

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

North Shore Gas Company :
and :
The Peoples Gas Light and Coke Company : **13-0550**
: :
Petition Pursuant to Section 8-104 of the :
Public Utilities Act to Submit an Energy :
Efficiency Plan. :

ORDER

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ORDER

By the Commission:

I. PROCEDURAL HISTORY

On October 1, 2013, the North Shore Gas Company (“North Shore” or “NS”) and The Peoples Gas Light and Coke Company (“Peoples Gas” or “PGL”)(collectively, “the Companies”, “the Utilities”, “North Shore/Peoples Gas” or “NS/PGL”) filed a petition to submit an Energy Efficiency Plan pursuant to Section 8-104 of the Public Utilities Act. The Office of the Attorney General (“Attorney General” or “AG”), Citizens Utility Board along with the City of Chicago (collectively, “CUB”), Environmental Law & Policy Center (“ELPC”) and The Natural Resources Defense Council (“NRDC”) filed Petitions to Intervene. No objections were raised to the Petitions to Intervene by any party.

Pursuant to notice given in accordance with the rules and regulations of the Commission, this matter came for an initial hearing before a duly authorized Administrative Law Judge (“ALJ”) of the Commission at their offices in Chicago, Illinois on November 7, 2013. On that date, Commission Staff (“Staff”) along with the Petitioner and the Intervenors appeared and the parties established a briefing schedule. After the hearing, the parties filed written testimony and the matter was continued for an evidentiary hearing to February 18, 2014.

During the February 18, 2014 evidentiary hearing, the Petitioner introduced the testimony of witness Michael Marks on the record and the testimony of Edward Korenchan by affidavit. The Attorney General presented testimony of Philip Mosenthal; CUB presented the testimony of Rebecca Devens with the testimony of Paul Fransciso by affidavit; Staff presented the testimony of Jennifer Hinman and the testimony of David Brightwell by affidavit; and ELPC presented the testimony of Geoffrey Crandall by affidavit. At the conclusion of the hearing, the ALJ left the record open for the parties to file late-filed exhibits. The record was subsequently marked “Heard and Taken”. The Petitioner, Staff, Attorney General, CUB, and ELPC each filed initial and reply briefs in the matter. North Shore/Peoples Gas, Staff and CUB tendered suggested Draft Orders and the AG submitted their Statement of Position. A proposed order was served on the

parties, and each party filed a Brief on Exception. The Citizens Utility Board filed a request for oral argument on April 23, 2014, which was denied by the Commission on May 7, 2014.

II. STATUTORY AUTHORITY

Section 8-104(b) of the Act states:

"[C]ost-effective" means that the measures satisfy the total resource cost test which, for purposes of this Section, means a standard that is met if, for an investment in energy efficiency, the benefit-cost ratio is greater than one. The benefit-cost ratio is the ratio of the net present value of the total benefits of the measures to the net present value of the total costs as calculated over the lifetime of the measures. The total resource cost test compares the sum of avoided natural gas utility costs, representing the benefits that accrue to the system and the participant in the delivery of those efficiency measures, as well as other quantifiable societal benefits, including avoided electric utility costs, to the sum of all incremental costs of end use measures (including both utility and participant contributions), plus costs to administer, deliver, and evaluate each demand-side measure, to quantify the net savings obtained by substituting demand-side measures for supply resources. In calculating avoided costs, reasonable estimates shall be included for financial costs likely to be imposed by future regulation of emissions of greenhouse gases. The low-income programs described in item (4) of subsection (f) of this Section shall not be required to meet the total resource cost test.

220 ILCS 5/8-104(b).

Section 8-104(d) of the Act provides:

Notwithstanding the requirements of subsection (c) of this Section, a natural gas utility shall limit the amount of energy efficiency implemented in any 3-year reporting period established by subsection (f) of Section 8-104 of this Act, by an amount necessary to limit the estimated average increase in the amounts paid by retail customers in connection with natural gas service to no more than 2% in the applicable 3-year reporting period. The energy savings requirements in subsection (c) of this Section may be reduced by the Commission for the subject plan, if the utility demonstrates by substantial evidence that it is highly unlikely that the requirements could be achieved without exceeding the applicable spending limits in any 3-year reporting period. No later than September 1, 2013, the Commission shall review the limitation on the amount of energy efficiency measures implemented pursuant to this Section and report to the General Assembly, in the report required by subsection (k) of this Section, its findings as to whether that limitation unduly constrains the procurement of energy efficiency measures.

220 ILCS 5/8-104(d).

Section 8-104(f) of the Act requires:

In submitting proposed energy efficiency plans and funding levels to meet the savings goals adopted by this Act the utility shall:

(1) Demonstrate that its proposed energy efficiency measures will achieve the requirements that are identified in subsection (c) of this Section, as modified by subsection (d) of this Section.

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

(3) Present estimates of the total amount paid for gas service expressed on a per therm basis associated with the proposed portfolio of measures designed to meet the requirements that are identified in subsection (c) of this Section, as modified by subsection (d) of this Section.

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

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

(6) Demonstrate that a gas utility affiliated with an electric utility that is required to comply with Section 8-103 of this Act has integrated gas and electric efficiency measures into a single program that reduces program or participant costs and appropriately allocates costs to gas and electric ratepayers. The Department shall integrate all gas and electric programs it delivers in any such utilities' service territories, unless the Department can show that integration is not feasible or appropriate.

(7) Include a proposed cost recovery tariff mechanism to fund the proposed energy efficiency measures and to ensure the recovery of the prudently and reasonably incurred costs of Commission-approved programs.

(8) Provide for quarterly status reports tracking implementation of and expenditures for the utility's portfolio of measures and the Department's portfolio of measures, an annual independent review, and a full independent evaluation of the 3-year results of the performance and the cost-effectiveness of the utility's and Department's portfolios of measures and broader net program impacts and, to the extent practical, for adjustment of the measures on a going forward basis as a result of the evaluations. The resources dedicated to evaluation shall not exceed 3% of portfolio resources in any given 3-year period.

220 ILCS 5/8-104(f).

The Act further provides that:

No more than 3% of expenditures on energy efficiency measures may be allocated for demonstration of breakthrough equipment and devices.

220 ILCS 5/8-104(g).

III. NORTH SHORE'S AND PEOPLES GAS' ENERGY EFFICIENCY PLAN

A. Commission Analysis and Conclusion

The minimum requirements for Commission approval of NS/PGLs Plans are set forth in Sections 8-104(f) and 8-104(g) of the Act. The Commission has reviewed the Petition, testimony, record evidence, and discovery in this Docket, and finds that while certain portions of the plan should be modified or altered, ultimately the plan meets the minimum requirements of the Act once modified. The Commission directs NS/PGL to submit a Revised Plan within 30 days of the date of this Order in a compliance filing in this Docket that incorporates the modifications discussed and adopted below.

IV. PROPOSED SAVINGS GOALS, BUDGETS, AND PROGRAMS

A. Section 8-104(f)(1) Modified Energy Savings Goals

1. North Shore/Peoples Gas' Position

Section 8-104(f) of the Act requires that the utility's plan address eight items. NS/PGL states it has addressed each item fully and their Plan satisfies all Section 8-104(f)'s requirements. North Shore/Peoples Gas contends their proposed Plan 2 should be approved as amended by their own rebuttal and surrebuttal testimony.

The Companies found the cumulative savings goal under the Utilities' first three-year energy efficiency plan were determined to be achievable by the Commission, but argued that the statutory goals for Plan Period 2 are not achievable given the 2% budgetary cap. North Shore/Peoples requested their modified gas savings goals over

Plan Period 2 be set at 24,612,177 therms for Peoples Gas and 4,757,013 therms for North Shore.

Since June of 2008, NS/PGL noted natural gas costs have declined from a Henry Hub Gulf Cost Natural Gas Spot Price of \$12.69 per MMBtu to \$3.43 per MMBtu in August 2013. North Shore/Peoples Gas argued this decline has had a two-fold effect. First, the annual Rate Impact Cap has decreased from the Plan 1 (Program Years 1 through 3) by 9.4% for Peoples Gas and 18.5% for North Shore, primarily because of declining natural gas costs. The Rate Impact Cap is based on the predicted gross revenues of a utility, which includes the cost of natural gas. The falling natural gas price, all other things equal, decreases the Rate Impact Cap. Second, NS/PGL argued that declining natural gas prices, reduce the “value” of a customer’s natural gas commodity savings for energy efficiency programs. As the potential monetary savings for a customer declines, the Petitioner noted, the payback or return on energy efficiency spending falls. In order to incent customers to now adopt programs in a low gas cost environment, NS/PGL stated it would need to provide great incentives to encourage customer adoption of energy efficiency programs. As more energy efficiency funds under the Rate Impact Cap must now be allocated to greater incentives for customers, all other things equal, either few programs must be offered or the scope of those programs must decline.

The Petitioner found support for their conclusion in their “real world” experiences and difficulties in operating an energy efficiency program in a lower gas cost environment and also noted the 2013 Potential Study conducted by the Energy Center of Wisconsin on behalf of NS/PGL. The Potential Study set out to determine the achievable potential of natural gas savings in each of the NS/PGL’s service territories. The Potential Study used primary data collection from the NS/PGL’s customers, and largely concluded that the lower natural gas prices made the achievement of the statutory savings goal impossible and lower savings goals where more reasonable.

In further support of their proposed modified goals, the Petitioner noted the structure of their portfolio. In addition to meeting the statutory requirements of Section 8-104, with the savings goals as modified, NS/PGS found the important goals of the portfolio are to: (1) provide a mix of longer-lived measures to generate long-term customer benefit, (2) provide energy efficiency programs to all customer segments and (3) attempt to maximize program participation.

The Plan 2 energy efficiency portfolio proposed by NS/PGL was designed with several goals, including (1) achieving a cost-effectiveness at the portfolio level so that the entire portfolio would have a TRC greater than 1.0, as required by Section 8-104, (2) providing an ability to adapt to market and technological opportunities, and (3) providing a cost-effective mix of energy efficiency program options, while balancing the Rate Impact Cap with attempting to achieve substantial, if modified, therm savings goals. NS/PGL Ex. 1.2R at 5. The NS/PGL Plan 2 includes five program areas with subparts:

- Residential Programs
- Multifamily Programs
- Residential Outreach and Education Programs
- Business Programs – Existing Facilities

- Small Business Efficiency Programs.

Generally, with the exception of the Multi-Family Programs, the TRCs for the commercial and industrial energy efficiency programs in the Plan 2 portfolio are greater than the residential customers TRCs.

2. AG's Position

While the AG agreed with the Petitioner that the statutory budget caps may act to constrain NS/PGL's ability to meet unmodified goals, their witness, Philip Mosenthal nonetheless found that the overall cost per unit of savings from these programs seems reasonable, both in comparison to actual results available so far from the first plan as well as from typical metrics from programs outside of Illinois.

The AG raised a number of issues with these programs, including:

- A lack of comprehensiveness and the ability to engage customers in a "one-stop-shop" experience in the Residential Single Family program;
- The Companies' failure to include comprehensive blower-door guided air sealing services similar to those that Nicor and ComEd will be pursuing in their joint program;
- Limited coordination with ComEd and engagement with Commercial & Industrial ("C&I") new construction projects;
- Use of direct installation in the core Business Existing Facilities program, and limitations on comprehensiveness in the Small Business Efficiency program;
- Limited use of on-bill financing that could provide the Companies with greater ability to leverage limited efficiency funding;
- Promotion of non-cost-effective measures.

As such, the AG argued, the Commission should order the Company to file a modified Plan, pursuant to Section 8-104(f) of the Act, consistent with their recommendations.

3. ELPC's Position

ELPC asks the Commission to reject NS/PGL's reduced savings goals. ELPC notes that Section 5/8-104(c) requires the Petitioner to reach certain therms savings goals each year through their natural gas energy efficiency portfolio. NS/PGL admits they expect to fall well short of these statutory savings goals for Plan 2, specifically by their own calculations Peoples Gas and North Shore Gas will achieve only 58% and 67% of the statutory savings goals, respectively, for Plan 2.

ELPC's witness Geoffrey Crandall testified, "the Companies have failed to adequately consider additional savings potential." ELPC maintains that Mr. Crandall's testimony, as well as witnesses for the AG, and CUB, support the position that the Companies could do more to get closer to meeting their statutory goals. ELPC argues that there are a variety of programs and financing mechanisms that the Petitioner has either not considered or chosen not to implement which could help NS/PGL achieve greater savings. Additionally, ELPC noted there are potential savings in the form of behavioral waste that NS/PGL has only just begun to realize.

ELPC concludes that the Commission should require the NS/PGL to reevaluate and adjust their proposed savings goals to take advantage of additional savings that they could achieve according to the recommendations introduced by numerous witnesses. ELPC acknowledged that the recommended goals should be achievable, but it is best for the Commission to also have NS/PGL be innovative in their approach to meeting the goals.

As such, ELPC asks the Commission to reject the NS/PGL's proposed adjustable savings targets.

4. North Shore/Peoples Gas Response

The Petitioner responded and maintains their proposed modified savings goals are appropriate and should be approved. NS/PGL noted that Staff does not propose any adjustments to the modified savings goal and the AG and CUB also do not propose adjustments, but chose to criticize NS/PGL's program designs and the lack of certain energy efficiency program offerings.

NS/PGL believed the suggestion by ELPC that a wasted energy study should have been performed before determining whether NS/PGL could achieve their statutory goals was moot, since ELPC has not submitted such a study and cannot verify that the statutory goals could be achieved. Further, NS/PGL notes that ELPC proposed no particular adjustment to their modified goals, and therefore, the speculation as to any adjustment to their proposed modified savings goals should be rejected. NS/PGL maintains their Potential Study, which provides a comprehensive analysis of various energy efficiency opportunities available in their service territories, and is sufficient for being used as the basis for forming the Utilities' Plan 2 portfolio and the modified savings goals. The Utilities' modified savings goals should be adopted as they are based upon substantial evidence, including the Utilities' actual program experience in Plan Period 1, their detailed Plan 2 portfolio (NS/PGL Ex. 1.2R), and the Potential Study.

NS/PGL determined their proposed modified savings goals during the Plan Period 2 are 67% of the statutory goal for North Shore and 58% of the statutory goal for Peoples Gas. North Shore/Peoples Gas argues they have demonstrated, by substantial evidence, that it is highly unlikely that the statutory savings goals of the Act can be met. Further, aside from ELPC's conjecture that a wasted energy study would allow the NS/PGL to meet the goals, they note that no party has proposed any alternative to the NS/PGL's proposed modified savings goals over the Plan 2 Period. Therefore, NS/PGL's proposed modified savings goals should be approved.

5. Commission Analysis and Conclusion

The Utilities have demonstrated, as required under 220 ILCS 5/8-104(d), by substantial evidence that the natural gas savings goals under 220 ILCS 5/8-104(c) are highly unlikely to be met without exceeding the applicable spending limits in any 3-year reporting period. The combination of declining funds available for programs in Plan Period 2 relative to Plan Period 1, the increased statutory goals, and the decreased price of natural gas make it unlikely that Peoples Gas or North Shore can achieve their statutory goals.

Notwithstanding, the Utilities shall make every reasonable effort to be innovative in reevaluating and adjusting each of their savings goals based on the Commission's determinations as to particular programmatic adjustments made in this Order. The Commission recognizes that the modified savings goals may be adjusted downwards based on the adoption of additional programs, including residential and multi-family air sealing programs. As the air sealing program may have reduced savings per dollar spent during Plan Period 2, but will lead to greater savings for residential customers over those measures' useful life, the Commission considers a downward adjustment in the modified savings goal, to be supported in a compliance plan filing to be appropriate.

In addition, the Companies, to the extent that the modified savings goals are adjusted by elimination of measures with TRCs less than one, shall reflect such modified savings goals in the compliance plan.

Finally, in Program Year 4, the Companies shall conduct a wasted energy study as suggested by ELPC. At the conclusion of the wasted energy study, the Companies shall present the results of the wasted energy study to the SAG. To the extent that cost-effective measures and programs are identified and can be reasonably implemented in accordance with the goals of savings, market transformation, and long-lived measures achieving, the Companies shall submit revised modified savings goals in a revised compliance filing for Program Year 5 to the extent that said modified savings goals would be changed by the additional measures and programs.

B. Section 8-104(d) Spending Limits

1. North Shore/Peoples Gas' Position

North Shore/Peoples Gas wants the Commission to reject CUB's proposal to require the Rate Impact Cap to be considered by Customer Class. CUB argued that NS/PGL did not provide adequate programs for the residential customer segment. In order to rectify the alleged "lack" of resources CUB proposed the Commission embark on what NS/PGL argues is a questionable interpretation of Section 8-104(d) to apply a 2% spending "screen" for the Rate Impact Cap to each customer class – presumably dividing residential, commercial and industrial customers. NS/PGL argued the CUB proposal for a 2% spending screen for the Rate Impact Cap by customer class should be rejected because it is not supported by the record or the law.

The Petitioner notes two problems with CUB's argument. First, NS/PGL's experiences during Plan 1 along with the results of the Potential Study indicate that there are not as many natural gas savings opportunities for residential programs and second, NS/PGL notes the TRCs with many of the individual programs for residential customers were low relative to C&I customers. North Shore/Peoples Gas stated that with all other things being equal, in order to offer programs across the spectrum of service territories and achieve even the proposed modified savings goals, the proportion of more energy efficiency spending and savings relative to the proportion of total retail revenue would need to be directed towards C&I customers as opposed to residential customers. NS/PGL noted that under their Rider EOA - Energy Efficiency and On-Bill Financing Adjustment ("Rider EOA"), there can be no cross-subsidization between the rate classes.

Secondly, the Petitioner notes the language of Section 8-104(d) does not associate Rate Impact Caps with particular customer or rate classes. Instead, the language of Section 8-104(d) indicates a limit of 2% for the average increase in charges due to the energy efficiency programs in a three-year reporting period, for retail customers and NS/PGL noted the Commission's Plan 2 orders for the Ameren Illinois Company ("Ameren") and ComEd, and Plan 1 orders for Northern Illinois Gas Company ("Nicor Gas") and NS/PGL (ICC Docket Nos. 10-0568, 10-0570 and 10-0562 and 10-0564, respectively), the Commission did not adopt a 2% Rate Impact Cap by customer class, as proposed by CUB. Further, for the NS/PGL Plan 1, spending was relatively more weighted towards C&I customers.

North Shore/Peoples Gas states that the Commission's previous interpretation of the Section 8-104 of the Act implies that savings goals are not determined by particular customer class or rate class and the spending caps are not determined by particular customer class or rate class. Sections 8-104(c) and 8-104(d) apply to savings and spending for all retail customers. NS/PGL argued that if the legislature had intended to bifurcate savings goals and spending goals by particular sub-class of utility customers (such as the legislature did with savings and spending attributable to DCEO), the statute would have been worded differently. Therefore, the Petitioner argued that the Commission should reject the CUB proposal for a 2% spending "screen" for the Rate Impact Cap be applied to each customer class as it is not supported by the record or the law.

2. CUB's Position

NS-PGL justifies the Companies' decision to not fully collect from the residential sector by claiming that it is "becoming more and more difficult to find opportunities in the residential sector that are equivalent to their revenue share of the customer base." . The example NS-PGL provides is that "the potential increase in Department of Energy ("DOE") residential gas furnace efficiency standards could make achieving cost-effective residential energy savings even more difficult in the future." Yet, NS-PGL wholly overlooks other opportunities in the residential and multifamily sectors. The Companies fail to include comprehensive Air Sealing measures—some of the best and most comprehensive efficiency measures available. The Companies have also failed to offer a comprehensive multifamily program that delivers long term savings on a wide scale proportionate to the potential savings opportunity that exists in the City of Chicago.

NS-PGL is not currently providing customers the maximum opportunity to participate in programs under the Act. Residential customers deserve to have access to energy efficiency programs that are as close to the statutory goals as possible, or in other words, up to the spending screen. Under the Act, Section 8-104 energy efficiency programs must be cost-effective at the portfolio level, meaning that the benefits these programs produce must be greater than their costs. Residential customers deserve to have access to all of those economic, environmental, and societal benefits that are available under the statutory spending screen. If NS-PGL were willing to provide a full portfolio to residential and multifamily customers that included more comprehensive measures, their claim of a lack of additional cost-effective measures would be more credible. The Companies could back up this claim with better evidence than 1) previous

experience based on the Companies' past failures to offer a comprehensive portfolio, or 2) the problematic potential studies.

The Commission should order NS-PGL to redesign the portfolio with CUB's recommendations related to the residential and multifamily customer sectors. CUB does not desire to micromanage how NS-PGL collects from different customer sectors, but recommends that the Commission order the Companies to collect from the residential sector as needed under the spending screen to support the inclusion of Air Sealing measures, comprehensive multifamily offerings, and joint programs with ComEd. If NS-PGL collects funding for energy efficiency programs from residential and small business customers closer to the amount allowed under the spending screen, that will increase budgets for programs and result in annual savings totals that are closer to the original statutory goals.

CUB points out that the Companies report that, if expanded air sealing measures were included in the portfolio, the Companies expect that "a greater amount of the spending under the Rate Impact Cap for a Plan 2 revised in a compliance filing would move towards residential and multi-family customers." CUB approves of this shift in spending.

3. Commission Analysis and Conclusion

The Commission's previous interpretation of Section 8-104 have shown that Sections 8-104(c) and 8-104(d) apply to savings and spending for all retail customers and neither savings goals or spending caps are determined by a particular customer class. Particularly since Section 8-104(i) assigns penalties to a gas utility for failing to meet the entire statutory savings under Section 8-104(c), as modified under Section 8-104(d). Given the application of this standard in numerous dockets previously, the Commission will not deviate here. Therefore CUB's proposal that the 2% spending "screen" for the Rate Impact Cap be applied to each customer class is rejected.

C. On Bill Financing and Other Financing Mechanisms

1. ELPC's Position

ELPC argued that the Commission should instruct Staff to conduct a workshop to discuss alternative financial incentives. ELPC states the Companies have not exhausted all of their remedies for obtaining funds for energy efficiency resources and believes the Commission should direct NS/PGL to review alternative financing sources beyond loans and cash incentives. ELPC noted that access to funding and capital has been a long-time barrier to implementing energy efficiency resources and improvements, but ELPC states the Companies have overlooked an extensive amount of untapped economic efficiency potential by failing to expand their view on alternative financing. In ELPC's view, the Utilities are not doing all they can to meet the statutory energy savings targets within the projected budget. They recommend NS/PGL explore alternative financial incentives, including third-party performance contracts, leasing of energy efficiency measures, and tariff-based approaches in addition to the loans and cash incentives the Companies rely upon to stimulate customer participation and obtain energy efficiency savings for their proposed programs.

For these reason, ELPC recommends the Commission instruct Staff to conduct a workshop to discuss alternative financial incentives. Furthermore, ELPC believes the Commission should instruct the Companies and the SAG to review and prepare recommendations to the Commission regarding the viability of supporting and/or offering these alternative financing measures within one year.

2. North Shore/Peoples Gas' Position

North Shore/Peoples Gas argued that neither proposal brought by ELPC is fully defined. Further, the Petitioner states that ELPC fails to explain the practical implications of the Commission ordering only two of the utilities implementing energy efficiency programs to participate in a workshop process and the SAG. North Shore/Peoples Gas contested the viability of the workshop process as applied to their financial incentive program. The Petitioner believed there is a better alternative than a Commission order directing Staff and NS/PGL to conduct a workshop where SAG participation is compelled. Instead NS/PGL argued, ELPC can simply advance this as a topic for discussion at the SAG. As such, NS/PGL asked the Commission to reject ELPC's argument.

3. AG's Position

The AG commended NS/PGL for proposing to offer on-bill-financing ("OBF") in conjunction with their rebate programs. Attorney General witness Philip Mosenthal noted that OBF is an effective means to leverage limited efficiency funding by ensuring that customers have access to financing for their portion of efficiency costs, particularly given the statutorily imposed budget caps. Mr. Mosenthal believed this could potentially lead to reductions in rebate levels. The AG noted that otherwise, NS/PGL has provided little to no detail related to the program other than merely mentioning the planned availability of OBF. Mr. Mosenthal noted the lack of detail in the OBF raised a red flag and questioned whether OBF would have any impact on the overall portfolio.

The AG pointed to the limited information presented under the line items for "OBF – Admin" and then a total "OBF Budget." The AG was concerned that out of a total Peoples Gas OBF budget of approximately \$35,000 per year, half of that amount was apparently dedicated to "OBF-Admin." For North Shore, the AG noted only about \$10,000 per year has been allocated to the entire OBF budget, with about \$2,800 each year going to "OBF-Admin." On rebuttal, the NS/PGL clarified that these amounts represented the "costs associated with oversight of OBF." But, the AG remained concerned that approximately half of the OBF budget for Peoples Gas and almost 30% of the North Shore budget is allocated to administrative costs without further information provided.

Mr. Mosenthal did acknowledge in his direct testimony the possibility that these line items merely reflect the administrative costs of managing and servicing these loans and that the capital to be lent is not included in the Plan because is it sourced from a third party.¹ While this turned out to be true, the AG argued the level of funding planned by NS/PGL remains just as much a mystery as it was at the beginning of this docket. The AG noted NS/PGL's tariffs allow up to \$2.5 million in OBF loans to be

¹ AG Ex. 1.0 at 15

outstanding at any one time,² yet the Companies still failed to clarify anywhere in their testimony or their Plan the amounts to be lent, the source of the capital, and any information as to how many loans are anticipated over the three-year period.

Since NS/PGL is asking the Commission to approve goals that are significantly adjusted downward from the intended statutory goals articulated in Sections 8-103 and 8-104 of the Act as a result of budget limits, the AG argues that NS/PGL should also have an obligation to attempt to maximize the savings that they can reasonably capture within these budget limits, subject to other policy objectives. The AG believed OBF could provide a significant tool for the Companies to expand the goals they pursue within the budget limits. In that regard, the AG asks the Commission to order NS/PGL to submit a revised plan pursuant to Section 8-104(f) with more detail supporting their inclusion of OBF as a mechanism to reduce program costs.

4. North Shore/Peoples Gas Reply

North Shore/Peoples Gas responded to the issues raised by the AG regarding the lack of detail in their OPF Program. North Shore/Peoples Gas agreed to submit additional detail in their compliance filing explaining how the On-Bill Financing Program (“OBF”) will be integrated into the Plan 2 portfolio. The Petitioner agrees that OBF can be used as a marketing tool for customer adoption of energy efficiency measures and to the Utilities’ residential and, with the revision to Section 19-140 of the Act, multi-family dwellings and possibly small commercial customers.

5. Commission Analysis and Conclusion

North Shore/Peoples Gas shall submit additional detail regarding their administrative costs related to the OBF and the level of funding anticipated by the Petitioner as well as how they plan to integrate OBF as a means to reduce program costs overall.

D. Residential and Business Energy Efficiency Measures and Programs

1. North Shore/Peoples Gas’ Position

Residential Single-Family Program

The Petitioner also requests the Commission approve their Plan 2 Home Energy Reports Program. As part of NS/PGL’s Plan 1, Program Year 3 energy efficiency program, they are sending monthly Home Energy Reports, during the fall and winter seasons (the October 2013 – April 2014 billing cycles) to approximately 87,500 customers in the North Shore service territory and 144,000 residential customers in the Peoples Gas service territory. The Petitioner anticipates the number of monthly mailings during the fall and winter billing cycles will be at the same level in the Utilities Plan 2 proposal. North Shore/Peoples Gas argued the Home Energy Reports not only identify a customer’s usage relative to similar customers but also serve as a marketing tool for the Residential Programs (Home Energy Jump Start and Home Energy Rebate Programs) and a vehicle for general customer awareness of their energy efficiency

² NS/PGL Ex. 3.0 at 28-29.

program. Further, the Home Energy Reports serve as a vehicle for general customer awareness of the Utilities' energy efficiency program.

Further, the Petitioner argued the Commission should approve the Home Energy Reports measure even though the estimated TRC for the measure is less than 1.0 for three reasons. First, NS/PGL argues a full evaluation of the Home Energy Reports program has yet to be completed by the independent evaluator. Second, the Petitioner notes that other Commission orders have identified Home Energy Reports as a valuable part of other utilities' portfolios of energy efficiency measures and it would be unfair to not allow NS/PGL access to this particular measure. Third and most importantly, NS/PGL states the use of Home Energy Reports create value to residential customers, particularly where those reports not only identify higher customer usage to the customer, but also promote longer-lived energy efficiency measures and create greater energy efficiency program awareness. For these reasons, the Petitioner maintains there is a "compelling reason" to include the Home Energy Reports program in Plan 2.

Multi-family programs

North Shore/Peoples Gas has developed their Plan 2 Multi-Family program based on the first three program years of their energy efficiency plan approved in Docket No. 10-0564 and their Potential Study. The Petitioner considered input garnered from meetings with the Stakeholder Advisory Group ("SAG") and individual stakeholders, including Staff, the AG, CUB, and the City, was considered in forming Plan 2 for their filing on October 1, 2013. North Shore/Peoples Gas planned to offer their Multi-Family program in coordination with ComEd to better collaborate and coordinate marketing and application efforts. Based on Utilities' Plan 1 experience, the experience of their energy efficiency vendor, the Potential Study, and input of a wide variety of parties, the Utilities' believe that their estimates of participation in the Multi-Family program are reasonable estimates given that the Rate Impact Cap constrains the total amount of therms that can be saved in Plan 2.

Air-Sealing Program

CUB and AG have proposed residential air-sealing programs, for both single-family dwellings and multi-family dwellings, as an effective energy efficiency measure to be included in the Utilities' Plan 2 portfolio. CUB and AG sought to combine the air sealing program with other building "shell" energy efficiency measures. North Shore/Peoples Gas has raised their concerns as it relates to the air-sealing programs and radon testing. While NS/PGL notes that other utilities in Illinois, the United States, DCEO, and the Weatherization Assistance Program have adopted air-sealing programs without radon testing, they would adopt such a measure for their residential and multi-family energy efficiency programs, with or without radon testing as directed by the Commission. North Shore/People Gas acknowledged that when factors such as avoided electricity costs, environmental benefits, and other considerations are included within the air sealing measures' TRC, without radon testing, the TRC for these measures ranges between 2.11 and 2.46 while the air sealing measures' TRC range between 1.21 and 1.26 with radon testing.

North Shore/Peoples Gas concluded that if ordered by the Commission, they would be able to implement such a measure within the context of a compliance filing to

update their Plan 2. The Petitioner does note that although an analysis has not been conducted yet as to a reallocation of the Rate Impact Cap budget due to inclusion of an air sealing program, they expect a greater amount of the spending under the Rate Impact Cap for a Plan 2 revised in a compliance filing would move towards residential and multi-family customers. North Shore/Peoples Gas acknowledged they may need to update their proposed modified savings goals as part of a compliance filing for a revised Plan 2, and suggested that those modified savings goals for Plan 2, may decrease due to the inclusion of air-sealing in the a proposed Plan 2 compliance filing.

Commercial and Industrial Programs

The North Shore/Peoples Gas Plan 2 proposal currently includes direct installation of programmable thermostats for larger buildings. As identified by the AG, they agree that direct installation of programmable thermostats would be valuable for smaller customers through NS/PGL's Small Business Efficiency Programs, where they currently only offered as part of a rebate. The Petitioner further agrees that is would offer setback thermostats as a direct installation measure in the Small Business Efficiency Program if directed by the Commission.

The current proposed Plan 2 Business Program – Existing Facility and Small Business Efficiency Program measures focus on installation of measures to existing facilities. NS/PGL Ex. 1.2R at 52-66. The AG argues that this program should include plans to coordinate with ComEd to offer the measures under those programs to new business customers as well as targeting existing facilities. North Shore/Peoples Gas agrees to the extent that the most efficient time to offer energy efficiency programs is at the time of new construction. The Petitioner also agrees that their Business and Small Business Program offerings, in coordination with ComEd when possible, should be offered to new business customers, as long those offerings occur early in the customer's planning of their new construction. Otherwise, NS/PGL argues their efforts for applying these programs to new customers could result in a low NTG ratio, effectively "wasting" the spending and effort by the Utilities.

2. Staff's Position

Multifamily Program and Joint Programs with ComEd

Staff agreed with CUB's recommendation to have the Commission direct NS/PGL to expand the Multi-family program because Petitioner's proposed program is inadequate as it assumes unreasonably low participation levels. Staff agrees that greater participation could be achieved in the Multi-family program if it is expanded in coordination with ComEd, particularly since the Commission recently directed that \$37,088,416 be shifted from ComEd's Residential Lighting program to other residential programs, including jointly delivered programs with NS/PGL over the time period covering the Companies' PY5 and PY6.³ Staff noted that ComEd is reliant on gas companies, such as NS/PGL to ensure the joint programs offer gas energy efficiency measures and associated benefits to customers and the size of these joint residential programs are determined by the gas utilities' comparatively limited budgets. Staff noted the Commission could increase net benefits to both ComEd and NS/PGL ratepayers by

³ Commonwealth Edison Co., ICC Order Docket No. 13-0495, 88-89 (Jan. 28, 2014)

directing NS/PGL's funding from the cost-ineffective measures toward the cost-effective joint residential programs with ComEd. The Companies state they will (NS/PGL IB, 37.) Staff recommends the Commission order NS/PGL to continue to coordinate with ComEd for the delivery of measures and programs within Plan 2, where such coordination is available and cost-effective.

Air Sealing

North Shore/People Gas originally indicated that the TRC value for air sealing was 1.14 without pre and post-installation radon testing, and 0.87 with pre and post testing.⁴ Staff's analysis of the NS/PGL's air sealing cost-benefit analysis concluded that their TRC values were overstated due to: (1) a formulaic error that overstated avoided costs by 4.28% in 2014 and each year thereafter (2) an assumed cost for radon testing that was approximately \$100 too low and (3) NS/PGL's analysis did not include the costs for covering dirt floors or sump pumps, or radon mitigation costs⁵ Taking the first two factors into account and excluding the third, Staff's analysis indicated that the TRC value for air sealing in Peoples Gas' territory is 0.95 without radon testing and 0.60 with radon testing if 100 therms of savings is assumed, and 0.71 without radon testing and 0.45 with radon testing if 75 therms of savings are assumed. Additional costs associated with the third factor would lower these TRC values further.

Staff noted their analysis was based on the same general assumptions used by the Petitioner. In response to CUB DR 1.2 (CUB Cross Ex. 1.0), NS/PGL provided a revised cost benefit analysis that considered Staff's cost estimates for radon testing but also included additional benefits that were not included in the Companies' original cost-effectiveness analysis. Staff noted these benefits appeared to increase the TRC values, but could not confirm nor refute the validity of these additional savings. Since the additional benefits were not introduced until the evidentiary hearing, and Staff had no opportunity to analyze its contents, Staff believes that they should be given no weight.

3. AG's Position

Residential Single Family Program

North Shore/Peoples Gas' Residential Single Family Program includes two "paths" labeled "Home Energy Jump Start" and "Home Energy Rebate." According to Petitioners plan, Home Energy Jump Start is a program wherein a contractor will install a number of low cost energy-saving items such as faucet aerators, showerheads, programmable thermostats, and pipe insulation in the customer's home. The contractor will also complete a "high level assessment to identify other energy saving opportunities." The plan also envisions the contractor educating the customer on the various financial incentives available through which the customer could pursue those identified "other energy saving opportunities." These incentives would presumably include the prescriptive rebates available under the Home Energy Rebate path of the Plan.

AG witness Mosenthal raised a twofold concern with NS/PGL's planned approach. First, the direct installation performed by the contractor tends to ignore what

⁴ NS/PGL Ex. 23.0, 11.

⁵ Id. at 4-5:70-88

Mr. Mosenthal views as “generally the most important savings opportunities in the home,” particularly air and duct sealing – a process that generally involves a blower-door process to effectively identify and seal up leaks. Second, the Companies’ program does not provide consumers with a “one-stop-shop.” The Attorney General suggests that an ideal program would be designed in such a way as to maximize energy savings opportunities for the customer by allowing them to agree to approve installation of additional savings measures or receive direct referrals to obtain them. The AG noted that under the Companies’ proposed plan, it appears that customers will be left to their own devices, fending for themselves to arrange for the additional measures and submit rebate applications.

AG witness Mosenthal sums up the People’s concerns with this program design by noting that the Companies’ planned approach loses the primary benefits of having a direct installation program in the first place. AG Ex. 1.0 at 9. The program design features suggested by Mr. Mosenthal in order to make the Companies’ proposal more of a “one stop shop” for residential customers have been adopted by other utilities in Illinois. The Companies plan to jointly offer this program with ComEd – a move that makes sense because both electric and gas efficiency opportunities can be simultaneously pursued and cost savings will arise from combining efforts. However, ComEd and Nicor plan to offer a far more streamlined and comprehensive service than the program proposed by NS/PGL in this docket. Specifically, ComEd and Nicor plan a “whole house approach to energy efficiency,” including air sealing services. In addition, “if the customer chooses to move forward with the weatherization work recommended, the contractor will facilitate scheduling and installation of measures during a subsequent visit.” Finally, the contractor will apply the 50% incentive as an “instant rebate to the customer’s invoice,” thus negating the need for the customer to pay the full cost and later get reimbursed through a rebate path. The AG argues that this stands in stark contrast with the disjointed program planned by NS/PGL, which merely include a “high level assessment,” and much less of a comprehensive “one stop shop” than that offered in Nicor territory.

It is not clear to the AG why NS/PGL chose this approach, particularly where ComEd’s approval of the more comprehensive Nicor plan indicates that they can clearly support a more comprehensive approach. These concerns were echoed by CUB witnesses Devens and Francisco. The Attorney General argued that NS/PGL has not sufficiently explained the reasons for their planned approach.

Air Sealing

The Attorney General argued that NS/PGL’s stated concerns over liability concerning the radon levels lack merit. AG witness Mosenthal testified that blower-door guided air sealing services have been mainstream residential efficiency measures throughout the U.S. for over a decade and are very common in virtually every utility jurisdiction that offers residential programs that Mr. Mosenthal has been involved in and they are also heavily supported by the Federal low income weatherization services. AG witness Mosenthal stated he was similarly not aware of any other utility or program administrator that was making a claim that liability and indoor air quality are major enough concerns to preclude offering these services. The AG pointed out that on

cross-examination NS/PGL's own witness, Michael Marks admitted that he is "not aware of any other utilities" that share the Companies' position.

The AG contended that the mechanics of the program similarly do not support such a claim. Normally, during the air sealing process, mechanical ventilation is installed that actually improves indoor air quality. The AG stated they remain unclear exactly why this would be a major concern for NS/PGL when apparently ComEd, Ameren, Nicor, the Department of Commerce and Economic Opportunity ("DCEO") (who also offers these services to low-income customers) do not share the same concern. The Attorney General notes that NS/PGL has provided no actual evidence that this is a serious or significant concern in their territory; or why their territory is different than all other territories throughout the State. In Rebuttal, NS/PGL witness Mr. Marks appears to have softened on the issue, indicating that they would be willing to pursue air sealing under the condition that they perform pre- and post-radon testing in each home.

The AG believes that air sealing is "critically important" to the Residential Single Family Program with regard to radon testing, the Petitioners witness Marks initially challenged the cost-effectiveness of performing two radon tests in each home, however the AG argues, this no longer appears to be the case and pointed to NS/PGL's response to CUB data requests 1.1 and 1.2 which indicates that the measure has been recalculated to be cost-effective

The Attorney General further argued that, the Companies' initial calculations were flawed and should be disregarded by the Commission as they omitted several underlying assumptions such as using a protocol where the contractor limits air sealing based on periodic measurements of the leakage; targeting homes with higher levels of existing leakage; the TRC for home envelope improvements that would change with the level of sealing in a residence; and the electric benefits and costs.

The AG concluded that there are clear societal benefits to customers receiving radon tests that have not been counted and included in cost-effectiveness evaluations and requests the Commission direct NS/PGL to add air sealing to the Residential Single Family Program, or, alternatively, engage in a six-month pilot that includes radon testing for a limited time to collect sufficient data to determine if the testing should continue.

Residential Outreach and Education Program

The AG expressed concern about NS/PGL's plan to pursue their non-cost-effective Residential Outreach and Education Program and questioned NS/PGL's purported efforts to pursue a joint program with ComEd who is offering a similar program in their service territory. AG suggested that combining efforts could significantly reduce the costs to both gas and electric ratepayers, potentially rendering the program cost-effective, and providing better service to customers. The Petitioner expressed that a joint program would be "ideal," but cited two alleged barriers---the merged data between the NS/PGL and ComEd and ComEd's perceived unwillingness to enter into a joint program.

First, the AG argued that NS/PGL has appeared to have overstated their claims about potential information technology issues. AG witness Mosenthal stated there is no

need to actually merge CIS systems or to encumber the systems that the utilities rely on or seek to maintain their integrity. The AG contends that merging the data could be accomplished via a program that should work in such a way as to allow the utilities previously merged CIS data to interface with other public databases such as property tax and census databases, in an effort to glean certain information such as property square footage and number of occupants. The AG argued that NS/PGL failed to address this testimony in their Initial Brief and their assertions that a joint program would not be technically feasible are unsupported by the record.

Secondly, the AG notes, NS/PGL attempts to shift the blame to ComEd, by stating that ComEd had no interest in developing a joint program. The AG states that while this may have been true several years ago, NS/PGL acknowledged they have not reached out to ComEd since the development of the Companies' Plan 1. The AG argues that the potential ratepayer savings and advantages that could result from a joint program with ComEd demand that NS/PGL partner with ComEd. Thus, the Attorney General urges the Commission to either eliminate the Residential Outreach and Education program from their portfolio or merge it with the existing ComEd program in a cost-effective fashion.

C&I New Construction Projects

In their Initial Brief, the AG noted that NS/PGL proposed a Business Existing Facilities program and a Small Business Efficiency program that was limited to existing facilities. The AG also raised concerns that the lack of services offered to businesses undergoing new construction projects was an important "lost opportunity." North Shore/Peoples Gas slightly changed their position and noted it would offer the Business and Small Business Program offerings to new business customers (as long those offerings occur early in the customer's planning of their new construction) and it would attempt to coordinate with ComEd where possible.

The AG commended NS/PGL for their stated commitment to offering programs early on in the construction process, but the AG believed this commitment must be translated into action. The AG noted that Petitioner's Plan 2 still lacks basic information as to the method they will actually use to market their services or to aggressively help to identify and promote efficiency opportunities in the C&I market segment. Therefore, the AG requests the Commission order NS/PGL to submit a modified Plan that provides greater detail of their marketing plan for the Business and Small Business Programs and cements NS/PGL's stated commitment to ensure new construction opportunities for efficiency investment are available to the Business customer.

Business Existing Facilities Program

The AG raised concerns related to the design of the Petitioner's Business Existing Facilities program, including the Small Business Efficiency program. In particular, the AG took issue with NS/PGL's proposal for a direct installation path for the Business Existing Facilities program designed for the larger customers. The AG argued this approach is highly unusual, given the fact that typical direct installation services are offered to small customers because they usually lack the resources and sophistication to effectively self-direct efficiency installations. The AG also argued that the small business customer also tends to have a limited number of efficiency opportunities that

are fairly standard and common across most buildings. The AG notes, the direct installation plans proposed by NS/PGL include a very limited number of low-cost measures; and overall account for just 6% of the total program savings. The AG viewed this approach as counterintuitive and further evidence that the larger direct installation strategy should be reconsidered.

North Shore/Peoples Gas' own witness agreed this practice is inconsistent and stated that they will offer what amounts to a retro-fit program that includes a multi-prong approach of Direct Install, Engineering Assistance, Standard Incentives, Custom Incentives and Gas Optimization measures. The AG supports this approach and urges the Commission to order its adoption.

Small Business Direct Installation Program

The AG took issue with the fact that while NS/PGL has proposed programmable thermostats as one of the direct install measures for larger buildings, they have omitted this measure from the Small Business direct installation program. Currently, the AG notes the small direct installation program only includes four measures: bathroom aerator, kitchen aerator, showerheads, and pre-rinse sprayer (for commercial use). The AG argues the above are fairly limited measures and counters that programmable thermostats offer far higher savings; are easily installed during a direct contractor visit; and larger buildings are much more likely to already have programmable thermostats, or even centralized computer controlled HVAC systems. The AG suggest that adopting these measure would yield greater results if they were included in the direct installation path along with add pipe insulation and boiler reset controls, given these measures are all widely applicable and can be installed by an on-site technician in the Small Business Program.

The AG notes that NS/PGL appears to have only offered to add the programmable thermostats to this Business program in their modified Plan filing and were silent on the inclusion of the additional measures to be included in response to the AG's recommendations.

Thus, the AG concluded that in order to ensure a robust, cost-effective Small Business Direct Install program, the Commission should order NS/PGL to include both the programmable thermostat and the other measures to ensure that the small direct installation program includes a comprehensive offering of efficiency measures for the Small Business program customers.

4. CUB's Position

Multifamily Program

CUB critiqued NS/PGL's Multifamily Residential offerings stating they provide inadequate opportunities for deeper and more lasting savings and they assume unreasonably low participation levels. As a result, CUB argued the Commission should require NS/PGL to revise their Plan with a more comprehensive multifamily program that includes Air Sealing and other measures which could provide more substantial savings. CUB believed that since Peoples Gas' service territory is saturated with a vast number of multifamily properties that are old and inefficient, NS/PGL should be required to provide a comprehensive portfolio to these customers.

In addition to failing to offer significant and comprehensive Air Sealing measures, CUB notes that NS/PGL's Multifamily programming is inadequate since it assumes unreasonably low participation levels. CUB recommended that the Petitioner model their Multifamily program after the Center for Neighborhood Technology's ("CNT") Energy Savers Program, which has a track record of generating savings of 20-30% in other portfolios.

North Shore/Peoples Gas countered by arguing that the data upon which CUB based their conclusion were from "secondary" sources unrelated to the PGL multifamily sector. Instead, NS/PGL sought to have the Commission base their decision on this issue on the Potential Study, despite the fact that NS/PGL did not contest the validity of the census data CUB used. CUB argued that NS/PGL criticism of the data they relied upon is irrelevant, since their witness used that data to form a conclusion about the comprehensiveness of the Companies' programs and not the particular participation levels assumed. Although, CUG urged the Commission not to solely rely on the fact that presentations about NS/PGL's Potential Study may have been circulated to the SAG as a means to assume the SAG agrees with the methods and conclusions of the Potential Study. CUB noted that their witness confirmed that "the potential studies themselves were never circulated to the SAG."

North Shore/Peoples Gas proposed they would partner with the CNT and the SAG in developing better multi-family savings programs for buildings and noted that CNT is one of their vendors. CUB welcomed NS/PGL's commitment to the CNT Energy Savers program and found the CNT to be an "excellent model" whose best practices should be emulated by the Companies. As such, CUB maintained that should the Commission order NS/PGL to include comprehensive Air Sealing in their portfolios, then Multifamily customers in the NS and PGL service territories will be properly served with adequate offerings.

Air Sealing

NS/PGL witness Mr. Marks describes the Companies' laudable objective "to maximize the savings that we'll be able to achieve with the budget that we have." Tr. at 21. CUB noted that given NS/PGL's stated objective to maximize savings they could achieve based upon their available budget, it is difficult to understand why NS/PGL chose to omit comprehensive Air Sealing from their program. CUB argued that Air Sealing is one of the most widely implemented and admittedly cost-effective measures available for natural gas utilities that have become part of the "standard of care" for residential energy retrofits. CUB agreed with the AG that Air Sealing "is critically important" and, without it, NS/PGL's portfolio focuses on very minor measures while ignoring "the most important savings opportunities in the home." CUB notes that the Petitioner only includes two smaller Air Sealing measures with estimated participation of only 184 customers per year total for both Utilities.

CUB stated that in a period when it is generally more expensive for NS/PGL to obtain savings and where their funds are limited, it is increasingly important to include measures which have high Total Resources Cost test ("TRC") values, particularly where the Residential portions of NS/PGL's portfolio barely pass the TRC test with a value of 1.01. CUB argued that any omission by NS/PGL of a highly cost-effective measure that

is widely adopted by other utilities and the Illinois Department of Commerce and Economic Opportunity (“DCEO”) deserves close Commission scrutiny. CUB notes that the “hard evidence” NS/PGL relies upon to conclude they will be unable to cost-effectively achieve the statutory savings goals consists of past experience implementing their energy efficiency portfolio. CUB notes that NS/PGL’s past experience lacks one of the most cost-effective and widely adopted measures used by gas utilities nationwide – Air Sealing. CUB concluded that the Commission should require NS/PGL to implement proven cost-effective measures that are presently omitted from their portfolio. If implemented, CUB states NS/PGL would materially increase the total savings potential of the Companies’ portfolio of measures. This is especially true for Air Sealing measures, since those measures are essential to homeowners realizing savings from every other installed energy efficiency measure – i.e. a high-efficiency furnace saves less energy than it could have if the air it heats escapes the home because the home is not properly sealed.

Although CUB acknowledges the Commission has the authority to reduce the savings goals that NS/PGL must achieve before statutory penalties are assessed, CUB believes the Commission should require the Companies to include all proven and cost-effective measures in their Plan before exercising that authority. Otherwise, CUB finds that the ratepayers would be unjustly charged for a portfolio which fails to not only achieve the statutory goals, but also fails to maximize savings under the already reduced goals.

CUB witness Mr. Francisco, who has specific training and experience in the effect of energy efficiency on indoor air quality, testified that Air Sealing – understood as the sealing of gaps between the conditioned space of a home and unconditioned spaces – is one of the most cost-effective energy efficiency measures that a homeowner or tenant could implement.

North Shore/Peoples Gas provided no evidence that radon is a concern in their service territory, CUB’s witness Francisco testified that he was not aware of any study that finds a statistically significant correlation between Air Sealing and changes in radon levels or any lawsuits tying Air Sealing to radon levels. Given that the record contains no scientific evidence that radon overexposure is: (1) a concern in the NS/PGL service territory; (2) affected by Air Sealing measures; and (3) is made worse by Air Sealing measures; there is no basis upon which the Commission can or should order a pilot program. The record evidence actually establishes that radon testing “does not provide either the utility or the customer with reliable information.” North Shore/Peoples Gas conceded that if the Commission ordered them to include Air Sealing in their portfolio, the Petitioner would introduce a pilot program that covers sump pumps and dirt floors and informs customers about radon. CUB does not believe a pilot program is necessary as it would be unlikely to provide reliable evidence of unsupported concerns about radon overexposure. Finally, CUB notes that the final screening of Air Sealing through the TRC establishes that “air sealing without radon testing is cost-effective ... with a TRC ranging from 2.11-2.46.” While NS/PGL concluded that the TRC for Air Sealing ranges from 1.29-1.59 even with the costs of radon testing included, CUB noted these TRC values are likely low because NS/PGL lacked good estimates of one stream of savings – synergistic savings with other measures due to Air Sealing.

Since CUB notes that utilities with higher risk of radon overexposure have implemented comprehensive Air Sealing measures without requiring radon testing and the potential TRC for Air Sealing without radon testing are cost-effective, they urge the Commission to order NS/PGL to revise their portfolio to offer a similar program in the NS/PGL territories.

5. ELPC's Position

Residential Single Family Program

ELPC notes NS/PGL'S Home Energy Reports ("HER") program, a residential behavioral modification program, seeks to "encourage residential customers to save energy through behavioral modification." ELPC defined the purpose the HER program is to "motivate residential customers to compete with their neighbors to reduce energy use and increase savings." Under the plan, customers receive home energy report cards that compare their usage to other similar customers. While ELPC finds the program is effective at saving energy in the short-term, ELPC witness Geoffrey Crandall explained, that "one of the concerns with residential behavior programs is the persistence of savings." Therefore, ELPC argued NS/PGL should look for ways to turn these short-term savings into long-term savings by using the HER program to leverage more participation in incentive and rebate programs.

ELPC, therefore, recommends that the Companies prioritize connecting HER customers to prescriptive rebates and other energy efficiency programs to incent the installation of long lasting energy efficiency measures and hardware. ELPC maintains that these steps would help increase the consistency and persistency of savings in the Companies' HER program. For these reasons, ELPC urges the Commission to order NS/PGL to establish a high priority objective to connect HER customers to prescriptive rebates and other energy efficiency programs, resulting in long-lasting behavioral change and installation of long-lasting energy efficiency measures and hardware.

Air Sealing

ELPC argues that NS/PGL neglected to include air sealing measures in the Plan 2 energy efficiency retrofit programs for residential customers. ELPC sided with CUB's witness and concluded NS/PGL should include air sealing in their Plan for several reasons. First, ELPC notes air sealing is one of the most cost-effective energy efficiency measures that a residential homeowner or tenant could implement." Second, ELPC maintains that air sealing has become a standard measure adopted by most residential retrofit programs and is commonly offered by other utilities and energy efficiency providers. Third, ELPC states air sealing does not present a risk of radon exposure for occupants. Finally, ELPC noted that air sealing has been linked to improvements in resident health. For all of these reasons, ELPC concludes that the Commission should order NS/PGL to evaluate how to implement air sealing measures into their Plan.

Inasmuch as ELPC agrees that air sealing is a standard measure adopted by most residential retrofit programs and is commonly offered by other utilities and energy efficiency providers. ELPC finds that NS/PGL's decision not to include air sealing in their energy efficiency programs departs significantly from most other utility programs, including subsidiaries of the Companies' parent company, Integrys.

ELPC also notes that despite NS/PGL's fear of radon exposure due to air sealing, they failed to provide scientific support showing a link between air sealing and radon levels. CUB witness Francisco explained that no study has been offered to find a statistically significant correlation between air sealing and changes in radon levels. ELPC also noted that CUB's witness highlighted several studies, all of which determined that air sealing does not increase radon amounts and in some cases, air sealing may have actually decreased radon levels. Not only is air sealing safe with regard to radon exposure, ELPC states it is also linked to improvements in resident health. They point to studies show a link between a resident's energy costs and health benefits, which means energy efficiency measures like air sealing play a major role in resident health. Therefore, ELPC argues that reducing heating costs by implementing measures such as air sealing would contribute to improved health of residents.

For the above reasons, ELPC concluded that the Commission should order NS/PGL to evaluate how to expand air sealing measures cost-effectively for single and multifamily homes and order the Companies to include air sealing measures in Plan 2. Alternatively ELPC supports the AG's recommendation, and urges the Commission to order NS/PGL to implement a pilot air sealing program.

6. North Shore/Peoples Gas Reply Residential Single Family Program

North Shore/Peoples Gas asks the Commission to reject the AG's assertion that the Home Energy Reports should not be included as part of their Plan 2 portfolio as unfounded. As agreed as part of their Compliance Filing, for measures with a TRC of less than 1.0, NS/PGL will indicate the compelling reasons for Home Energy Reports. North Shore/Peoples Gas argued they have already identified the compelling reasons for this measure, including, the multiple customer contacts to raise energy efficiency awareness; the use of the Home Energy Reports when customers are most focused on their gas bills (fall and winter); the marketing of long-lived energy efficiency measures (i.e., the Home Rebate Program); and the marketing of the Home Direct Install Program to provide customers energy audits and to allow the utility to install long-lived energy efficiency measures. Also, NS/PGL argues their Home Energy Reports drive deeper relationships with their energy efficiency vendors, contrary to the AG's assertions. The Petitioner maintains that by creating further interest and contacts with customers and greater customer program awareness, other vendors for the energy efficiency measures benefit as customers seek those vendors out for adoption of longer lived measures. Further, NS/PGL notes, the actual performance, in terms of their TRC is unknown at the present time, as the evaluation for the Home Energy Report program will not be conducted until later in 2014. North Shore/Peoples Gas further argued that the most recent Commission orders for the energy plans for ComEd and Ameren, both include Home Energy Report programs (ICC Docket Nos. 13-0495 and 13-0498, respectively.)

North Shore/Peoples Gas disputes the AG's position that the Home Energy Reports program should be discontinued unless they are able to offer a joint Home Energy Reports program with ComEd. The Petitioner maintains that a joint program can only be implemented if the two parties, NS/PGL and ComEd agree to operate

jointly. They note that ComEd has previously declined to a joint Home Energy Reports program.

North Shore/Peoples Gas questions why the Home Energy Reports, newly implemented in PY 3 and being evaluated by the independent evaluator, would be rejected based on preliminary TRC estimates that should be available at the end of 2014 or early in 2015. Further, why would a valuable marketing channel that encourages behavior change; the adoption of long-lived energy efficiency measures; and that generally promotes the Utilities' energy efficiency program to approximately 60% of North Shore's residential customers and 20% of Peoples Gas' residential customers not be a "compelling reason" as the AG argues for continuing the Home Energy Reports? Indeed, ELPC witness Geoffrey Crandall recommends and describes the benefits of pairing Home Energy Reports with marketing NS/PGL's energy efficiency measures, particularly long-lived energy savings measures.

North Shore/Peoples Gas requested that the Commission approve the Home Energy Reports measure even though the estimated TRC for the measure is less than 1.0, and reject the AG's recommendation. Petitioner contends a full evaluation of the Home Energy Reports program has yet to be completed by the independent evaluator. Second, other Commission orders have identified Home Energy Reports as a valuable part of other utilities' portfolios of energy efficiency measures and it would be unfair to not allow NS/PGL access to this particular measure. Third and most importantly, NS/PGL argues the use of Home Energy Reports, which not only identify higher customer usage to the customer, but also promote longer-lived energy efficiency measures and create greater energy efficiency program awareness, create value to residential customers. As such, NS/PGL states there is a "compelling reason" to include the Home Energy Reports program in Plan 2.

North Shore/Peoples Gas agrees with ELPC's recommendations that the Home Energy Reports Program should be tied to prescriptive rebates and other measures that encourage long and lasting energy savings. Indeed NS/PGL argues, rebates for their Home Energy Rebates program are already part of their Home Energy Reports in PY 3. The Petitioner believes that inclusion of information regarding their other residential programs that introduce long-lived energy efficiency measures is a compelling reason for having the Home Energy Reports as part of their Plan 2.

Air Sealing

CUB, the AG, and ELPC all argue that as part of the Utilities' Plan 2 portfolio, the Commission should order the Utilities to adopt air sealing measures as part of their residential and multi-family programs. If ordered by the Commission, the Utilities will include air sealing measures as part of their residential and multi-family energy efficiency programs, with or without radon testing as directed by the Commission, for Plan 2.

If the air sealing measure is required by the Commission, the Utilities will discuss with ComEd the inclusion of air sealing measures as part of the existing joint residential and multi-family programs. The Utilities believe that such a joint program would be acceptable to ComEd, but caution that if ComEd does not agree to such a joint program

that included air sealing, the Utilities will be prevented from offering a joint program for residential or multi-family customers.

The Utilities disagree with CUB that if the Commission directs the Utilities to adopt the air sealing measures, a compliance filing would be similar to the filing required in accordance with other gas utilities' programs. The Utilities believe that the more appropriate compliance filing would be in Docket 10-0564, which approved the Utilities' Plan 1. (ICC Docket No. 10-0564, Order 5/24/11 at 41, 116 (first and second ordering paragraphs)). Further, the Utilities have not adjusted their Plan 2 portfolio to include air sealing measures for residential and multi-family dwellings. The Companies state that if the Commission directs NS/PGL to include air sealing measures as part of the Plan 2 portfolio, it will submit modified savings goals as appropriate for the inclusion of air sealing measures for residential and multi-family programs.

Residential Outreach and Education Program

The AG argued that "it appears" NS/PGL's Home Energy Jump Start Program does not provide a "one-stop shop." The AG then implies that the Home Energy Jump Start program would be improved through having the technician that performs the weatherization activities also facilitate scheduling and installation of rebate measures. North Shore/Peoples Gas objects to the characterization of the Home Energy Jump Start Program as "disjointed." The Petitioner notes their program does include a "one-stop shop", as demonstrated by: (1) the technician identifying areas where the home's energy efficiency can be improved, (2) providing the customer with the costs and rebates available, including the availability of the On-Bill Financing Program, and (3) incorporating trade allies into the process to provide the link between customer and installers of high-efficiency, rebate-eligible equipment. Further, as part of their Plan 2, the Utilities have indicated that they are considering elements of other utility programs for adoption and will implement the Home Energy Jump Start Program with ComEd.

C&I Programs

North Shore/Peoples Gas agree with the AG to expand the Small Business Direct Program to include programmable thermostats along with pipe insulation and boiler reset controls, as applicable to the particular customer's needs as part of their Small Business Direct Program. The AG also proposes that new construction projects should also be included in NS/PGL's Business-Existing Facilities program and Small Business Efficiency Program.

North Shore/Peoples Gas agree that their Business and Small Business Program offerings, in coordination with ComEd when possible, should be offered to new business customers, as long as those offerings occur early in the customer's planning of their new construction. The Petitioner will solicit ComEd to implement a joint program in the future.

Business Existing Facilities Program

North Shore/Peoples Gas agrees with the Attorney General that they will offer a retro-fit program that includes elements of Direct Installation, Engineering Assistance, Standard Incentives, Customer Incentives, and Gas Optimization Measures.

Non-cost effective measures

North Shore/ Peoples Gas acknowledge that certain of their measures indicate a TRC less than 1.0. Staff and the AG argue that such measures should only be implemented if there is a compelling reason to include such a measure in Plan 2 including: (1) creating opportunities for customers to adopt other cost-effective measure installations, (2) encouragement of trade ally practices and to maintain relationships, (3) preservation of program momentum, (4) equitable reasons, (5) anticipation of the measure becoming cost effective and/or (6) will spur market transformation and encourage great volumes of sales. North Shore/Peoples Gas agree and as part of their Compliance Filing, NS/PGL will identify measures that may not be cost-effective, but have a compelling reason to continue in Plan 2.

However, NS/PGL notes one potential point of confusion relates to industrial boiler tune-up measures where the AG claims that there is substantial participation. The Petitioner recognizes the industrial boiler tune-up measure has a relatively low TRC, but it believes there is a compelling reason for implementing the measure North Shore/Peoples Gas maintains they are not relying on the industrial boiler tune-up measure heavily and it is being used primarily in introduce and induce industrial customers into the Utilities' other energy efficiency programming offerings.

7. Commission Analysis and Conclusion

The Companies have indicated that they will adopt air sealing program/measures for residential customers and multi-family customers without pre- and post-radon testing if ordered by the Commission. The Commission orders the Utilities to adopt said air sealing program/measures, and the Companies shall not require pre- or post-radon testing as part of the program. The adoption of the air sealing program/measures shall be expressed in their compliance filing, with the portfolio of program and measures adjusted to accommodate air sealing. The Commission recognizes that while modified goals may need to be adjusted downwards to accommodate such air sealing programs and measures, air sealing measures have long lasting energy efficiency benefits extending for many years beyond Plan Period 2.

The Companies are directed, to the extent practicable, to jointly implement programs with ComEd. The Utilities, in joint implementation of programs, should strive to provide a streamlined approach for customers to participate in the programs.

With regard to the proposed C&I Programs, the Commission shares the AG's concern that the Companies' proposed program lacks sufficient detail and marketing approaches that would enable this customer class to benefit from these programs that all parties believe are valued efficiency investments. The Companies simply saying they *might* consider providing a custom incentive, but not actually marketing these services or aggressively helping to identify and promote efficiency opportunities in this important market segment, is not sufficient, and certainly does not reflect best practices in the efficiency industry. We agree and the evidence supports a finding that new construction is an important "lost opportunity" efficiency resource because typically the costs of incremental improvements in efficiency are low compared to the benefits, and failure to capture them can result in the opportunity being "lost" for the lifetime of the

building. That is the case because it can be much more expensive to go back and retrofit buildings after they are constructed.

We hereby order the Companies' revised Plan to include actual plans to market to new construction contractors, and coordinate seamlessly with ComEd on all C&I new construction projects to address all cost-effective gas and electric efficiency measures, and also allow new construction projects to take advantage of the standard incentives available to existing facilities, where appropriate.

Further, in their rebuttal testimony, the Companies agreed with the AG that creating a Business Existing Facilities program for large C&I customers that includes direct installation of efficiency measures is unusual and not appropriate. As the AG explained, direct installation services are offered for small customers because they have greater barriers, and lack the resources and sophistication to effectively self-direct efficiency installations. They also tend to have a limited number of efficiency opportunities that are fairly standard and common across most buildings. Larger customers, however, generally have the largest efficiency opportunities among more site-specific efficiency measures, and have greater resources (both technical, time, and financial) to fully engage in more traditional program models. The direct installation plans the Companies are proposing are only very limited low-cost measures, and overall account for just 6% of the total program savings. Such services can be very expensive and, given the limited budgets, seem inappropriate for the Companies' larger customers.

As such, the Companies are hereby ordered to include in their revised Plan what amounts to a retro-fit program that includes a multi-prong approach of Direct Install, Engineering Assistance, Standard Incentives, Custom Incentives and Gas Optimization measures that fits the particular needs of small and large customers, as appropriate.

With regard to the Small Business Direct Installation Programs, the Companies appear to have offered to add the programmable thermostats to this Business program in their modified Plan filing. The Commission hereby orders them to specifically do so. The Companies, however, were silent on the inclusion of the additional measures to be included as recommended by the AG. The Companies likewise did not raise the issue in their Briefs. No other party challenged the AG's recommendation.

The Commission concurs with the AG's assessment that these other measures should be added to the program in order to ensure a robust, cost-effective Small Business Direct Install program. The Commission hereby orders the Companies to add, in addition to the programmable thermostat, the other measures recommended by the AG to ensure that the Small Business Direct Installation program includes a comprehend

V. FILING REQUIREMENTS

A. Uncontested Section 8-104(f) Filing Requirements

1. Section 8-104(f)(2)

Section 8-104(f)(2) of the Act states that the utility shall: “Present proposals to implement new building and appliance standards that have been placed into effect.” The Plan meets this requirement. North Shore/Peoples Gas designed their programs using applicable building codes and appliance standards to determine eligibility of certain measures and services for the inclusion of the Utilities’ programs. If changes occur in new building and appliance standards during the Plan Period, NS/PGL will make program design changes to accommodate those new standards. Neither Staff nor any intervener contested this issue. The Commission should find that NS/PGL met the requirements of Section 8-104(f)(2).

2. Section 8-104(f)(3)

Section 8-104(f)(3) of the Act states that the utility shall: “Present estimates of the total amount paid for gas service expressed on a per therm basis associated with the proposed portfolio of measures designed to meet the requirements that are identified in subsection (c) of this Section, as modified by subsection (d) of this Section.” The Plan 2 meets this requirement as modified. NS/PGL estimated their savings over the Plan Period to cost \$2.06 per therm for North Shore and \$2.24 per therm for Peoples Gas. The total cost for the Plan Period is \$3.3 million for North Shore and \$18.4 million for Peoples Gas. These values include the cost for the independent EM&V contractor. They do not include funding for on-bill financing or DCEO’s share of the budget. Neither Staff nor any intervener contested these calculations. The Commission should find that the Utilities met the requirements of Section 8-104(f)(3).

3. Section 8-104(f)(4)

Section 8-104(f)(4) of the Act states that the utility shall: “Coordinate with the Department to present a portfolio of energy efficiency measures proportionate to the share of total annual utility revenues in Illinois from households at or below 150% of the poverty level. Such programs shall be targeted to households with incomes at or below 80% of area median income.” Marks Dir., NS/PGL Ex. 1.0R, 19:406-411. North Shore/Peoples Gas worked with DCEO to help identify the size of this market in terms of natural gas sales (therms) and revenue. DCEO informed NS/PGL, as well as all other gas and electric Illinois utilities, that they would take full responsibility for the low income goals as required in Section 8-104(f)(4). Neither Staff nor any intervenor stated that NS/PGL did not meet their obligations. The Commission should find that North Shore/Peoples Gas met their obligations under Section 8-104(f)(4).

4. Section 8-104(f)(6)

Section 8-104(f)(6) of the Act states that the utility shall: “Demonstrate that a gas utility affiliated with an electric utility that is required to comply with Section 8-103 of this Act has integrated gas and electric efficiency measures into a single program that reduces program or participant costs and appropriately allocates costs to gas and

electric ratepayers. The Department shall integrate all gas and electric programs it delivers in any such utilities' service territories, unless the Department can show that integration is not feasible or appropriate."

This section is not applicable to NS/PGL as they are not affiliated with ComEd. However, NS/PGL shall continue to coordinate with ComEd for the delivery of measures and programs within Plan 2, where such coordination is available and cost-effective

5. Section 8-104(f)(7)

Section 8-104(f)(7) states that the utility shall: "Include a proposed cost recovery tariff mechanism to fund the proposed energy efficiency measures and to ensure the recovery of the prudently and reasonably incurred costs of Commission-approved programs." The Plan meets this requirement. North Shore/Peoples Gas' tariff is Rider EOA – Energy Efficiency and On-Bill Financing Adjustment, which was approved by the Commission in ICC Docket No. 10-0564. No changes were proposed to Rider EOA in this proceeding.

6. Commission Analysis and Conclusion

Since the aforementioned filing requirements have either been met by North Shore/Peoples Gas or are inapplicable to this proceeding, the Commission notes the above filing requirements are uncontested and are approved by the Commission.

B. Other Filing Requirements

1. Section 8-104(f)(5) Electric and Gas Benefits in TRC Test

a) North Shore/Peoples Gas' Position

North Shore/ Peoples Gas maintains they are in compliance with the requirements of Section 8-104(f)(5) of the Act, since the total Plan 2 portfolio of measures for Peoples Gas has a TRC of 1.81 and the total Plan 2 portfolio of measures for North Shore has a TRC of 2.16. The Plan 2 portfolio of energy efficiency programs provides a diverse cross section of opportunities for all customers in the NS/PGL's rate classes to participate in Plan 2's programs.

b) Staff's Position

Section 8-104(f)(5) of the Act requires a utility to "[d]emonstrate that its overall portfolio of energy efficiency measures", excluding programs administered by DCEO, "are cost effective using the TRC test and represent a diverse cross section of opportunities for customers of all rate classes to participate in the programs". Staff argues that NS/PGL's filing does not comply with this requirement because their TRC cost-effectiveness analysis does not include the electric costs and benefits for the joint EE programs implemented with ComEd. North Shore/Peoples Gas assert it is unnecessary for their cost-effectiveness analysis to consider electric costs and benefits, because the allocated costs for joint programs are consistent with the benefits between the two utilities, and therefore inclusion of the electric costs and benefits would not change the cost-effectiveness analysis. Staff and the AG contend that analysis of the joint programs is required under Section 8-104(f)(5), and further that such analysis is necessary to demonstrate the actual net benefits of EE programs and the actual

allocation and assignment of costs and benefits between and among the Companies and ComEd, gas and electric ratepayers, and different customer classes.

Staff argues that NS/PGL's argument is contrary to Section 8-104(f)(5) and should be rejected. In construing a statute, Staff notes the fundamental rule is to ascertain and give effect to the legislature's intent. The best indicator of legislative intent is the statutory language, which is to be given its plain and ordinary meaning. In the instant docket, the language of Section 8-104(f)(5) unambiguously requires a utility to demonstrate the cost effectiveness of their entire EE portfolio, and contains no exception for joint programs with other utilities. Moreover Staff notes, the inclusion of the sole exception for programs administered by DCEO demonstrates a clear legislative intent that any other exceptions to this requirement be excluded. Further, Staff and the AG agree that the Companies' failure to provide a cost-effectiveness analysis of their joint programs with ComEd deprives the Commission and parties of important and relevant information. Therefore Staff concludes that NS/PGL should be required to provide the cost-effectiveness results including both gas and electric benefits and costs for the joint EE programs in a compliance filing with their revised Plan submitted within 30 days of the date of the Commission's Order in this proceeding.

c) AG's Position

On page 37 of their Initial Brief, NS/PGL states they "agree to include the electric and gas costs and benefits in their TRC calculations for the programs that are jointly implemented between the Utilities and ComEd." The AG notes that conspicuously absent from this declaration is any mention of performing the same analysis for *all* of their proposed measures, not just those offered jointly with ComEd. The AG states this analysis should be performed for two reasons.

First, Section 8-104(f)(5) specifically requires the Company to perform such an analysis. The AG notes that this is the case since Section 8-104(f)(5) specifically references analyzing cost-effectiveness based upon the TRC.

The AG argues that no distinction is made in the statute between joint or gas-only measures for purposes of assessing cost-effectiveness. Second, the AG believes that the failure to assess the electric savings that are triggered in a gas only measure may be the difference between a program being declared cost-effective or not cost-effective. As AG witness Mosenthal noted in his Rebuttal testimony, many standalone gas efficiency measures have electric impacts even when done as a non-joint effort. In these cases, the AG argues it is important to understand the true cost-effectiveness of these gas measures.

As an example, the AG points to NS/PGL's proposal to promote a number of gas measures that are not cost effective, but will provide some electric benefits (air sealing, furnace and boiler tune ups, etc.) that have the potential to yield cost effective benefits for the Petitioner. While the Companies indicate that all costs are shared, they also provide explicit incentive levels for gas only measures, with the implication that these are borne only by gas ratepayers. Without full information on the electric side the AG argues there remains a very unclear picture of what the actual incentives and ratepayer costs are. The AG points to the Business Existing Facilities Program (one of the largest contributors to overall energy savings) and Residential Single Family Program, where

NS/PGL stated it is their intent to cooperate with ComEd to introduce measures jointly that would benefit both gas and electric energy use.

The AG argues it is unlikely this is fully the case for all costs in all joint programs, and seems to be inconsistent with the Plan language. Further, the AG believes it is not clear this would be in the interests of ratepayers in all cases. However, without seeing these numbers, the AG maintains they cannot form an opinion.

The AG finds that NS/PGL's Plan contradicts this claim and makes it clear that actual cost allocations are not yet determined. The AG pointed to NS/PGL's position on their proposed joint Multifamily Program where the AG argues NS/PGL's framework for cost allocations based on savings/benefits to the customer is undetermined and also ambiguous as to whether allocations will be based on savings or benefits. The AG notes NS/PGL has a similar position on most of their proposed joint programs. The AG also urges the Commission to require ComEd to provide similar details in the revised filing.

d) North Shore/Peoples Gas Reply

North Shore/Peoples Gas agree with Staff to include the electric and gas costs and benefits in their TRC calculations for the programs that are jointly implemented between NS/PGL and ComEd. The Petitioner shall provide these updates, as possible where electric cost and benefit information is available, for their Plan 2 compliance filing.

e) Commission Analysis and Conclusion

The Commission notes that Section 8-104(b) of the Act states:

"[C]ost-effective" means that the measures satisfy the total resource cost test which, for purposes of this Section, means a standard that is met if, for an investment in energy efficiency, the benefit-cost ratio is greater than one. The benefit-cost ratio is the ratio of the net present value of the total benefits of the measures to the net present value of the total costs as calculated over the lifetime of the measures. The total resource cost test compares the sum of avoided natural gas utility costs, representing the benefits that accrue to the system and the participant in the delivery of those efficiency measures, as well as other quantifiable societal benefits, including avoided electric utility costs, to the sum of all incremental costs of end use measures (including both utility and participant contributions), plus costs to administer, deliver, and evaluate each demand-side measure, to quantify the net savings obtained by substituting demand-side measures for supply resources. In calculating avoided costs, reasonable estimates shall be included for financial costs likely to be imposed by future regulation of emissions of greenhouse gases. The low-income programs described in item (4) of subsection (f) of this Section shall not be required to meet the total resource cost test.

220 ILCS 5/8-104(b) (emphasis added). The statute requires that quantifiable benefits and costs should be included in the cost-effectiveness analysis, including those related to an electric utility. ComEd's costs are quantifiable, as evidenced by the fact that the Commission approved ComEd's Plan which quantified costs and benefits for joint

programs planned to be implemented with the Companies, in ICC Docket No. 13-0495. Accordingly, the Companies are directed to produce the measure, program, and portfolio cost-effectiveness estimates that include both gas and electric quantifiable benefits and costs in their Compliance Filing in this proceeding, and in future Plan filings.

2. Section 8-104 (f)(8) Independent Evaluation Contract

a) Staff's Position

Section 8-104(f)(8) of the Act states that

[i]n submitting proposed energy efficiency plans and funding levels to meet the savings goals adopted by this Act the utility shall: . . . [p]rovide for quarterly status reports tracking implementation of and expenditures for the utility's portfolio of measures and the Department's portfolio of measures, an annual independent review, and a full independent evaluation of the 3-year results of the performance and the cost-effectiveness of the utility's and Department's portfolios of measures and broader net program impacts and, to the extent practical, for adjustment of the measures on a going forward basis as a result of the evaluations. The resources dedicated to evaluation shall not exceed 3% of portfolio resources in any given 3-year period. 220 ILCS 5/8-104(f)(8).

Staff concluded that NS/PGL should be required to ensure an annual independent review and independent evaluation is conducted. Staff indicated the final order should include the following findings: (1) North Shore/Peoples Gas shall file the independent evaluation contract and scope of work in this docket within fourteen days of execution; (2) North Shore/Peoples Gas shall continue to include language in the independent evaluation contracts such that the Commission can: (a) terminate the contract if the Commission determines the Evaluators were not acting independently; and (b) prevent the Companies from terminating the contracts without Commission approval; and (3) The independent Evaluator is responsible for performing the three-year ex post cost-effectiveness analysis per Section 8-104(f)(8) of the Act. These proposed findings are consistent with prior Commission Orders.

Staff noted the Commission has established that a utility must not have total control over the evaluator in order to ensure the evaluator's independence, and moreover, that the "Commission has a supervisory capacity regarding the hiring and firing of . . . evaluator[s], meaning that [the utility] must gain Commission consent to make the hiring and firing decisions regarding [the] evaluator[s]. Commonwealth Edison Co., ICC Order Docket No. 07-0540, 45 (Feb. 6, 2008); Commonwealth Edison Co., ICC Order on Rehearing Docket No. 07-0540, 3 (March 26, 2008).

Staff added the Commission has previously found that "[l]anguage should be included in the contracts of the independent evaluation such that the Commission can: (1) terminate the contracts if it determined the evaluator were not acting independently; and (2) prevent the utilities from terminating the contracts without Commission approval." North Shore Gas Co. and The Peoples Light Gas and Coke Co., ICC Order Docket No. 10-0564, 75 (May 24, 2011) ("Plan 1 Order"). Staff states that NS/PGL has

no objection to these recommendations, but it counterargued that additional language should be included in the Commission's order that would allow the Companies "to terminat[e] contracts for reasons unrelated to the evaluator's independence." (NS/PGL Ex. 3.0, 3-4.) Staff argued that while the Commission adopted similar language in the Companies' first 3-year EE plan, it should not do so in this proceeding. Staff states the language suggested by NS/PGL could allow the possibility for an evaluator to be terminated ostensibly for reasons unrelated to their independence. Instead, Staff maintains the Commission should evaluate whether any proposed evaluator termination is related to the evaluator's independence through a review, and approve or disapprove the proposed termination according to their findings.

b) North Shore/Peoples Gas' Position

North Shore/Peoples Gas agrees with the Staff recommendations as to the contract between the independent EM&V contractor and the Utilities as follows:

- The Companies shall file the independent evaluation contract and scope of work in this docket within fourteen days of execution.
- The Companies shall continue to include language in the independent evaluation contracts such that the Commission can: (1) terminate the contract if the Commission determines the Evaluators were not acting independently; and (2) prevent the Companies from terminating the contracts without Commission approval.
- The independent Evaluator is responsible for performing the three-year ex post cost-effectiveness analysis per Section 8-104(f)(8) of the Act.

In further compliance with Section 8-104(f)(8) of the Act, NS/PGL will continue to provide quarterly reports of their implementation of their program portfolio, and will have an annual, independent evaluation of their programs by their evaluation and measurement ("EM&V") contractor. North Shore/Peoples Gas shall have a full evaluation of the Plan 2 performance at the conclusion of the Plan. Further, NS/PGL agrees their resources dedicated to the EM&V services shall not exceed 3% of the total Rate Impact Cap.

c) Commission Analysis and Conclusion

The Commission agrees that ensuring the evaluator maintains their independence from the Companies is critical. Staff's proposals, designed to ensure the independence of the evaluators, are reasonable and are hereby adopted. The Commission directs the Companies to file the independent evaluation contract and scope of work in this docket within fourteen days of execution. The Companies shall continue to include language in the independent evaluation contracts such that the Commission can: (1) terminate the contract if the Commission determines the evaluators were not acting independently; and (2) prevent the Companies from terminating the contracts without Commission approval. The Companies have no objection to these recommendations.

Consistent with our finding in Docket No. 13-0498, the Commission finds that the statute requires an independent evaluator, rather than the Companies, to perform the

cost-effectiveness evaluation. Accordingly, Staff's position is adopted and the independent evaluator is responsible for performing the three-year ex post cost-effectiveness analysis per Section 8-104(f)(8) of the Act.

3. Section 8-104(i) Savings Goal Compliance Proceeding

a) Staff's Position

Section 8-104(i) of the Act states that a Utility that fails to meet their efficiency standards shall make a contribution to the Low-Income Home Energy Assistance Program. Staff states that in order to determine whether a utility must make such a payment, the Commission should determine whether that utility has met their efficiency standards. Historically, Staff finds this determination has been conducted separately from the independent cost-effectiveness evaluations for utilities. However, Staff believes these evaluations should be conducted concurrently in a single Commission proceeding because they believed: (1) the two subjects are integrally related; (2) it is likely many of the same evaluation reports will be needed in both dockets; and (3) it is more efficient to conduct a single proceeding. Therefore Staff believes, the Companies should be ordered to petition the Commission to initiate a single proceeding to determine both the cost-effectiveness analysis and the savings goal compliance.

Staff seeks to have the Commission's Final Order adopt the following findings: (1) The three-year cost-effectiveness results by program shall be reviewed and reported to the Commission in the three-year savings goal compliance proceeding per Section 8-104(f)(8) of the Act; and (2) North Shore/Peoples Gas is directed to petition the Commission to initiate the three-year savings goal compliance proceeding once evaluation reports are available. North Shore/Peoples Gas agrees with Staff's proposal. Staff maintains the petition filing deadline should be consistent with a previous Commission Order wherein a utility was directed to petition the Commission for a review of whether they met their savings goals within 60 days after the independent evaluation reports are available.

b) North Shore/Peoples Gas' Position

North Shore/Peoples Gas does not object to Staff's proposal and will petition the Commission to initiate a savings goal compliance proceeding as Staff recommends.

c) Commission Analysis and Conclusion

The Companies are directed to petition the Commission to initiate the three-year savings goal compliance proceeding within 60 days of receipt of the final evaluation reports. The Commission agrees with Staff that for the sake of efficiency, the three-year cost-effectiveness results by program shall be reviewed and reported to the Commission in the three-year savings goal compliance proceeding pursuant to Section 8-104(f)(8) of the Act.

4. Section 8-104(g) 3% Cap on Spending on Breakthrough Equipment

a) Staff's Position

Section 8-104(g) of the Act provides that in a utility's Plan "[n]o more than 3% of expenditures on energy efficiency measures may be allocated for demonstration of

breakthrough equipment and devices.” The phrase “breakthrough equipment and devices” is not defined in the Act and is ambiguous, making it difficult to factually assess whether or not the Plan is consistent with this provision. Further, spending on measures classified as “breakthrough equipment and devices” could conceivably be reclassified as part of a standard program for reconciliation purposes as a means to circumvent the 3% cost cap.

In the Commission Orders in the ComEd, Ameren Illinois Company (“Ameren”) and Department of Commerce and Economic Opportunity (“DCEO”) Plan 3 dockets, Staff noted the Commission concluded that a consistent definition for “breakthrough equipment and devices” should be adopted across the state, but declined to adopt a definition in those proceedings, instead directing Staff to conduct a workshop with other SAG participants on a clear definition that can be presented to the Commission for approval and applied during Plan 3. Ameren Illinois Co., ICC Order Docket No. 13-0498, 33 (Jan. 28, 2014) (“Ameren Plan 3 Order”); Commonwealth Edison Co., ICC Order Docket No. 13-0495, 136 (Jan. 28, 2014) (“ComEd Plan 3 Order”); Il. Dept. of Commerce and Economic Opportunity, ICC Order Docket No. 13-0499, 46-47 (Jan. 28, 2014) (“DCEO Plan 3 Order”). Staff states that “breakthrough equipment and devices” should be addressed in a workshop process consistent with the Commission’s direction in the above mentioned proceedings. Staff also notes that NS/PGL should report on such definition and the qualified programs and measures in their quarterly reports to the Commission in order to help ensure compliance with Section 8-104(g) of the Act.

b) North Shore/Peoples Gas’ Position

North Shore/Peoples Gas asked the Commission to reject Staff’s position that a specific definition of breakthrough equipment and devices should be developed. North Shore/Peoples Gas noted that Staff seeks to define breakthrough equipment and devices as:

measures or programs in an early stage of development that are subject to substantial uncertainty about their cost effectiveness during the planning period

North Shore/People Gas believes the creation of such a definition should be determined through the SAG. Further, NS/PGL notes that in ComEd’s most recently approved energy efficiency order the Commission determined that such a definition is more appropriately determined through the SAG. The Utilities do not object to reporting on the progress or workshop process in their quarterly reports and identifying any measures that should be considered “breakthrough equipment of devices.”

c) Commission Analysis and Conclusion

The Utilities’ statutory savings goals have been substantially modified downward in this Plan as a result of the spending limitation set forth in Section 8-104(d) of Act. Therefore, every dollar spent on “breakthrough equipment and devices” means a dollar that is not spent on efficiency measures that provide for more certain savings benefits. By imposing such limitation on a specific cost category within the statute, the General Assembly intended that such costs be constrained so as to help achieve the policy objectives of the statute, i.e., the reduction of direct and indirect costs to consumers.

For these reasons, it is more important than ever that the Utilities comply with the Section 8-104(g) statutory spending limitation. To ensure such compliance, the Commission sees that a definition for “breakthrough equipment and devices” is needed, and believes this question is best addressed by the SAG. There a clear definition with a few examples of the energy efficiency measures and programs that would fall under such definition can be developed and presented to the Commission for approval. Accordingly, the Commission directs the Utilities and Staff to conduct a workshop with other SAG participants on a clear definition of breakthrough equipment and devices that could be applied during Plan 2. Additionally, the Utilities should include within their reports to the Commission any definition adopted, the measures that fall under the definition, and, if necessary, any modifications to the Plan that the Utilities make to bring the Plan into compliance with Section 8-104(g) of the Act.

5. IL-TRM Measure Codes

a) Staff’s Position

The Illinois Statewide Technical Reference Manual for Energy Efficiency (“IL-TRM”) and the IL-TRM Policy Manual was adopted by the Commission, in part, to help ensure the ease of review and analysis of programs and portfolios. See *IL Commerce Comm’n On Its Own Motion*, ICC Order Docket No. 13-0077 (March 27, 2013). In that proceeding, Staff noted the Commission required program administrators to use “TRM Measure Codes in their plan filings to allow for easy review and transparency across programs and portfolios.” Staff argued NS/PGL failed to include measure code information in this plan filing. For the sake of clarity, Staff asks the Commission to order NS/PGL to include the IL-TRM measure codes in future plan filings for ease of review and greater transparency for all parties. Specifically, Staff suggests the codes should be used in the spreadsheets used to adjust the savings goals and also be included in future compliance filings.

b) North Shore/Peoples Gas’ Position

North Shore/Peoples Gas does not object to Staff’s recommendations and will provide the spreadsheet with IL-TRM measure codes in their compliance filing in this proceeding.

c) Commission Analysis and Conclusion

The Commission agrees with Staff that the IL-TRM measure codes should be provided in the spreadsheets that are used to adjust the savings goals and also included in future Plan filings for ease of review and transparency across programs and portfolios.

VI. PORTFOLIO FLEXIBILITY, COST-EFFECTIVENESS, AND REPORTING

A. North Shore/Peoples Gas’ Position

Consistent with their First Triennial Plan that the Commission approved in ICC Docket No. 10-0564, NS/PGL is requesting flexibility to respond prudently to changes in programs or markets. North Shore/Peoples Gas’ recommendations include:

- i. The Companies are granted the flexibility to adjust their Plan in order to increase net benefits for ratepayers.
- ii. The Companies are directed to stay apprised of and respond prudently and reasonably to information concerning measure and program level cost effectiveness while implementing their Plan to help ensure the Plan produces and maximizes the net benefits to Illinois ratepayers envisioned by Section 8-104 of the Act and remains in compliance with all other statutory objectives.
- iii. The Companies are directed to include a discussion of how they utilized the flexibility they were granted in their quarterly reports filed with the Commission in this docket. The quarterly reports shall summarize program activities, implementation modifications, additions or discontinuations of specific measures or programs, spending and savings amounts compared to the Plan filing, how the Companies respond to past Evaluators' recommendations and changes in the TRM, NTG ratios, market research findings, and other in the relevant information the Companies rely upon in making their decisions. To the extent such changes significantly impact the portfolio and expected cost-effectiveness in the view of the Companies, the Companies shall also report revised projected program-level and portfolio-level TRC test cost-effectiveness results for the program year.
- iv. The Companies are required to provide cost-effectiveness screening results in their quarterly reports filed with the Commission in this docket for new energy efficiency measures the Companies add to their Plan during implementation.
- v. The Companies are required to limit the participation of cost-ineffective measures to no more than the levels proposed in their Plan, with the following conditions:
 - a. If a measure is cost-effective in the vast majority of building types to which it is directed and marketed to, the Companies need not attempt to limit participation of the energy efficiency measure within a program year.
 - b. If the cost-ineffective measures are a necessary component for implementing cost-effective measures (e.g., comprehensive whole home dual fuel programs), the Companies need not attempt to limit participation of the energy efficiency measure within a program year.
 - c. The Companies shall provide cost-effectiveness screening results in their quarterly reports filed with the Commission in this docket for measures previously projected to be cost-ineffective that become cost-effective over the course of the Plan such that it is

clear that limitations on participation of these measures is no longer necessary.

While agreeing that program flexibility should continue, Staff and AG each propose limitations that will be discussed below. North Shore/Peoples Gas recommends that their plan be approved as proposed regarding flexibility because there is no evidence that they misused the program flexibility during the First Triennial Plan.

B. Staff's Position

Staff states the Commission should grant the Companies' request for flexibility in implementing their Plan, including the latitude to reallocate funding between EE programs, add or delete cost-effective EE measures, increase or decrease incentive amounts, adjust/rebalance the portfolio in response to individual program performance or emerging market/technology opportunities, and add additional cost-effective EE programs.

Also, Staff believed reporting should be required with respect to mid-Plan changes since NS/PGL's existing quarterly reports have not sufficiently explained changes to the Plan, nor documented their decisions to exercise their flexibility. Staff says it is logical that in exercising the flexibility granted to them by the Commission, NS/PGL should report to the Commission the reasons for changes. Staff states this reporting will provide the Commission with greater transparency and insight into the NS/PGL decision-making process.

Staff also believed NS/PGL should be ordered to provide cost-effectiveness screening results for new EE measures and to limit the participation of cost-ineffective measures to ensure that participation of cost-ineffective measures does not exceed expectations in NS/PGL's Plan. Staff acknowledged that while there may be circumstances in which it is appropriate to include cost-ineffective measures in the Plan, ultimately cost ineffective measures reduce net benefits to ratepayers and increase the risk that the portfolio may become cost-ineffective. Accordingly, Staff argued that if evidence exists that a measure is both cost-ineffective and unlikely to promote longer-term, cost-effective savings, that measure should be excluded. Further, if it is found that NS/PGL finds it is necessary to exceed participation estimates for cost-ineffective measures, Staffs believes NS/PGL should petition the Commission for approval and the addition of new cost-ineffective measures after Plan approval should be prohibited. To ensure compliance with these restrictions, Staff feels the Commission should order NS/PGL to provide the TRC cost-effectiveness screening results for any new measures the Companies decide to add to their Plan during implementation in their quarterly reports. North Shore/Peoples Gas says that should the Commission decide additional limits are appropriate, NS/PGL agrees that Staff's recommendation be approved.

Overall, Staff maintains the Commission should adopt their recommendations concerning flexibility, cost-effectiveness, and reporting. North Shore/Peoples Gas also supports Commission adoption of Staff's recommendations in this regard. Staff also supported the previous flexibility provisions regarding SAG notification of 20% budget shifts to remain in place as described by CUB, but they asked the Commission to ignore CUB's criticism of Staff's position as without merit. Staff countered by stating that if the

Commission does not adopt Staff's recommendations concerning portfolio flexibility and reporting, then the Commission should reject the Companies' request for adjustable savings goals.

C. AG's Position

The AG notes that NS/PGL has proposed that they be granted what effectively amounts to an unfettered authority and flexibility to modify their Plan 2, subject only to Staff's proposed reporting requirements. Despite NS/PGL's statements to the contrary, the AG pointed to the Petitioners' statement that they have "the latitude to reallocate funding between programs; to add or delete cost-effective measures; and increase or decrease incentive amounts, at their discretion." The AG argues that even if the Commission approves NS/PGL's request and incorporates Staff's reporting requirements, they will still have a unilateral ability to make changes to their plans as they see fit without any prior stakeholder or Commission approval.

The AG cannot support NS/PGL's request for unlimited flexibility. While the AG is generally supportive of granting program administrators wide latitude to make plan and program design modifications, the AG believes that such decisions should be responsive to the utility is learning in the field; how markets are responding; and allow the utility to make timely and effective adjustments to improve program effectiveness.

Standing counter to Staff's proposed regulatory process, the AG propose setting reasonable limits on flexibility in transferring program dollars and creating appropriate incentives to encourage best practices. The AG contends that these proposals will still allow NS/PGL the freedom to manage their portfolio as they choose, but within reasonable parameters.

Instead, the AG requests the Commission should adopt their alternative proposal that permits NS/PGL the desired flexibility they need to react to market changes without sacrificing the quality and content of approved programs

To counter the above-mentioned risk of program manipulation to achieve Plan energy savings goals, the AG proposes that, in the event NS/PGL makes a major shift of more than 20% of budget from one program to another; the energy savings goals should be adjusted consistent with the budget transfer. The AG argued that this requirement would protect both NS/PGL and the ratepayers by simply resetting goals to reflect the actual plan they ultimately choose to pursue. The AG maintains this goal adjustment can be done after the fact; is not burdensome; would be transparent to all parties; and simply ensures that goals reflect the approximate plan being pursued while allowing NS/PGL a great deal of flexibility.

In addition, the AG urges the Commission to direct NS/PGL to initially bring any proposed modifications to the SAG for discussion and ideally to build consensus around the change. AG proposes that NS/PGL should do this whether or not the 20% limit is exceeded, particularly in the case of larger changes. The Attorney General states the SAG has proven to be an effective sounding board to allow stakeholders a forum for providing input and building support for the programs. The AG also believed the SAG would provide the program administrators with an added level of security in knowing if any stakeholders have major concerns prior to any after-the-fact litigation. The AG did

not suggest the SAG have the authority to overrule the decisions of the program administrator, rather the AG sees that the SAG process will ensure all stakeholders are aware of proposed changes and that NS/PGL would have the opportunity to consider varying points of view prior to making any final decisions.

Finally, the AG contends that their goal adjustment proposal is simpler and more transparent than the NS/PGL proposal and Staff's suggested changes.

The People urge the Commission to adopt their proposal on portfolio flexibility.

D. CUB's Position

CUB notes that in NS/PGL's previous plan order in Docket 10-0564, the Commission adopted the parameters established in Docket 10-0570, (the docket approving ComEd's previous three year plan filing), and ordered NS/PGL to discuss with the SAG any program changes, any shift in the budget resulting in a change that is 20% or greater; or a change to any program's budget or that eliminates or adds a program. The Commission also required NS/PGL to obtain Commission approval to shift more than 10% of spending between residential and C&I sectors.

CUB believes the previously approved Commission parameters are reasonable safeguards. CUB argues that unfettered flexibility would allow NS/PGL to invest heavily in the cheapest programs at the expense of more expensive programs with longer and more significant savings. CUB maintains their recommendations strike a balance between providing NS/PGL with the necessary flexibility to manage the portfolio while still ensuring that NS/PGL administers the programs in the manner approved by this proceeding and meets the statutory annual incremental goals.

CUB argues that employing Staff's recommendations would result in having any measure that dips below a 1.0 in cost-effectiveness terminated immediately unless NS/PGL could somehow demonstrate it fits into an exception. CUB argues this premise runs directly counter to the Commission's most recent order that addressed this issue, Docket 11-0341.

CUB maintains the cost-effectiveness standard for an energy efficiency portfolio in Illinois is the TRC test. The Illinois Power Agency ("IPA") Act defines the TRC test as "a standard that is met if, for an investment in energy efficiency or demand response measures, the benefit-cost ratio is greater than one." CUB notes the Act defines "cost-effective" energy efficiency measures as measures that "satisfy the total resource cost test," and requires utilities to "demonstrate" that the "overall portfolio of energy efficiency measures... are cost-effective using the total resource cost test and represent a diverse cross-section of opportunities for customers of all rate classes to participate in the programs." CUB notes the Act specifies that the "overall portfolio" of measures must be cost-effective, not individual measures. CUB argued that Staff's recommendations are founded on irrelevant sections of the Act and previous Commission orders in unrelated dockets.

In short, despite an existing Commission finding that rejects Staff's claim that a Commission order related to a gas griddle and spray valve measure is relevant to discussions about creating new policies around cost-effectiveness, Staff has introduced this argument yet again, particularly in Dockets 12-0132 and 12-0544 which are not

germane to this proceeding. CUB points out that the Commission confirmed in Docket 11-0341 that measures are not to be terminated simply because they might be cost-ineffective throughout a program year or Plan period.

E. ELPC's Position

North Shore/Peoples Gas argues that ELPC's assertion that they have managerial flexibility to respond to TRM changes is not supported by the record or the law. ELPC argues this is incorrect. Specifically ELPC notes, NS/PGL and the implementation contractors have the flexibility "to increase the emphasis on other measures, programs, and incentives (within the operating budget) to optimize the Plan savings overall and meet the overall portfolio targets." ELPC explains that allowing NS/PGL to automatically adjust savings goals in response to TRM changes would contradict the legislative intent of Section 5/8-104(i), which sets specific savings targets and establishes penalties for failing to meet those targets.

The AG argued that an adjustable savings goal based on TRM changes would undermine Section 5/8-104 that mandates utilities "manage their portfolios and ensure maximum savings goals are achieved during the three-year Plan period. ELPC countered and noted NS/PGL and their implementation contractors would learn about upcoming TRM changes 90 days prior to the use of those changes. ELPC argues this timeframe would provide NS/PGL and their implementation contractors greater flexibility to respond to TRM changes. Given the Companies' and contractors' degree of managerial flexibility, ELPC maintains it would be improper for the Commission to allow NS/PGL to adjust program savings goals based on annual changes to TRM values. ELPC says the record and the law reveal that NS/PGL and their implementation contractors have managerial flexibility to respond to TRM changes.

ELPC also maintains that NS/PGL does not need to spend additional funds to respond to TRM changes. North Shore/Peoples Gas argued that being granted managerial flexibility still does not address how they would make up for lost savings without additional spending. As explained above, ELPC believed NS/PGL has the managerial flexibility to respond to TRM changes in any manner necessary to ensure energy savings and states that it is not automatic that NS/PGL would be required to spend money, depending on how they respond.

F. North Shore/Peoples Gas Reply

North Shore/Peoples Gas requested in Plan 2 the flexibility to prudently respond to changes in programs and markets and they maintained that the flexibility requested is consistent with the Utilities' Plan 1. North Shore/Peoples Gas argued that neither Staff nor the intervenors have raised any instance of NS/PGL imprudently exercising program flexibility granted under Plan 1. North Shore/Peoples Gas believes that no changes to Plan 2 regarding portfolio flexibility are required, however, Staff and AG, as supported by CUB, all recommend limitations to program flexibility. If the Commission determines that limitations are appropriate, NS/PGL agrees that Staff's recommendations should be approved. North Shore/Peoples Gas notes that Staff's recommendations have already been approved by the Commission in their Order approving ComEd's Third Triennial Plan for energy efficiency.

The AG and CUB argued that NS/PGL's proposal would allow for "unfettered flexibility," allowing for NS/PGL to invest heavily in the cheapest programs instead of more costly programs with more significant savings; or rather to "game the system." Petitioner argued that the AG/CUB argument is based on a faulty premise, that NS/PGL can make changes to the portfolio at any time without oversight. North Shore/Peoples Gas argues their proposal provides the utilities with enough flexibility to manage the portfolio, while providing sufficient oversight if major modifications are required. Furthermore, even if the Utilities were to shift funds to less expensive plans as the AG and CUB claim, NS/PGL argues that there are no guarantees that the modified goals will be met. For the scenario that the AG and CUB describe, Staff agrees that there would also need to be an increase in participation. Additionally, under Plan 1, NS/PGL notified Staff in advance of making changes. The Utilities have indicated there would be no change from Plan 1. Under the present Plan, there is no evidence that NS/PGL has not acted prudently in exercising program flexibility granted under Plan 1. Finally, NS/PGL pointed out that the Commission has recently rejected the AG and CUB arguments in approving ComEd's Third Triennial Plan and they should do the same here.

Alternatively, NS/PGL says that if the Commission determines that additional reporting is required, Staff's recommendations should be approved. The AG and CUB argue that Staff's recommendations are too complex or not transparent or are not in the best interest of ratepayers. However, NS/PGL finds these arguments are without merit. They point to Staff's additional reporting requirements which provide for oversight, including memorializing the existing reporting, and allows for appropriate portfolio flexibility and the Commission has adopted these very same recommendations in their Order approving ComEd's Third Triennial Plan.

Therefore, for all the foregoing reasons and the reasons stated in the Utilities' Initial Brief, the Commission should approve the Utilities' proposed portfolio flexibility. Alternatively, the Commission should approve portfolio flexibility with the recommendations set forth in Staff's Initial Brief.

G. Commission Analysis and Conclusion

As an initial matter, consistent with the Commission's prior Orders, the Commission reiterates that Section 8-104(f)(5) of the Act requires a utility's entire portfolio to be cost-effective in order for the Commission to approve the Plan, and does not require every single measure or program to be cost-effective. That being said, this principle should not be construed as a pass for NS/PGL to eliminate careful consideration with respect to the addition of cost-ineffective measures during Plan implementation. The Commission recognizes that the addition of cost-ineffective measures may reduce net economic benefits for consumers. Thus, the Commission finds it reasonable for the Companies to include explanations for the cost-ineffective measures in their Plan in their compliance filing. The Commission agrees that reporting to the Commission TRC results for new measures is appropriate.

The Commission recognizes that flexibility in Plan implementation is critical to the success of energy efficiency programs in Illinois. The Commission also recognizes that any grant of flexibility should be followed by transparency and clear policy guidance

concerning implementation in order to ensure the fruition of the policy objectives specified in the energy efficiency.

The Commission finds that there is little need to deviate from their established policy regarding portfolio flexibility. The proposals put forth by the Companies and by Staff are rejected. Instead, the Commission adopts the AG's proposal for flexibility as it conforms with existing Commission policy without giving too much discretion to the Companies. Thus, the Companies should fully discuss with the SAG prior to initiating any changes to portfolio; any shift in the budget that results in a 20% or greater change to any program's budget, or that eliminates or adds a program. Further, the Companies shall not shift more than 10% of spending between residential and C&I sectors without Commission approval. The Companies shall report these modifications to the Commission on a quarterly basis. The Companies shall not modify their plans such that it no longer meets the statutory requirements for allocations to the low income and state and local government markets.

Finally, North Shore/Peoples Gas is directed to continue their existing reporting practices to the SAG involving program changes that were adopted in the Companies' first plan filing, ICC Docket No. 10-0564.

VII. EVALUATION

A. Free Ridership and Spillover

1. North Shore/Peoples Gas' Position

North Shore/Peoples Gas has proposed adjustment factors for free riders and participant and non-participant spillover as part of their NTG Ratio. While taking a number of forms, non-participant spillover is where a customer takes an action but ultimately the energy savings generated do not get credited to the program. North Shore/ Peoples Gas believes that the use of these factors would ensure the energy savings are measured properly and the Commission agrees. In their final Order in Docket 13-0495, ComEd's Energy Efficiency proceeding, the Commission found, "excluding spillover calculations are likely to unfairly reduce a program administrator's calculated savings. However, the Commission ultimately decided not to order spillover to be included as it could be costly to determine. Instead, the Commission directed evaluators to consider spillover "while be mindful of any excessive costs to measure spillover in relation to the predicted impacts of such measurements." Additionally, NS/PGL notes, the Commission ordered a program-wide spillover survey be addressed by the SAG for further development.

North Shore/Peoples Gas urges the Commission to make the same findings here. Staff, AG and ELPC did not support the Utilities proposal. Brightwell Dir., Staff Ex. 2.0, 3:58-6:107; Mosenthal Dir., AG Ex. 1.0, 39:839-40:866; Crandall Dir. CUB Ex.1.0 11:231-245. However, the Commission's decision regarding free ridership and spillover in their Order in ICC Docket No. 13-0495 is reasonable and should be adopted here.

2. Staff's Position

Staff sought to define the role of the free rider as a customer who uses program funds to take actions that he or she would have taken anyway, even if no program funds were offered. Staff noted that the significance of a free rider is that since this customer would have installed the measure anyway; there is no incremental savings to attribute to an EE program. Staff also defined "spillover" as the changes in EE and conservation practices that result from increased knowledge of EE through experience with the program and/or word of mouth or a general increase in knowledge about EE that results from the existence of the EE program. Staff calculated the NTG ratios ("NTGR") and noted the value of the NTGR indicates what percentage of gross savings is attributable to actions of the program. Staff argued there is merit in attempting to quantify both free ridership and spillover; however, the measurement and quantification of spillover is much more difficult and expensive than that of free ridership, and, as a result, spillover might not be quantified. Staff noted that under the NS/PGL proposal, any program for which it is too costly or difficult to measure both participant and non-participant spillover, that program will effectively be credited with net savings equal to gross savings. Given the costs and difficulty of measuring spillover, Staff contends NS/PGL's proposal could result in most programs measuring gross savings rather than net savings.

Staff asks the Commission to direct the independent evaluators to make reasonable efforts to calculate both free ridership rates and spillover rates while being mindful of: (1) the costs of such evaluations; (2) the likely magnitudes of spillover and free ridership rates within a program; and (3) the significance of the program to the overall portfolio savings. Alternatively, they argue the Commission could direct the Companies to perform a comprehensive evaluation of spillover across the utility territory rather than program-by-program.

Staff noted that under Section 8-104, NS/PGL is not permitted to calculate gross savings. They argue that NS/PGL's proposal to include neither factor if both cannot be calculated produces a gross savings result that is likely to reflect greater overestimates of the savings attributable to the program. Staff believed that applying gross savings to the determination of savings goals leads to incentives that are adverse to the interests of ratepayers. Moreover, Staff contends that achieving gross savings is not in the best interest of ratepayers because ratepayers pay for the EE programs, since, they believe ratepayers only gain benefits as a result of these payments from net savings, not from gross savings, which are easier to obtain.

Staff further believes that free ridership provides little or no benefit to ratepayers as a group because the nonparticipating ratepayers who pay for the project see their money given to the free riders; who are taking actions that they would have already taken without utility intervention. They argue there are no incremental benefits associated with free riders, but a utility is subject to the costs associated with administering EE programs.

Staff contends that EE programs create a redistribution of wealth; where each rebate takes money from non-participating customers and redistributes it to participating customers. Alternatively, they argue the Commission could require NS/PGL to conduct

an evaluation of non-participant spillover across the entire portfolio, the goal being to evaluate how much non-participant spillover is actually occurring across the portfolio rather than trying to analyze spillover on a program-by-program basis. Staff believed that if a non-participant spillover survey is conducted, there would be no need to include a separate NTG factor for program-level non-participant spillover.

Staff suggested it would be reasonable to conduct between one and three surveys over the three-year Plan Period in order to determine how much non-participants were influenced by the Utility program. Staff concedes that the feasibility of a portfolio-level study may need to be developed and suggested the Commission encourage NS/PGL and their evaluator to work with the SAG in determining the feasibility of a portfolio-level study.

3. AG's Position

The AG requests the Commission reject NS/PGL's proposal for a number of reasons.

First, the AG notes, both free ridership and spillover should apply to NTG ratio estimation, and the Commission's Order should confirm that spillover is a legitimate aspect of estimating NTG.⁶ Second, the AG states that NS/PGL's request to eliminate free ridership assessments when any study fails to explicitly estimate spillover is bad public policy, and inconsistent with the General Assembly's finding that "cost-effective" programs are to be offered to customers. 220 ILCS 5/8-104(a).

The AG notes that NS/PGL appears not to have addressed this point in their Rebuttal testimony. Moreover, in Docket No. 13-0498, the AG points out that the Commission concurred with their witness and concluded:

...the Commission, in keeping with the AG's recommendation, directs evaluators to consider spillover whenever possible while being mindful of any excessive costs to measure spillover in relation to the predicted impacts of such measurements.

ICC Docket No. 13-498, Order of January 26, 2014 at 100.

Thus, the Attorney General asks the Commission to make an identical finding on this issue in this docket.

4. ELPC's Position

ELPC noted that the Illinois NTG methodology, developed by the SAG in cooperation with trade allies and the utilities, does not require a spillover assessment prior to inclusion of free ridership impacts in a NTG analysis. ELPC, complains that NS/PGL's proposed revisions have not been addressed at either SAG or the Technical Advisory Committee and noted that Ameren, ComEd, and DCEO recently introduced proposals similar to the NS/PGL and noted In these dockets, they note the Commission chose not to require a spillover assessment. Instead, the Commission found that "excluding spillover from the NTG calculations is likely to unfairly reduce a program

⁶AG Ex. 1.0 at 39.

administrator's calculated savings, but because it can be costly to determine spillover, the Commission cannot at this time require that it always be included." ELPC contends that as they did in prior dockets, the Commission should reject the NS/PGL's proposal to pre-condition a spillover assessment prior to inclusion of free ridership impacts in NTG analyses.

5. Commission Analysis and Conclusion

Consistent with the decision in Docket 13-0498, the Commission finds that excluding spillover from the NTG calculations might unfairly reduce a program administrator's calculated savings, but because it can be costly to determine spillover, the Commission will not require that it always be included. Thus, the Commission directs evaluators to consider spillover while being mindful of the costs to measure spillover and the likely impacts of such measurements.

Staff's proposal to consider a portfolio-wide spillover survey is worthwhile and the Companies should take it to their evaluators and the SAG for further development and implementation as soon as practical.

B. Modified Illinois Net-To-Gross Framework

1. North Shore/Peoples Gas' Position

North Shore/Peoples Gas initially proposed a NTG Framework consistent with the NTG Framework approved by the Commission in ComEd's Energy Efficiency Proceeding, ICC Docket 13-0495. In particular, the NS/PGL proposed the following NTG Framework:

- (1) If consensus on a NTG value is reached by the parties at SAG, then that NTG value should apply.
- (2) If no consensus is reached at the SAG, then the EM&V contractor values should be used.
- (3) NTG values shall be used prospectively.
- (4) A set calendar for process of NTG values:
 - i. Existing programs – EM&V contractor will provide values by March 1 for existing programs with estimated NTG values, such value will apply for the next program year (beginning June 1).
 - ii. New programs – planning NTG values provided by the EM&V contractor will apply for the next program year (beginning June 1).
 - iii. Prior to March 1 of each year, the EM&V contractor will present proposed NTG values to the SAG for discussion. The EM&V contractor, after advice from the SAG is considered, will adjust values as applicable and those final determined values by the EM&V contract will be used for the upcoming program year (beginning June 1).

With respect to the March 1 date above, the Utilities will not delay providing evaluation and measure (“EM&V”) studies and the independent evaluators should strive to provide their reports in a timely manner in order to allow SAG sufficient time to discuss. Marks Sur., NS/PGL Ex. 5.0, 5:105-109. The Utilities also do not oppose having Illinois utilities evaluators consider the best practices and results of other studies in the formation of a particular independent evaluator’s results and making it applicable to the Utilities. Furthermore, if the Commission adopts the Utilities’ proposal, Staff recommends that the Commission adopt additional reporting standards. The Utilities generally agrees with Staff recommendations for additional reporting except for the retroactive application of NTG values for failure to file by April 1 of each year. The Utilities understand the need for timeliness; however, the NTG values would not always be retroactive. Any failure to file could be cured by a prompt filing as soon as possible after the April 1 date. The intervenors initial positions on modifying the Net-to-Gross Framework is discussed below.

2. Staff’s Position

Staff asks the Commission to adopt their Modified Illinois NTG Framework for the Companies because it provides a certain and straightforward process for determining NTGRs and it ensures all parties are provided with sufficient opportunity to review the basis for the Evaluators’ proposed NTGR values. Staff believed their proposal results in determining consensus NTG ratios that are expected to be reflective of the likely NTG ratio that would be estimated in the applicable program year. Thus, Staff argues their Modified Illinois NTG Framework proposal provides the proper incentives for utilities to invest ratepayer funds in EE and make the appropriate program adjustments to improve NTGRs and minimize free riders. Staff also argues that their Modified Illinois NTG Framework proposal also creates important incentives for NS/PGL to negotiate in good faith with other parties to assess the best estimates for the NTGRs. Staff contends that the provision in their proposal that calls for a partially retroactive application of non-consensus NTGR values creates an incentive for all of the parties to reach an consensus regarding determining future NTGR values. To help mitigate the risk of compromising the independence of the Evaluators, Staff argues the Commission should require SAG involvement in the NTG update process. Since no other party presented arguments for rejecting Staff’s Modified Illinois NTG Framework in this proceeding, Staff asks the Commission to adopt their proposal in its entirety.

In rebuttal testimony, Staff agreed to compromise with the AG and ELPC by eliminating the existing requirement for the Companies to file the *Evaluator’s Memo on Deemed NTGRs for PYt+1* (“Evaluators Memo”) and supporting work papers in Docket 12-0528 as illustrated in Step 10 of Staff’s Modified Illinois NTG Framework. Instead of this requirement, Staff suggested the Evaluator’s Memo that is distributed to the SAG on February 25 could instead be attached to the consensus Updated IL-TRM that Staff submits to the Commission for approval around March 1. Staff argues this would provide the Companies with an even greater degree of certainty than a compliance filing in Docket 12-0528. Contrary to the AG/ELPC NTG Framework, Staff Exhibit 1.1 sets forth a schedule that would allow for such NTG filings to occur in the TRM annual update docket as desired by the AG and ELPC. Thus, Staff believes the Commission could adopt this modification as set forth in Staff Exhibit 1.1 and this approach could be

easily incorporated into the existing Commission-approved annual IL-TRM Update Process set forth in the IL-TRM Policy Document for consensus IL-TRM Updates.

Staff noted that adopting the NS/PGL NTG Framework could result in a situation where the presentation of NTGR to the SAG would occur too close to the March 1 deadline; thus, that SAG participants would not have the opportunity to reasonably consider the Evaluators' recommendation and reach consensus before March. Staff's proposed Modified Illinois NTG Framework sets November and December deadlines for the Evaluators to submit their proposals and ensures all the necessary information to assess the appropriateness of the Evaluators' NTG proposals is available in writing in advance of the March 1 deadline. Staff maintains that requiring the information specified in Staff Exhibit 1.1 would create a more efficient review process of the NTG proposals; increasing the likelihood for the parties to reach a consensus on determining specific NTGR values, and determining the amount of litigation concerning NTGRs in NS/PGL's compliance with the energy savings goals proceeding.

The Commission should adopt Staff's Modified Illinois NTG framework and make the following findings:

- (1) In order to help ensure the independence of the Evaluators and to improve efficiency, consistency, transparency, and comparability in the evaluation process, consistent statewide net savings or NTG methodologies shall be used in the evaluations of comparable programs offered by different Illinois program administrators. The Companies are directed to require their Evaluators to collaborate with the other Illinois Evaluators and the SAG to reach consensus on the most defensible and well-vetted methodologies to assessing net-to-gross ratios in particular markets for both residential and non-residential energy efficiency programs in a manner consistent with the direction provided herein.
 - a. ICC Staff shall file the agreed-upon consensus statewide NTG methodologies with the Commission as an appendix to the Updated IL-TRM. If consensus is not reached on a certain component of the statewide NTG methodologies, that particular non-consensus component should be submitted in a manner consistent with the approach used for non-consensus IL-TRM Updates. It is efficient, transparent, and reasonable to keep the Commission-adopted gross savings methodologies (IL-TRM) and net savings methodologies (IL-NTG Methods) together.

Should the Commission adopt an NTG framework similar to that adopted in Docket 13-0495, then Staff suggests the Commission should also order the NTGR values be filed as a compliance filing no later than April 1 of each year. Should NS/PGL fail to file the NTGR values by this date, Staff argues the Commission should require retroactive application of NTGR values as defined in Staff Exhibit 1.1. Staff also requests the Commission should also require the determined NTGR values and the actual NTGR values be included in the evaluation reports for informational purposes, which is consistent with Step 5 of the NTG Framework contained in AG Exhibit 1.2 and ELPC Exhibit 1.2 and Step 11 of Staff's Modified Illinois NTG Framework. Staff noted

the Commission has adopted similar deadlines in Ameren's recent Plan docket and should do so in this proceeding.

Staff also suggests, and NS/PGL agrees, that the Commission should require NS/PGL to file the revised spreadsheet for calculating adjustments to savings goals based on changes to the NTGR values and IL-TRM values in this docket no later than May 1 of each year. Because of the relationship between the two filings, Staff contends that filing the actual NTGR values in this docket by April 1 will ensure all parties are aware of the actual NTGR values that should be used in the May 1 savings goal adjustment filing. Since North Shore/Peoples Gas does not object to the additional conditions Staff recommended in direct testimony and presuming the Commission provides the Companies with the same adjustable savings goal approach it provided for Ameren, having the NTGR values filed in this proceeding in advance of the savings goal adjustment filing should help minimize disputes.

3. AG's Position

In this case, the utility gross tracking system does not count these savings, but to the extent customers and trade allies were influenced by the program and it caused them to do additional efficiency measures on their own, these savings are in fact a net effect of the program.

Initially, for new programs NS/PGL proposed that evaluations occur once every three years and that the planned NTG ratio values that have been provided by the independent evaluator by March 1 of any plan year would be applied prospectively to the next plan year beginning June 1. NS/PGL contends those values would be used until the evaluation results in a revised NTG ratio.

The Attorney General finds that a couple of critical modifications are necessary to this proposed approach. First, the AG believed evaluators should act as the final arbiter to decide any non-consensus values based on input received from the SAG. Under this approach, the AG contends that all Illinois evaluators would work together reach an consensus on appropriate NTG values.

The AG notes that this approach has already been adopted by the Commission in Ameren three-year plan in Docket 13-0498.

While the AG notes they are sympathetic to NS/PGL's desire to ensure certainty as to the proper NTG values are determined by March 1 of each year, they believed it is also essential that the NTG annual process incorporate consensus development of values using the best available and most up-to-date information – not adoption of evaluations that may be several years old. Further, the AG finds that ultimately, a single NTG framework should be established for all Illinois utilities and that consistent development of the values for each utility is achieved.

The AG also argues that even if the evaluation is more recent, there may have been significant changes to the actual program design or delivery strategies that would have material impacts on NTG values in the future that have not been considered--- such as, the markets themselves may have evolved significantly since the last evaluation; there is a possibility that a single evaluation might be deemed unreliable by the parties.

Given these facts, the AG maintains the optimal approach is to get a consensus from SAG members and evaluators to estimate future NTG values

For all of the reasons discussed above, the AG urges the Commission adopt their proposed NTG framework

4. ELPC's Position

ELPC agreed that it is important to determine the actual NTG values before a planning year begins, however, they do not support NS/PGL's proposal because it removes the SAG out of the NTG process. ELPC contends the SAG plays an important role in the NTG process. ELPC recognizes that applying NTG values retrospectively makes it difficult for the utilities to plan and operate their programs, however they suggest the Commission allow the SAG to remain as an active participant in the NTG framework. To that end, ELPC proposes that the Commission adopt the modified NTG framework which revises Staff's framework and incorporates the NTG framework developed by the non-utility SAG members.

In summary, ELPC asks the Commission to reject the NS/PGL's proposal to conduct a spillover assessment as a pre-condition to including the free ridership impacts in their NTG analysis. ELPC also asks the Commission to direct evaluators to consider spillover whenever possible, while being mindful of any excessive costs to measure spillover in relation to the predicted impacts of such measurements. The Commission should require the Companies to use the best available information for the analysis. Finally, the Commission should adopt the new proposed NTG framework that has been developed by the SAG.

5. North Shore/Peoples Gas Reply

North Shore/Peoples Gas and the AG support the NTG Framework that the Commission adopted in their Order in Ameren's Third Triennial Plan for energy efficiency in ICC Docket No. 13-0498. They argue the Commission should reject Staff's alternative proposal, which attempts to provide a single statewide framework, NS/PGL believes this discussion would be better suited for the SAG or a rulemaking. Assuming the NS/PGL NTG framework is approved, Staff recommends the additional reporting standards mentioned previously should also be approved. North Shore/Peoples Gas agreed, with the exception of the retroactive application of NTG values for failure to file by April 1 of each year.

Thus, North Shore/Peoples Gas urges the Commission to approve the proposed NTG Framework that is consistent with the NTG Framework approved in Docket 13-0498, and Staff's related reporting requirements with the exception of the retroactive application of NTG values for failure to file by April 1 of each year.

6. Commission Analysis and Conclusion

The Companies have indicated that they agree with the AG that consistent with our findings in Docket No. 13-0498 and our decision to revisit our findings in ComEd Docket No. 13-0495 on Rehearing, the Commission finds that adoption of a NTG Framework that ensures that updated NTG values reflect the best estimates of likely future actual NTG values by taking into consideration SAG input, the evaluator's expertise, and the best and most up-to-date information, is consistent with the goal of

ensuring cost-effective efficiency programs. The Commission notes that consistency regarding this particular procedure should increase efficiencies within the SAG by encouraging all parties to negotiate in good faith to reach consensus, and will also avoid the scenario identified in the AG Application for Rehearing in Docket No. 13-0495, where a stakeholder could force nonconsensus to ensure that a known default NTG value would be applied. Instead, if the SAG cannot reach consensus, this modified procedure will require that the independent evaluator determine the final value based on SAG input, the evaluator's expertise, and the best and most up-to-date information. The Commission appreciates the balanced approach this methodology provides by retaining the Companies' desire to mitigate risk by ensuring prospective-only application of NTG values for NS/PGL. Adoption of the NTG framework set forth in is also supported by the record in this docket.

Accordingly, the Commission directs the Companies, their evaluator, and SAG to comply with the following NTG framework for deeming NTG ratio values:

Prior to March 1st of each year, the independent evaluator will present their proposed NTG values for each program to the SAG, intended to represent their best estimates of future actual NTG values likely to occur. The purpose of this meeting will be for the independent evaluator to present their rationale for each value and provide the SAG, in their advisory role, with an opportunity to question, challenge and suggest modifications to the independent evaluator's values.

If the SAG reaches consensus regarding an NTG value prior to March 1, then SAG's decision shall be adopted – even if it is different from the evaluator's original proposal. If consensus is not reached, the independent evaluator will then review this feedback and make the final determination of values to be used for the upcoming year taking into account all comments and discussions, with the intent of making their best estimate of likely future actual NTG values. All NTG values shall only be applied prospectively beginning June 1 of each year.

C. NTG Ratio Values for Program Year 4

1. Staff's Position

Staff urged the Commission to order NS/PGL to work with the SAG to reach a consensus on NTGR values for program year 4 ("PY4") and include them in the remodeling of the portfolio for their Revised Plan filed as part of their compliance filing in this docket. The PY4 NTG discussion should be initiated by a memo from the NS/PGL existing Evaluators and include their initial recommendations for determining NTGR values for PY4. Staff concludes that this approach is consistent with the first step in their Modified Illinois NTG Framework proposal and the NS/PGL NTG Framework proposal.

2. North Shore/Peoples Gas' Position

North Shore/Peoples Gas agrees to work with SAG as to the attempts to reach consensus as to NTG values. However, given that the compliance filing will be made

after a Commission vote sometime in April or May of 2014, the determined NTG value for PY4 may not be available.

3. Commission Analysis and Conclusion

The Commission finds Staff's proposal, to which NS/PGL did not object, reasonable and therefore it is adopted. For PY4, SAG, NS/PGL, Staff, and NS/PGL's evaluators should begin immediately to attempt to reach consensus for NTG values consistent with Staff's recommendation. However, the Commission acknowledges that depending on the date of the final Order in this proceeding, the information may not be available at the time of the compliance filing. In that circumstance, NS/PGL is directed to provide the information as soon as possible.

D. Consistent IL-NTG Methods

1. Staff's Position

Staff argued that the Commission should require consistent statewide net savings or NTG methodologies in the evaluations of comparable EE programs offered by the Illinois utilities and DCEO. They contend that Standard IL-NTG Methods would improve efficiency, consistency, transparency and comparability in the evaluation process, address concerns regarding Evaluator independence, and help eliminate controversy. Staff believed the current EE program Evaluators should take the lead in compiling and formalizing standard IL-NTG Methods and collaborate with the SAG in the process. These would not be "new" NTG methodologies. Rather, Staff states, existing NTG methods that have been used to evaluate EE programs in Illinois would be assessed, and the Commission would consider adoption of the best methodologies (or a combination of the components of existing approaches). Staff believed the best approaches would be flexible and adaptable to multiple program designs and tailored to appropriately assess the specifics of each of the utilities' EE programs, consistent with standard NTG protocols adopted in other states.

Consistent statewide NTG methods would help mitigate the risk of compromising the independence of the Evaluators, reduce contention over spillover estimation approaches, provide greater consistency and certainty to utilities about likely future evaluation results, and provide a more efficient process for all interested parties and utilities to vet the reasonableness of NTG methodologies.

Staff noted that Massachusetts and other states including California have developed standard statewide NTG methods. With the exception of DCEO, Staff states the NTG methodology used to evaluate Ameren, ComEd, MidAmerican Energy, Nicor Gas, North Shore Gas, and Peoples Gas during the last Plan is largely consistent with the California methodology. They note however, that the Illinois method includes additional consistency-check questions and an unlike-spillover question battery to assess participant spillover.

Despite the Commission direction to the SAG in the prior Plan docket described above, Staff notes that alternative NTG methodologies are currently being implemented for comparable EE programs in Illinois. Thus, Staff believed the Commission should direct the Companies to require their Evaluators to collaborate with other state Evaluators and the SAG to reach a consensus on the best approach to assessing

residential and non-residential EE programs in particular NTG markets. Staff argued that the best approach is flexible and adaptable to multiple program designs and can be tailored to appropriately determine the components of each utility EE programs, consistent with the standard NTG protocols that have been adopted in other states. Further, the Commission should direct Staff to file the agreed-upon consensus statewide IL-NTG Methods with the Commission as an appendix to the updated IL-TRM. Staff notes that it should be clear that this recommendation is not meant to create entirely new NTG approaches, but rather to assess existing methods used in Illinois; and adopt the best and most defensible method. The Evaluators in Illinois have currently been working on understanding and reconciling differences in NTG methods for non-residential EE programs, so Staff believes that finalizing a consistent approach for the non-residential EE programs should be able to be completed soon.

Based upon the foregoing Staff recommends, the Commission adopt the following findings regarding consistent IL-NTG Methods:

- (1) In order to help ensure the independence of the Evaluators and to improve efficiency, consistency, transparency, and comparability in the evaluation process, consistent statewide net savings or NTG methodologies shall be used in the evaluations of comparable programs offered by different Illinois program administrators. The Companies are directed to require their Evaluators to collaborate with the other Illinois Evaluators and the SAG to reach consensus on the most defensible and well-vetted methodologies to assessing net-to-gross ratios in particular markets for both residential and non-residential energy efficiency programs in a manner consistent with the direction provided herein.
 - a. ICC Staff shall file the agreed-upon consensus statewide NTG methodologies with the Commission as an appendix to the Updated IL-TRM. If consensus is not reached on a certain component of the statewide NTG methodologies, that particular non-consensus component should be submitted in a manner consistent with the approach used for non-consensus IL-TRM Updates. It is efficient, transparent, and reasonable to keep the Commission-adopted gross savings methodologies (IL-TRM) and net savings methodologies (IL-NTG Methods) together.

Adoption of this finding is consistent with the recent Ameren Plan 3 Order wherein the Commission found the approach to be reasonable and noted it will aid in future evaluation of the EE programs. North Shore/Peoples Gas supported Staff's recommendation in response to data requests, and clarified in rebuttal that the evaluator should take into consideration differences in programs offered by various utilities and the statutory budgetary limitations for evaluation. Staff's recommendation already incorporates the Companies' clarifications; therefore, the Commission should adopt Staff's proposal on consistent statewide IL-NTG Methods in its entirety.

2. North Shore/Peoples Gas' Position

North Shore/Peoples Gas disagrees with Staff's proposal. They argue that the EM&V contractors as experts in their field have determined the best practices and how they should be applied as part of their evaluation. Further, while the SAG serves an important advisory role to the EM&V contractors, NS/PGL believed the EM&V contractors should also consider the unique aspects of each individual utility's service territory while remaining within budget. Thus they argue that uniformity in this instance is not optimal. Nevertheless, NS/PGL does not oppose having Evaluators determine best practices to form independent results that can be applied to the utilities. Therefore, NS/PGL asks the Commission to reject Staff's recommendation.

3. Staff Reply

The Commission should require that consistent statewide net savings methodologies be used in the evaluations of comparable energy efficiency programs offered by the Illinois utilities and DCEO. As previously noted by Staff, there are significant inconsistencies in the methodologies used by evaluators to evaluate NTG. Thus, Staff argues that it is clear that the "best practices" approach is subjective and contrary to the Commission's Order in the Utilities' last Plan docket which recommended that utilities should establish transparent and consistent methods for determining electricity and natural gas savings. For these reasons, the Commission should adopt Staff's recommendations as stated above.

4. Commission Analysis and Conclusion

The Commission agrees with Staff that Commission consideration and approval of statewide net savings methodologies should be accomplished in conjunction with the existing Commission-approved process for approving statewide gross savings methodologies. Staff's proposal is efficient, reasonable, and would likely reduce litigation costs for all parties by avoiding the need for two separate docketed proceedings. Staff's proposal concerning the establishment of consistent statewide IL-NTG Methods is hereby adopted and NS/PGL are directed to comply with the terms of Staff's proposal and involve the evaluators.

To help ensure the independence of the evaluators, to improve efficiency in the evaluation process, and to ensure programs across the state as delivered by the various program administrators can be meaningfully and consistently evaluated, the Commission hereby adopts Staff's recommendation that consistent statewide NTG methodologies be established for use in the evaluations of comparable programs offered by different Illinois program administrators. The Commission agrees with Staff that the current program evaluators should take the lead in compiling and formalizing standard methodologies for NTG in Illinois taking into consideration SAG input. Given the existing Plan 1 evaluators are under contract with the utilities for the evaluation of the PY3 energy efficiency programs, which have not yet started, it is appropriate for these existing evaluators to work on the IL-NTG Methods over the next year.

The Commission hereby directs North Shore/Peoples Gas to require their evaluators to collaborate with the other state evaluators and the SAG to reach

consensus on the best and most defensible well-vetted approaches to assessing NTG in particular markets for both residential and non-residential energy efficiency programs in a manner consistent with the direction set forth in Staff Exhibit 1.0.

E. Creation of an Illinois Energy Efficiency Policy Manual

1. AG's Position

The Attorney General urged the Commission to order NS/PGL to partner with the SAG to develop an Illinois Energy Efficiency Policy Manual. The AG notes that the Commission previously approved the creation of a policy manual and all of the parties in this docket agree that a Policy Manual is necessary, subject to some considerations. North Shore/Peoples Gas asked the Commission to recognize its “unique differences” due to their programs, designs, budgets, and service territory. While Staff urges the Commission to create a policy manual based on a consensus and focused on “evaluation-related issues” without including a discussion on prudence or program implementation.

As to the Companies' concerns that a manual addresses differences between the Companies' service territories, the AG believes the Commission has already addressed such concerns in their finding in the Ameren efficiency proceeding, Docket No. 13-0498, wherein the Commission concluded that the AG proposal already addressed the utility's concern about “unique differences” among utility programs:

The Commission believes that the AG's clarified proposal is specific, addresses an inconsistency between utilities in Illinois that may warrant attention, and is reasonable. As a result, to the extent possible, the Commission directs the SAG to complete an Illinois Energy Efficiency Policy Manual to ensure that programs across the state and as delivered by various program administrators can be meaningfully and consistently evaluated.

Docket No. 13-0498, Order of January 28, 2014 at 129. The same language should be included in the order for this docket, with specific direction for the SAG to complete an Illinois Energy Efficiency Policy Manual to ensure that programs across the state and as delivered by various program administrators can be meaningfully and consistently evaluated.

The AG noted that despite Staff's interpretation of the order in the ComEd Energy Efficiency Docket (13-0495), the Commission did not specifically restrict the SAG from exploring topics outside of evaluation-related issues in that docket. Rather, the AG noted the Commission adopted their proposal, specifically designed to ensure consistency in terms of monitoring savings achieved and evaluating programs.

Contrary to the views originally expressed by Staff, the AG is not seeking to further burden the SAG or create additional work that further strains already limited resources. Instead, the AG seeks to create a manual that is designed to streamline and encourage consistency on various program-related policies and subject to review and approval by the Commission.

For these reasons, the AG urges the Commission to order NS/PGL to collaborate with the SAG to draft an Energy Efficiency Policy Manual in an effort to ensure the programs delivered by various program administrators can be meaningfully and consistently evaluated across the State.

2. Staff's Position

Staff did not object to creating a statewide Policy Manual, consistent with the Commission's recent Orders in the Ameren, DCEO and ComEd Plan 3 dockets, as long as it is limited to issues concerning evaluation. More specifically, issues related to prudence and program implementation should not be addressed in the Policy Manual.

As such, Staff requests the Commission to direct NS/PGL to work with their Evaluators, Staff, other Illinois utilities, DCEO and SAG to draft a Policy Manual that would resolve outstanding evaluation policy issues; followed by approval of the policy manual by the Commission.

3. North Shore/Peoples Gas' Position

North Shore/Peoples Gas does not object to Staff's proposal as to the creation of a consensus statewide Policy Manual limited to evaluation issues. North Shore/Peoples Gas shall continue to work with the SAG during the Plan 2 period and participate in matters that the Commission directs SAG to consider or that the SAG undertakes in response to stakeholder proposals.

4. Commission Analysis and Conclusion

Consistent with our findings in Docket Nos. 13-0495, 13-0498, and 13-0499, the Commission directs the Utilities to work with their evaluators, Staff, the other Illinois utilities, DCEO, and the SAG to complete an Illinois Energy Efficiency Policy Manual to ensure that programs across the state and as delivered by various program administrators can be meaningfully and consistently evaluated.

F. Alignment of Schedules for NTG and IL-TRM Updates

1. Staff's Position

Staff suggests the Commission should adopt the workable timelines suggested by the Evaluators for TRM and NTG updates contained in Staff Ex. 1.2. The AG recommends the Commission direct NS/PGL to work with the SAG to improve the EM&V process so that timely reports are produced to be included in the IL-TRM and NTG updates. Staff agrees with the AG in principal; however they contend that Staff's recommendation is more efficient; and is consistent with the Commission's Order in the Ameren Plan 3 docket.

Staff notes that the Evaluators have suggested timelines that represent a collaborative effort to produce a uniform set of timelines that could work well to update the determined values for both the TRM and NTGRs on an annual basis. They argued that adopting these timelines in this proceeding would contribute to the efficiency and consistency sought by the Commission and consistent with the Commission's Order in the Ameren Plan 3 docket. Accordingly, Staff recommends the Commission adopt their proposal as previously described above.

These arguments were factually and effectively dismissed by the Attorney General in their Rebuttal testimony.

2. North Shore/Peoples Gas Reply

North Shore/Peoples Gas did not take exception to Staff's proposal.

3. Commission Analysis and Conclusion

Consistent with our findings in Docket No. 13-0498, the Commission hereby adopts the IL-TRM and NTG schedules set forth in Staff Exhibit 1.2 as follows:

IL-TRM Updates

- July 1st: the TRM Technical Committee informs the evaluators and others which measures are high or medium priority measures, for which work papers need to be prepared.
- August 1st: updates to existing measure work papers to clarify terms or approaches will be completed.
- October 1st: completely new work papers for new measures will be completed.

NTG Updates

- November 1st: draft residential NTG estimates will be completed for the program year that ended May 31st.
- December 1st: draft commercial/industrial NTG estimates will be completed for the program year that ended May 31st.

In order to ensure the SAG has adequate time to review the evaluators' NTG recommendations before March 1 under the NTG Framework, the Commission directs the Utilities to require their evaluators to make best efforts to provide the evaluators' initial recommendations for deeming NTG ratios for residential programs by November 1st and for non-residential programs by December 1st.

VIII. ADJUSTABLE SAVINGS GOAL

A. North Shore/Peoples Gas' Position

In their Second Triennial Plan, NS/PGL is proposing to adjust savings goals based upon NTG ratios and realization rates that are subject to change due to ongoing evaluation of the programs; updates to the Illinois TRM; or according to the Illinois NTG Framework. Without such an adjustable savings goal, NS/PGL states the outcome may be uneven since exact participation rates could be achieved but the goals may not be achieved. Staff agrees with NS/PGL's proposal subject to the approval of a number of conditions, including Staff's recommendations on program flexibility.

North Shore/Peoples Gas notes the observation from Staff below:

The Companies' estimates of achievable energy savings goals are based to a large degree on the inputs specified in the Commission-approved IL-TRM. It is reasonable to allow updates to those energy savings goals based on Commission-approved changes to the IL-TRM. It

would be unfair to punish the Companies for using the Commission approved IL-TRM in the Plan filings by adjusting IL-TRM values during the course of the Plan, with no possibility of adjusting savings goals.

While they do not think Staff's conditions are necessary, NS/PGL accepts them because they are already in compliance and the conditions are not overly burdensome. Furthermore, NS/PGL finds that incorporating Staff's recommendations in their proposal is consistent with the approach adopted by the Commission in Docket. 13-0498.

Therefore, for the foregoing reasons, NS/PGL asks the Commission to approve their adjustable savings goal including Staff's recommendations.

B. Staff's Position

Staff suggests the Commission adopt a modified version of the NS/PGL proposal to adjust energy savings goals based on changes to the NTGR values and IL-TRM values. The recommendations offered by Staff are designed to prevent waste of resources and allow NS/PGL to operate in the most cost-effective manner. Staff suggests that the NTGR values, IL-TRM values, the market, and any new information should be the basis for implementation adjustments; despite the fact that a change in NTGR values and the IL-TRM values would be the only factors considered for savings goal adjustments. Staff also states there should be flexibility and reporting and NS/PGL should continue to prudently manage the portfolios and adjust funds during a program year in a manner that seeks to increase net savings beyond the modified savings goal and maximize net benefits for ratepayers.

Staff also asks the Commission to order NS/PGL to file any revised spreadsheets incorporating the changes to NTGR values, IL-TRM values, and energy savings goals no later than May 1 of each program year, with those values taking effect on June 1. To the extent the NTGR is unavailable by that date, Staff recommends NS/PGL be required to file a revised version of the spreadsheet once the updated NTGR is known. Staff believed the revised spreadsheets should clearly identify all assumptions used for the EE measures, including the IL-TRM measure codes, participation estimates, TRC ratios, NTGR, and other relevant measure-level inputs.

Staff concluded that their recommendations are consistent with the Commission's Final Order approving adjustable savings goals for a comparable EE plan, asks the Commission to adopt them in the present matter as well.

C. AG's Position

The AG argues that NS/PGL proposes a savings measurement construct that inappropriately eliminates all performance risk associated with NTG and TRM assessments. Specifically, they argue NS/PGL has wrongly proposed the energy savings goals established in this docket be modified as a result of any and all changes in values to NTG and Technical Resource Manual ("TRM") assessments. This "set-it-and-forget-it"/autopilot approach to delivering ratepayer-funded efficiency programs (also supported by Staff) should be rejected for several reasons.

First, they argue, the General Assembly made clear that NS/PGL is required to manage their portfolios and ensure maximum savings goals are achieved during the

three-year Plan period. The AG contends that this is clearly interpreted in Section 8-104(i), wherein a utility is subject to specific financial penalties for failure to achieve the statutory savings goals; with the exception of subsection (d), which limits the amount that can be spent on efficiency programs to no more than 2% in the applicable three-year reporting period. The AG notes there is no reference included in Section 8-104(d) to account for changes in NTG and Technical Resource Manual (“TRM”) values.

Second, the AG argues, NTG values can be highly influenced by program administrators, and this would remove any incentive for utilities to strive for higher NTG values and to make appropriate program changes when NTG values are becoming increasing low. Third, the AG suggests that permitting adjustments to program savings goals based upon annual changes to TRM values is similarly improper. The AG believed that the TRM, as adopted by the Commission in Docket Nos. 12-0568 and 13-0077), is a living document, and it is imperative it be updated annually to modify any values for which there is new and better information, or to even add new measures. Fourth, the AG believed that it is important for the utilities be held to an overall goal and are incented to make appropriate and needed annual adjustments to ensure prudent programs. Finally, the AG states there are practical problems with permitting the Utilities’ “set-it-and-forget-it” approach to efficiency program management. AG witness Mosenthal noted that such an approach would be administratively burdensome and impractical.

In Rebuttal testimony, NS/PGL offered additional arguments to support of their request to eliminate performance risk through adjustment of goals, including:

1. Allowing adjustment of goals would still leave NS/PGL “responsible for achieving participation targets.” (NS/PGL Ex. 3.0 at 20, I. 433)
2. Independent oversight and existing ICC mechanisms can address any perverse incentives from adjustments that might discourage NS/PGL from making appropriate changes to maximize savings and net benefits. (NS/PGL Ex. 3.0 at 20, I. 440-442)
3. North Shore/Peoples Gas “[has] a performance based contract with its implementation contractor and they are highly motivated to strive for the highest NTG values possible.” (NS/PGL Ex. 3.0 at 20, I. 446-448)
4. “Mr. Mosenthal provided no evidence that the utilities have ever behaved in” a manner where they did not strive to continuously improve programs and delivery strategies and to maximize NTG ratios. (NS/PGL Ex. 3.0 at 21, I. 450-451)
5. North Shore/Peoples Gas does not have any “managerial flexibility” as suggested by ELPC Witness Crandall in direct testimony that can make up for any reduction in measure or program savings from changes to the TRM or NTG values. (NS/PGL Ex. 3.0 at 21, I. 464-470)

The Attorney General objects to Staff’s recommendations regarding managing the adjustable savings goals. In particular, the AG questioned Staff’s position to eliminate all performance risk by permitting savings goals adjustments based on changes in NTG and TRM values. The AG contends that this untrue and points to the

fact that there could be thousands of TRM parameters that might affect the adjustable savings goals. The AG finds that constantly adjusting these spreadsheets to continually revise the Companies' savings goals is not a simple task. The AG argued that the likelihood that NS/PGL will maintain the exactly the same number for every measure; and using exactly the same projected customer types is virtually zero. Further, the AG notes that significant savings come from custom measures that are completely undefined in the TRM and under NS/PGL's control. As such, the AG refutes Staff's claim that savings goals adjustments based on NTG and TRM updates would be administratively simple. Instead the AG contends the focus should be on the practical realities of the TRM update process and the calculation of energy savings estimates in general.

For all of the reasons stated above, the AG asks the Commission to reject the Companies' proposal and Staff's recommendations.

D. CUB's Position

CUB argued that the Petitioner provided no reasoning as to why decreasing their opportunity for adjustments to three avoids the risk/incentive arguments raised by CUB and the other parties. CUB noted that NS/PGL raised a symmetrical argument that their proposal would also allow for increases in savings goals. CUB argued that the alleged symmetry of risks following adjustments to the savings goal still does not address the Petitioner's behavior following an adjustment that decreases savings goals. CUB insists that the Petitioner has failed to explain how they would continue to be motivated to improve measure performance – regardless of the symmetrical chance that savings goals may increase due to adjustments.

North Shore/Peoples Gas maintains there is no evidence to show they would not manage their portfolio responsibility if allowed an adjustable savings goal. But CUB argued that a lack of evidence is no reason for the Commission to ignore the explicit statutory penalty scheme enacted by the General Assembly in order to penalize the failure of NS/PGL to meet "the efficiency standard" contained set forth in the Public Utilities Act ("PUA"); a standard that is based exclusively on "natural gas savings requirements," not on participation levels or any other measure of energy efficiency performance. Thus, CUB requests the Commission reject NS/PGL's adjustable savings goal proposal.

E. ELPC's Position

The ELPC notes that NS/PGL expects to fall well short of the savings goals for Plan 2 required by Section 8-104. According to NS/PGL's own calculations, ELPC notes that Peoples Gas and North Shore Gas will achieve only 58% and 67% of the statutory savings goals, respectively.

ELPC argues that the Companies have failed to adequately consider additional savings potential and as supported by the AG, National Resources Defense Council and CUB, ELPC contends that the Companies could make a greater attempt to achieve their statutory goals. ELPC maintains that there are a variety of programs and financing mechanisms that NS/PGL has failed to consider or chosen not to implement that would

assist them in achieving their savings goals, including potential savings in the form of behavioral waste that the Companies are only beginning to realize.

The Commission should require the Companies to reevaluate and adjust their proposed savings goals to take advantage of additional savings that they could achieve by implementing Mr. Crandall's and other witnesses' recommendations. While these goals should be achievable, they should also challenge the Companies to be innovative in their approach to meeting the goals.

In addition to failing to come close to meeting the statutory goals, NS/PGL requests the Commission allow them to further adjust their reduced goals based on changes to the TRM. The TRM influences savings assumptions and calculations. Specifically, the TRM is a document that is "updated almost constantly [and] serves as a common reference document for all stakeholders, program administrators, and the Commission to provide transparency to all parties regarding savings assumptions and calculations..."

ELPC recommends the Commission reject NS/PGL's proposal to automatically adjust savings goals in response to changes in the TRM. They believe that if the Commission allows NS/PGL to adjust their goals whenever the TRM changes, they will have no incentive to make appropriate mid-course and annual adjustments that would ensure prudent programs.

Ultimately, ELPC believed NS/PGL and their implementation contractors have great managerial flexibility and should not be allowed to be insulated from the performance risk resulting from their changes to the TRM at the expense of the ratepayers. For the above reasons, ELPC asks the Commission to reject the NS/PGL's proposed adjustable savings targets.

F. North Shore/Peoples Gas Reply

North Shore/Peoples Gas responds by asking that the AG, CUB and ELPC arguments be rejected as unsupported by the record or the law.

The AG argues that the adjustable savings goal proposal would remove any incentive for the Utilities to increase NTG values and to properly manage their portfolio. North Shore/Peoples Gas maintains this argument lacks merit and state it is important to note the NTG and TRM values upon which adjustments would be made are not set by the utilities but instead are provided either by independent evaluators (and agreed upon by SAG and the Technical Advisory Committee) or derived from a Commission-approved process.

CUB argues that the adjustable savings goal completely eliminates NS/PGL's risk management and is contrary to the purpose set by the Energy Efficiency Portfolio Standards; i.e. to annually increase the amount of energy efficiency achieved by managing programs. North Shore/Peoples Gas contends CUB's argument is factually incorrect and should also be rejected. They contend NS/PGL cannot change goals whenever there is a change in the NTG or TRM. North Shore/Peoples Gas believes their proposal would allow adjustments at the beginning of each program year; therefore the maximum number of adjustments that could occur during the Plan 2 would be three. Finally, NS/PGL argue there is no evidence that they are not committed to energy

efficiency programs or would abuse their discretion in program administration. In fact, North Shore/Peoples Gas state the evidence demonstrates they have and will continue to responsibly manage the portfolio; and their adjustable savings goals do not change this commitment.

AG and CUB state that if the adjustable savings goal were approved, NS/PGL would have no incentive to use Rider EOA ratepayer revenues prudently and efficiently. North Shore/Peoples Gas also rejects this argument and counters that Section 8-104(f)(7) of the Act allows prudently and reasonably incurred costs to be recovered through the tariff. Therefore, they contend NS/PGL has an incentive to adjust their spending if a measure or program was routinely underperforming. Furthermore, NS/PGL argues Section 8-104(c) requires the utilities to “implement cost-effective energy efficiency measures” to meet the stated gas savings requirements. Again, NS/PGL points out where they have an incentive to reallocate their spending to cost-effective programs as set forth in the statute.

Finally, North Shore/Peoples Gas finds ELPC’s argument is also misplaced. They state that ELPC fails to offer any evidence to support their claim that the adjustable saving goal is unnecessary since the utilities and their implementation contractors already maintain portfolio managerial flexibility. North Shore/Peoples Gas notes that ELPC does not explain how the Utilities recoup lost savings without spending additional money.

G. Commission Analysis and Conclusion

The Commission notes that the IL-TRM and NTG values upon which adjustments to savings goals would be made are not set by NS/PGL, but rather are values that were either provided by independent evaluators and the SAG/TAC, agreed-to by the parties or derived from a Commission approved process. The Commission notes that no evidence has been presented that the Utilities are not committed to energy efficiency or integrity in administering their plan portfolios. The Commission also notes the issues that have been raised about the possible threats to the energy efficiency programs should this request be granted.

The Commission notes that Staff’s argument that the most-up-to-date and defensible information should be used when setting NTG and TRM values prospectively is undisputed. That fact, however, does not justify permitting the Companies to continually adjust the savings goals established by the Commission in this docket in accordance with NTG and TRM annual updates. The Act explicitly established performance targets and penalties to utilities for failure to meet these energy savings performance targets. Clearly the legislature intended for the utilities to absorb some performance risk or they would not have included these penalty provisions. Adoption of the Utilities’ request eliminates any performance risk. Staff witness Hinman, herself, admitted that the request amounts to a “set-it-and-forget-it” approach to portfolio management. Staff does not explain how filing a report evidences a commitment to making the necessary adjustments to programs to ensure best practices and maximum cost- effectiveness. For all of these reasons, we concur with both the Attorney General and ELPC that the Companies’ proposal should be rejected.

IX. PROPOSED STUDIES

A. ELPC's Position

The Commission should require NS/PGL to conduct a waste study and incorporate the results into their programs. As explained above, ELPC notes that NS/PGL has request adjusted savings goals that are significantly below the statutory targets. ELPC states there are significant untapped savings from wasted energy that could help NS/PGL achieve significant extra savings at minimal additional cost, most notably in the area of behavioral waste and the development of applicable programs. ELPC argued that a waste study would probably cause NS/PGL to tap into a much larger energy efficiency resource than was contemplated by the bottom-up planning and program design approaches used by North Shore/Peoples Gas. ELPC pointed to a recent study conducted by ComEd that showed behavioral waste may be a source of significant untapped efficiency potential.

ELPC notes that the current energy efficiency programs described by NS/PGL include technology waste but fail to address behavioral waste.

ELPC notes that North Shore/Peoples Gas has “specifically developed a comprehensive residential behavioral change program targeted directly to customers with high use[which] was approved in Plan 1 and implemented in PY3” and a “comprehensive and costly potential study which included behavior change programs.” While they recognized NS/PGL has made an attempt to tap into potential energy savings from behavior waste, ELPC recommends North Shore/Peoples Gas also conduct their own analysis to the ComEd study to learn to design and implement behavioral waste programs that exceed their Home Energy Report program.

ELPC believes that tapping into the behavioral energy waste study would help NS/PGL achieve their statutory target. Therefore, ELPC recommends that the Commission require NS/PGL to conduct a waste analysis within six months and present their results to the SAG. They also ask that the Commission require North Shore/Peoples Gas to include their assessment in year 2 of their Plan 2 program.

B. North Shore/Peoples Gas' Position

North Shore/Peoples Gas argue that ELPC's wasted energy study proposal should be rejected for several reasons. First, NS/PGL has already invested in a Potential Study that served as a basis of their Plan 2 which includes the behavior change programs that address wasted energy issues. North Shore/Peoples Gas argued that an additional study would be duplicative of research already performed and would be a waste of the limited budget under the Rate Impact Cap. Second, NS/PGL has already implemented a Home Energy Reports program in their Plan 1, Program Year 3 and they intend to continue the Home Energy Reports program in their Plan 2. North Shore/Peoples Gas notes that the Home Energy Reports program, in part, targets wasted energy behaviors and also can be used as an informational tool to encourage customers to adopt longer-lived energy efficiency measures. For these reasons, North Shore/Peoples Gas asked the Commission to reject ELPC's proposal for a waste study program.

C. CUB's Position

CUB notes that North Shore/Peoples Gas has agreed to present future potential studies to the SAG because of the valuable feedback they can provide regarding improving and explaining issues related to the potential studies. North Shore/Peoples Gas note that CUB recommends the potential studies “be submitted to SAG for review and approval.” CUB states that this appears to be the only objection NS/PGL has to CUB's position and they counter that CUB has not recommended SAG approve NS/PGL's potential studies. Thus, CUB believes NS/PGL's new proposal should be adopted by the Commission as it will require NS/PGL to provide the SAG with “an opportunity to submit feedback on the content and analysis to ensure that ratepayer funding spent on these studies actually fulfills their purpose: to provide useful information about energy efficiency potential in the Companies' territories.”

D. North Shore/Peoples Gas Reply

ELPC contends that that Utilities' Plan 2 portfolio fails to recognize wasted energy and that the Utilities should undertake a study for potential wasted energy. North Shore/Peoples Gas argues ELPC's wasted energy study proposal should be rejected for several reasons stated previously.

In addition, North Shore/Peoples Gas notes that CUB requests the Commission order NS/PGL submit any potential study that will use for their energy efficiency portfolio be submitted to SAG for review and approval. North Shore/Peoples Gas agrees with this premise, recognizing the advantages to having the SAG review their study since SAG's members do provide valuable feedback and explanations to the utilities. However, North Shore/Peoples Gas does not agree that their studies would be subject to SAG approval. Thus, NS/PGL asks the Commission to reject ELPC's waste study proposal and allow the SAG to review any other potential studies in their portfolio.

E. Commission Analysis and Conclusion

For the reasons stated above, the Commission directs North Shore/Peoples Gas to conduct their own waste study to optimize their savings goals based on the potential untapped savings that could be earned from developing programs addressing behavioral waste. In addition, the Commission directs NS/PGL to submit their waste study and any other potential studies to the SAG for review and feedback on their content.

X. FINDINGS AND ORDERING PARAGRAPHS

The Commission, having given due consideration to the entire record and being fully advised in the premises, is of the opinion and finds that:

- (1) the Commission has subject matter jurisdiction in this proceeding over North Shore Gas Company and The Peoples Gas Light and Coke Company;
- (2) the recitals of fact and the conclusions reached in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact;

- (3) all of the findings and conclusions of this Order describing or defining the parameters of evaluation of the North Shore Gas Company and the Peoples Gas Light and Coke Company Energy Efficiency Plan are supported by the record;
- (4) North Shore Gas Company and The Peoples Gas Light and Coke Company shall continue to participate in an advisory SAG;
- (5) North Shore Gas Company and The Peoples Gas Light and Coke Company shall file the independent evaluation contract and scope of work in this docket within fourteen days of execution;
- (6) North Shore Gas Company and The Peoples Gas Light and Coke Company shall include language in the independent evaluation contracts such that the Commission can: (1) terminate the contract if the Commission determines the Evaluators were not acting independently; and (2) prevent the Companies from terminating the contracts without Commission approval;
- (7) North Shore Gas Company and The Peoples Gas Light and Coke Company are granted the flexibility to adjust their Plan in order to increase net benefits for ratepayers;
- (8) North Shore Gas Company and The Peoples Gas Light and Coke Company are directed to stay apprised of and respond prudently and reasonably to information concerning measure and program level cost-effectiveness while implementing their Plan to help ensure the Plan produces and maximizes the net benefits to Illinois ratepayers envisioned by Section 8-104 of the Act and remains in compliance with all other statutory objectives;
- (9) North Shore Gas Company and The Peoples Gas Light and Coke Company are directed to include a discussion of how they utilized the flexibility they were granted in their quarterly reports filed with the Commission in this docket;
- (10) the quarterly reports of North Shore Gas Company and The Peoples Gas Light and Coke Company shall summarize program activities, implementation modifications, additions or discontinuations of specific measures or programs, spending and savings amounts compared to the Plan filing, how the Companies respond to past Evaluators' recommendations and changes in the IL-TRM, NTG ratios, market research findings, and other relevant information the Companies rely upon in making their decisions;
- (11) to the extent the North Shore Gas Company and The Peoples Gas Light and Coke Company implement changes that significantly impact the portfolio and expected cost-effectiveness in the view of the Utilities, the Utilities shall report revised projected program-level and portfolio-level TRC test cost-effectiveness results for the program year to the Commission;

- (12) North Shore Gas Company and The Peoples Gas Light and Coke Company are required to provide cost-effectiveness screening results in their quarterly reports filed with the Commission in this docket for new energy efficiency measures the Utilities add to their Plan during implementation;
- (13) North Shore Gas Company and The Peoples Gas Light and Coke Company are required to limit the participation of cost-ineffective measures to no more than the levels proposed in their Plan, with the following conditions: (a) if a measure is cost-effective in the vast majority of building types to which it is directed and marketed to, the Utilities need not attempt to limit participation of the energy efficiency measure within a program year; (b) if the cost-ineffective measures are a necessary component for implementing cost-effective measures (e.g., comprehensive whole home dual fuel programs), the Utilities need not attempt to limit participation of the energy efficiency measure within a program year; and (c) North Shore Gas Company and The Peoples Gas Light and Coke Company shall provide cost-effectiveness screening results in their quarterly reports filed with the Commission in this docket for measures previously projected to be cost-ineffective that become cost-effective over the course of the Plan such that it is clear that limitations on participation of these measures is no longer necessary;
- (14) North Shore Gas Company and The Peoples Gas Light and Coke Company are required to include the IL-TRM measure codes in their compliance filing and Plan filing in the future for ease of review;
- (15) the Modified Illinois NTG Framework set forth in Staff Exhibit 1.1 with the modifications described herein are adopted;
- (16) North Shore Gas Company and The Peoples Gas Light and Coke Company shall require their evaluators to collaborate with the other Illinois evaluators and the SAG to reach consensus on the most defensible and well-vetted methodologies to assessing net-to-gross ratios in particular markets for both residential and non-residential energy efficiency programs in a manner consistent with the direction provided herein;
- (17) ICC Staff shall file the agreed-upon consensus statewide NTG methodologies with the Commission as an appendix to the Updated IL-TRM, and if consensus is not reached on a certain component of the statewide NTG methodologies, that particular non-consensus component should be submitted in a manner consistent with the approach used for non-consensus IL-TRM Updates;
- (18) the independent evaluator is responsible for performing the three-year ex post cost-effectiveness analysis per Section 8-104(f)(8) of the Act;
- (19) the three-year cost-effectiveness results by program shall be reviewed and reported to the Commission by the evaluator in the three-year savings goal compliance proceeding per Section 8-104(f)(8) of the Act;

- (20) North Shore Gas Company and The Peoples Gas Light and Coke Company shall petition the Commission to initiate the three-year savings goal compliance proceedings and cost-effectiveness review of their plans within 60 days of receipt of the final evaluation reports;
- (21) North Shore Gas Company's and The Peoples Gas Light and Coke Company's modified savings goals are approved herein and shall be revised based on their compliance filing as directed herein NS/PGL
- (22) the testimony and exhibits admitted into the record provide substantial evidence that the Energy Efficiency Plans filed by the North Shore Gas Company and The Peoples Gas Light and Coke Company will meet the filing requirements of Section 8-104(f) of the Public Utilities Act, if North Shore Gas Company and The Peoples Gas Light and Coke Company submit Revised Plans in a compliance filing within 30 days of the date of this Order that incorporates and is consistent with the conditions and requirements stated herein; and
- (23) all motions, petitions, objections or other matters in this proceeding which remain unresolved should be disposed of consistent with the findings and conclusions of this Order.

IT IS THEREFORE ORDERED that the Petition filed by North Shore Gas Company and The Peoples Gas Light and Coke Company requesting approval of their Energy Efficiency and Demand Response Plans and budget filed in compliance with Section 8-104 of the Act is conditionally approved, subject to the Utilities filing a compliance filing that incorporates and is consistent with the findings and conclusions contained in this Order.

IT IS FURTHER ORDERED that North Shore Gas Company and The Peoples Gas Light and Coke Company are authorized and directed to file within 30 days of the date of this Order, revised energy efficiency plans pursuant to Section 8-104 of the Act which contain terms and provisions consistent with and reflective of the findings and conclusions of this Order.

IT IS FURTHER ORDERED by the Illinois Commerce Commission that the North Shore Gas Company and The Peoples Gas Light and Coke Company shall comply with findings three (3) through twenty-three (23).

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By Order of the Commission this 20th day of May, 2014.

(SIGNED) DOUGLAS P. SCOTT

Chairman