

REBUTTAL TESTIMONY
OF
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ILLINOIS COMMERCE COMMISSION

APPROVAL OF ITS ENERGY EFFICIENCY PORTFOLIO AND PLAN
PURSUANT TO SECTIONS 8-103(E) AND (F) AND 8-104(E) AND (F) OF THE PUBLIC UTILITIES ACT.

ILLINOIS DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

DOCKET No. 13-0499

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1 **I. INTRODUCTION**

2 **A. IDENTIFICATION OF WITNESS**

3 **Q. Please state your name.**

4 A. My name is Jennifer L. Hinman.

5 **Q. Are you the same Jennifer L. Hinman who previously submitted direct**
6 **testimony in this docket?**

7 A. Yes. My direct testimony is contained in Staff Ex. 1.0.

8 **B. SUBJECT MATTER**

9 **Q. What is the subject matter of this proceeding?**

10 A. This case concerns the filing by the Illinois Department of Commerce and
11 Economic Opportunity (“DCEO”) of an integrated natural gas and electricity
12 energy efficiency (“EE”) portfolio Plan (“Plan” or “Plan 3”) (DCEO Ex. 1.1),
13 pursuant to Sections 8-103 and 8-104 of the Illinois Public Utilities Act (“Act”).
14 220 ILCS 5/8-103(f); 220 ILCS 5/8-104(f).

15 **C. PURPOSE OF TESTIMONY**

16 **Q. What is the purpose of your rebuttal testimony?**

17 A. The purpose of my rebuttal testimony is to respond to certain recommendations
18 for DCEO to work with the Illinois Energy Efficiency Stakeholder Advisory Group
19 (“SAG”) on the establishment of Evaluation, Measurement, and Verification
20 (“EM&V”) schedules and the creation of a Policy Manual included in the direct
21 testimony of the Illinois Office of the Attorney General (“AG”) witness Philip H.

22 Mosenthal (AG Ex. 1.0). I also respond to certain issues surrounding net-to-
23 gross (“NTG”) ratios addressed in the direct testimony of the Natural Resources
24 Defense Council (“NRDC”) witness Chris Neme (NRDC Ex. 1.0) and the
25 Environmental Law and Policy Center (“ELPC”) witness Geoffrey C. Crandall
26 (ELPC Exs. 1.0, 1.2).

27 Staff witness Dr. David Brightwell (Staff Ex. 4.0) responds to certain issues
28 surrounding the estimation of net savings that were addressed in the direct
29 testimony of the Citizens Utility Board (“CUB”) witness Rebecca Devens (CUB Ex.
30 1.0) and NRDC witness Chris Neme (NRDC Ex. 1.0).

31 **Q. Do you address every issue raised by the parties in their direct testimony?**

32 A. No. My silence on an issue or failure to address any statement or position
33 offered by any party in this proceeding should not be construed as either an
34 endorsement or a criticism of that statement or position.

35 **D. ATTACHMENTS**

36 **Q. Are you sponsoring any exhibits with your testimony?**

37 A. Yes. Staff Ex. 3.1 contains Staff’s Modified Illinois NTG Framework for DCEO.
38 Staff Ex. 3.2 contains the Evaluators’ schedules for deeming values. Staff Ex.
39 3.3 contains an evaluation provided in DCEO’s Response (“Resp.”) to Staff Data
40 Request (“DR”) JLH 1.12 Attachment (“Attach.”) Evaluation of DCEO Public
41 Sector Custom and Standard (“C&S”) and New Construction (“NC”) Programs.

42 **II. REBUTTAL**

43 **A. RESPONSE TO AG WITNESS MOSENTHAL (AG EX. 1.0)**

44 **1. EM&V SCHEDULES FOR TRM AND NTG UPDATES (AG EX. 1.0, 38.)**

45 **Q. Mr. Mosenthal requests that the Commission direct DCEO to work with the**
46 **SAG on “[i]mproving the evaluation, measurement and verification (EM&V)**
47 **process so that [the Evaluators’] reports are produced in a timely fashion to**
48 **inform [the Illinois Statewide Technical Reference Manual (“TRM”)] and NTG**
49 **updates[.]” (AG Ex. 1.0, 38.) Do you support Mr. Mosenthal’s request to**
50 **improve the EM&V process so that the Evaluators’ reports are produced in a**
51 **timely fashion to inform TRM and NTG updates?**

52 **A.** I agree with this concept and in fact Staff has been working to encourage the
53 Evaluators to deliver EM&V reports concerning TRM and NTG updates in a more
54 timely fashion. Rather than the Commission directing DCEO to work with the
55 SAG concerning this evaluation timing issue as requested by Mr. Mosenthal, it
56 would be much more efficient to have the Commission resolve this issue in this
57 docket and adopt the workable timelines suggested by the Evaluators for TRM
58 and NTG updates such that DCEO can have those incorporated in its evaluation
59 contract after approval of the Plan. (Staff Ex. 3.2, 1.)

60 One of the drivers of the date the NTG results are produced is the date the
61 Evaluators finally receive the final EE program tracking system information from the
62 program administrators after the program year has ended. Because final tracking
63 system information is not needed for updating the TRM, the utilities’ Evaluators
64 suggest that the annual TRM Update Process can begin much earlier (i.e., July 1,

65 with much of the work due from the Evaluators on August 1 and October 1) than
66 the process for updating NTG ratios (i.e., November 1 for residential NTG ratios
67 and December 1 for non-residential NTG ratios). (Staff Ex. 3.2, 1.)

68 Evaluators worked collaboratively to produce a single set of suggested
69 timelines that could work well to update the deemed values for both the TRM and
70 NTG ratios on an annual basis. (See, Staff Ex. 3.2, 1.) Thus, for the sake of
71 resolving the issue raised by the AG in this docket which would free up limited SAG
72 resources for addressing unresolved matters that actually require SAG's attention, I
73 recommend the Commission adopt the Evaluators' suggested EM&V schedules for
74 TRM and NTG updates as set forth in Staff Ex. 3.2.

75 **2. CREATION OF AN ILLINOIS ENERGY EFFICIENCY POLICY MANUAL (AG Ex.**
76 **1.0, 38.)**

77 **Q. Mr. Mosenthal requests that the Commission direct DCEO to work with the**
78 **SAG on “[a]n Illinois Energy Efficiency Policy Manual, designed to streamline**
79 **and encourage consistency on various program-related policies for review**
80 **and approval by the Commission.” (AG Ex. 1.0, 38.) Do you support Mr.**
81 **Mosenthal’s request to have the Commission order DCEO to work with the**
82 **SAG to develop such a manual for review and approval by the Commission?**

83 **A.** Not at this time. As an initial matter, it is not evident what problem the creation of
84 such Policy Manual is intended to fix. Indeed, the scope of the Policy Manual is
85 not clearly defined, other than noting a broad-slated purpose that it would
86 somehow “streamline and encourage consistency on various program-related
87 policies[.]” (AG Ex 1.0, 38.) The undefined nature of such proposal and the

88 potentially broad interpretation that could be construed from the terms, “various
89 program-related policies,” could be a significant source of contention in even the
90 early development stages.

91 The SAG has created a TRM Policy Document, which is a policy manual
92 concerning policy issues limited to the TRM. The SAG, Staff, and Commission
93 have expended a great deal of effort and time on the creation and adoption of this
94 TRM Policy Document. Creating a Policy Manual that would require “consistency
95 on various program-related policies” for all Illinois utilities and DCEO would impose
96 an excessive and unnecessary burden on all parties and would divert SAG
97 resources from more important matters such as ensuring the programs are running
98 effectively and updating the IL-TRM.

99 Finally, I am also concerned about imposing additional commitments upon
100 the SAG. The development of a Policy Manual is expected to be a significant
101 endeavor requiring significant resources to create. It would be appropriate for the
102 SAG to focus on accomplishing its existing responsibilities, rather than devote
103 significant SAG resources to create a Policy Manual. SAG has enough duties
104 dealing with the annual TRM and NTG updates and reviewing DCEO’s quarterly
105 reports and program changes, such that it should concentrate on those given the
106 responsibility the Commission has previously directed the SAG to undertake. (See,
107 AG Ex. 1.0, 37.) Accordingly, I recommend the Commission not adopt Mr.
108 Mosenthal’s proposal to create a Policy Manual at this time.

109 **B. RESPONSE TO NRDC WITNESS NEME (NRDC Ex. 1.0)**

110 **Q. Mr. Neme offers suggestions on how to address DCEO’s concern regarding**
111 **“inexplicable variability in NTG estimates” if Illinois continues to focus on net**
112 **savings. (NRDC Ex. 1.0, 24.) What are your opinions of his suggestions?**

113 A. Among Mr. Neme’s suggestions are (1) having the various Evaluators collaborate
114 to reach consensus on the best approaches to assessing NTG in particular
115 markets (NRDC Ex. 1.0, 24:390-392), and (2) examining NTG assumptions from
116 multiple years and multiple sources potentially including out-of-state sources or
117 using Delphi panels (NRDC Ex. 1.0, 24:392-400). I support the general principle
118 of considering a broad range of information and giving it the warranted weight.
119 One of the purposes of evaluation is to determine if programs are effective.
120 These methods may provide greater information to inform program
121 administrators and interested stakeholders about the effectiveness of the EE
122 programs.

123 With respect to Mr. Neme’s first suggestion, I agree that it would be valuable
124 to have the Evaluators collaborate to reach consensus on the best approaches to
125 assessing NTG in particular markets. Indeed, one of the reasons that DCEO
126 believes NTG is a flawed approach is due in part to the “inconsistency in the
127 methods used by various evaluators[.]” (DCEO Ex. 1.1, 27.) During Plan 1, the
128 Evaluators collaborated to develop a consistent approach to estimating NTG for the
129 non-residential EE programs. However, alternative approaches are currently being
130 discussed and implemented by the Evaluators for the non-residential EE programs.
131 (See, Staff Ex. 3.3, 43-67.) While Mr. Neme’s first suggestion has occurred for

132 many of the non-residential EE programs during Plan 1, the fact that alternative
133 approach are currently being implemented during Plan 2, a Commission directive is
134 warranted to have the Evaluators collaborate to reach consensus on the best
135 approaches to assessing NTG in particular markets for both residential and non-
136 residential EE programs. Further, historically there has not been consistency with
137 respect to estimation of residential program NTG ratios and this inconsistency has
138 been subject to significant controversy, and creates concerns regarding the
139 independence of certain Evaluators. Thus, to help mitigate the risk of
140 compromising the independence of the Evaluators, the Commission should require
141 consistent residential and non-residential NTG approaches take place for
142 comparable EE programs offered by the utilities and DCEO.

143 However, the Commission should be aware that the Staff and ELPC
144 Proposed Modified NTG Frameworks allow for deeming a NTG value other than
145 that which was evaluated which is useful for cases where the evaluated number is
146 inconsistent with other values. A potential downside of collaboration is that
147 everyone takes a cookie cutter approach rather than having multiple approaches to
148 addressing the same problem. Given the inherent differences (e.g., labor costs,
149 housing structure, population density, weather, retailers) in the service territories of
150 the utilities across the state as well as differences in the energy efficiency program
151 guidelines, rebate amounts, and implementation approaches, in the event
152 significantly different NTG results are found across comparable programs operated
153 by different program administrators, the use of different NTG methods across
154 program administrators provides limited useful information to parties concerning the

155 source of such differences. Indeed, the memorandum containing the previously
156 adopted NTG Framework expressed such concerns:

157 The PY1 evaluated NTG ratios for Residential lighting are significantly
158 different for Ameren and ComEd. While there are real differences in
159 the demographics of their service territories that may have contributed
160 to this difference, it is important to note that the utilities used different
161 evaluation contractors and significantly different evaluation
162 methodologies. As a result, there is little certainty about the attribution
163 of these differences. We propose that wherever possible, joint and
164 consistent statewide evaluations be performed. This will eliminate
165 these uncertainties, allow for more direct comparison between
166 [program administrators' ("PA's")] performance, as well as provide
167 economies of scale and greater consistency and certainty to PAs
168 about likely future evaluation results. We propose that standardized
169 approaches to measuring freeridership and spillover be adopted in
170 Illinois that ensure consistent measurement both across territories and
171 over time.¹

172 (AG Ex. 1.1, 3-4 (ICC Docket Nos. 10-0564, 10-0562, 10-0568, 10-0570).)

173 I concur with Mr. Neme's second suggestion to consider evaluation results
174 and other relevant information from potentially multiple sources when formulating
175 reasonable NTG assumptions for a program year. (NRDC Ex. 1.0, 24.) Indeed,
176 this suggestion is effectively incorporated to a large degree in ELPC witness
177 Geoffrey C. Crandall's Proposed Modified Illinois NTG Framework (ELPC Ex. 1.2)
178 and Staff's Modified Illinois NTG Framework for DCEO attached hereto as Staff Ex.
179 3.1 in this proceeding, and in the comparable Modified Illinois NTG Frameworks
180 filed by the AG, ELPC, and Staff in Ameren Illinois Company's EE plan proceeding,
181 ICC Docket No. 13-0498. (See, ELPC Ex. 1.2; Staff Ex. 3.1; AG Ex. 1.1 (ICC

¹ An example of this exists in Massachusetts where all PAs have for roughly a decade used a standardized methodology and set of survey questions that were collaboratively developed to measure freeridership and spillover every year. This approach has proven to provide relatively stable results over time, and better elucidates differences between PAs that may result from different program approaches.

182 Docket No. 13-0498); ELPC Ex. 1.4 (ICC Docket No. 13-0498); Staff Ex. 3.1 (ICC
183 Docket No. 13-0498.) Staff's Modified Illinois NTG Framework explicitly provides
184 that:

185 In order to provide the proper incentives to encourage the [DCEO] to
186 make appropriate program changes to ensure against high free-
187 ridership in the following program year (PYt+1), the basis of deeming a
188 specific net-to-gross ratio ("NTGR") value shall be that it represents
189 the best estimate of what the evaluated NTGR value would reasonably
190 be expected to be in the following program year (PYt+1) taking into
191 consideration the best information available about the measure,
192 program design, incentive levels, market, energy codes, and any other
193 factors that could influence the level of free-ridership and spillover in
194 the following program year (PYt+1).

195 (Staff Ex. 3.1, 1 (footnotes omitted).)

196 **Q. The Modified Illinois NTG Frameworks (referenced in your response to the**
197 **previous question) that are proposed by Staff and ELPC in this proceeding**
198 **include provisions that concern "deeming" of specific NTG ratio values.**
199 **What is meant by the term, "deeming," and has DCEO requested that NTG**
200 **ratios be "deemed" in this proceeding?**

201 A. Deeming of a NTGR value would mean that DCEO would know with certainty
202 that the deemed NTGR value will ultimately be applied by the Commission in
203 evaluating whether DCEO complied with the statutory savings goals set forth in
204 Sections 8-103 and 8-104 of the Act. (ELPC Ex. 1.2, 2; Staff Ex. 3.1, 1.) The
205 opposite of "deeming" specific NTGR values is having the NTGR values subject
206 to "retroactive application." Retroactive application means that DCEO does not
207 know with certainty the NTGR value that will ultimately be applied by the
208 Commission in evaluating whether DCEO complied with the statutory savings

209 goals. This uncertainty will persist until the Commission makes a decision in
210 DCEO's compliance with energy savings goal docket. (ELPC Ex. 1.2, 2; Staff
211 Ex. 3.1, 1.)

212 DCEO has not requested NTG ratios be deemed in this proceeding.² As
213 noted by ELPC witness Crandall, "DCEO indicated that it preferred its programs be
214 subjected to a retrospective rather than a [deemed NTG approach] by an
215 independent evaluator because it felt that the retrospective approach would better
216 capture actual program savings." (ELPC Ex. 1.0, 10:11-14.) I recommend that the
217 Commission grant DCEO's request to have estimated NTG ratios apply
218 retroactively to its programs.

219 Alternatively, if the Commission desires to have consistent NTG
220 Frameworks across the Sections 8-103 and 8-104 EE portfolios for the utilities and
221 DCEO, then I recommend the Commission adopt Staff's Modified Illinois NTG
222 Framework for DCEO which is attached as Staff Ex. 3.1. Within Staff's Modified
223 Illinois NTG Framework for DCEO, DCEO has the option to have all the estimated
224 NTG ratios applied retroactively simply by deciding not to make the filings specified
225 in the NTG Framework. (See, Staff Ex. 3.1, 3.) In particular, Item (10) of the
226 Modified Illinois NTG Framework provides that "[f]ailure of DCEO to file consensus
227 and non-consensus deemed NTGR values with supporting work papers by March 5
228 (PYt) results in retroactive application of NTGR values for that upcoming program
229 year (PYt+1)." (Staff Ex. 3.1, 3.)

² One potentially could interpret DCEO's request for an adjusted gross approach be applied for all its programs to be mathematically equivalent with requesting a deemed NTGR equal to 1.0 for all its programs. (DCEO Ex. 1.1, 27-28.)

230 Additionally, DCEO is provided the option to deem certain NTGR values and
231 not others as Item (1)(a)(iii) of Staff's Modified NTG Framework for DCEO allows
232 for retroactive application of free-ridership or spillover components of the NTGR if
233 that is the preferred option. (Staff Ex. 3.1, 1-2.) Another benefit of adopting Staff's
234 Modified Illinois NTG Framework for DCEO is that it provides a mechanism for
235 DCEO and its Evaluator to deem a NTGR value so that limited evaluation
236 resources are not devoted to (capped at 3% per 220 ILCS 5/8-103(f)(7) and 220
237 ILCS 5/8-104(f)(8)) re-estimating a NTG ratio every single year for a small program
238 that contributes only a small percentage of energy savings to DCEO's portfolio.

239 **Q. What is the fundamental difference between DCEO's retroactive application**
240 **preference and Staff's Modified Illinois NTG Framework proposal?**

241 A. DCEO's proposal does not provide for deeming NTG values. DCEO's proposal
242 excludes SAG involvement in the NTG Framework completely, whereas Staff's
243 proposal includes the SAG participating in the NTG update process, consistent
244 with the NTG Framework previously adopted by the Commission in Plan 2. It
245 appears that DCEO's proposal would have the Evaluators have the final say on
246 what the NTG ratio should be, whereas Staff's proposal has the Commission
247 having the final say on what value for NTG should be applied. DCEO's proposal
248 complete reliance upon the Evaluator's recommendation for determining whether
249 DCEO meets its statutory goals is inconsistent with past Commission Orders
250 wherein the Commission concluded that the independent evaluations are simply
251 one piece of evidence but there could be other parties competent to testify to

252 savings achievement in the compliance with energy savings goals dockets. See,
253 ComEd Plan 1 Order (ICC Docket No. 07-0540) at 27.

254 **C. RESPONSE TO ELPC WITNESS GEOFFREY C. CRANDALL (ELPC Exs. 1.0, 1.2)**

255 **1. PROPOSED MODIFIED ILLINOIS NET-TO-GROSS FRAMEWORK (ELPC Ex.**
256 **1.0, 8-11; ELPC Ex. 1.2.)**

257 **Q. As you noted above, Mr. Crandall offers a Proposed Modified Illinois NTG**
258 **Framework (ELPC Ex. 1.2) as an attachment to his direct testimony that the**
259 **Commission could adopt for DCEO. (ELPC Ex. 1.0, 9-11; ELPC Ex. 1.2.) Why**
260 **do you recommend the Commission adopt Staff's Modified Illinois NTG**
261 **Framework for DCEO (Staff Ex. 3.1) instead of ELPC's Proposed Modified**
262 **Illinois NTG Framework (ELPC Ex. 1.2)?**

263 **A.** While I support a number of elements contained in ELPC's Proposed Modified
264 Illinois NTG Framework (ELPC Ex. 1.2) as they are also contained within Staff's
265 Modified Illinois NTG Framework, there is one element in particular in ELPC's
266 proposal that I simply cannot support: the creation of "voting parties." (ELPC Ex.
267 1.2, 2.) Moreover, within ELPC's Proposed Modified Illinois NTG Framework, I
268 have discovered some internal inconsistencies and other elements that would be
269 unworkable in practice should the Commission decide to approve ELPC's
270 Proposed Modified Illinois NTG Framework without modification. I describe each
271 of these issues in turn below.

272 **Q. Please describe the element of the ELPC's Proposed Modified Illinois NTG**
273 **Framework (ELPC Ex. 1.2) that you absolutely will not support under any**
274 **circumstance.**

275 A. As noted above, although I support a number of elements contained in ELPC's
276 Proposed Modified Illinois NTG Framework, the element that I simply cannot
277 support is the creation of "voting parties" as set forth in Item 2 of ELPC's
278 Proposed Modified Illinois NTG Framework. (ELPC Ex. 1.2, 2.) Item 2 of ELPC's
279 proposal states, in relevant part:

280 In cases where consensus among voting parties is reached in the SAG
281 on an individual NTGR value by March 1 (PYt), that consensus NTGR
282 value shall be deemed for the applicable program year (PYt+1),
283 provided that the Program Administrators file the consensus NTGR
284 values with the Commission in the TRM annual update docket no later
285 than March 1 (PYt).

286 (ELPC Ex. 1.2, 2 (footnotes omitted).)

287 Footnote 3 in Item 2 of ELPC's Proposed Modified Illinois NTG Framework
288 states, in pertinent part:

289 "Voting parties" are the program administrators, Staff, and other
290 parties that have traditionally intervened in EEPS dockets and
291 consistently participated in the SAG. These are AG, NRDC, ELPC and
292 CUB. However, voting members cannot also be subcontractors in
293 Section 8-103/104 efficiency programs.

294 (ELPC Ex. 1.2, 2.)

295 **Q. Does Mr. Crandall explain the basis for introducing a voting structure limited**
296 **to only a few select SAG participants?**

297 A. No. Mr. Crandall provides no explanation in testimony explaining this significant
298 shift in the structure of the SAG process, which effectively makes certain SAG
299 participants more equal than others.

300 **Q. Given that footnote 3 contains a statement explicitly excluding**
301 **subcontractors from voting, should the Commission have any concerns**
302 **about subcontractors interfering with the consensus-seeking process?**

303 A. No. I believe that subcontractors would not oppose an updated NTGR value that
304 was otherwise a consensus updated NTGR value among SAG participants.

305 **Q. Why do you believe that the subcontractors would not oppose an updated**
306 **NTGR value that was otherwise a consensus updated NTGR value?**

307 A. DCEO is effectively their employer. Objecting to a consensus NTG value means
308 that these subcontractors object to a NTG value supported by their employer.
309 This is not in the contractors' best interests. Indeed, my experience to date
310 during the development of the TRM and the TRM Update Process demonstrates
311 to me that subcontractors make no attempt to hold up that consensus-reaching
312 process, even though they may not have necessarily agreed with the consensus
313 that was reached. Thus, there is no apparent basis for introducing a drastic shift
314 in the SAG structure.

315 **Q. What are your concerns with introducing this drastic shift in the SAG**
316 **structure by creating “voting parties”?**

317 A. When the Commission ordered the SAG’s creation in Docket Nos. 07-0539 and
318 07-0540, it explicitly provided that the group include representation from a
319 “variety of interests.” See, e.g., Ameren Plan 1 Order at 24 (ICC Docket No. 07-
320 0539). The SAG is a voluntary organization consisting of over thirty
321 organizations,³ with new organizations requesting to participate in the SAG
322 throughout the Plan. ELPC’s Proposed Modified Illinois NTG Framework
323 proposal to create a voting structure that is limited to only six select SAG
324 participants is completely contrary to the inclusiveness, transparency, and broad
325 range of opinion that the SAG has provided to date. Indeed, this openness to all
326 interested parties could likely be a reason why the participation in the SAG
327 continues to grow. Adoption of ELPC’s Proposed Modified Illinois NTG
328 Framework “voting structure” for NTG updates may serve to offend many SAG
329 participants and discourage future participation by organizations.

330 **Q. Without specific voting members, will it be possible to determine whether**
331 **consensus has been reached regarding updated NTGR values?**

332 A. Yes. The SAG is currently able to determine whether consensus has been
333 reached on TRM Updates without modifying the SAG structure and without
334 identifying specific voting members. Staff’s Modified Illinois NTG Framework for
335 DCEO includes a process where any interested party must dissent in writing by a
336 specific date to indicate there are non-consensus issues. (See, Staff Ex. 3.1.)

³ <http://www.ilsag.info/meeting-participants.html>

337 Further, the independent Evaluators are tasked with providing meeting notes
338 after the NTG update meetings which can clearly document consensus and non-
339 consensus NTGR values.

340 **Q. Please describe the internal inconsistencies within ELPC's Proposed**
341 **Modified Illinois NTG Framework that would make it difficult to implement in**
342 **practice if the Commission approved it as is.**

343 A. ELPC's Proposed Modified Illinois NTG Framework provides for two different
344 approaches in the case an individual NTGR value is determined to be non-
345 consensus. This inconsistency can be seen by comparing Item 3 of the
346 "Narrative Explanation of the Modified NTG Framework" to Item 8 of the
347 "Proposed Timeline." (See, ELPC Ex. 1.2, 2-3.)

348 Item 3 of the "Narrative Explanation of the Modified NTG Framework" states:

349 In cases where consensus is not reached on an individual NTGR value
350 by March 1 (PYt), the NTGR value for the applicable program year
351 (PYt+1) shall be the average of the last two available evaluated NTGR
352 values from prior years (or only one year if that was the first evaluated
353 year of the program available), provided that the Program
354 Administrators file the non-consensus NTGR values with the
355 Commission for information purposes in the TRM annual update
356 docket no later than March 1 (PYt). In the event there is non-
357 consensus on an individual deemed NTGR value and there are no
358 Illinois evaluations available, the Program Administrators shall file the
359 non-consensus positions and rationales, and request the Commission
360 rule within 90 days on the deemed NTGR to be used for PYt+1.

361 (ELPC Ex. 1.2, 2 (emphasis added).) I interpret the emphasized text as meaning
362 that the deemed NTGR value is the average of evaluated NTGR values that are
363 currently available (e.g., $NTGR_{PYt+1} = (NTGR_{PYt+1} + NTGR_{PYt-2}) / 2$).

364 Item 8 of the "Proposed Timeline" states

365 In cases where consensus is not reached on an individual NTGR value
366 by March 1 (i.e., a NTGR Objection Memo is received regarding an
367 individual NTGR value and is not resolved by March 1), the NTGR
368 value for the applicable program year (PYt+1) shall be deemed at the
369 average of the evaluated NTGR values from PYt and PYt-1.⁴ In the
370 event there is non-consensus on an individual NTGR value and there
371 are no Illinois evaluations available, an explanation of the non-
372 consensus issue may be filed with the Commission with a request for
373 resolution prior to June 1.

374 (ELPC Ex. 1.2, 3 (emphasis added).) I interpret the emphasized text, which is
375 consistent with Staff's Modified Illinois NTG Framework, as meaning that the
376 deemed NTGR value for PYt+1 is the average of the evaluated NTGR values from
377 the current program year (PYt) and the previous program year (PYt-1) (e.g.,
378 $NTGR_{PYt+1}=(NTGR_{PYt}+NTGR_{PYt-1})/2$). As is clearly evident, the proposed approach
379 in Item 3 results in using NTGR values that are over two years old and DCEO is
380 aware what the average of the two old NTGR values is such that it effectively
381 creates a lower bound and reduces DCEO's incentive to negotiate in good faith on
382 a deemed NTGR value with the SAG. The proposed approach in Item 8 provides
383 for DCEO to know one of the NTGR values and have partial retroactive application
384 of the NTGR evaluated for PYt, but given DCEO is subject to three-year cumulative
385 savings goals, not knowing the NTGR evaluated for PYt until several months later
386 should still provide DCEO enough time to adjust its portfolio in a manner to help
387 ensure it can reach the three-year cumulative goals.

⁴ For a program that only has one year of evaluated NTG then that single year will be used.

388 **Q. Please describe the additional problems with ELPC's Proposed Modified**
389 **Illinois NTG Framework that would make it difficult to implement in practice if**
390 **the Commission approved it as is.**

391 A. Some additional problems with ELPC's Proposed Modified Illinois NTG
392 Framework include: (1) TRM annual update docket, (2) timing for non-residential
393 program NTGR recommendations from the Evaluators, and (3) missing definition
394 of evaluated NTGR values. As shown in Staff Ex. 3.1, Staff's Modified NTG
395 Framework does not contain these problems.

396 With respect to the first problem, ELPC's Proposed Modified Illinois NTG
397 Framework has DCEO filing the NTGR values in the TRM annual update docket by
398 March 1. This is problematic because there is no guarantee that the TRM annual
399 update docket will even be open by March 1. The adopted TRM Policy Document
400 states:

401 In order to provide the Program Administrators adequate time for
402 making these pre-program year changes, the consensus Updated
403 TRM shall be transmitted to the ICC Staff and SAG by March 1st. The
404 ICC Staff will then submit a Staff Report (with the consensus Updated
405 TRM attached) to the Commission with a request for expedited review
406 and approval. In the event that non-consensus TRM Updates exists,
407 the TRM Administrator shall submit to the ICC Staff and SAG a
408 Comparison Exhibit of Non-Consensus TRM Updates on or about
409 March 1st. After receipt of the Comparison Exhibit of Non-Consensus
410 TRM Updates, the ICC Staff would submit a Staff Report to the
411 Commission to initiate a proceeding separate from the consensus
412 TRM Update proceeding to resolve the non-consensus TRM Update
413 issues.

414 (TRM Policy Document, 8.) Thus, there is no TRM update docket required or even
415 envisioned to be open on March 1; the Updated TRM (consensus portion) is simply

416 transmitted to SAG on that date, and the non-consensus portion of the Updated
417 TRM is transmitted on or about March 1.

418 Further, given that parties are allotted until March 1 to reach consensus, in
419 the event that consensus is finally reached by March 1, parties would need time to
420 revise relevant documents before they actually file the document in a docket.

421 With respect to the second problem related to timing for non-residential
422 program NTGR recommendations from the Evaluators, the ELPC's Proposed
423 Modified Illinois NTG Framework requires the Evaluator's memorandum for all
424 NTGRs to be submitted by November 1. The utilities' Evaluators note that they
425 can commit to providing draft NTGR results by December 1 for non-residential
426 programs. (Staff Ex. 3.2, 1.) Thus, it is likely that the initial Evaluator's
427 memorandum will not reflect the most recent findings with respect to estimating
428 NTGRs for DCEO's public sector non-residential programs.

429 Finally, ELPC's Proposed Modified Illinois NTG Framework is missing a
430 definition for "Evaluated NTGR values." "Evaluated NTGR values" potentially could
431 mean the NTGRs estimated from surveys of DCEO's participating customers and
432 trade allies, regardless of whether the Evaluator recommended the NTGR be a mix
433 of secondary and primary data, or even if the Evaluator recommended to totally
434 ignore a portion of the primary data. "Evaluated NTGR values" could potentially
435 mean whatever NTGR value the Evaluator recommended the final NTGR be –
436 regardless of whether it was a mix of secondary data and primary data. On the
437 other hand, Staff's Modified Illinois NTG Framework provides a definition for these
438 terms: "Evaluated NTGR values are NTGR values estimated by the evaluators

439 using only data collected from DCEO's customers and contractors in Illinois." (Staff
440 Ex. 3.1, 3.)

441 These three problems are real problems which would significantly frustrate
442 any attempts at implementing the ELPC's Proposed Modified Illinois NTG
443 Framework. Staff's Modified Illinois NTG Framework (Staff Ex. 3.1) is, to the best
444 of Staff's knowledge, free of these problems and provides a framework that would
445 be workable in practice.

446 **2. DATA CENTER PROGRAM (ELPC EX. 1.0, 11-15.)**

447 **Q. Mr. Crandall states that "[t]he Commission should direct DCEO to implement**
448 **a data center pilot program or modify its existing public sector programs to**
449 **respond more comprehensively to data centers unique energy use**
450 **characteristics. The Commission should request that DCEO develop such a**
451 **program or modify its existing programs, in collaboration with the SAG,**
452 **within six months of the date of the Order in this proceeding." (ELPC Ex. 1.0,**
453 **14-15.) Do you support Mr. Crandall's recommendation that DCEO be**
454 **ordered to work with the SAG to implement a Data Center Program?**

455 **A.** Not entirely. I recommend the Commission direct DCEO to "investigate" rather
456 than unconditionally "implement" a Data Center Program. Such investigation
457 should assess what the existing baseline and standard practices are for data
458 centers operating in the public sector in Illinois and whether it would be cost-
459 effective to implement a dedicated Data Center Program. Further, it is my
460 understanding that data center projects are customized projects and they should

461 already qualify under DCEO's Public Sector Custom Program, so a dedicated
462 Data Center Program may not be necessary.

463 **III. CONCLUSION**

464 **Q. Does this conclude your prepared rebuttal testimony?**

465 **A. Yes.**