



Sen. Don Harmon

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1 AMENDMENT TO SENATE BILL 2695

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2695 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Department of Commerce and Economic  
5 Opportunity Law of the Civil Administrative Code of Illinois is  
6 amended by adding Section 605-975 as follows:

7 (20 ILCS 605/605-975 new)

8 Sec. 605-975. On-bill financing of energy efficiency,  
9 renewable energy, and demand response resources.

10 (a) The Illinois General Assembly finds that Illinois homes  
11 and businesses have the potential to save 25% or more of energy  
12 now used through conservation and by implementation of  
13 cost-effective energy efficiency, renewable energy, and demand  
14 response measures. However, persistent barriers in the markets  
15 for these measures, including lack of information and lack of  
16 capital, prevent many Illinois consumers and businesses from

1 making economical investments in them. It is the purpose of  
2 this Section to help overcome those barriers, to assist energy  
3 consumers in Illinois to make the most efficient use of energy  
4 resources, and to maximize the amount of value that is  
5 extracted from electricity and gas delivered by utilities in  
6 the State, by the creation of energy efficiency, renewable  
7 energy, and demand response resources on-bill financing  
8 programs. Programs created pursuant to this Section will allow  
9 utility customers to obtain energy efficiency products and  
10 services and renewable energy and demand response resources  
11 with no required initial payment, and to pay the cost of those  
12 products and services and resources over time on a utility  
13 bill.

14 (b) For purposes of this Section:

15 "Capital provider" means an entity that provides funds to  
16 pay the initial costs of the energy efficiency measures and  
17 demand response resources installed through the on-bill  
18 financing program created pursuant to this Section.

19 "Certification agent" means an entity designated by the  
20 Department to implement a system of energy efficiency and  
21 demand response on-bill financing programs.

22 "Certified contractor" means a person authorized by a  
23 certification agent to identify or develop, market, and install  
24 energy efficiency measures and renewable energy and demand  
25 response resources in programs established under this Section.

26 "Cost-effective measures" means those energy efficiency

1 products and services, and those renewable energy and demand  
2 response resources, identified by the certification agent to  
3 have estimated electricity or gas savings, which are determined  
4 by rates in effect at the time of purchase, that are sufficient  
5 to cover the costs of implementing the measures, including  
6 financing charges and program fees, through payments of no more  
7 than three-quarters of the estimated savings and over a period  
8 no greater than three-quarters of the estimated useful life of  
9 the measure. Payment for a measure made by a customer at the  
10 time of installation may be deducted from the cost of the  
11 measure in determining whether the measure is cost-effective.

12 "Demand response resources" means tools and devices,  
13 including recording-demand meters, that allow a customer to  
14 better control energy use in response to price changes.

15 "Department" means the Department of Commerce and Economic  
16 Opportunity.

17 "Energy efficiency" means the reduction in energy usage by  
18 installation of energy-saving devices, materials, appliances  
19 or processes, while maintaining comparable light, power, heat,  
20 and cooling previously enjoyed.

21 "Energy efficiency, renewable energy, and demand response  
22 on-bill financing system" means a market-based system through  
23 which electric and gas utility customers may purchase  
24 cost-effective energy efficiency measures and demand response  
25 resources with no required upfront payment, and pay the cost of  
26 the energy efficiency measures and demand response resources

1 over time on their electric or gas bill after independent  
2 certification that the measures and resources are appropriate  
3 and that estimated savings will exceed payments. The system  
4 assigns the obligation of repayment for permanent measures that  
5 continue to provide benefits of energy savings, and for  
6 resources, to the meter location

7 "Energy efficiency, renewable energy, and demand response  
8 tariff" means a tariff developed under this Section that  
9 defines the requirements for and operational arrangements  
10 between and among purchasers of energy efficiency products and  
11 services and renewable energy and demand response resources,  
12 sellers and installers of the products and services and  
13 resources, capital providers who provide financing for the  
14 initial costs of these products and services and resources,  
15 including vendors who finance the sale and installation of  
16 their products, services, and resources, public utilities, and  
17 certification agents.

18 "Permanent measures" means energy efficiency, renewable  
19 energy and demand response measures that, as determined by the  
20 certification agent, are likely to remain in the premises where  
21 installed.

22 (c) Not later than January 2, 2009, the Department, in  
23 cooperation with the Illinois Commerce Commission, shall  
24 establish one or more pilot programs through which certain  
25 customers of a public utility may be eligible to have  
26 cost-effective energy efficiency, renewable energy, or demand

1 response measures that may be installed at the customer's  
2 location by a certified contractor. Those customers shall not  
3 be required to make any up-front payment for the installation,  
4 and may pay the cost of the energy efficiency, renewable  
5 energy, or demand response measures over time on a utility  
6 bill.

7 No later than January 2, 2012, the Department shall make an  
8 energy efficiency, renewable energy, and demand response  
9 on-bill financing system available to all public utility  
10 customers in the State. The Department shall monitor and  
11 evaluate the effects of the energy efficiency, renewable  
12 energy, and demand response measures installed pursuant to the  
13 programs established under this Section, and shall issue a  
14 report to the Governor and General Assembly on its findings  
15 every 2 years beginning in January 2011. This report shall  
16 describe, at a minimum, the nature of the measures installed,  
17 estimated energy and costs savings from the measures, the  
18 effects of reduced energy use on utility costs, and the effects  
19 of reduced energy use on the environment.

20 (d) Within 30 days after the effective date of this  
21 amendatory Act of the 95th General Assembly, the Department  
22 shall convene and provide staff support to an ad hoc task force  
23 comprised of the Illinois Commerce Commission, governments  
24 from municipalities with more than 1,000,000 residents,  
25 governments from municipalities with less than 1,000,000  
26 residents, representatives of consumer, utility, energy

1 efficiency, renewable energy, and demand response resource  
2 vendors, financial institutions, and other relevant interests,  
3 which shall advise the Department on the design of an energy  
4 efficiency, renewable energy, and demand response on-bill  
5 financing system including, but not limited to, the following  
6 considerations:

7 (1) criteria for selection of certification agents to  
8 be appointed by the Department;

9 (2) guidelines for financing of measures and resources  
10 installed under an energy efficiency, renewable energy,  
11 and demand response resources tariff;

12 (3) criteria and standards for qualified  
13 cost-effective energy efficiency, renewable energy and  
14 demand response resources;

15 (4) qualifications of vendors that will market and  
16 install efficiency products and services and renewable  
17 energy and demand response resources;

18 (5) rules for recovering costs for cost-effective  
19 energy efficiency measures, renewable energy, and demand  
20 response resources when the property where the measures or  
21 resources have been implemented transfers ownership;

22 (6) terms for the establishment of energy efficiency,  
23 renewable energy, and demand response resources tariffs in  
24 markets throughout the State;

25 (7) sample contracts and agreements necessary to  
26 implement energy efficiency, renewable energy, and demand

1 response resources tariffs throughout the State;

2 (8) a recommended budget and funding sources to cover  
3 the costs to establish and operate an energy efficiency,  
4 renewable energy, and demand response resources on-bill  
5 financing system throughout the State; and

6 (9) cost estimates and plans to modify utility billing  
7 systems to include billing and collection capabilities for  
8 measures and resources installed under an energy  
9 efficiency, renewable energy, and demand response tariff.

10 (e) The Department shall designate, and subject to  
11 appropriations for this purpose shall contract with,  
12 certification agents to implement energy efficiency, renewable  
13 energy, and demand response on-bill financing systems. A  
14 certification agent designated by the Department under this  
15 Section:

16 (1) may be for a specified geographic areas of the  
17 State, or for specific classes of customers, or both;

18 (2) shall be qualified by relevant experience and  
19 expertise; and

20 (3) shall have general responsibility for the  
21 implementation and operation of an energy efficiency,  
22 renewable energy, and demand response resources on-bill  
23 financing system, including such duties as the Department  
24 assigns it through contract.

25 Section 10. The Public Utilities Act is amended by adding

1 Sections 4-204.5 and 8-104 as follows:

2 (220 ILCS 5/4-204.5 new)

3 Sec. 4-204.5. Energy efficiency, renewable energy, and  
4 demand response on-bill financing programs.

5 (a) The Commission shall, not later than November 1, 2008,  
6 issue an order or orders that: (i) will allow certain customers  
7 of a public utility in Illinois to purchase cost-effective  
8 energy efficiency measures, renewable energy, and demand  
9 response resources under an energy efficiency and demand  
10 response resources tariff as part of a pilot program  
11 established under Section 605-975 of the Department of Commerce  
12 and Economic Opportunity Law of the Civil Administrative Code  
13 of Illinois; and (ii) require each public utility to file and  
14 maintain an energy efficiency, renewable energy, and demand  
15 response tariff or tariffs in accordance with this Section no  
16 later than January 2, 2010.

17 (b) Each public utility shall file and maintain an energy  
18 efficiency, renewable energy, and demand response tariff or  
19 tariffs in accordance with this Section and any applicable  
20 order of the Commission to allow any of its customers to pay  
21 over time on the utility bill for cost-effective energy  
22 efficiency measures, renewable energy, demand response  
23 resources as provided in Section 605-975 of the Department of  
24 Commerce and Economic Opportunity Law of the Civil  
25 Administrative Code of Illinois. An electric utility may



1 include gas saving measures under its energy efficiency,  
2 renewable energy, and demand response resources tariff, and a  
3 gas distribution utility may include electricity saving  
4 measures under its energy efficiency, renewable energy, and  
5 demand response resources tariff. Disconnection for  
6 non-payment and treatment of bad debt under such a tariff will  
7 be subject to the same rules and regulations as other tariffs  
8 offered by the utility. To reduce bad debt, the Commission may  
9 direct public utilities to extend the payment term as necessary  
10 to recover any missed payments or costs needed to repair  
11 measures providing the payment term never exceeds the useful  
12 life of the measure.

13 (c) A public utility shall be entitled to recover  
14 reasonable costs incurred in complying with this Section and  
15 Section 605-975 of the Department of Commerce and Economic  
16 Opportunity Law of the Civil Administrative Code of Illinois.

17 (220 ILCS 5/8-104 new)

18 Sec. 8-104. Natural gas energy efficiency programs.

19 (a) It is the policy of the State that natural gas  
20 utilities are required to use cost-effective energy efficiency  
21 to reduce direct and indirect costs to consumers. It serves the  
22 public interest to allow gas utilities to recover costs for  
23 reasonably and prudently incurred expenses for energy  
24 efficiency.

25 (b) For purposes of this Section, "cost-effective" means

1 that the measures satisfy the total resource cost test as  
2 defined in this Section, and "energy efficiency" means measures  
3 that reduce the amount of gas required to achieve a given end  
4 use.

5 For purposes of this Section only, "total resource cost  
6 test" means a standard that is met if, for an investment in  
7 energy efficiency, the benefit-cost ratio is greater than one.  
8 The benefit-cost ratio is the ratio of the net present value of  
9 the total benefits of the program to the net present value of  
10 the total costs as calculated over the lifetime of the  
11 measures. The total resource cost test compares the sum of  
12 avoided natural gas utility costs, representing the benefits  
13 that accrue to the system and the participant in the delivery  
14 of those efficiency programs, to the sum of all incremental  
15 costs of end-use measures that are implemented due to the  
16 program (including both utility and participant  
17 contributions), plus costs to administer, deliver, and  
18 evaluate each demand-side program, to quantify the net savings  
19 obtained by substituting the demand-side program for supply  
20 resources. In calculating avoided costs of power and energy  
21 that the gas utility would otherwise have had to acquire,  
22 reasonable estimates shall include financial costs likely to be  
23 imposed by future regulations and legislation on emissions of  
24 greenhouse gases. Provisions include an oversight and  
25 evaluation process that shall periodically monitor and develop  
26 data on the cost-effectiveness and actual productivity of

1 demand-side efficiency and conservation programs. The  
2 low-income measures described in item (4) of subsection (f) of  
3 this Section shall not be required to meet the total resource  
4 cost test.

5 (c) Natural gas utilities shall implement cost-effective  
6 energy efficiency measures to meet the following incremental  
7 annual energy savings goals, based upon the amount of gas  
8 delivered in the immediately preceding calendar year:

9 (1) 0.2% of the total annual Mcf (1,000 cubic feet of  
10 gas) delivered in 2009;

11 (2) 0.4% of the total annual Mcf delivered in 2010;

12 (3) 0.6% of the total annual Mcf delivered in 2011;

13 (4) 0.8% of the total annual Mcf delivered in 2012;

14 (5) 1% of the total annual Mcf delivered in 2013;

15 (6) 1.4% of the total annual Mcf delivered in 2014;

16 (7) 1.8% of the total annual Mcf delivered in 2015; and

17 (8) 2% of the total annual Mcf delivered in 2016; and

18 each year thereafter.

19 (d) Notwithstanding the requirements of subsection (c) of  
20 this Section, a natural gas utility may reduce the amount of  
21 energy efficiency resources it procures to meet energy savings  
22 goals in any single year by an amount necessary to limit the  
23 estimated average increase due to the cost of these resources  
24 included in the amounts paid by retail customers in connection  
25 with gas service to no more than 0.5% of the amount estimated  
26 to have been paid by such customers during the preceding

1 calendar year procurement, with such limit increasing by 0.5%  
2 in each of the years 2010 through 2012, for a maximum cap on  
3 the allowed estimated average increase due to the cost of these  
4 resources of 2%. Three years after the date the Commission  
5 approves the initial energy efficiency plan filings, the  
6 Commission shall review the rate limitation and report to the  
7 General Assembly its findings as to whether the rate cap unduly  
8 constrains the procurement of energy efficiency resources that  
9 would be cost-effective.

10 (e) Natural gas public utilities shall be responsible for  
11 overseeing the design, development, and filing of their  
12 efficiency plans with the Commission. Those public utilities  
13 shall implement 75% of the energy efficiency programs approved  
14 by the Commission and may, as part of that implementation,  
15 outsource various aspects of program development and  
16 implementation. The remaining 25% of those energy efficiency  
17 measures approved by the Commission shall be implemented by the  
18 Department of Commerce and Economic Opportunity, and must be  
19 designed in conjunction with the utility and the filing  
20 process. The Department may outsource development and  
21 implementation of energy efficiency measures. A minimum of 10%  
22 of the entire portfolio of cost-effective energy efficiency  
23 measures shall be procured from units of local government,  
24 municipal corporations, school districts, and community  
25 college districts. The Department shall coordinate the  
26 implementation of these measures. The apportionment of the

1 dollars to cover the costs to implement the Department's share  
2 of the portfolio of energy efficiency measures shall be made to  
3 the Department once the Department has executed grants or  
4 contracts for energy efficiency measures and provided  
5 supporting documentation for those grants and the contracts to  
6 the utility. The details of the measures implemented by the  
7 Department shall be submitted by the Department to the  
8 Commission in connection with the utility's filing regarding  
9 the energy efficiency measures that the utility implements. A  
10 gas utility providing approved energy efficiency measures in  
11 the State shall be permitted to recover costs of those measures  
12 through an automatic adjustment clause tariff filed with and  
13 approved by the Commission. The tariff shall be established  
14 outside the context of a general rate case. Each year the  
15 Commission shall initiate a review to reconcile any amounts  
16 collected with the actual costs and to determine the required  
17 adjustment to the annual tariff factor to match annual  
18 expenditures.

19 Each utility shall include in its recovery of costs the  
20 costs estimated for both the utility's and the Department's  
21 implementation of energy efficiency measures. Costs collected  
22 by the utility for measures implemented by the Department shall  
23 be submitted to the Department pursuant to Section 605-323 of  
24 the Civil Administrative Code of Illinois and shall be used by  
25 the Department solely for the purpose of implementing these  
26 measures. A utility shall not be required to advance any moneys

1 to the Department, but only to forward such funds it has  
2 collected. The Department shall report to the Commission on an  
3 annual basis regarding the costs actually incurred by the  
4 Department in the implementation of the measures. Any changes  
5 to the costs of energy efficiency measures as a result of plan  
6 modifications shall be appropriately reflected in amounts  
7 recovered by the utility and turned over to the Department. The  
8 portfolio of measures administered by both the utilities and  
9 the Department shall, in combination, be designed to achieve  
10 the annual savings targets described in subsection (c) of this  
11 Section, as modified by subsection (d) of this Section.

12 The utility and the Department shall agree upon a  
13 reasonable portfolio of measures and determine the measurable  
14 corresponding percentage of the savings goals associated with  
15 measures implemented by the utility or Department.

16 No utility shall be assessed a penalty under subsection (f)  
17 of this Section for failure to make a timely filing if that  
18 failure is the result of a lack of agreement with the  
19 Department with respect to the allocation of responsibilities  
20 or related costs or target assignments. In that case, the  
21 Department and the utility shall file their respective plans  
22 with the Commission and the Commission shall determine an  
23 appropriate division of measures and programs that meets the  
24 requirements of this Section.

25 If the Department is unable to meet incremental annual  
26 performance goals for the portion of the portfolio implemented

1 by the Department, then the utility and the Department shall  
2 jointly submit a modified filing to the Commission explaining  
3 the performance shortfall and recommending an appropriate  
4 course going forward, including any program modifications that  
5 may be appropriate in light of the evaluations conducted under  
6 item (7) of subsection (f) of this Section. In this case, the  
7 utility obligation to collect the Department's costs and turn  
8 over those funds to the Department under this subsection (e)  
9 shall continue only if the Commission approves the  
10 modifications to the plan proposed by the Department.

11 (f) No later than November 15, 2008, each gas utility shall  
12 file an energy efficiency and demand-response plan with the  
13 Commission to meet the energy efficiency and demand-response  
14 standards for 2008 through 2010. Every 3 years thereafter, each  
15 utility shall file an energy efficiency plan with the  
16 Commission. If a utility does not file a plan, it shall face a  
17 penalty of \$100,000 per day until the plan is filed. Each  
18 utility's plan shall set forth the utility's proposals to meet  
19 the utility's portion of the energy efficiency standards  
20 identified in subsection (c) of this Section, as modified by  
21 subsection (d) of this Section, taking into account the unique  
22 circumstances of the utility's service territory. The  
23 Commission shall seek public comment on the utility's plan and  
24 shall issue an order approving or disapproving each plan within  
25 3 months after its submission. If the Commission disapproves a  
26 plan, the Commission shall, within 30 days, describe in detail

1 the reasons for the disapproval and describe a path by which  
2 the utility may file a revised draft of the plan to address the  
3 Commission's concerns satisfactorily. If the utility does not  
4 refile with the Commission within 60 days after the  
5 disapproval, the utility shall be subject to penalties at a  
6 rate of \$100,000 per day until the plan is filed. This process  
7 shall continue, and penalties shall accrue, until the utility  
8 has successfully filed a portfolio of energy efficiency  
9 measures. Penalties shall be deposited into the Energy  
10 Efficiency Trust Fund. In submitting proposed energy  
11 efficiency plans and funding levels to meet the savings goals  
12 adopted by this Act the utility shall:

13 (1) Demonstrate that its proposed energy efficiency  
14 and demand-response measures will achieve the requirements  
15 that are identified in subsection (c) of this Section, as  
16 modified by subsection (d) of this Section.

17 (2) Present specific proposals to implement new  
18 building and appliance standards that have been placed into  
19 effect.

20 (3) Present estimates of the total amount paid for gas  
21 service expressed on a per kilowatthour basis associated  
22 with the proposed portfolio of measures designed to meet  
23 the requirements that are identified in subsection (c) of  
24 this Section, as modified by subsection (d) of this  
25 Section.

26 (4) Coordinate with the Department and the Department



1 of Healthcare and Family Services to present a portfolio of  
2 energy efficiency measures targeted to households at or  
3 below 150% of the poverty level at a level proportionate to  
4 those households' share of total annual utility revenues in  
5 Illinois.

6 (5) Demonstrate that its overall portfolio of energy  
7 efficiency and demand-response measures, not including  
8 programs covered by item (4) of this subsection (f), are  
9 cost-effective using the total resource cost test and  
10 represent a diverse cross-section of opportunities for  
11 customers of all rate classes to participate in the  
12 programs.

13 (6) Include a proposed cost-recovery tariff mechanism  
14 to fund the proposed energy efficiency and demand-response  
15 measures and to ensure the recovery of the prudently and  
16 reasonably incurred costs of Commission-approved programs.

17 (7) Provide for an annual independent evaluation of the  
18 performance of the cost-effectiveness of the utility's  
19 portfolio of measures and the Department's portfolio of  
20 measures, as well as a full review of the 3-year results of  
21 the broader net program impacts and, to the extent  
22 practical, for adjustment of the measures on a  
23 going-forward basis as a result of the evaluations. The  
24 resources dedicated to evaluation shall not exceed 3% of  
25 portfolio resources in any given year.

26 (g) No more than 3% of energy efficiency and

1 demand-response program revenue may be allocated for  
2 demonstration of breakthrough equipment and devices.

3 (h) This Section does not apply to a gas utility that on  
4 December 31, 2006 provided gas service to fewer than 100,000  
5 customers in Illinois.

6 (i) A utility company that implements energy efficiency  
7 programs, and that has a conservation stabilization adjustment  
8 rider approved by the Commission, shall be entitled to recover  
9 lost revenues that derive from customer implementation of  
10 energy efficiency measures. The utility shall submit an annual  
11 report to the Commission to reconcile its actual lost revenues  
12 with customer adoption of energy efficiency measures. The  
13 report shall include whatever information the Commission may  
14 require.

15 For purposes of this subsection (i), "conservation  
16 stabilization adjustment" means a utility tariff mechanism  
17 intended to recover the annual lost utility revenue from  
18 successful customer participation in energy efficiency  
19 programs. Annual lost revenue shall be calculated by  
20 multiplying (1) the volumetric delivery charges established in  
21 the utility's last rate case by applicable rate classification  
22 by (2) the deemed volumetric energy reductions for each energy  
23 efficiency measure enumerated in the utility's energy  
24 efficiency plan and successfully implemented by customers of  
25 the utility. The Commission may approve a similar, reasonable  
26 method for determining lost utility revenues that derive from

1 programs implemented under this Section.

2 (j) If a gas utility fails to meet the efficiency standard  
3 specified in subsection (c) of this Section, as modified by  
4 subsection (d) of this Section, 2 years after the specified  
5 year and each year thereafter, it shall make a contribution to  
6 the Low-Income Home Energy Assistance Program. The combined  
7 total liability for failure to meet the goal shall be  
8 \$1,000,000, which shall be assessed as follows: a large gas  
9 utility shall pay \$665,000 and a medium gas utility shall pay  
10 \$335,000.

11 For purposes of this subsection (j), (1) a "large gas  
12 utility" is a gas utility that, on December 31, 2006, served  
13 more than 2,000,000 gas customers in Illinois; (2) a "medium  
14 gas utility" is a gas utility that, on December 31, 2005,  
15 served 2,000,000 or fewer but more than 100,000 gas customers  
16 in Illinois; and (3) Illinois gas utilities that are affiliated  
17 by virtue of a common parent company are considered a single  
18 gas utility.

19 (k) No utility shall be deemed to have failed to meet the  
20 energy efficiency standards to the extent any failure is due to  
21 a failure of the Department.

22 Section 99. Effective date. This Act takes effect upon  
23 becoming law."