

STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

North Shore Gas Company	:	10-0090
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The Peoples Gas Light and Coke Company	:	
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Petition for Approval of the On-Bill Financing Program	:	
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**VERIFIED REPLY COMMENTS OF THE STAFF  
OF THE ILLINOIS COMMERCE COMMISSION**

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Illinois Commerce Commission

March 12, 2010

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Attachment A: Memo from Illinois Department of Revenue

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**VERIFIED REPLY COMMENTS OF THE STAFF  
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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 Reply Comments (“Reply”) in the instant proceeding.

**I. 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)).

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 both the Electric On-Bill Financing Law and the Gas On-Bill Financing Law, establishing this docket.<sup>1</sup> 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.

Pursuant to the agreed schedule established in this docket, Staff and the AG each filed Initial Comments and CUB and the City filed joint Initial Comments (hereinafter each is individually referred to as the “Initial Comments”) on March 2, 2010. The AG also filed Revised Initial Comments on March 4, 2010 (references herein to the Initial Comments of the AG shall mean these Revised Initial Comments). In this Reply, Staff responds to the Initial Comments of CUB and the AG. In the interest of brevity, however, Staff has not raised and repeated every argument and response previously addressed in Staff’s Initial Verified Comments nor has Staff addressed every argument

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

raised in Initial Comments by other parties. The omission of a response to an argument raised by a party shall not be construed as acquiescence nor shall omission of a response to an argument Staff previously addressed be construed as a waiver of any Staff position; it simply means that Staff stands on the position taken in its Initial Comments because further or additional comment is neither needed nor warranted.

## **II. STAFF REPLY**

### **A. Administrative Costs**

The AG's Initial Comments state that Peoples/NS's has not provided estimated program costs and that no consideration has been given to keep the costs reasonable. (AG Initial Comments, pp. 3-5).<sup>2</sup> While the AG acknowledges that the Gas On-Bill Financing Law does not establish a cap on administrative program expenses, the AG nevertheless argues that ".....the Commission should certainly not permit any utility to spend more than 10% [of program amount available], or \$250,000 on such costs." Id. at 4-5. Staff has several comments regarding the AG's arguments. First, Staff agrees with the AG that the law does not establish a cap on expenses. Moreover, the only statutory limitation on the recovery of expenses is set forth in Subsection (f) of the law, which states in pertinent part that:

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.

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<sup>2</sup> Staff notes that the AG is correct that no budget was included with Peoples/NS's Proposal, however a budget was provided in discovery and is attached to Staff's Initial Comments, Attachments A9 and A10.

[Emphasis Added.] 220 ILCS 5/19-140(f)

Consequently, in Staff's view, the Commission does not have the statutory authority to impose a cap on administrative expenses as urged by the AG. The Commission, however, clearly has the authority and obligation to determine whether such expenses were reasonable and prudently incurred. *Id.* The Commission may in this proceeding request the Companies to cap expenditures and the Companies may voluntarily agree to such a cap, however, Staff cautions against any attempt to *impose* a cap in light of the statutory language.

From Staff's perspective, a proposed budget, if included in the OBF program plan, would be informational only and any approval by the Commission of the OBF plan does not preclude a subsequent determination by the Commission that such costs are not prudent, even if such costs were identified or estimated in a budget submitted in the context of obtaining approval of the OBF program plan in this proceeding. Staff's view is supported by the statute in two ways. First, Subsection (f) clearly limits recoverable expenses to prudent expenses. Second, the Gas On-Bill Financing Law does not require that a proposed budget be submitted as part of the OBF program.

Moreover, practical considerations also argue in favor of Staff's view. The prudence of expenses cannot be determined based on a hypothetical budget proposed in advance of any expenditure. Rather, the costs must be examined based on the existing market at the time the costs are incurred. In addition, Staff does not typically approve budgets and even if Staff were to undertake the unusual step to evaluate whether proposed hypothetical costs were reasonable, due to the expedited nature of this proceeding, Staff is not in a position, at this time, to determine whether Peoples/NS'

proposed administrative costs are reasonable. Rather, the Commission should determine whether actual expenditures are reasonable and prudent in a reconciliation proceeding, after detailed review of actual expenditures, costs, and expenses with the benefit of adequate discovery. That said, Staff urges the Commission to clarify in its Order that any approval of the OBF program in this docket shall not be deemed an approval of associated budgeted amounts.

### **B. Gas Receipts Tax Law**

In Section II. A. of CUB/City's Initial Comments, CUB<sup>3</sup> indicates that Peoples/NS has proposed that the cost of implementing the measures includes the Gross Receipts Tax on the financing payment. (CUB City Initial Comments pp. 2-4, citing NS-PGL Ex. 1.1 at 5, Section 2.1(B)). In addition, CUB states that in response to CUB data request 2.02, Peoples/NS indicated that the funds financed under the OBF programs are taxable under the Gas Revenue Tax Act because of the definition of "gross receipts." (35 ILCS 615/1). CUB argues that what the Utility describes as the Gross Receipts Tax should not be applied to any loan payments paid through the OBF. (CUB City Initial Comments pp. 2-4).

Subsection (c)(5) of the Gas On-Bill Financing Law provides in pertinent part that: "Amounts due under the program shall be deemed amounts owed for residential and, as appropriate, small commercial gas service." (220 ILCS 5/19-140(c)(5)). This language in (c)(5) appears to be the trigger that leads Peoples/NS to state in its data request response that the funds financed under the OBF programs and paid on utility bills by their gas customers are "gross receipts" under the Gas Revenue Tax Act. CUB

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<sup>3</sup> On page 2, the City indicates that is not joining this section and takes no opinion on the issue.

has objected to this interpretation and argues that the exception in Section 1(vi) of the Gas Revenue Act applies.

From Staff's perspective, the Gas Revenue Act would not appear to capture these funds ordinarily except for the implications of the language in (c)(5) of the Gas On-Bill Financing Law which deems the funds to be amounts owed for gas service. While Section (c)(f) does not limit its reach to the Gas On-Bill Financing Law, Staff posits that this section should be interpreted to apply only to the Gas On-Bill Financing Law.

Further, it is not clear to Staff whether the Commission has jurisdiction to determine whether municipal and state tax laws apply to this program. To that end, Staff has sought guidance from the Illinois Department of Revenue (the "Department") on the issue chiefly discussed in CUB's comments and for information, attaches the Department's response to Staff's inquiry, as Attachment A. Staff recommends that the utilities and other interested parties hereto direct any questions or comments regarding the Department's response to the Department and report the results of these inquiries to the Commission. Further, to the extent any municipal taxes may apply, Staff recommends that the Commission request the gas utilities to seek clarification with the proper tax authorities and report the results of these inquiries to the Commission.

Notwithstanding the Department's Response, Staff posits that the only issue before the Commission in this proceeding in connection with the Gas Revenue Act or any municipal taxes is whether such taxes, if assessed by the applicable tax authorities, should be considered "program costs" that may be passed through to ratepayers generally or if such taxes should be considered costs of implementing an eligible

measure, to be taken into account in determining the cost effectiveness of the measure and paid by the participating customer. For many of the same reasons Staff cited in its Initial Comments in connection with loan origination fees, Staff argues that such taxes should be included in the costs of implementing a measure and paid by the participating customer. (see Staff Initial Comments at pp. 11-12).

Because taxes under the Gas Revenue Act are assessed only as a result of an individual loan, are specific to the loan payments made on the customer's bill and the customer receiving the loan receives the benefits from the avoided costs associated with the measure, Staff believes that these taxes should be included in the customer's cost of implementing the loan rather than socialized across all customers and collected through the adjustment clause tariff. In addition, Staff does not find persuasive any argument that these taxes are appropriately characterized as start-up, administration or program evaluation costs because they are assessed based upon the loan payments appearing on the customer's bill. Consequently, if the applicable tax authorities indicate that OBF program loans are taxable under the relevant state or municipal laws, any such taxes are a cost of implementing the measure as defined in (c)(1)(B) of the gas OBF law and therefore, should be included in the determination of a cost effectiveness for eligible measures.

### **C. Security Interests**

In Section d of its Initial Comments, the AG requests Peoples/NS to explain what it means when it states that it will use cost effective methods in connection with retaining a security interest. (AG Initial Comments pp. 8-9) Without this additional information, the AG recommends that:

At this point, the Commission should disallow any costs associated with obtaining a security interest as not “prudently incurred costs of offering a program approved by the Commission pursuant to this Section...” 220 ILCS 5/19-140(f).

Id at 9.

Staff agrees generally with the utilities that the costs may well outweigh the benefits of perfecting and enforcing a security instrument in connection with the financing of the measures proposed in the OBF program. Peoples/NS proposes to negotiate cost-effective methods with the lender to achieve the Companies’ retention of a security interest. (PDD, Peoples/NS Ex. 1.1 at 11). While additional information regarding the cost of preparing and recording or filing security instruments might be helpful, Staff does not believe substantiation of these costs at this time is necessary for approval of the OBF program and may increase costs to ratepayers generally to perform the analysis requested by the AG. Furthermore, certain of these costs<sup>4</sup> should be included in any evaluation of the cost effectiveness of the proposed eligible measure and paid by the participant in connection with its loan, as Staff argued in its Initial Comments in connection with loan origination fees. (see Staff Initial Comments at pp. 11-12). Even if the Commission disagrees with Staff and determines that these financing costs are “program costs” which can be socialized to ratepayers generally, all of these costs would then be subject to reconciliation on the basis of their reasonableness and prudence.

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<sup>4</sup> In Staff’s view, document preparation fees, filing and /or recording fees typically assessed to the borrower as a cost of the financing and paid at closing (sometimes out of the proceeds) as a prerequisite to the financing are all “finance charges” which should not be assessed to ratepayers generally.

More important from Staff's perspective is that the right to perfect and enforce any security interest<sup>5</sup> be exercised only in instances where the financing market generally would similarly perfect and enforce such a security interest for loans of this size and type.<sup>6</sup> Otherwise, the participating customer (or ratepayers generally) may be paying for security not deemed necessary or "worth it" by lenders in connection with similar loans. Staff does not object to relying on the lender chosen through the RFP process to determine if perfecting and enforcing a security interest is practical in light of the value of the measure at the time of the loan or upon a subsequent default. To the extent the Commission desires to provide guidance, Staff recommends that the perfection and enforcement of security interests only be considered for measures having a value great enough that lenders providing loans of similar value and type would ordinarily perfect and enforce such security interests.

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<sup>5</sup> Section (c)(6) of the Gas On-Bill Financing Law states that .."the gas utility shall retain a security interest in the measure or measures purchased under the program... (220 ILCS 5/19-140(c)(6)). Staff points out that under Illinois law, only the entity that lends the funds (or took an assignment for value) and holds the note and other loan documents evidencing the debt, may hold a security interest. (810 ILCS § 5/9-203(b); see also *Libco Corp. v. Leigh* (In re Reliable Mfg. Corp.), 17 B.R. 899, 902 (D.C.N.D.Ill.1981), *aff'd*, 703 F.2d 996, 35 U.C.C. Rep. Serv. 1294 (7th Cir.1983)). The Gas On-Bill Financing Law contemplates that the lender will fund the loan, hold the loan instruments and resolve defaults and other disputes. 220 ILCS5/9-140(c)((2), (4) and (5). Thus, it is the lender, not the utility that will retain the security interest in this context. That said, the utilities' relationship with the lender may permit the utility to retain control over the security interest, satisfying the statute.

<sup>6</sup> Staff notes that perfection and enforcement costs typically increase in connection with a measure that is affixed to the realty and must be foreclosed. (810 ILCS § 5/9-604(b); see also *Maplewood Bank and Trust v. Sears, Roebuck and Co.*, 265 N.J. Super. 25, 625 A.2d 537, 21 U.C.C. Rep. Serv. 2d 171 (App. Div. 1993), *aff'd*, 135 N.J. 97, 638 A.2d 140, 22 U.C.C. Rep. Serv. 2d 1209 (1994)). Additional practical considerations come into play in the case of a fixture where the borrower customer has a first lien or mortgage on the premises, including the possible violation of that prior lien or mortgage caused by perfecting a security interest in the fixture.

### III. CONCLUSION

Based on Staff's review of the Initial Comments, 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 12, 2010

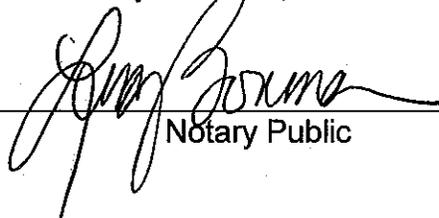
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VERIFICATION

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 Reply Comments; that I have personal knowledge of the information stated in the foregoing Reply 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 12th 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 Reply Comments; that I have personal knowledge of the information stated in the foregoing Reply Comments; and that such information is true and correct to the best of my knowledge, information and belief.

*Dianna Hathhorn*

Dianna Hathhorn  
Illinois Commerce Commission

Subscribed and sworn to before me  
this 12th day of March, 2010.

*Elizabeth A. Rolando*

Notary Public





## Illinois Department of Revenue

Legal Services Office 5-500  
101 W. Jefferson St.  
Springfield, IL 62794

ICC Docket No. 10-0090  
Attachment A

### MEMORANDUM

TO: John A. McCaffrey  
General Counsel

FROM: Jerilynn T. Gorden  
Deputy General Counsel  
Sales & Excise Tax

Richard S. Wolters  
Associate Counsel

DATE: March 11, 2010

RE: On-Bill Financing  
P.A. 96-0033  
Public Utilities Act 220 ILCS 5/19-140

Legal Services received an inquiry from the Office of General Counsel at the Illinois Commerce Commission regarding a new on-bill financing program created by P.A. 96-0033. The Office has asked the Department to provide its opinion on whether loan payments included on utility bills, paid by consumers to public utilities, and remitted by the utilities to third-party lenders pursuant to Section 5/19-140 of the Public Utilities Act, are included within “gross receipts” for purposes of the Gas Revenue Tax Act. 35 ILCS 615. Although this issue is a close call, it is our opinion that constitutional issues weigh in favor of a conclusion that the loan payments are not included within “gross receipts” under the Gas Revenue Tax.

**I. Statutory Framework**

A. The Gas Revenue Tax Act

Section 2 of the Gas Revenue Tax Act (35 ILCS 615/) imposes a tax “upon persons engaged in the business of distributing, supplying, furnishing or selling gas to persons for use or consumption and not for resale at the rate of 2.4 cents per therm of all gas which is so distributed, supplied, furnished, sold or transported to or for each customer in the course of such business, or 5% of the gross receipts received from each customer from such business, whichever is the lower rate as applied to each customer for that customer's billing period ... .” It is our understanding that utilities are currently utilizing the 5% tax base. Pursuant to Section 9-222 of the Public Utilities Act (220 ILCS 5/9-222), the utility may pass through the tax to the user or consumer.

Section 1 of the Gas Revenue Tax Act provides that

“‘Gross receipts’ means the consideration received for gas distributed, supplied, furnished or sold to persons for use or consumption and not for resale, and for all services (including the transportation or storage of gas for an end-user) rendered in connection therewith, and shall include cash, services and property of every kind or nature, and shall be determined without any deduction on account of the cost of the service, product or commodity supplied, the cost of materials used, labor or service costs, or any other expense whatsoever....”

[This section then enumerates a number of specific exclusions from “gross receipts”]

B. The Electricity Excise Tax Law

Section 2-4(a) of the Electricity Excise Tax Law (35 ILCS 640/) imposes a tax on the privilege of using in this State electricity purchased for use or consumption and not for resale, other than by municipal corporations owning and operating a local transportation system for

public service. Unlike the Gas Revenue Tax, the Electricity Excise Tax is imposed upon the user and is collected by delivering suppliers and remitted to the Department. It is based upon the number of kilowatt-hours delivered to the purchaser.

C. The Public Utilities Act

P.A. 96-0033 added two new sections to the Public Utilities Act; one relating to electric utilities (220 ILCS 5/16-111.7) and one relating to gas utilities (220 ILCS 5/19-140). These two sections are essentially the same, and implement the on-bill financing program.

Electric and gas utilities serving more than 100,000 customers on January 1, 2009, shall offer an Illinois Commerce Commission-approved, on-bill financing program that allows specified retail customers (i) to borrow funds from a third-party lender in order to purchase electric or gas energy efficiency equipment approved under the program without any required upfront payment and (ii) to pay back such funds over time through the electric or gas utility bills.

Following the lender's approval of financing and the participant's purchase of the equipment, the lender will forward payment information to the electric or gas utility, and the utility will add as a separate line item on the participant's utility bill a charge showing the amount due under the program each month.

A loan issued to a participant pursuant to the program is the sole responsibility of the participant, and any dispute that may arise concerning the loan's terms, conditions, or charges must be resolved between the participant and lender. Upon transfer of the property title for the premises at which the participant receives electric or gas service from the utility or the participant's request to terminate service at such premises, the participant must pay in full its electric or gas utility bill, including all amounts due under the program.

Section 5/19-140 of the Public Utilities Act provides that amount due under the program “ shall be deemed amounts owed for residential and, as appropriate, small commercial gas service.” 220 ILCS 5/19-140. Section 16-111.7 of the Public Utilities Act contains similar language for electric service. The electric or gas utility must remit payment in full to the lender each month on behalf of the participant. In the event a participant fails to pay its electric or gas utility bill, the electric or gas utility must continue to remit all payments due under the program to the lender, and the utility will be entitled to recover all costs related to a participant's nonpayment through an automatic adjustment clause tariff established pursuant to the Act. In addition, the electric or gas utility will 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.

### **III. Analysis**

Although Section 5/19-140 of the Public Utilities Act, as quoted immediately above, provides support for the inclusion of loan payments in “gross receipts” under the Gas Revenue Tax, resolution of this issue by examination of this language, alone, is too narrowly focused. Any analysis regarding the taxability of payments under the Gas Revenue Tax Act must consider P.A. 96-0033 in its entirety and address how any position that may be adopted affects the implementation of P.A. 96-0033 as a whole. It is our opinion that inclusion of loan payments in gross charges invites constitutional challenges that put the on-bill program at risk. These challenges are more fully described below.

As noted earlier, the incidence of tax under the Gas Revenue Tax Act is on the public utility and imposed on a percentage of “gross receipts.” In contrast, the incidence of tax under the Electricity Excise Tax Law is on the user or consumer, and specific rates of tax are imposed based upon the number of kilowatt-hours used or consumed. If on-bill financing payments are included in “gross receipts,” a gas utility will pay a tax of 5% on the participant’s loan payments. Because the Gas Revenue Tax can be passed on to customers, customers will pay a 5% tax on the loan payments, as well. However, this is not the case with loan payments made to electric utilities, because the tax base is established by kilowatt hours used, not by a percentage of gross receipts. A decision to include on-bill financing payments in “gross receipts” for purposes of Gas Revenue Tax liability will result in gas utilities and electric utilities not being taxed uniformly. This raises serious constitutional uniformity issues. Article 9, Section 2 of the Illinois Constitution of 1970 provides that

“in any law classifying the subjects or objects of non-property taxes or fees, the classes shall be reasonable and the subjects and objects within each class shall be taxed uniformly. Exemptions, deductions, credits, refunds and other allowances shall be reasonable.”

The uniformity clause contains two requirements: 1) all classifications of subjects or objects taxed or against whom fees are assessed must be reasonable; and 2) all of the entities within the reasonable classification must be taxed uniformly. In addition, to be considered “reasonable,” a classification must be based upon a real and substantial difference between persons subject to or exempt from tax, and the classification must bear some reasonable relationship to the object of the legislation. *See Searle Pharmaceuticals, Inc. v. Dept. of*

*Revenue*, 117 Ill.2d 454 (1987), *reh. denied*. A determination that loan payments are taxable under Gas Revenue Tax, but not under Electricity Excise Tax creates a classification that is not reasonable, and which results in non-uniform taxation, particularly when evaluated in the context of the object of the on-bill financing program itself. The on-bill financing program creates several distinct classification groups. The first group is comprised of utility companies, both gas and electric, that participate in the on-bill financing program. In addition, both electric and gas utility consumers participating in the on-bill financing program comprise another classification group. Although the Gas Revenue Tax is technically paid by utilities, it can be asserted that gas utility consumers actually comprise the class, since gas utilities are authorized to pass on an amount equivalent to their tax liability to their customers. Although the group subject to the on-bill financing program is comprised of all both electric and gas utilities, only gas utilities would be required to remit tax on the loan payments. Similarly, although the group subject to the on-bill financing program includes both gas and electric utility consumers, only gas utility consumers would bear tax on the loan payments. It is difficult to identify a reasonable basis for these distinctions, particularly in light of the legislative purpose for the program, which is to encourage the use of energy-efficient equipment among both gas and electric utility consumers. As a result, it could be argued that a decision to tax loan payments under the Gas Revenue Tax violates the uniformity clause. Such a finding potentially endangers implementation of the entire on-bill financing program.

Although manufacturers and retailers of energy-efficient gas equipment are not part of the tax classification group, the classification scheme is likely to also negatively affect them. A decision to include on-bill financing payments in gross receipts will increase the cost of their

equipment to consumers. Companies selling energy-efficient gas equipment may have to price their equipment lower in order to offset the tax savings enjoyed by consumers that purchase electric energy efficient equipment. In effect, a competitive advantage is created for sellers of electric energy equipment.

It is not reasonable to conclude the General Assembly intended to discriminate against gas utilities, gas utility consumers under the program, and companies that manufacture and sell gas-using energy equipment. In order to avoid due process concerns and treat the two industries, participants, manufacturers and sellers uniformly, on-bill financing payments should not be included in “gross receipts” and should not be subject to Gas Revenue Tax liability. This position is supported by rules of statutory construction.

“If the statutory language is susceptible to more than one interpretation, however, legislative intent may be ascertained by considering ‘the entire act, its nature, its object, and the consequences resulting from different constructions.’” *Taddeo v. Board of Trustees of the Illinois Municipal Retirement Fund*, 216 Ill.2d 590, 595 (2005).

“Although the legislative intent is sought primarily from the language employed in the statute, the judiciary may look also to the statutory objective and the evils sought to be remedied and then arrive at a common-sense construction. [citation omitted.] Where several constructions may be placed upon a statute, the court should select that interpretation that leads to a logical result and avoid that which would be absurd, for the presumption exists that the legislature in passing a statute did not intend absurdity, inconvenience, or injustice.” *People v. Mullinax*, 125 Ill.App.3d 87, 89 (2<sup>nd</sup> Dist. 1984).

“A statute capable of two interpretations should be given that which is reasonable and which will not produce absurd, unjust, unreasonable or inconvenient results that the legislature could not have intended.” *Collins v. Board of Trustees of the Firemen’s Annuity & Benefit Fund of Chicago*, 155 Ill.2d 103, 110 (1993).

Therefore, it is our conclusion on-bill financing payments should not be included in “gross receipts” and should not be subject to Gas Revenue Tax liability.

