STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Central Illinois Light Company d/b/a AmerenCILCO,	)	
Central Illinois Public Service Company d/b/aAmerenCIPS	)	
and Illinois Power Company d/b/a AmerenIP	)	Docket No. 10-0095
	)	
Petition for Approval of On-Bill Financing Program	)	

REVISED VERIFIED INITIAL COMMENTS
OF THE PEOPLE OF THE STATE OF ILLINOIS

The People of the State of Illinois (the People), by and through Lisa Madigan, Attorney General of the State of Illinois, hereby file these initial comments pursuant to the schedule established by the Administrative Law Judge ("ALJ") in this docket. The Comments pertain to Central Illinois Light Company's d/b/a AmerenCILCO, Central Illinois Public Service Company's d/b/a AmerenCIPS, and Illinois Power Company's d/b/a AmerenIP (Collectively, "Ameren Illinois Utilities" "Ameren" or "AIU") petition for approval of its On-Bill Financing Program ("OBF Program" or "Program").

BACKGROUND

In the summer of 2009, both houses of the Illinois General Assembly passed Senate Bill 1918. The Governor signed the bill into law on July 10, 2009, creating Public Act 96-0033 ("P.A. 96-0033"). Among its provisions, P.A. 96-0033 adds Sections 16-111.7 and 19-140 to the Public Utilities Act ("PUA" or "Act"), which require, respectively, electric and gas utilities subject to their provisions 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) and 220 ILCS 5/19-140(a). Under the provisions of Section 16-111.7(c) and 19-140(c), each electric and gas utility respectively, subject to its provisions, must submit a proposed On-Bill financing Program ("OBF Program" or "Program") within 60 days of the completion of the workshop process. 220 ILCS 5/16-111.7(b-5), (c); 220 ILCS 5/19-140(b-5) & (c).[1]

Accordingly, on June 2, 2010 the Ameren Illinois Utilities filed its petition with the Illinois Commerce Commission ("Commission" or "ICC") for approval of its Program pursuant to Section 16-111.7 and 19-140 of the PUA. 220 ILCS 5/16-111.7 (et seq.), 220 ILCS 5/19-140 (et seq.). In addition, AIU provided draft tariffs: 1) Rider EDR (electric); and 2) Rider GER (gas).

On February 18, 2010, the Administrative Law Judge in the subject case adopted the following schedule in compliance with the statutory timelines stated in 220 ILCS 5/16-111.7 (et seq.) and 220 ILCS 5/19-140 (et seq.):

March 2, 2010 - Staff/Intervenor Verified Comments
March 12, 2010 - Staff/Intervenor Reply Verified Comments to each other
March 22, 2010 - Utility Reply Verified Comments
April 16, 2010 - ALJ's Proposed Order
April 28, 2010 - Briefs on Exceptions
May 3, 2010 - Reply Briefs on Exceptions

The People submit these Comments in accordance with that schedule.

[1] Commission Staff convened a total of six workshops between August 4, 2009 and December 4, 2009. As suggested by subsection (b-5), participants discussed a variety of issues related to the Program, including "program design, eligible energy efficiency measures, vendor qualifications, and a methodology for ensuring ongoing compliance with such qualifications, financing, sample documents such as requests for proposals, contracts and agreements, dispute resolution, pre-installment and post-installment verification, and evaluation." 220 ILCS 5/16-111.7(b-5) and 220 ILCS 5/19-140(b-5).

INTRODUCTION

The People have several concerns with the OBF program and associated documents provided by the Ameren Illinois Utilities in its petition. The People and other intervenors have been clear throughout the workshop process that the Program needs to be cost effective to the participants as well as ratepayers. Unfortunately, the Ameren Illinois Utilities estimated program costs, estimated at 41% of the total program dollars, are excessive and unreasonable. The Commission should reject these proposed costs and instead cap all programs to be no grater than 10% of the program amount available. In addition, the Program Design Document is lacking in sufficient detail to properly align incentives among the lender, vendor, and AIU in order to keep the program costs reasonable, avoid customer confusion, and provide enough customer benefits to make the Program worthwhile. Also, the Request For Proposal ("RFP") reads more like a Request For Information ("RFI"), and does not provide enough specific detail for a lender to understand what the program will include or what the lenders' obligations will be. The Commission should require the Ameren Illinois Utilities to make the changes described below before approving its Program.

COMMENTS

a. Ameren's Estimated Program Administrative Costs are Excessive.

The Ameren Illinois Utilities stated it estimated a budget to implement the Program as follows:

Ameren Illinois Utilities
Estimated OBF Budget

	2010-2011 (June-May) (Development)	**2011-2012** (June-May) (Implementation)	**2012-2013** (June-May)
Labor and Benefits	$90,000	$225,000	$225,000
Program IT Costs	$150,000	$5,000	$5,000
Outside Services	$200,000	$20,000	$20,000
Marketing	$150,000	$125,000	$100,000
Vendor network	$50,000	$50,000	$50,000
Installation Verification	$100,000	$100,000	$100,000
Program Evaluation	$25,000	$25,000	$100,000
Loan Servicing	$33,000	$40,000	$60,000
TOTAL Administrative Costs*	**$798,000**	**$590,000**	**$660,000**

10-0095; Ameren Exhibit 1.0 and Program Design Document at 14 (citations omitted).

In other words, Ameren estimates its three (3) year program costs at $2.048 million *Id*., or approximately 41% of the $5 million ($2.5 million for Ameren electric and $2.5 million for Ameren gas) amount provided for the Program under the Act. 220 ILCS 5/16-111.7(c)(7), 220 ILCS 5/19-140(c)(7). The request to spend 41% of the total program budget on administrative and other program costs is excessive and should be denied. By comparison, in its 2008 rate case order approving North Shore Gas Company's and The Peoples Gas Light and Coke Company's , natural gas energy efficiency programs, (ICC Docket Nos. 07-0241 and 07-0242 (Cons.)), the Commission capped the companies' administrative costs at 5%. ICC Docket Nos. 07-0241, 07-0242 (cons,), Order of February 5, 2008 at 183. A similar cap for Ameren's OBF programs would limit the Company's administrative expenses to $250,000 (total for both Ameren

(electric) and Ameren (gas)). While the On Bill statute, Section 16-111.7 (et seq.) and 19-140 (et seq.), does not establish a fixed-dollar or percentage cap on administrative program expenses,[2] , the Commission should not permit any utility to spend more than 10%, or $500,000 on such costs. (See Table A)

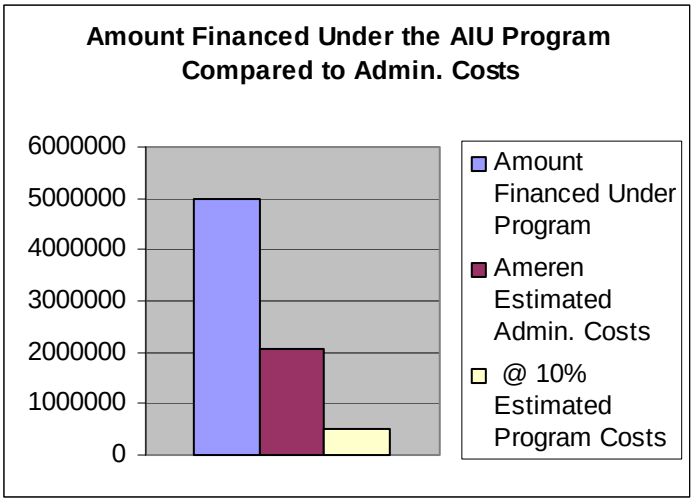

Table A

It is unreasonable to ask ratepayers to pay approximately 41% ($2.048 million ÷ $5million) or more of the amount financed under the Program on administrative costs for an On-Bill Financing Program.[3] Therefore, Ameren must reduce its Program Budget to a reasonable or prudent level to be no greater than

[2] "An electric [or 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 8-103 of this Act." ILCS 5/16-111.7(f) and ILCS 5/19-140(f).

[3] AIU states, "this budget is an estimate only and based on knowledge at this time. Budget figures will change according to the results of negotiations with the selected FI, [lenders] IT requirements for electronic data transfer of funds and billing changes, and program dynamics and growth, among other factors." Ameren Exhibit 1.0 at 25. (See also, Ameren Illinois Utilities Program Design Document at 4). This AIU disclaimer should serve as a warning that the estimated OBF Program budget would likely serve as a floor to what expected costs will be.

10% of the Program amount available or $500,000 for both Ameren (electric) and Ameren (gas).[4]

b. Ameren's Failure to Describe How Disputes will be Handled Between Vendors and Customers Will Lead to Customer Confusion and Higher Program Costs.

Although Ameren asserts that lender disputes will be resolved between participant, or customer and the lender[5], no language is included in their Petition describing how such disputes will be addressed. The AIU state:

> SB 1918 (Section 16-111.7 (c)5 for electric and Section 19-140 (c)5 for gas) requires that a loan issued to a participant 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. Thus the Lender shall be responsible for dispute resolution concerning these points. Program Design Document at 9.

Additionally, Ameren opines, "Utilities intend that the Lender will make disbursements of Loan proceeds to the Vendoer upon completion of projects and acceptance by customers." *Id*. at 8, 10; Ameren Exhibit 1.0 at 21, 24. Yet, there is no language to describe what constitutes "acceptance by the customer." Is there a written or verbal requirement of the customer to demonstrate acceptance of the measure from the vendor? Also, how does the customer's acceptance communication flow to Ameren and the lender? In other words, how does the lender know of a customer's acceptance and whether or not to pay the vendor?

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[4] The Ameren Illinois Utilities Witness Leonard Jones opines, "While not an attorney, it is my understanding that OBF Incremental Costs were intended to be in addition to any spending beyond those expenditures for electric energy efficiency measure."Ameren Exhibit 2.0 at 4. However AIU has provided no support for why OBF Incremental Costs should not be counted toward the electric energy efficiency total budget instead of in addition to electric energy efficiency spending (as Ameren contends) set by subsection (d) of Section 8-103 of the Act.

[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." ILCS 5/16-111.7(5), ILCS 5/19-140(5), and RFP, Program Design Document Annex A at 23.

Ameren must make it clear how the customer will demonstrate acceptance of the measure from the vendor and how this information will be communicated to the lender to make its disbursements. Therefore, the Commission should require Ameren to state what form of customer acceptance is required and how acceptance will be communicated to the lender. This information needs to be stated clearly in the Program Design Document, as well as the Request for Proposal ("RFP") Annex A.

c. Ameren's Failure to Describe A Credit Check Methodology and Misaligned Incentives Could Lead to Unreasonable Costs for Ratepayers.

In its Program document, Ameren stated the following regarding its loan approval process:

> 3.4. **Loan Underwriting Guidelines**. As per SB 1918, the Utilities are responsible to establish Loan underwriting guidelines, subject to approval of the Commission. The Utilities seek advice from the FI [financial institution or lender ("FI")] partner on Loan underwriting guidelines. The Utility's estimated and suggested Loan underwriting guidelines, deemed reasonable and prudent, are provided in Annex B. The underwriting guidelines are
> subject to review, modification and negotiation with the selected Lender. The FI RFP requests FIs to propose underwriting guidelines that will be reasonable and prudent for credit risk management and easy to administer. Customer Utility bill payment performance history may be considered used as one means of credit analysis and decision, subject to negotiation with the FI and further development of appropriate and stream-lined procedures to share this information. In Loan origination, the Lender will do the credit analysis of prospective borrowers using the agreed underwriting guidelines. The Lender will be asked to report on its credit decisions, applications, rejections and approval rates. Loan underwriting guidelines may also be modified during Program operations, as experience dictates, with approval of the Commission. A main goal of the Program is to establish a preferential and easy-to-use EE lending program; a secondary goal is to broaden

> access to finance for residential customers to make EE investments. These goals must be balanced with the need to manage credit risk. Program Design Document at 7.

The workshop process provided an opportunity for AIU to consider what credit check information was necessary to balance customer credit concerns (the likelihood that customers would pay back their loan) with the desire to not exclude interested customers from the program due to an inability to satisfy stringent credit criteria. Also, if the credit check process was too costly, the interest rate of the loan would be inflated or such additional costs would be socialized to all ratepayers.

In the workshops, the People recommended a tiered approach to credit checks. For example, if the measure was under $1,000, the customer's bill payment history could be used. For measures greater than $1,000, a specific formula or methodology could be implemented. The statute requires that the Lender be paid dollar-for-dollar by the utility, regardless of whether the customer pays the utility:

> The electric 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 electric utility bill, the electric utility shall continue to remit all payments due under the program to the lender… 220 ILCS 5/16-111.7(6) and 5/19-140(6).

Accordingly, the lender gets paid regardless of the credit check or whether the customer pays the utility. In fact, if the lender gets an additional fee through a higher interest rate or a socialized method the lenders profit incentive is to do an extensive credit check. Therefore, it is important for the Ameren Illinois Utilities to spell out in the RFP exactly what it expects the credit check methodology to

look like in order to properly align incentives. If for example it costs rate payers $200 in socialized costs for the lender to perform a credit check for a $1,000 measure, then it adds an additional 20% ($200/$1,000=20%) to the real cost of the measure. If the default rate on the measure is 1.5%-3%, it would not be reasonable to inflate the costs of the program through an increased interest rate to customers that may make the program unappealing or to pass such costs to ratepayers.

Therefore, the Ameren Illinois Utilities must spell out its proposed credit check methodology and the Commission should require the utilities to apply a tiered credit check approach that: 1) limits the requirement for measures under a $1,000 to prior bill payment history; and 2) applies a specific formula or methodology that does not inflate the interest rate or cause additional costs to be socialized to ratepayers for measures greater than $1,000. The credit check methodology needs to be stated clearly in the Program Design Document, as well as the RFP Annex A.

d. Ameren's Failure to Describe the Methodology or Perform a Cost Benefit Analysis of the Companies Obtaining a Security Interest in a Measure Could Lead to Unreasonable Costs for RatePayers

The Ameren Illinois Utilities propose the following regarding their Retention of a Security Interest:

> 3.6. **Loan Origination Procedures**. … Pursuant to SB 1918, the Utility shall get a security interest in equipment (?). Cost-effective methods to achieve this, e.g., UCC-1 filing, will be negotiated with the Lender. In the FI RFP, the utilities request that the Lender propose to take the agreed security filing action as part of its services. Costs

> associated with the security filing may be treated as Program costs, to be reimbursed to the Lender by the Utility. Program Design Document at 8.

Additionally, AIU opines, "Utility [Ameren] may retain a security interest in the installed equipment financed by the Program. The most cost effective method to achieve this will be negotiated with the FI partner." *Id*. at 3. AIU has not provided any information as to what "cost effective method" to obtain a security interest means. *Id.* Even without Ameren having a security interest, a customer has a strong incentive to pay for the measure or risk potential electric service cut-off. As the statute states,

> [a]mounts dues under the program shall be deemed amounts owed for residential…electric [gas]service" 220 ILCS 5/16-111.7(c)(5) and 220 ILCS 5/19-140(c)(5), and that "the utility retains its right to disconnect a participant that defaults on the payment of its utility bill"
> 220 ILCS 5/16-117(c)(5)220 ILCS 5/19-140(c)(6).

Given this strong incentive for customers to pay, AIU should be required to spell out its reasoning in the Program Design Document as to what "cost effective method" to obtain a security interest means. In addition, any request by Ameren to the lender related to security interest filings through the RFP process must provide a cost breakdown by the lender. Annex A. At this point, the Commission should disallow any costs associated with obtaining a security interest as <u>not</u> "prudently incurred costs of offering a program approved by the Commission pursuant to this Section…" 220 ILCS 5/16-111.7(f) and 220 ILCS 5/19-140(f).

e. Ameren's Failure to Describe the Methodology, or Provide Detail in the RFP Regarding the Effects of Early Customer Pay Off of the Loan Amount Could Confuse Customers and Raise Program Costs

Ameren proposes the following regarding early customer pay offs of the OBF loan:

> 3.8. Utility Repayment of Loans. Pursuant to SB 1918, the Utility will remit Loan payments in full to the Lender on behalf of each borrower and in the event a borrower defaults on its Loan payment, the Utility will continue to remit all payments due under the Program to the Lender. The Utility therefore expects Loan pricing commensurate with this arrangement and credit structure. Program Design Document at 8 and 9.

However, there are three questions that have not been addressed in the Ameren Illinois Utilities Program Design Document or the RFP: 1) Can the customer voluntarily pay off their loan early?; Will the AIU's provide timely payment in full to the lender if it receives an early pay off of the loan from the customer?; and 3) Will the lender charge or penalize the customer or the program if a loan is paid off early?

Prior to approval of the proposed program, the Commission should require AIU to describe in the Program Design Document that the customer may voluntarily pay off the loan early with no penalty. Also, the Program Design Document must provide that Ameren Illinois Utilities will make timely payment in full to the lender in the event of an early pay off by the customer. Lastly, the RFP should specifically state the above described pay off plan to the lender.

f. In the Event AIU Makes its Program Available to Small Commercial Retail Customers, It Must Ensure all Program Costs Related to Such Programs Will not be Assessed to Residential Customers

Initially, AIU intends to include residential customers only in its OBF Program. AIU witness Leonard Jones states, "The Incremental Costs associated with the OBF Program are recovered solely from the classes eligible to participate in the program, and in this instance the residential class. Accordingly, only the Rider EDR Charge applicable to DS-1 (residential customers) will include OBF Incremental Costs." Ameren Exhibit 2.0 at 3 and 4.

The Ameren Illinois Utilities, however, could choose to add small commercial customers to the program at a later date. The Commission should make it clear in its Order that any Program or Program- related costs that arise from the inclusion of small commercial customers will not be recovered from residential customers.

WHEREFORE, for the above-stated reasons, the People respectfully request that Program Design Document, RFP and related documents be modified as described herein.

Respectfully submitted,

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