Illinois Commerce Commission:
On Its Own Motion:
-vs-
Northern Illinois Gas Company d/b/a Nicor Gas Company:

Reconciliation of revenues collected under:
clean coal tar riders with prudent costs:
associated with coal tar cleanup:
expenditures.

ORDER

By the Commission:

I. PROCEDURAL HISTORY

On January 22, 2019, the Illinois Commerce Commission (“Commission”) entered its Order commencing this reconciliation proceeding. Northern Illinois Gas Company d/b/a Nicor Gas Company (“Nicor Gas” or the “Company”) was ordered to reconcile revenues collected under its Rider 12, Environmental Cost Recovery (“ECR”), from January 1, 2018 through December 31, 2018, with costs prudently incurred in connection with environmental activities as defined in Rider 12.

Notice of the filing of Nicor Gas’ testimony and exhibits was posted in Nicor Gas’ business offices and was published in newspapers having general circulation in the Company’s service territory, in the manner prescribed by 83 Ill. Adm. Code 255, in compliance with the Commission’s Order initiating this proceeding. Pursuant to notice given, as required by law and by the rules and regulations of the Commission, a status hearing was held at the Commission’s office in Chicago, Illinois on March 11, 2019, and an evidentiary hearing was held on September 19, 2019. Appearances were entered on behalf of the Company and Commission Staff (“Staff”). Nicor Gas presented the testimony of Donald F. Martino, Lead Analyst, Rates for Nicor Gas, and Nancy J. Huston, President of Tall Oak Associates, Inc. Staff presented the testimony of Mary H. Everson, an Accountant in the Accounting Department of the Financial Analysis Division of the Commission. The record was marked “Heard and Taken” on September 19, 2019. There were no contested issues at the completion of the hearing. On October 21, 2019, the Company filed a Draft Order that had been reviewed by Staff, to which Staff did not object.

II. NICOR GAS’ POSITION

Nicor Gas witness Huston testified about Nicor Gas’ manufactured gas plant (“MGP”) remediation program, including the activities that have taken place, the methods
used to select contractors and consultants to assist the Company in its MGP remediation efforts, and the methodology used in forecasting costs of the MGP remediation program. Ms. Huston testified that the Company undertook a program to identify former MGP sites within its service territory for which Nicor Gas may have some responsibility. Ms. Huston explained that the list of potential MGP sites was submitted to the Illinois Environmental Protection Agency (“IEPA”) in May 1991, and the Company subsequently began an evaluation process to determine how to best manage sites for which it may have some remediation responsibility. Further, Ms. Huston explained, because some of Nicor Gas' assets were at one time owned by Commonwealth Edison Company (“ComEd”) or its corporate predecessors, Nicor Gas entered into an Interim Cooperative Agreement (“Agreement”) with ComEd in 1993 in order to jointly manage certain common MGP sites. This Agreement was approved by the Commission in Docket No. 93-0431, and was subsequently amended to include additional sites in 1996 and 2000.

Ms. Huston testified that Nicor Gas retained an environmental consultant with experience in MGP site evaluations, remediation, and management to assist in the initial evaluation of selected sites. Ms. Huston further described the process used to create several reports that evaluate and propose priorities for remediation of 15 sites owned in whole or in part by Nicor Gas and 21 sites not owned by the Company. According to Ms. Huston, these reports presented a general description of each of the sites, summarized the evaluation of each site, presented recommendations for specific sites, and ranked the sites for further action relative to one another. Ms. Huston stated that these reports were submitted to the IEPA, and that the IEPA did not dispute Nicor Gas' prioritization and rankings of the sites. Ms. Huston testified that sites may move higher or lower on the remediation priority list in response to changes in site usage or conditions, or acquisition of new information about the site.

Ms. Huston stated that Nicor Gas and ComEd jointly decided to begin periodic reviews and evaluations of all sites where investigation and/or remediation were not currently occurring in order to identify which sites should next be investigated. In the fall of 1997, Nicor Gas and ComEd evaluated 30 sites where investigation and/or remediation were not currently occurring. Ms. Huston stated that the results of this evaluation are contained in a report dated April 20, 1998. In addition, Ms. Huston explained that Nicor Gas and ComEd re-evaluated 25 MGP sites in the fall of 1998. These evaluations took place at sites where investigations and/or remediation were not currently occurring. As part of the evaluation process, limited field activities were conducted at several of the sites to gather additional information. Ms. Huston testified that the results of this re-evaluation are contained in a report dated December 21, 1998. Ms. Huston testified that again in the fall of 1999, Nicor Gas and ComEd re-evaluated 22 MGP sites where investigations and/or remediation were not under way. The results of this re-evaluation are contained in a report dated March 2, 2000. Additionally, Ms. Huston noted that the results of subsequent site re-evaluations are contained in reports dated May 1, 2001 and October 2002, and that the current re-evaluation of sites where investigations and/or remediation have not been initiated are contained in a report prepared on March 28, 2005. Ms. Huston explained that by the end of 2011, all sites had been activated, and that at sites that have received a No Further Remediation (“NFR”) letter from the IEPA that utilizes engineered barriers, deed restrictions, and/or institutional controls, an annual review of the sites is conducted and documented in that site’s Closed Site Inspection
Report each year; further, compliance with the terms of the NFR letter is confirmed by such a review.

Ms. Huston testified that the Agreement between Nicor Gas and ComEd provided that the remediation costs at certain MGP sites were shared 50/50 on an interim basis and that, ultimately, the parties would negotiate or arbitrate the final allocation. Ms. Huston noted that in 2006, the Company initiated arbitration proceedings to determine final remediation cost allocations for all of the MGP sites identified in the Agreement. On June 9, 2009, the Commission approved the Final Allocation Agreement ("FAA"), executed between Nicor Gas and ComEd. The FAA provides a final allocation for 38 sites. N. Ill. Gas Co. d/b/a Nicor Gas Co. and Commonwealth Edison Co., Docket No. 08-0418, Order (Jun. 9, 2009); see also Ill. Commerce Comm’n On Its Own Motion v. Commonwealth Edison Co., Docket No. 10-0133, Order at 5 (Aug. 2, 2011). Under the agreements, both utilities participated in strategic project decisions, although one utility typically led the remediation activities for a given site. The objective of the FAA was to reduce costs by avoiding duplicative efforts in site management and remediation. Under this agreement, Nicor Gas is responsible for 51.73% of the costs incurred beginning January 1, 2007 for 24 sites that were transferred to the Company in 1954. In addition, Nicor Gas will have no responsibility for 14 sites for costs incurred after January 1, 2007, and will split 50/50 general program management costs not associated with a specific site. Pre-2007 costs will continue to be split 50/50.

Ms. Huston testified extensively about the Company’s MGP site management process, as well as about the environmental activities undertaken by Nicor Gas in 2018. Ms. Huston explained that Nicor Gas works closely with the IEPA to ensure that the requirements of all relevant state and/or federal authorities are met, and that the IEPA’s input and comments are sought at each phase of the Company’s activities. Moreover, Ms. Huston notes that Nicor Gas has only hired consultants and contractors that are familiar with the applicable state and/or federal requirements to assist in implementing the MGP program.

Ms. Huston also testified about the Company’s use of contractors and consultants in connection with its MGP remediation program. Ms. Huston explained that the Company uses contractors to provide various services, including drilling, analytical services, community relations, remedial activities, waste handling, transportation and disposal, and overall program management. Additionally, Ms. Huston noted that environmental consultants prepare various reports and plans related to the Company’s MGP remediation program, including site investigation work plans, remedial objectives reports, remedial action plans, and associated documents for the active sites. Ms. Huston stated that the Company uses only qualified, reputable, and experienced consultants and contractors who adhere to reasonable and appropriate standards and who are selected after interviews and a competitive bidding process, when feasible. Further, Nicor Gas has selected local contractors in such cases where a specific expertise is needed and there are a limited number of service providers available. Ms. Huston described the contractors and consultants that were used on the MGP program in 2018, including AECOM, Burns & McDonnell, Cardno Chemrisk, ECM, Geosyntec, Monti Communications, Tall Oak Associates, and SET Environmental.
Ms. Huston further testified about the Company’s process for forecasting expenditures for the MGP program. She stated that calendar year costs are forecasted for the MGP program based on anticipated site-by-site activities and for general activities for the overall MGP program. Ms. Huston explained that costs are forecasted prior to the year of the actual expenditures and are based on the activities that are anticipated to occur. Additionally, certain costs are forecasted before the sites are fully characterized. Ms. Huston noted that after the remedial investigations are completed and when actual site conditions are better known, engineering estimates could be more precise based on a revised scope of work, actual bids from contractors, and schedule changes.

Ms. Huston stated that the 2018 site environmental activities were divided into three general categories: (1) activities for the overall MGP program, (2) site-specific activities, and (3) insurance recovery. Activities for the overall MGP program in 2018 included project management, preparation of forecasts of future costs, and legal services. Further, Ms. Huston explained that the expenditures included in the Company’s Rider 12, Environmental Cost Recovery, for MGP environmental activities were all paid to outside consultants, contractors, and suppliers.

Ms. Huston explained that in 2018, investigation and/or remediation activities were undertaken at various sites, including Aurora, Belvidere, Bloomington, Lincoln, Lockport II, Ottawa I, Rochelle, and Streator. Ms. Huston testified that, among other activities during 2018, the Company: (1) continued remediation work at the Aurora MGP site’s East Facility, which is anticipated to be completed in 2019 and continued remedial action planning for the other parcels; (2) conducted groundwater and soil gas sampling at the Belvidere MGP site and completed planning for supplemental site investigation; (3) continued post-remediation groundwater sampling at the Bloomington MGP site and prepared a draft completion report for the remediation work that was completed on the BHA property; (4) conducted pre-design investigation to support the remedial design at the Lincoln MGP site and continued remedial action planning; (5) completed site restoration after the remedial action at the Lockport II MGP site; (6) collected sediment samples from the Illinois River at the Ottawa I site, Illinois EPA approved the remedial action plan, and continued access negotiations; (7) conducted pre-design investigation activities at the Rochelle MGP site and continued remedial action planning; and (8) conducted supplemental site investigation at the Streator MGP site and prepared supplemental investigation report.

Additionally, Ms. Huston explained that on-going activities occurred at the Chicago Heights, DeKalb, Joliet, Mendota I, and Sterling MGP sites during 2018. The on-going activities included: (1) began planning for the remedial action at the Chicago Heights MGP site; (2) conducted planning for the remedial action at the DeKalb MGP site; (3) conducted planning for the remedial action at the Joliet MGP site; (4) conducted ongoing negotiations with the property owner while planning remedial actions at the Mendota MGP site; and (5) conducted post-remediation evaluation of groundwater at the Sterling MGP site.

Ms. Huston noted that all of the MGP sites have been entered into the IEPA’s Site Remediation Program (“SRP”), and that the IEPA has been involved in the oversight of all MGP activities. As part of the SRP, the Company is permitted to use Review and Evaluation Licensed Professional Engineers (“RELPEs”) to assist the IEPA in its review
of documents. In addition, Ms. Huston stated that Nicor Gas is pursuing the recovery of some or all of the investigation and remediation costs from insurance policies.

Ms. Huston stated that a forecast cost of $26,500,000 was originally used in the ECR calculation for 2018, and that the forecast was revised to $23,500,000 in September, 2018. Ms. Huston further stated that the actual expenditures were $21,618,887.69. According to Ms. Huston, the primary reason for the difference between forecast and actual expenditures is due to delays associated with on-going negotiations with third-party property owners at the Chicago Heights, Lincoln, and Ottawa sites. In addition, a portion of the remediation at the Aurora site was deferred until 2019 and remediation at the Rochelle site was deferred from 2018. Additionally, legal expenses were higher than forecast for the Skokie site. Ms. Huston further explained that all costs are associated with a specific site when possible, that each site has been assigned a unique activity number, and that expenditures are accounted for on a site-specific basis. Ms. Huston noted that expenditures that apply to the overall MGP program were allocated to a general program activity, and that expenditures associated with insurance recovery, including payments received from insurance companies, were accumulated in a separate activity account.

Mr. Martino testified that Nicor Gas’ Rider 12 prescribes the method of computing charges that reflect the recovery of the cost of environmental remediation activities. Mr. Martino stated that the purpose and intent of Rider 12, as in effect during the reconciliation period, was to pass along to customers the Company’s prudently incurred environmental activity costs, without markup or profit.

Mr. Martino explained that each December, Nicor Gas files with the Commission an information sheet along with projected environmental costs for the next calendar year and the calculations necessary to determine the Rider 12 ECR charge for the upcoming year. He testified that, to calculate the Rider 12 ECR charge by service class, the Company uses its forecast of base revenues and throughput by class of service (i.e., residential, small non-residential, and large non-residential), forecasted environmental costs, and unrecovered/over-recovered past costs. Mr. Martino stated that for 2018, environmental activity costs were allocated by service class, based on each class' forecasted portion of total Company base revenues. Mr. Martino explained that the environmental activity costs by service class were then divided by the respective class' forecasted throughput to determine the applicable ECR charges. Mr. Martino further testified that the 2017 Annual Reconciliation Charge (“ARC”), effective April 1, 2018, was calculated in a similar manner using actual data.

Mr. Martino testified that the Company filed changes to its Rider 12 charges, effective April 1, 2018, to reflect the 2017 annual reconciliation. He stated that the Rider 12 charges were changed because the annual reconciliation of 2017 costs and revenues showed under-recovered costs of $459,661 (minor variances in figures are the result of rounding). Mr. Martino explained that deferred remediation work at various sites reduced the estimated annual 2018 remediation costs, and that this reduction in costs was identified at the beginning of the fourth quarter. The lower estimated costs for 2018 were then reflected in new rates effective October 1, 2018. The final balance at the end of 2018 resulted in an over-collected amount of $1,742,016 (minor variances in figures are
the result of rounding). Mr. Martino stated that the Company addressed this balance in the Company's 2018 annual reconciliation filing effective April 1, 2019.

Mr. Martino further stated that, pursuant to the terms of the FAA, Nicor Gas received $17,027,884.60 from ComEd and paid $856,995.55 to ComEd. In addition, Mr. Martino testified that the Company received $16,688.04 from insurance carriers and nothing for the rental of property during 2018.

Mr. Martino’s testimony and supporting attachments indicate that Nicor Gas collected $23,801,879.12 through its Rider 12 during 2018. Further, Mr. Martino’s testimony and supporting attachments indicate that the Company over-collected $2,201,673.31 during the calendar year ending December 31, 2018. Mr. Martino testified that the cumulative reconciliation balance, including carrying costs, reflects an over-recovery of $1,742,015.94 as of December 31, 2018.

III. STAFF’S POSITION

Ms. Everson presented, as an attachment to her testimony, a Schedule reflecting recoverable Rider 12 costs and Rider 12 recoveries for 2018, which are netted against the cumulative over or under recovery through the previous year. Ms. Everson stated that Staff does not propose any adjustments to the costs and revenues recorded in 2018. Additionally, Ms. Everson stated that nothing came to her attention indicating that any incremental costs incurred by the Company during the year ended December 31, 2018 failed to meet the Commission’s four standards of prudence for expenses for environmental activities. Ms. Everson noted that the Company provided additional information on the prudence of its environmental activities in response to Data Requests from Staff and recommended that the Company enter these responses into the evidentiary record. The Company’s responses were admitted into the record as exhibits to Ms. Huston’s rebuttal testimony. Ms. Everson recommended that the Commission accept the reconciliation reflecting cumulative over-recoveries at December 31, 2018 to be $1,742,016 as presented on Staff Schedule 1.1 as the 2018 reconciliation of Rider 12, and adopt it as an Appendix to the Order entered by the Commission. Subsequent to the evidentiary hearing, the Company questioned the presentation of the calculation on line 6 that derives the current year (over)/under recovery. With respect to Staff Schedule 1.1, Staff and Nicor Gas agreed that an explanation of the formula used in columns (b) and (d), line 6 would be helpful in understanding the Current Year (Over) Recovery amount. To clarify, the formula used in calculating line 6, subtracts both ECR Recoveries on line 3 and Interest on line 4 from line 2, ECR Costs. There is no modification necessary to Staff’s testimony. The total over recovery amount for the current period is correct on columns (b) and (d), line 6.

IV. COMMISSION ANALYSIS AND CONCLUSION

This matter was initiated in accordance with Section D of the ECR, for a prudence review of Nicor Gas’ environmental activities and a reconciliation of costs and revenues during the 2018 Reconciliation Period. Nicor Gas provides a discussion of its environmental activities in 2018 and how they comply with the prudence standards adopted by the Commission. The Company also provides a schedule reconciling its costs and revenues during the 2018 Reconciliation Period. After reviewing the Company's reconciliation and conducting a prudence review of the costs incurred, Staff recommends
that the Commission approve Nicor Gas’ reconciliation as presented on Staff Schedule 1.1, with the modification discussed above. The Commission finds that Nicor Gas’ environmental remediation costs under the ECR for the 2018 Reconciliation Period are reasonable, prudent, and consistent with the terms of the Rider and should be recovered. The Commission adopts the Company’s reconciliation of costs and revenues as reflected on Staff Schedule 1.1 modified as indicated above, attached hereto as an Appendix.

V. FINDINGS AND ORDERING PARAGRAPHS

The Commission, having considered the entire record and being fully advised in the premises, is of the opinion and finds that:

(1) Northern Illinois Gas Company d/b/a Nicor Gas Company is an Illinois corporation engaged in the distribution of natural gas to the public in the state of Illinois and, as such, is a “public utility” within the meaning of the Public Utilities Act;

(2) the Commission has jurisdiction over the parties hereto and the subject matter of this proceeding;

(3) the recitals of fact and conclusions set forth in the prefatory portion of this Order are supported by the evidence in the record and are hereby adopted as findings of fact;

(4) Northern Illinois Gas Company d/b/a Nicor Gas Company’s environmental remediation costs under the ECR for the 2018 Reconciliation Period are reasonable, prudent, and consistent with the terms of the ECR and should be recovered; and

(5) the reconciliation of revenues collected by Northern Illinois Gas Company d/b/a Nicor Gas Company under the ECR for the 2018 Reconciliation Period with the actual costs prudently incurred for environmental remediation as shown in the Appendix hereto, should be approved.

IT IS THEREFORE ORDERED that the reconciliation submitted by Northern Illinois Gas Company d/b/a Nicor Gas Company of the manufactured gas plant remediation program costs actually incurred with the revenues received under Rider 12 covering the period beginning January 1, 2018 and ending December 31, 2018, as detailed herein and as reflected on the Appendix attached hereto, is appropriate and hereby approved.

IT IS FURTHER ORDERED that pursuant to Section 10-113(a) of the Public Utilities Act and 83 Ill. Adm. Code 200.880, any application for rehearing shall be filed within 30 days after service of the Order on the party.

IT IS FURTHER ORDERED that, subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.
By Order of the Commission this 14th day of November, 2019.

(SIGNED) CARRIE ZALEWSKI

Chairman