



Sen. David Koehler

Filed: 3/15/2011

09700SB1884sam002

LRB097 10170 ASK 52980 a

1 AMENDMENT TO SENATE BILL 1884

2 AMENDMENT NO. _____. Amend Senate Bill 1884 by replacing
3 everything after the enacting clause with the following:

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

6 (220 ILCS 5/8-103)

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

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

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

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

20 (1) 0.2% of energy delivered in the year commencing
21 June 1, 2008;

22 (2) 0.4% of energy delivered in the year commencing
23 June 1, 2009;

24 (3) 0.6% of energy delivered in the year commencing
25 June 1, 2010;

26 (4) 0.8% of energy delivered in the year commencing

1 June 1, 2011;

2 (5) 1% of energy delivered in the year commencing June
3 1, 2012;

4 (6) 1.4% of energy delivered in the year commencing
5 June 1, 2013;

6 (7) 1.8% of energy delivered in the year commencing
7 June 1, 2014; and

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

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

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

25 (1) in 2008, no more than 0.5% of the amount paid per
26 kilowatthour by those customers during the year ending May

1 31, 2007;

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

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

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

17 (5) thereafter, the amount of energy efficiency and
18 demand-response measures implemented for any single year
19 shall be reduced by an amount necessary to limit the
20 estimated average net increase due to the cost of these
21 measures included in the amounts paid by eligible retail
22 customers in connection with electric service to no more
23 than the greater of 2.015% of the amount paid per
24 kilowatthour by those customers during the year ending May
25 31, 2007 or the incremental amount per kilowatthour paid
26 for these measures in 2011, unless the Commission

1 concludes, based on evidence presented during a plan filing
2 proceeding under subsection (f) of this Section, that the
3 limitation would result in the utility foregoing
4 cost-effective opportunities for savings that would
5 otherwise create net aggregate bill reductions for its
6 customers.

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

13 (e) Electric utilities shall be responsible for overseeing
14 the design, development, and filing of energy efficiency and
15 demand-response plans with the Commission. Electric utilities
16 shall implement 100% of the demand-response measures in the
17 plans. Electric utilities shall implement 75% of the energy
18 efficiency measures approved by the Commission, and may, as
19 part of that implementation, outsource various aspects of
20 program development and implementation. The remaining 25% of
21 those energy efficiency measures approved by the Commission
22 shall be implemented by the Department of Commerce and Economic
23 Opportunity, and must be designed in conjunction with the
24 utility and the filing process. The Department may outsource
25 development and implementation of energy efficiency measures.
26 A minimum of 10% of the entire portfolio of cost-effective

1 energy efficiency measures shall be procured from units of
2 local government, municipal corporations, school districts,
3 and community college districts. The Department shall
4 coordinate the implementation of these measures.

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

11 The details of the measures implemented by the Department
12 shall be submitted by the Department to the Commission in
13 connection with the utility's filing regarding the energy
14 efficiency and demand-response measures that the utility
15 implements.

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

25 Each utility shall include, in its recovery of costs, the
26 costs estimated for both the utility's and the Department's

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

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

20 The utility and the Department shall agree upon a
21 reasonable portfolio of measures and determine the measurable
22 corresponding percentage of the savings goals associated with
23 measures implemented by the utility or Department.

24 No utility shall be assessed a penalty under subsection (f)
25 of this Section for failure to make a timely filing if that
26 failure is the result of a lack of agreement with the

1 Department with respect to the allocation of responsibilities
2 or related costs or target assignments. In that case, the
3 Department and the utility shall file their respective plans
4 with the Commission and the Commission shall determine an
5 appropriate division of measures and programs that meets the
6 requirements of this Section.

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

19 (f) No later than November 15, 2007, each electric utility
20 shall file an energy efficiency and demand-response plan with
21 the Commission to meet the energy efficiency and
22 demand-response standards for 2008 through 2010. Every 3 years
23 thereafter, each electric utility shall file, no later than
24 October 1, an energy efficiency and demand-response plan with
25 the Commission. If a utility does not file such a plan by
26 October 1 of an applicable year, it shall face a penalty of

1 \$100,000 per day until the plan is filed. Each utility's plan
2 shall set forth the utility's proposals to meet the utility's
3 portion of the energy efficiency standards identified in
4 subsection (b) and the demand-response standards identified in
5 subsection (c) of this Section as modified by subsections (d)
6 and (e), taking into account the unique circumstances of the
7 utility's service territory. The Commission shall seek public
8 comment on the utility's plan and shall issue an order
9 approving or disapproving each plan within 3 months after its
10 submission. If the Commission disapproves a plan, the
11 Commission shall, within 30 days, describe in detail the
12 reasons for the disapproval and describe a path by which the
13 utility may file a revised draft of the plan to address the
14 Commission's concerns satisfactorily. If the utility does not
15 refile with the Commission within 60 days, the utility shall be
16 subject to penalties at a rate of \$100,000 per day until the
17 plan is filed. This process shall continue, and penalties shall
18 accrue, until the utility has successfully filed a portfolio of
19 energy efficiency and demand-response measures. Penalties
20 shall be deposited into the Energy Efficiency Trust Fund. In
21 submitting proposed energy efficiency and demand-response
22 plans and funding levels to meet the savings goals adopted by
23 this Act the utility shall:

- 24 (1) Demonstrate that its proposed energy efficiency
25 and demand-response measures will achieve the requirements
26 that are identified in subsections (b) and (c) of this

1 Section, as modified by subsections (d) and (e).

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

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

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

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

24 (6) Include a proposed cost-recovery tariff mechanism
25 to fund the proposed energy efficiency and demand-response
26 measures and to ensure the recovery of the prudently and

1 reasonably incurred costs of Commission-approved programs.

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

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

14 (h) This Section does not apply to an electric utility that
15 on December 31, 2005 provided electric service to fewer than
16 100,000 customers in Illinois.

17 (i) If, after 2 years, an electric utility fails to meet
18 the efficiency standard specified in subsection (b) of this
19 Section, as modified by subsections (d) and (e), it shall make
20 a contribution to the Low-Income Home Energy Assistance
21 Program. The combined total liability for failure to meet the
22 goal shall be \$1,000,000, which shall be assessed as follows: a
23 large electric utility shall pay \$665,000, and a medium
24 electric utility shall pay \$335,000. If, after 3 years, an
25 electric utility fails to meet the efficiency standard
26 specified in subsection (b) of this Section, as modified by

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

20 For purposes of this Section, (i) a "large electric
21 utility" is an electric utility that, on December 31, 2005,
22 served more than 2,000,000 electric customers in Illinois; (ii)
23 a "medium electric utility" is an electric utility that, on
24 December 31, 2005, served 2,000,000 or fewer but more than
25 100,000 electric customers in Illinois; and (iii) Illinois
26 electric utilities that are affiliated by virtue of a common

1 parent company are considered a single electric utility.

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

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

15 (Source: P.A. 95-481, eff. 8-28-07; 95-876, eff. 8-21-08;
16 96-33, eff. 7-10-09; 96-159, eff. 8-10-09; 96-1000, eff.
17 7-2-10.)

18 Section 99. Effective date. This Act takes effect upon
19 becoming law."