

# HB2494



## 98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

**HB2494**

by Rep. Arthur Turner

### SYNOPSIS AS INTRODUCED:

220 ILCS 5/19-140

Amends the Public Utilities Act in relation to on-bill financing programs. Provides for the inclusion of energy efficiency and demand-response plans under those programs.

LRB098 08122 JLS 38213 b

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Public Utilities Act is amended by changing  
5 Section 19-140 as follows:

6 (220 ILCS 5/19-140)

7 Sec. 19-140. On-bill financing program; gas utilities.

8 (a) The Illinois General Assembly finds that Illinois homes  
9 and businesses have the potential to save energy through  
10 conservation and cost-effective energy efficiency measures.  
11 Programs created pursuant to this Section will allow utility  
12 customers to purchase cost-effective energy efficiency  
13 measures, including measures set forth in a  
14 Commission-approved energy efficiency and demand-response plan  
15 under Section 8-104 of this Act and that are cost-effective as  
16 that term is defined by that Section, with no required initial  
17 upfront payment, and to pay the cost of those products and  
18 services over time on their utility bill.

19 (b) Notwithstanding any other provision of this Act, a gas  
20 utility serving more than 100,000 customers on January 1, 2009  
21 shall offer a Commission-approved on-bill financing program  
22 ("program") that allows its retail customers who own a  
23 residential single family home, duplex, or other residential

1 building with 4 or less units, or condominium at which the gas  
2 service is being provided (i) to borrow funds from a third  
3 party lender in order to purchase gas energy efficiency  
4 measures approved under the program for installation in such  
5 home or condominium without any required upfront payment and  
6 (ii) to pay back such funds over time through the gas utility's  
7 bill. Based upon the process described in subsection (b-5) of  
8 this Section, small commercial retail customers, as that term  
9 is defined in Section 19-105 of this Act, who own the premises  
10 at which gas service is being provided may be included in such  
11 program. After receiving a request from a gas utility for  
12 approval of a proposed program and tariffs pursuant to this  
13 Section, the Commission shall render its decision within 120  
14 days. If no decision is rendered within 120 days, then the  
15 request shall be deemed to be approved.

16 (b-5) Within 30 days after the effective date of this  
17 amendatory Act of the 96th General Assembly, the Commission  
18 shall convene a workshop process during which interested  
19 participants may discuss issues related to the program,  
20 including program design, eligible gas energy efficiency  
21 measures, vendor qualifications, and a methodology for  
22 ensuring ongoing compliance with such qualifications,  
23 financing, sample documents such as request for proposals,  
24 contracts and agreements, dispute resolution, pre-installment  
25 and post-installment verification, and evaluation. The  
26 workshop process shall be completed within 150 days after the

1 effective date of this amendatory Act of the 96th General  
2 Assembly.

3 (c) Not later than 60 days following completion of the  
4 workshop process described in subsection (b-5) of this Section,  
5 each gas utility subject to subsection (b) of this Section  
6 shall submit a proposed program to the Commission that contains  
7 the following components:

8 (1) A list of recommended gas energy efficiency  
9 measures that will be eligible for on-bill financing. An  
10 eligible gas energy efficiency measure ("measure") shall  
11 be defined by the following:

12 (A) The measure would be applied to or replace gas  
13 energy-using equipment; ~~and~~

14 (B) Application of the measure to equipment and  
15 systems will have estimated gas savings (determined by  
16 rates in effect at the time of purchase), that are  
17 sufficient to cover the costs of implementing the  
18 measures, including finance charges and any program  
19 fees not recovered pursuant to subsection (f) of this  
20 Section. To assist the gas utility in identifying or  
21 approving measures, the utility may consult with the  
22 Department of Commerce and Economic Opportunity, as  
23 well as with retailers, technicians and installers of  
24 gas energy efficiency measures and energy auditors  
25 (collectively "vendors"); ~~and~~

26 (C) The measure is included in a

1           Commission-approved energy efficiency and  
2           demand-response plan under Section 8-104 of this Act  
3           and is cost-effective as that term is defined by that  
4           Section.

5           (2) The gas utility shall issue a request for proposals  
6           ("RFP") to lenders for purposes of providing financing to  
7           participants to pay for approved measures. The RFP criteria  
8           shall include, but not be limited to, the interest rate,  
9           origination fees, and credit terms. The utility shall  
10          select the winning bidders based on its evaluation of these  
11          criteria, with a preference for those bids containing the  
12          rates, fees, and terms most favorable to participants.

13          (3) The utility shall work with the lenders selected  
14          pursuant to the RFP process, and with vendors, to establish  
15          the terms and processes pursuant to which a participant can  
16          purchase eligible gas energy efficiency measures using the  
17          financing obtained from the lender. The vendor shall  
18          explain and offer the approved financing packaging to those  
19          customers identified in subsection (b) of this Section and  
20          shall assist customers in applying for financing. As part  
21          of such process, vendors shall also provide to participants  
22          information about any other incentives that may be  
23          available for the measures.

24          (4) The lender shall conduct credit checks or undertake  
25          other appropriate measures to limit credit risk, and shall  
26          review and approve or deny financing applications

1 submitted by customers identified in subsection (b) of this  
2 Section. Following the lender's approval of financing and  
3 the participant's purchase of the measure or measures, the  
4 lender shall forward payment information to the gas  
5 utility, and the utility shall add as a separate line item  
6 on the participant's utility bill a charge showing the  
7 amount due under the program each month.

8 (5) A loan issued to a participant pursuant to the  
9 program shall be the sole responsibility of the  
10 participant, and any dispute that may arise concerning the  
11 loan's terms, conditions, or charges shall be resolved  
12 between the participant and lender. Upon transfer of the  
13 property title for the premises at which the participant  
14 receives gas service from the utility or the participant's  
15 request to terminate service at such premises, the  
16 participant shall pay in full its gas utility bill,  
17 including all amounts due under the program, provided that  
18 this obligation may be modified as provided in subsection  
19 (g) of this Section. Amounts due under the program shall be  
20 deemed amounts owed for residential and, as appropriate,  
21 small commercial gas service.

22 (6) The gas utility shall remit payment in full to the  
23 lender each month on behalf of the participant. In the  
24 event a participant defaults on payment of its gas utility  
25 bill, the gas utility shall continue to remit all payments  
26 due under the program to the lender, and the utility shall

1 be entitled to recover all costs related to a participant's  
2 nonpayment through the automatic adjustment clause tariff  
3 established pursuant to Section 19-145 of this Act. In  
4 addition, the gas utility shall retain a security interest  
5 in the measure or measures purchased under the program, and  
6 the utility retains its right to disconnect a participant  
7 that defaults on the payment of its utility bill.

8 (7) The total outstanding amount financed under the  
9 program shall not exceed \$2.5 million for a gas utility or  
10 gas utilities under a single holding company, provided that  
11 the gas utility or gas utilities may petition the  
12 Commission for an increase in such amount.

13 (d) A program approved by the Commission shall also include  
14 the following criteria and guidelines for such program:

15 (1) guidelines for financing of measures installed  
16 under a program, including, but not limited to, RFP  
17 criteria and limits on both individual loan amounts and the  
18 duration of the loans;

19 (2) criteria and standards for identifying and  
20 approving measures;

21 (3) qualifications of vendors that will market or  
22 install measures, as well as a methodology for ensuring  
23 ongoing compliance with such qualifications;

24 (4) sample contracts and agreements necessary to  
25 implement the measures and program; and

26 (5) the types of data and information that utilities

1 and vendors participating in the program shall collect for  
2 purposes of preparing the reports required under  
3 subsection (g) of this Section.

4 (e) The proposed program submitted by each gas utility  
5 shall be consistent with the provisions of this Section that  
6 define operational, financial, and billing arrangements  
7 between and among program participants, vendors, lenders, and  
8 the gas utility.

9 (f) A gas utility shall recover all of the prudently  
10 incurred costs of offering a program approved by the Commission  
11 pursuant to this Section, including, but not limited to, all  
12 start-up and administrative costs and the costs for program  
13 evaluation. All prudently incurred costs under this Section  
14 shall be recovered from the residential and small commercial  
15 retail customer classes eligible to participate in the program  
16 through the automatic adjustment clause tariff established  
17 pursuant to Section 8-104 of this Act.

18 (g) An independent evaluation of a program shall be  
19 conducted after 3 years of the program's operation. The gas  
20 utility shall retain an independent evaluator who shall  
21 evaluate the effects of the measures installed under the  
22 program and the overall operation of the program, including,  
23 but not limited to, customer eligibility criteria and whether  
24 the payment obligation for permanent gas energy efficiency  
25 measures that will continue to provide benefits of energy  
26 savings should attach to the meter location. As part of the



1 evaluation process, the evaluator shall also solicit feedback  
2 from participants and interested stakeholders. The evaluator  
3 shall issue a report to the Commission on its findings no later  
4 than 4 years after the date on which the program commenced, and  
5 the Commission shall issue a report to the Governor and General  
6 Assembly including a summary of the information described in  
7 this Section as well as its recommendations as to whether the  
8 program should be discontinued, continued with modification or  
9 modifications or continued without modification, provided that  
10 any recommended modifications shall only apply prospectively  
11 and to measures not yet installed or financed.

12 (h) A gas utility offering a Commission-approved program  
13 pursuant to this Section shall not be required to comply with  
14 any other statute, order, rule, or regulation of this State  
15 that may relate to the offering of such program, provided that  
16 nothing in this Section is intended to limit the gas utility's  
17 obligation to comply with this Act and the Commission's orders,  
18 rules, and regulations, including Part 280 of Title 83 of the  
19 Illinois Administrative Code.

20 (i) The source of a utility customer's gas supply shall not  
21 disqualify a customer from participation in the utility's  
22 on-bill financing program. Customers of alternative gas  
23 suppliers may participate in the program under the same terms  
24 and conditions applicable to the utility's supply customers.

25 (Source: P.A. 96-33, eff. 7-10-09.)