



Rep. Christian L Mitchell

Filed: 4/17/2013

09800HB0575ham003

LRB098 03400 CEL 44802 a

1 AMENDMENT TO HOUSE BILL 575

2 AMENDMENT NO. _____. Amend House Bill 575, 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 Sections 16-111.7 and 19-140 as follows:

7 (220 ILCS 5/16-111.7)

8 Sec. 16-111.7. On-bill financing program; electric
9 utilities.

10 (a) The Illinois General Assembly finds that Illinois homes
11 and businesses have the potential to save energy through
12 conservation and cost-effective energy efficiency measures.
13 Programs created pursuant to this Section will allow utility
14 customers to purchase cost-effective energy efficiency
15 measures, including measures set forth in a
16 Commission-approved energy efficiency and demand-response plan

1 under Section 8-103 of this Act ~~and that are cost effective as~~
2 ~~that term is defined by that Section~~, with no required initial
3 upfront payment, and to pay the cost of those products and
4 services over time on their utility bill.

5 (b) Notwithstanding any other provision of this Act, an
6 electric utility serving more than 100,000 customers on January
7 1, 2009 shall offer a Commission-approved on-bill financing
8 program ("program") that allows its eligible retail customers,
9 as that term is defined in Section 16-111.5 of this Act, who
10 own a residential single family home, duplex, or other
11 residential building with 4 or less units, or condominium at
12 which the electric service is being provided (i) to borrow
13 funds from a third party lender in order to purchase electric
14 energy efficiency measures approved under the program for
15 installation in such home or condominium without any required
16 upfront payment and (ii) to pay back such funds over time
17 through the electric utility's bill. Based upon the process
18 described in subsection (b-5) of this Section, small commercial
19 ~~retail customers, as that term is defined in Section 16-102 of~~
20 ~~this Act~~, who own the premises at which electric service is
21 being provided may be included in such program. After receiving
22 a request from an electric utility for approval of a proposed
23 program and tariffs pursuant to this Section, the Commission
24 shall render its decision within 120 days. If no decision is
25 rendered within 120 days, then the request shall be deemed to
26 be approved.

1 Beginning no later than December 31, 2013, an electric
2 utility subject to this subsection (b) shall also offer its
3 program to eligible retail customers that own multifamily
4 residential or mixed-used buildings with no more than 50
5 residential units, provided, however, that such customers must
6 either be a residential customer or small commercial customer
7 and may not use the program in such a way that repayment of the
8 cost of energy efficiency measures is made through tenants'
9 utility bills. An electric utility may impose a per site loan
10 limit not to exceed \$100,000. The program, and loans issued
11 thereunder, shall only be offered to customers of the utility
12 that meet the requirements of this Section and that also have
13 an electric service account at the premises where the energy
14 efficiency measures being financed shall be installed.

15 For purposes of this Section, "small commercial customer"
16 means, for an electric utility serving more than 3,000,000
17 retail customers, those customers having peak demand of less
18 than 100 kilowatts, and, for an electric utility serving less
19 than 3,000,000 retail customers, those customers having peak
20 demand of less than 150 kilowatts.

21 (b-5) Within 30 days after the effective date of this
22 amendatory Act of the 96th General Assembly, the Commission
23 shall convene a workshop process during which interested
24 participants may discuss issues related to the program,
25 including program design, eligible electric energy efficiency
26 measures, vendor qualifications, and a methodology for

1 ensuring ongoing compliance with such qualifications,
2 financing, sample documents such as request for proposals,
3 contracts and agreements, dispute resolution, pre-installment
4 and post-installment verification, and evaluation. The
5 workshop process shall be completed within 150 days after the
6 effective date of this amendatory Act of the 96th General
7 Assembly.

8 (c) Not later than 60 days following completion of the
9 workshop process described in subsection (b-5) of this Section,
10 each electric utility subject to subsection (b) of this Section
11 shall submit a proposed program to the Commission that contains
12 the following components:

13 (1) A list of recommended electric energy efficiency
14 measures that will be eligible for on-bill financing. An
15 eligible electric energy efficiency measure ("measure")
16 shall be a product or service for which one or more of the
17 following is true ~~defined by the following:~~

18 (A) (blank); ~~the measure would be applied to or~~
19 ~~replace electric energy using equipment; and either~~

20 (B) the projected ~~application of the measure to~~
21 ~~equipment and systems will have estimated~~ electricity
22 savings (determined by rates in effect at the time of
23 purchase), ~~that~~ are sufficient to cover the costs of
24 implementing the measures, including finance charges
25 and any program fees not recovered pursuant to
26 subsection (f) of this Section; ~~to assist the electric~~

1 ~~utility in identifying or approving measures, the~~
2 ~~utility may consult with the Department of Commerce and~~
3 ~~Economic Opportunity, as well as with retailers,~~
4 ~~technicians, and installers of electric energy~~
5 ~~efficiency measures and energy auditors (collectively~~
6 ~~"vendors"); or~~

7 (C) the product or service measure is included in a
8 Commission-approved energy efficiency and
9 demand-response plan under Section 8-103 of this Act
10 ~~and is cost effective as that term is defined by that~~
11 ~~Section.~~

12 (2) The electric utility shall issue a request for
13 proposals ("RFP") to lenders for purposes of providing
14 financing to participants to pay for approved measures. The
15 RFP criteria shall include, but not be limited to, the
16 interest rate, origination fees, and credit terms. The
17 utility shall select the winning bidders based on its
18 evaluation of these criteria, with a preference for those
19 bids containing the rates, fees, and terms most favorable
20 to participants;

21 (3) The utility shall work with the lenders selected
22 pursuant to the RFP process, and with vendors, to establish
23 the terms and processes pursuant to which a participant can
24 purchase eligible electric energy efficiency measures
25 using the financing obtained from the lender. The vendor
26 shall explain and offer the approved financing packaging to

1 those customers identified in subsection (b) of this
2 Section and shall assist customers in applying for
3 financing. As part of the process, vendors shall also
4 provide to participants information about any other
5 incentives that may be available for the measures.

6 (4) The lender shall conduct credit checks or undertake
7 other appropriate measures to limit credit risk, and shall
8 review and approve or deny financing applications
9 submitted by customers identified in subsection (b) of this
10 Section. Following the lender's approval of financing and
11 the participant's purchase of the measure or measures, the
12 lender shall forward payment information to the electric
13 utility, and the utility shall add as a separate line item
14 on the participant's utility bill a charge showing the
15 amount due under the program each month.

16 (5) A loan issued to a participant pursuant to the
17 program shall be the sole responsibility of the
18 participant, and any dispute that may arise concerning the
19 loan's terms, conditions, or charges shall be resolved
20 between the participant and lender. Upon transfer of the
21 property title for the premises at which the participant
22 receives electric service from the utility or the
23 participant's request to terminate service at such
24 premises, the participant shall pay in full its electric
25 utility bill, including all amounts due under the program,
26 provided that this obligation may be modified as provided

1 in subsection (g) of this Section. Amounts due under the
2 program shall be deemed amounts owed for residential and,
3 as appropriate, small commercial electric service.

4 (6) The electric utility shall remit payment in full to
5 the lender each month on behalf of the participant. In the
6 event a participant defaults on payment of its electric
7 utility bill, the electric utility shall continue to remit
8 all payments due under the program to the lender, and the
9 utility shall be entitled to recover all costs related to a
10 participant's nonpayment through the automatic adjustment
11 clause tariff established pursuant to Section 16-111.8 of
12 this Act. In addition, the electric utility shall retain a
13 security interest in the measure or measures purchased
14 under the program, and the utility retains its right to
15 disconnect a participant that defaults on the payment of
16 its utility bill.

17 (7) The total outstanding amount financed under the
18 programs in this subsection and subsection (c-5) of this
19 Section ~~program~~ shall not exceed \$2.5 million for an
20 electric utility or electric utilities under a single
21 holding company, provided that the electric utility or
22 electric utilities may petition the Commission for an
23 increase in such amount.

24 (c-5) Within 120 days after the effective date of this
25 amendatory Act of the 98th General Assembly, each electric
26 utility subject to the requirements of this Section shall

1 submit an informational filing to the Commission that describes
2 its plan for implementing the provisions of this amendatory Act
3 of the 98th General Assembly on or before December 31, 2013.
4 Such filing shall also describe how the electric utility shall
5 coordinate its program with any gas utility or utilities that
6 provide gas service to buildings within the electric utility's
7 service territory so that it is practical and feasible for the
8 owner of a multifamily building to make a single application to
9 access loans for both gas and electric energy efficiency
10 measures in any individual building.

11 (d) A program approved by the Commission shall also include
12 the following criteria and guidelines for such program:

13 (1) guidelines for financing of measures installed
14 under a program, including, but not limited to, RFP
15 criteria and limits on both individual loan amounts and the
16 duration of the loans;

17 (2) criteria and standards for identifying and
18 approving measures;

19 (3) qualifications of vendors that will market or
20 install measures, as well as a methodology for ensuring
21 ongoing compliance with such qualifications;

22 (4) sample contracts and agreements necessary to
23 implement the measures and program; and

24 (5) the types of data and information that utilities
25 and vendors participating in the program shall collect for
26 purposes of preparing the reports required under

1 subsection (g) of this Section.

2 (e) The proposed program submitted by each electric utility
3 shall be consistent with the provisions of this Section that
4 define operational, financial and billing arrangements between
5 and among program participants, vendors, lenders, and the
6 electric utility.

7 (f) An electric utility shall recover all of the prudently
8 incurred costs of offering a program approved by the Commission
9 pursuant to this Section, including, but not limited to, all
10 start-up and administrative costs and the costs for program
11 evaluation. All prudently incurred costs under this Section
12 shall be recovered from the residential and small commercial
13 retail customer classes eligible to participate in the program
14 through the automatic adjustment clause tariff established
15 pursuant to Section 8-103 of this Act.

16 (g) An independent evaluation of a program shall be
17 conducted after 3 years of the program's operation. The
18 electric utility shall retain an independent evaluator who
19 shall evaluate the effects of the measures installed under the
20 program and the overall operation of the program, including,
21 but not limited to, customer eligibility criteria ~~and whether~~
22 ~~the payment obligation for permanent electric energy~~
23 ~~efficiency measures that will continue to provide benefits of~~
24 ~~energy savings should attach to the meter location.~~ As part of
25 the evaluation process, the evaluator shall also solicit
26 feedback from participants and interested stakeholders. The

1 evaluator shall issue a report to the Commission on its
2 findings no later than 4 years after the date on which the
3 program commenced, and the Commission shall issue a report to
4 the Governor and General Assembly including a summary of the
5 information described in this Section as well as its
6 recommendations as to whether the program should be
7 discontinued, continued with modification or modifications or
8 continued without modification, provided that any recommended
9 modifications shall only apply prospectively and to measures
10 not yet installed or financed.

11 (h) An electric utility offering a Commission-approved
12 program pursuant to this Section shall not be required to
13 comply with any other statute, order, rule, or regulation of
14 this State that may relate to the offering of such program,
15 provided that nothing in this Section is intended to limit the
16 electric utility's obligation to comply with this Act and the
17 Commission's orders, rules, and regulations, including Part
18 280 of Title 83 of the Illinois Administrative Code.

19 (i) The source of a utility customer's electric supply
20 shall not disqualify a customer from participation in the
21 utility's on-bill financing program. Customers of alternative
22 retail electric suppliers may participate in the program under
23 the same terms and conditions applicable to the utility's
24 supply customers.

25 (Source: P.A. 96-33, eff. 7-10-09; 97-616, eff. 10-26-11.)

1 (220 ILCS 5/19-140)

2 Sec. 19-140. On-bill financing program; gas utilities.

3 (a) The Illinois General Assembly finds that Illinois homes
4 and businesses have the potential to save energy through
5 conservation and cost-effective energy efficiency measures.
6 Programs created pursuant to this Section will allow utility
7 customers to purchase cost-effective energy efficiency
8 measures, including measures set forth in a
9 Commission-approved energy efficiency and demand-response plan
10 under Section 8-104 of this Act, with no required initial
11 upfront payment, and to pay the cost of those products and
12 services over time on their utility bill.

13 (b) Notwithstanding any other provision of this Act, a gas
14 utility serving more than 100,000 customers on January 1, 2009
15 shall offer a Commission-approved on-bill financing program
16 ("program") that allows its retail customers who own a
17 residential single family home, duplex, or other residential
18 building with 4 or less units, or condominium at which the gas
19 service is being provided (i) to borrow funds from a third
20 party lender in order to purchase gas energy efficiency
21 measures approved under the program for installation in such
22 home or condominium without any required upfront payment and
23 (ii) to pay back such funds over time through the gas utility's
24 bill. Based upon the process described in subsection (b-5) of
25 this Section, small commercial retail customers, ~~as that term~~
26 ~~is defined in Section 19-105 of this Act,~~ who own the premises

1 at which gas service is being provided may be included in such
2 program. After receiving a request from a gas utility for
3 approval of a proposed program and tariffs pursuant to this
4 Section, the Commission shall render its decision within 120
5 days. If no decision is rendered within 120 days, then the
6 request shall be deemed to be approved.

7 (b-5) Within 30 days after the effective date of this
8 amendatory Act of the 96th General Assembly, the Commission
9 shall convene a workshop process during which interested
10 participants may discuss issues related to the program,
11 including program design, eligible gas energy efficiency
12 measures, vendor qualifications, and a methodology for
13 ensuring ongoing compliance with such qualifications,
14 financing, sample documents such as request for proposals,
15 contracts and agreements, dispute resolution, pre-installment
16 and post-installment verification, and evaluation. The
17 workshop process shall be completed within 150 days after the
18 effective date of this amendatory Act of the 96th General
19 Assembly.

20 (c) Not later than 60 days following completion of the
21 workshop process described in subsection (b-5) of this Section,
22 each gas utility subject to subsection (b) of this Section
23 shall submit a proposed program to the Commission that contains
24 the following components:

25 (1) A list of recommended gas energy efficiency
26 measures that will be eligible for on-bill financing. An

1 eligible gas energy efficiency measure ("measure") shall
2 be a product or service for which one or more of the
3 following is true ~~defined by the following:~~

4 (A) (blank); ~~The measure would be applied to or~~
5 ~~replace gas energy using equipment; and~~

6 (B) the projected ~~Application of the measure to~~
7 ~~equipment and systems will have estimated~~ gas savings
8 (determined by rates in effect at the time of
9 purchase), ~~that~~ are sufficient to cover the costs of
10 implementing the measures, including finance charges
11 and any program fees not recovered pursuant to
12 subsection (f) of this Section; or ~~. To assist the gas~~
13 ~~utility in identifying or approving measures, the~~
14 ~~utility may consult with the Department of Commerce and~~
15 ~~Economic Opportunity, as well as with retailers,~~
16 ~~technicians and installers of gas energy efficiency~~
17 ~~measures and energy auditors (collectively "vendors").~~

18 (C) the product or service is included in a
19 Commission-approved energy efficiency and
20 demand-response plan under Section 8-104 of this Act.

21 (2) The gas utility shall issue a request for proposals
22 ("RFP") to lenders for purposes of providing financing to
23 participants to pay for approved measures. The RFP criteria
24 shall include, but not be limited to, the interest rate,
25 origination fees, and credit terms. The utility shall
26 select the winning bidders based on its evaluation of these

1 criteria, with a preference for those bids containing the
2 rates, fees, and terms most favorable to participants.

3 (3) The utility shall work with the lenders selected
4 pursuant to the RFP process, and with vendors, to establish
5 the terms and processes pursuant to which a participant can
6 purchase eligible gas energy efficiency measures using the
7 financing obtained from the lender. The vendor shall
8 explain and offer the approved financing packaging to those
9 customers identified in subsection (b) of this Section and
10 shall assist customers in applying for financing. As part
11 of such process, vendors shall also provide to participants
12 information about any other incentives that may be
13 available for the measures.

14 (4) The lender shall conduct credit checks or undertake
15 other appropriate measures to limit credit risk, and shall
16 review and approve or deny financing applications
17 submitted by customers identified in subsection (b) of this
18 Section. Following the lender's approval of financing and
19 the participant's purchase of the measure or measures, the
20 lender shall forward payment information to the gas
21 utility, and the utility shall add as a separate line item
22 on the participant's utility bill a charge showing the
23 amount due under the program each month.

24 (5) A loan issued to a participant pursuant to the
25 program shall be the sole responsibility of the
26 participant, and any dispute that may arise concerning the

1 loan's terms, conditions, or charges shall be resolved
2 between the participant and lender. Upon transfer of the
3 property title for the premises at which the participant
4 receives gas service from the utility or the participant's
5 request to terminate service at such premises, the
6 participant shall pay in full its gas utility bill,
7 including all amounts due under the program, provided that
8 this obligation may be modified as provided in subsection
9 (g) of this Section. Amounts due under the program shall be
10 deemed amounts owed for residential and, as appropriate,
11 small commercial gas service.

12 (6) The gas utility shall remit payment in full to the
13 lender each month on behalf of the participant. In the
14 event a participant defaults on payment of its gas utility
15 bill, the gas utility shall continue to remit all payments
16 due under the program to the lender, and the utility shall
17 be entitled to recover all costs related to a participant's
18 nonpayment through the automatic adjustment clause tariff
19 established pursuant to Section 19-145 of this Act. In
20 addition, the gas utility shall retain a security interest
21 in the measure or measures purchased under the program to
22 the extent those measures are not integral to the shell of
23 the building, and the utility retains its right to
24 disconnect a participant that defaults on the payment of
25 its utility bill.

26 (7) The total outstanding amount financed under the

1 programs in this subsection and subsection (c-5) of this
2 Section ~~program~~ shall not exceed \$2.5 million for a gas
3 utility or gas utilities under a single holding company,
4 provided that the gas utility or gas utilities may petition
5 the Commission for an increase in such amount.

6 (c-5) Within 120 days after the effective date of this
7 amendatory Act of the 98th General Assembly, each covered gas
8 utility shall submit an informational filing to the Commission
9 that describes its plan for implementing the provisions of this
10 amendatory Act of the 98th General Assembly on or before
11 December 31, 2013. A gas utility subject to this Section shall
12 cooperate with any electric utility that provides electric
13 service to buildings within the gas utility's service territory
14 so that it is practical and feasible for the owner of a
15 multifamily building to make a single application to access
16 loans for both gas and electric energy efficiency measures in
17 any individual building.

18 (d) A program approved by the Commission shall also include
19 the following criteria and guidelines for such program:

20 (1) guidelines for financing of measures installed
21 under a program, including, but not limited to, RFP
22 criteria and limits on both individual loan amounts and the
23 duration of the loans;

24 (2) criteria and standards for identifying and
25 approving measures;

26 (3) qualifications of vendors that will market or

1 install measures, as well as a methodology for ensuring
2 ongoing compliance with such qualifications;

3 (4) sample contracts and agreements necessary to
4 implement the measures and program; and

5 (5) the types of data and information that utilities
6 and vendors participating in the program shall collect for
7 purposes of preparing the reports required under
8 subsection (g) of this Section.

9 (e) The proposed program submitted by each gas utility
10 shall be consistent with the provisions of this Section that
11 define operational, financial, and billing arrangements
12 between and among program participants, vendors, lenders, and
13 the gas utility.

14 (f) A gas utility shall recover all of the prudently
15 incurred costs of offering a program approved by the Commission
16 pursuant to this Section, including, but not limited to, all
17 start-up and administrative costs and the costs for program
18 evaluation. All prudently incurred costs under this Section
19 shall be recovered from the residential and small commercial
20 retail customer classes eligible to participate in the program
21 through the automatic adjustment clause tariff established
22 pursuant to Section 8-104 of this Act.

23 (g) An independent evaluation of a program shall be
24 conducted after 3 years of the program's operation. The gas
25 utility shall retain an independent evaluator who shall
26 evaluate the effects of the measures installed under the

1 program and the overall operation of the program, including,
2 but not limited to, customer eligibility criteria ~~and whether~~
3 ~~the payment obligation for permanent gas energy efficiency~~
4 ~~measures that will continue to provide benefits of energy~~
5 ~~savings should attach to the meter location.~~ As part of the
6 evaluation process, the evaluator shall also solicit feedback
7 from participants and interested stakeholders. The evaluator
8 shall issue a report to the Commission on its findings no later
9 than 4 years after the date on which the program commenced, and
10 the Commission shall issue a report to the Governor and General
11 Assembly including a summary of the information described in
12 this Section as well as its recommendations as to whether the
13 program should be discontinued, continued with modification or
14 modifications or continued without modification, provided that
15 any recommended modifications shall only apply prospectively
16 and to measures not yet installed or financed.

17 (h) A gas utility offering a Commission-approved program
18 pursuant to this Section shall not be required to comply with
19 any other statute, order, rule, or regulation of this State
20 that may relate to the offering of such program, provided that
21 nothing in this Section is intended to limit the gas utility's
22 obligation to comply with this Act and the Commission's orders,
23 rules, and regulations, including Part 280 of Title 83 of the
24 Illinois Administrative Code.

25 (i) The source of a utility customer's gas supply shall not
26 disqualify a customer from participation in the utility's

1 on-bill financing program. Customers of alternative gas
2 suppliers may participate in the program under the same terms
3 and conditions applicable to the utility's supply customers.
4 (Source: P.A. 96-33, eff. 7-10-09.)

5 Section 99. Effective date. This Act takes effect upon
6 becoming law."