

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission)	
On Its Own Motion)	
)	
-vs-)	
)	Docket 15-0403
Commonwealth Edison Company,)	
The Peoples Gas Light and Coke Company,)	
North Shore Gas Company,)	
Ameren Illinois Company)	
d/b/a Ameren Illinois, and)	
Northern Illinois Gas Company)	
d/b/a Nicor Gas Company)	
)	
Independent Evaluator's Evaluation Report)	
on the Electric and Gas On-Bill Financing)	
Programs as Required by Section 16-111.7)	
and 19-140 of the Public Utilities Act.)	

BRIEF ON EXCEPTIONS OF AMEREN ILLINOIS COMPANY

I. INTRODUCTION

Ameren Illinois Company d/b/a Ameren Illinois (AIC, Ameren Illinois, or the Company), pursuant to Section 10-111 of the Public Utilities Act (the Act), 220 ILCS 5/10-111, 83 Ill. Admin. Code § 200.830, and the scheduling order approved by the Administrative Law Judge (ALJ), submits this Brief on Exceptions (BOE) to the ALJ's Proposed Order (Proposed Order or ALJPO) concerning the Illinois Commerce Commission's (ICC or Commission) consideration of comments on the "Illinois On-Bill Financing Program Evaluation," dated June 1, 2015, and prepared by The Cadmus Group Inc. (Cadmus Group). Pursuant to 83 Ill. Admin. Code § 200.830, suggested replacement language for the Proposed Order is provided in legislative format below, where appropriate.

Ameren Illinois appreciates the evaluation of the numerous issues contained in the Proposed Order and supports many of the conclusions contained therein. AIC does not take exception to the ALJPO's findings related to the uncontested issues, to the finding that the on-bill financing program (OBF Program) has been successful and should continue, or to the finding that this recommendation should be included in the Commission's report to the Governor and the General Assembly. (ALJPO at 3.) Those findings are well supported and should be left unchanged in the Final Order. For the reasons set forth below, however, AIC takes exception to the ALJPO's findings that the Commission will recommend in its report (1) that the Governor and General Assembly should be provided the opportunity to consider the cost-effectiveness implications of both the TRC test and the UCT; and (2) that the Utilities should be authorized to collect funds through their energy efficiency riders not to exceed 1% of Commission-authorized OBF limits, for the limited purpose of evaluating OBF programs. (ALJPO at 16 and 19.)

With respect to the first point, Ameren Illinois reiterates that there is no need for the Commission's report to the Governor and General Assembly to adopt a particular methodology for determining the cost-effectiveness of the OBF Program. Furthermore, neither of the two methodologies which the ALJPO finds should be provided to the Governor and General Assembly is an appropriate measure of the cost-effectiveness of the OBF Program because the program is provided as a service to customers and not as a benefit to the utility.

With respect to the second point, the ALJPO's finding regarding future evaluations fails to consider that additional program evaluation is not necessary and that the addition of a new third-party evaluation mechanism by way of statutory amendment could very well

result in added inefficiencies and unnecessary costs for customers. Moreover, there is no need for any statutory amendment related to cost recovery because the Public Utilities Act (the Act) expressly provides that the Utilities may recover all prudently incurred costs associated with the OBF Programs, including, but not limited to, the costs for program evaluation.

II. PROCEDURAL/FACTUAL BACKGROUND

On June 24, 2015, the Commission entered an Initiating Order in this docket in accordance with a Staff Report submitted to the Commission on June 5, 2015. The purpose of this proceeding is to consider comments on the “Illinois On-Bill Financing Program Evaluation,” dated June 1, 2015, and prepared by Cadmus Group. The Cadmus Group report (Evaluation Report) evaluates the OBF Program in place at five electric and gas utilities as required by Sections 16-111.7 and 19-140 of the Act.

Respondents in this docket are Commonwealth Edison Company (ComEd), The Peoples Gas Light and Coke Company (Peoples Gas), North Shore Gas Company (North Shore Gas), Ameren Illinois, and Northern Illinois Gas Company d/b/a Nicor Gas Company (Nicor Gas) (collectively, the Utilities). Staff of the Commission (Staff) and the Illinois Attorney General’s Office (AG) appeared in this proceeding. The Citizens Utility Board (CUB) and Elevate Energy also intervened.

Initial comments on the Evaluation Report were filed on October 6, 2015, by Elevate Energy, and on October 15, 2015, by Staff, ComEd, North Shore Gas and Peoples Gas, Ameren Illinois, the AG, and CUB. On December 3, 2015, Reply Comments were filed by Staff, ComEd, Ameren Illinois, Nicor Gas, and CUB.

Pursuant to due notice as required by law and by the rules and regulations of the Commission, status hearings were held in this matter on August 6, 2015, and December 17, 2015, before a duly-authorized Administrative Law Judge (ALJ) at the Commission's offices in Chicago, Illinois. All parties appeared through legal counsel.

On February 19, 2016, the Utilities, Commission Staff and Elevate Energy filed Draft Orders. The record was marked "Heard and Taken" on March 8, 2016. On April 22, 2016 the ALJ issued a Proposed Order. AIC takes the exception to the following aspects of the ALJPO.

III. EXCEPTIONS

A. Exception 1 - Cost-Effectiveness

1. A Recommendation Concerning Cost-Effectiveness Metrics Is Unnecessary and Confusing.

The Act requires the Commission to report to the Governor and General Assembly a summary of information related to the OBF Program. The Evaluation Report recommends that the incremental Utility Cost Test (UCT) be used in the Commission's report to the Governor and the General Assembly to determine cost-effectiveness of OBF Program. The ALJPO adopts Staff's recommendation to provide the Governor and General Assembly with the results of both the incremental UCT and the TRC Test. Ameren Illinois does not agree with this approach. As set forth in AIC's comments and reply comments in this docket, to require use of the UCT and/or TRC tests is a waste of ratepayer funds. Although the parties here have always called it the OBF "program," that is a bit of a misnomer. To be more accurate, this should be referred to as the OBF "service," because the legislature provided for OBF as a benefit to the utility customer, not to the utility.

The Evaluation Report correctly states that the Act requires that “utility portfolio energy-efficiency programs be cost-effective as determined by the statutorily-defined TRC test. However, the OBF Program, which is not considered a part of each utility’s portfolio, is not required to meet this test.” (Evaluation Report at 32.) This point should not be disregarded. The Commission agreed with this conclusion in its Final Order in ICC Docket 11-0689. (See 05/15/2003 Final Order, Commission Docket 11-0689, at 6.) In that Final Order the Commission found that the overly-complicated and extensively detailed cost-effective analysis then proposed by Staff for the OBF program was not necessary. (*Id.*) It noted that “it would be redundant to perform a cost-effectiveness analysis . . . on the OBF programs because the measures that may be installed under the OBF program must satisfy one of two cost-effectiveness tests.” (*Id.*) In other words, it does not make sense to separately ask whether a financing service provided to support the purchase of cost-effective measures is *itself* cost-effective; it is already, necessarily, a means to a cost-effective end. AIC acknowledges that the ALJPO’s current recommendation regarding providing both the TRC and UCT methodology is different from Staff’s proposal in Docket No. 11-0689, but it remains unnecessary and a poor use of ratepayer funds, for the same reasons.

There is adequate support in the record for the Commission’s to reject the ALJPO position and adopt AIC’s proposal to not include a particular cost-effectiveness methodology recommendation in the Commission’s report. ComEd, Ameren Illinois and Nicor Gas all state that there is no need for the Commission’s report to the Governor and General Assembly to adopt a particular methodology for determining the cost-effectiveness of the OBF Program. As indicated in AIC’s reply comments, the OBF

Program is a service to customers and not a benefit to the utility and the OBF Program is not appropriately measured by either of the methodologies discussed in the Evaluation Report - neither the UCT nor TRC test. (Ameren Reply Comments at 6.) Therefore, the Commission's report to the Governor and General Assembly should not include a recommended methodology for assessment of the cost-effectiveness of the OBF Program.

2. Exceptions Language

As indicated, the record would support adoption of AIC's position on this issue. AIC recommends that the Proposed Order be modified to accept its position, and so proposes the following exceptions language:

5. Commission Analysis and Conclusion

The Commission finds that there is value in both of these tests **but in relation to the OBF Program neither test is useful since the OBF Program is a service to customers and not a benefit to the utility. The Commission and** will **not** recommend in its report that the Governor and General Assembly ~~should~~ be provided the opportunity to consider the cost-effectiveness implications of each **either** of these tools of analysis.

B. Exception 2 – Future Evaluations

1. There is No Need to Recommend an Amendment to Allow for Future Evaluations.

The ALJPO states “[t]he Commission agrees with Staff and CUB that the OBF sections of the Illinois statutes should be amended to include opportunities for further evaluation on Commission approval of motions of interested parties.” (ALJPO at 18.) This finding incorporates a misstatement of the record. Although Staff does advocate for amendments to the Illinois statutes to include further evaluation, CUB does not. (see Staff Initial Comments at 7; see also CUB Reply Comments at 5.) In fact CUB's position on this issue is closely aligned with that of the Utilities in that CUB argues that there is no bar to

the Commission ordering additional evaluations if necessary on its own authority to ensure the OBF program is continuing to provide customers a means to purchase cost-effective energy efficiency measures. (220 ILCS 5/16-111.7(a).) (CUB Reply Comments at 5.)

Staff's recommended statutory amendment for additional program evaluation is not necessary and should be rejected. The weight of the evidence in the record indicates that the no statutory amendment is necessary in order for future evaluations to occur. (See, Ameren Reply Comments at 3; CUB Reply Comments at 5.) The Evaluation Report makes utility-focused recommendations and is clearly written to allow the utilities to optimize the OBF Program and customer participation in the program. The Evaluation Report recommendation is that the "utilities should consider offering a pilot program with a limited number of loans offered based on bill payment history." (Evaluation Report, 93.) The Evaluation Report does not include a projection for future third-party evaluations of the recommended pilot program but instead includes a projection for future, utility-led, program optimization, using language such as, "[u]tilities may want to consider limiting the loan size for this pilot, since the underwriting is based on the borrowers [sic] ability to make relatively small payments each month."

On that note, it should be noted that Ameren Illinois has already begun using information and insight gained from its OBF pilot program to make process improvements. (Ameren Reply Comments at 3.) No statutory amendment was required for Ameren Illinois to offer its pilot program and no third party evaluation has been nor will be necessary for Ameren Illinois to analyze the impact of the modified qualification criteria used in the pilot program to monitor repayment for different customer types or to begin to test whether bill pay history is an acceptable risk metric for default. (*Id.*) The Commission

should revise the ALJPO to allow utilities to consider offering such pilot programs using a utility-led approach as anticipated by the Evaluation Report.

AIC's Reply Comments indicate that to require a new, third party evaluation mechanism by way of amendments to the OBF sections of the Illinois statutes could very well result in added inefficiencies and unnecessary costs for utility ratepayers. (Ameren Reply Comments at 3.) This recommendation is not necessary to effectuate the Evaluation Report recommendation for utility offered OBF pilot programs. The Commission should not adopt the ALJPO's recommendation regarding amending the OBF sections of the Illinois statutes to include opportunities for further evaluation.

Additionally, The ALJPO states that the Commission will recommend in its report that the utilities be authorized to collect funds through their energy efficiency riders not to exceed 1% of Commission-authorized OBF limits, for the limited purpose of evaluating OBF programs. (ALJO at 18.) The Commission should not adopt the ALPO's position on this matter. The ALJPO ignores the fact that, even if the Commission decides to recommend an amendment to the OBF statute to provide for additional, future evaluations, there is no need for any further amendment related to cost recovery. Currently, the Act expressly provides that the utilities may recover all prudently incurred costs associated with the OBF programs. (See 220 ILCS 5/16-111.7(f); 220 ILCS 5/19-140(f).) More specifically, under both Sections 16-111.7(f) and 19-140(f), the Utilities shall be entitled to recover "all of the prudently incurred costs" of offering the Commission-approved OBF program, including, but not limited to, "the costs for program evaluation." 220 ILCS 5/16-111.7(f); 220 ILCS 5/19-140(f).

Setting the foregoing aside, the 1% funding cap for evaluations that is recommended by Staff and adopted in the ALJPO is arbitrary. Staff made no attempt in this proceeding to justify or substantiate the 1% recommendation. There has been no evidence introduced into the record indicating that future evaluations if ordered by the Commission would be useful with the 1% spending cap and this is something that Staff should be made to establish prior to the Commission adopting such a perfunctory, arbitrary recommendation. The Act already provides for electric and gas utilities to recover full costs associated with the cost of program evaluation. Therefore, in response to the ALJPO's finding, AIC urges that the Commission need not address recovery of costs associated with any future OBF evaluations in the Commission's report to the Governor and General Assembly.

2. Exceptions Language

As indicated, the record would support adoption of AIC's position on this issue. AIC recommends that the Proposed Order be modified to accept its position, and so proposes the following exceptions language:

4. Commission Analysis and Conclusion

The Commission finds that the ER issued by the Cadmus Group satisfies the requirements of Section 16-111.7 and Section 19-140 of the Act for an independent evaluation of the OBF Program.

Some of the modifications to the OBF Program proposed by Staff and intervenors appear to have the potential to promote energy efficiency and may have benefits for utility customers. Accordingly, as provided for in the Act, the Commission directs Staff to prepare a report to the Governor and the General Assembly recommending continuation of the OBF Program with the modifications noted above.

The Commission agrees with **Ameren Illinois that additional program evaluation is not necessary and the addition of a new third-party evaluation mechanism by way of statutory amendment could very well**

result in added inefficiencies and unnecessary costs for customers. Therefore, Staff and CUB that the OBF sections of the Illinois statutes should not be amended to include opportunities for further evaluation ~~on Commission approval of motions of interested parties.~~ The Commission agrees with Ameren Illinois and Nicor that there is no need for any statutory amendment related to cost recovery. The Act expressly provides that the Utilities may recover all prudently incurred costs associated with the OBF Programs. Therefore, the Commission also declines to ~~will~~ recommend in its report that the utilities be authorized to collect funds through their energy efficiency riders not to exceed 1% of Commission-authorized OBF limits, for the limited purpose of evaluating OBF programs.

C. Exception 3 – Periodic Reports and Analysis.

1. There is No Basis and No Need for a Request Empowering the Commission to Require Periodic Reports and Analyses Concerning OBF Activities.

The ALJPO states that the Commission request in its report to the Governor and the Legislature that the Commission be empowered to require periodic reports and analysis by Utilities and that it retain the authority to initiate regulatory proceedings regarding OBF programs or activities. This finding of the ALJPO is not supported by the record. This is not a recommendation identified in the evaluation report and no party filing verified comments recommended this finding. This request goes for above and beyond what is necessary for the Utilities to provide this valuable service to customers without adding unnecessary administrative cost. Ameren Illinois objects to this request because the Utilities are already subject to extensive evaluation and reporting requirements for their energy efficiency programs and there is no indication that adding more requirements would be good use of ratepayer funds. The ALJPO should be revised to remove this request.

2. Exceptions Language

As indicated, the record would support adoption of AIC's position on this issue. AIC recommends that the Proposed Order be modified to accept its position, and so proposes the following exceptions language:

3. Commission Analysis and Conclusion

The Commission agrees that electric and gas utilities are entitled to recover full costs associated with the cost of program evaluation under Sections 5/16-111.7(f) and 5/19-140(f) of the Act. The Commission finds that the language of these Sections of the Act encompasses the reasonable and prudently incurred expenses for pilot programs. The Commission also concurs with the suggestion that the Commission's report should recommend that it be granted the discretion to modify programs and to authorize and act on further program evaluations.

In regard to the ER recommendations concerning program design, the Commission notes that the OBF Program was established by the legislature to further utility energy conservation through the energy efficiency plans. The Commission finds that the establishment of separate target markets and performance goals for the OBF Program, recommended by the ER, may create conflicts between a utility OBF Program and a Commission-approved Energy Efficiency Plan. The Commission therefore rejects this recommendation from the ER. ~~However, the Commission will request in its report to the Governor and the Legislature that the Commission be empowered to require periodic reports and analysis by Utilities of relevant information on the nature and extent of their OBF programs as well as information about defaults and service disconnections arising from customer participation. Further, the Commission will recommend in its report that it retain the authority to initiate regulatory proceedings regarding OBF prog or activities.~~

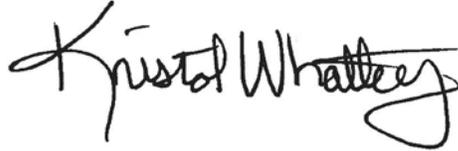
IV. CONCLUSION

Based on the record and the arguments made herein, Ameren Illinois respectfully requests that the Proposed Order be revised as set forth in the exceptions above.

Dated: May 6, 2016

Respectfully submitted,

AMEREN ILLINOIS COMPANY
d/b/a Ameren Illinois

A handwritten signature in black ink that reads "Kristol Whatley". The signature is written in a cursive style with a large, looped initial "K".

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