

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

North Shore Gas Company	:	
	:	
The Peoples Gas Light And Coke Company	:	No. 13-0550
	:	
	:	
Petition Pursuant to Section 8-104 of the Public Utilities Act to Submit an Energy Efficiency Plan	:	
	:	

**POST-HEARING REPLY BRIEF OF NORTH SHORE GAS COMPANY
AND THE PEOPLES GAS LIGHT AND COKE COMPANY**

Carla Scarsella
Rooney Rippie & Ratnaswamy LLP
350 W. Hubbard Street, Suite 600
Chicago, Illinois 60654
(312) 447-2800
carla.scarsella@r3law.com

Mary Klyasheff
Koby A. Bailey
Integrus Energy Group, Inc.
130 E. Randolph Street
Chicago, Illinois 60601
(312) 240-4470
mpklyasheff@integrysgroup.com
kabailey@integrysgroup.com

March 4, 2014

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Pursuant to Section 200.800 of the Illinois Commerce Commission’s (“Commission”) Rules of Practice (83 Ill. Admin. Code §200.800) and the schedule that the Administrative Law Judge (“ALJ”) established by Notice dated November 12, 2013, North Shore Gas Company (“North Shore” or “NS”) and The Peoples Gas Light and Coke Company (“Peoples Gas” or “PGL”) (together, the “Utilities”), by their counsel, submit this Reply Brief in the above captioned proceeding.

I. Introduction

The Utilities’ second triennial energy efficiency plans (“Plan 2” or “Second Triennial Plan”), covering the June 1, 2014, through May 31, 2017 period (“Plan Period 2”) as amended in the Utilities’ rebuttal and surrebuttal testimony and Initial Brief, meets the requirements of Section 8-104 of the Public Utilities Act (“Act”) in a prudent and cost effective way and should be approved. The Utilities, Staff, and intervenors have agreed to many aspects of Plan 2, and as such, only few contested issues remain.

The Utilities have offered programs designed to achieve cost-effectiveness at the portfolio level, to adapt to market and technological opportunities, and to provide a cost-effective

mix of energy efficiency program options. Even with these features, the Utilities will not be able to meet the statutory goals set forth in Section 8-104(c) for Plan 2. As such, the Utilities request that the Commission adjust these goals for Plan 2. Except for Environmental Law and Policy Center (“ELPC”), Staff and intervenors do not object to the Utilities’ proposal for modified savings goals. The arguments set forth by ELPC are not supported by the record. The record demonstrates that the modified savings goals are informed by the Utilities’ Plan 1¹ experience, supported by their Potential Study and implemented through their Plan 2 portfolio.

The Utilities’ proposal for an adjustable savings goal should also be approved as modified by Staff. The proposed mechanism would allow the Utilities to increase or decrease savings goals at the beginning of a plan year if certain values, not within the Utilities’ control, change. The Illinois Attorney General (“AG”), Citizens Utility Board (“CUB”) and the City of Chicago (“City”) (together, “CUB/City”), and ELPC continue to object to the Utilities’ proposal. Their arguments that the adjustable savings goal proposal would provide the Utilities unfettered flexibility are not founded on the record or the law and as such, should be rejected. With Staff’s reporting recommendations, the concerns of these intervenors are addressed as oversight is provided.

Therefore, for all the reasons set forth herein and in the Utilities’ Initial Brief, the Utilities’ proposed Plan 2, which reflects a number of recommendations proposed by Staff and intervenors, should be approved by the Commission.

II. North Shore and Peoples Gas Are Not Electing Treatment as a Single Utility

Staff and intervenors did not object to the Utilities’ decision not to elect treatment as a single utility under Section 8-104(h) of the Act. As such, this is not a contested issue.

¹ The Commission approved, with modifications, the Utilities’ Plan 1 in ICC Docket No. 10-0564 (Order, May 24, 2011).

III. Section 8-104(f) Filing Requirements

Section 8-104(f) of the Act requires that each gas utility's plan address eight items. As addressed in this Section III, the Utilities addressed each item fully and their Plan satisfies all Section 8-104(f) requirements. The Utilities' proposed Plan 2 should be approved as amended through the Utilities' rebuttal and surrebuttal testimony and Initial Brief.

A. Section 8-104(f)(1)

Section 8-104(f)(1) states that the utility shall: "Demonstrate that its proposed energy efficiency measures will achieve the requirements that are identified in subsection (c) of this Section, as modified by subsection (d) of this Section." Plan 2 describes how the requirements of Section 8-104(c) will be met, as modified by the Utilities' proposal as permitted under Section 8-104(d). The Utilities shall each meet their modified savings goals, as identified below, over the three-year Plan Period as allowed under Section 8-104(c).

1. The Modified Energy Savings Goals Set Forth in NS-PGL's Plan 2 Should Be Approved

The Utilities' Initial Brief sets the basis for finding that the modified statutory goals for the Plan Period 2, encompassing Program Years ("PY") 4, 5, 6, should be approved. As indicated previously, only the ELPC recommends that the Utilities' modified goals should be rejected in total² while the other intervenors recognize that the statutory goals of Section 8-104(c) are not attainable (Mosenthal Dir. AG Ex. 1.0 8:135-139). The Utilities have proposed modified, cumulative gas savings goal for Plan 2, in accordance with Section 8-104(d) of the Act, for Peoples Gas of 24,612,177 therms and for North Shore of 4,757,013 therms. Marks Dir., NS-PGL Ex. 1.0R, 5:87-90. To support the modified savings goals, the Utilities have

² Note that the ELPC indicates that the Natural Resources Defense Council ("NRDC") supports the position that the Utilities could come closer to meeting the statutory goals (ELPC Brief at 3). Notably however, the NRDC has not filed testimony or briefs in this case, so the Utilities question how this position can be inferred.

conducted a Potential Study, assessing both technological and behavioral opportunities for energy savings in their service territories. Marks Dir. NS-PGL Ex 1.0R 6:117-17:130. The Utilities have actual, successful, programmatic experience operating gas energy efficiency programs, in a low gas cost environment in their service territories. Marks Dir. NS-PGL Ex 1.0R 6:104-116. Finally, the Utilities have prepared a detailed Portfolio of programs for Plan 2 – detailing programmatic approaches, estimates of participation, proposed incentive levels, and program design that balances savings with positive goals agreed upon by the intervenors – a wide and diverse array of energy efficiency programs for all customers in the service territories and inclusion of long-lived energy efficiency measures. NS-PGL Ex. 1.2R at 4; Marks Reb., NS-PGL Ex. 3.0, 7:133-139.

a. The ELPC’s recommendation that the Utilities should meet the statutory goals should be rejected.

For want of a wasted energy study, as proposed by ELPC, ELPC argues that the entirety of the Utilities’ modified savings goal proposal should be rejected. ELPC Init. Br. at 7-8. Instead, ELPC claims a behavioral waste study would somehow allow the Utilities to achieve the statutory goals. *Id.* This position is unfounded and unsupported. First, notably, ELPC seems to ignore that the Utilities’ Potential Study includes assessments of both technological and behavioral energy efficiency opportunities in the Utilities’ service territories. Marks Dir., NS-PGL Ex 1.0R, 6:117-7:130. While the Potential Study does not focus exclusively on behavior energy efficiency opportunities due to wasted energy, the Potential Study has led to the Utilities adopting Home Energy Reports. NS-PGL Ex. 1.2R at 48-49, NS-PGL Init. Br. at 15. Second, EPLC seems to suppose that any theoretical savings in the wasted energy study could somehow offset the effects described by the Utilities of significantly reduced natural gas prices since the Rate Impact Cap for Plan 1 was calculated. The Utilities face the combination of a

reduced Rate Impact Cap for Plan 2 relative to the Plan 1 Rate Impact Cap, which reduces energy efficiency funds available for programs and rebates/incentives, and a reduction in natural gas prices.³ NS-PGL Init. Br. at 7. A reduction in natural gas prices reduces customer incentives to spend money on gas energy efficiency programs as the return on the customer's energy efficiency investments falls. *Id.* That falling "value of investment" implies that rebates/incentives must increase to compensate for the falling value of investment. *Id.* Meanwhile, as indicated, there are fewer resources available under the Rate Impact Cap. ELPC has not demonstrated how the wasted energy study could overcome this evidence.

ELPC's argument rejecting the Utilities' modified savings goals should be denied. The Utilities have clearly demonstrated that the modified savings goals are: (1) informed by the Utilities' Plan 1 experience, (2) supported by their Potential Study, and (3) implemented through their Plan 2 portfolio.

b. AG, Staff, and CUB/City's positions as to the Utilities' modified Savings Goals

AG, Staff, and CUB/City do not offer or propose a modification to the Utilities' modified savings goal of 4,757,013 therms for North Shore and 24,612,177 therms for Peoples Gas as proposed by the Utilities for Plan 2. Importantly, the AG proffers that the Utilities' program results from Plan 1 as inferred in Plan 2 and program savings are reasonable. AG Init. Br. at 8. Further, the metrics as to savings and results are typical of programs outside of Illinois. Mosenthal Dir., AG Ex. 1.0, 8:138. Also supportive is the recognition that falling natural gas costs reduce the ability of the Utilities to meet the statutory goals. *Id.* at 7:134-139. Further supporting the Utilities' position that the statutory goals cannot be met, and that a lower modified

³ Notwithstanding recent well-publicized increases in gas costs, of which the Commission may take administrative notice through filed Gas Charges (83 Ill. Admin. Code Sec. 200.875), the record includes no evidence that these recent price spikes will be indicative of long-term prices over the three-year Plan 2 period.

savings goal is reasonable, both Ameren Illinois Company (“Ameren”) and Northern Illinois Gas (“Nicor Gas”) have proposed modified savings goals lower than the statutory levels. *See* ICC Docket No. 13-0498 Order 1/24/14 at 24; ICC Docket No. 13-0549, Nicor Gas witness Jerozal, Nicor Gas Ex 1.0, 14:241-249. The Utilities’ proposed modified savings goals during the Plan Period 2 are 67% of the statutory goal for North Shore and 58% of the statutory goal for Peoples Gas. Marks Dir., NS-PGL Ex. 1.0R, 5:91-103.

The Utilities have demonstrated, by substantial evidence through their direct, rebuttal and surrebuttal testimony and their Initial Brief and Reply Brief, that it is highly unlikely that the statutory savings goals of the Act can be met. Further, aside from ELPC’s conjecture that a wasted energy study would allow the Utilities to meet the goals, no party has proposed any alternative to the Utilities’ proposed modified savings goals over the Plan 2 Period. Therefore, the Utilities’ proposed modified savings goals should be approved.

2. Plan 2 Portfolio/Plans

As described in the Utilities’ Plan 2 energy efficiency portfolio, Plan 2 was designed with several goals, including (1) achieving a cost-effectiveness at the portfolio level so that the entire portfolio would have a total resource cost (“TRC”) greater than 1.0, as required by Section 8-104, (2) providing an ability to adapt to market and technological opportunities, and (3) providing a cost-effective mix of energy efficiency program options, while balancing the Rate Impact Cap with attempting to achieve substantial, if modified, therm savings goals. NS-PGL Ex. 1.2R at 5. Broadly, Plan 2 contains five program areas with subparts:

- Residential Programs
- Multifamily Programs
- Residential Outreach and Education Programs

- Business Programs – Existing Facilities
- Small Business Efficiency Programs.

Id. at 6-7.

Notably, the AG and CUB/City devote significant attention to suggestions for what they believe would be programmatic improvements and additional measures that may, if ordered by the Commission, alter the modified savings goals of the Utilities in a compliance filing.⁴ AG Init. Br. at 8-28; CUB/City Init. Br. at 2-8, 19-20. If the Commission adopts the arguments of the AG or CUB/City for particular programs, the Utilities may be required to adjust the modified savings goals, either increasing the amount of savings or decreasing the amount of savings depending on the extent and scope of those changes. The Utilities’ compliance filings would address these yet-to-be quantified adjustments.

- a. The AG’s argument that the Utilities have failed to work with ComEd should be rejected and the Commission should approve the Utilities’ Plan 2 as filed.**

Commonwealth Edison Company (“ComEd”) is the electric utility providing service for customers in the Utilities’ natural gas service territory. During the course of the Plan Period 1 (Program Years 1, 2 and 3 for the Utilities), ComEd and the Utilities have explored and developed a number of joint programs. For Plan Period 2 (Program Years 4, 5 and 6) and as a fundamental part of the Utilities’ Plan 2 energy efficiency portfolio (NS-PGL Ex. 1.2R), the Utilities continue to expect to jointly implement programs with ComEd. As identified in NS-PGL Ex. 1.2R, the Utilities and ComEd have planned to implement the following plans jointly:

Residential Programs

- Home Energy Jumpstart – a direct installation program of measures such as programmable thermostats, pipe insulation, aerators and showerheads that includes a home energy audit

⁴ Discussion of the individual issues related to program and measures is in Section II.A.2. of the Utilities’ Initial Brief.

- Home Energy Rebates – a program under which joint rebates are offered when a customer replaces his condensing furnace and central air conditioner as a package

Multifamily Programs

- Assessment and Direct Installation – a direct installation program of measures such as programmable thermostats, pipe insulation, aerators and showerheads that includes a home energy audit

Residential Outreach and Education Programs

- Targeted Outreach and Education – a program under which the Utilities and ComEd jointly conduct energy efficiency education program in schools

Business Programs

- Customer Incentive RCx – a program under which ComEd and the Utilities jointly fund efficiency programs

Small Business Programs

- For PY 4, the Utilities and ComEd will conduct a joint program.

In much of its testimony and Initial Brief, the AG asserts that the Commission should order or otherwise require the Utilities to merge, consolidate, or otherwise jointly implement their programs with ComEd.⁵ AG Init. Br. at 8-28. As appealing as the concept of joint energy efficiency programs are, the proposition that any barrier to implementing joint programs could be resolved by simply ordering the Utilities (*id.* at 18) to adopt such a joint program is unrealistic. Even if the Commission had the authority to impose such a mandate in this case, the reality is that the other party (*i.e.*, ComEd) has to desire to enter into a joint program. Moreover, the lack of a comparable mandate in the ComEd case (*i.e.*, a requirement that ComEd work with the Utilities) makes the proposal further infeasible. The current lack of a joint program may be due to budget constraints that prevent integration of aspects of customer information systems or other processes (Marks Dir., NS-PGL Ex. 1.0R, 11:237-243), may be due to the lack of opportunities in the market to work jointly, or may simply be due to the fact that the parties may have a different outlook on a wide variety of aspects of implementing and running a particular energy

⁵ Discussion of the individual issues related to program and measures is in Section II.A.2 of the Utilities' Initial Brief.

efficiency program effort. That is not to say that the Utilities and ComEd have not worked collaboratively over the last three years or will not continue to seek to work collaboratively over Plan Period 2. The Utilities expect that they and ComEd will continue to work together and explore program opportunities over Plan Period 2 as markets and technology develops. But, any mandate to conduct a joint program, as suggested by the AG, should be rejected by the Commission.

b. The CUB/City proposal for individual customer class Rate Impact Caps should be rejected.

CUB/City contend that the Utilities did not provide adequate programs for the residential customer segment. CUB/City Init. Br. at 9. To rectify this alleged “lack” of resources devoted to energy efficiency programs in Plan 2, CUB/City propose that the Commission embark on a questionable interpretation of Section 8-104(d) of the Act. CUB/City argue for a 2% spending “screen” for the Rate Impact Cap applied separately to the residential and multifamily sectors. *Id.* The CUB/City proposal for a 2% spending screen for a particular customer class or customer group should be rejected, as it is not supported by the record or the law.

CUB/City’s argument is problematic. First, as indicated above, the Utilities’ experiences during Plan 1 along with the results of the Potential Study indicate that there are not as many natural gas savings opportunities for residential programs. NS-PGL Init. Br. at 12. In addition, TRCs for many of the individual programs for residential customers are low relative to C&I customers. *Id.* While the Utilities have not performed an analysis of potential savings if each customer group was segmented into its own screen of a 2% Rate Impact Cap, all other things being equal, one would expect the logical result is that with fewer opportunities and relatively lower TRCs – as previously discussed in the Utilities’ Initial Brief (*Id.* at 12-14) and in the Utilities’ testimony – the modified savings goals would decrease.

Second, the CUB/City proposal is contrary to the Act. Section 8-104(d) provides:

...a natural gas utility shall limit the amount necessary to limit the estimated average increase in the amounts paid by retail customers in connection with natural gas service to no more than 2% in the applicable 3-year reporting period. (220 ILCS 5/8-104(d))

The language of the statute does not associate Rate Impact Caps with particular customer or rate classes. The language of Section 8-104(d) indicates a limit of 2% for the average increase in charges due to the energy efficiency programs in a three-year reporting period, for retail customers. Notably, in the Commission's Plan 2 orders for the Ameren and ComEd, and Plan 1 orders for Nicor Gas and the Utilities (ICC Docket Nos. 10-0568, 10-0570 and 10-0562 and 10-0564, respectively), the Commission did not adopt a 2% Rate Impact Cap by customer class, as proposed by CUB/City. For the Utilities in their Plan 1, spending was relatively more weighted towards C&I customers. Marks Sur., NS-PGL Ex. 5.0, 8:177-179; ICC Docket No. 10-0564, June 22, 2011 Compliance Filing, Appendix A at 9-11. Further, in the recent Ameren and ComEd Plan energy efficiency dockets (for those companies' Plan 3 dockets (ICC Docket Nos. 13-0498 and 13-0495, respectively)), the Commission did not order that the Rate Impact Cap be specifically applied or screened by rate class or customer class. ICC Docket No. 13-0495, Order 1/28/14 at 139-140; ICC Docket No. 13-0498, Order 1/28/14 at 175-176.

Notably, in the Utilities' Plan 1 Order (ICC Docket No. 10-0564), the Commission ruled the following:

The Commission notes that the Legislature used similar, but not identical terms in which Section 8-104(c) refers to the "total amount of gas delivered to retail customers," and Section 8-104(d) refers to "amounts paid by retail customers in connection with natural gas service."

ICC Docket No. 10-0564, Order 5/24/11 at 41. The Commission's previous interpretation of Section 8-104 of the Act implies that neither savings goals are determined by particular customer class or rate class nor are the spending caps determined by particular customer class or rate class.

Sections 8-104(c) and 8-104(d) apply to savings and spending for all retail customers. If the legislature had intended to bifurcate savings goals and spending goals by particular sub-class of utility customers (such as the legislature did with savings and spending attributable to DCEO)⁶, the statute would have been worded differently. Also illustrative of this reading of Section 8-104 is that the savings goal and the Rate Impact Cap apply to all retail customers, not just particular screens of customer classes, is Section 8-104(i). 220 ILCS 5/8-104(i). Section 8-104(i) assigns penalties to a gas utility for failing to meet the entire statutory savings under Section 8-104(c), as modified under Section 8-104(d). The treatment of the penalty for failure to meet the savings goals applies to the total savings goal. The focus of the Act, as further reinforced and explained by Section 8-104(i), implies that the Rate Impact Cap and the goals are considered, as a group, to apply to all retail customers. Therefore, the Commission should reject the CUB/City proposal that a 2% spending “screen” for the Rate Impact Cap be applied to each customer class, as it is not supported by the record or the law.

c. The Commission should reject ELPC’s recommendation for Staff to convene an alternative financing workshop.

ELPC proposes that the Commission order the Staff to conduct a workshop regarding “alternative financial incentives.” Additionally (or perhaps as part of the Staff workshop recommendation), ELPC recommends that the Commission direct the Utilities and Stakeholder Advisory Group (“SAG”) to review and prepare recommendations concerning “alternatives to promote acquisition of energy efficiency resources.” ELPC Init. Br. at 16-18. Neither proposal is fully defined (if indeed they are separate proposals), nor does ELPC explain the practical implications of the Commission ordering only two of the utilities implementing energy

⁶ Section 8-104(e) of the Act provides that 25% of the funding for the overall energy efficiency program and 20% of the savings for the overall energy efficiency program in the Utilities’ service territories come from DCEO. In particular, DCEO is directed to dedicate its portfolio to customer classes, including the range of local governments, school districts, community college districts and low income customers.

efficiency programs to participate in what seems to be statewide initiatives, namely a Staff-led workshop process and the SAG. First, under ELPC's proposal, would Staff simply conduct this workshop through SAG, but only instructing the Utilities to "review and prepare recommendations?" *Id.* at 18. SAG is a body that includes all of the stakeholders across the state, including the different utility companies. Under ELPC's proposal, would the Utilities somehow be the only party making recommendations?

Further, in its Order in this proceeding, the Commission can direct the Utilities to participate at the SAG, and could order the Utilities to participate in this ill-defined alternative financing incentives workshop. However, how can ELPC suggest that the Commission should order the SAG (which includes as its participants the other Illinois utility companies) itself to conduct said workshops in this instant proceeding? There is a better alternative than a Commission order directing Staff and Utilities to conduct a workshop where SAG participation is compelled. Instead, ELPC can simply advance this as a topic for discussion at the SAG.

The Commission should reject ELPC's argument.

d. ELPC proposal for additional studies as to wasted energy should be rejected by the Commission.

ELPC contends that that Utilities' Plan 2 portfolio fails to recognize wasted energy and that the Utilities should undertake a study for potential wasted energy. ELPC Init. Br. at 6-8. The ELPC's wasted energy study proposal should be rejected for several reasons. First and foremost, the Utilities have already invested in a Potential Study that served as a basis of their Plan 2 (NS-PGL Ex. 1.2R) and includes the behavior change programs that address wasted energy issues. Marks Reb., NS-PGL Ex. 3.0, 28:619-624. A further study would likely be, at least in part, duplicative of research already performed and would be a waste of the limited budget under the Rate Impact Cap. NS-PGL Init. Br. at 14-15. Second, the Utilities have

implemented a Home Energy Reports program in their Plan 1, PY 3 and propose to continue the Home Energy Reports program in their Plan 2. The Home Energy Reports program, in part, targets wasted energy behaviors and provides an informational tool to encourage customers to adopt longer-lived energy efficiency measures. *Id.* Therefore, the ELPC proposed study should be rejected as it is duplicative of an existing study and portfolio program.

e. Residential Programs

- i. If ordered by the Commission, the Utilities would, as a part of its Compliance Filing, include air sealing measures as part of its residential and multi-family programs.**

CUB/City (CUB/City Init. Br. at 3-8, 21), the AG (AG Init. Br. at 11-14), and ELPC (ELPC Init. Br. at 9-12) all argue that as part of the Utilities' Plan 2 portfolio, the Commission should order the Utilities to adopt air sealing measures as part of its residential and multi-family programs. If ordered by the Commission, the Utilities will include air sealing measures as part of their residential and multi-family energy efficiency programs, with or without radon testing as directed by the Commission, for Plan 2. NS-PGL Init. Br. at 15-16.

If the air sealing measure is required by the Commission, the Utilities will discuss with ComEd the inclusion of air sealing measures as part of the existing joint residential and multi-family programs. The Utilities believe that such a joint program would be acceptable to ComEd, but caution that if ComEd does not agree to such a joint program that included air sealing, the Utilities will be prevented from offering a joint program for residential or multi-family customers.

The Utilities disagree with CUB/City that if the Commission directs the Utilities to adopt the air sealing measures, a compliance filing would need to be filed in accordance with other gas utilities' programs. CUB/City Init. Br. at 8. However, the Utilities believe that the more

appropriate compliance filing would be in light of the Commission's Order in Docket 10-0564, which approved the Utilities' Plan 1. ICC Docket No. 10-0564, Order 5/24/11 at 41, 116 (first and second ordering paragraphs). Further, the Utilities have not adjusted their Plan 2 portfolio to include air sealing measures for residential and multi-family dwellings. Therefore, the Utilities are unsure if the inclusion of this measure will increase, decrease or leave the proposed modified savings goals unchanged. As such, the Commission should reject the CUB/City conclusion that the modified savings goals shall increase as a result of the inclusion of air sealing as part of a residential and multi-family program. CUB/City Init. Br. at 8. Instead, the Commission should, if the Utilities are directed to include air sealing measures as part of the Plan 2 portfolio, direct the Utilities to submit modified savings goals as appropriate for the inclusion of air sealing measures for residential and multi-family programs.

ii. The Commission should reject the AG's recommendation that Home Energy Reports should be removed as a program in the Utilities' Plan 2.

The Commission should reject the AG's unfounded assertion that the Home Energy Reports should not be included as part of the Utilities' Plan 2 portfolio. AG Init. Br. at 9-10, 24. As agreed by the Utilities, as part of their Compliance Filing, for measures with a TRC of less than 1.0, the Utilities will indicate the compelling reasons for Home Energy Reports. NS-PGL Init. Br. at 16-18. The Utilities have already identified the compelling reasons for this measure, including: the multiple customer contacts to raise energy efficiency awareness, the use of the Home Energy Reports when customers are most focused on their gas bills (fall and winter), the marketing of long-lived energy efficiency measures (i.e., the Home Rebate Program), and the marketing of the Home Direct Install Program to provide customers energy audits and to allow the utility to install long-lived energy efficiency measures. *Id.* Also, the Home Energy Reports drive deeper relationships with the Utilities' energy efficiency vendors, contrary to the AG's

assertions. AG Init. Br. at 17-18. By creating further interest and contacts with customers and greater customer program awareness, other vendors for the energy efficiency measures benefit as customers seek those vendors out for adoption of longer lived measures. Further, the Utilities note, the actual performance, in terms of their TRC is unknown at this time, as the evaluation for the Home Energy Report program will not be conducted until later in 2014.

NS-PGL Init. Br. at 18. The Utilities note that in the most recent Commission orders for the energy plans for ComEd and Ameren, both of those companies have Home Energy Report programs (ICC Docket Nos. 13-0495 and 13-0498, respectively). Even though ComEd is a single “fuel” utility, its use of Home Energy Reports is part of its portfolio of energy efficiency measures for the next three year period. Marks Sur., NS-PGL Ex 5.0, 12:244-246

The AG indicates that the Home Energy Reports program should be discontinued unless the Utilities are able to offer the Home Energy Reports program with ComEd. AG Init. Br. at 18. As discussed earlier in this brief, a joint program can only be implemented if the two parties, the Utilities and ComEd, want to operate jointly. In the case of Home Energy Reports, ComEd previously declined to have a joint program. NS-PGL Init. Br. at 17.

The Utilities question why the Home Energy Reports, newly implemented in PY 3 and being evaluated by the independent evaluator, would be rejected based on preliminary TRC estimates that should be available at the end of 2014 or early in 2015. Further, why would a valuable marketing channel that encourages behavior change, the adoption of long-lived energy efficiency measures, and that generally promotes the Utilities’ energy efficiency program to approximately 60% of North Shore’s residential customers and 20% of Peoples Gas’ residential customers that use the most natural gas not be a “compelling reason”, as the AG argues (Mosenthal Reb., AG Ex 2.0, 29:6-24), for continuing the Home Energy Reports? Marks Sur.,

NS-PGL Ex 5.0, 12:271-13: 277. AG witness Philip Mosenthal does acknowledge that there is a correlation between the highest users of energy among similar customers and opportunities for further energy efficiency measures. Mosenthal, Tr. 2/18/14, 33:1-5. Further, Mr. Mosenthal indicates that the value of a Home Energy Reports program is enhanced when longer-lived energy efficiency measures are promoted in said Home Energy Reports. *Id.*, 33:6-11. Indeed, ELPC witness Geoffrey Crandall recommends and describes the benefits of pairing Home Energy Reports with marketing the Utilities' energy efficiency measures, particularly long-lived energy savings measures. Crandall Dir., ELPC Ex. 1.0, 14:297-302. Further, in their Plan 2 Home Energy Reports program and in their current Plan 1 Home Energy Reports program, the Utilities have implemented many of Mr. Crandall's recommendations. *Id.*, 13:292-294, 14:297-309.

Although the estimated TRC for the measure is less than 1.0, the Commission should approve the Home Energy Reports measure and reject the AG's recommendation. First, a full evaluation of the Home Energy Reports program has yet to be completed by the independent evaluator. Second, other Commission orders have identified Home Energy Reports as a valuable part of other utilities' portfolios of energy efficiency measures and it would be unfair to not allow the Utilities access to this particular measure. Third and most importantly, the use of Home Energy Reports, where those reports not only identify higher customer usage to the customer, but also promote longer-lived energy efficiency measures and create greater energy efficiency program awareness, create value to residential customers. As such, there is a "compelling reason" to include the Home Energy Reports program in Plan 2.

iii. ELPC’s recommendations as to the Home Energy Reports have already been adopted as part of the Utilities’ current Home Energy Reports and will continue in Plan 2.

The Utilities agree with ELPC’s recommendations that the Home Energy Reports Program should be tied to prescriptive rebates and other measures that encourage long and lasting energy savings. Marks Sur. Ex. 5.0, 10:215-11-229. Indeed, rebates for the Utilities’ Home Energy Rebates program are already part of their Home Energy Reports in PY 3. *Id.* The Utilities believe that inclusion of information regarding their other residential programs that introduce long-lived energy efficiency measures is a compelling reason for having the Home Energy Reports as part of its Plan 2. NS-PGL Init. Br. at 18-19.

iv. Home Energy Jump Start Program and One-Stop Shopping

The AG argues that “it appears” that the Utilities’ Home Energy Jump Start Program does not provide a “one-stop shop.” AG Init. Br. at 10. The AG then indicates that the Home Energy Jump Start program would be improved through having the technician that performs the weatherization activities under the Home Energy Jump Start program also facilitate scheduling and installation of rebate measures. *Id.* at 11. The Utilities object to the characterization of the Home Energy Jump Start Program as “disjointed.” *Id.* The Utilities’ program does include a “one-stop shop”, as demonstrated by: (1) the technician identifying areas where the home’s energy efficiency can be improved, (2) providing the customer with the costs and rebates available, including the availability of the On-Bill Financing Program, and (3) incorporating trade allies into the process to provide the link between customer and installers of high-efficiency, rebate-eligible equipment. NS-PGL Ex. 1.2R at 33-35. Further, as part of their Plan 2, the Utilities have indicated that they are considering elements of other utility programs for

adoption. *Id.* at 34. Further, the Utilities are implementing the Home Energy Jump Start Program with ComEd. *Id.* at 33.

- v. **If ordered by the Commission, the Utilities would, as a part of its Compliance Filing, include air sealing measures as part of its multi-family programs.**

As indicated previously, if the Commission orders the Utilities to adopt air sealing measures for their multi-family program, the Utilities would include the measure as part of its multi-family program (*see* Section III.2.e.i of this Reply Brief).

f. C&I Programs

- i. **The Utilities agree with the AG that programmable thermostats along with pipe insulation and boiler controls should be part of its Plan 2's Small Business Direct Installation Program.**

The Utilities are not opposed to expanding the Small Business Direct Program to include programmable thermostats along with pipe insulation and boiler reset controls, as applicable to the particular customer's needs as part of its Small Business Direct Program. AG Init. Br. at 22.

- ii. **Expansion of Existing Facilities Program to New Construction Projects.**

The AG proposes that new construction projects should also be included in the Utilities' Business-Existing Facilities program and Small Business Efficiency Program. AG Init. Br. at 18.

The Utilities agree that their Business and Small Business Program offerings, in coordination with ComEd when possible, should be offered to new business customers, as long as those offerings occur early in the customer's planning of its new construction. NS-PGL Init. Br. at 22. The Utilities will inquire if ComEd would wish to jointly implement such a program.

iii. Business Existing Facilities Program

The Utilities and the AG are in agreement that the Utilities will offer a retro-fit program that includes elements of Direct Installation, Engineering Assistance, Standard Incentives, Customer Incentives, and Gas Optimization Measures. AG Init. Br. at 21.

g. OBF and Compliance Filing

In response to the AG's concerns as to detail regarding the Utilities' On-Bill Financing Program (AG Init. Br. at 28-29), the Utilities agree to submit in their Compliance Filing additional detail regarding how the On-Bill Financing Program ("OBF") is integrated into the Plan 2 portfolio. The Utilities' agree that OBF can be used as a marketing tool for customer adoption of energy efficiency measures and to the Utilities' residential and, with the revision to Section 19-140 of the Act, multi-family dwellings and possibly small commercial customers.

h. Cost-Effectiveness and the Plan 2 Portfolio

The Utilities acknowledge that certain of their measures indicate a TRC of less than 1.0. Marks Reb., NS-PGL Ex 3.0, 18:401-19:404. Staff, AG, and the Utilities agree that a compelling reason should be present for implementing measures with a TRC less than 1.0.⁷ NS-PGL Init. Br. at 23. Compelling reasons include: (1) creating opportunities for customers to adopt other cost-effective measure installations, (2) encouragement of trade ally practices, behavior and to maintain relationships, (3) preservation of program momentum, (4) equitable reasons, (5) anticipation of the measure becoming cost effective, and/or (6) will spur market transformation and encourage great volumes of sales. *Id.* As part of their compliance filing, the Utilities will identify measures that may not be cost-effective, yet have a compelling reason to continue in Plan 2. *Id.* at 24.

⁷ However, the mere fact that a measure has a TRC less than 1.0 does not disqualify it from the portfolio. The law recognizes this by establishing a cost-effective TRC requirement at the portfolio, not the measure, level.

However, the Utilities reject the unsupported statement that the Utilities rely on the bulk of their savings from measures that are not cost-effective. AG Init. Br. at 27. From a common sense approach, if the majority or bulk of measures are not cost-effective, how can the AG state that that the “overall cost per unit of savings from these programs seems reasonable”? Mosenthal Dir. at AG Ex 1.0 8:138-139. Further, if the bulk of the savings for the Utilities’ programs are not cost-effective, how can the portfolio TRCs be 2.16 for North Shore and 1.81 for Peoples Gas? Marks Dir., NS-PGL Ex.1.0, 19:414-417. A simple examination of the Plan 2 document shows that for the overall residential, multi-family, business and small business programs, the TRCs are greater than 1.0. NS-PGL Ex. 1.2R at 39, 47, 51, 59, and 66. In fact, those programs show a range of TRCs from 1.01 to 4.39. *Id.* While there may be particular measures within the individual programs that are not cost-effective, the AG grossly mischaracterizes the Utilities’ Plan 2 when it indicates that the majority of the savings are from measures that are not cost-effective.

3. Key Assumptions

a. Portfolio Flexibility

The Utilities have requested in Plan 2 flexibility to prudently respond to changes in programs and markets. NS-PGL Ex. 1.2R, Section 3.4. The flexibility requested is consistent with the Utilities’ Plan 1. Marks, Tr. 2/18/14, 17:7-21, 18:23-19:2. Neither Staff nor intervenors have raised any instance of the Utilities not prudently exercising program flexibility granted under Plan 1. The Utilities believe that no changes to Plan 2 regarding portfolio flexibility are required. Marks Reb., NS-PGL Ex. 3.0, 19:422-424. However, Staff and AG, as supported by CUB/City, all recommend limitations to program flexibility. Staff Init. Br. at 11-14; AG Init. Br. at 30-36; CUB/City Init. Br. at 13-19. If the Commission determines that limitations are appropriate, Staff’s recommendations should be approved. Staff’s recommendations have

already been approved by the Commission in its Order approving ComEd's Third Triennial Plan for energy efficiency⁸, ICC Docket No. 13-0495. ICC Docket No. 13-0495, Order 1/28/14 at 56. The Utilities addressed many of the AG and CUB/City arguments in their Initial Brief (at 24-26) and will not repeat them here. However, the Utilities will address certain statements made in the intervenors' Initial Briefs.

The AG and CUB/City argue that the Utilities' proposal would allow for "unfettered flexibility," allowing the Utilities to invest heavily in the cheapest programs instead of more costly programs with more significant savings; in other words, to "game the system." AG Init. Br. at 30-31; CUB/City Init. Br. at 13. This argument is based on a faulty premise, namely that the Utilities can make changes to the portfolio at any time without oversight. The Utilities' proposal, which reflects the portfolio flexibility provided in Plan 1, provides the Utilities with enough flexibility to manage the portfolio, while providing sufficient oversight if major modifications are required. Marks Reb., NS-PGL Ex. 3.0, 19:412-415. Furthermore, even if the Utilities were to shift funds to less expensive plans as the AG and CUB/City claim (AG Init. Br. at 32-33; CUB/City Init. Br. at 13), there are no guarantees that the modified goals will be met. Marks, Tr. 2/18/14, 18:14-19. For the scenario that the AG and CUB/City describe, there would also need to be an increase in participation. *Id.* Staff agrees. Hinman, Tr. 2/18/14, 40:23-41:2. Additionally, under Plan 1, the Utilities notified Staff in advance of making changes. Hinman, Tr. 2/18/14, 49:5-8. The Utilities have indicated there would be no change from Plan 1. There is no evidence that Utilities have not acted prudently exercising program flexibility granted under Plan 1. Finally, the Commission has recently rejected the AG and CUB/City arguments in

⁸ Note that in their Initial Brief, the Utilities inadvertently referred to the ComEd Plan in ICC Docket No. 13-0495 as the Second Triennial Plan.

approving ComEd's Third Triennial Plan and it should do so here as well. *See* ICC Docket No. 13-0495, Order 1/28/14 at 56.

However, if the Commission determines that additional reporting is required, Staff's recommendations should be approved. *See* Hinman Dir., Staff Ex. 1.0, 18:392-19:428. AG and CUB/City argue that Staff's recommendations are too complex or not transparent (AG Init. Br. at 36) or are not in the best interest of ratepayers (CUB/City Init. Br. at 18). However, these arguments are without merit. Staff's additional reporting requirements provide for oversight, including memorializing the existing reporting, and allows for appropriate portfolio flexibility. Marks, Reb., NS-PGL Ex. 3.0, 19:419-422; Hinman, Tr. 2/18/14, 49:4-11. Furthermore, the Commission has adopted these very same recommendations in its Order approving ComEd's Third Triennial Plan. *See* ICC Docket No. 13-0495, Order 1/28/14 at 56.

Therefore, for all the foregoing reasons and the reasons stated in the Utilities' Initial Brief (at 24-26), the Commission should approve the Utilities' proposed portfolio flexibility. Alternatively, the Commission should approve portfolio flexibility with the recommendations set forth in Staff's Initial Brief (at 11-14).

b. Adjustable Savings Goal

The Utilities are proposing that at the beginning of a program year, if needed, savings goals be increased or decreased based upon NTG ratios and realization rates that are subject to change on a prospective basis due to ongoing evaluation of the programs, updating the Illinois Statewide Technical Reference Manual ("TRM" or "IL-TRM"), or in accordance with the Illinois NTG Framework. Marks Dir., NS-PGL Ex. 1.0R, 25:536-545; NS-PGL Ex. 1.2R at 27-28. Staff agrees with the Utilities' proposal, subject to the approval of certain conditions to which the Utilities agree. Hinman Dir., Staff Ex. 1.0, 25:574-29:682; Marks Reb., NS-PGL Ex. 3.0, 23:509-514. The AG, CUB/City, and ELPC object to the adjustable savings goal proposal,

and raise many of the same arguments that the Utilities addressed in their Initial Brief (at 27-30). The Utilities will not repeat those arguments here. However the Utilities will respond to certain statements made in these briefs.

ELPC and AG both argue, for different reasons, that the Utilities' adjustable savings goal is not permissible under Section 8-104 of the Act. ELPC Init. Br. at 4-5; AG Init. Br. at 45. Both arguments are without merit and should be rejected. ELPC argues that Section 8-104 "clearly set savings targets and established penalties for failing to meet those targets." ELPC Init. Br. at 5. However, the ELPC does not address Section 8-104(d) which provides in part,

The energy savings requirements in subsection (c) of this Section may be reduced by the Commission for the subject plan, if the utility demonstrates by substantial evidence that it is highly unlikely that the requirements could be achieved without exceeding the applicable spending limits in any 3-year reporting period.

220 ILCS 5/8-104(d). Thus, the legislature clearly contemplated the circumstances where the goals set forth in Section 8-104(c) of the Act could not be met and authorized the Commission to allow adjustments. The ELPC's interpretation of legislative intent and the Section 8-104 is in error.

The AG acknowledges the existence of Section 8-104(d) but claims that "no reference is included in this subsection of the Act to account for changes in the NTG and TRM values." AG Init. Br. at 45. However, the AG's interpretation of Section 8-104(d) also fails. A court or agency must ascribe to words used in an unambiguous statute their ordinary and commonly accepted meaning, and is not at liberty to restrict or enlarge that plain meaning. *Henrich v. Libertyville High School*, 186 Ill. 2d 381, 391 (1998). It may not read into the language exceptions, limitations, or conditions not expressed by the legislature. *Lawrence v. Regent Realty Group*, 197 Ill. 2d 1, 10-12 (2001). That is especially true where the "interpretation" would have the effect of altering an express choice the General Assembly made in the language

it did enact. *Austin Bank of Chicago v. Village of Barrington Hills*, 396 Ill. App. 3d 1, 9 (1st Dist. 2009), *In Re citing Detention of Lieberman*, 201 Ill. 2d 300, 312 (2002). Here, the Legislature left it to the Commission's discretion as to when the savings requirements in Sections 8-104(c) should be reduced. The discretion was unqualified. Thus, the AG is improperly reading limitations into the statute regarding the Commission's discretion. As such, the AG's interpretation should be rejected.

CUB/City argue it would be poor policy to approve the adjustable savings goal, as it "would remove the Companies' incentive to modify programs and practices to maximize the benefits that ratepayers receive by making the Companies indifferent to actual performance and tying their risk of penalty to the TRM and NTG process instead." CUB/City Init. Br. at 11. In supporting its argument that the Utilities are taking a "set-it-and-forget" approach, the AG claims that the IL-TRM is a "living document" that necessitates updating, but that utilities should have to manage their portfolios based on older TRM values. AG Init. Br. at 46. However, there is no evidence that the Utilities have abused their discretion in administering programs or that the Utilities are not committed to energy efficiency programs. Marks Reb., NS-PGL Ex. 3.0, 21:450-452; 23:501-507. CUB/City even acknowledges that the Utilities have worked with other stakeholders to incorporate the best data available in order to make their savings forecasts as accurate as possible. Devens Reb., CUB/City Ex. 3.0, 26: 604-27:608. Even with the incorporation of the best data available, the results can be unfair. Marks Dir., NS-PGL Ex. 1.0R, 24:542-545. Staff agrees. Hinman Dir., Staff Ex. 1.0, 25:574-29:682. Thus, the Utilities can be acting prudently and reasonably, but because values in IL-TRM, a "living document," are updated after their Plan is approved, they can meet participation levels in their Plan – a "stagnant document" – and still not reach their goals. Marks Dir., NS-PGL Ex. 1.0R, 24:542-545. Staff

acknowledges that “[i]t would be unfair to punish the Companies for using the Commission approved IL-TRM in the Plan filings by adjusting IL-TRM values during the course of the Plan, with no possibility of adjusting savings goals.” Hinman Dir., Staff Ex. 1.0, 27:608-614. Notably, the Utilities’ proposal is symmetrical – the savings goals may increase or decrease.

The Utilities note that the Commission has already approved an adjustable savings goal mechanism in the Ameren energy efficiency proceeding. See ICC Docket No. 13-0498, Order 1/28/14 at 152-153. In approving adjustable savings goal for Ameren, the Commission acknowledged:

The Commission notes that the TRM and NTG values upon which adjustments to savings goals would be made are not set by Ameren, but rather are values that were either provided by independent evaluators and the SAG/TAC, agreed-to by the parties or derived from a Commission approved process. The Commission also notes that no evidence has been presented that Ameren is not committed to energy efficiency or integrity in administering its plan portfolios, although some parties suggest that Ameren might try harder.

Id. at 152. Similarly, the TRM and NTG values are not set by the Utilities, “but rather are values that were either provided by independent evaluators and the SAG/TAC, agreed-to by the parties or derived from a Commission approved process.” See also Marks Reb., NS-PGL Ex. 3.0, 23:516-24:520. Further, there is no evidence that the Utilities have engaged in such behavior. *Id.*, 21:450-452.

Therefore, for the foregoing reasons and the reasons set forth in the Utilities’ Initial Brief (at 27-30), the Commission should approve the Utilities’ adjustable savings goal subject to the recommendations made by Staff.

c. Net-to-Gross Framework

The Utilities and the AG support the NTG Framework that the Commission adopted in its Order in Ameren's Third Triennial Plan for energy efficiency in ICC Docket No. 13-0498.⁹¹⁰ NS-PGL Init. Br. at 30-32; AG Init. Br. at 36-41. The Commission should reject Staff's alternative proposal, which attempts to provide a single statewide framework (Staff Init. Br. at 19-23), because such a discussion would be more fitting for SAG or in the context of a rulemaking in order to ensure uniformity. Marks Reb., NS-PGL Ex. 3.0, 25:548-552. Staff recommends that if the Utilities' NTG framework is approved, additional reporting standards should also be approved. Hinman Reb., Staff Ex. 3.0, 7:132-8: 164. The Utilities agree with Staff's recommendations, except for the retroactive application of NTG values for failure to file by April 1 of each year. NS-PGL Init. Br. at 31; Marks Sur., NS-PGL Ex. 5.0, 6:113-119.

Thus, the Commission should approve the Utilities' proposed NTG Framework that is consistent with the NTG Framework approved in ICC Docket No. 13-0498, and Staff's related reporting requirements with the exception of the retroactive application of NTG values for failure to file by April 1 of each year.

d. Net-To-Gross Ratios

i. NTG Ratio Values for Program Year 4

The Utilities agree with Staff's proposal that the Utilities should work with the SAG to reach consensus on NTG ratio values to deem for PY 4 and to include such NTG ratio values for Program Year 4 in the remodeling of the Utilities' portfolio for their revised plan to be filing their compliance filing in this proceeding. Staff Init. Br. at 24; NS-PGL Init. Br. at 32. However, the Utilities note that given that the compliance filing will be made after a

⁹ ELPC appears to support the AG proposal. ELPC Init. Br. 14-16.

¹⁰ Note in their Initial Brief, the Utilities inadvertently referred to the Ameren Plan in ICC Docket No. 13-0498 as the Second Triennial Plan.

Commission vote sometime in April or May of 2014, “deemed” NTG value for PY4 may not be available. NS-PGL Init. Br. at 32.

ii. The Adjustment Factors That Comprise the NTG Ratio Should Consider Free Riders and Spillover

Staff, the AG and ELPC all object to the Utilities’ original proposal to include free riders and spillover in the adjustment factors for the NTG Ratio. Staff Init. Br. at 14-19; AG Init. Br. at 42-43; ELPC Init. Br. at 12-13. However, the Utilities believe that at least consideration of these factors would help ensure that energy savings are measured properly. As such, the Utilities recommend that the Commission adopt in this proceeding its decision regarding free riders and spillover in ComEd’s Third Triennial Plan energy efficiency proceeding, ICC Docket No. 13-0495. In particular, the Commission found:

The Commission finds that excluding spillover from the NTG calculations is likely to unfairly reduce a program administrator’s calculated savings, but because it can be costly to determine spillover, the Commission cannot at this time require that it always be included. *Thus, the Commission directs evaluators to consider spillover while being mindful of any excessive costs to measure spillover in relation to the predicted impacts of such measurements.*

Staff’s proposal to consider a program-wide spillover survey is worthwhile and can be taken to SAG for further development. The survey has the potential to provide a cost-efficient and more accurate measurement for accounting for spillover. The Commission notes that it would benefit all parties to determine the feasibility of such a survey in a timely fashion if the intent is, as Staff suggests, to conduct the first analysis over the course of this Plan 3.

ICC Docket No. 13-0495, Order Order 1/28/14 at 101. (Emphasis added).

e. Statewide Net-To-Gross Methodologies

The Utilities continue to recommend that the Commission reject Staff’s proposal to establish statewide NTG methodologies. Staff Init. Br. at 24-28. The Utilities addressed Staff’s arguments in their Initial Brief (at 33-34) and they will not repeat those arguments here.

4. Reporting

a. Reporting in Compliance Filings and Future Filings

In its Initial Brief (at 10), Staff recommends that the Utilities include IL-TRM measure codes in their future plan filings. The Utilities agree with Staff's recommendation. NS-PGL Init. Br. at 34; Marks Reb., NS-PGL Ex. 3.0 5:89-94. Therefore, the Commission should approve Staff's recommendation. Additionally, should the Commission adopt the Utilities' proposal for an adjustable savings goal, the Utilities will also include the IL-TRM measure codes in a spreadsheet that would be used to adjust the savings goal and file it in this proceeding for transparency purposes. *Id.*

b. Savings Goal Compliance Proceeding

In its Initial Brief (at 9-10), Staff recommends that the Commission order a savings goal compliance proceeding that is initiated by a petition to be filed by the Utilities. The Utilities do not object to this proposal. NS-PGL Init. Br. at 34; Marks Reb., NS-PGL Ex. 3.0 24:530-534. Therefore, the Commission should approve Staff' recommendation.

B. Section 8-104(f)(2)

The Utilities met the requirement set forth in Section 8-104(f)(2). NS-PGL Init. Br. at 35. This is not contested.

C. Section 8-104(f)(3)

The Utilities met the requirement set forth in Section 8-104(f)(3). NS-PGL Init. Br. at 35. This is not contested.

D. Section 8-104(f)(4)

The Utilities met the requirement set forth in Section 8-104(f)(4). NS-PGL Init. Br. at 36. This is not contested.

E. Section 8-104(f)(5)

The Utilities agree with Staff (Staff Init. Br. at 54-6) and AG (AG Init. Br. at 26) to include the electric and gas costs and benefits in their TRC calculations for the programs that are jointly implemented between the Utilities and ComEd. The Utilities shall provide these updates, as possible where electric cost and benefit information is available, for their Plan 2 compliance filing.

F. Section 8-104(f)(6)

Section 8-104(f)(6) is not applicable to the Utilities. NS-PGL Init. Br. at 37. This is not contested.

G. Section 8-104(f)(7)

No changes were proposed to Rider EOA – Energy Efficiency and On-Bill Financing Adjustment, which was approved by the Commission in ICC Docket No. 10-0564. See NS-PGL Init. Br. at 37. No changes to Rider EOA are required.

H. Section 8-104(f)(8)

The Utilities agree to Staff’s proposed language as to the Independent Evaluation Contract and shall include that additional language in their upcoming Plan 2 evaluation contract with its evaluation and measurement (“EM&V”) vendor. Staff Init. Br. at 6-7. The Utilities agree, in the event of a breach of contract by said EM&V vendor, that the issue would be brought to the Staff and then Commission, prior to any termination of contract.

IV. Section 8-104(g) – Definition of “Demonstration of Breakthrough Equipment Devices”

As described by the Staff (Staff Init. Br. at 8-9), the Utilities agree to participate in a SAG workshop on defining the phrase “breakthrough equipment and devices.” The Utilities do not

object to reporting on the progress or workshop process in their quarterly reports and identifying any measures that should be considered “breakthrough equipment of devices.”

V. Other

A. Creation of Illinois Efficiency Policy Manual

The Utilities do not object to Staff’s proposal as to the creation of a consensus statewide Policy Manual limited to evaluation issues. Staff Init. Br. at 28-29.

B. Participation in SAG

The Utilities shall continue to work with the SAG during the Plan 2 period and participate in matters that the Commission directs SAG to consider or that the SAG undertakes in response to stakeholder proposals. AG Init. Br. at 55-56.

VI. CONCLUSION

Therefore, North Shore Gas Company and The Peoples Gas Light and Coke Company, for all reasons set forth above, appearing of record, or reflected in their Initial Brief filed on February 25, 2014, or their draft proposed Administrative Law Judge's Proposed Order to be filed by March 6, 2014, respectfully request that the Commission approve the Utilities' Second Triennial Plan as described above and make conclusions on all uncontested and contested issues consistent with the Utilities' positions taken in testimony and/or stated herein regarding the evidence in the record and the applicable law.

Dated: March 4, 2014

By: 
Counsel for North Shore Gas Company and The
Peoples Gas Light and Coke Company

Carla Scarsella
Rooney Rippie & Ratnaswamy LLP
350 W. Hubbard Street, Suite 600
Chicago, Illinois 60654
(312) 447-2800
carla.scarsella@r3law.com

Mary Klyasheff
Koby A. Bailey
Integrays Energy Group, Inc.
130 E. Randolph Street
Chicago, Illinois 60601
(312) 240-4470
mpklyasheff@integrysgroup.com
kabaily@integrysgroup.com