



Rep. Elaine Nekritz

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LRB097 10889 ASK 55710 a

1 AMENDMENT TO HOUSE BILL 3055

2 AMENDMENT NO. _____. Amend House Bill 3055, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Public Utilities Act is amended by changing
6 Section 8-103 as follows:

7 (220 ILCS 5/8-103)

8 Sec. 8-103. Energy efficiency and demand-response
9 measures.

10 (a) It is the policy of the State that electric utilities
11 are required to use cost-effective energy efficiency and
12 demand-response measures to reduce delivery load. Requiring
13 investment in cost-effective energy efficiency and
14 demand-response measures will reduce direct and indirect costs
15 to consumers by decreasing environmental impacts and by
16 avoiding or delaying the need for new generation, transmission,

1 and distribution infrastructure. It serves the public interest
2 to allow electric utilities to recover costs for reasonably and
3 prudently incurred expenses for energy efficiency and
4 demand-response measures. As used in this Section,
5 "cost-effective" means that the measures satisfy the total
6 resource cost test. The low-income measures described in
7 subsection (f) (4) of this Section shall not be required to meet
8 the total resource cost test. For purposes of this Section, the
9 terms "energy-efficiency", "demand-response", "electric
10 utility", and "total resource cost test" shall have the
11 meanings set forth in the Illinois Power Agency Act. For
12 purposes of this Section, the amount per kilowatthour means the
13 total amount paid for electric service expressed on a per
14 kilowatthour basis. For purposes of this Section, the total
15 amount paid for electric service includes without limitation
16 estimated amounts paid for supply, transmission, distribution,
17 surcharges, and add-on-taxes.

18 (b) Electric utilities shall implement cost-effective
19 energy efficiency measures to meet the following incremental
20 annual energy savings goals:

21 (1) 0.2% of energy delivered in the year commencing
22 June 1, 2008;

23 (2) 0.4% of energy delivered in the year commencing
24 June 1, 2009;

25 (3) 0.6% of energy delivered in the year commencing
26 June 1, 2010;

1 (4) 0.8% of energy delivered in the year commencing
2 June 1, 2011;

3 (5) 1% of energy delivered in the year commencing June
4 1, 2012;

5 (6) 1.4% of energy delivered in the year commencing
6 June 1, 2013;

7 (7) 1.8% of energy delivered in the year commencing
8 June 1, 2014; and

9 (8) 2% of energy delivered in the year commencing June
10 1, 2015 and each year thereafter.

11 (c) Electric utilities shall implement cost-effective
12 demand-response measures to reduce peak demand by 0.1% over the
13 prior year for eligible retail customers, as defined in Section
14 16-111.5 of this Act, and for customers that elect hourly
15 service from the utility pursuant to Section 16-107 of this
16 Act, provided those customers have not been declared
17 competitive. This requirement commences June 1, 2008 and
18 continues for 10 years.

19 (d) Notwithstanding the requirements of subsections (b)
20 and (c) of this Section, an electric utility shall reduce the
21 amount of energy efficiency and demand-response measures
22 implemented in any single year by an amount necessary to limit
23 the estimated average increase in the amounts paid by retail
24 customers in connection with electric service due to the cost
25 of those measures to:

26 (1) in 2008, no more than 0.5% of the amount paid per

1 kilowatthour by those customers during the year ending May
2 31, 2007;

3 (2) in 2009, the greater of an additional 0.5% of the
4 amount paid per kilowatthour by those customers during the
5 year ending May 31, 2008 or 1% of the amount paid per
6 kilowatthour by those customers during the year ending May
7 31, 2007;

8 (3) in 2010, the greater of an additional 0.5% of the
9 amount paid per kilowatthour by those customers during the
10 year ending May 31, 2009 or 1.5% of the amount paid per
11 kilowatthour by those customers during the year ending May
12 31, 2007;

13 (4) in 2011, the greater of an additional 0.5% of the
14 amount paid per kilowatthour by those customers during the
15 year ending May 31, 2010 or 2% of the amount paid per
16 kilowatthour by those customers during the year ending May
17 31, 2007; and

18 (5) thereafter, the amount of energy efficiency and
19 demand-response measures implemented for any single year
20 shall be reduced by an amount necessary to limit the
21 estimated average net increase due to the cost of these
22 measures included in the amounts paid by eligible retail
23 customers in connection with electric service to no more
24 than the greater of 2.015% of the amount paid per
25 kilowatthour by those customers during the year ending May
26 31, 2007 or the incremental amount per kilowatthour paid

1 for these measures in 2011, unless the Commission
2 concludes, based on evidence presented during a plan filing
3 proceeding under subsection (f) of this Section, that the
4 limitation would result in the utility foregoing
5 cost-effective opportunities for savings that would
6 otherwise create net aggregate bill reductions for its
7 customers; if the Commission so concludes, then it may
8 direct the utility to exceed the spending limits in this
9 subsection (d) only to the extent necessary to achieve the
10 savings targets in subsection (b) of this Section.

11 No later than June 30, 2011, the Commission shall review
12 the limitation on the amount of energy efficiency and
13 demand-response measures implemented pursuant to this Section
14 and report to the General Assembly its findings as to whether
15 that limitation unduly constrains the procurement of energy
16 efficiency and demand-response measures.

17 (e) Electric utilities shall be responsible for overseeing
18 the design, development, and filing of energy efficiency and
19 demand-response plans with the Commission. Electric utilities
20 shall implement 100% of the demand-response measures in the
21 plans. Electric utilities shall implement 75% of the energy
22 efficiency measures approved by the Commission, and may, as
23 part of that implementation, outsource various aspects of
24 program development and implementation. The remaining 25% of
25 those energy efficiency measures approved by the Commission
26 shall be implemented by the Department of Commerce and Economic

1 Opportunity, and must be designed in conjunction with the
2 utility and the filing process. The Department may outsource
3 development and implementation of energy efficiency measures.
4 A minimum of 10% of the entire portfolio of cost-effective
5 energy efficiency measures shall be procured from units of
6 local government, municipal corporations, school districts,
7 and community college districts. The Department shall
8 coordinate the implementation of these measures.

9 The apportionment of the dollars to cover the costs to
10 implement the Department's share of the portfolio of energy
11 efficiency measures shall be made to the Department once the
12 Department has executed grants or contracts for energy
13 efficiency measures and provided supporting documentation for
14 those grants and the contracts to the utility.

15 The details of the measures implemented by the Department
16 shall be submitted by the Department to the Commission in
17 connection with the utility's filing regarding the energy
18 efficiency and demand-response measures that the utility
19 implements.

20 A utility providing approved energy efficiency and
21 demand-response measures in the State shall be permitted to
22 recover costs of those measures through an automatic adjustment
23 clause tariff filed with and approved by the Commission. The
24 tariff shall be established outside the context of a general
25 rate case. Each year the Commission shall initiate a review to
26 reconcile any amounts collected with the actual costs and to

1 determine the required adjustment to the annual tariff factor
2 to match annual expenditures.

3 Each utility shall include, in its recovery of costs, the
4 costs estimated for both the utility's and the Department's
5 implementation of energy efficiency and demand-response
6 measures. Costs collected by the utility for measures
7 implemented by the Department shall be submitted to the
8 Department pursuant to Section 605-323 of the Civil
9 Administrative Code of Illinois and shall be used by the
10 Department solely for the purpose of implementing these
11 measures. A utility shall not be required to advance any moneys
12 to the Department but only to forward such funds as it has
13 collected. The Department shall report to the Commission on an
14 annual basis regarding the costs actually incurred by the
15 Department in the implementation of the measures. Any changes
16 to the costs of energy efficiency measures as a result of plan
17 modifications shall be appropriately reflected in amounts
18 recovered by the utility and turned over to the Department.

19 The portfolio of measures, administered by both the
20 utilities and the Department, shall, in combination, be
21 designed to achieve the annual savings targets described in
22 subsections (b) and (c) of this Section, as modified by
23 subsection (d) of this Section.

24 The utility and the Department shall agree upon a
25 reasonable portfolio of measures and determine the measurable
26 corresponding percentage of the savings goals associated with

1 measures implemented by the utility or Department.

2 No utility shall be assessed a penalty under subsection (f)
3 of this Section for failure to make a timely filing if that
4 failure is the result of a lack of agreement with the
5 Department with respect to the allocation of responsibilities
6 or related costs or target assignments. In that case, the
7 Department and the utility shall file their respective plans
8 with the Commission and the Commission shall determine an
9 appropriate division of measures and programs that meets the
10 requirements of this Section.

11 If the Department is unable to meet incremental annual
12 performance goals for the portion of the portfolio implemented
13 by the Department, then the utility and the Department shall
14 jointly submit a modified filing to the Commission explaining
15 the performance shortfall and recommending an appropriate
16 course going forward, including any program modifications that
17 may be appropriate in light of the evaluations conducted under
18 item (7) of subsection (f) of this Section. In this case, the
19 utility obligation to collect the Department's costs and turn
20 over those funds to the Department under this subsection (e)
21 shall continue only if the Commission approves the
22 modifications to the plan proposed by the Department.

23 (f) No later than November 15, 2007, each electric utility
24 shall file an energy efficiency and demand-response plan with
25 the Commission to meet the energy efficiency and
26 demand-response standards for 2008 through 2010. Every 3 years

1 thereafter, each electric utility shall file, no later than
2 October 1, an energy efficiency and demand-response plan with
3 the Commission. If a utility does not file such a plan by
4 October 1 of an applicable year, it shall face a penalty of
5 \$100,000 per day until the plan is filed. Each utility's plan
6 shall set forth the utility's proposals to meet the utility's
7 portion of the energy efficiency standards identified in
8 subsection (b) and the demand-response standards identified in
9 subsection (c) of this Section as modified by subsections (d)
10 and (e), taking into account the unique circumstances of the
11 utility's service territory. The Commission shall seek public
12 comment on the utility's plan and shall issue an order
13 approving or disapproving each plan within 3 months after its
14 submission. If the Commission disapproves a plan, the
15 Commission shall, within 30 days, describe in detail the
16 reasons for the disapproval and describe a path by which the
17 utility may file a revised draft of the plan to address the
18 Commission's concerns satisfactorily. If the utility does not
19 refile with the Commission within 60 days, the utility shall be
20 subject to penalties at a rate of \$100,000 per day until the
21 plan is filed. This process shall continue, and penalties shall
22 accrue, until the utility has successfully filed a portfolio of
23 energy efficiency and demand-response measures. Penalties
24 shall be deposited into the Energy Efficiency Trust Fund. In
25 submitting proposed energy efficiency and demand-response
26 plans and funding levels to meet the savings goals adopted by

1 this Act the utility shall:

2 (1) Demonstrate that its proposed energy efficiency
3 and demand-response measures will achieve the requirements
4 that are identified in subsections (b) and (c) of this
5 Section, as modified by subsections (d) and (e).

6 (2) Present specific proposals to implement new
7 building and appliance standards that have been placed into
8 effect.

9 (3) Present estimates of the total amount paid for
10 electric service expressed on a per kilowatthour basis
11 associated with the proposed portfolio of measures
12 designed to meet the requirements that are identified in
13 subsections (b) and (c) of this Section, as modified by
14 subsections (d) and (e).

15 (4) Coordinate with the Department to present a
16 portfolio of energy efficiency measures proportionate to
17 the share of total annual utility revenues in Illinois from
18 households at or below 150% of the poverty level. The
19 energy efficiency programs shall be targeted to households
20 with incomes at or below 80% of area median income.

21 (5) Demonstrate that its overall portfolio of energy
22 efficiency and demand-response measures, not including
23 programs covered by item (4) of this subsection (f), are
24 cost-effective using the total resource cost test and
25 represent a diverse cross-section of opportunities for
26 customers of all rate classes to participate in the

1 programs.

2 (6) Include a proposed cost-recovery tariff mechanism
3 to fund the proposed energy efficiency and demand-response
4 measures and to ensure the recovery of the prudently and
5 reasonably incurred costs of Commission-approved programs.

6 (7) Provide for an annual independent evaluation of the
7 performance of the cost-effectiveness of the utility's
8 portfolio of measures and the Department's portfolio of
9 measures, as well as a full review of the 3-year results of
10 the broader net program impacts and, to the extent
11 practical, for adjustment of the measures on a
12 going-forward basis as a result of the evaluations. The
13 resources dedicated to evaluation shall not exceed 3% of
14 portfolio resources in any given year.

15 (g) No more than 3% of energy efficiency and
16 demand-response program revenue may be allocated for
17 demonstration of breakthrough equipment and devices.

18 (h) This Section does not apply to an electric utility that
19 on December 31, 2005 provided electric service to fewer than
20 100,000 customers in Illinois.

21 (i) If, after 2 years, an electric utility fails to meet
22 the efficiency standard specified in subsection (b) of this
23 Section, as modified by subsections (d) and (e), it shall make
24 a contribution to the Low-Income Home Energy Assistance
25 Program. The combined total liability for failure to meet the
26 goal shall be \$1,000,000, which shall be assessed as follows: a

1 large electric utility shall pay \$665,000, and a medium
2 electric utility shall pay \$335,000. If, after 3 years, an
3 electric utility fails to meet the efficiency standard
4 specified in subsection (b) of this Section, as modified by
5 subsections (d) and (e), it shall make a contribution to the
6 Low-Income Home Energy Assistance Program. The combined total
7 liability for failure to meet the goal shall be \$1,000,000,
8 which shall be assessed as follows: a large electric utility
9 shall pay \$665,000, and a medium electric utility shall pay
10 \$335,000. In addition, the responsibility for implementing the
11 energy efficiency measures of the utility making the payment
12 shall be transferred to the Illinois Power Agency if, after 3
13 years, or in any subsequent 3-year period, the utility fails to
14 meet the efficiency standard specified in subsection (b) of
15 this Section, as modified by subsections (d) and (e). The
16 Agency shall implement a competitive procurement program to
17 procure resources necessary to meet the standards specified in
18 this Section as modified by subsections (d) and (e), with costs
19 for those resources to be recovered in the same manner as
20 products purchased through the procurement plan as provided in
21 Section 16-111.5. The Director shall implement this
22 requirement in connection with the procurement plan as provided
23 in Section 16-111.5.

24 For purposes of this Section, (i) a "large electric
25 utility" is an electric utility that, on December 31, 2005,
26 served more than 2,000,000 electric customers in Illinois; (ii)

1 a "medium electric utility" is an electric utility that, on
2 December 31, 2005, served 2,000,000 or fewer but more than
3 100,000 electric customers in Illinois; and (iii) Illinois
4 electric utilities that are affiliated by virtue of a common
5 parent company are considered a single electric utility.

6 (j) If, after 3 years, or any subsequent 3-year period, the
7 Department fails to implement the Department's share of energy
8 efficiency measures required by the standards in subsection
9 (b), then the Illinois Power Agency may assume responsibility
10 for and control of the Department's share of the required
11 energy efficiency measures. The Agency shall implement a
12 competitive procurement program to procure resources necessary
13 to meet the standards specified in this Section, with the costs
14 of these resources to be recovered in the same manner as
15 provided for the Department in this Section.

16 (k) No electric utility shall be deemed to have failed to
17 meet the energy efficiency standards to the extent any such
18 failure is due to a failure of the Department or the Agency.

19 (Source: P.A. 95-481, eff. 8-28-07; 95-876, eff. 8-21-08;
20 96-33, eff. 7-10-09; 96-159, eff. 8-10-09; 96-1000, eff.
21 7-2-10.)

22 Section 99. Effective date. This Act takes effect upon
23 becoming law."