



Steven L. Beshear
Governor

Leonard K. Peters
Secretary
Energy and Environment Cabinet

Commonwealth of Kentucky
Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, Kentucky 40602-0615
Telephone: (502) 564-3940
Fax: (502) 564-3460
psc.ky.gov

David L. Armstrong
Chairman

James W. Gardner
Vice Chairman

Charles R. Borders
Commissioner

June 17, 2010

PARTIES OF RECORD

Re: Case No. 2010-00146
AN INVESTIGATION OF NATURAL GAS
RETAIL COMPETITION PROGRAMS

On June 15, 2010, Commission Staff filed into the record of this case the electronic mail responses it had received to its NARUC survey as of that date. Subsequent to the filing of those responses, Commission Staff received the enclosed response from the staff of the Illinois Commerce Commission. The Illinois response has now been filed in the record of the above-referenced proceeding.

Any questions regarding this correspondence should be directed to Anita Mitchell, Staff Attorney, at (502) 564-3940, ext. 258.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Derouen".

Jeff Derouen
Executive Director

kar
Enclosure

Mitchell, Anita L (PSC)

From: Sackett, David [dsackett@icc.illinois.gov]
Sent: Wednesday, June 16, 2010 2:48 PM
To: Mitchell, Anita L (PSC)
Subject: NARUC Servey Questions
Attachments: Naruc Survey Questions DASRev2.doc

I have attached the answers to the survey questions as requested. Please confirm receipt.

Also do not hesitate to call if you have any further questions in follow up.

Thanks,
David



David Sackett
Illinois Commerce Commission
Economic Analyst

(217) 557-6330 Work
(217) 524-5516 Fax
dsackett@icc.illinois.gov

527 East Capitol Avenue
Springfield, Illinois 62701

1. Is small volume gas transportation ("SVT") available in your state?

Yes

If no: Please state whether your state has considered implementing SVT and, if so, why SVT has not implemented.

If yes:

2. Is your SVT established by statute, regulation, Commission Order, or some other method? Please provide a citation or link to any enabling statute, regulation, or Order.

Order followed by statute:

3. When was SVT established in your state?

Per the 2005 Annual report to the general Assembly C. Small Volume Transportation Programs (updated):

An important recent development in Illinois retail natural gas markets is the introduction of small volume transportation programs, or "aggregation" programs, for small commercial and residential customers. Like large volume transportation programs, aggregation programs provide small volume customers with the opportunity to purchase competitively priced natural gas commodity from alternative retail gas suppliers as an alternative to traditional bundled utility service. Unlike large volume transportation programs, though, the cost of advanced metering that measures daily usage would render the service uneconomical for small volume customers. Instead of relying on advanced metering for measured daily usage, small volume transportation programs allow suppliers to aggregate customer load and rely on estimated daily usage of groups of customers for balancing purposes. Over the past thirteen years, the Commission has approved three small volume transportation pilot programs, two of which have developed into permanent programs. In March 2010, approximately 314,644 residential customers and commercial customers were served under small volume transportation programs in Illinois.

1. Peoples Gas Light and Coke Company's and North Shore Gas Company's "Choices For You" Programs

On May 15, 1997, Peoples Gas Light and Coke Company ("Peoples") filed small volume transportation tariffs that later become known as the "Choices For You" program. These tariffs went into effect on June 29, 1997, and Peoples implemented a two-year pilot transportation program for small volume commercial customers that would expire in October 1999.

In April 1999, the Commission granted an extension of the Pilot Program through June 2000. On May 9, 2000, Peoples proposed to eliminate the termination date of the program and implement other revisions to the tariffs, such as amending the restrictions placed on the number of customers that can be aggregated into one group, increasing the number of eligible customers, making the program available to more suppliers, reducing certain fees and charges, altering the

methods used to determine the scheduling of nominations and storage injections and withdrawals, modifying some of the supplier participation requirements, and amending the customer sign-up, billing and enrollment processes. On June 30, 2000, the Commission approved Peoples' filing to place into effect a permanent unbundling program for all non-residential customers with an annual consumption of less than 50,000 therms.

On May 16, 2001, Peoples filed to revise its "Choices For You" program and allow for residential customers to participate on a limited basis. At the same time that Peoples filed to expand its small volume transportation program to residential customers, North Shore Gas Company ("North Shore"), a sister company of Peoples, filed to implement a program that was nearly identical to Peoples' "Choices For You" program.¹ On March 5, 2002, the Commission issued its Final Orders allowing Peoples and North Shore to move forward with their plans to phase in residential transportation service on a pilot basis over a period from May 1, 2002 through April 30, 2005.

The participation limits were a function of the number of residential customers in each company's service territory. The companies were required to file participation limits, on or before October 1, 2004, for the period beyond April 30, 2005. The companies filed a tariff with the Commission on September 22, 2004, that eliminates the participation limits on the Choices For You program after April 30, 2005. The Commission did not suspend the companies' filings and the tariff changes became effective on November 6, 2004.

Peoples Gas: Choices for You Transportation Service Tariff

Peoples Gas: Choices for You Aggregation Service Tariff

North Shore Gas: Choices for You Transportation Service Tariff

North Shore Gas: Choices for You Aggregation Service Tariff

2. Nicor's "Customer Select" Program

In October of 1997, the Commission approved Nicor's filing to place into effect Rider 15, Customer Select Pilot Program, Rider 16, Supplier Aggregation Service, and some proposed revisions to existing tariff sheets. The combination of these tariffs allowed Nicor to offer a pilot transportation program to small volume industrial and commercial customers that had not found service under existing transportation tariffs to be economical.

In September 1998, Nicor received Commission approval to expand the availability of the program to a total of approximately 65,000 industrial and commercial customers and 80,000 residential customers. The second year of "Customer Select" commenced on May 1, 1999, and marked the first time that residential customers in Nicor's service territory were allowed to choose their own natural gas supplier.

In September 1999, Nicor received Commission approval to expand the availability of the Customer Select program to a total of 265,000 residential customers and all commercial and industrial customers. The third year of the "Customer Select" pilot program began on May 1, 2000. On August 11, 2000, the Company filed to transform the pilot program into a permanent program available

¹ ICC Annual Report on the Development of Natural Gas Markets in Illinois - 2003

to approximately 1.9 million customers. On September 20, 2000, the Commission suspended the filing and commenced an investigation into Nicor's proposed permanent "Customer Select" program.

On July 6, 2001, the Commission issued its Final Order, allowing Nicor to move forward with a permanent "Customer Select" program. On March 1, 2002, "Customer Select" became available to all of the nearly 2 million residential, commercial, and industrial customers in Nicor's service territory.

Nicor Gas: Customer Select Program Tariff

Nicor Gas: Customer Select Supplier Aggregation Service Tariff

3. Central Illinois Light Company's Small Volume Transportation Program

In 1996, Central Illinois Light Company ("CILCO") filed the first pilot residential unbundling program in the State of Illinois. Although there was some initial interest from suppliers and customers, suppliers eventually withdrew from the program. The lack of supplier interest may have been associated with high marketing costs per customer given the limited size of the program. CILCO's pilot residential unbundling program was scheduled for five years: it expired in 2001 and is no longer available.

Central Illinois Light Company Pilot Residential Gas Transportation Service Tariff



CILCO_SVT_TARIFF.
pdf

4. Was it established to operate on a permanent or temporary/pilot basis?
All programs began on a pilot basis; two later were followed by current permanent status. The exception to this was the CILCO program which did not make it to permanent status as noted above.
5. Is SVT available in the service territories of all the gas local distribution companies ("LDCs") in your state?
No. It is currently available only in three services territories (Peoples Gas, North Shore, Nicor Gas).
6. Is SVT mandatory or voluntary on the part of the LDCs?
Voluntary.
7. What is/has been the customer participation rate per participating utility and on a statewide basis for each year SVT has been implemented?

	Nicor Gas CS Participation Rate	Peoples Gas CFY Participation Rate	North Shore CFY Participation Rate	Statewide Participation Rate ²
1998	1%			
1999	2%			

² This number reflects a percentage of those customers served by the three utilities and not all customers statewide.

2000	5%			
2001	6%			
2002	8%	2%	1%	6%
2003	10%	2%	2%	7%
2004	9%	2%	2%	7%
2005	10%	2%	2%	7%
2006	10%	5%	3%	8%
2007	10%	6%	4%	9%
2008	12%	6%	5%	10%
2009	12%			

8. How many marketers are currently participating in each SVT program approved in your state? How many marketers have participated in each program since the date of inception of the program? Are there a certain number of marketers required to establish workable competition before a program may commence?

	Nicor Gas CS Suppliers	Peoples Gas CFY Suppliers	North Shore CFY Suppliers
1998	11		
1999	15		
2000	13		
2001	12		
2002	12		
2003	11		
2004	11	4	2
2005	13	6	3
2006	15	7	3
2007	15	8	4
2008	16	10	7
2009	15		

There is no required amount required to establish a "workable competition." The Commission is responsible to act if it believes that there are not enough suppliers to keep competitive forces on this market.

9. What is the process by which marketers are certified to participate? What is the role of your Commission and of the participating utility in the marketer certification process?

The Commission approves the petition per the Alternative Gas Supplier Law and Illinois Administrative Code Part 551 - CERTIFICATION OF ALTERNATIVE GAS SUPPLIERS

From the ICC Annual Report on the Development of Natural Gas Markets in Illinois - 2004.

Article 19, "Alternative Gas Supplier Law" (220 ILCS 5/19), of the Act requires the Commission to adopt rules through which it will certify all alternative gas suppliers that serve or seek to serve residential natural gas customers and commercial customers with an annual usage of 5,000 therms or less. Illinois Administrative Code Part ("Code Part") 551 details the financial, managerial, and

technical requirements that alternative gas suppliers must meet in order to be certified. Amendments to Code Part 551, which included certification requirements for suppliers serving small commercial customers and other consumer protections, were put into effect in January 2004.

The Commission has certified seventeen suppliers under Article 19 of the Act. In addition, the Staff of the Commission is handling a steady flow of inquiries from suppliers that are interested in being certified to serve residential and small commercial customers in Illinois.

Sections of the Alternative Gas Supplier Law are as follows
(220 ILCS 5/Art. XIX heading)

ARTICLE XIX. ALTERNATIVE GAS SUPPLIER LAW

(220 ILCS 5/19 100) Sec. 19 100. Short title. This Article may be cited as the Alternative Gas Supplier Law

(220 ILCS 5/19 105) Sec. 19 105. Definitions. (Source: P.A. 96 435, eff. 1 1 10.)

(220 ILCS 5/19 110) Sec. 19 110. Certification of alternative gas suppliers.
(Source: P.A. 95 1051, eff. 4 10 09.)

(220 ILCS 5/19 111) Sec. 19 111. Material changes in business. (Source: P.A. 95 1051, eff. 4 10 09.)

(220 ILCS 5/19 112) Sec. 19 112. Managerial resources. (Source: P.A. 95 1051, eff. 4 10 09.)

(220 ILCS 5/19 115) Sec. 19 115. Obligations of alternative gas suppliers.
(Source: P.A. 95-1051, eff. 4-10-09.)

(220 ILCS 5/19-120) Sec. 19-120. Commission oversight of services provided by gas suppliers. (Source: P.A. 95-1051, eff. 4-10-09.)

(220 ILCS 5/19-125) Sec. 19-125. Consumer education. (Source: P.A. 95-1051, eff. 4-10-09.)

(220 ILCS 5/19-130) Sec. 19-130. Commission study and report. (Source: P.A. 92-852, eff. 8-26-02.)

(220 ILCS 5/19-135) Sec. 19-135. Single billing. (Source: P.A. 92-852, eff. 8-26-02.)

(220 ILCS 5/19-140) Sec. 19-140. On-bill financing program; gas utilities.
(Source: P.A. 96-33, eff. 7-10-09.)

(220 ILCS 5/19-145) Sec. 19-145. Automatic adjustment clause tariff; uncollectibles. (Source: P.A. 96-33, eff. 7-10-09.)

10. What oversight role does your Commission maintain over marketers and SVT programs?

The Alternative Gas Supplier Law requires offers to be submitted to the Commission.

The alternative gas supplier shall file the terms and conditions of such service offering including the applicable limitations with the Commission prior to making the service offering available to customers.

11. What consumer protections are in place in your SVT program(s)?
The Alternative Gas Supplier Law requires certain protections.
The Citizens Utility Board ("CUB") tracks this program and files lawsuits as needed.
The Attorney General of Illinois also files lawsuits as needed.

12. Are there established penalties for marketer misconduct? If yes, explain the penalties available and identify who enforces the penalty.

Per the Alternative Gas Supplier Law:

(d) Complaints may be filed with the Commission under this Section by a customer whose natural gas service has been provided by an alternative gas supplier in a manner not in compliance with subsection (c) of this Section. If, after notice and hearing, the Commission finds that an alternative gas supplier has violated subsection (c), then the Commission may in its discretion do any one or more of the following:

(1) Require the violating alternative gas supplier to refund the customer charges collected in excess of those that would have been charged by the customer's authorized natural gas provider.

(2) Require the violating alternative gas supplier to pay to the customer's authorized natural gas provider the amount the authorized natural gas provider would have collected for natural gas service. The Commission is authorized to reduce this payment by any amount already paid by the violating alternative gas supplier to the customer's authorized natural gas provider.

(3) Require the violating alternative gas supplier to pay a fine of up to \$1,000 into the Public Utility Fund for each repeated and intentional violation of this Section.

(4) Issue a cease and desist order.

(5) For a pattern of violation of this Section or for intentionally violating a cease and desist order, revoke the violating alternative gas supplier's certificate of service authority.

Additionally, the supplier may lose its deposit with the LDC.

13. Has any marketer participating in your state failed to perform or ceased to provide service?

Yes. A number of suppliers have ceased to provide service. Most of these were for economic reasons with some notable exceptions listed below.

From the ICC Annual Report on the Development of Natural Gas Markets in Illinois - 2007 D. Alternative Retail Gas Supplier Offers to Small Customers

The Commission is not aware of pervasive violations of the disclosure requirements amongst ARGs, and the vast majority of ARGs who intend to

provide long-term service are likely to comply with the disclosure requirements, but the Commission is aware of some instances in which allegations of violations are leveled against ARGS.

In Docket No. 03-0592, the CUB filed a complaint with the Commission alleging certain violations of the law with respect to disclosure of terms and conditions and other aspects of Peoples Energy Services' supplier offer to residential transportation customers.

The most notable recent example is the Attorney General's suit filed on April 26, 2005, in Cook County Circuit Court against Illinois Natural Gas Corporation ("INGC"). The lawsuit charged Illinois Natural Gas Savings Corporation, doing business as Illinois Natural Gas Corporation, with violating the Illinois Consumer Fraud and Deceptive Business Practices Act and other laws intended to protect consumers. The Attorney General and INGC reached a settlement in the case. No customers were ever switched to INGC. And on January 4, 2006, the Commission granted INGC's request to cancel its certificate of service authority. The Attorney General has also filed suit against Santanna Energy Services for renegeing on fixed price offers on October 13, 2005 and switching customers to a variable priced contract. Also on that date, Santanna filed for Chapter 11 bankruptcy protection. The Attorney General settled this suit on November 1, 2006. While in bankruptcy, Santanna continued to provide service to customers. As part of the settlement, Santanna agreed to refund \$3.3 million to Illinois fixed-price customers, refund a \$3 per month charge paid over certain periods of time and waive it prospectively, reduce the gas cost for current customers and pay \$200,000 to the Office of 10 Attorney General. Further, it agreed to honor its contracts going forward. The settlement was filed and approved by the bankruptcy court. The settlement did not require Santanna to admit wrongdoing. In Docket No. 06-0337, CUB filed a complaint against U.S. Energy Savings Corporation ("USESC") for misrepresenting itself and information about natural gas markets. USESC was also accused of transferring customers without their consent to Nicor's Customer Select program. The matters at issue in the docket were settled, and the docket was dismissed with prejudice on December 6, 2006. It appears that the settlement was confidential, since the parties did not place it in the record of Docket No. 06-0337.

14. In the event that a marketer has been disqualified, failed to perform or ceased to provide service, state what entity is the supplier of last resort.
LDC
15. What are the general provisions for billing, uncollectibles, and disconnections?
The suppliers have billing available from the LDCs or the option to bill on their own. No purchase of receivables in place.
16. Are there codes of conduct in place for the utility, the utility affiliates participating in the program and the marketers? If yes, state whether the codes of conduct were established by statute, regulation or Commission Order. Please provide a citation or link to any statute, regulation or Order.

Statute: Alternative Gas Supplier Law
Admin Rule – Part 550

17. What is the role of utility affiliates as participants in small volume programs?
All programs have dealt with affiliates. Affiliates are allowed to participate. Part 550 of the Administrative Code governs the actions of it makes distinctions between affiliates and those affiliates that are in competition with Alternative Gas Suppliers.
18. What are the general provisions for transition and stranded costs?
No provisions for transition or stranded costs have been implemented.
19. What are the provisions for program marketing costs? Are these borne by marketers, utilities, or both?
In Peoples Gas and North Shore the marketing costs for the program are borne by the suppliers as a group. This issue is currently under review during a workshop process ordered in Docket Nos. 09-0166/0167.

In Nicor Gas all administrative costs are borne by eligible customers per an agreement between Nicor Gas and intervenors in Docket No. 08-0363.
20. What information, if any, does the Commission require its participating utilities and/or marketers to track and file with the Commission? For example, are customer savings tracked and filed for each approved program? If so, will you provide a link or URL to reports in the public record?
The Commission tracks customer and supplier counts but does not track any savings. The Citizens Utility Board tracks savings on it's site. Citizens Utility Board Gas Market Monitor
21. If not provided in response to previous questions, please provide a link to any assessment of choice programs performed by the Commission or utility.

Links to Illinois Resources:

ICC - Natural Gas Choice Consumer Education

Citizens Utility Board Gas Market Monitor

ICC Annual Report on the Development of Natural Gas Markets in Illinois - 2003

ICC Annual Report on the Development of Natural Gas Markets in Illinois - 2004

ICC Annual Report on the Development of Natural Gas Markets in Illinois - 2005

ICC Annual Report on the Development of Natural Gas Markets in Illinois - 2006

ICC Annual Report on the Development of Natural Gas Markets in Illinois - 2007

Alternative Gas Supplier Law

"Alternative gas supplier" means every person, cooperative, corporation, municipal corporation, company, association, joint stock company or association, firm, partnership, individual, or other entity, their lessees, trustees, or receivers appointed by any court whatsoever, that offers gas for sale, lease, or in

exchange for other value received to one or more customers, or that engages in the furnishing of gas to one or more customers, and shall include affiliated interests of a gas utility, resellers, aggregators and marketers, but shall not include (i) gas utilities (or any agent of the gas utility to the extent the gas utility provides tariffed services to customers through an agent); (ii) public utilities that are owned and operated by any political subdivision, public institution of higher education or municipal corporation of this State, or public utilities that are owned by a political subdivision, public institution of higher education, or municipal corporation and operated by any of its lessees or operating agents; (iii) natural gas cooperatives that are not-for-profit corporations operated for the purpose of administering, on a cooperative basis, the furnishing of natural gas for the benefit of their members who are consumers of natural gas; and (iv) the ownership or operation of a facility that sells compressed natural gas at retail to the public for use only as a motor vehicle fuel and the selling of compressed natural gas at retail to the public for use only as a motor vehicle fuel.

Illinois Administrative Code Part 550 - NON-DISCRIMINATION IN AFFILIATE TRANSACTIONS FOR GAS UTILITIES

"Affiliated interests in competition with alternative retail gas suppliers" shall include affiliated alternative retail gas suppliers that provide services to customers within the service territory of the gas utility with which it is affiliated, as well as affiliated interests that broker, sell, or market gas to customers within the service territory of the gas utility with which it is affiliated, or that provide consulting services directly related to the sale of gas to customers within the service territory of the utility with which it is affiliated.

"Alternative retail gas supplier" or "ARGS" means any entity that provides or arranges to provide gas supplies to a retail customer. A gas utility is not an ARGS where it is the final conveyer of gas to the retail customer.

Illinois Administrative Code Part 551 - CERTIFICATION OF ALTERNATIVE GAS SUPPLIERS

"Alternative gas supplier" or "AGS" has the same meaning as in Section 19-105 of the Act [220 ILCS 5/19-105].

Tariffs:

Peoples Gas: Choices for You Transportation Service

Peoples Gas: Choices for You Aggregation Service

North Shore Gas: Choices for You Transportation Service

North Shore Gas: Choices for You Aggregation Service

Nicor Gas: Customer Select Program

Nicor Gas: Customer Select Supplier Aggregation Service

Central Illinois Light Company Pilot Residential Gas Transportation Service

