Rep. Ann M. Williams

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AMENDMENT TO HOUSE BILL 3609

AMENDMENT NO. _____. Amend House Bill 3609, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be referred to as the Thermal Energy Network and Jobs Act.

Section 5. Legislative findings and intent.

(a) The General Assembly finds and declares that:

(1) This State has a strong interest in ensuring that emissions of greenhouse gases from buildings are reduced because buildings are one of this State's largest sources of greenhouse gases due to the combustion of fossil fuels for heating, domestic hot water production, cooking, and other end uses.

(2) The decarbonization of buildings must be pursued in a manner that is affordable and accessible, preserves

and creates living-wage jobs, and retains the knowledge and experience of the existing utility union workforce.

(3) Thermal energy networks have the potential to decarbonize buildings at the community and utility scale and help achieve the goals of Public Act 102-662 (also known as the Climate and Equitable Jobs Act).

(4) Thermal energy networks consist of pipe loops between multiple buildings and energy sources, which carry water and can be connected to by building owners to support heating and cooling and hot water services. Building owners can connect to the loops to support water heating and cooling and hot water services.

(5) Many utilities in this State have been seeking to develop thermal energy networks but have encountered legal and regulatory barriers.

(6) This State has a strong interest in ensuring an adequate supply of reliable electrical power and, therefore, needs to promote the development of alternative power sources and take steps to assure reliable deliverability. Thermal energy networks are highly efficient because they use and exchange thermal energy from many underground sources and buildings, including recycled thermal energy, which minimizes impacts on the electricity grid.

(7) Access to thermal energy networks has the potential to reduce the upfront and operating costs of

building electrification for customers.

(8) Thermal loop technology provides benefits to participants and non-participants alike, including societal benefits to the environment and the market benefits associated with the reduction of both the volume and peak demand of electricity and natural gas.

(9) A utility's access to capital, the utility's experience with networked infrastructure in public rights-of-way, and the requirement that the utility serve all customers positions the utility well to develop and scale thermal energy networks that are accessible to all customers and to coordinate the development of thermal energy networks with any orderly rightsizing of the utility gas system.

(10) This State also has an interest in the efficient and reliable delivery of energy and the energy infrastructure of the State, which interest is acknowledged throughout the Public Utilities Act. Utility corporations and other power suppliers share these interests and, moreover, have a duty to protect proprietary interests in the projects they fund. Such investments of ratepayer resources can be protected by establishing effective contractor qualification and performance standards, including requirements for prevailing wage rates, bona fide apprenticeship criteria, and project labor agreements.

(11) The construction industry is highly skilled and labor intensive, and the installation of modern thermal energy networks involves particularly complex work. Therefore, effective qualification standards for craft labor personnel employed on these projects are critically needed to promote successful project delivery.

(12) Finally, these findings are especially vital now because the construction industry is experiencing widespread skill shortages across the country, which are crippling existing capital projects and threatening projects planned for the future. The construction of thermal energy networks will utilize many of the same skills that the current utility and building trades workforces already possess.

(b) It is the intent of the General Assembly that passage of this Act is for the following purposes:

(1) to remove the legal barriers to utility development of thermal energy networks and require the Illinois Commerce Commission, within 90 days after the effective date of this amendatory Act of the 104th General Assembly, to begin to authorize and direct utilities to immediately commence piloting thermal energy networks in each and every utility territory;

(2) to direct and authorize the Illinois Commerce Commission to develop a regulatory structure for utility thermal energy networks that scales affordable and

accessible building electrification, protects customers, and balances the role of incumbent monopoly utilities with other market and public actors;

(3) to promote the successful planning and delivery of thermal energy networks and protect critical investments in such projects by requiring the use of appropriate quality craft labor policies that ensure the development of and access to an adequate supply of well trained, highly skilled craft persons needed to support timely, reliable, high-quality projects;

(4) to promote strong economic development and good jobs for local residents in the expanding decarbonized sector by requiring application of progressive State labor and employment policies that ensure public utility investments and related State subsidies create unparalleled skill training and employment opportunities for residents in project areas through the use of local prevailing wage standards and successful, bona fide apprenticeship programs or project labor agreements that incorporate prevailing wage and training standards and provide additional benefits for project owners and workers; and

(5) to promote the use of preapprenticeship programs that will fortify and expand existing apprenticeship programs through systematic outreach efforts to recruit and assist persons from underrepresented and low income

communities by providing such persons with remedial education, social services, and unique opportunities for direct access into high-quality apprenticeship programs and gainful employment in the growing building decarbonization workforce.

Section 10. The Public Utilities Act is amended by changing Section 3-101 and by adding Sections 3-128, 3-129, 3-130, 3-131, and 8-513 as follows:

(220 ILCS 5/3-101) (from Ch. 111 2/3, par. 3-101)

Sec. 3-101. Definitions. Unless otherwise specified, the terms set forth in Sections 3-102 through 3-131 ~~3-126~~ are used in this Act as therein defined.

(Source: P.A. 97-96, eff. 7-13-11; 97-239, eff. 8-2-11; 97-813, eff. 7-13-12.)

(220 ILCS 5/3-128 new)

Sec. 3-128. Thermal energy. "Thermal energy" means piped noncombustible fluids used for transferring heat into and out of buildings for the purpose of reducing any resultant onsite greenhouse gas emissions of all types of heating and cooling processes, including, but not limited to, comfort heating and cooling, domestic hot water, and refrigeration.

(220 ILCS 5/3-129 new)

Sec. 3-129. Thermal energy network. "Thermal energy network" means all real estate, fixtures, and personal property operated, owned, used, or to be used for, in connection with, or to facilitate a utility-scale distribution infrastructure project that supplies non-combusting thermal energy. "Thermal energy network" includes real estate, fixtures, and personal property that is operated, owned, or used by multiple parties.

(220 ILCS 5/3-130 new)

Sec. 3-130. Front-of-meter work. "Front-of-meter work" means a thermal energy network project that impacts the utility side of a meter.

(220 ILCS 5/3-131 new)

Sec. 3-131. Behind-the-meter work. "Behind-the-meter work" means a thermal energy network project that involves a physical, operational, or behavioral modification to the customer side of a utility meter, including the replacement of appliances, retrofits, and panel upgrades.

(220 ILCS 5/8-513 new)

Sec. 8-513. Pilot thermal energy network development.

(a) Within 10 months after the effective date of this amendatory Act of the 104th General Assembly, every gas public utility or combination public utility serving over 100,000

customers shall file with the Commission a petition seeking Commission approval of a proposed pilot thermal energy network project. A gas public utility or combination public utility may seek Commission approval of one additional proposed pilot thermal energy network project each year for 2 years after the effective date of this amendatory Act of the 104th General Assembly. Designs for the projects should coordinate and maximize the value of existing State energy efficiency and weatherization programs and take advantage of federal funding opportunities to the extent practicable. No later than 18 months after the effective date of this amendatory Act of the 104th General Assembly, the Commission shall enter an order approving, approving with modification, or rejecting each proposed pilot thermal energy network project and shall direct the public utility to implement the pilot thermal energy network projects as approved or approved as modified. In considering whether to approve or approve as modified each pilot thermal energy network project, the Commission shall consider whether the pilot thermal energy network project is in the public interest, whether the pilot thermal energy network project will develop information useful for the Commission in adopting rules governing thermal energy networks, whether the pilot thermal energy network project furthers climate justice and emissions reduction, whether the pilot thermal energy network project advances financial and technical approaches to equitable and affordable building

electrification, and whether the pilot thermal energy network project creates benefits to customers and society at large, including, but not limited to, public health benefits in areas with disproportionate environmental or public health burdens, job retention and creation, reliability, and increased affordability of renewable thermal energy options. After the filing of a petition, a utility may request the Commission to grant additional time for pilot development approval, which shall be approved for at least 6 months upon request or up to 12 months upon a showing that additional time would benefit pilot development. An electric public utility may also propose a pilot thermal energy network project in accordance with this subsection (a).

(b) If a utility proposes 3 pilot thermal energy network projects, at least one project shall be proposed in economically disadvantaged communities as defined in Section 5-35 of the Energy Transition Act and at least one shall include an industrial heat application that may additionally include residential and commercial applications. Priority shall be given to pilot proposals that replace leak-prone natural gas distribution infrastructure with distribution infrastructure that supplies non-combusting thermal energy or that replaces thermal energy for buildings currently heated with electric resistance heat. Each public utility shall coordinate with other public utilities and consultants with expertise on successful pilot projects to ensure that the

pilot projects are diverse and designed to inform the Commission's decisions in the proceeding on the various ownership, market, and rate structures for thermal energy networks. The pilot project proposals shall be made publicly available on the Commission's website. Utilities are encouraged to develop plans that enable and facilitate access to thermal loop technology benefits, including access by low and moderate income households. As part of any pilot project proposed pursuant to this Section, a public utility subject to this Section may propose to include customer rebates and incentives, and associated tariffs and proposed regulatory treatment, in a manner similar to what is included in Commission-approved electric energy efficiency plans pursuant to Section 8-103B of this Act.

(b-5) Each public utility proposing a pilot thermal energy network project shall hold at least one prefiling public meeting to receive public comment concerning the proposed thermal energy network in the municipality where the thermal energy network is to be located. Notice of the public meeting shall be published in a newspaper of general circulation for 3 consecutive weeks, beginning no earlier than one month prior to the first public meeting. Notice of the public meeting, including a description of the thermal energy network, must be provided in writing to the clerk of the county where the project is to be located and to the chief clerk of the Commission. A representative of the Commission shall be

invited to each prefiling public meeting.

(c) Any gas public utility, electric public utility, or combination public utility constructing or operating a Commission-approved pilot thermal energy network project shall report to the Commission, on a quarterly basis and until completion of the pilot thermal energy network project, as determined by the Commission, the status of each pilot thermal energy network project. The Commission shall post and make publicly available the reports on its website. The report shall include, but not be limited to:

(1) the stage of development of each pilot project;

(2) the barriers to development;

(3) the number of customers served;

(4) the costs of the pilot project;

(5) the number of jobs retained or created by the pilot project; and

(6) other information the Commission deems to be in the public interest or considers likely to prove useful or relevant to the rulemaking described in subsection (h).

(c-5) The Commission shall require projects submitted to the utility-scale renewable thermal energy network program for approval to include a proposed rate structure for thermal energy services supplied to network end users and consumer protection plans for end users. The Commission may approve the proposed rate structure if the projected heating and cooling costs for end users is not greater than the heating and cooling

costs the end users would have incurred if the end users had not participated in the program.

(d) Any gas public utility, electric public utility, or combination public utility constructing or operating a Commission-approved pilot thermal energy network project shall demonstrate that it has entered into a labor peace agreement with a bona fide labor organization that is actively engaged in representing its employees. The labor peace agreement shall apply to the employees necessary for the ongoing maintenance and operation of the thermal energy network. The labor peace agreement shall be an ongoing material condition of authorization to maintain and operate the thermal energy networks.

(e) Any contractor or subcontractor that performs work on a pilot thermal energy network under this Section shall be a responsible bidder as described in Section 30-22 of the Illinois Procurement Code and shall certify that not less than prevailing wage, as determined under the Prevailing Wage Act, was or will be paid to employees who are engaged in construction activities associated with the pilot thermal energy network project. The contractor or subcontractor shall submit evidence to the Commission that it complied with the requirements of this subsection.

(f) For any pending application for a thermal energy network, the contractor or subcontractor shall submit evidence that the contractor or subcontractor has entered into a fully

executed project labor agreement with the applicable local building trades council for the front-of-meter and behind-the-meter work required for the thermal energy network. The Commission shall not approve any pending applications until the contractor or subcontractor has submitted the information required under this subsection.

(g) Within 4 years after the effective date of this amendatory Act of the 104th General Assembly, the Commission shall adopt rules to, at a minimum:

(1) create fair market access rules for thermal energy networks to accept thermal energy and that do not increase greenhouse gas emissions or copollutants;

(2) to the extent it is in the public interest to do so, exempt small-scale thermal energy networks from active regulation by the Commission;

(3) promote the training and transition of utility workers impacted by this amendatory Act of the 104th General Assembly; and

(4) encourage third-party participation and competition where it will maximize benefits to customers.

(h) A gas public utility or combination public utility required to develop any pilot thermal energy network project under this Section shall be permitted to recover all reasonable and prudently incurred costs associated with the development, construction, and operation of one or more pilot thermal energy network projects through general rates set

pursuant to Section 9-201 or through rates set in a Multi-Year Rate Plan pursuant to Section 16-108.18. A gas public utility, electric public utility, or combination public utility developing a thermal energy network project that includes an industrial heat application may recover rates proportionally from each class of customer. The Commission shall have broad discretion in approving proposed pilot projects that are consistent with the public interest consistent with this Section and in approving all tariffs and issuing other regulatory approvals as necessary to permit a pilot program that facilitates a full review of technologies, and associated policies, with respect to thermal network technology in this State. An electric utility or a utility that offers both gas and electric service that is required to submit an integrated grid plan shall include any proposed pilot programs under this Section as part of the proposed grid plan pursuant to Section 16-105.17 and shall inform stakeholders of the proposed pilot programs during the stakeholder process that precedes the filing of the grid plan. Any obligation imposed by this Section on a utility shall be suspended pending a review of the proposed grid planning process. If the Commission (i) determines that the investments required to comply with this Section impair customer affordability or (ii) does not approve the proposed pilot programs, the requirements of this subsection (i) shall be suspended until the Commission approves recovery under a proposed pilot program in a future

integrated grid plan or Multi-Year Rate Plan.

(i) The total cost of implementation and administration of thermal energy network projects shall not exceed $25,000,000 in a given year. If projects exceed the cost limitation under this subsection (i), the Commission shall immediately suspend new applications and prioritize the continuation of existing participants' benefits under this Section as funds permit.

Section 97. Severability. If any provision of this Act or its application to any gas public utility, electric public utility, or combination public utility constructing or operating a Commission-approved pilot thermal energy network project is determined to be invalid or otherwise unenforceable, such determination shall not affect the validity or enforceability of any other provision of this Act, which shall continue in full force and effect.

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