

Nicor shock

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BY [MARY WISNIEWSKI](#) mwisniewski@suntimes.com

Thomas Fisher, former CEO of Nicor, faces federal civil fraud charges over an abandoned rate program that might have cost suburban natural gas consumers more than \$190 million.

"The allegations are really a bombshell and lend support to our claims that customers deserve huge refunds," said David Kolata, executive director of the Citizens Utility Board, a consumer watchdog group.

The lawsuit filed by the Securities and Exchange Commission covers the years 1999 through 2002 and involves the Naperville company's performance-based rate plan. The plan allowed Nicor to keep half the profits it earned if it bought gas costs below a certain benchmark, and shared the savings with customers.

The program was supposed to give Nicor an incentive to cut customer costs. Instead, Nicor was able to hide its use of cheaper gas acquired before the plan took effect in 2000, the SEC claims.

The SEC charges Fisher, 61, of Aurora, along with two other former executives of engaging in or approving improper transactions and misrepresenting Nicor's gas inventory to meet earnings targets and increase revenues.

The other defendants are Kathleen Halloran, 54, of St. Charles, former chief financial officer of Nicor, and George Behrens, 51, of Aurora, Nicor's former treasurer.

Speaking through attorneys, all three defendants denied the charges.

"The allegations in the SEC's complaint are just that, 'allegations,' and I look forward to demonstrating in court that I did not violate the securities laws in any way whatsoever," Fisher said in a statement. He retired from Nicor in 2005 after 38 years.

Behrens' attorney, David Stetler, called the allegations "seriously flawed and just plain wrong." Halloran's attorney, Ann Tighe, said her client had always acted in good faith, and will be exonerated by the facts.

Nicor agreed to pay \$10 million to settle SEC fraud charges regarding the program last March. Nicor's former controller Jeffrey Metz settled with the SEC for \$60,000. Neither Nicor nor Metz admitted guilt.

Nicor abandoned the program in 2002 after an anonymous whistleblower leaked documents to CUB showing that Nicor manipulated its cost of natural gas. The Illinois Commerce Commission is reviewing the case to determine whether there should be a customer refund.

Nicor spokeswoman Annette Martinez said the company does not comment on former or current employees.

If found liable, Fisher, Halloran and Behrens face fines of \$120,000 per securities law violation plus a bar from serving as an officer or director of a public company.



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