



Sen. Jacqueline Y. Collins

Filed: 4/15/2013

09800SB2350sam002

LRB098 10156 CEL 44516 a

1 AMENDMENT TO SENATE BILL 2350

2 AMENDMENT NO. _____. Amend Senate Bill 2350, AS AMENDED,
3 by 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 Notwithstanding the provisions of the preceding paragraph,
2 an electric utility serving more than 100,000 customers on or
3 after January 1, 2013 shall offer a Commission-approved,
4 on-bill financing program to owners of multifamily residential
5 or mixed-use buildings with 5 or more residential units no
6 later than December 31, 2013 under the processes described in
7 subsection (c-5) of this Section. Owners of such buildings may
8 not use the program in such a way that repayment of the cost of
9 energy efficiency measures is made on the tenant's utility
10 bills.

11 If a building owner increases the rent because of on-bill
12 financing, then the tenant must be given 30 days notice prior
13 to the increase and the cause of the increase in rent.

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

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

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

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

13 (B) the projected ~~application of the measure to~~
14 ~~equipment and systems will have estimated~~ electricity
15 savings (determined by rates in effect at the time of
16 purchase), ~~that~~ are sufficient to cover the costs of
17 implementing the measures, including finance charges
18 and any program fees not recovered pursuant to
19 subsection (f) of this Section; ~~to assist the electric~~
20 ~~utility in identifying or approving measures, the~~
21 ~~utility may consult with the Department of Commerce and~~
22 ~~Economic Opportunity, as well as with retailers,~~
23 ~~technicians, and installers of electric energy~~
24 ~~efficiency measures and energy auditors (collectively~~
25 ~~"vendors")~~; or

26 (C) the product or service ~~measure~~ is included in a

1 Commission-approved energy efficiency and
2 demand-response plan under Section 8-103 of this Act
3 ~~and is cost effective as that term is defined by that~~
4 ~~Section.~~

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

14 (3) The utility shall work with the lenders selected
15 pursuant to the RFP process, and with vendors, to establish
16 the terms and processes pursuant to which a participant can
17 purchase eligible electric energy efficiency measures
18 using the financing obtained from the lender. The vendor
19 shall explain and offer the approved financing packaging to
20 those customers identified in subsection (b) of this
21 Section and shall assist customers in applying for
22 financing. As part of the process, vendors shall also
23 provide to participants information about any other
24 incentives that may be available for the measures.

25 (4) The lender shall conduct credit checks or undertake
26 other appropriate measures to limit credit risk, and shall

1 review and approve or deny financing applications
2 submitted by customers identified in subsection (b) of this
3 Section. Following the lender's approval of financing and
4 the participant's purchase of the measure or measures, the
5 lender shall forward payment information to the electric
6 utility, and the utility shall add as a separate line item
7 on the participant's utility bill a charge showing the
8 amount due under the program each month.

9 (5) A loan issued to a participant pursuant to the
10 program shall be the sole responsibility of the
11 participant, and any dispute that may arise concerning the
12 loan's terms, conditions, or charges shall be resolved
13 between the participant and lender. Upon transfer of the
14 property title for the premises at which the participant
15 receives electric service from the utility or the
16 participant's request to terminate service at such
17 premises, the participant shall pay in full its electric
18 utility bill, including all amounts due under the program,
19 provided that this obligation may be modified as provided
20 in subsection (g) of this Section. Amounts due under the
21 program shall be deemed amounts owed for residential and,
22 as appropriate, small commercial electric service.

23 (6) The electric utility shall remit payment in full to
24 the lender each month on behalf of the participant. In the
25 event a participant defaults on payment of its electric
26 utility bill, the electric utility shall continue to remit

1 all payments due under the program to the lender, and the
2 utility shall be entitled to recover all costs related to a
3 participant's nonpayment through the automatic adjustment
4 clause tariff established pursuant to Section 16-111.8 of
5 this Act. In addition, the electric utility shall retain a
6 security interest in the measure or measures purchased
7 under the program to the extent those measures are not
8 integral to the shell of a building, and the utility
9 retains its right to disconnect a participant that defaults
10 on the payment of its utility bill.

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

18 (c-5) Within 60 days after the effective date of this
19 amendatory Act of the 98th General Assembly, each covered
20 electric utility shall submit a proposed program to the
21 Commission that fully comports with the provisions of
22 subsection (c) of this Section, with the following additional
23 provision: an electric utility subject to this Section shall
24 fully coordinate its program with any gas utility or utilities
25 that provide gas service to buildings within the electric
26 utility's service territory so that it is practical and

1 feasible for the owner of a multifamily building to make a
2 single application to access loans for both gas and electric
3 energy efficiency measures in any individual building.

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

6 (1) guidelines for financing of measures installed
7 under a program, including, but not limited to, RFP
8 criteria and limits on both individual loan amounts and the
9 duration of the loans;

10 (2) criteria and standards for identifying and
11 approving measures;

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

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

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

21 (e) The proposed program submitted by each electric utility
22 shall be consistent with the provisions of this Section that
23 define operational, financial and billing arrangements between
24 and among program participants, vendors, lenders, and the
25 electric utility.

26 (f) An electric utility shall recover all of the prudently

1 incurred costs of offering a program approved by the Commission
2 pursuant to this Section, including, but not limited to, all
3 start-up and administrative costs and the costs for program
4 evaluation. All prudently incurred costs under this Section
5 shall be recovered from the residential and small commercial
6 retail customer classes eligible to participate in the program
7 through the automatic adjustment clause tariff established
8 pursuant to Section 8-103 of this Act.

9 (g) An independent evaluation of a program shall be
10 conducted after 3 years of the program's operation. The
11 electric utility shall retain an independent evaluator who
12 shall evaluate the effects of the measures installed under the
13 program and the overall operation of the program, including,
14 but not limited to, customer eligibility criteria and whether
15 the payment obligation for permanent electric energy
16 efficiency measures that will continue to provide benefits of
17 energy savings should attach to the meter location. As part of
18 the evaluation process, the evaluator shall also solicit
19 feedback from participants and interested stakeholders. The
20 evaluator shall issue a report to the Commission on its
21 findings no later than 4 years after the date on which the
22 program commenced, and the Commission shall issue a report to
23 the Governor and General Assembly including a summary of the
24 information described in this Section as well as its
25 recommendations as to whether the program should be
26 discontinued, continued with modification or modifications or

1 continued without modification, provided that any recommended
2 modifications shall only apply prospectively and to measures
3 not yet installed or financed.

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

12 (i) The source of a utility customer's electric supply
13 shall not disqualify a customer from participation in the
14 utility's on-bill financing program. Customers of alternative
15 retail electric suppliers may participate in the program under
16 the same terms and conditions applicable to the utility's
17 supply customers.

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

19 (220 ILCS 5/19-140)

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

21 (a) The Illinois General Assembly finds that Illinois homes
22 and businesses have the potential to save energy through
23 conservation and cost-effective energy efficiency measures.
24 Programs created pursuant to this Section will allow utility
25 customers to purchase cost-effective energy efficiency

1 measures, including measures set forth in a
2 Commission-approved energy efficiency and demand-response plan
3 under Section 8-104 of this Act, with no required initial
4 upfront payment, and to pay the cost of those products and
5 services over time on their utility bill.

6 (b) Notwithstanding any other provision of this Act, a gas
7 utility serving more than 100,000 customers on January 1, 2009
8 shall offer a Commission-approved on-bill financing program
9 ("program") that allows its retail customers who own a
10 residential single family home, duplex, or other residential
11 building with 4 or less units, or condominium at which the gas
12 service is being provided (i) to borrow funds from a third
13 party lender in order to purchase gas energy efficiency
14 measures approved under the program for installation in such
15 home or condominium without any required upfront payment and
16 (ii) to pay back such funds over time through the gas utility's
17 bill. Based upon the process described in subsection (b-5) of
18 this Section, small commercial retail customers, ~~as that term~~
19 ~~is defined in Section 19-105 of this Act,~~ who own the premises
20 at which gas service is being provided may be included in such
21 program. After receiving a request from a gas utility for
22 approval of a proposed program and tariffs pursuant to this
23 Section, the Commission shall render its decision within 120
24 days. If no decision is rendered within 120 days, then the
25 request shall be deemed to be approved.

26 Notwithstanding the provisions of the preceding paragraph,

1 a gas utility serving more than 100,000 customers on or after
2 January 1, 2013 shall offer a Commission-approved on-bill
3 financing program to owners of multifamily residential or
4 mixed-use buildings with 5 or more residential units no later
5 than December 31, 2013 under the processes described in
6 subsection (c-5) of this Section. Owners of such buildings may
7 not use the program in such a way that repayment of the cost of
8 energy efficiency measures is made on the tenant's utility
9 bills.

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

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

1 the following components:

2 (1) A list of recommended gas energy efficiency
3 measures that will be eligible for on-bill financing. An
4 eligible gas energy efficiency measure ("measure") shall
5 be a product or service for which one or more of the
6 following is true ~~defined by the following:~~

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

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

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

24 (2) The gas utility shall issue a request for proposals
25 ("RFP") to lenders for purposes of providing financing to
26 participants to pay for approved measures. The RFP criteria

1 shall include, but not be limited to, the interest rate,
2 origination fees, and credit terms. The utility shall
3 select the winning bidders based on its evaluation of these
4 criteria, with a preference for those bids containing the
5 rates, fees, and terms most favorable to participants.

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

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

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

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

1 disconnect a participant that defaults on the payment of
2 its utility bill.

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

9 (c-5) Within 60 days after the effective date of this
10 amendatory Act of the 98th General Assembly, each covered gas
11 utility shall submit a proposed program to the Commission that
12 fully comports with the provisions of subsection (c) of this
13 Section, with the following additional provision: a gas utility
14 subject to this Section shall fully coordinate its program with
15 any electric utility or utilities that provide electric service
16 to buildings within the gas utility's service territory so that
17 is practical and feasible for the owner of a multifamily
18 building to make a single application to access loans for both
19 gas and electric energy efficiency measures in any individual
20 building.

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

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

1 (2) criteria and standards for identifying and
2 approving measures;

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

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

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

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

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

26 (g) An independent evaluation of a program shall be

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

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

1 Illinois Administrative Code.

2 (i) The source of a utility customer's gas supply shall not
3 disqualify a customer from participation in the utility's
4 on-bill financing program. Customers of alternative gas
5 suppliers may participate in the program under the same terms
6 and conditions applicable to the utility's supply customers.

7 (Source: P.A. 96-33, eff. 7-10-09.)

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.".