

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

**Illinois Department of Commerce)
and Economic Opportunity)
) ICC Docket No. 13-0499
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)**

REBUTTAL TESTIMONY

OF

BRADLEY O. FULTS

ON BEHALF OF THE COALITION TO

REQUEST EQUITABLE ALLOCATION OF COSTS TOGETHER

REACT

COMPRISED OF:

- A. FINKL & SONS, Co.**
- AUX SABLE LIQUID PRODUCTS, LP**
- CHARTER DURA-BAR**
- FLINT HILLS RESOURCES, LP**
- FUTUREMARK PAPER COMPANY**
- THE METROPOLITAN WATER RECLAMATION DISTRICT**
- OF GREATER CHICAGO**
- PDV MIDWEST REFINING, LLC (CITGO)**
- UNITED AIRLINES, INC.**

TABLE OF CONTENTS

I. INTRODUCTION.....1

II. PURPOSE OF REBUTTAL TESTIMONY3

III. NATURAL GAS SELF-DIRECT PROGRAM.....5

IV. CONCLUSION AND RECOMMENDATIONS.....10

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Illinois Department of Commerce)
and Economic Opportunity)
) ICC Docket No. 13-0499
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)

1 REBUTTAL TESTIMONY OF BRADLEY O. FULTS

2

3

I.

4

INTRODUCTION

5

6 **Q. Please state your name and business address.**

7 A. My name is Bradley O. Fults. My business address is 8908 Prestwick Circle North,
8 Brooklyn Park, MN 55443.

9

10 **Q. On whose behalf are you testifying?**

11 A. I am testifying on behalf of the coalition to Request Equitable Allocation of Costs
12 Together (collectively, "REACT").¹

13

¹ The REACT members for purposes of this testimony include: A. Finkl & Sons, Co.; Aux Sable Liquid Products, LP; Charter Dura-Bar (f/k/a Wells Manufacturing, Inc.); Flint Hills Resources, LP; FutureMark Paper Company; The Metropolitan Water Reclamation District of Greater Chicago; PDV Midwest Refining, LLC (CITGO); and United Airlines, Inc. The opinions herein do not necessarily represent the positions of any particular member of REACT.

14 **Q. Have you previously testified in this proceeding?**

15 A. Yes. I submitted written Direct Testimony (identified as REACT Exhibit 1.0) on behalf
16 of REACT.

17

18 **Q. What is REACT?**

19 A. As explained in my Direct Testimony, REACT is an *ad hoc* coalition, with diverse
20 members, including some of the largest commercial, industrial, and governmental
21 delivery services customers in Northern Illinois that are the Extra Large Load Delivery
22 Class (referred to herein as the “ELLC” class) and the over 10 MW High Voltage
23 Delivery Class (referred to herein as the “HV Over 10 MW” class) of Commonwealth
24 Edison Company (“ComEd”). Since 2007, costs have increased significantly for REACT
25 customer members, due to changes in ComEd’s distribution rates as well as increases in
26 charges imposed under ComEd’s energy efficiency tariff known as “Rider EDA” --
27 Energy Efficiency and Demand Response Adjustment. While their costs have increased,
28 REACT customer members have faced barriers to accessing the Rider EDA energy
29 efficiency funds that they have paid to ComEd. (*See* REACT Ex. 1.0 at 6:126-33.)

30

31 In this proceeding, REACT is seeking to ensure that ComEd’s largest customers are able
32 to fully participate in energy efficiency programs administered by the Illinois Department
33 of Commerce and Economic Opportunity (“DCEO”). To date, ComEd’s largest ELLC
34 and HV Over 10 MW customers have paid millions of dollars to support energy
35 efficiency programs but have received little, if any, direct benefits. (*See id.* at 8:168-76.)

36

37 **Q. What is REACT’s message to the Illinois Commerce Commission ("Commission")?**

38 A. REACT’s message is that the electric energy efficiency programs can be improved by
 39 providing additional flexibility to the largest energy users. The members of REACT are
 40 committed to advancing energy efficiency, and are not looking to avoid implementation
 41 of energy efficiency measures. On the contrary, REACT members pay significant
 42 amounts of money into the statutorily mandated energy efficiency programs, and are
 43 simply looking for a feasible, practical way to direct that money towards cost-effective
 44 energy efficiency improvements at their facilities. Accordingly, REACT is offering a
 45 straightforward way in which the electric energy efficiency program should be
 46 restructured to enable the largest energy users to meaningfully participate.

47

48

II.

49

PURPOSE OF REBUTTAL TESTIMONY

50

51 **Q. What is the purpose of your Rebuttal Testimony in this proceeding?**

52 A. The purpose of my Rebuttal Testimony is to reiterate to the Commission the importance
 53 of an Electric Self-Direct Pilot Program for the largest Illinois electricity users. As
 54 explained in my Direct Testimony, the largest customers in Northern Illinois are
 55 frustrated because they have paid in millions of dollars to support the existing energy
 56 efficiency programs, but have received little, if any, direct benefit. These large energy
 57 users are sophisticated and are continuously seeking ways to lower their energy costs
 58 through energy conservation, load management, and competitive supply purchases.

59

60 Anything that the Commission, DCEO, and ComEd can do to enhance participation by
61 the largest customers will contribute to the overall energy savings goals for the State of
62 Illinois and help make Illinois more attractive for businesses. However, energy
63 efficiency projects for large users oftentimes are more complex, involve longer lead
64 times, and require large capital outlays. Since the “low-hanging fruit” projects likely
65 already have been completed, it is all the more challenging for the largest users to
66 implement new energy efficiency savings projects.

67
68 Nevertheless, there is a model that can work for the largest energy users. As explained in
69 my Direct Testimony, an Electric Self-Direct Pilot Program for the largest energy users is
70 the better approach. (*See* REACT Ex. 1.0 at 11:244-17:382.) As noted by DCEO, as
71 well as the Natural Resources Defense Council (“NRDC”) and the Environmental Law
72 and Policy Center (“ELPC”), preliminary reports on the Natural Gas Self-Direct Program
73 show significant energy savings, well in excess of any other program. (*See* DCEO Ex.
74 1.0 at 32:622-30; NRDC Ex. 1.0 at 5:91-6:93; ELPC Ex. 1.0 at 7:9-15, 8:1-5.)

75

76 **Q. Does your Rebuttal Testimony directly respond to portions of other intervenor’s**
77 **Direct Testimony?**

78 A. Yes. My Rebuttal Testimony responds to the Direct Testimony of NRDC Witness Mr.
79 Neme and ELPC Witness Mr. Crandall regarding the existing Natural Gas Self-Direct
80 Program.

81

III.**NATURAL GAS SELF-DIRECT PROGRAM**

82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102

Q. Does DCEO have a Self-Direct Natural Gas Program for large users?

A. Yes. As described by DCEO Witness Ms. Mrozowski in her Direct Testimony, DCEO has approved application guidelines for Self-Direct customers under the Natural Gas Energy Efficiency Programs. (*See* DCEO Ex. 1.0 at 28:540-33:643.) This existing Natural Gas Self-Direct Program is available to customers having a certain North American Industry Classification System Code number who also uses more than four million therms of natural gas annually in a particular utility service territory, or eight million therms statewide (*See* 220 ILCS 5/8-104(m)(1)-(2).) According to Ms. Mrozowski, there are 37 customers participating in the Natural Gas Self-Direct Program. (*See* DCEO Ex. 1 at 30:574-584.)

Q. What comments do NRDC Witness Mr. Neme and ELPC Witness Mr. Crandall provide regarding the Natural Gas Self-Direct Program?

A. While noting that the reports that DCEO has collected show substantial energy efficiency-related savings associated with the Natural Gas Self-Direct Program, both witnesses address the issues of verification and oversight. (*See* NRDC Ex. 1.0 at 15:223-21:336; ELPC Ex. 1.0 at 6:1-8:14.)

103 **Q. What recommendation is made by NRDC Witness Mr. Neme?**

104 A. Mr. Neme first recognizes that the reported energy efficiency savings associated with the
 105 Natural Gas Self-Direct Program are significant:

106 It is worth noting that the participants in the self-direct program estimated
 107 that they generated 5 million therms of annual gas savings in the first year
 108 of the program. That is a substantial amount -- on the order of what
 109 DCEO has forecast it will achieve annually from all of the other programs
 110 it administers combined.

111
 112 (See NRDC Ex. 1.0 at 20:321-24 (emphasis is original).) Mr. Neme then recommends
 113 that the Commission conduct an evaluation of the effectiveness of the program, including
 114 a calculation of the amount of savings achieved. (See *id.* at 21:332-36.)

115
 116 **Q. What recommendation is made by EPLC Witness Mr. Crandall?**

117 A. Like Mr. Neme, Mr. Crandall recognizes the substantial reported savings associated with
 118 the Natural Gas Self-Direct Program, noting that it is "in excess of the natural gas savings
 119 of all of DCEO's program efforts combined during the plan period." (ELPC Ex. 1.0 at
 120 8:3-4.) He also acknowledges that the relevant statute does not permit a Commission
 121 investigation of the DCEO program until October 2014. (See *id.* at 8:5-6.) Mr. Crandall,
 122 therefore, recommends that the Commission request that DCEO engage in a process to
 123 establish "guidelines" for the Natural Gas Self-Direct Program. (See *id.* at 8:9-14.)

124
 125 **Q. What is your general reaction to the testimony from Mr. Neme and Mr. Crandall?**

126 A. First, it is notable that the preliminary DCEO report on the savings achieved through the
 127 Natural Gas Self-Direct Program shows an impressive level of savings -- to use ELPC
 128 witness Mr. Crandall's description, savings at a level "in excess of the natural gas savings

129 of all of DCEO's program efforts combined during the plan period." (*Id.* at 8:3-4.) Even
130 if further refinement lowers that savings estimate slightly, this experience strongly
131 suggests that a self-direct approach for the largest energy users is an efficient and
132 productive way to achieve deployment of substantial energy efficiency projects by the
133 largest, most sophisticated energy users.

134
135 Second, although I am not a lawyer, it appears that the language of the Public Utilities
136 Act is quite clear that the Commission is not authorized to initiate an investigation of the
137 Natural Gas Self-Direct Program until October 2014 at the earliest. Section 8-104(m)(4)
138 states:

139 (4) Upon request, or on its own motion, the Commission may open an
140 investigation, no more than once every 3 years **and not before October 1,**
141 **2014**, to evaluate the effectiveness of the self-directing program described
142 in this subsection (m).

143
144 (220 ILCS 5/8-104(m)(4) (emphasis added).) ELPC witness Mr. Crandall appears to
145 agree that the Commission does not have statutory authority to initiate an investigation of
146 the Natural Gas Self-Direct Program at this time. (*See* ELPC Ex. 1.0 at 8:5-6.) Thus, at
147 this point, it appears that the Commission lacks authority to immediately initiate the type
148 of investigation that NRDC witness Mr. Neme recommends. Similarly, it is unclear,
149 given the specific statutory language regarding Commission oversight of the Natural Gas
150 Self-Direct Program, whether the Commission can "request" that DCEO undertake a
151 process for formulating "guidelines" as ELPC witness Mr. Crandall recommends. Even
152 DCEO witness Ms. Mrozowski has recognized that the law governing the existing
153 Natural Gas Self-Direct Program is vague and DCEO may lack the legal authority to
154 create additional program guidelines without further legislative action by the General

155 Assembly. (See DCEO Ex. 1.0 at 33:634-643 ("Improving these aspects of the [Natural
156 Gas Self-Direct Program] may require legislative action.")) If the Commission were to
157 direct another party to conduct the type of investigation that the Commission itself is
158 prohibited from initiating, it might be perceived as an improper circumvention of the
159 General Assembly's intent.

160

161 In sum, at a minimum, there are legitimate questions regarding the legal authority of the
162 Commission and DCEO in connection with the Natural Gas Self-Direct program.

163

164 However, there is a viable solution to the issues raised by Mr. Neme and Mr. Crandall,
165 which is consistent with the proposal contained in my Direct Testimony regarding the
166 implementation of an Electric Self-Direct Pilot Program.

167

168 **Q. Please explain what you have in mind regarding incorporating the**
169 **recommendations of ELPC and NRDC into an Electric Self-Direct Pilot Program.**

170 A. Mr. Neme and Mr. Crandall indicate a desire for better defined verification and
171 evaluation guidelines for self-direct programs. The Electric Self-Direct Pilot Program
172 proposal contained in my Direct Testimony is the perfect vehicle for the Commission and
173 DCEO, in consultation with the interested stakeholders, to implement a self-direct
174 program that would incorporate the types of oversight and evaluation guidelines that Mr.
175 Neme and Mr. Crandall appear to believe are lacking in the current Natural Gas Self-
176 Direct Program. To my knowledge, there are no similar legal issues associated with an
177 Electric Self-Direct Pilot Program.

178

179 The Electric Self-Direct Pilot Program should include appropriate upfront reviews and
180 measurement and verification protocols to further the objectives of the Illinois energy
181 efficiency standards. In fact, ComEd appears to recognize these concerns in its proposed
182 new Large C&I Pilot Program. (See ICC Docket No. 13-0495, ComEd Ex. 1.0 at page
183 82). Although that ComEd proposed pilot program is **not** a self-direct program, it does
184 contain provisions for:

- 185 • A six month period for development and submittal of projects;
- 186 • Projects to be cost-effective on a Total Resource Cost ("TRC") test basis; and
- 187 • Project savings to be subject to a monitoring and verification process.

188

189 **Q. What process could be used to formulate an effective Electric Self-Direct Pilot**
190 **Program?**

191 A. As explained in my Direct Testimony, REACT always has been willing to engage with
192 the utilities, DCEO, and other stakeholders at any early stage of the portfolio planning
193 process to craft the Electric Self-Direct Pilot Program -- or any other program that would
194 enhance cost-effective energy efficiency opportunities for the largest governmental,
195 commercial, and industrial customers. The concerns raised by NRDC and ELPC could
196 be addressed in a consultative process, so that the program addresses the concerns they
197 have raised.

198

199

IV.

200

CONCLUSIONS AND RECOMMENDATIONS

201 **Q. Please summarize your overall conclusions and recommendations.**

202 A. My conclusions and recommendations can be summarized as follows:

- 203 • The current Electric Energy Efficiency Plan is not working for the largest
204 customers in Northern Illinois;
- 205 • The Natural Gas Self-Direct program has produced significant natural gas
206 savings;
- 207 • DCEO should be required to implement an Electric Self-Direct Pilot Program for
208 all customers in its portfolio with demands greater than 10 MW; and
- 209 • Any Large C&I Pilot Program approved by the Commission for ComEd should be
210 available to customers whose energy efficiency measures are managed by DCEO.

211

212 **Q. Does this conclude your Rebuttal Testimony?**

213 A. Yes. However, as noted in my Direct Testimony, REACT will be providing more
214 expanded testimony in the ComEd Energy Efficiency proceeding (ICC Docket No. 13-
215 0495) addressing the details of an Electric Self-Direct Pilot Program.