

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

North Shore Gas Company	:	
	:	
The Peoples Gas Light	:	
and Coke Company	:	10-0090
	:	
Petition Pursuant to Section 19-140 of the	:	
Public Utilities Act to Submit an On-Bill	:	
Financing Program	:	

**VERIFIED COMMENTS OF THE STAFF
OF THE ILLINOIS COMMERCE COMMISSION**

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Staff of the Illinois Commerce Commission (“Staff”), by and through its undersigned counsel, pursuant to Section 200.525 of the Rules of Practice of the Illinois Commerce Commission (“Commission” or “ICC”) (83 Ill. Adm. Code 200.525) and Section 10-101 of the Public Utilities Act (the “PUA” or “Act”), respectfully submits its Verified Comments in the instant proceeding.

I. BACKGROUND

A. Procedural History

On July 10, 2009 the Governor signed Senate Bill 1918 into law creating Public Act 96-0033 (“SB 1918”). SB 1918 added, among other additions, Sections 16-111.7 (the “Electric On-Bill Financing Law”) and 19-140 (the “Gas On-Bill Financing Law”) to the PUA, requiring those electric and gas utilities, respectively, serving more than 100,000 customers on January 1, 2009, to create programs that “will allow utility

customers to purchase cost-effective energy efficiency measures with no required initial upfront payment, and to pay the cost of those products and services over time on their utility bill.” 220 ILCS 5/16-111.7(a), 220 ILCS 5/19-140(a).

The statute requires each utility subject to its provisions to submit a proposed on-bill financing (“OBF”) program no later than 60 days after the completion of workshops mandated by Subsection (b-5) of the Electric On-Bill Financing Law and the Gas On-Bill Financing Law. (220 ILCS 5/16-111.7(b-5), 220 ILCS 5/19-140 (b-5)).

In compliance with Subsection (b-5) of the Electric On-Bill Financing Law and the Gas On-Bill Financing Law, six workshops were convened between August 4, 2009 and December 4, 2009. During the workshops, participants discussed issues related to the OBF program, as suggested by Subsection (b-5), including “program design, eligible energy efficiency measures, qualifications, financing, sample documents such as request for proposals, contracts, and agreements, dispute resolution, pre-installment and post installment verification, and evaluation.” (220 ILCS 5/16-111.7 (b-5); 220 ILCS 19/140(b-5)).

Both the Electric On-Bill Financing Law and the Gas On-Bill Financing Law required the affected utilities to submit proposals on or before February 2, 2010. On February 2, 2010, North Shore Gas Company and The Peoples Gas Light and Coke Company (collectively the “Companies” or “Peoples/NS”) filed their Petition, Direct Testimony, and Program Design Document (“PDD”) (collectively, these filings are sometimes herein referred to as the “Proposal”) ,pursuant to the Gas On-Bill Financing

Law, establishing this docket.¹ The following parties filed Petitions to Intervene in this docket: The Citizens Utility Board (“CUB”), the People of the State of Illinois (“AG”), and the Illinois Competitive Energy Association (“ICEA”). Counsel for the City of Chicago (“City”) filed an appearance. Following a status hearing on February 18, 2010, the parties agreed to a schedule for a paper hearing. No other parties objected to the subsequent Administrative Law Judge (“ALJ”) ruling on February 18, 2010 which identified the schedule and provided an opportunity for parties to object to it.

B. Applicable Law

The Companies seek approval of the Proposal, pursuant to the Gas On-Bill Financing Law, which provides that:

Sec. 19-140

(a) The Illinois General Assembly finds that Illinois homes and businesses have the potential to save energy through conservation and cost-effective energy efficiency measures. Programs created pursuant to this Section will allow utility customers to purchase cost-effective energy efficiency measures with no required initial upfront payment, and to pay the cost of those products and services over time on their utility bill.

(b) Notwithstanding any other provision of this Act, a gas utility serving more than 100,000 customers on January 1, 2009 shall offer a Commission-approved on-bill financing program ("program") that allows its retail customers who own a residential single family home, duplex, or other residential building with 4 or less units, or condominium at which the gas service is being provided (i) to borrow funds from a third party lender in order to purchase gas energy efficiency measures approved under the program for installation in such home or condominium without any required upfront payment and (ii) to pay back such funds over time through the gas utility's bill. Based upon the process described in subsection (b-5) of this Section, small commercial retail customers, as that term is defined in Section 19-105 of this Act, who own the premises at

¹ The petition for Commonwealth Edison established Docket No. 10-0091; the petition of AmerenCILCO/AmerenCIPS/AmerenIP established Docket No. 10-0095; and the petition of Northern Illinois Gas Company established Docket No. 10-0096.

which gas service is being provided may be included in such program. After receiving a request from a gas utility for approval of a proposed program and tariffs pursuant to this Section, the Commission shall render its decision within 120 days. If no decision is rendered within 120 days, then the request shall be deemed to be approved.

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

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

(1) A list of recommended gas energy efficiency measures that will be eligible for on-bill financing. An eligible gas energy efficiency measure ("measure") shall be defined by the following:

(A) The measure would be applied to or replace gas energy-using equipment; and

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

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

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

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

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

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

(7) The total outstanding amount financed under the program shall not exceed \$ 2.5 million for a gas utility or gas utilities under a single holding company, provided that the gas utility or gas utilities may petition the Commission for an increase in such amount.

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

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

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

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

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

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

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

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

(g) An independent evaluation of a program shall be conducted after 3 years of the program's operation. The gas utility shall retain an independent evaluator who shall evaluate the effects of the measures installed under the program and the overall operation of the program, including, but not limited to, customer eligibility criteria and whether the payment obligation for permanent gas energy efficiency measures that will continue to provide benefits of energy savings should attach to the meter location. As part of the evaluation process, the evaluator shall also solicit feedback from participants and interested stakeholders. The evaluator shall issue a report to the Commission on its findings no later than 4 years after the date on which the program commenced, and the Commission shall issue a report to the Governor and General Assembly including a summary of the information described in this Section as well as its

recommendations as to whether the program should be discontinued, continued with modification or modifications or continued without modification, provided that any recommended modifications shall only apply prospectively and to measures not yet installed or financed.

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

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

220 ILCS 5/19-140.

II. PROGRAM DESIGN

A. Program Requirements

The Gas On-Bill Financing Law provides eligibility criteria for utilities that are obligated to develop OBF programs under the law, as well as eligibility criteria for customers that may participate in established and Commission approved OBF programs. (220 ILCS 5/19-140(b)). In particular, an affected gas utility must “serv[e] more than 100,000 customers on January 1, 2009.” *Id.* Staff has reviewed these requirements and has determined that Peoples/NS has appropriately submitted its Proposal. In addition, as discussed more fully herein, Staff has determined that Peoples/NS has identified those customers that are eligible for participation in its OBF program in accordance with the Gas On-Bill Financing Law.

The Gas On-Bill Financing Law requires the affected gas utilities to submit for Commission approval an OBF program that contains certain identified components:

(1) a list of eligible gas energy efficiency measures (220 ILCS 5/19-140(c)(1)) meeting certain statutory criteria (220 ILCS 5/19-140(c)(1)(A) and (B));

(2) a utility obligation to issue a request for proposal (“RFP”) to lenders for the purpose of providing financing, that meets certain stated criteria, to participating customers so such customers may pay for approved measures (220 ILCS 5/19-140(c)(2));

(3) a utility obligation to work with lenders selected through the RFP process and with vendors to determine the OBF program’s “terms and processes pursuant to which a participant can purchase eligible gas energy efficiency measures using the financing obtained from the lender” as well as additional vendor obligations to provide customers with financing information (220 ILCS 5/19-140(c)(3));

(4) a lender obligation to conduct credit checks or undertake other appropriate measures to limit credit risk, to approved or deny financing applications of eligible customers and to forward customer payment information to the gas utility (220 ILCS 5/19-140(c)(4));

(5) a utility obligation to add, as a separate line item on the participating customer’s utility bill, a charge showing the amount due under the OBF program each month (220 ILCS 5/19-140(c)(4));

(6) certain requirements regarding the loan issued to a participating customer of the OBF program, including, that (i) the loan obligation shall be the sole responsibility of the participating customer, (ii) any dispute that may arise concerning the loan’s terms,

conditions, or charges shall be resolved between the participant and the lender, and (iii) the loan shall be due upon transfer of the property title for the premises at which the participant receives gas service from the utility or upon the participant's request to terminate service at such premises. (220 ILCS 5/19-140(c)(5));

(7) a utility obligation to remit payment in full to the lender each month on behalf of the participating customer even in the event of a participating customer default on payment of its gas utility bill and to retain a security interest in the measures purchased under the OBF program (220 ILCS 5/19-140(c)(6));

(8) a utility right to recover all costs related to a participant's nonpayment through the automatic adjustment clause tariff established pursuant to Section 19-145 of the PUA and to disconnect a participant that defaults on the payment of its utility bill (220 ILCS 5/19-140(c)(6)); and

(9) a program requirement that the total amount financed under the program shall not exceed \$2.5 million for a gas utility or gas utilities under a single holding company (220 ILCS 5/19-140(c)(7)).

Because some of the statutory components of the OBF program involve obligations of participating customers, lenders and vendors not currently chosen or identified, Staff is of the view that the Commission can expect compliance with these statutory obligations at the time the obligations arise and therefore, will only address those aspects of the OBF program if and to the extent the program appears inconsistent with the statute.

In addition to the components of the OBF program, the Gas On-Bill Financing Law provides that the OBF program, approved by the Commission, shall also include the following criteria and guidelines:

- (1) guidelines for financing of measures installed under the program (including, without limitation, RFP Criteria and limits on both individual loan amounts and duration of the loans);
- (2) criteria and standards for identifying and approving measures;
- (3) qualifications of vendors and a methodology for ensuring ongoing compliance with such qualifications;
- (4) sample contracts and agreements necessary to implement the measures and program; and
- (5) the types of data and information that utilities and vendors shall collect for purposes of preparing reports required under Subsection (g) of the Gas On-Bill Financing Law (220 ILCS 5/19-140(d)(1) through (5)).

Finally, the OBF program must be available to customers of alternative gas suppliers (220 ILCS 5/19-140(i)). As discussed above with respect to the required components of the OBF Program, Staff will address only those required criteria and guidelines that appear to be inconsistent with the law.

B. Measures

1. Evaluation

The Gas On-Bill Financing Law requires that a list of recommended gas energy efficiency measures be identified in the OBF program. (220 ILCS 5/19-140(c)(1)). The statute defines an eligible gas energy efficiency measure (“measure”) by reference to

two criteria, namely, (i) the measure would be applied to or replace gas energy-using equipment and (ii) the application of the measure to equipment and systems would satisfy a standard of energy efficiency and cost effectiveness set forth in Subsection (c)(1)(B) of the law. Specifically, that standard requires that estimated gas savings (determined by rates in effect at the time of purchase) be sufficient to cover the costs of implement the measures, including finance charges and any program fees not recovered pursuant to Subsection (f) of the law. (220 ILCS 5/19-140(c)(1)(B)).

Staff reviewed the proposed list of measures in conjunction with its review of the methodology proposed by the Companies to satisfy the standard of Subsection (c)(1)(B) regarding cost effectiveness (the “cost effectiveness methodology”). If the Commission approves the methodology as proposed by the Companies, Staff does not object to the list of proposed measures. However, Staff’s review of the cost effectiveness methodology leads Staff to recommend modifications that may affect the list of proposed measures. If the Commission approves Staff’s recommendations, the Companies will need to reassess their proposed measure list to ensure that each measure complies with the modified methodology.

2. Cost Effectiveness Methodology

Staff reviewed the cost effectiveness methodology that Peoples Gas/NS proposed to use to screen eligible measures. The Companies’ methodology calculates the avoided gas savings for each proposed measure without discounting or adjusting for inflation and compares it to the customer cost of the relevant measure including finance charges. If the gas savings are greater than the cost of the measure including interest payments, the measure is then eligible. The method reduces the implementation costs

by the amount of any Peoples/NS energy efficiency program rebates or tax credits that are available to the customer. (NS-PGL Ex. 1.0, page 6)

Conversely, Peoples/NS's method does not include loan origination fees as a cost of implementing the measure because it is the position of the Companies that these are program costs to be recovered through an automatic adjustment clause tariff established under 8-104 of the PUA rather than a cost of implementing the measure to be incurred by the customer (NS-PGL Ex. 1.0, page 12). Staff recommends that loan origination fees be paid by customers receiving the loans rather than collected by all customers through the automatic adjustment clause tariff and that Peoples/NS modify its eligibility screening method to include origination fees as a customer cost.

In support of this recommendation, Staff suggests that Peoples/NS methodology is inconsistent with the law on this point. Subsection (c)(1)(B) of the Gas On-Bill Financing Law states that the estimated gas savings must be sufficient to cover the cost to implement the measure, which includes finance charges and any program fees not recovered pursuant to Subsection (f) of the law. Peoples/NS's position is that loan origination fees are program costs that should be recovered through Subsection (f) rather than a loan cost that should be charged to the customer. (Co. Response to Staff DR DAB 1.02, Attachment A1). From Staff's perspective, however, loan origination fees are part of the loan costs and are not program fees.

While loan origination fees are often charged up front to all customers applying for certain types of loans, Subsection (a) of the law provides that customers are not required to make initial upfront payments. Peoples/NS proposes to address this issue by including the origination fee costs for recovery through an automatic adjustment

clause tariff established under 8-104. However Subsection (f) speaks to start-up and administrative and program evaluation costs and should not be interpreted so broadly as to include loan costs of individual customers. In Staff's view, Peoples/NS's proposal to address this issue, while it solves one problem, creates a different problem, namely, it imposes the loan origination fees of individual customers participating in the OBF program onto all ratepayers.

If origination fees are included as incremental costs recoverable through 8-104 automatic adjustment clause tariff, the cost portion of the cost effectiveness analysis is lowered, potentially making more measures eligible. However, it does so by spreading the costs of loan origination fees across all customers within the eligible service classes instead of having the customer receiving the loan pay the cost of processing credit checks and other paper work in the loan application process. Mortgages, auto and home equity loans all have origination fees paid for by the loan recipients. Because loan origination fees are specific to each individual loan, and the customer receiving the loan receives the benefits from the avoided costs associated with the measure, Staff believes that origination fees should be included in the customer cost of implementing the loan rather than be socialized across all customers and collected through the adjustment clause tariff. In addition, Staff does not agree with Peoples/NS's interpretation of Subsection (f); loan origination fees are not appropriately characterized as start-up, administration or program evaluation costs.

As such, the origination fees should be paid by the customer receiving the loan and included in the cost of implementing the measure for purposes of cost effectiveness screening for measure eligibility. Staff recommends that the payment of origination fees

by the customer receiving the loan be addressed by either having the lender incorporate its processing costs in the interest rate to successful borrowers or having the lender include the origination fee in the loan amount to be repaid and financed. Such approaches could avoid an upfront fee that the law forbids, while making the borrower responsible for this cost.

C. Vendor Qualifications

The Companies' Proposal includes a discussion of the criteria and guidelines for vendor qualification. Generally, the Proposal states that the utility is responsible to develop a vendor network to provide marketing and turnkey development and implementation of energy efficiency projects as part of the OBF program. The Companies acknowledge their statutory obligation to work with the vendors and lenders to develop appropriate criteria and guidelines and that vendors will be required to take a utility approved training program. The relationship between the utility, the lenders and the vendors will be further developed.

Staff has reviewed the Companies' testimony and Proposal related to vendors and vendor qualifications. Peoples/NS has addressed the relevant issues and Staff does not object to the Companies' plan to develop the vendor network and to develop the vendor qualifications and agreements. (NS-PGL Ex. 1.1, p.9).

D. Data Collection

Subsection (d)(5) requires that the proposed OBF program include "the types of data and information that utilities and vendors participating in the program shall collect for the purpose of preparing reports required under Subsection (g)." (220 ILCS 5/19-140(d)(5)). Peoples/NS includes in its proposed OBF program the collection of key

financial data including: (1) on applications: number of applications, number of approvals, approval times, approval date to funding, number of rejections, and reasons for rejections; (2) on booked loans: number of booked loans, loan amounts and tenors, types of energy efficiency measures, and total investment amount of energy efficiency measures; and (3) on collections performance: aging receivables, defaults and bad debts, service suspensions, recoveries, and actual final losses. (NS-PGL Ex. 1.1, p. 12-13). In addition Peoples/NS states that:

Qualitative analysis will be conducted on the Program experience of customers, vendor and FI, assessing the experience and satisfaction of each key stakeholder with the Program financing methods. Customer service matters will include experience in the sales process, ease of use of the finance Program, marketing approach, technical or product problems, Vendor experience and problems, and resolution of problems versus unresolved cases. Vendor experience includes ease of use of the finance Program, roles in Loan origination, and timeliness of disbursement.

Id. at 13.

Finally, Peoples/NS's proposed OBF program includes the collection of key energy saving data including the types and characteristics of both measures replaced and installed. Id. Staff believes this satisfies Subsection (d)(5) of the Gas On-Bill Financing Law.

E. RFP/Lenders

Staff does not object to the process and content the Companies propose for the RFP component of the OBF program (220 ILCS 5/19-140(c)(2)). Nevertheless, Staff has identified a potential issue: some financial institutions meet the definition of "affiliated interest" set forth in Illinois Public Utilities Act Section 7-101(2). Consequently, if the winning bidder were an affiliated interest of one or more of

AmerenCILCO, AmerenCIPS, AmerenIP, Commonwealth Edison, Northern Illinois Gas, North Shore Gas or Peoples Gas Light and Coke,² the affiliated Utilities would have to file a petition seeking Commission approval under Section 7-101 to enter into a contract with the winning bidder. Such a petition would inevitably cause a delay in the selected financial institution signing a contract with at least some, if not all the Utilities.

In Staff's opinion, a Section 7-101 proceeding can be avoided in either of two ways: the Utilities may (1) agree to exclude financial institutions that are "affiliated interests" from participating in the RFP; or (2) modify the RFP process such that it meets all the criteria for the competitive bidding waiver from Commission approval of contracts with affiliated interests. (83 IL Adm. Code 310.70). Specifically, the RFP process would need to be revised to address the following:

- 1) Publishing notice of request for bids in at least two newspapers including the official state newspaper. (83 IL Adm. 310.70(a));
- 2) Providing bidders an opportunity to attend opening of the bids. (83 IL Adm. 310.70(c));
- 3) Selecting and executing a contract within specified time limits or in the alternative re-advertise for new bids. (83 IL Adm. 310.70(e));
- 4) Filing required documents with the Commission. (83 IL Adm. 310.70(f));
and
- 5) Preserving and labeling records, and officer attestation as to their trueness and completeness. (83 IL Adm. 310.70(g) and (h)).

² Hereafter collectively referred to as "Utilities."

Staff takes no position on which of the following three courses of action is preferred: (1) seek Commission approval of a contract with an affiliated interest; (2) exclude affiliated interests from participating in the RFP; or (3) revise the RFP process to qualify for competitive bidding waiver from Commission approval of the contract with an affiliated interest.

F. Sample Loan Documents

The Proposal anticipates that lenders will provide standard loan documents as part of the RFP. (NS-PGL Ex. 1.0, p. 11). Staff believes this satisfies the requirement for sample contracts and agreements necessary to implement the measures and program in Subsection (d)(4). (220 ILCS 5/19-140(d)(4)).

III. TARIFFS

A. Cost Recovery

Staff recommends that the Commission approve the Companies' cost recovery plans for the OBF program costs as presented at NS-PGL Ex. 1.2, Section E. 7 and discussed below, with the exception that loan origination fees should be excluded (see Section B2 of Staff's Comments). Further, Staff has no objection to the accounting procedures also discussed below related to the cost recovery provisions and program costs of the OBF program as described by the Companies, with the exception that Staff recommends that the Companies present and confirm in its reply comments that an agreed cost sharing mechanism is in place with the other Utilities implementing OBF programs for the shared financial institution RFP process costs discussed below.

Section 19-140 of the Act provides that a gas utility serving more than 100,000 customers on January 1, 2009 shall offer a Commission-approved OBF program. Section 19-140(f) specifically addresses recovery of costs associated with such programs. Section 19-140(f) states:

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

220 ILCS 5/19-140(f).

In accordance with Section 19-140(f), the Companies propose to recover certain prudently incurred costs under the automatic adjustment clause tariff to be established under Section 8-104. The Companies expect to file that tariff on October 1, 2010. (NS-PGL Ex. 1.0, p. 12, lines 244-249). Staff recommends the Companies provide drafts of the Sec. 8-104 tariffs for Staff's review no later than September 1, 2010. The Companies agreed with Staff's recommendation in discovery. (Companies' response to ICC Staff Data Request DLH-1.04, Attachment A7).

The Companies agree to maintain separate accounting records related to the incremental costs associated with the OBF program versus other costs recovered pursuant to Section 8-104 of the Act. (Companies' response to ICC Staff Data Request DLH-1.05). Further, in data request responses, the Companies assert that each program required by Senate Bill 1918 is being recorded in a separate project number, and the recoverable costs are being recorded in separate regulatory assets. (Companies' response to ICC Staff Data Request DLH-1.05, Attachment A8).

The costs that the Companies plan to recover pursuant to Section 19-140(f) are initially recorded in a separate project and will then be moved to a regulatory asset. (Companies' response to ICC Staff Data Request DLH-1.01, Attachment A2). The Companies plan to amortize the costs over three years, which they state is an appropriate time period since Section 19-140(g) requires an evaluation report by an independent evaluator after three years of program operations. (Companies' response to ICC Staff Data Request DLH-1.03, Attachment A6). The Companies have jointly incurred approximately \$26,000 in costs eligible for recovery from July 10, 2009 through January 31, 2010. (Companies' response to ICC Staff Data Request DLH-1.02, Attachment A3). The costs will be allocated to Peoples Gas/NS based on the average number of customers for each company, resulting in an 85/15 allocation, respectively. (Companies' supplemental response to ICC Staff Data Request DLH-1.02, Attachment A3). Sec. 19-140(c)(6) states that Utilities will have a security interest in the measures purchased under the OBF program. The Companies stated that they intend to work with the financial institution to address the security interest that the law grants. (NS-PGL Ex. 1.0, pp. 9-10, lines 193-196).

The Companies provided a current estimate for the start up, program administrative, and program evaluation costs of the OBF Program. (Companies' second supplemental response to ICC Staff Data Request DLH-1.06, Attachment 10). The Companies stated that regarding the costs for the consultant on the financial institution RFP process, the Companies will share costs with the other utilities participating in the OBF Program, but provided no documentation of any agreement with the other utilities. The Companies further stated that they are amenable to sharing

costs of the OBF Program such as program evaluation with other Utilities, but at this time there is no agreement or arrangement in place for such sharing. *Id.* Staff recommends that the Companies present and confirm in its reply comments that an agreed cost sharing mechanism is in place with the other Utilities implementing OBF programs for the shared RFP costs.

B. Company Filings

The Companies cost recovery tariff for its energy efficiency plan, Enhanced Efficiency Program, ("Rider EEP"), were approved during a rate case (Docket Nos. 07-0241 and 07-0242) rather than in a separate proceeding before the Commission. Therefore, the Companies are not eligible to use Rider EEP to recover costs of the Program. Section 8-104 (e) states "...A utility providing approved energy efficiency measures in this State shall be permitted to recover costs of those measures through an automatic adjustment clause tariff filed with and approved by the Commission. The tariff shall be established outside the context of a general rate case...." The Companies have not yet filed a tariff for cost recovery under Section 8-104 but the Companies expect to submit the tariff when they file their plans by October 1, 2010. (NS-PGL Ex. 1.0, p.12).

Staff reviewed the Companies' proposed Rider 31 - On-Bill Financing Program tariff ("Rider OBF") for natural gas service. Rider OBF "will allow utility customers to purchase cost-effective energy efficiency measures with no required initial upfront payment, and to pay the cost of those products and services over time on their utility bill." (220 ILCS 5/19-140 (b)).

Subsection 19-140 (b) defines the eligibility criteria for the OBF program. Specifically, the program must be offered to retail customers that own a residential single family home, duplex, other residential building with 4 or less units, or condominiums at which gas service is being provided. Small commercial retail customers may be included in the program. An Alternative Retail Electric Supplier (“ARES”) customer may also participate if the customer owns a residential single family home, duplex, or other residential building with 4 or less units, or condominiums at which electric service is being provided. The Companies have appropriately included the customer criteria in Rider OBF. The Companies propose to offer the OBF program to Service Classification 1 - Small Residential Service and Service Classification 2 - General Service which would include small commercial customers who consume an average of 41,000 therms per month or less. Additionally, Rider OBF, Section D, item 2 allows transportation customers to also participate in the OBF program. (NS-PGL Ex. 1.2, North Shore Tariff Sheet No. 8 and Peoples Gas Tariff Sheet No. 7).

Subsection 19-140 (c)(4) requires the Companies to set out the loan payment as a separate line item on the bill. Rider OBF, Section E – Company’s Responsibility 3 states: “...show amounts due under the OBF Program as a separate line item on the participant’s utility bill;...” This language is appropriately included in Rider OBF.

The Companies propose language in Rider OBF that permits a participant’s service to be disconnected in the event of nonpayment of Program charges that appear on the bill. In NS-PGL Ex.1.2, Section E - Company’s Responsibility, 6, page 3 of 4 of each tariff, the Companies state: “...retain its right to disconnect service to a Participant that defaults on the payment of its utility bill;...” The proposed tariff language is in

accordance with Subsection 19-140 (6) that states the utility retains its right to disconnect a participant that defaults on the payment of its utility bill.

Staff recommends one change to language in Rider OBF Section A – Applicability, on page 1 of 4. The first sentence states that:

The terms and conditions of this rider shall apply to *loans* offered by a third Party Lender to facilitate Eligible Customers' purchase and installation of Efficiency Measures from and by Vendors....
Emphasis added.

The terms and conditions of this rider should apply to *customers* rather than *loans*.

Language should be inserted before the word loans to resolve Staff's concern.

The terms and conditions of this rider shall apply to customers that apply for loans offered by a Third Party Lender to facilitate Eligible Customers' purchase and installation of Efficiency Measures from and by Vendors....

If the change suggested above is implemented, then Staff recommends approval of Rider OBF in this docket.

C. Consumer Information

Customers who take advantage of the proposed OBF program should be informed about how their participation may affect their bill when changes in utility service occur. In particular, customers will need to know how moving to another location both within and outside the utility's service territory will affect their bill. In addition, it is important that customers understand that their utility service may be subject to disconnection for non-payment of on-bill financing charges. Furthermore, customers should be informed of conditions under which the balance of the amount

borrowed would become due. Finally, customers whose service has been disconnected will need to know what options they may have to reconnect utility service.

Staff recommends that the Companies include in their reply comments a commitment to develop consumer information covering the above points and to provide a description of how the information will be communicated to customers.

IV. CONCLUSION

Based on Staff's review of the Petition, testimony and attachments, Staff recommends that the Commission approve the Companies' proposed OBF Program and tariff subject to the adoption of Staff's recommendations made herein.

Respectfully submitted,

NORA NAUGHTON
JESSICA L. CARDONI
Counsel for the Staff of the Illinois
Commerce Commission

March 2, 2010

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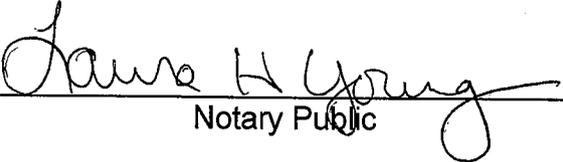
VERIFICATION

I, Joan Howard, being first duly sworn, depose and state that I am a Consumer Policy Analyst in the Consumer Services Division of the Illinois Commerce Commission; that I sponsor the foregoing Comments; that I have personal knowledge of the information stated in the foregoing Comments; and that such information is true and correct to the best of my knowledge, information and belief.

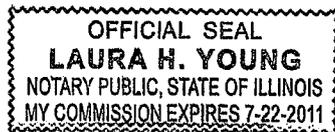


Joan Howard
Illinois Commerce Commission

Subscribed and sworn to before me
this 2nd day of March, 2010.



Notary Public

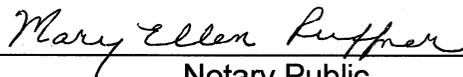


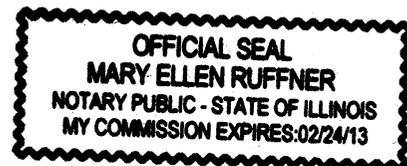
VERIFICATION

I, Alan Pregozen, being first duly sworn, depose and state that I am Manager of the Finance Department of the Financial Analysis Division of the Illinois Commerce Commission; that I sponsor the foregoing Comments; that I have personal knowledge of the information stated in the foregoing Comments; and that such information is true and correct to the best of my knowledge, information and belief.


Alan Pregozen
Illinois Commerce Commission

Subscribed and sworn to before me
this 2nd day of March, 2010.


Notary Public



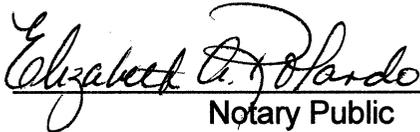
VERIFICATION

I, Dianna Hathhorn, being first duly sworn, depose and state that I am an Accountant in the Accounting Department of the Financial Analysis Division of the Illinois Commerce Commission; that I sponsor the foregoing Comments; that I have personal knowledge of the information stated in the foregoing Comments; and that such information is true and correct to the best of my knowledge, information and belief.



Dianna Hathhorn
Illinois Commerce Commission

Subscribed and sworn to before me
this 1st day of March, 2010.



Notary Public

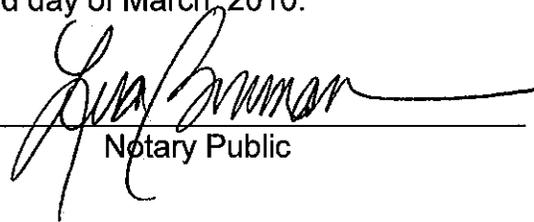


VERIFICATION

I, David Brightwell, being first duly sworn, depose and state that I am an Economic Analyst III in the Policy Program of the Energy Division of the Illinois Commerce Commission; that I sponsor the foregoing Comments; that I have personal knowledge of the information stated in the foregoing Comments; and that such information is true and correct to the best of my knowledge, information and belief.


David Brightwell
Illinois Commerce Commission

Subscribed and sworn to before me
this 2nd day of March, 2010.



Notary Public



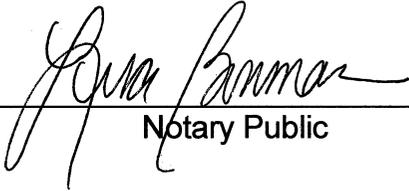
VERIFICATION

I, Cheri Harden, being first duly sworn, depose and state that I am a Rate Analyst in the Financial Analysis Department of the Public Utilities Division of the Illinois Commerce Commission; that I sponsor the foregoing Comments; that I have personal knowledge of the information stated in the foregoing Comments; and that such information is true and correct to the best of my knowledge, information and belief.



Cheri L. Harden
Illinois Commerce Commission

Subscribed and sworn to before me
this 2nd day of March, 2010.



Notary Public