STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Central Illinois Light Company	)	
d/b/a AmerenCILCO	)	
	)	
Central Illinois Public Service Company	)	
d/b/a AmerenCIPS	)	
	)	**Docket No. 10-0095**
Illinois Power Company	)	
d/b/a AmerenIP	)	
	)	
Petition for Approval of 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 the Ameren Illinois Utilities[1] ("AIU" or "the Petitioners") to implement an On-Bill Financing ("OBF") Program pursuant to Section 19-140 of the Public Utilities Act ("PUA" or "the Act"). 220 ILCS 5/16-111.7; 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 5/16-111.7(b-5); 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 Petitioners' program draft. The Petitioner's proposed OBF Program is a

[1] "AIU" includes Central Illinois Light Company d/b/a AmerenCILCO, Central Illinois Public Service Company d/b/a AmerenCIPS and Illinois Power Company d/b/a AmerenIP.

welcome step forward advancing the General Assembly's purpose of promoting conservation and cost-effective energy efficiency measures. 220 5/16-111.7(a); 220 ILCS 5/19-140(a). The AIU were valuable participants in the workshop process, and CUB looks forward to working with them to make its On-Bill Financing Program one of the best in the nation.

The timing of when the Petitioners' plan was to be filed means that the plan precedes the selection of the financial lending institution and final program measures. As such, CUB – and the other parties in this Docket – cannot know for sure what the loan terms, especially the interest rate, which will drive decisions such as eligible measures will be. The Program Design Document ("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, and the separate evaluations of Illinois OBF Programs. This 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.

II. Detailed Comments

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

It is unclear whether or not the Petitioners propose that the cost of implementing the measures includes Gross Receipts Tax on the financing payment as applicable since CUB has not yet received responses to its second set of data requests[2]. Pending receipt of the data request, CUB will only note here that Section 1 of the Gas Revenue Tax Act defines "gross receipts," and

[2] CUB data request 2.01 and 2.02 ask AIU to discuss applicability of the Gross Receipts Tax; the requests were served on February 22, 2010 and responses were requested by March 1, 2010.

includes “cash, services and property of every kinds or nature” in that definition. 35 ILCS 615/1. However, the plain language of the statute places limitations on that definition:

> 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 therms 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. 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 customer is the owner of the equipment, and the financial relationship is between the customer and the Financial Institution (“FI”), which will service the loan. By subjecting measures funded through the OBF Program to the Gas Revenue Tax Act, Petitioners raise the cost of the measure. CUB recommends the Petitioners exclude any “gross receipts” tax from the cost of the measure.

B. 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. Ameren Exhibit 1.1, 5.3. As noted above, the request for proposals (“RFP”) for the Financial Institution has not yet been completed, so it is premature to include or exclude any measures from the Program prior to possessing the information, such as the interest rate of the loan, which 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.

C. The Role of Program Administrators Should Be Clarified

The Petitioners intend to possibly 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. Ameren Exhibit 1.1, 4.2. CUB agrees with Petitioners that existing resources should be used as much as possible, which will take advantage of these Vendors familiarity 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 reasonbly be relied upon to properly install and maintain the high-efficiency equipment financed through the OBF Program. While still under development, contractors already participating in the Act On Energy Electricity and Natural Gas Savings Program will have completed utility trainings, provided proof of insurance and agreed to third-party verification of their work. See *In re Nicor Gas*, ICC Docket No. 10-0090, Ex. 1.1 at 7. 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 is 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.

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

Petitioners are cooperating with other utilities to conduct a joint Request for Proposal to find the Financial Institution which will serve as lender, provide financing to customers and serve as partner in several roles to implement the Program. Ameren Exhibit 1.1, 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. Ameren Exhibit 1.1, 12.6. The IEA will constitute an evaluation committee with representation from all participating utilities. *Id*. 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. *Id.* 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 is concerned that the Petitioner's proposed process 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 be included as members of the RFP Evaluation Committee. 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 Ameren 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.

E. The Program Should Continue During 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 the Petitioners' PDD correctly notes, this evaluation will "assess the effects of the measures installed under the Program and the overall operation of the Program." AIU Ex. 1.1 at 13, Section 6.1. The Financial Institution will collect data regarding lending activity, as required by the PUA. *Id.* After the evaluation is completed, the evaluator shall issue a report to the Commission on its findings no later than four (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 5/16-111.7; 220 ILCS 5/19-140(g). The ICC's report will 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 be begun 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.

The AIU request the evaluation take place whereby results are concluded by the beginning of the third program year. AIU Ex. 1.0 at 11-12. This request is based upon concerns that should a recommendation and decision be made to continue the OBF Program after the three year period has expired, Program momentum will be lost, consumer and vendor confusion may ensue and additional costs could be incurred to re-start the Program. *Id.* CUB sees the benefits of early course correction if necessary; however, CUB does not have an opinion at this time as to whether an evaluation based upon only two program years would be sufficient to inform the ICC's decision.

From the Petitioners' 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 Petitioners' 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.

F. 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. Ameren Ex. 1.1, Annex B, at pg. 33. Examples of potential underwriting criteria are confirmation of property ownership, minimum Fair Isaac Corporation scores (to be determined), debt-to-income ratio, etc. *Id.* Though it is unclear at this time to what degree, if any, Petitioners propose to use credit checks, CUB is concerned that use of credit checks to screen customers for eligibility will add unnecessary costs 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 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 Commission should rule that the use of utility bill payment history is a prudent way to determine credit worthiness of prospective borrowers.

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

The Petitioners note that in the event of non-payment by a customer of loan amounts due, the utility may terminate service, under existing collection procedures. The Petitioners do not address how a customer who has had their service disconnected can have their service reconnected. For example, customer is disconnected in March and 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. AIU Should Clarify the Application of the Cost Cap Contained in Section 8-103 of the PUA to OBF Program Measures

AIU proposes to recover the costs associated with their electric energy efficiency measures through Rider EDR, which recovers costs allocated with the implementation of Section 8-103 of the PUA. AIU Ex. 2.0 at 4-5. Section 8-103 limits the estimated average increase in the amounts paid by retail customers in connection with electric service due to the cost of those measures to, in 2011, to 2% of the amount paid per kilowatt hour by those customers during the year ending May, 2007 or an additional .5% of the amount paid per kilowatt hour by those customers during the year ending May, 2010. 220 ILCS 5/8-103(d). AIU should clarify whether the additional, incremental costs associated with the OBF Program are considered subject to this cost limitation, and whether any savings achieved by OBF Program participants will be counted towards achievement of its statutory energy efficiency goals.

III. 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 be held so stakeholders can ask questions and receive clarification on the final program design.

Dated: March 2, 2010

Respectfully Submitted,
CITIZENS UTILITY BOARD

Julie L. Soderna
Director of Litigation
Kristin Munsch
Attorney
CITIZENS UTILITY BOARD
309 W. Washington, Suite 800
Chicago, IL 60606
(312) 263-4282
(312) 263-4329 fax
jsoderna@citizensutilityboard.org
kmunsch@citizensutilityboard.org