

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