2), Allocation of Certain Customer Care Costs. RESA will follow the common outline for its Statement of Position in this proceeding.

similar to the manner it has done with Commonwealth Edison Company ("ComEd") on the electric side. Both Nicor and Staff also oppose RESA's alternative recommendation that the Commission order Nicor to conduct a study to determine an appropriate allocation of customer care costs between the distribution and supply functions. For the most part, Nicor's and Staff's arguments were anticipated by RESA and rebutted in its Initial Brief. Consequently, in this Reply Brief, RESA will address any new arguments and dispense with Nicor's and Staff's original arguments in a summary fashion.

II. RESPONSE TO NICOR

A. Nicor, not RESA, Presents the Wrong Issue for Commission Consideration.

Nicor claims that RESA presents the wrong issue for the Commission's consideration. According to Nicor, the question is not whether Suppliers' cost structure is the same as Nicor's; the question is whether Nicor Gas incurs a cost. (Nicor IB, pp. 90-91) Nicor is wrong. The question is whether, under Nicor's current rate structure, customers who choose to purchase commodity service from Suppliers under the Large Volume Transportation ("LVT") program or Customer Select are paying for costs for which they are not responsible.

RESA's Initial Brief demonstrated at length at pages 2-10 that Nicor's rate structure imposes costs on LVT and Customer Select customers that they do not cause Nicor to incur. These customers pay Nicor for a service they are not taking.

First, both Nicor and Suppliers incur customer care costs to support their products. Suppliers must recover those expenses through competitive rates and charges under the current regulatory construct. Nicor's similarly incurred costs are

recovered through distribution charges which shopping customers—Large Volume Transportation customers and Customer Select customers—cannot avoid.

Allowing a utility to recover default service-related costs through distribution rates discourages customers from selecting a Supplier because it requires them to pay twice for those same services—once through its utility distribution charges and a second time through its competitive charges from a Supplier. RESA's recommendation is simply a matter of assuring that costs are recovered through the correct "buckets". Failure to distinguish certain default service-related costs from distribution rates creates a favored, anti-competitive product that would have the long term effect of harming all Nicor customers. (RESA Ex. 1.0R., p. 6) As an example, under Nicor's existing rate structure no portion of its call center costs are allocated to the default service rate, effectively assuming that its call center is never utilized to address default service-related issues, an absurd assumption. (*Id*., pp. 6-7)

Consequently, the right question in this proceeding is to what extent shopping customers are paying for services they are not receiving. RESA admits that it has not been easy to determine the appropriate amount that should be allocated to Nicor's supply function. This is because, as demonstrated in detail in RESA's Initial Brief at pages 6-8, Nicor was not responsive in discovery.[3]

Notwithstanding Nicor's lack of responsiveness to RESA's efforts to determine an appropriate allocation of customer care costs, Mr. Oliker, in his Direct Testimony, proposed to allocate a portion of Nicor's over $300 million in proposed operations and maintenance expenses by identifying two types of costs that relate to customer care

[3] See, for example, Nicor Gas' responses to RESA Data Request Nos. 1.01-1.14 (RESA-Nicor Gas Group CX Ex. 1.0, pp. 1-14).

activities: specifically, Customer Records and Collection Expense and General Expense, in the total amount of $99,107,000. Utilizing the relationship between Nicor's default service revenue and total utility revenue, Mr. Oliker determined that an appropriate Revenue Allocation Factor is approximately 58%. (RESA Ex. 1.0R, pp. 12-13) Applying this factor, and in the absence of better information from Nicor, Mr. Oliker identified $57,218,472 that should be allocated to the default service. Based on Nicor's statistics, this would result in an allocation of $52,864,000 and $4,354,000 to default service residential and commercial/industrial classes respectively. Based upon Nicor's default service customer therm usage in the test year, Mr. Oliker's proposed allocation would result in an allocation of $0.02724 per therm. Mr. Oliker concluded that his proposed allocation would provide a good starting point that the Commission could further visit and refine in future proceedings upon receipt of additional information from Nicor. (*Id.*, pp. 13-16)

However, subsequent to the filing of RESA's direct testimony, Nicor produced additional discovery identifying a portion of the customer care-related costs that it incurs. Specifically, within ICC Accounts 903 and 920, Nicor has identified that it forecasts to incur $21,897,489 in payroll expense related to the provision of customer care in these two accounts alone. Utilizing the allocation factor (58%) developed in Mr. Oliker's Direct Testimony, these costs alone would allocate approximately $12,700,544 to default service. This amount is the minimum amount that the Commission should allocate to default service in this proceeding, and the Commission should direct Nicor to provide a further study regarding the cost of providing default service for consideration in a future rate case or revenue neutral proceeding. Applying the allocation methodology proposed

in Mr. Oliker's Direct testimony to the $21,897,489 customer care expense Nicor forecasted would allocate $0.00605 per therm for residential default service customers and $0.001752 per therm to commercial and industrial default service customers. (RESA Ex. 2.0R, p. 3)

It is interesting to note that in its Initial Brief, Nicor cites the Commission's Order in Ill. C. C. Docket 13-0387, a Commonwealth Edison Company ("ComEd") revenue neutral rate proceeding, for the proposition that "rate design is governed by the principle of cost causation." (Nicor IB, p. 91) However, the Commission's Order in that proceeding does not support Nicor's position in the instant proceeding. First, RESA does not argue that rate design should not be based on cost causation. It should be. RESA's proposed allocation of customer care costs is based on the principle that shopping customers should not be charged for costs that they do not cause Nicor to incur. Second, what is noteworthy about the Commission's Order in Docket 13-0387, is that in that proceeding, the Commission ordered ComEd to perform an allocation study, not an avoided cost study in its next formula rate case:

> ComEd's assertion that there are no customer care costs attributable to its supply customers is equally suspect.
>
> Thus, the record presents the Commission with what it perceives to be two points of view that have been presented to us repeatedly in successive dockets. The record in this case identifies that there may be customer care costs that are attributable to the supply function and should therefore be allocated to the supply function to adhere to cost causation principles. Therefore, the Commission directs ComEd to provide an updated Customer Cost Allocation Study that allocates customer care costs between supply and delivery service functions in the next formula rate update filing. Parties can argue the merits of either accepting or rejecting the results at that time. The Commission directs Staff in the next formula rate case to present analysis to assist the Commission in determining whether a subset of customer care costs are properly attributable to bundled supply customers.

(Order in Ill. C. C. Docket 13-0387, pp. 57-58)

As noted in RESA's Initial Brief, in Ill. C. C. Docket 14-0312, ComEd's formula rate case subsequent to the Commission's Order in Docket 13-0387, the Commission directed ComEd to unbundle customer care costs that were historically collected through distribution rates:

> Having reviewed the evidence presented by all parties, the Commission determines that ComEd's Updated Alternative Study provides a good starting point for allocating customer care costs to the default supply function. . . . Allowing ComEd to recover these costs through distribution rates provides a subsidy to ComEd's supply rate.

(Docket No. 14-312, Order at 104)

Accordingly, the Commission should adopt RESA's recommendation and direct Nicor to allocate an appropriate amount of customer care costs to default service.

B. The Proper Allocation of Customer Care Costs Does Not Require a Commission-Ordered Study of Nicor's Storage Operations.

Nicor takes the position that before the Commission considers RESA's recommendation to allocate customer care costs, "it must begin with a study of the impacts on the Company's storage facilities". (Nicor IB, p. 94) This position is based on the claim by Nicor witness, Mr. Wassell, that increased switching by shopping customers "may exacerbate existing problems in cycling gas in Nicor Gas's storage fields resulting from the actions of Transportation customers." (*Id*, p. 92)

In its Initial Brief, at pages 18-21, RESA demonstrated that there is no reason why the Commission's allocation of customer care costs would require a study of Nicor's storage operations. Simply put, there is no relationship between Mr. Wassell's proposal for a study of Nicor's storage operations and RESA's proposal to allocate customer care costs associated with procuring and providing default service. (RESA Ex. 2.0R, p. 13)

Nicor attempts to create a nexus where none exists by claiming that RESA's proposal would increase customer switching to the Customer Select program and that "if Customer Select suppliers continue to use on-system storage as they have in the past, switching may exacerbate existing problems in cycling gas in Nicor Gas' storage fields…". (Nicor IB, p. 92) Nicor is wrong on both counts.

First, the goal of RESA's proposal is not to increase switching, but to improve the functioning of the competitive retail natural gas market in the Nicor service territory through a more fair and equitable allocation of costs to the default service. (RESA Ex. 2.0R, p. 13) Second, Nicor's claim that if the number of Customer Select customers grows, Nicor's operational challenges in managing its on-system storage would be "exacerbated" is inaccurate.

Initially, there is no cap on Nicor's Customer Select program now. In fact, Nicor made a filing with the Commission in 2000 to remove the cap it had imposed for the Customer Select Program. Specifically, Nicor filed revisions to its Schedule of Rates in August 2000 to extend the availability of the Customer Select Program to all customers. The Commission approved this expansion in its Order in Consolidated Dockets 00-0620/00-0621, stating:

> The expansion of the revised program *will provide all* of Nicor Gas' customers with the ability to choose their gas supplier, which should facilitate gas service unbundling and foster competition.

(Order in Cons. Dkts. 00-0620/00-0621, July 5, 2001, p. 13) (emphasis added) (hereinafter "Choice Expansion Order")

RESA also notes that the Commission's Choice Expansion Order makes it clear that the Commission has the authority to order Nicor to allocate an appropriate amount of

customer care costs to Nicor's default customers. First, as identified above, the Commission specifically noted that the purpose of providing a customer choice program is to "facilitate *gas service unbundling and foster competition*." (*Id*., p. 13) (emphasis added). RESA's proposal merely represents another step in the unbundling process to promote competition. Second, in that order, the Commission rejected Nicor's argument that the Commission did not have the authority to require Nicor to allow single billing to gas suppliers acting as gas account agents, stating that single billing is desired by customers and suppliers and is necessary for a competitive market to develop. (*Id*., p. 28) Similarly, the record in the instant proceeding shows that proper allocation of customer care costs is necessary for competitive parity which is necessary for a competitive marketplace. (RESA Ex. 1.0R, pp. 3-5)

Nicor's concerns regarding an increase in Customer Select Customers approximately 16 years after it opened Customer Select to all customers are also misplaced. The record shows that even a large amount of Customer Select migration away from default service would have minimal impact on Nicor's ability to manage storage and balance its system. (RESA Ex. 2.0, p. 14) RESA's Initial Brief, at pages 19-21, demonstrated that Mr. Wassell's own workpapers show that Customer Select storage has historically been fully injected at the beginning of winter and fully cycled at the end of winter. (RESA Ex. 2.0R, pp. 14-15)

C. If the Commission Does Not Order an Allocation of Customer Care Costs in this Proceeding, It Should Adopt RESA's Alternative Proposal and Order Nicor to Perform a Study Regarding the Proper Allocation of Such Costs.

In its Initial Brief, RESA demonstrated that if the Commission does not adopt RESA's recommended cost allocation, the Commission should order Nicor to perform a study regarding the embedded distribution costs that relate to providing default service and to file an application in a revenue neutral rate design proceeding to appropriately allocate costs to default service. (RESA IB, pp. 21-22) Nicor opposes RESA's alternative recommendation, based on the testimony of its witness, Mr. Yardley that it is unlikely to shed customer care costs if significant customer switching occurs. (Nicor IB, pp. 91-92) However, Mr. Yardley's position was based on completely unsubstantiated speculation, given that Mr. Yardley did not analyze the relationship between actual customer care costs and the provision of default service. Moreover, Nicor has already conceded that it forecasts to incur over $21 million in customer care costs in payroll expense alone. The proper allocation of customer care costs is worth examination, not speculation. (RESA Ex. 2.0R, p. 8)

As previously pointed out in this Initial Brief, the Commission in Docket 13-0387 ordered ComEd to prepare and submit a study of the allocation of customer care costs in its next formula rate case. ComEd did so and the Commission, based on that study, ordered a substantial amount of customer care costs to be allocated to ComEd's supply function. There is no reason to believe that a similar result would not occur here.

III. RESPONSE TO STAFF

Staff supports Nicor's opposition to RESA's proposal for allocation of customer care costs in this proceeding based on the testimony of Staff witness, Dr. Rearden. (Staff

IB, p. 56) Staff also supports Nicor's position regarding the performance of a storage study prior to acceptance of RESA's customer care cost allocation proposal. (*Id.*, p. 57) However, Staff's position is based on Dr. Rearden's weighing of the testimony of RESA's and Nicor's witnesses. Dr. Rearden did not conduct any independent analysis. Therefore, to the extent that his position is based on that of Nicor's witnesses, which have been fully refuted by RESA, his position has no more weight than that of Nicor's Moreover, the weighing of evidence is the responsibility of the Administrative Law Judges, and ultimately, the Commission itself. Finally, RESA notes that the Staff opposed the allocation of customer care costs in Docket 14-0312, the ComEd formula rate case, in which the Commission rejected the position of both ComEd and Staff and ordered a substantial allocation of customer care costs to ComEd's supply function. Staff's position should be rejected in the instant proceeding, as well.

IV. CONCLUSION

In conclusion, the Commission should accept RESA's recommendation and allocate a minimum of $12.7 million of customer care costs to Nicor's default function. The Commission should also order Nicor to conduct a study of its customer care costs for presentation in a revenue neutral rate proceeding. However, if the Commission decides not to allocate customer care costs to Nicor's default function in this proceeding, it should, at a minimum, still order the customer care cost study for use in a subsequent revenue neutral rate proceeding.

Respectfully submitted,

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NOTICE OF FILING

Please take note that on October 11, 2017, I caused to be filed via e-docket with the Chief Clerk of the Illinois Commerce Commission, the Reply Brief of the Retail Energy Supply Association in this proceeding.

/s/GERARD T. FOX
Gerard T. Fox

CERTIFICATE OF SERVICE

I, Gerard T. Fox, certify that I caused to be served copies of the foregoing Reply Brief of the Retail Energy Supply Association upon the parties on the service list maintained on the Illinois Commerce Commission's eDocket system for Ill. C. C. Docket 17-0124 via electronic delivery on October 11, 2017.

/s/ GERARD T. FOX
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