

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

20 (b) Notwithstanding any other provision of this Act, an
21 electric utility serving more than 100,000 customers on January
22 1, 2009 shall offer a Commission-approved on-bill financing
23 program ("program") that allows its eligible retail customers,

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

19 Beginning no later than December 31, 2013, an electric
20 utility subject to this subsection (b) shall also offer its
21 program to eligible retail customers that own multifamily
22 residential or mixed-use buildings with no more than 50
23 residential units, provided, however, that such customers must
24 either be a residential customer or small commercial customer
25 and may not use the program in such a way that repayment of the
26 cost of energy efficiency measures is made through tenants'

1 utility bills. An electric utility may impose a per site loan
2 limit not to exceed \$150,000. The program, and loans issued
3 thereunder, shall only be offered to customers of the utility
4 that meet the requirements of this Section and that also have
5 an electric service account at the premises where the energy
6 efficiency measures being financed shall be installed.

7 For purposes of this Section, "small commercial customer"
8 means, for an electric utility serving more than 3,000,000
9 retail customers, those customers having peak demand of less
10 than 100 kilowatts, and, for an electric utility serving less
11 than 3,000,000 retail customers, those customers having peak
12 demand of less than 150 kilowatts; provided, however, that in
13 the event the Commission, after the effective date of this
14 amendatory Act of the 98th General Assembly, approves changes
15 to a utility's tariffs that reflects new or revised demand
16 criteria for the utility's customer rate classifications, then
17 the utility may file a petition with the Commission to revise
18 the applicable definition of a small commercial customer to
19 reflect the new or revised demand criteria for the purposes of
20 this Section. After notice and hearing, the Commission shall
21 enter an order approving, or approving with modification, the
22 revised definition within 60 days after the utility files the
23 petition.

24 (b-5) Within 30 days after the effective date of this
25 amendatory Act of the 96th General Assembly, the Commission
26 shall convene a workshop process during which interested

1 participants may discuss issues related to the program,
2 including program design, eligible electric energy efficiency
3 measures, vendor qualifications, and a methodology for
4 ensuring ongoing compliance with such qualifications,
5 financing, sample documents such as request for proposals,
6 contracts and agreements, dispute resolution, pre-installment
7 and post-installment verification, and evaluation. The
8 workshop process shall be completed within 150 days after the
9 effective date of this amendatory Act of the 96th General
10 Assembly.

11 (c) Not later than 60 days following completion of the
12 workshop process described in subsection (b-5) of this Section,
13 each electric utility subject to subsection (b) of this Section
14 shall submit a proposed program to the Commission that contains
15 the following components:

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

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

23 (B) the projected ~~application of the measure to~~
24 ~~equipment and systems will have estimated~~ electricity
25 savings (determined by rates in effect at the time of
26 purchase), ~~that~~ are sufficient to cover the costs of

1 implementing the measures, including finance charges
2 and any program fees not recovered pursuant to
3 subsection (f) of this Section; ~~to assist the electric~~
4 ~~utility in identifying or approving measures, the~~
5 ~~utility may consult with the Department of Commerce and~~
6 ~~Economic Opportunity, as well as with retailers,~~
7 ~~technicians, and installers of electric energy~~
8 ~~efficiency measures and energy auditors (collectively~~
9 ~~"vendors"); or~~

10 (C) the product or service measure is included in a
11 Commission-approved energy efficiency and
12 demand-response plan under Section 8-103 of this Act
13 ~~and is cost effective as that term is defined by that~~
14 ~~Section.~~

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

24 (3) The utility shall work with the lenders selected
25 pursuant to the RFP process, and with vendors, to establish
26 the terms and processes pursuant to which a participant can

1 purchase eligible electric energy efficiency measures
2 using the financing obtained from the lender. The vendor
3 shall explain and offer the approved financing packaging to
4 those customers identified in subsection (b) of this
5 Section and shall assist customers in applying for
6 financing. As part of the process, vendors shall also
7 provide to participants information about any other
8 incentives that may be available for the measures.

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

19 (5) A loan issued to a participant pursuant to the
20 program shall be the sole responsibility of the
21 participant, and any dispute that may arise concerning the
22 loan's terms, conditions, or charges shall be resolved
23 between the participant and lender. Upon transfer of the
24 property title for the premises at which the participant
25 receives electric service from the utility or the
26 participant's request to terminate service at such

1 premises, the participant shall pay in full its electric
2 utility bill, including all amounts due under the program,
3 provided that this obligation may be modified as provided
4 in subsection (g) of this Section. Amounts due under the
5 program shall be deemed amounts owed for residential and,
6 as appropriate, small commercial electric service.

7 (6) The electric utility shall remit payment in full to
8 the lender each month on behalf of the participant. In the
9 event a participant defaults on payment of its electric
10 utility bill, the electric utility shall continue to remit
11 all payments due under the program to the lender, and the
12 utility shall be entitled to recover all costs related to a
13 participant's nonpayment through the automatic adjustment
14 clause tariff established pursuant to Section 16-111.8 of
15 this Act. In addition, the electric utility shall retain a
16 security interest in the measure or measures purchased
17 under the program, and the utility retains its right to
18 disconnect a participant that defaults on the payment of
19 its utility bill.

20 (7) The total outstanding amount financed under the
21 program in this subsection and subsection (c-5) of this
22 Section ~~program~~ shall not exceed \$2.5 million for an
23 electric utility or electric utilities under a single
24 holding company, provided that the electric utility or
25 electric utilities may petition the Commission for an
26 increase in such amount.

1 (c-5) Within 120 days after the effective date of this
2 amendatory Act of the 98th General Assembly, each electric
3 utility subject to the requirements of this Section shall
4 submit an informational filing to the Commission that describes
5 its plan for implementing the provisions of this amendatory Act
6 of the 98th General Assembly on or before December 31, 2013.
7 Such filing shall also describe how the electric utility shall
8 coordinate its program with any gas utility or utilities that
9 provide gas service to buildings within the electric utility's
10 service territory so that it is practical and feasible for the
11 owner of a multifamily building to make a single application to
12 access loans for both gas and electric energy efficiency
13 measures in any individual building.

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

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

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

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

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

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

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

10 (f) An electric utility shall recover all of the prudently
11 incurred costs of offering a program approved by the Commission
12 pursuant to this Section, including, but not limited to, all
13 start-up and administrative costs and the costs for program
14 evaluation. All prudently incurred costs under this Section
15 shall be recovered from the residential and small commercial
16 retail customer classes eligible to participate in the program
17 through the automatic adjustment clause tariff established
18 pursuant to Section 8-103 of this Act.

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

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

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

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

1 supply customers.

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

3 (220 ILCS 5/19-140)

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

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

15 (b) Notwithstanding any other provision of this Act, a gas
16 utility serving more than 100,000 customers on January 1, 2009
17 shall offer a Commission-approved on-bill financing program
18 ("program") that allows its retail customers who own a
19 residential single family home, duplex, or other residential
20 building with 4 or less units, or condominium at which the gas
21 service is being provided (i) to borrow funds from a third
22 party lender in order to purchase gas energy efficiency
23 measures approved under the program for installation in such
24 home or condominium without any required upfront payment and
25 (ii) to pay back such funds over time through the gas utility's

1 bill. Based upon the process described in subsection (b-5) of
2 this Section, small commercial ~~retail~~ customers, ~~as that term~~
3 ~~is defined in Section 19-105 of this Act,~~ who own the premises
4 at which gas service is being provided may be included in such
5 program. After receiving a request from a gas utility for
6 approval of a proposed program and tariffs pursuant to this
7 Section, the Commission shall render its decision within 120
8 days. If no decision is rendered within 120 days, then the
9 request shall be deemed to be approved. Beginning no later than
10 December 31, 2013, a gas utility subject to this subsection (b)
11 shall also offer its program to eligible retail customers that
12 own a multifamily residential or mixed-use building with no
13 more than 50 residential units, provided, however, that such
14 customer must either be a residential customer or small
15 commercial customer and may not use the program in such a way
16 that repayment of the cost of energy efficiency measures is
17 made through tenants' utility bills. A gas utility may impose a
18 per site loan limit not to exceed \$150,000. The program, and
19 loans issued thereunder, shall only be offered to customers of
20 the utility that meet the requirements of this Section and that
21 also have a gas service account at the premises where the
22 energy efficiency measures being financed shall be installed.

23 For purposes of this Section, a small commercial customer
24 for a gas utility shall be defined in that gas utility's
25 informational filing that is made under subsection (c-5) of
26 this Section.

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

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

19 (1) A list of recommended gas energy efficiency
20 measures that will be eligible for on-bill financing. An
21 eligible gas energy efficiency measure ("measure") shall
22 be a product or service for which one or more of the
23 following is true ~~defined by the following:~~

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

26 (B) the projected ~~Application of the measure to~~

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

12 (C) the product or service is included in a
13 Commission-approved energy efficiency plan under
14 Section 8-104 of this Act.

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

23 (3) The utility shall work with the lenders selected
24 pursuant to the RFP process, and with vendors, to establish
25 the terms and processes pursuant to which a participant can
26 purchase eligible gas energy efficiency measures using the

1 financing obtained from the lender. The vendor shall
2 explain and offer the approved financing packaging to those
3 customers identified in subsection (b) of this Section and
4 shall assist customers in applying for financing. As part
5 of such process, vendors shall also provide to participants
6 information about any other incentives that may be
7 available for the measures.

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

18 (5) A loan issued to a participant pursuant to the
19 program shall be the sole responsibility of the
20 participant, and any dispute that may arise concerning the
21 loan's terms, conditions, or charges shall be resolved
22 between the participant and lender. Upon transfer of the
23 property title for the premises at which the participant
24 receives gas service from the utility or the participant's
25 request to terminate service at such premises, the
26 participant shall pay in full its gas utility bill,

1 including all amounts due under the program, provided that
2 this obligation may be modified as provided in subsection
3 (g) of this Section. Amounts due under the program shall be
4 deemed amounts owed for residential and, as appropriate,
5 small commercial gas service.

6 (6) The gas utility shall remit payment in full to the
7 lender each month on behalf of the participant. In the
8 event a participant defaults on payment of its gas utility
9 bill, the gas utility shall continue to remit all payments
10 due under the program to the lender, and the utility shall
11 be entitled to recover all costs related to a participant's
12 nonpayment through the automatic adjustment clause tariff
13 established pursuant to Section 19-145 of this Act. In
14 addition, the gas utility shall retain a security interest
15 in the measure or measures purchased under the program, and
16 the utility retains its right to disconnect a participant
17 that defaults on the payment of its utility bill.

18 (7) The total outstanding amount financed under the
19 program in this subsection and subsection (c-5) of this
20 Section ~~program~~ shall not exceed \$2.5 million for a gas
21 utility or gas utilities under a single holding company,
22 provided that the gas utility or gas utilities may petition
23 the Commission for an increase in such amount.

24 (c-5) Within 120 days after the effective date of this
25 amendatory Act of the 98th General Assembly, each covered gas
26 utility shall submit an informational filing to the Commission

1 that describes its plan for implementing the provisions of this
2 amendatory Act of the 98th General Assembly on or before
3 December 31, 2013. A gas utility subject to this Section shall
4 cooperate with any electric utility that provides electric
5 service to buildings within the gas utility's service territory
6 so that it is practical and feasible for the owner of a
7 multifamily building to make a single application to access
8 loans for both gas and electric energy efficiency measures in
9 any individual building.

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

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

16 (2) criteria and standards for identifying and
17 approving measures;

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

21 (4) sample contracts and agreements necessary to
22 implement the measures and program; and

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

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

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

15 (g) An independent evaluation of a program shall be
16 conducted after 3 years of the program's operation. The gas
17 utility shall retain an independent evaluator who shall
18 evaluate the effects of the measures installed under the
19 program and the overall operation of the program, including,
20 but not limited to, customer eligibility criteria and whether
21 the payment obligation for permanent gas energy efficiency
22 measures that will continue to provide benefits of energy
23 savings should attach to the meter location. As part of the
24 evaluation process, the evaluator shall also solicit feedback
25 from participants and interested stakeholders. The evaluator
26 shall issue a report to the Commission on its findings no later

1 than 4 years after the date on which the program commenced, and
2 the Commission shall issue a report to the Governor and General
3 Assembly including a summary of the information described in
4 this Section as well as its recommendations as to whether the
5 program should be discontinued, continued with modification or
6 modifications or continued without modification, provided that
7 any recommended modifications shall only apply prospectively
8 and to measures not yet installed or financed.

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

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

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

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