

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Northern Illinois Gas Company)	
d/b/a Nicor Gas Company)	
)	Docket No. 10-0096
Application pursuant to Section 9-201 and)	
Section 19-140 of the Illinois Public Utilities)	
Act for consent to and approval of Rider 31,)	
On-Bill Financing Program and related)	
changes to Nicor Gas' tariff, and approval)	
of the Energy Efficiency On-Bill Financing)	
Program.)	

VERIFIED INITIAL COMMENTS OF THE CITIZENS UTILITY BOARD

I. Introduction

On February 8, 2010, the Illinois Commerce Commission (“ICC” or “the Commission”) commenced this docket to review the Petition of Northern Illinois Gas Company d/b/a Nicor Gas Company (“Nicor” or “the Petitioner” to implement an On-Bill Financing (“OBF”) Program pursuant to Section 19-140 of the Public Utilities Act (“PUA” or “the Act”). 220 ILCS 5/19-140. Over the past year, the Commission has held a series of workshops during which interested parties discussed many issues related to the OBF Program, including program design, eligible energy efficiency measures, vendor qualifications, contracts, pre- and post-installment verification, etc. See 220 ILCS 5/19-140(b-5). In this process, Staff of the Illinois Commerce Commission (“ICC Staff”), the Citizens Utility Board (“CUB”) and other stakeholders heard from experts on lending practices and energy efficiency programs.

CUB participated in the workshop process, and appreciates the chance to provide comments on the Petitioner’s program draft. The Petitioner’s proposed OBF Program is a welcome step forward advancing the General Assembly’s purpose of promoting conservation and cost-effective energy efficiency measures. 220 ILCS 5/19-140(a). Nicor was a valuable

participant in the workshop process, and CUB looks forward to working with Nicor to make its On-Bill Financing Program one of the best in the nation.

CUB would like to commend Nicor for including commercial customers served under Rates 4 and 74 with Meter Class A as eligible participants in the program. Nicor Exhibit 1.2, 1.2.1. Nicor is the only utility to do so, and the experience gained over the next three years will be beneficial to all Illinois utilities. The timing of when the Petitioner's plan was to be filed means that the plan precedes the selection of the financial lending institution and final program measures. Thus, the specific loan terms, especially the interest rate, which will drive decisions such as eligible measures, are not known. Moreover, there are gaps in the Program Design Document ("PDD") that must be completed prior to Commission approval. The PDD includes several proposals that will limit program transparency and increase program cost, among them the use of the Illinois Energy Association ("IEA") to select a financial lending institution, credit checks to determine eligible participants, the potential for multiple, separate evaluations of Illinois OBF programs, and lack of consistent loan amounts. The lack of information provided in Petitioners' proposed program therefore makes it difficult to evaluate in a comprehensive manner. CUB addresses these concerns in detail below.

A. Financial Institution Should Be Selected With Stakeholder Input Based On Clearly Defined Criteria

Nicor is cooperating with other utilities to conduct a joint Request for Proposal ("RFP") to find the Financial Institution ("FI") that will serve as lender, provide financing to customers and serve as partner in several roles to implement the Program. Nicor Gas Ex. 1.2 at 3, Section 2. Nicor Gas Exhibit 1.2, 2.2. The Illinois Energy Association, of which all utilities are

members, is facilitating this cooperation and will issue the FI RFP and coordinate the FI RFP process on behalf of the utilities. *Id.* The IEA will constitute an evaluation committee with representation from all participating utilities. Nicor Gas Exhibit 1.3, 5.6. Proposals will be reviewed and evaluated by committee members and their consultants, though IEA reserves the right to accept or reject any proposal, that, in the sole opinion of IEA, does not fully reflect the objectives of this Program. Nicor Exhibit 1.3 at 11, Section 5.6. IEA also reserves the right to select one or more FIs, based on territorial or other considerations, although a single FI partner is contemplated presently as the best approach. *Id.*

CUB has concerns about the Petitioners' proposed process, which provides the IEA with veto authority over the final FI selection. It is unclear what additional value IEA brings to the process aside from having all four utilities participating in the RFP as members. Nor is it clear how the Commission or other stakeholders will be informed of IEA's deliberations or decision.

CUB proposes that those stakeholders who participated in the OBF workshops conducted by ICC Staff be invited to become members of the proposed Evaluation Committee. In particular, CUB proposes that the Commission name CUB, the Illinois Attorney General's office and ICC Staff members of the Evaluation Committee proposed by the utilities. CUB would also like to see the RFP evaluation matrix revised to place more emphasis on the first criteria, which is "Loan Pricing; interest rate pricing and fees" as having a low interest rate is possibly the most critical component of the RFP for consumers. See NS-PGL Ex. 1.1, Annex B, Proposal Evaluation Worksheet. Points could be taken away from "Loan marketing & geographic coverage" and "additional services" and given to "Loan Pricing" in order to make that criteria more heavily weighted vis-à-vis the others.

B. The Gross Receipts Tax Should Not Apply to On-Bill Financing Programs

While Nicor's PDD does not directly address the application of the "gross receipts tax" to measures, in the response to CUB data request 2.02, Nicor stated it was required to collect the gross receipts tax, citing Section 1 of the Gas Revenue Tax Act, which defines "gross receipts" and includes "cash, services and property of every kinds or nature." However, Petitioners do not include the limitation on this definition provided in the same section:

However, "gross receipts" shall not include receipts from:

- (i) any minimum or other charge for gas or gas service where the customer has taken no terms of gas
- (iii) any finance or credit charge, penalty or charge for delayed payment, or discount for prompt payment
- (iv) any charge for reconnection of service or for replacement or relocation of facilities
- (v) any advance or contribution in aid of construction
- (vi) repair, inspection or servicing of equipment located on customer premises
- (vii) leasing or rental of equipment, the leasing or rental of which is not necessary to distributing, furnishing, supplying, selling, transporting or storing gas

35 ILCS 615/1. Petitioners overlook the limitations provided by the statute itself on the meaning of "gross receipts." On-Bill Financing – the purchase of energy efficiency equipment designed to lower a customer's overall usage – is an inspection and servicing of equipment located on customer's premises. The late payment charge referred to in the draft Rider 31, Nicor Ex. 1.1 Part 4, would not be included in "gross receipts" as defined in the Gas Revenue Tax Act. The customer is the owner of the equipment, and the financial relationship is between the customer and the Financial Institution, which will service the loan. By subjecting measures funded through the OBF Program to the Gas Revenue Tax Act, Nicor raises the cost of the measure.

C. Eligible Measures Should Be Determined After the Financial Institution Has Been Selected

The Petitioners will publish a final eligible measure(s) prior to the Program's start up. Nicor Ex. 1.2 at 2, 9-10. As noted above, the RFP for the Financial Institution has not yet been completed, so it is premature to prescribe a measure to the program prior to possessing the information, such as the interest rate of the loan, that can only be determined once the FI has been selected. Once the interest rate and loan terms have been clarified, all the utilities should provide the results of the formula testing, including all measures considered, and the final list of OBF Program measures. CUB recommends the Commission order that a workshop be held once the FI has been selected and a final list of measures proposed so that ICC Staff and other stakeholders can review and understand the final OBF Program.

D. Pre- and Post-Installation Verification of Furnace Installation Savings Should Be Required

Nicor will be responsible for confirming that energy efficiency measures meet the eligibility requirements of the PUA, and will publish a list of approved Program measures prior to the start of the OBF Program. Nicor Ex. 1.2 at 10. Nicor includes on this list gas hot water heaters, furnaces and gas boilers. *Id.* During the workshops, CUB and other participants learned that many furnaces which are installed do not ever achieve their labeled efficiency because duct work in the home is not conducive to enabling the furnace to operate at the ideal efficiency. Given the importance of proper duct alignment to the achievement of actual energy savings, CUB believes that installation of furnaces must include an examination – and where necessary, an improvement – of the associated duct work. Consumers can improve their duct work if their

current ducts are not sufficient to enable their furnace to operate at the maximum efficiency. For this reason CUB proposes that a sampling of one-third of all furnaces installed have both pre- and post- verification in order to ensure that the consumer realizes the full efficiency of their investment.

E. Instead of Credit Checks, Customer Bill Payment History Should Be Used in Determining Eligibility

The Petitioners intend to finalize underwriting criteria for residential customers with the selected Financial Institution. Nicor Gas Exhibit 1.3, Page 15. Examples of potential underwriting criteria are confirmation of property ownership, minimum Fair Isaac Corporation (“FICO”) scores (to be determined), debt-to-income ratio, etc. *Id.* Examples of potential underwriting criteria are confirmation of property ownership, minimum FICO scores (to be determined), debt-to-income ratio, etc. *Id.* Though it is unclear at this time to what degree, if any, Nicor proposes to use credit checks, CUB is concerned that use of credit checks to screen customers for eligibility will add unnecessary costs and barriers to the program. The utility is in possession of bill payment history for all of its customers. This bill payment history, which represents a rich source of information about a consumer, should be the principal measure of person’s credit worthiness to obtain a loan under the program. As discussed at the workshops, individuals with poor credit scores still often pay their utility bills. CUB does not want to see people that could benefit from energy efficiency measures being denied access to this Program because they do not have an ideal credit score. While CUB certainly does not want to see imprudent loans, CUB believes the use of utility bill payment history is a prudent way to determine credit worthiness of prospective borrowers.

F. The Program Should Continue During the Pendency of Evaluation

The PUA requires that an independent evaluation of the OBF Programs be conducted after 3 years of program operation. 220 ILCS 5/19-140(g). As Nicor's PDD correctly notes, this evaluation will assess both the effects of the measures installed under the Program and the overall experience of participants. Nicor Ex. 1.2 at 10, Section 6. After the evaluation is completed, 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 which summarizes the evaluation and makes a recommendation on whether the OBF Program should continue. 220 ILCS 5/19-140(g). This would include a recommendation on whether any modifications should be made to the Program or measures, provided that recommended modifications shall only apply prospectively and to measures not yet installed or financed. *Id.*

CUB supports the use of an independent evaluator for the OBF Programs. The ICC, and all stakeholders, will benefit from a coordinated evaluation process that enables comparison across the participating utilities. For that reason, CUB recommends that one statewide evaluator be retained to both facilitate consistent evaluation and comparison, and to lower overall evaluation costs. This evaluation process should begin as soon as possible under the terms of the statute so that any gap between the evaluation of the OBF Program, the ICC review of that evaluation, and a decision on any necessary program modifications is as short as possible.

From Nicor's filing it is unclear what will happen to the OBF Program while the evaluation is conducted and the ICC presents its findings to the General Assembly as required by statute. Moreover, the proposed PDD does not provide for the required feedback from participants and interested stakeholders. 220 ILCS 5/19-140(g). CUB believes the programs

should be continued during the pendency of the evaluation. To ensure that Program participants and interested stakeholders can provide feedback, the evaluator should present its findings in a series of workshops held during the year provided for the evaluation.

G. Reconnection Amounts Should Include Only Those Loan Payments Missed Since Disconnection and Not the Entire Loan Balance

Nicor notes that in the event of non-payment by a customer of loan amounts due, the utility may terminate service, under existing collection procedures. Nicor Gas Exhibit 1.0, at 8. However, the proposed PDD does not address how a customer who has had their service disconnected can have their service reconnected, for example a customer disconnected in March who applies for reconnection in May. It is unclear from Petitioners filing what amount a customer who participates in the OBF Program would have to pay for reconnection. CUB recommends the reconnection amount include only those loan payments missed since the disconnection and not the entire amount due under the loan.

H. The Role of Program Administrators Should Be Clarified

The Petitioners intend to hire a separate contractor to develop and oversee a Vendor network, though they note that the existing Vendor network established for existing energy efficiency and demand response programs may be drawn upon and augmented for this Program. Nicor Gas Exhibit 1.2, 4.3. CUB agrees with Petitioners that existing resources should be used as much as possible. These Vendors already may be familiar with the Petitioners' contracting and billing arrangements. Most importantly for the success of the OBF Program, Vendors already familiar with energy efficiency protocols and can be relied upon to properly install and maintain the high-efficiency equipment financed through the OBF Program. Using existing

contractor networks as much as possible will lower overall program costs and lessen the burden of the Financial Institution to double-check Vendor credentials. Before the Petitioners OBF Program should be approved, the Commission should ask for and receive clarification on the role of any contractor hired to oversee the Vendor network, along with information on associated costs.

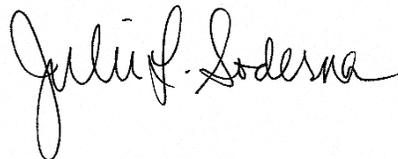
II. Conclusion

For the reasons discussed above, the Commission should require additional information from Petitioners before approving the Program, including estimated program costs. CUB recommends that upon the selection of the Financial Institution, and once the Petitioners have a list of proposed measures and terms, that another workshop is held so stakeholders can ask questions and receive clarification on the final Program design.

Dated: March 2, 2010

Respectfully Submitted,

CITIZENS UTILITY BOARD



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