

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION

MAXINE PHILLIPS, On Behalf of Herself  
and All Others Similarly Situated,

Plaintiff,

-v-

NICOR INC., RUSS M. STROBEL, ROBERT  
M. BEAVERS, JR., BRUCE P. BICKNER,  
JOHN H. BIRDSALL, III, NORMAN R.  
BOBINS, BRENDA J. GAINES, RAYMOND  
A. JEAN, DENNIS J. KELLER, R. EDEN  
MARTIN, GEORGIA R. NELSON,  
ARMANDO J. OLIVERA, JOHN RAU,  
JOHN C. STALEY, AGL RESOURCES INC.,  
and APOLLO ACQUISITION CORP.,

Defendants.

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No. \_\_\_\_\_

CLASS ACTION COMPLAINT

**CLASS ACTION COMPLAINT**

NOW COMES Plaintiff Maxine Phillips, on behalf of herself and all others similarly situated ("Plaintiff"), by her attorneys, alleges upon personal knowledge as to her own acts and upon information and belief as to all other matters, as follows:

**NATURE AND SUMMARY OF THE ACTION**

1. This is a shareholder class action brought by Plaintiff on behalf of holders of Nicor Inc. ("Nicor" or the "Company") common stock against certain officers and/or directors of Nicor and other persons and entities involved in the proposed acquisition of the publicly owned shares of Nicor common stock by AGL Resources Inc. ("AGL"), as detailed herein (the "Proposed Transaction").

2. The Proposed Transaction was made public on December 7, 2010, when Nicor and AGL announced that they had both approved a definitive merger agreement (the "Merger

Agreement”), pursuant to which a subsidiary of AGL will merge with and into Nicor, with the Company continuing as the surviving corporation (the “Merger”). The Merger has an enterprise value of \$3.1 billion, including a total equity value of \$2.4 billion. The deal is expected to close the second half of 2011.

3. Specifically, Nicor shareholders will be entitled to receive \$21.20 in cash and 0.8382 shares of AGL common stock for each share of Nicor common stock, which together represent a value of \$53.00 per share based on the volume-weighted average price for AGL common stock for the 20 trading days ended December 1, 2010. Following the completion of the Merger, it is anticipated that AGL shareholders will own approximately 67 percent of the combined entity, and Nicor shareholders will own approximately 33 percent.

4. In pursuing the plan to induce Nicor shareholders to approve the Proposed Transaction, each of the Defendants (defined herein) violated applicable law by directly breaching and/or aiding the other Defendants’ breaches of their fiduciary duties of loyalty, due care, diligence, good faith and fair dealing, independence, and candor.

5. As described below, both the value to Nicor shareholders contemplated in the Proposed Transaction and the process by which Defendants propose to consummate the Merger are fundamentally unfair to Plaintiff and the other shareholders of the Company.

6. Namely, because the Individual Defendants (defined herein) dominate and control the business and corporate affairs of Nicor and are in possession of material, nonpublic information concerning Nicor’s financial condition and business prospects, there exists an imbalance and disparity of knowledge and economic power between them and the public shareholders of Nicor. Nonetheless, instead of attempting to negotiate a contract reflecting the best consideration reasonably available for the Nicor shareholders who they are duty-bound to

serve, the Individual Defendants disloyally placed their own interests first, and tailored the terms and conditions of the Proposed Transaction to meet their own personal needs and objectives. Therefore, it is inherently unfair for the Individual Defendants to execute and pursue the Proposed Transaction at the expense, and to the detriment, of the Company's public shareholders.

7. To ensure the success of the Proposed Transaction, Nicor's Board of Directors (the "Board") locked up the deal by agreeing to impermissible "deal-protection" devices, effectively rendering the Proposed Transaction a *fait d'accompli*. For example, the Board agreed to: (i) a "no-shop" provision that prevents the Company from negotiating with or providing confidential Company information to competing bidders except under extremely limited circumstances; (ii) a "matching rights" provision; and (iii) a significant termination fee to be paid to AGL if the Board agrees to a competing proposal.

8. To remedy Defendants' breaches of fiduciary duty and other misconduct, Plaintiff seeks, *inter alia*: (i) injunctive relief preventing consummation of the Proposed Transaction, unless and until the Company adopts and implements a procedure or process to obtain a transaction that provides the highest value for shareholders; (ii) a directive to the Individual Defendants to exercise their fiduciary duties to obtain a transaction which is in the best interests of Nicor's shareholders; and (iii) rescission of, to the extent already implemented, the Proposed Transaction agreement or any of the terms thereof.

#### **JURISDICTION AND VENUE**

9. This Court has jurisdiction over each defendant named herein because each defendant is either a corporation that conducts business in and maintains operations in this County, or is an individual who has sufficient minimum contacts with Illinois so as to render the

exercise of jurisdiction by the Illinois courts permissible under traditional notions of fair play and substantial justice.

10. Venue is proper in this Court because one or more of the Defendants either resides in or maintains executive offices in this County, a substantial portion of the transactions and wrongs complained of herein, including the Defendants' primary participation in the wrongful acts detailed herein and aiding and abetting the Individual Defendants' breaches of their fiduciary duties owed to Nicor shareholders occurred in this County, and Defendants have received substantial compensation in this County by doing business here and engaging in numerous activities that had an effect in this County.

#### **THE PARTIES**

11. Plaintiff Maxine Phillips is, and was at all times relevant hereto, a shareholder of Nicor.

12. Defendant Nicor is an Illinois company headquartered at 1844 Ferry Road, Naperville, Illinois 60563. Nicor is an energy and shipping company. The Company's largest subsidiary is Nicor Gas, which serves nearly 2.2 million customers in northern Illinois, excluding Chicago, and is one of the nation's largest gas utilities companies. The Company boasts that Nicor Gas is one of the best managed gas distributors with AA rated debt and some of the lowest costs to end-users in the industry. The Company's next largest subsidiary is Tropical Shipping, which is one of the largest transporters of containerized cargo to the Caribbean and the Bahamas. In addition, the Company owns several energy-related businesses, including Nicor Services, Nicor Solutions and Nicor Advanced Energy, which provide energy-related products and services for retail markets. The Company also owns Nicor Enerchange, a wholesale natural gas marketing company and Horizon Pipeline, a joint venture with Natural Gas Pipeline of America

consisting of a 70 mile pipeline that runs from Joliet, Illinois to a point near the Wisconsin border.

13. Defendant Russ M. Strobel ("Strobel") is Chairman of the Board, Chief Executive Officer and President of Nicor and Nicor Gas. Strobel has been director of the Company since 2004, Chairman of the Board since November 2005, and President since 2002. Strobel joined the Company in 2000 as General Counsel and Corporate Secretary.

14. Defendant Robert M. Beavers, Jr. ("Beavers") has been a Director of the Company since 1992.

15. Defendant Bruce P. Bickner ("Bickner") has been a Director of the Company since 1996.

16. Defendant John H. Birdsall, III ("Birdsall") has been a Director of the Company since 1982.

17. Defendant Norman R Bobins ("Bobins") has been a Director of the Company since 2007.

18. Defendant Brenda J. Gaines ("Gaines") has been a Director of the Company since 2006.

19. Defendant Raymond A. Jean ("Jean") has been a Director of the Company since 2005.

20. Defendant Dennis J. Keller ("Keller") has been a Director of the Company since 1994.

21. Defendant R. Eden Martin ("Martin") has been a Director of the Company since 2005.

22. Defendant Georgia R. Nelson (“Nelson”) has been a Director of the Company since 2005.

23. Defendant Armando J. Olivera (“Olivera”) has been a Director of the Company since 2008.

24. Defendant John Rau (“Rau”) has been a Director of the Company since 1998.

25. Defendant John C. Staley (“Staley”) has been a Director of the Company since 2008.

26. Defendants identified in paragraphs 13-25 are collectively referred to herein as the “Individual Defendants.”

27. Defendant AGL is a Georgia corporation headquartered at 10 Peachtree Place NY, Atlanta, GA 30309. AGL is an energy services company that serves over 2 million customers in 6 states. AGL also owns Sequent Energy Management, an asset manager based in Houston, which serves wholesale natural gas customers throughout North America. AGL also owns and operates two natural gas storage facilities.

28. Defendant Apollo Acquisition Corp. (“Merger Sub”) is an Illinois corporation and a wholly-owned subsidiary of AGL formed solely for the purpose of entering into the Merger Agreement and consummating the Merger. Merger Sub has not conducted any business operations other than those incident to its formation. Upon completion of the Merger, Merger Sub will merge with and into Nicor and Merger Sub will cease to exist as a separate corporate entity.

29. AGL and Merger Sub are referred to as “AGL.”

30. Collectively, the Individual Defendants, Nicor, AGL and Merger Sub are referred to herein as the “Defendants.”

### **THE FIDUCIARY DUTIES OF THE INDIVIDUAL DEFENDANTS**

31. By reason of the Individual Defendants' positions with the Company as officers and/or directors, said individuals are in a fiduciary relationship with Plaintiff and the other shareholders of Nicor and owe Plaintiff and the other members of the Class (defined herein) the duties of good faith, fair dealing, loyalty and full and candid disclosure.

32. By virtue of their positions as directors and/or officers of Nicor, the Individual Defendants, at all relevant times, had the power to control and influence, and did control and influence and cause Nicor to engage in the practices complained of herein.

33. Each of the Individual Defendants is required to act in good faith, in the best interests of the Company's shareholders and with such care, including reasonable inquiry, as would be expected of an ordinarily prudent person. In a situation where the directors of a publicly traded company undertake a transaction that may result in a change in corporate control, the directors must take all steps reasonably required to maximize the value shareholders will receive rather than use a change of control to benefit themselves, and to disclose all material information concerning the proposed change of control to enable the shareholders to make an informed voting decision. To diligently comply with this duty, the directors of a corporation may not take any action that:

- (a) adversely affects the value provided to the corporation's shareholders;
- (b) contractually prohibits them from complying with or carrying out their fiduciary duties;

(c) discourages or inhibits alternative offers to purchase control of the corporation or its assets;

(d) will otherwise adversely affect their duty to search for and secure the best value reasonably available under the circumstances for the corporation's shareholders; or

(e) will provide the directors and/or officers with preferential treatment at the expense of, or separate from, the public shareholders.

34. Plaintiff alleges herein that the Individual Defendants, separately and together, in connection with the Proposed Transaction, violated duties owed to Plaintiff and the other shareholders of Nicor, including their duties of loyalty, good faith and independence, insofar as they, *inter alia*, engaged in self-dealing and obtained for themselves personal benefits, including personal financial benefits, not shared equally by Plaintiff or the other shareholders of Nicor common stock.

#### **CLASS ACTION ALLEGATIONS**

35. Plaintiff brings this action, pursuant to Illinois Code of Civil Procedure 735 ILCS 5/2-801, and as a class action on behalf of all holders of Nicor common stock who are being and will be harmed by Defendants' actions described below (the "Class"). Excluded from the Class are Defendants and any person, firm, trust, corporation, or other entity related to or affiliated with any Defendants.

36. This action is properly maintainable as a class action. The Class is so numerous that joinder of all members is impracticable. As of November 2, 2010 there were 45.43 million shares of the Company's common stock outstanding. Shareholders are scattered throughout the United States. The numerosity requirement of Illinois Code of Civil Procedure 735 ILCS 5/2-801(1) is, therefore, satisfied. The actual number of public shareholders of Nicor will be ascertained through discovery.

37. Illinois Code of Civil Procedure 735 ILCS 5/2-801(2) is satisfied because there are questions of law and fact which are common to the Class and which predominate over questions affecting any individual Class member. The common questions include the following:

(a) whether the Individual Defendants have breached their fiduciary duties of undivided loyalty, independence or due care with respect to Plaintiff and the other members of the Class in connection with the Proposed Transaction;

(b) whether the Individual Defendants are engaging in self-dealing in connection with the Proposed Transaction;

(c) whether the Individual Defendants have breached their fiduciary duty to secure and obtain the best price reasonable under the circumstances for the benefit of Plaintiff and the other members of the Class in connection with the Proposed Transaction;

(d) whether the Individual Defendants are unjustly enriching themselves and other insiders or affiliates of Nicor;

(e) whether Defendants have breached any of their other fiduciary duties to Plaintiff and the other members of the Class in connection with the Proposed Transaction, including the duties of good faith, diligence, honesty and fair dealing;

(f) whether the Defendants, in bad faith and for improper motives, have impeded or erected barriers to discourage other offers for the Company or its assets; and

(g) whether Plaintiff and the other members of the Class would suffer irreparable injury were the transactions complained of herein consummated.

38. Plaintiff's claims are typical of the claims of the other members of the Class and Plaintiff does not have any interests adverse to the Class.

39. Plaintiff is an adequate representative of the Class, has retained competent counsel experienced in litigation of this nature and will fairly and adequately protect the interests of the Class.

40. Illinois Code of Civil Procedure 735 ILCS 5/2-801(4) is satisfied because this class action is a superior method for the fair and efficient adjudication of this controversy. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to individual members of the Class which would establish incompatible standards of conduct for the party opposing the Class.

41. Plaintiff anticipates that there will be no difficulty in the management of this litigation. A class action is superior to other available methods for the fair and efficient adjudication of this controversy.

42. Defendants have acted on grounds generally applicable to the Class with respect to the matters complained of herein, thereby making appropriate the relief sought herein with respect to the Class as a whole.

### **SUBSTANTIVE ALLEGATIONS**

#### ***Nicor's Background***

43. Nicor is a holding company. The Company's principal businesses are Nicor Gas, one of the nation's largest gas distribution companies, and Tropical Shipping, a containerized shipping business that operates between Florida and the Caribbean.

44. Gas distribution is Nicor's primary business. Nicor Gas, a regulated natural gas distribution utility, serves nearly 2.2 million customers in a service territory that encompasses most of the northern third of Illinois, excluding the city of Chicago. The Company's service territory is diverse and its customer base has grown steadily over the years, providing the

Company with a well-balanced mix of residential, commercial and industrial customers. Residential customers typically account for 45 to 50 percent of natural gas deliveries, while commercial and industrial customers each typically account for 25 to 30 percent.

45. Tropical Shipping, headquartered at the Port of Palm Beach, Florida, is one of the largest containerized cargo carriers in the Caribbean region and the Bahamas. Tropical Shipping operates a fleet of 11 owned vessels and also charters a number of vessels to provide flexibility as market conditions change. The company serves ports in the Bahamas, Virgin Islands, Cayman Islands, Dominican Republic, Eastern Caribbean and Guyana.

46. Nicor also owns several energy related ventures, including Nicor Services, Nicor Solutions and Nicor Advanced Energy, which provide energy related products and services to retail markets, and Nicor Enerchange, a wholesale natural gas marketing company. Nicor also has equity interests in a cargo container leasing business, a Federal Energy Regulatory Commission regulated natural gas pipeline and certain affordable housing investments.

### ***The Proposed Transaction***

47. On December 7, 2010, Nicor and AGL issued a joint press release announcing the Proposed Transaction, which stated:

AGL Resources (NYSE: AGL) and Nicor Inc. (NYSE: GAS) today announced that the Boards of Directors of both companies have approved a definitive merger agreement to create a leading U.S. natural gas distribution company. Pursuant to the agreement, Nicor will merge with a subsidiary of AGL Resources in a transaction with an enterprise value of \$3.1 billion, including a total equity value of \$2.4 billion. The combined entity will have an enterprise value of \$8.6 billion. Following the merger, AGL Resources, expected to become a Fortune 500 company, will maintain its corporate headquarters in Atlanta, Georgia and locate its newly expanded gas distribution headquarters in Naperville, Illinois, a suburb of Chicago.

Under the terms of the agreement, Nicor shareholders will be entitled to receive for each share of Nicor common stock, \$21.20 in cash and 0.8382 shares of AGL Resources common stock, which together represent a value of \$53.00 based on

the volume-weighted average price for AGL Resources common stock for the 20 trading days ended December 1, 2010 (the last unaffected Nicor trading day). Following the completion of the merger, it is anticipated that AGL Resources shareholders will own approximately 67 percent and Nicor shareholders will own approximately 33 percent of the combined company.

The transaction is anticipated to be neutral to AGL Resources' earnings per share (EPS) in the first full year following the close and accretive thereafter. The transaction is anticipated to enhance EPS growth and maintain credit quality. The companies expect to complete the transaction in the second half of 2011.

The consideration of \$53.00 per share for Nicor shareholders represents a premium of approximately 22 percent to the unaffected closing stock price of Nicor on December 1, 2010, and an approximately 17 percent premium to the average stock price of Nicor over the last 20 days ending December 1, 2010.

48. In a conference call with analysts after the announcement of the Proposed Transaction, John W. Somerhalder II, Chairman, President and CEO of AGL, emphasized the benefits the Proposed Transaction would provide for the combined entity, professionals, staff and clients, stating:

*Once the merger is completed we anticipate that AGL Resources shareholders will own approximately 67% and Nicor shareholders will own approximately 33% of the combined company which will be called AGL Resources. Illinois, which will be the home of approximately half of the customers of our regulated gas utility, is a fitting place for the headquarters of our gas distribution operations, which will be based in Naperville, Illinois, a suburb of Chicago.*

I'll be leading the combined company, which is now expected to be a Fortune 500 company, and our corporate headquarters will remain in Atlanta, Georgia. Our Board will include four Nicor directors. With the approval of both AGL Resources' and Nicor's shareholders and the appropriate regulatory bodies, we expect to close in the second half of 2011.

Let me give you AGL Resources perspective on the financial and strategic rationale for this compelling transaction, which you can see highlighted on slide five. *We expect the increased scale and scope of the combined company to enhance our effectiveness and bring value to both our shareholders and to our customers.*

Importantly, this transaction will expand our distribution operations creating one of the lowest cost most diversified natural gas utilities, effectively doubling the

number of our utility customers, as the combined company will serve approximately 4.5 million customers. By sharing best practices and through the benefits of greater scale, we will be able to serve those customers better and more efficiently.

In addition, this is a logical combination of highly complementary unregulated businesses where we will leverage our collective experience to take advantage of new market opportunities.

We have a proven track record of acquisition and integration spanning the last decade and I'm confident that by coming together with Nicor we will establish a platform for growth that is superior to what either company could achieve on its own.

This transaction will be neutral to AGL Resources' earnings per share in the first full year following completion and accretive thereafter. We believe we will be able to enhance EPS growth in the years following while maintaining a solid investment grade rating. Drew Evans, AGL Resources' CFO, will provide further details on these points later in the presentation.

So what will the combined company look like? On slide six you can see a map showing our combined gas distribution service territory, retail energy market area and non-utility storage facilities. This combination is truly transformative for both companies, especially considering our complementary assets and our expanded geographic reach.

Naturally, we will be able to share best practices across our business lines. And from an earnings stability standpoint, the regulated businesses of both companies largely have constructive cost recovery mechanisms in place, limiting our exposure to variables such as commodity prices, weather and bad debt expense.

*If you take a look at some of the pro forma statistics you can see why we think this transaction is very compelling. This combination will create a company with revenues of approximately 5.1 billion based on the last 12 month's revenues as of the end of September.*

*In addition, from a pro forma perspective we'll have a market cap of \$4.4 billion based on the closing stock price on December 1, 2010, approximately 4.5 million utility customers, seven regulated natural gas distribution companies with customers located in Illinois, Georgia, New Jersey, Virginia, Florida, Tennessee and Maryland, a rate base of \$3.8 billion, unregulated businesses with over 1 million retail customers, a physical wholesale gas business delivering approximately 4.7 billion cubic feet of gas, and a natural gas storage business that will provide 31 Bcf of storage capacity expected in 2012 with the potential for expansion up to around 90 Bcf.*

These are great assets to be able to put together providing approximately 6,400 jobs in total. *The combined company will be the natural gas distribution industry's largest public company by market cap, almost twice the size of its nearest peer.*

49. The benefits to the Company's professionals, staff and clients, however, come at the expense of Nicor's shareholders. Pursuant to the Merger Agreement, Nicor shareholders will receive \$21.20 in cash and 0.8382 shares of AGL common stock for each share of Nicor, which Nicor representatives assert represents a 22 percent premium over Nicor's closing price on December 1, 2010 of \$43.42. Nicor acknowledges that the offer represents a premium of approximately 17 percent based on the average stock price of Nicor over the last 20 days ending December 1, 2010.

50. However, Nicor has traded at \$48.20 per share as recently as October 18, 2010, and the share price has increased dramatically in the recent month. Indeed, Nicor was trading at \$46 per share the trading day before the announcement, and the share price has increased in response to the buyout news by almost 5 percent to \$48.79 per share on December 7, 2010. Thus, per share consideration offered in the Proposed Transaction provides a meager premium for the apparent overall performance and value of Nicor common stock.

51. In addition, Nicor has consistently performed well in the past, and continues to record strong earnings. Between 2006 and 2009, Nicor reported relatively consistent 12-month total revenue ranging between \$2.6 billion and \$3.7 billion. The Company's net income ranged over the same time period between \$119 million and \$135 million. For the first three quarters in 2010, Nicor has reported a combined nine-month total revenue of \$1.97 billion with a net income of \$98.3 million.

52. Rather than permitting the Company's shares to continue trade freely or allowing its public shareholders to reap the benefits of the Company's increasingly positive prospects and

future financial success, the Individual Defendants acted for their own benefit and the benefit of AGL, and to the detriment of the Company's shareholders, by entering into the Merger Agreement. The Individual Defendants effectively capped Nicor's price at a time when the Company's stock appears poised to capitalize on its positive and encouraging financial outlook.

53. Moreover, on November 19, 2010, the Board declared a quarterly common stock dividend of 46.5 cents per share, payable February 1, 2011, to stockholders of record on December 31, 2010. This payment continues the annual rate of \$1.86 per share and represents the *228<sup>th</sup> consecutive quarterly dividend payment by the Company*. However, with the commencement of the Proposed Transaction, there is no such guarantee that the new AGL entity will continue the quarterly dividend on such a consistent basis, as Nicor has historically done.

54. Finally, analysts indicate that Russ Strobel ("Strobel"), its Chairman, President and CEO, is looking to leave the Company, and the Board has failed to effectively institute a succession plan. Strobel, 57, took his current position with the Company in 2005, following several regulatory inquiries. Strobel also owns 383,256 shares of Nicor, which would be worth more than \$20 million at the deal price.

55. Therefore, in stark contrast to the inadequate consideration offered to shareholders, the Individual Defendants, and other key Company executives fare far better under the terms of the Proposed Transaction. If the Proposed Transaction is consummated, Nicor's public stockholders will be denied their right to share proportionately in the true value of the Company's valuable assets and significant future growth potential. The Individual Defendants, on the other hand, will receive windfall benefits at a very convenient time relative to the future of the Company.

### ***The Preclusive Deal Protection Devices***

56. As part of the Merger Agreement, the Individual Defendants agreed to certain onerous and preclusive deal protection devices that operate conjunctively to make the Proposed Transaction a *fait d'accompli* and ensure that no competing offers will emerge for the Company.

57. Several provisions in the Merger Agreement indicate that the deal was not “shopped” by the Individual Defendants before the Merger Agreement was reached with AGL and approved by the Board.

58. First, the Merger Agreement contains a strict “no shop” provision prohibiting Nicor from taking any affirmative action to comply with their fiduciary duties to maximize shareholder value, including soliciting alternative acquisition proposals or business combinations. The Merger Agreement also includes a strict “standstill” provision which prohibits, except under extremely limited circumstances, the Defendants from even engaging in discussions or negotiations relating to proposals regarding alternative business combinations. In addition to the no-shop and standstill provisions, the Merger Agreement includes a termination fee of \$36 million for the first 45 days, rising to \$67 million after January 20, 2011. Such strict provisions, combined with the termination fee, will all but ensure that no competing offer will be forthcoming.

59. Specifically, §5.4(a) of the Merger Agreement includes a “no solicitation” provision barring the Board and any Company personnel from attempting to procure a price in excess of the amount offered by AGL. This section also demands that the Company terminate any and all prior or on-going discussions with other potential suitors.

60. Similarly, §5.4(c) of the Merger Agreement provides a matching rights provision whereby the Company must notify AGL of any unsolicited competing bidder’s offer as promptly

as reasonably practicable (and in any event within 24 hours). Then, if and only if the Board determines that the competing offer constitutes a "Superior Offer," §5.4(e) of the Merger Agreement provides AGL five business days to amend the terms of the Merger Agreement to make a counter-offer that the Company must consider in determining whether the competing bid still constitutes a "Superior Offer."

61. Thus, even if the Nicor Board receives an intervening bid that appears to be "superior" to AGL's offer, they are precluded from even entering into discussions and negotiations unless they first reasonably determine in good faith that the alternative proposal is, in fact, "superior," and give AGL five business days to match the competing offer. Consequently, this provision prevents the Nicor Board from exercising its fiduciary duties and precludes an investigation into competing proposals unless the onerous conditions described above are met.

62. These provisions cumulatively discourage bidders from making a competing bid for the Company.

#### **COUNT I**

##### **Claim for Breach of Fiduciary Duties Against the Individual Defendants**

63. Plaintiff repeats, realleges and incorporates paragraphs 1-62 of this Complaint as if set forth in full herein.

64. The Individual Defendants have violated fiduciary duties of care, loyalty, candor and good faith owed to public shareholders of Nicor.

65. By the acts, transactions and courses of conduct alleged herein, the Individual Defendants, individually and acting as a part of a common plan, are attempting to unfairly deprive Plaintiff and other members of the Class of the true value of their investment in Nicor.

66. As demonstrated by the allegations above, the Individual Defendants failed to exercise the care required, and breached their duties of loyalty, good faith, candor and independence owed to the shareholders of Nicor because, among other reasons, they failed to take steps to maximize the value of Nicor to its public shareholders.

67. The Individual Defendants dominate and control the business and corporate affairs of Nicor, and are in possession of private corporate information concerning Nicor's assets, business and future prospects. Thus, there exists an imbalance and disparity of knowledge and economic power between them and the public shareholders of Nicor, which makes it inherently unfair for them to benefit their own interests to the exclusion of maximizing shareholder value.

68. By reason of the foregoing acts, practices and course of conduct, the Individual Defendants have failed to exercise ordinary care and diligence in the exercise of their fiduciary obligations toward Plaintiff and the other members of the Class.

69. As a result of the actions of Defendants, Plaintiff and the Class will suffer irreparable injury in that they have not and will not receive their fair portion of the value of Nicor's assets and businesses and have been and will be prevented from obtaining a fair price for their common stock.

70. Unless the Individual Defendants are enjoined by the Court, they will continue to breach their fiduciary duties owed to Plaintiff and the members of the Class, all to the irreparable harm of the members of the Class.

71. Plaintiff and the members of the Class have no adequate remedy at law. Only through the exercise of this Court's equitable powers can Plaintiff and the Class be fully

protected from the immediate and irreparable injury which the Individual Defendants' actions threaten to inflict.

**COUNT II**  
**Claim Against Nicor and AGL for Aiding and Abetting the**  
**Individual Defendants' Breaches of Fiduciary Duty**

72. Plaintiff repeats, realleges and incorporates paragraphs 1-62 of this Complaint as though fully set forth in full herein.

73. Nicor and AGL have knowingly aided and abetted the Individual Defendants' wrongdoing alleged herein. Nicor and AGL have acted and are acting with knowledge or with reckless disregard that the Individual Defendants are in breach of their fiduciary duties to Nicor's public shareholders. Nicor and AGL are also active and necessary participants in the Individual Defendants' plan to complete the Proposed Transaction on terms that are unfair to Nicor shareholders, as Nicor and AGL seek to pay as little as possible to Nicor shareholders.

74. Plaintiff has no adequate remedy at law.

**PRAYER FOR RELIEF**

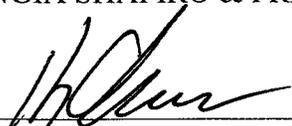
WHEREFORE, Plaintiff, on behalf of herself and all others similarly situated, demands judgment as follows:

- A. Declaring this action to be a proper class action and certifying Plaintiff as class representative and Plaintiff's counsel as class counsel;
- B. Preliminarily and permanently enjoining Defendants from disenfranchising the Class and effectuating the Proposed Transaction;
- C. Declaring that the Individual Defendants have breached their fiduciary duty to Plaintiff and the Class;
- D. Awarding fees, expenses and costs to Plaintiff and Plaintiff's counsel; and
- E. Granting such other and further relief as the Court deems just and proper.

Dated: December 10, 2010

Respectfully submitted,

BELONGIA SHAPIRO & FRANKLIN, LLP

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