

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

WPS Resources Corporation, Peoples Energy)
Corporation, The Peoples Gas Light and Coke)
Company, and North Shore Gas Company)

)
Application pursuant to Section 7-204 of the)
Public Utilities Act for authority to engage in a)
Reorganization, to enter into an agreement with)
affiliated interests pursuant to Section 7-101,)
And for such other approvals as may be required)
under the Public Utilities Act to effectuate the)
Reorganization.)

Docket No. 06-0540

REBUTTAL TESTIMONY OF J. RICHARD HORNBY
ON BEHALF OF
THE CITIZENS UTILITY BOARD AND THE CITY OF CHICAGO

CUB-CITY EXHIBIT 2.0

DECEMBER 18, 2006

1 **Q. Please state your name, position and business address.**

2 A. My name is J. Richard Hornby. I am a Senior Consultant at Synapse Energy
3 Economics, Inc, 22 Pearl Street, Cambridge, MA 02139.

4 **Q. Are you the same Richard Hornby who submitted direct testimony on behalf**
5 **of CUB and the City in this case?**

6 A. Yes.

7 **Q. What is the purpose of your rebuttal testimony?**

8 A. My rebuttal testimony responds to the comments regarding the impact of the
9 merger on rates and service quality presented in the rebuttal testimonies of
10 Applicant's witnesses Schott and Borgard.

11 **Anticipated Impact On Rates**

12 **Q. Please begin by summarizing your conclusion regarding the anticipated**
13 **impact of the proposed merger on rates.**

14 A. My direct testimony demonstrates that the merger, as structured, will not provide
15 material benefits to customers in the form of a reduction in rates. My estimate of
16 its anticipated order-of-magnitude impact on retail rates is a reduction of less than
17 2%, which I do not consider to be material.

18 **Q. Does Mr. Schott dispute your estimate of the anticipated impact of the**
19 **proposed merger on retail rate?**

20 A. No. Mr. Schott, in his rebuttal testimony at page 10, does not dispute my
21 estimate. Instead he disagrees with my characterization of that level of reduction.
22 He apparently considers a reduction of less than 2% to be material.

23

24 **Anticipated Impact On Service Quality**

25 **Q. Please begin by summarizing your conclusion regarding the anticipated**
26 **impact of the proposed merger on service quality.**

27 A. My direct testimony demonstrates that the Applicants have failed to provide the
28 Commission with enforceable commitments to support a finding that the merger
29 will not diminish service quality.

30 Q. **Please address the data and commitments that Mr. Borgard presents in**
31 **response to your position.**

32 A. Mr. Borgard, in his rebuttal testimony at pages 2 and 3, presents five enforceable
33 commitments to which the Applicants have agreed to in response to requests by
34 Staff. Those commitments relate to annual budget levels, studies of the cast-iron
35 mains by independent consultants, analyses of non temperature compensating
36 meters and a study of Automated Meter Reading. Those commitments are
37 necessary, but they are not sufficient to ensure that the merger will not diminish
38 service quality.

39 To support a finding that the merger will not diminish the utility's ability to
40 provide adequate, reliable, efficient, safe and least-cost public utility service, as
41 required by Section 7-204(b)(1) of the Public Utilities Act (“the Act”), the
42 Applicants should provide enforceable commitments for each of the service
43 quality metrics presented in my direct testimony. Those metrics are:

- 44 • average response time to arrival for leak calls and number of response
45 times greater than 60 minutes;
- 46 • number of recordable and lost time injuries;
- 47 • number of preventable vehicle accidents;
- 48 • percentage of locates completed on time;
- 49 • number and cause of damage to underground facilities;
- 50 • average speed to answer calls in call center;
- 51 • call center customer satisfaction;
- 52 • field service customer satisfaction;
- 53 • new service installation time;

- 54 • service appointments met as scheduled;
- 55 • on-cycle meter readings;
- 56 • Consumer Services Division cases; or
- 57 • residential billing adjustments.

58 Mr. Borgard does not provide such enforceable commitments in his rebuttal
59 testimony. Instead, at page 5, lines 137 - 138 of his rebuttal testimony, he states
60 that I did not “provide any evidence that the merger will diminish the Gas
61 Companies’ service quality.” This is simply an attempt to avoid the issue. First, I
62 am advised by counsel that in this proceeding it is the Applicants, not the
63 intervenors, who bear the burden of proof to demonstrate that the proposed
64 merger meets the requirements of the Act. Second, as a practical matter, setting
65 aside any legal debate over who bears the burden of proof, intervenors are not in a
66 position to make such a demonstration until the Applicants provide the necessary
67 data and/or enforceable commitments.

68 **Q. Your Direct Testimony presents evidence documenting Peoples Gas’ service**
69 **quality problems. Does Mr. Borgard attempt to refute that evidence?**

70 A. No. CUB-City Ex. 1.04 in my direct testimony presents statistics on the inquiries
71 and complaints received by the Consumers Division of the Illinois Commerce
72 Commission from customers of the state’s utilities. The number of inquiries and
73 complaints that the Consumers Division received from customers of Peoples Gas
74 roughly doubled between 1999 to 2000 and 2003 to 2005. By 2005 the Division
75 was receiving more calls from customers of Peoples Gas than from customers of
76 any of the state’s other major gas or electric utilities.

77 **Q. Does the material that Mr. Borgard presents in his rebuttal testimony**
78 **support a finding that the merger will not diminish service quality?**

79 A. No. The Applicants have not provided the Commission with a set of metrics and
80 corresponding explicit quantified baseline or “status quo” levels of performance
81 against which to measure the service quality implications of the proposed merger.

82 Without such a reference point the Commission has few, if any, hard facts upon
83 which to determine whether service quality will diminish. Moreover, the
84 Applicants have not guaranteed the achievement of improvements in any of these
85 metrics by committing to specific targets that can be measured and enforced.

86 **Q. Please respond to Mr. Borgard’s opposition to filing a Service Quality Plan**
87 **in Peoples Gas’ and North Shore Gas’ next rate case.**

88 A. In my direct testimony I recommended that the Commission impose, as a
89 condition of approving the proposed merger, a requirement that People Gas and
90 North Shore Gas file a proposed Service Quality Plan, as part of their first general
91 rate proceeding after the merger, to be subject to review and approval by the
92 Commission.

93 In his rebuttal testimony, pages 5 through 7, Mr. Borgard explains why the
94 Applicants oppose such a requirement. However, his points that the Applicant’s
95 should lead the development of such a plan and discuss it in a forum with the
96 stakeholders, including those who would have to pay for its impacts, are entirely
97 consistent with my recommendation. He does not present a compelling reason
98 why the Applicants should not develop such a plan and file it for consideration as
99 part of their next general rate case. Further, the Commission has the opportunity
100 in this merger proceeding to ensure that WPSR’s general reputation of quality
101 service, as described by Mr. Borgard, is an enforceable standard adhered to in
102 Illinois.

103 **Q. Does this complete your rebuttal testimony?**

104 A. Yes.