



Rep. Christian L Mitchell

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LRB098 03400 CEL 44340 a

1 AMENDMENT TO HOUSE BILL 575

2 AMENDMENT NO. _____. Amend House Bill 575 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Public Utilities Act is amended by changing
5 Sections 16-111.7 and 19-140 as follows:

6 (220 ILCS 5/16-111.7)

7 Sec. 16-111.7. On-bill financing program; electric
8 utilities.

9 (a) The Illinois General Assembly finds that Illinois homes
10 and businesses have the potential to save energy through
11 conservation and cost-effective energy efficiency measures.
12 Programs created pursuant to this Section will allow utility
13 customers to purchase cost-effective energy efficiency
14 measures, including measures set forth in a
15 Commission-approved energy efficiency and demand-response plan
16 under Section 8-103 of this Act ~~and that are cost effective as~~

1 ~~that term is defined by that Section,~~ with no required initial
2 upfront payment, and to pay the cost of those products and
3 services over time on their utility bill.

4 (b) Notwithstanding any other provision of this Act, an
5 electric utility serving more than 100,000 customers on January
6 1, 2009 shall offer a Commission-approved on-bill financing
7 program ("program") that allows its eligible retail customers,
8 as that term is defined in Section 16-111.5 of this Act, who
9 own a residential single family home, duplex, or other
10 residential building with 4 or less units, or condominium at
11 which the electric service is being provided (i) to borrow
12 funds from a third party lender in order to purchase electric
13 energy efficiency measures approved under the program for
14 installation in such home or condominium without any required
15 upfront payment and (ii) to pay back such funds over time
16 through the electric utility's bill. Based upon the process
17 described in subsection (b-5) of this Section, small commercial
18 retail customers, ~~as that term is defined in Section 16-102 of~~
19 ~~this Act,~~ who own the premises at which electric service is
20 being provided may be included in such program. After receiving
21 a request from an electric utility for approval of a proposed
22 program and tariffs pursuant to this Section, the Commission
23 shall render its decision within 120 days. If no decision is
24 rendered within 120 days, then the request shall be deemed to
25 be approved.

26 Notwithstanding the provisions of the preceding paragraph,

1 an electric utility serving more than 100,000 customers on or
2 after January 1, 2013 shall offer a Commission-approved,
3 on-bill financing program to owners of multifamily residential
4 or mixed-use buildings with 5 or more residential units no
5 later than December 31, 2013 under the processes described in
6 subsection (c-5) of this Section. Owners of such buildings may
7 not use the program in such a way that repayment of the cost of
8 energy efficiency measures is made on the tenant's utility
9 bills.

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

23 (c) Not later than 60 days following completion of the
24 workshop process described in subsection (b-5) of this Section,
25 each electric utility subject to subsection (b) of this Section
26 shall submit a proposed program to the Commission that contains

1 the following components:

2 (1) A list of recommended electric energy efficiency
3 measures that will be eligible for on-bill financing. An
4 eligible electric energy efficiency measure ("measure")
5 shall be a product or service for which one or more of the
6 following is true ~~defined by the following:~~

7 (A) (blank); ~~the measure would be applied to or~~
8 ~~replace electric energy using equipment; and either~~

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

22 (C) the product or service ~~measure~~ is included in a
23 Commission-approved energy efficiency and
24 demand-response plan under Section 8-103 of this Act
25 ~~and is cost effective as that term is defined by that~~
26 ~~Section.~~

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

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

21 (4) The lender shall conduct credit checks or undertake
22 other appropriate measures to limit credit risk, and shall
23 review and approve or deny financing applications
24 submitted by customers identified in subsection (b) of this
25 Section. Following the lender's approval of financing and
26 the participant's purchase of the measure or measures, the

1 lender shall forward payment information to the electric
2 utility, and the utility shall add as a separate line item
3 on the participant's utility bill a charge showing the
4 amount due under the program each month.

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

19 (6) The electric utility shall remit payment in full to
20 the lender each month on behalf of the participant. In the
21 event a participant defaults on payment of its electric
22 utility bill, the electric utility shall continue to remit
23 all payments due under the program to the lender, and the
24 utility shall be entitled to recover all costs related to a
25 participant's nonpayment through the automatic adjustment
26 clause tariff established pursuant to Section 16-111.8 of

1 this Act. In addition, the electric utility shall retain a
2 security interest in the measure or measures purchased
3 under the program to the extent those measures are not
4 integral to the shell of a building, and the utility
5 retains its right to disconnect a participant that defaults
6 on the payment of its utility bill.

7 (7) The total outstanding amount financed under the
8 programs in this subsection and subsection (c-5) of this
9 Section ~~program~~ shall not exceed \$2.5 million for an
10 electric utility or electric utilities under a single
11 holding company, provided that the electric utility or
12 electric utilities may petition the Commission for an
13 increase in such amount.

14 (c-5) Within 60 days after the effective date of this
15 amendatory Act of the 98th General Assembly, each covered
16 electric utility shall submit a proposed program to the
17 Commission that fully comports with the provisions of
18 subsection (c) of this Section, with the following additional
19 provision: an electric utility subject to this Section shall
20 fully coordinate its program with any gas utility or utilities
21 that provide gas service to buildings within the electric
22 utility's service territory so that it is practical and
23 feasible for the owner of a multifamily building to make a
24 single application to access loans for both gas and electric
25 energy efficiency measures in any individual building.

26 (d) A program approved by the Commission shall also include

1 the following criteria and guidelines for such program:

2 (1) guidelines for financing of measures installed
3 under a program, including, but not limited to, RFP
4 criteria and limits on both individual loan amounts and the
5 duration of the loans;

6 (2) criteria and standards for identifying and
7 approving measures;

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

11 (4) sample contracts and agreements necessary to
12 implement the measures and program; and

13 (5) the types of data and information that utilities
14 and vendors participating in the program shall collect for
15 purposes of preparing the reports required under
16 subsection (g) of this Section.

17 (e) The proposed program submitted by each electric utility
18 shall be consistent with the provisions of this Section that
19 define operational, financial and billing arrangements between
20 and among program participants, vendors, lenders, and the
21 electric utility.

22 (f) An electric utility shall recover all of the prudently
23 incurred costs of offering a program approved by the Commission
24 pursuant to this Section, including, but not limited to, all
25 start-up and administrative costs and the costs for program
26 evaluation. All prudently incurred costs under this Section

1 shall be recovered from the residential and small commercial
2 retail customer classes eligible to participate in the program
3 through the automatic adjustment clause tariff established
4 pursuant to Section 8-103 of this Act.

5 (g) An independent evaluation of a program shall be
6 conducted after 3 years of the program's operation. The
7 electric utility shall retain an independent evaluator who
8 shall evaluate the effects of the measures installed under the
9 program and the overall operation of the program, including, l
10 but not limited to, l customer eligibility criteria and whether
11 the payment obligation for permanent electric energy
12 efficiency measures that will continue to provide benefits of
13 energy savings should attach to the meter location. As part of
14 the evaluation process, the evaluator shall also solicit
15 feedback from participants and interested stakeholders. The
16 evaluator shall issue a report to the Commission on its
17 findings no later than 4 years after the date on which the
18 program commenced, and the Commission shall issue a report to
19 the Governor and General Assembly including a summary of the
20 information described in this Section as well as its
21 recommendations as to whether the program should be
22 discontinued, continued with modification or modifications or
23 continued without modification, provided that any recommended
24 modifications shall only apply prospectively and to measures
25 not yet installed or financed.

26 (h) An electric utility offering a Commission-approved

1 program pursuant to this Section shall not be required to
2 comply with any other statute, order, rule, or regulation of
3 this State that may relate to the offering of such program,
4 provided that nothing in this Section is intended to limit the
5 electric utility's obligation to comply with this Act and the
6 Commission's orders, rules, and regulations, including Part
7 280 of Title 83 of the Illinois Administrative Code.

8 (i) The source of a utility customer's electric supply
9 shall not disqualify a customer from participation in the
10 utility's on-bill financing program. Customers of alternative
11 retail electric suppliers may participate in the program under
12 the same terms and conditions applicable to the utility's
13 supply customers.

14 (Source: P.A. 96-33, eff. 7-10-09; 97-616, eff. 10-26-11.)

15 (220 ILCS 5/19-140)

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

17 (a) The Illinois General Assembly finds that Illinois homes
18 and businesses have the potential to save energy through
19 conservation and cost-effective energy efficiency measures.
20 Programs created pursuant to this Section will allow utility
21 customers to purchase cost-effective energy efficiency
22 measures, including measures set forth in a
23 Commission-approved energy efficiency and demand-response plan
24 under Section 8-103 of this Act, with no required initial
25 upfront payment, and to pay the cost of those products and

1 services over time on their utility bill.

2 (b) Notwithstanding any other provision of this Act, a gas
3 utility serving more than 100,000 customers on January 1, 2009
4 shall offer a Commission-approved on-bill financing program
5 ("program") that allows its retail customers who own a
6 residential single family home, duplex, or other residential
7 building with 4 or less units, or condominium at which the gas
8 service is being provided (i) to borrow funds from a third
9 party lender in order to purchase gas energy efficiency
10 measures approved under the program for installation in such
11 home or condominium without any required upfront payment and
12 (ii) to pay back such funds over time through the gas utility's
13 bill. Based upon the process described in subsection (b-5) of
14 this Section, small commercial retail customers, ~~as that term~~
15 ~~is defined in Section 19-105 of this Act,~~ who own the premises
16 at which gas service is being provided may be included in such
17 program. After receiving a request from a gas utility for
18 approval of a proposed program and tariffs pursuant to this
19 Section, the Commission shall render its decision within 120
20 days. If no decision is rendered within 120 days, then the
21 request shall be deemed to be approved.

22 Notwithstanding the provisions of the preceding paragraph,
23 a gas utility serving more than 100,000 customers on or after
24 January 1, 2013 shall offer a Commission-approved on-bill
25 financing program to owners of multifamily residential or
26 mixed-use buildings with 5 or more residential units no later

1 than December 31, 2013 under the processes described in
2 subsection (c-5) of this Section. Owners of such buildings may
3 not use the program in such a way that repayment of the cost of
4 energy efficiency measures is made on the tenant's utility
5 bills.

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

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

24 (1) A list of recommended gas energy efficiency
25 measures that will be eligible for on-bill financing. An
26 eligible gas energy efficiency measure ("measure") shall

1 be a product or service for which one or more of the
2 following is true ~~defined by the following:~~

3 (A) (blank); ~~The measure would be applied to or~~
4 ~~replace gas energy using equipment; and~~

5 (B) the projected ~~Application of the measure to~~
6 ~~equipment and systems will have estimated gas savings~~
7 ~~(determined by rates in effect at the time of~~
8 ~~purchase),~~ ~~that~~ are sufficient to cover the costs of
9 implementing the measures, including finance charges
10 and any program fees not recovered pursuant to
11 subsection (f) of this Section; or ~~. To assist the gas~~
12 ~~utility in identifying or approving measures, the~~
13 ~~utility may consult with the Department of Commerce and~~
14 ~~Economic Opportunity, as well as with retailers,~~
15 ~~technicians and installers of gas energy efficiency~~
16 ~~measures and energy auditors (collectively "vendors").~~

17 (C) the product or service is included in a
18 Commission-approved energy efficiency and
19 demand-response plan under Section 8-104 of this Act.

20 (2) The gas utility shall issue a request for proposals
21 ("RFP") to lenders for purposes of providing financing to
22 participants to pay for approved measures. The RFP criteria
23 shall include, but not be limited to, the interest rate,
24 origination fees, and credit terms. The utility shall
25 select the winning bidders based on its evaluation of these
26 criteria, with a preference for those bids containing the

1 rates, fees, and terms most favorable to participants.

2 (3) The utility shall work with the lenders selected
3 pursuant to the RFP process, and with vendors, to establish
4 the terms and processes pursuant to which a participant can
5 purchase eligible gas energy efficiency measures using the
6 financing obtained from the lender. The vendor shall
7 explain and offer the approved financing packaging to those
8 customers identified in subsection (b) of this Section and
9 shall assist customers in applying for financing. As part
10 of such process, vendors shall also provide to participants
11 information about any other incentives that may be
12 available for the measures.

13 (4) The lender shall conduct credit checks or undertake
14 other appropriate measures to limit credit risk, and shall
15 review and approve or deny financing applications
16 submitted by customers identified in subsection (b) of this
17 Section. Following the lender's approval of financing and
18 the participant's purchase of the measure or measures, the
19 lender shall forward payment information to the gas
20 utility, and the utility shall add as a separate line item
21 on the participant's utility bill a charge showing the
22 amount due under the program each month.

23 (5) A loan issued to a participant pursuant to the
24 program shall be the sole responsibility of the
25 participant, and any dispute that may arise concerning the
26 loan's terms, conditions, or charges shall be resolved

1 between the participant and lender. Upon transfer of the
2 property title for the premises at which the participant
3 receives gas service from the utility or the participant's
4 request to terminate service at such premises, the
5 participant shall pay in full its gas utility bill,
6 including all amounts due under the program, provided that
7 this obligation may be modified as provided in subsection
8 (g) of this Section. Amounts due under the program shall be
9 deemed amounts owed for residential and, as appropriate,
10 small commercial gas service.

11 (6) The gas utility shall remit payment in full to the
12 lender each month on behalf of the participant. In the
13 event a participant defaults on payment of its gas utility
14 bill, the gas utility shall continue to remit all payments
15 due under the program to the lender, and the utility shall
16 be entitled to recover all costs related to a participant's
17 nonpayment through the automatic adjustment clause tariff
18 established pursuant to Section 19-145 of this Act. In
19 addition, the gas utility shall retain a security interest
20 in the measure or measures purchased under the program to
21 the extent those measures are not integral to the shell of
22 the building, and the utility retains its right to
23 disconnect a participant that defaults on the payment of
24 its utility bill.

25 (7) The total outstanding amount financed under the
26 programs in this subsection and subsection (c-5) of this

1 Section ~~program~~ shall not exceed \$2.5 million for a gas
2 utility or gas utilities under a single holding company,
3 provided that the gas utility or gas utilities may petition
4 the Commission for an increase in such amount.

5 (c-5) Within 60 days after the effective date of this
6 amendatory Act of the 98th General Assembly, each covered gas
7 utility shall submit a proposed program to the Commission that
8 fully comports with the provisions of subsection (c) of this
9 Section, with the following additional provision: a gas utility
10 subject to this Section shall fully coordinate its program with
11 any electric utility or utilities that provide electric service
12 to buildings within the gas utility's service territory so that
13 is practical and feasible for the owner of a multifamily
14 building to make a single application to access loans for both
15 gas and electric energy efficiency measures in any individual
16 building.

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

19 (1) guidelines for financing of measures installed
20 under a program, including, but not limited to, RFP
21 criteria and limits on both individual loan amounts and the
22 duration of the loans;

23 (2) criteria and standards for identifying and
24 approving measures;

25 (3) qualifications of vendors that will market or
26 install measures, as well as a methodology for ensuring

1 ongoing compliance with such qualifications;

2 (4) sample contracts and agreements necessary to
3 implement the measures and program; and

4 (5) the types of data and information that utilities
5 and vendors participating in the program shall collect for
6 purposes of preparing the reports required under
7 subsection (g) of this Section.

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

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

22 (g) An independent evaluation of a program shall be
23 conducted after 3 years of the program's operation. The gas
24 utility shall retain an independent evaluator who shall
25 evaluate the effects of the measures installed under the
26 program and the overall operation of the program, including,

1 but not limited to, customer eligibility criteria and whether
2 the payment obligation for permanent gas energy efficiency
3 measures that will continue to provide benefits of energy
4 savings should attach to the meter location. As part of the
5 evaluation process, the evaluator shall also solicit feedback
6 from participants and interested stakeholders. The evaluator
7 shall issue a report to the Commission on its findings no later
8 than 4 years after the date on which the program commenced, and
9 the Commission shall issue a report to the Governor and General
10 Assembly including a summary of the information described in
11 this Section as well as its recommendations as to whether the
12 program should be discontinued, continued with modification or
13 modifications or continued without modification, provided that
14 any recommended modifications shall only apply prospectively
15 and to measures not yet installed or financed.

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

24 (i) The source of a utility customer's gas supply shall not
25 disqualify a customer from participation in the utility's
26 on-bill financing program. Customers of alternative gas

1 suppliers may participate in the program under the same terms
2 and conditions applicable to the utility's supply customers.
3 (Source: P.A. 96-33, eff. 7-10-09.)

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.".