

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

<b>Illinois Department of Commerce and Economic Opportunity (DCEO)</b>	:	
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<b>Approval of its Energy Efficiency Portfolio and Plan Pursuant to Sections 8-103(e) and (f) and 8-104(e) and (f) of the Public Utilities Act.</b>	:	<b>13-0499</b>
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	:	

**ORDER**

January 28, 2014



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**ORDER**

**By the Commission:**

On August 30, 2013, the Department of Commerce and Economic Opportunity (“DCEO” or “Department”) filed its Petition for approval of its energy efficiency (“EE”) portfolio and three year plan pursuant to Sections 8-103(e) and (f) and 8-104(e) and (f) of the Public Utilities Act (“Act”) with supporting testimony.

Thereafter, the People of the State of Illinois (“AG”) and the City of Chicago (“City”) filed appearances. The Natural Resources Defense Council (“NRDC”), Citizens Utility Board (“CUB”), Environmental Law & Policy Center (“ELPC”), Coalition to Request Equitable Allocation of Costs Together (“REACT”), and Midwest Cogeneration Association (“MCA”) filed petitions for leave to intervene, all of which were granted by the Administrative Law Judge (“ALJ”).

Pursuant to notice given in accordance with the law and the rules and regulations of the Commission, an initial status hearing was held in this matter on October 2, 2013. An evidentiary hearing was held in this matter at the Commission’s offices in Chicago, Illinois on November 22, 2013. On December 3, 2013, the record was marked “heard and taken.”

Testifying on behalf of DCEO were Agnes Mrozowski, Assistant Deputy Director of the Energy Office, John J. Cuttica, Director of the Energy Resource Center at the University of Illinois Chicago, David Baker, Energy Division Manager for the DCEO Energy Office, and Stefano Galiasso, Research Engineer at the Energy Resource Center at the University of Illinois Chicago.

Staff submitted the testimony of Jennifer L. Hinman and Dr. David Brightwell. ELPC filed the direct testimony of one expert witness, Geoffrey C. Crandall. Rebecca Devens testified on behalf of CUB. Philip H. Mosenthal testified on behalf of the AG. Daniel Natura testified on behalf of MCA. Bradley O. Fults testified on behalf of REACT. Chris Neme and Dylan Sullivan testified on behalf of NRDC.

Initial Briefs were filed on December 5, 2013, by DCEO, AG, REACT, NRDC, CUB, and ELPC. Staff’s Initial Brief was filed on December 6, 2013. Reply Briefs were filed on December 10, 2013 by the AG, REACT, DCEO, NRDC, ELPC, and Staff.

## I. Statutory Authority

Section 8-103(e) of the Act requires that electric utilities design, develop, and file energy efficiency and demand-response plans with the Commission. 220 ILCS 5/8-103(e). Electric utilities are required to implement 75% of the energy efficiency measures approved by the Commission. Id. With respect to the DCEO, it provides in relevant part:

The remaining 25% of those energy efficiency measures approved by the Commission shall be implemented by the Department of Commerce and Economic Opportunity, and must be designed in conjunction with the utility and the filing process. The Department may outsource development and implementation of energy efficiency measures. A minimum of 10% of the entire portfolio of cost-effective energy efficiency measures shall be procured from units of local government, municipal corporations, school districts, and community college districts. The Department shall coordinate the implementation of these measures.

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

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

220 ILCS 5/8-103(e).

Subsection 8-104(e) of the Act contains similar provisions related to the gas utilities and energy efficiency portfolios. It likewise requires that natural gas utilities design, develop, and file energy efficiency and demand-response plans with the Commission. 220 ILCS 5/8-103(e). It states, in relevant part:

The utility shall utilize 75% of the available funding associated with energy efficiency programs approved by the Commission, and may outsource various aspects of program development and implementation. The remaining 25% of available funding shall be used by the Department of Commerce and Economic Opportunity to implement energy efficiency measures that achieve no less than 20% of the requirements of subsection (c) of this Section.

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The Department may outsource development and implementation of energy efficiency measure. A minimum of 10% of the entire portfolio of cost-effective energy efficiency measures shall be procured from local government, municipal corporations, school districts, and community college districts. Five percent of the entire portfolio of cost-effective energy efficiency measures may be granted to local government and municipal corporations for market transformation initiatives. The Department shall coordinate the implementation of these measures and shall integrate delivery of natural gas efficiency programs with electric efficiency programs delivered pursuant to Section 8-103 of this Act, unless the Department can show that integration is not feasible.

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The portfolio of measures, administered by both the utilities and the Department, shall, in combination, be designed to achieve the annual energy savings requirements set forth in subsection (c) of this Section, as modified by subsection (d) of this Section.

220 ILCS 5/8-104(e).

## **II. DCEO's Plan**

DCEO states that its Plan 3 meets each of the filing requirements of Sections 8-103 and 8-104 of the Act. DCEO contends that its Plan 3 is consistent with the Act in that the portfolio of programs and measures is cost-effective, comprehensive, focuses on long-term savings and presents a diverse cross-section of opportunities for DCEO market sectors while minimizing the cost impacts. DCEO states that its Plan 3 is designed to provide Public Sector, Low Income and market sectors identified in Section 8-103(e) and Section 8-104(e), opportunities to become more energy efficient customers of electricity and natural gas. DCEO notes that some programs initially will be introduced as pilots and will launch on a larger scale in later years.

DCEO states that each of its portfolio of programs meets the total resource cost ("TRC") test required by Section 8-103(f)(4) and Section 8-104(f)(4) – with the exception of Low Income Programs, which per statute do not need to pass the TRC test.

In accordance with Section 8-103(f) and 8-104(f), DCEO has worked closely with the Utilities in the development of its programs, it presents a portfolio of programs targeting Public and Low Income customer sectors listed in Section 8-103(f)(4) and 8-104(f)(4), and it provides programs targeting households with incomes at or below 80% of area median income.

DCEO's portfolio of programs will seamlessly offer both electric and natural gas measures. The integration of the electric and natural gas programs is critical to increase efficiency gains and to improve program accessibility. DCEO's programs will cover the

same sectors as its previous three-year Energy Efficiency Portfolio Plans 1 and 2. These sectors broadly include:

- The statutory public sector set-aside plus additional public sector entities;
- The statutory low income residential target for the electricity portfolio and an equivalent percentage for the natural gas portfolio; and
- Market Transformation Programs designed to lay the ground work for sustained and robust energy efficiency in the future in order to facilitate meeting the statutory goals.

DCEO will offer the same suite of programs across the state to avoid confusion and possible claims of discrimination.

DCEO's Illinois Energy Office will administer 25% of the integrated electric and natural gas energy efficiency portfolio. DCEO's share of energy savings is less than its share of budget, which enables DCEO to fund some less cost-effective, but very necessary, programs. As proven through previous program years, the public sector requires higher incentives than the Utility served residential and commercial sectors in order to ensure project completion. DCEO's programs targeted at the low-income residential sector are less cost-effective than standard residential market sector energy efficiency programs, because more of the measure costs, and sometimes the entire cost, must be covered by the program.

As in Plan 2, DCEO's "Market Transformation" programs will continue to have increased kWh/therm savings directly associated with them. All of these program areas are necessary to meet the statutory requirements and to build energy efficiency delivery capacity within Illinois for future years of the portfolio standard programs.

DCEO intends to offer integrated natural gas/electric energy efficiency programs across the territories of the participating utilities – ComEd, Ameren, Integrys (Peoples Gas and North Shore), and Nicor Gas. The statute specifically requires that DCEO integrate the delivery of natural gas and electric efficiency programs, unless it can show that integration is not feasible. 220 ILCS 5/8-104(f).

Under the energy efficiency statutes, the Utilities, in coordination with DCEO, are required to present a portfolio of efficiency measures targeted at low income households (<80% of the Area Median Income [AMI]) proportionate to the share of utility revenues represented by those households at or below 150% of the poverty level. For electricity, that share amounts to 26%. For natural gas, it amounts to approximately 18% for Nicor Gas and North Shore and approximately 37% for Ameren and Peoples. DCEO agreed to administer low income residential programs in Plan 1 and Plan 2 and will continue to administer them under the Plan 3 portfolio within the constraints of meeting its energy savings targets.

DCEO's Market Transformation Programs provide technical assistance and education to support achievement of long-term efficiency goals in all market sectors, including the utility served markets. These programs are designed to educate energy professionals and strategic energy decision-makers so that they have the skills and information needed to implement effective energy efficiency strategies.

Staff agrees that DCEO's plan meets the minimum filing requirements of the statute. Staff and Interveners make certain recommendations concerning specific parts of DCEO's plan which are discussed more specifically below.

The Commission agrees with Staff and finds that DCEO has fulfilled its statutory obligations to develop and propose a Plan that fulfills the requirements of Sections 8-103 and 8-104. DCEO is directed to submit a revised plan consistent with the discussion below.

### **III. Contested Issues**

#### **A. Savings Goals**

##### **1. DCEO**

DCEO asserts that its Plan 3 proposes modified savings goals that are consistent with the Act's spending limitations and rules. 220 ILCS 5/8-103(f). DCEO's Plan 3 sets forth DCEO's proposals to meet its "portion of the energy efficiency standards as modified" by proposing modified savings goals that are consistent with the Act's spending limitation and mandate to modify savings goals in accordance with this spending limitation. 220 ILCS 5/8-103(f). Within the proposed modified goals, at least 10% of the entire portfolio of measures continues to be "directed to local governments, municipal corporations, school districts and community colleges" through the DCEO's public sector programs. DCEO Ex. 1.1 at 3. These measures comprise 40% of the DCEO budget. DCEO Ex. 1.1 at 3.

In 2013, DCEO conducted an energy savings potential study of the Public and Low Income sectors. This potential study and extensive program modeling concluded that the achievable energy savings reduction would be lower than the statutory targets. The statutory statewide electric targets are 1.8% in the first year of this plan and cap out at 2.0% for the remaining two years. The statutory statewide natural gas targets are 0.8%, 1.0%, and 1.2%. DCEO has established energy savings targets of the following:

- Natural gas: Annual public sector gas savings reduction is 0.7% and Low Income is 0.2%, combining to total 4.70 million therms.
- Electricity: Annual public sector electricity savings reduction is 1.0% and Low Income is 0.3%, combining to total approximately 138 million kWh.

These targets will be modified in DCEO's compliance filing.

##### **2. ELPC**

ELPC submits that DCEO has low-balled its energy savings goals and is being overly conservative with respect to the amount of savings that are achievable through its proposed programs. The NRDC and the AG both note that DCEO has not adequately justified why it is projecting significantly more costs per unit of savings in Plan 3 than it actually spent in Plan 2. ELPC supports NRDC's recommendation that the Commission order a thirty percent increase in DCEO's electric goals and an eighty percent increase across the gas portfolio. NRDC Initial Br. at 6-7. An increase of this magnitude would bring DCEO's goals in line with the actual savings per dollar that the Department actually achieved in prior years. Id. NRDC and the AG's request is based on a very reasonable argument that DCEO base its goals for Plan 3 on actual Plan 2

performance, unless there is a compelling reason to believe that DCEO cannot achieve a similar level of savings in this Plan. See NRDC Initial Br. at 7.

### 3. NRDC

NRDC's foremost concern is that DCEO's targeted energy savings is substantially lower than what should be achievable with its proposed Plan 3 budgets. NRDC is concerned that DCEO's savings goals would result in a substantial and unjustified increase in the cost of achieving energy savings.

With respect to DCEO's electric savings goals, NRDC witness Neme demonstrates that six out of eight electric programs (including the three largest) that are the same from electric plan year ("PY") 4 will cost significantly more per unit of savings in this proposed plan – Affordable Housing Construction, Lights for Learning, Low Income Residential Retrofit, Public Sector Custom, Public Sector Standard, and Public Sector New Construction.

Further, in a separate but related analysis, Mr. Neme shows that if DCEO did not change any of its other assumptions and simply used the EPY4 actual realization rates and NTG values, NRDC states that the programs he identified would have been 77,000MWh – or 29% - higher over the three-year period. NRDC Ex. 1.0R at 11.

In turn, NRDC recommends that the average annual savings targets be raised by 41.4 million kWh (the equivalent of a 30 percent increase in DCEO's electric savings forecast across its electric portfolio), reflecting the proportional performance of the same programs in previous program years based on the available budget.

With respect to DCEO's gas savings goals, Mr. Neme's analysis demonstrates that six out of seven gas programs that are the same from gas PY1 will cost significantly more in this proposed plan, with four public sector programs anticipated to be three times as expensive as in gas PY1. As such, NRDC recommends that the average annual gas savings target be raised by 3.76 million therms (the equivalent of an 80 percent increase across the gas portfolio), reflecting the proportional performance of the same programs in previous program years based on the available budget.

NRDC argues that DCEO has provided insufficient reasons for the lower savings target per dollar spent between Plan 2 and Plan 3. The four reasons DCEO provided were: (1) changing federal lighting standards, (2) uncertainty about new technology, (3) greater inclusion of long-lived measures, and (4) a desire to be conservative regarding future commitments. DCEO Ex. 1.0 at 10-11.

NRDC argues that the first three of these factors could not explain the large discrepancies between actual Plan 2 and proposed Plan 3 costs per unit of savings. In electric PY7, the year unaffected by the federal lighting standard, the costs per unit of electric savings were more than 30% higher than in electric PY4. Moreover, DCEO identified no changes in efficiency standards that would affect gas savings per dollar spent. Mr. Neme's suggested increase in savings targets was based on actual savings per dollar spent in electric PY4 and gas PY1. Thus, new technology unavailable in past years is irrelevant. The seven new long-live measures that DCEO is introducing in Plan 3 will be promoted through its Targeted Large Projects program and Market Transformation program, and neither of these programs was included in Mr. Neme's

analysis. The fourth factor – a desire to be conservative – is the only one NRDC states could explain the decrease in the saving per dollar spent. However, NRDC believes this is not an acceptable justification. NRDC cautions that setting goals this low encourages complacency, less innovation, less effective management, lower achievement and, therefore, lower economic benefits to ratepayers.

NRDC disagrees with Staff's recommendation to lower DCEO's savings goals by taking the average of evaluated electric and gas savings of the past two years. Staff believes it is incorrect for DCEO to assume that program participation will increase in Plan 3, but NRDC notes that Staff does not offer any concrete analysis, data, or evidence to support its position. NRDC believes Staff's approach to goal-setting has two problems. First, NRDC argues that the available budget for the Plan 3 years is \$22 million more than in electric PY4/gas PY1, so it is unreasonable to modify savings goals based on the absolute amount of savings achieved in previous years under much lower budgets. (NRDC DR 1.21; DCEO EEP Plan at 3, 6). Second, NRDC is concerned that Staff's recommendation is simply infeasible as there has been no commitment that electric PY5/gas PY2 evaluated savings numbers will be available by the time DCEO would implement Plan 3.

#### **4. AG**

The AG asserts that Staff witness Hinman's proposal to further lower DCEO savings goals for its three-year Plan should be rejected for several reasons. First, both Staff witness Hinman and NRDC witness Neme provide comparisons of planned and actual net cost per unit savings from Plan 2 with proposed Plan 3 values. Specifically, in Staff Exhibit 1.1, Ms. Hinman provides a table comparing the planned and actual net cost per unit savings from Plan 2 with DCEO's proposed Plan 3 costs per unit of savings. While this table differs slightly from Mr. Neme's Table 3 and Table 5, which compare these same figures for electricity and gas respectively, for the most part the figures appear to be consistent. In virtually all cases, as is made clear by Mr. Neme's testimony and also shown in Ms. Hinman's Staff Exhibit 1.1, DCEO is projecting significantly more costs per unit of savings in Plan 3 than it actually spent in Plan 2. As documented by Mr. Neme, DCEO's proposed goals appear to be significantly lower than they could be and lower than DCEO has proven is achievable among its public sector customers in electric PY4/gas PY1. See NRDC Ex. 1.0 at 6-15. One factor identified by both Mr. Neme and Mr. Mosenthal appears to be DCEO's assumed lower realization rates. AG Ex. 1.0 at 19; NRDC Ex. 1.0 at 10. These lower realization rate assumptions are unnecessary and have the effect of inappropriately reducing savings estimates for the three-year period for both gas and electric programs. The Commission should, therefore, encourage the Commission to direct DCEO to revise its filing with higher goals commensurate with past performance, as appropriate, consistent with Mr. Neme's recommendation.

In Rebuttal testimony, DCEO witness Mrozowski outlined four potential factors in defense of lower program targets: (1) changing federal lighting standards, (2) uncertainty about new technology, (3) greater inclusion of long-lived measures, and (4) a desire to be conservative regarding future commitments. DCEO Ex. 1.0 at 10-11. But these factors do not justify DCEO's proposed lower savings targets. See NRDC IB at 8-11. In particular, DCEO's claim that new lighting standards impacting "T12" bulbs – the

common fluorescent bulbs found in public sector, commercial and industrial buildings – is a significant driver for increased costs and reduced savings goals is particularly insufficient. The new T12 lighting standard goes into effect on January 1, 2016, which is in the middle of PY 8. DCEO Ex. 6.0 at 10; Tr. at 35. During cross examination, Ms. Mrozowski stated that this change is the biggest reason for higher costs for energy savings delivered for the lighting program. Id; Tr. at 34. Yet, DCEO Ex. 1.2, page 4, shows that the budget for the Standard Program, which includes T12 lighting, is the highest in PY7, more than a year before the federal standard change takes effect. DCEO's own exhibits demonstrate why the agency's justification for lowered electric savings goals is unreasonable.

The AG adds that Commission approval of savings goals that offer no incentive for DCEO and its subcontractors to achieve maximum energy savings by continually modifying programs as need be does nothing to serve the annual goals articulated by the General Assembly in both Section 8-103(b) and 8-104(b) of the Act. For all of the reasons stated in both the AG Initial and Reply briefs and in NRDC briefs, the Commission should order DCEO to re-file its Plan to include gas and electric savings goals consistent with its electric PY4 goal and its gas PY1 goal.

With respect to DCEO's argument that certain market challenges exist that make achievement of designated energy savings goals uniquely difficult, no party disputes that point. DCEO reports, for example, that numerous communities within Northern Illinois receive free or reduced cost electric delivery service as a result of franchise agreements with Commonwealth Edison Company ("ComEd"), making public sector customer interest in efficiency offerings particularly challenging. DCEO Ex. 6.0 at 33. With respect to franchise agreements, however, little detail is included in the record regarding these challenges. In response to an AG data request requesting detail on the identity and number of municipalities that receive free utility service, DCEO stated that that precise information is in the possession of the utilities. AG Cross Ex. 1. The AG urges the Commission to require DCEO to produce this information in its revised Plan. That information should be public and indeed would provide the Commission and interested stakeholders with valuable insight as to the challenges DCEO faces in engaging public sector customers. Future SAG discussions could focus on this significant barrier to engaging public sector participation in energy efficiency programs.

## **5. Staff**

Staff argues that the Commission should modify the energy savings goals proposed by DCEO in its plan, as recommended by Staff, such that the goals are less aggressive and more realistically achievable. Pursuant to Sections 8-103(d) and 8-104(d) of the Act, the Commission may reduce the statutory energy savings requirement if it is demonstrated by substantial evidence that it is highly unlikely that the requirements can be achieved without exceeding the applicable spending limits in any three-year reporting period. 220 ILCS 5/8-103(d); 220 ILCS 5/8-104(d). The Department has proposed in its plan that the Commission utilize this authority and grant goals that are lower than its portion of the goals statutorily mandated. DCEO has agreed to submit modified goals in a compliance filing.

Historically, the Department has committed to savings goals that it has been unable to achieve. Staff Ex. 1.0, 12-13; Staff Group Cross Ex. 3, 6-8. In such situations, the Commission has the authority, pursuant to Sections 8-103(e) and 8-104(e) to approve program modifications to the Department's plans. 220 ILCS 5/8-103(e); 220 ILCS 5/8-104(e).

DCEO's modified proposals appear to rely heavily upon the results of its potential study and, in Staff's opinion, do not rely enough on past program participation and performance. Staff Ex. 1.0, 12-13. Historically, past participation rates have been low. Id. In some cases, incentive levels in DCEO's plan mirror previous plan levels. Staff fails to see how participation can be assumed to increase in these situations. Accordingly, Staff recommends that the Commission order the Department to submit revised goals for each utility's service territory which do not exceed the average of the savings achieved in the previous two program years and also are based upon forecasted participation estimates that do not exceed the average of the actual participation from the previous two program years. Staff believes that these two factors will help set more reasonable goals that the DCEO is more likely to achieve within this three-year plan, and urges this recommendation be adopted by the Commission.

Staff notes that NRDC witness Neme and AG witness Mosenthal argue that DCEO's plan be assessed using a much more simplistic and hence flawed approach – basically a cost-per-unit approach – best summarized by Mr. Neme's simple comparison of budget to savings. NRDC Ex. 1.0, 8; Tr. 71-72. Mr. Mosenthal endorses a similar approach. The approach relied upon in recommending increased goals assumes away significant factors such as start-up costs, the addition of new programs, and the shifting or discontinuation of existing measures, any of which might well affect the DCEO plan. Tr. 73. Contrary to Mr. Neme and Mr. Mosenthal, Staff witness Hinman bases her recommendation on DCEO's historic performance in this area.

In short, the DCEO's plan simply cannot be analyzed using the blunt instrument of a cost-per-unit approach. DCEO's savings obligations are simply too complicated to be approached in this manner. See DCEO Ex. 1.0, 9-10 (describing DCEO's statutory obligation to deliver savings to numerous difficult-to-reach sectors of the market and population). Staff opines that Ms. Hinman's analysis, which focuses on what DCEO is able to do, rather than what other entities think it should be able to do, is reasonable and should be adopted as outlined above.

## **6. Commission Analysis and Conclusion**

The Commission is persuaded that DCEO's drastic increase in cost per unit is unrealistic. The Commission finds the lowered savings goal proposed by Staff and accepted by DCEO to be unreasonable when considered with the increased budgets that will be available to DCEO. As discussed below under the NTG issue, the Commission denies DCEO's request to assume lower realization rates which results in a higher savings goal for DCEO. Although this is a more aggressive goal, the Commission's review of the record shows it to be achievable and is consistent with the Commission's goal to have as robust an energy efficiency plan as possible.

The AG's request that the Commission direct DCEO to produce information regarding franchise agreements is denied. DCEO has made clear that it does not

possess this information and that the AG needs to request it of the utilities. In addition, the Commission agrees that SAG should discuss how this particular barrier to energy efficiency should be addressed.

## **B. NTG/ Realization Rates**

### **1. DCEO**

DCEO believes that the current net-to-gross (“NTG”) methodology is a flawed approach and that a different approach should be taken, particularly for its unique sectors, for the following reasons:

First, the calculated Net-to-Gross values for the Illinois Energy Efficiency Portfolio Standard (“EEPS”) programs managed by the utilities and DCEO have varied considerably for similar or identical programs and from year to year, generally without any clear explanation. This seems to indicate differences in the methods used by various evaluators or variability inherent in the methods used by presumably equally competent evaluation teams.

Second, according to experts at a workshop sponsored by the Midwest Energy Efficiency Alliance (“MEEA”) about evaluation approaches: “[a]ttributing savings to one cause or another can be quite complex. Further, there is a lack of consensus amongst States, utilities, and evaluators on which factors should be considered – and how those factors are defined.”

Third, the analyses to date have focused primarily on the free rider measurement, and have not adequately addressed spillover, because spillover is more difficult and costly to measure.

Fourth, according to ACEEE, all of the other states in the Midwest (Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin) reported taking such an adjusted gross approach for all or a portion of their energy efficiency programs. Illinois is the only Midwestern state that has been applying a purely “net” savings approach across all of its programs. [Personal telephone communication from Marty Kushler, Senior Fellow, ACEEE].

Lastly, participants in MEEA’s workshop point out another shortcoming to the current approach: “[a] net savings approach may result in an underestimate of savings potential and program cost-effectiveness, thereby preventing utilities from moving forward with innovative programs that while less cost-effective in the short term, have great value in the long-term.” DCEO supports an approach referred to as an “adjusted gross” approach. Again to quote the MEEA report which summarizes the views of its panel of experts:

The evaluators predict that, ultimately, experienced utilities that have gone through the net savings process will make a further shift to an “adjusted gross” approach for the purpose of setting and assessing progress towards savings goals... Adjusted gross savings typically refer to the change in energy consumption and/or demand that results directly from program-related actions taken by participants in an efficiency



program, regardless of why they participated. It adjusts for such factors as data errors, installation and persistence rates, and hours of use, but does not adjust for free ridership or spillover.

#### DCEO Ex. 1.0.

DCEO advocates such an “adjusted gross” approach for Illinois’ Energy Efficiency Portfolio of programs under Sections 8-103 and 8-104 of the Act. DCEO believes such an approach is appropriate for the utilities’ programs as well as DCEO’s programs, but believes the case is particularly strong for the market sectors it serves.

DCEO has already adopted this approach with its low income programs in both Plan 1 and Plan 2 and no intervener objected to doing so in Plan 3. Free ridership is not considered an issue with low income programs because generally the energy efficiency measures would not be installed without the program. DCEO believes it is equally justifiable to adopt an “adjusted gross” approach with its public sector programs.

Given the complicated nature of public sector financing and the often troubled fiscal situation of local governments, k-12 schools, universities, state and federal government, DCEO will never use free ridership as a criterion for whether a public entity will receive DCEO energy efficiency funding. If the applicant pays into the fund and submits a qualifying application, DCEO will fund them. Should a public entity possess the foresight to adopt solid plans to pursue energy efficiency as a goal, DCEO will support the energy savings endeavors as long as they fit into the energy efficiency program. As DCEO argues in its initial testimony, DCEO believes an adjusted gross approach satisfies the statutory requirement that the evaluator conduct “a full review...of the broader net program impacts,” since it adjusts the estimated gross savings for such factors as data errors, installation and persistence rates, hours of use, etc. to develop a net savings number. DCEO Ex. 1.0 and DCEO Ex. 6.0.

## **2. AG**

The AG observes that Section 8-103 and 8-104 of the Act require the delivery of cost-effective programs by utilities and DCEO. 220 ILCS 5/8-103(a), (f)(5); 8-104(a), (f)(5). Cost-effective is specifically defined by the General Assembly as a measure that incorporates a benefit-cost ratio greater than one calculated based on the ratio of the net present value of the total benefits of the program to the net present value of the total costs, as calculated over the lifetime of those measures. 220 ILCS 8-103(a); 8-104(a); 20 ILCS 3855/1-10. These statutory provisions also specifically envision the evaluation of efficiency programs – including those programs delivered by DCEO, and specifically identify that no more than 3% of program budgets be allocated to evaluation costs. See 8-103(f)(7); 8-104(f)(8). In short, the General Assembly specifically concluded that evaluation of cost-effectiveness of programs was essential to ensuring cost-effective program delivery.

The AG notes that the Commission has determined in multiple orders that Net-to-Gross analysis of program measures is critical to determining the cost-effectiveness of ratepayer-funded efficiency programs. The Commission has been clear in numerous orders that the Section 8-103 and 8-104 program goals are net goals, and should reflect

the true net savings captured. See, e.g., Docket 10-0570, Order of December 21, 2010 at 47; Docket 10-0568, Order of December 21, 2012 at 72.

The NTG ratio is used to adjust the total estimated “gross” savings from all measures tracked through the program to estimate the true “net” effect that the program has produced. This can be different for a number of reasons, with the two primary components accounted for being “free ridership” and “spillover.” AG Ex. 1.0 at 17. Free ridership refers to the portion of customers participating in the program that would have installed some or all of the efficiency measures even without the program’s existence. Therefore, while these savings are counted in the program administrator’s gross savings tracking system, they do not provide true additional net savings to society since the customer would have captured some or all of the savings anyway. Spillover refers to influences of the program that result in some customers or trade allies actually pursuing additional efficiency, but not formally participating in the program. In this case, the program administrator’s 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, this savings is in fact a net effect of the program. *Id.* In addition, an evaluation criterion known as “realization rates” reflect the ratio of gross savings that a program administrator has tracked and estimated to the actual estimated gross savings from impact evaluations. This variance in gross savings can come from a number of things, including program administrator errors in the database, failure to accurately apply the agreed-upon technical resource manual (“TRM”) values, inaccurate engineering estimation of custom savings, or other factors that are generally in control of the program administrators and/or their contractors. *Id.* at 18.

The AG explains that DCEO proposes to eliminate future NTG adjustments to gross savings in the evaluation of its programs, and adoption of an assumed lower realization rate for both public sector and low-income programs. DCEO Ex. 6.0 at 35. Specifically, DCEO energy savings calculations assume a NTG rate of 80% for public sector programs and 90% for low income programs. *Id.* DCEO witness Mrozowski testified that these figures combine recognition of realization rate, free ridership and spillover into a single value for public sector programs. *Id.* For low income programs, the assumed 90% value “is merely a realization rate.” *Id.* As discussed below, the proposal to not account for free ridership and spillover, while also incorporating an assumed lower realization rate for DCEO customer participation should be rejected.

According to AG witness Mosenthal, it is not good practice to ignore NTG adjustments as a matter of public policy because doing so creates significant perverse incentives and ignores the true impact of the programs and evaluations of cost-effectiveness. AG Ex. 1.0 at 19. For example, the ability to encourage additional energy savings among customers is highly influenced by program designs and implementation strategies. As a result, eliminating any accountability for whether the programs actually create cost-effective net savings removes any strong desire on the part of program administrators to ensure their programs are indeed capturing additional cost-effective savings. *Id.* at 20. Mr. Mosenthal noted that the easiest customers and projects to fund are those that are happening regardless of the program because you do not actually have to change anyone’s behavior – the very definition of free ridership.

Without NTG adjustments, a program administrator can simply provide funding to a project that is already developed, or to a highly motivated customer that has already decided to act. If, on the other hand, DCEO is held accountable for NTG adjustments, DCEO will be incented to ensure that its programs are effectively influencing behavior and capturing new annual incremental savings, as Sections 8-103 and 8-104 of the PUA require. Without NTG adjustments, the easiest and most fruitful way to meet goals is to simply offer incentives to free-riders.

For the low-income sector, Mr. Mosenthal argues that deeming a 1.0 NTG ratio, thereby eliminating NTG adjustments for this sector, is the recognition that very little participation in efficiency programs among this customer base would be taken without full funding from programs given the economic hurdles. As a result, DCEO has never had to absorb any downward adjustments to its gross low income sector savings analysis. Thus, as discussed further below, the only NTG adjustment for low income program energy savings goals would be to remove the 0.9% downward realization rate adjustment proposed by DCEO and correspondingly set the goals 11% higher (1/0.9). *Id.* at 21. However, for the public sector, Mr. Mosenthal recommended that evaluation of free ridership and spillover should and must continue. Given this uncertainty, NTG adjustments for free ridership and spillover in the evaluation of public sector programs are critical components of ensuring the delivery of cost-effective programs.

CUB witness Devens was alone in supporting DCEO's proposal to discontinue NTG adjustments for all of its programs. In doing so, she noted that it would be inappropriate for DCEO to turn public entities away from participation in efficiency programs in an effort to minimize free ridership. CUB Ex. 1.0 at 8; CUB Ex. 2.0 at 6. But this sentiment incorrectly assumes that DCEO investigates customer motives and financial ability to pay in its marketing approach, and then turns customers away or in some way limits participation. No such approach to engaging public sector customers exists, in fact. As Mr. Mosenthal explained, Ms. Devens is ignoring the distinctions between program design and implementation on the one hand and measurement and evaluation of savings on the other. AG Ex. 2.0 at 4. Mr. Mosenthal testified that he is not aware of any program that routinely denies customers participation in programs they are otherwise eligible for purely because they might be free riders. *Id.* at 5.

That being said, simply allowing free riders to participate in a program is entirely different from counting savings that are not truly a result of the program. Rather, accepting that some funds and program resources will go toward free riders is simply part of the cost of doing energy efficiency business. As Mr. Mosenthal noted, "[t]his does not absolve the Commission and program administrators from ensuring that best estimates of the ultimate impact of programs are made and used for purposes of determining savings performance." *Id.* To not do so would result in unreasonably high estimates of savings in the public sector, and would discourage DCEO from making appropriate planning and program design changes to minimize free riders and attempt to maximize net savings and overall cost-effectiveness.

The AG notes that DCEO witness Mrozowski testified in Rebuttal testimony that it is not requesting any prospective deeming and has agreed to accept the evaluation results on a prospective basis. Thus, the AG concurs that adoption of the proposed Staff Modified NTG Framework is unnecessary. DCEO's willingness to apply NTG

results retrospectively (to the extent the Commission orders NTG analysis) is the reason why Mr. Mosenthal did not submit his proposed Modified NTG Framework, which he submitted in both the ComEd and Ameren Plan 3 dockets. See Docket 13-0495 (ComEd), AG Ex. 1.1; Docket 13-0498 (Ameren), AG Ex. 1.1.

DCEO also argues in its Brief that the lowered realization rates along with the elimination of NTG evaluation being proposed makes sense because various utility and DCEO evaluators use different methods for analyzing NTG ratios, thus creating inconsistent NTG values. But this is simply justification for the AG-proposed SAG creation of a consistent Policy Manual – not a reason to throw out the evaluation itself.

The AG notes that realization rates are intended to adjust any variances between what the program administrator estimated savings were and what evaluations ultimately estimated. AG Ex. 1.0 at 22. These adjustments are generally for factors within the Program Administrator's control, and thus DCEO should be held accountable for these variances. By requesting a reduced realization rate (approximately 80% for public sector program savings and 90% for low income program savings), DCEO is essentially creating a contingency buffer of savings, by designing programs for a certain savings level and then reducing the savings levels to conservatively set goals that are only a fraction of what they actually plan to capture, to counteract evaluations that produce realization rates of less than 1.0. The bottom line effect of this request is to simply reduce projected savings goals as a hedge. The AG argues that this is inappropriate and should be rejected by the Commission.

It is important to note, too, that while realization rates also adjust for factors such as evaluators' findings that, for example, participants' average hours of use or baseline efficiencies are different than what was assumed and agreed to – factors beyond a Program Administrator's control – DCEO has minimal risk in Illinois. Illinois now uses a statewide Technical Resource Manual ("IL-TRM") – approved by the Commission in Dockets 12-0528 and 13-0077 – that incorporates deemed energy savings. Accordingly, DCEO is protected from an evaluation finding that an assumed participant's reasonable average hours of use or other assumptions is incorrect. Such post-installation findings by evaluators would only affect future deemed savings under Illinois' TRM policy. As a result, realization rates for purposes of claiming savings are primarily addressing variances over which DCEO has direct control and responsibility.

As a result, realization rates going forward should be presumed for planning purposes to BE 1.0. In other words, from a planning perspective, one should assume the savings being tracked in the database are correct based on the established TRM rules and actual program activity. Evaluator adjustments to gross savings because of actual variances in assumptions are simply part of the evaluator's job of determining if the savings were counted properly. Because variances between tracked savings and final evaluation numbers can reflect adjustments for things under the program administrator's control (e.g., errors in assumptions, inappropriate application of the TRM, etc.), the program administrator should be held accountable for these realization rate adjustments. AG Ex. 1.0 at 18.

The AG urges the Commission to order DCEO to resubmit its Plan, pursuant to Section 8-103(f) and 8-104(f), to remove the reduced realization rates proposed in its

Plan for both public sector and low income programs, which have the effect of lowering proposed savings goals unnecessarily. DCEO should also be required to incorporate the same NTG evaluation principles that apply to all utility efficiency programs for its public sector offerings, and thereby retain the calculation of net energy savings.

### **3. CUB**

Based on review of evaluation reports for various utility and DCEO programs and participation in the SAG, CUB believes that evaluators attempt to capture free ridership but do not attempt to capture spillover to the same extent as free ridership to determine the “net” impact of programs. 220 ILCS 5/8-103(f); 220 ILCS 5/8-104(f). By attempting to fully capture free ridership, but placing less emphasis on capturing spillover, evaluators provide an estimate of savings that is arguably low. CUB Ex. 1.0 at 7.

For DCEO in particular, using a NTG approach for its public sector programs is inappropriate. DCEO’s programs, and the EEPS in general, are entering their seventh year next year. CUB Ex. 1.0 at 9. The programs will have been available to customers for six years. Many public entities, and customers of all kinds, are aware of the existence of these programs. Id. It is likely that public sector customers will plan on participating in the DCEO program in tandem with planning upgrades to facilities. Id.

The marketing of public sector programs is also unique compared to residential and commercial and industrial programs. Most public sector entities are very large customers, and the number of public sector entities is small, relative, for example, to the number of residential customers. CUB Ex. 2.0 at 4. DCEO’s program requires individual outreach to public sector entities to educate them about the possibility of participating in a program. There are differences in customer awareness of the energy efficiency programs due to how the programs are marketed. Id. at 6. The decision public entities make to invest in energy efficiency is complex, and cannot be distilled to be or not be the result of the existence of an incentive. Id. A NTG approach is more appropriate in an environment where evaluators are not sure whether customers are aware of utility programs. This approach is not appropriate when the DCEO programs are factored into a public entity’s decision to make an investment from the start. It would be inappropriate for a state agency such as DCEO to turn public entities away because of concerns about program evaluation results. To do so would be in opposition to the EEPS goal of expanding energy efficiency by increasing the goals every year. Id.

DCEO’s public sector program already faces many challenges administering programs. Due to the economic climate, many public entities have constrained budgets that do not allow for investments beyond what is absolutely necessary. CUB Ex. 1.0 at 9. This typically excludes energy efficiency investments, because they bear a higher price tag upfront, even though a more efficient investment may prove to be more cost-effective over the life of the measure. Id. Many local governments in the electric utilities’ service territories have franchise agreements with ComEd, which means that these local governments do not pay for electricity. DCEO Ex. 1.0 at 33. Because “the businesses and residences in the city pay a franchise fee that covers the cost of electricity for the city,” local governments “have very little direct incentive to reduce their energy use.” Id. Similarly, Ameren owns many street lights in downstate Illinois, “thus

seemingly excluding a natural market in the Ameren territory for DCEO's Public Sector Energy Efficiency programs." Id. at 34.

DCEO is asking the Commission to direct its evaluators to use an "adjusted gross savings" approach to determine savings associated with the low-income and public sectors programs. Adjusted gross savings include all savings that resulted from participation in a program without taking into account free ridership or spillover. CUB Ex. 1.0 at 10. This approach, which includes typical evaluation, measure and verification ("EM&V") assessment of factors such as usage and persistence rates, has a focus on "ensuring the projected savings accurately reflect actual savings;" "providing feedback from their process evaluations to recommend ways to improve programs;" analyzing measures and program "to identify when particular measures are becoming the standard practice," and recommending "changes to strengthen the programs." DCEO Ex. 1.0 at 38-39. DCEO believes the last two priorities would help ensure that free ridership is minimized. Id. If evaluations were done in this manner, the result would not only be verification of savings but suggestions on how the programs themselves might be improved and more savings achieved. CUB Ex. 1.0 at 11.

CUB asserts that a NTG approach that includes free ridership and spillover surveys is not appropriate for the public sector program. While the Commission has required in the past that the NTG framework should apply to DCEO's public sector programs, that does not mean NTG must be estimated for DCEO's programs going forward. CUB Ex. 2.0 at 9. . DCEO has already pledged to modify programs based on evaluator findings related to free ridership and to act on information related to maximizing net benefits. DCEO Ex. 1.0 at 38-39. These are programs that are fundamentally different in customer enrollment and participation from the other customer sectors, and a process that attempts to isolate and capture public sector customers' motivations for participating in a program does not yield useful results. DCEO's proposal would ensure that evaluation data is still provided, but in a way that best accounts for public sector specific concerns. CUB recommends that the Commission approve the Plan and adopt DCEO's request for savings for public sector programs to be evaluated using the adjusted gross approach.

#### **4. ELPC**

ELPC disagrees with DCEO and CUB regarding the appropriate evaluation method DCEO should use for its programs. Given the significant disagreement between the witnesses in this docket and the need for consistency and consensus regarding evaluation methods, ELPC believes it would be inappropriate for the Commission to approve DCEO's request to use an adjusted gross evaluation methodology in this docket. The Commission should reject DCEO's request to adopt a gross adjustment method and either 1) require DCEO to apply the Commission approved net to gross framework, or 2) allow DCEO to apply net to gross values retroactively to its programs as the independent EM&V contractors issue final (ex post) net to gross values in the final EM&V reports & analyses. If and when the evaluations indicate that there is no longer a need for net to gross analysis of the programs, ELPC will support such change.

All of DCEO's arguments ignore the fact that, at least in Illinois, state law and multiple Commission Orders require an evaluation approach that focuses on net savings not gross savings. Sections 8-103 and 8-104 require the utilities (in coordination with DCEO) to "implement cost-effective energy efficiency measures" to meet incremental energy savings goals. 220 ILCS 5/8-103(b); 220 ILCS 5/8-104(c). Section 8-104 explicitly requires the use of the TRC test to "quantify the net savings" obtained through the EE measures. 220 ILCS 5/8-104(b). The whole point of the EEPS statutory framework is to determine whether or not savings are a direct result of the utilities' programs, not to count savings that would have occurred in the absence of the programs. Without measuring the "net" impact of the measures, there is no way for program evaluators to determine whether or not savings are actually attributable to a utility's programs. Thus, the Commission has stated that "the gas and electric energy efficiency provisions establish net savings goals" and has endorsed a NTG approach in each of its Orders in prior EEPS cases dating back to 2007. Docket 10-0568, Order of December 21, 2012 at 71; see also Docket 10-0570, Order of December 21, 2010 at 47; Docket 07-0539, Order of February 6, 2008 at 31; Docket 07-0540, Order of February 6, 2008 at 42.

CUB witness Devens is the only witness that supports DCEO's position on NTG. Ms. Devens argues that "it is not reasonable" to assess NTG for DCEO's public sector programs because many public sector customers are already aware of the existence of DCEO's programs and their decision to invest in an efficiency upgrade is "inextricably linked" to the existence of the program. CUB Initial Br. at 5. While that may be true, it is not clear how this is different than the decisions of other EEPS participants, particularly large commercial or industrial customers, who make decisions to invest in efficiency based on the existence of a utility program.

ELPC recommends that the Commission reject DCEO's request to abandon NTG analysis for public sector programs. ELPC agrees with the AG that given DCEO's agreement to apply NTG results retrospectively, there is no need for the Commission to mandate the adoption of the proposed uniform NTG framework recommended in the testimonies of AG witness Mosenthal and ELPC witness Crandall.

## **5. NRDC**

NRDC does not support the use of an adjusted gross approach and continues to support the established net-to-gross approach. NRDC recognizes DCEO's concerns about variability and accounting for free ridership but not spillover, but NRDC believes these issues should be addressed through the SAG process and do not justify switching approaches entirely.

NRDC's main concern with the adjusted gross approach is that it does not consider free riders or spillover. If the Commission gets rid of NTG, NRDC believes it will open the floodgates for energy efficiency program developers to "chase" free riders because these customers would be the easiest to capture savings from them. Similarly, there would be no incentive for program administrators to design programs that generate substantial spillover if they cannot claim credit for it.

DCEO proposes to address free ridership by having evaluators assess markets and make recommendations for program design, but NRDC finds this proposal

unsatisfactory when under this approach DCEO would have a strong incentive to push back against any recommendations, the market is quite complex, and a significant portion of utility and DECO savings come from custom projects rather than from prescriptive measures the evaluators might be able to recommend against pursuing.

NRDC, with the support of Staff, have put forth two recommendations to address DCEO's concern about the variability: (1) have all the different evaluators in the state work together to reach consensus on the best approaches to assessing NTG in particular markets and (2) examine the evaluation results from multiple years and multiple sources – potentially even including out-of-state studies – to develop deemed NTG assumptions for certain markets.

## **6. Staff**

DCEO proposes to measure what it refers to as adjusted gross savings. The approach proposed by DCEO is to count gross savings making only adjustments for factors such as “data errors, installation and persistence rates, and hours of use,” but not making adjustments for free ridership or spillover. Staff recommends that the Commission reject this proposal. This approach, measuring gross savings, is contrary to the present approach of measuring net savings, is inconsistent with Sections 8-103 or 8-104 of the Illinois Public Utilities Act, and is not beneficial to ratepayers.

Subsections 8-103(b) and 8-104(c) establish incremental annual energy savings goals for electric and gas utilities, respectively. Incremental means savings above what occurs as a result of the natural progression of technological change. That is, if a customer would have installed an energy efficient device without the existence of an EE program, an incentive from the EE program does not create incremental savings. The adjusted gross approach proposed by DCEO would count such savings. As such, the proposal is contrary to the intent of the Act.

In addition to being contrary to the Act, measuring only gross savings is not in the best interests of ratepayers. Staff witness Brightwell explained that under a gross savings paradigm, benefits can appear to be greater than they are in actuality. Staff Ex. 2.0, 6-8. If no actual savings are created, there are no benefits to ratepayers, but there are costs. Ratepayer funds are transferred to customers who would have performed EE activities without the programs. This transfer takes wealth away from the average ratepayer but provides no savings as the activities would occur anyway. Unfortunately, it creates costs as there are administrative costs associated with the transfer. The result is that programs catering to free riders create a net loss to ratepayers. *Id.* Staff recommends that the Commission continue measuring net savings and reject DCEO's proposal to measure adjusted gross savings.

In CUB's Initial Brief, it argues that using a Net-to-Gross ratio value for public sector programs is inappropriate because an entity's decision to invest in an energy efficiency upgrade is, in CUB's view, inextricably linked to the existence of a DCEO incentive. As Staff witness Brightwell testified, evaluators need to consider what the motivation is for a customer to participate in the program to determine whether the customer constitutes a free rider. Staff Ex. 2.0 at 5. Program awareness alone does not constitute free ridership, as all participants in the program are necessarily aware of its existence. Staff Ex. 4.0 at 3-4. A free rider is a customer who (1) was aware of the



program, (2) received money from the program for projects completed, and 3) would have completed those projects without receiving the money. Staff Ex. 2.0 at 4-5.

The evaluators attempt to determine free ridership by asking a series of questions to gauge whether or not a customer meets the three criteria provided above. Staff Ex 3.3 provides a copy of a questionnaire used by evaluators. There are questions about rate of return or payback periods an organization requires to make EE investments, about whether the organization made past EE investments without EE program funds and the reasons for using the EE program funds. The answers to these and the remaining questions are used to estimate the level of free ridership. The evaluation goes well beyond determining whether an organization was aware of the program. Accordingly, CUB's concern regarding calculations of public sector programs under a NTG approach is without merit. The Commission should reject CUB's recommendation to utilize an adjusted gross savings approach for the public sector.

For the NTG framework, Staff agrees with Mr. Neme's proposal to consider evaluation results and other relevant information from multiple potential sources when developing reasonable NTG assumptions for a program year. This suggestion is already incorporated to a large degree in Staff's Modified Illinois NTG Framework for the DCEO, which states that the values should take into consideration "the best information available about the measure, program design, incentive levels, market, energy codes, and any other factors" that can help formulate values. Staff Ex. 3.1 at 1. Staff submits that those other factors include those proposed by Mr. Neme. Accordingly, Staff supports Mr. Neme's recommendation that is incorporated in Staff's Modified Illinois NTG Framework for the DCEO and recommends the Commission adopt Staff Exhibit 3.1 for DCEO. Staff also agrees with Mr. Neme's other proposal to have all the different evaluators in the state work together to reach consensus on the best approaches to assessing NTG in particular markets. Staff submits that the best NTG approaches will not be inflexible, but could be tailored to appropriately assess the specifics of each of the utilities' and DCEO's EE programs, consistent with approaches adopted in other states. An efficient process to facilitate Commission adoption of the consistent statewide NTG approaches would be for the Commission to direct Staff to file the NTG approaches with the Commission as an appendix to the updated TRM.

## **7. Commission Analysis and Conclusion**

DCEO's apparent reason for proposing a switch to an adjusted gross methodology is that while free ridership is taken into account in an NTG evaluation, spillover is not currently adequately addressed in NTG evaluations. The Commission agrees that this 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 any excessive costs to measure spillover in relation to the predicted impacts of such measurements.

Another problem that DCEO raises with the continued utilization of NTG is it has difficulty meeting its savings goals in large part because of the markets it serves. This lends support for the continuation of the robust review of the programs with an NTG analysis to ensure that programs are well designed. Using an NTG analysis to guide

program design ensures that programs are reaching customers that would not otherwise install energy efficient measures.

The Commission notes that realization rates are intended to adjust any variances between what the program administrator estimated savings would be and what evaluations ultimately estimate. By assuming a reduced realization rate, DCEO is essentially asking for a reduced savings goal. The Commission is persuaded that the adoption of the statewide Technical Resource Manual protects DCEO from many of the factors beyond its control and DCEO should be held accountable for things under its control, thus making DCEO's proposed realization rate adjustment inappropriate.

Inconsistent NTG applications are a problem the Commission recognizes. Specifically for DCEO, consistency throughout the state would be helpful. This is an issue that should be addressed by SAG. As addressed below, the SAG is ideal for resolution of issues like this. Indeed, NRDC has proposed a good methodology for beginning the resolution of this issue: (1) have all the different evaluators in the state work together to reach consensus on the best approaches to assessing NTG in particular markets and (2) examine the evaluation results from multiple years and multiple sources – potentially even including out-of-state studies – to develop deemed NTG assumptions for certain markets.

The Commission directs DCEO to resubmit its Plan, pursuant to Section 8-103(f) and 8-104(f), to remove the assumed realization rates proposed in its Plan for both public sector and low income programs, which have the effect of lowering proposed savings goals unnecessarily. DCEO is also required to incorporate the same NTG evaluation principles that apply to all utility efficiency programs for its public sector offerings, and thereby retain the calculation of net energy savings.

The Commission approves DCEO's retrospective application of third-party evaluated results, because DCEO's retrospective approach accounts for real world variables and actual results. Because DCEO proposes a retrospective approach, adopting an NTG Framework, either that proposed by the AG or Staff, is not necessary.

### **C. SAG (“Stakeholder Advisory Group”)**

#### **1. DCEO**

DCEO believes that the reporting requirements and schedules proposed by the Staff are reasonable. DCEO has already agreed in its plan to provide quarterly reports to SAG. DCEO also agrees with the proposed EM&V schedules for TRM and NTG updates, with the clarification that the reference to “NTG updates” means that the evaluation reports are due in draft form by the proposed dates.

DCEO recommends that the Commission not direct the SAG to create an Illinois Energy Efficiency Policy Manual as proposed by the AG.

DCEO agrees with the Staff position that the Commission should reject ELPC's proposal that the SAG establish voting parties. SAG's role as an advisory body to the Utilities, DCEO, and the Commission on the Energy Efficiency Proposal has worked well without voting. DCEO sees no justification for turning SAG into a voting party.

## **2. AG**

In addition to continuing to participate with the SAG as DCEO has pledged, the AG also urges the Commission to specifically direct DCEO to work with the SAG on an Illinois Energy Efficiency Policy Manual. DCEO's Brief shines a light directly upon the need for, and the potential benefits of, the AG's proposed manual in its discussion of its proposed elimination of NTG analysis for its public sector programs:

First, the calculated Net-to-Gross values for the Illinois EEPS programs managed by the utilities and DCEO have varied considerably for similar or identical programs and from year to year, generally without any clear explanation. This seems to indicate differences in the methods used by various evaluators or variability inherent in the methods used by presumably equally competent evaluation teams.

DCEO IB at 3. Here, DCEO acknowledges that otherwise competent evaluation teams can arrive at considerably different values based on the different methods employed by those evaluators. This is precisely the type of situation that the AG seeks to avoid in the future by creating a consistent policy manual.

The primary goal of the proposed policy manual would be to ensure consistency in terms of monitoring savings achieved and evaluating programs. This is particularly true when compared with the current situation where the utilities and DCEO Program Administrators and their individually selected evaluators play by different evaluation rules. Contrary to the views of Staff, the AG is not seeking to further burden the SAG or create additional work that further constrains already limited resources. Rather, the AG seeks to create the most efficient and consistent processes possible. In the long run, ensuring that evaluation approaches are consistent among the utility and DCEO Program Administrators will save SAG resources that would otherwise spend time trying to understand why program evaluation practices differ so significantly among the evaluation teams.

For these reasons, the AG urges the Commission to include within its Order in this docket 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 through consistent evaluation practices and rules.

## **3. Staff**

In its Initial Brief, Staff notes that the AG also proposes that the Commission direct the DCEO to work with the SAG on an Illinois Energy Efficiency Policy Manual ("Policy Manual") to streamline and encourage consistency on "various program-related policies for review by the Commission." AG Ex. 1.0, 38. Staff notes that the purpose of the Policy Manual is so broad in scope that it is, essentially, undefined. Furthermore, it is unclear what issue or problem the creation of this Policy Manual is intended to fix. Interpretation of the purpose of this directive alone could require a significant undertaking of the SAG's already limited time and resources. It would divert these

resources from the important matters already before the SAG and create an excessive and unnecessary burden on all participants. Staff, therefore, urges the Commission to reject Mr. Mosenthal's recommendation.

In its Reply Brief, Staff notes that the AG, in its Initial Brief, clarified that the EE Policy Manual that was proposed by Mr. Mosenthal would address evaluation-related policies to ensure the EE programs are evaluated using a consistent set of guidelines in terms of monitoring savings achieved and evaluating programs. As the AG noted in its brief, Staff witness Hinman shares its concern that, at times, utility and DCEO program administrators and evaluators play by different rules. *Id.* The AG clarified that the purpose of the Policy Manual would be "to ensure that evaluators and program administrators for the various utility service territories and customer bases play by the same set of rules in terms of monitoring savings achieved and evaluating programs." *Id.* With the clarification that the Policy Manual will address evaluation related policies, Staff now supports the AG's proposal.

Staff's previous objection to the creation of a Policy Manual was also based upon Staff's belief that SAG should focus on its existing responsibilities the Commission previously directed SAG to undertake. Staff Ex. 3.0, 5. The Commission has previously established that SAG's responsibilities include monitoring savings achieved and evaluations. See, e.g., Order Docket 10-0564 at 92 (May 24, 2011). The AG's proposal for the creation of a Policy Manual designed to streamline evaluation-related policies is consistent with SAG's existing Commission-approved responsibilities. In the last Plan filings, the Commission stated that the SAG's responsibilities "include establishing agreed-upon performance metrics for measuring portfolio and program performance." Order Docket 10-0564 at 76 (May 24, 2011). In order for that to happen, the Commission should utilize its authority to direct the various program administrators and evaluators to complete this task. The Commission should adopt the AG's proposal for an Illinois Policy Manual and direct DCEO to require its evaluators to collaborate with the other Illinois evaluators to reach consensus on the best and most defensible approaches to assessing NTG in particular markets for both residential and non-residential EE programs in a manner consistent with the direction provided in Staff's Initial Brief.

Staff finds that the Department's plan meets the requirements outlined under Sections 8-103(f)(7) and 8-104(f)(7), which provide for an independent evaluation of the performance of the portfolio as well as a full review of the results. In its Plan, DCEO has stated that it will provide quarterly updates to the SAG. Staff recommends that the Commission approve this proposal and also require the Department to file such documents in this docket once they are available. Staff Ex. 1.0, 16-17. Additionally, Staff recommends the Commission require the quarterly reports to present the estimated savings values and costs by program for each utility's service territory. *Id.* The Department did not object to this proposal in its rebuttal testimony. Accordingly, Staff believes that the DCEO has agreed to this proposal, and submits that it should be adopted by the Commission.

Staff notes that ELPC proposed the establishment of "voting parties" within the SAG as part of its modified NTG framework proposal, which would essentially ban subcontractors in Section 8-103 and 8-104 efficiency programs from participation in the

SAG. When the SAG was created by the Commission in Dockets 07-0539 and 07-0540, it explicitly provided that the group include representation from a “variety of interests.” Ameren Illinois Company, Order Docket 07-0539, 24 (February 6, 2008); Commonwealth Edison Company, Order Docket 07-0540, 33 (February 6, 2008). Currently, SAG membership exceeds 30 organizations, all of whom voluntarily participate. Staff Ex. 3.0, 15. The SAG is a consensus group, whereby all parties work together to achieve an outcome. Whether one party or multiple parties join together to object to a proposal, a consensus will not be reached. Therefore, limiting participation to certain “votes” is meaningless. The only purpose that limitation would serve would be to turn a voluntary, inclusive organization into a narrow, exclusive one in which only six of the “variety of interests” that the Commission hoped to include in forming the SAG would be allowed a voice. Accordingly, the Commission should decline to adopt the ELPC’s proposal to develop voting parties.

#### **4. Commission Analysis and Conclusion**

The Commission notes that ELPC did not address the voting at SAG proposal in its brief. Regardless, the Commission does not agree with this proposal. The SAG has always been an advisory body, and the Commission does not see the merit in altering that role. The SAG is intended to operate as an advisory body, not a decision making authority.

Consistent with the advisory role of SAG, the Commission recognizes the difficulties that utilities and DCEO may face in the evaluation process. A consistent set of guidelines in terms of monitoring savings achieved and evaluating programs would be useful and, indeed, the AG says that the primary goal of its proposed policy manual would be to ensure consistency in terms of monitoring savings achieved and evaluating programs. This is particularly evident with the current situation where the utilities and DCEO Program Administrators and their individually selected evaluators play by different evaluation rules. Thus, 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.

DCEO has agreed to Staff’s proposal to provide quarterly reports. The Commission agrees that providing quarterly reports to the Commission is reasonable and is consistent with Section 8-104(f)(8) of the Act. Thus, Staff’s proposal is adopted. DCEO should file quarterly reports via the Commission’s e-docket system in this docket.

#### **D. Program Flexibility**

##### **1. DCEO**

In its previous two plans, DCEO notes, it requested and was granted, with no opposition or comment, the flexibility to modify budgets and programs to meet specific utility territory limitations and to meet changing market demands on a timely basis.

DCEO has and will continue to participate in the SAG meetings and sub-committees, and will maintain regular communication with the utilities. DCEO has also brought new programs and program approaches to the SAG’s attention whenever applicable. Statements made in this proceeding in intervenor testimony imply that

DCEO plans to disregard the established planning process and the SAG process. This is simply not the case. Two examples of DCEO's collaboration with both the utilities and the SAG are the Codes Collaborative working group and the Combined Heat and Power working group. In the interest of using ratepayer dollars as cost effectively as possible while examining the EEPS energy savings potential of both these initiatives, these collaborations were funded with non-EEPS funds.

DCEO asserts that its flexibility request is a reasonable request. DCEO simply needs the flexibility to shift funds within a market sector to other program line items. For example, if a targeted program is not meeting expectations while another program – such as retro-commissioning – is exceeding expectations, DCEO has the ability to move funds to the more successful program. Although they have separate budget lines, both programs are public sector and both pass the TRC. The Public Sector works on various budget approval calendars. Many public entities must present a pre-approved project to a school board or city council before it is approved within an annual budget. If a project doesn't receive local approval or a tax referendum is not passed, the pre-approved project may be cancelled. Often times a large amount of funds are de-obligated, and DCEO must spend the budget elsewhere in a short timeframe. Waiting for SAG approval would delay project decisions and create a missed opportunity.

Although DCEO feels complete program flexibility with no limitations is a reasonable request; DCEO agreed to ELPC witness Crandall's recommendation in ELPC Data Request 3.1 that moving more than 20% of the total portfolio budget between market sectors may require goal adjustments and Commission approval.

## **2. ELPC**

All parties generally agree that some amount of program and budget flexibility is needed to optimize program implementation, but some meaningful limits must be included to ensure the integrity of the Commission review process. DCEO has agreed to accept a 20% threshold for program adjustments, provided that the limit is calculated and applied to shifts in spending between DCEO's public sector, market transformation, and low income programs at the portfolio level. See ELPC Cross Ex. 1 at 14 (DCEO Resp. to ELPC Data Request 3.1). Under this arrangement, DCEO would approach the Commission for approval to adjust its goals if it proposed to move more than 20% of the funds in one of its portfolios (public sector, market transformation or low income) to another. While this proposal appears reasonable, it should be noted that DCEO already has spending limitations in the statute. For example, it is required to spend a minimum of 10% of the entire portfolio of cost-effective measures on public sector customers. 220 ILCS 8-103(e). In addition, it can spend no more than 3% of program revenue on "breakthrough equipment and devices", otherwise known as market transformation measures. 220 ILCS 5/8-103(f)(g). Thus, it is unclear on its face how much of a concession this proposal represents. However, DCEO also agreed to continue to inform and consult with the SAG regarding any significant program or budget adjustments, regardless of whether or not the 20% threshold would be exceeded. The Commission should make clear that such consultation should occur prior to making such significant program changes.

That being said, ELPC believes that this compromise is reasonable and ensures that program dollars are not shifted unilaterally between sectors without confirmation with the Commission. This proposal should be approved by the Commission and included in the Commission's final Order in this case, with the caveat that SAG consultation occurs before significant program changes are made, rather than after the fact.

### **3. AG**

While all parties reviewing DCEO's plan were supportive of allowing program administrators wide latitude to make plan and program design modifications as they see fit, based on what they are learning in the field, how markets are responding, and to effectively and in a timely manner make mid-course corrections to improve program effectiveness, the AG believes DCEO's request is too broad. As AG witness Mosenthal noted, allowing unfettered flexibility makes it much easier for DCEO to simply diverge from its approved plan and shift budgets from more expensive to less expensive programs. AG Ex. 1.0 at 24. In effect, this allows DCEO to set the goals based on an expensive mix of resources and then easily achieve savings by pursuing less expensive resources. Had the Commission been given the less expensive plan from the outset, all else equal, it would have set DCEO's goals higher. In short, while not attributing or assuming any nefarious motives on DCEO's part, the proposal to approve unlimited flexibility allows too many opportunities to game.

The AG argues that the Commission should approve either Mr. Mosenthal's proposal, which would require the following:

- Any DCEO shifts of budgets that result in a variance from planned annual program budgets of 20% or more would trigger goal adjustments. In other words, DCEO could under spend 10% in one program and overspend 15% in another program with no adjustments. However, if they were to shift resources beyond the 20% benchmark, then goals would be modified accordingly.
- DCEO must fully explain the rationale and justification for the program allocation it has selected and confirm programs are cost-effective or make a clear case why they should still be promoting programs that are not cost-effective. DCEO should bring proposed significant modification to program dollar shifting to the SAG for discussion and ideally to build consensus around the change.

In the alternative, the AG recommends that the Commission adopt the proposal described in ELPC's Brief, which references Commission approval of program changes that exceed 20% of a program budget, with the caveat that consultation with the SAG should occur prior to DCEO making significant program changes.

### **4. Commission Analysis and Conclusion**

Although DCEO would undoubtedly make large budgetary changes only when necessary and appropriate, requiring Commission approval for shifts over 20% is consistent with the statutory framework that EE plans be approved by the Commission. Further, it appears from the record that although DCEO would prefer complete flexibility, the Department was receptive to this recommendation. Thus, the Commission accepts as reasonable the proposed resolution that Commission approval must be requested for

budget changes that exceed 20% of a program budget, with the caveat that consultation with the SAG should occur prior to DCEO making significant program changes. The Commission believes that DCEO would benefit from the input of the SAG on such changes as it has a smaller budget and fewer resources than the utilities. The AG's proposal that savings goals be adjusted with large budgetary shifts is not part of the proposed compromise resolution and is not adopted.

## **E. Core and Targeted Programs - Public Sector - WWT - CHP- HINGE**

### **1. DCEO**

DCEO proposed in its Plan 3 a series of core and targeted programs to address energy efficiency in the Public Sector. For clarification, targeted programs are subsets of the DCEO core programs: Public Sector Standard and Custom Programs. Each of the core programs is parallel to similar business programs offered by the Utilities and included in state and utility efficiency programs across the country.

The targeted programs are of two types. One type is direct install. DCEO is proposing a Green Nozzle program to reduce energy required to heat water in commercial kitchens at colleges, universities, schools, and prisons. DCEO is also proposing a program called Savings Through Efficient Products to install low-cost efficiency measures in public schools and park districts. Both programs were successfully piloted last program year.

The second type of targeted program is essentially an extension of the core Public Sector Standard and Custom program. Participants fill out the regular Standard and Custom application, but receive special bonus incentives to bring them into the program. DCEO proposed several of these targeted programs in Plan 3: Public Sector Aggregation, High Impact Natural Gas Efficiency ("HINGE"), Waste Water Treatment ("WWT"), and Combined Heat and Power ("CHP"). These targeted programs meet several needs. Waste Water Treatment Plants and CHP were identified by DCEO's Energy Efficiency Potential Study as having significant potential for efficiency gains beyond current program performance. Aggregation was created as a pilot program to simplify program administration for municipalities or other entities with multiple efficiency projects. HINGE was created to solicit larger natural gas efficiency projects. The pilot program resulted in projects twice as cost-effective as originally projected.

All of the targeted programs are designed, in part, to help overcome the challenge of so many communities receiving free electricity or gas under their franchise agreements. These use special incentives and marketing to generate additional energy efficiency projects that may not have occurred without the special targeted programs. DCEO believes that offering targeted public sector programs is an effective strategy for maximizing energy savings and DCEO may develop additional targeted programs in the future. Depending on the actual applications received, DCEO will shift the funds among the sub-programs to make the best use of the funds and to maximize energy savings. DCEO Ex. 2.0, DCEO Ex. 8.0.

DCEO agreed to update its EE Potential Study within the next six months to include the savings potential for public sector data center projects in Illinois and to present the results to the SAG. At that point, DCEO would determine if a data center



program is justified. DCEO Response to ELPC Data Request 3.2. DCEO plans to continue to fund data center projects through its Public Sector Custom program and provide related technical assistance through the Smart Energy Design Assistance Center (“SEDAC”), unless the updated potential study or demand for data center incentives indicates a need for a targeted program. DCEO Ex. 6.0 at 8-9.

## **2. AG**

The AG notes that DCEO also proposes additional “targeted programs” that are focused on specific opportunities. DCEO Ex. 1.1. Although the targeting of specific initiatives to particular markets and opportunities can be the basis of a good strategy, the AG cannot fully comprehend DCEO’s logic in separating these programs out from the main programs that appear to already cover these opportunities. AG Ex. 1.0 at 7. According to AG witness Mosenthal, a more beneficial strategy would be for DCEO to simply provide what DCEO labels “targeted programs” as targeted services within the Custom program. *Id.*

Some of the programs are more aptly described as services that support the primary programs and leads to an over-complication of the overall plan. According to Mr. Mosenthal, separating out these program budgets paints a very unclear picture of which programs are cost-effective and why certain things are targeted. AG Ex. 1.0 at 8. In the end, Mr. Mosenthal’s analysis also showed that many of its projects are not clearly cost-effective. AG Ex. 1.0 at 8. Finally, the rationale behind many of these programs and how they are structured is not clear or compelling. Based on the analysis of AG witness Mosenthal, the AG recommends that the Commission urge DCEO to focus on comprehensive solutions for its public customers to avoid overly complicating their offerings, particularly where some of DCEO’s proposed programs appear to operate more like services that any custom program customer should be automatically eligible to receive. AG Ex. 1.0 at 5.

The AG observes that DCEO proposed the HINGE program, which is described as a vehicle to provide “bonus incentives” for large gas projects. See DCEO Ex. 1.1 at 19. From the outset, it should be noted that the AG generally supports the concept of offering additional funds for customers to adopt more extensive efficiency opportunities and to be more comprehensive, provided that those projects are cost-effective and would not likely have happened without the additional funds. In this case, however, it appears that DCEO has admitted that HINGE will not be cost-effective.

Initially, the AG raised concerns about the measurement of these higher incentives. AG Ex. 1.0 at 9. However, on rebuttal, DCEO clarified its position and the incentives are no longer an issue from the AG’s perspective. DCEO Ex. 8.0 at 5. Notwithstanding, it remains alarming to the AG that DCEO’s own projections demonstrate that the HINGE program is not cost-effective. The program has an estimated TRC benefit-cost ratio of 0.86. DCEO Ex. 2.11. DCEO essentially proposes to provide additional funds that could already be offered under the Custom program, but only available for large gas projects to capture additional savings that DCEO projects may not even be cost-effective. AG Ex. 1.0 at 10. The AG does not see the benefit to maintaining a completely separate program, with all of its attendant administrative costs that, as modeled, would only capture additional non-cost-effective savings. AG Ex. 1.0

at 11. Therefore, the AG urges the Commission to direct DCEO to file a revised plan under Section 8-103(f) and 8-104(f) that offers the HINGE program as a component of its Custom program plan that offers bonus incentives up to 75% of retrofit and 100% of lost opportunity incremental costs as necessary to capture cost-effective savings.

DCEO proposes a standalone WWT facility program. DCEO Ex. 1.1 at 15. WWT facilities are highly energy intensive, and typically offer large and cost-effective opportunities for efficiency improvements. Therefore, programs designed to increase the efficiency of these facilities can be highly important to the public sector. However, DCEO may not be taking full advantage of the potential of such a program where it chose not to devise its WWT program as a targeted marketing strategy within its Custom program. Instead, DCEO designed its WWT program as an entirely separate program. This runs the risk of ignoring many potentially rewarding efficiency opportunities common among WWT facilities. In addition, the AG notes that the WWT program is barely cost-effective at a 1.01 TRC benefit-cost ratio. AG Ex. 1.0 at 12.

The WWT program as designed by DCEO, promotes a single technology category – improved aeration. DCEO Ex. 1.1 at 15. While this is an admittedly important efficiency measure for WWTs, it is likely not the only cost-effective opportunity. In fact, it appears that the program ignores all other electric efficiency opportunities beyond the aeration systems. Also of critical importance is that the program, as designed, achieves no gas savings. According to AG witness Mosenthal, given the significant thermal loads that many WWT facilities carry, completely ignoring gas opportunities and CHP in a standalone WWT program is inappropriate. AG Ex. 1.0 at 12.

Given the marginal cost-effectiveness of this program, it is not clear to the AG why DCEO would not target WWT facilities as customers and pursue the most cost effective, comprehensive solutions for them under the Custom program. The AG, therefore, recommends that DCEO simply target the WWT sector through dedicated account management in its Custom program. AG Ex. 1.0 at 12-13. Following this protocol, a WWT program could still have the ability to add additional features or services necessary to effectively leverage any other government or grant funds for these customers. This will increase the flexibility of the program and offer opportunities to pursue additional cost-effective improvements in WWT facilities. Finally inclusion under the Custom programs would ensure that all projects are highly cost-effective, reduce unnecessary administrative costs and avoid confusion in the market place. Therefore, the AG urges the Commission to instruct DCEO to consider including the WWT program in its Custom program or designing it in such a way as to avoid market confusion and avoid the creation of unnecessary administrative expenses. The AG notes that it may be helpful for DCEO to seek the input of the SAG on these issues prior to implementing this program.

The AG notes that no party opposes cost-effective promotion and adoption of CHP technology. However, DCEO has proposed what appears to be an arbitrary method of counting savings for this measure that diverges from standard practice in Illinois for claiming “customer side of the meter” savings. Specifically, they propose to calculate a primary BTU savings on the entire economy and then arbitrarily allocate this savings estimate, with 80% assigned to electricity and 20% to gas savings. AG Ex. 1.0

at 29. AG witness Mosenthal testified that such a savings calculation approach is inconsistent with normal practice in Illinois for claiming efficiency savings. It also has the potential to reduce the transparency and usefulness of the Section 8-103 (electric) and 8-104 (natural gas) savings data for planning and forecasting purposes because savings figures will no longer accurately reflect estimated efficiency impacts on the utility distribution system loads.

To understand Mr. Mosenthal's criticism, it is important to describe how CHP produces energy savings. As noted by Mr. Mosenthal, CHP projects are essentially fuel switching projects. In other words, while they improve overall efficiency, they perform this by using natural gas or some other fuel to generate both electricity and thermal energy. As a result, the effect of installing CHP is to save electricity while often increasing the usage of some other fuel. Because the overall efficiency of the system is typically higher than that of the average central plant generators, overall energy is saved on a primary BTU basis. DCEO appears to have chosen a method of estimating this primary energy savings and then arbitrarily allocating 80% of the savings to electricity and 20% to natural gas. The DCEO Plan also draws funding from these two sectors in those 80%/20% proportions.

To solve these energy savings calculation issues, AG witness Mosenthal recommends that the Commission order DCEO to count CHP energy savings just like any other measure. In other words, energy savings should quantify the various electric and fuel impacts at the customer's meter and on the local distribution utility systems. Such an approach will increase transparency around savings for customers, as well as the utilities and stakeholders. It will also be consistent with the statutory energy efficiency program guidelines, including the TRM. He noted, too, that funding for this program should come from DCEO's electric energy efficiency funds since the measure is an electricity saving measure and the electric avoided cost benefits will accrue to electric ratepayers. *Id.*

In response to this proposal, DCEO witness Cuttica testified that his recommended approach to savings calculations measures BTU savings associated with the CHP system, and points to a recent amendment to Section 8-104(b) that states that "energy efficiency also includes measures that reduce the total Btus of electricity and natural gas needed to meet the end use or user." DCEO Ex. 7.0 at 9; 220 ILCS 8-104(b). This point, the AG argues, does not support adoption of the particular energy savings methodology being proposed by DCEO for CHP. Section 8-104(b), while referencing measures that reduce Btus as qualifying energy efficiency measures, in no way establishes any particular methodology for counting combined heat and power savings, a point Mr. Cuttica acknowledged. *Tr.* 54. Mr. Cuttica also confirmed on cross-examination that current practice in Illinois is to count the actual savings of each fuel at the customer's meter. *Id.* Moreover, Mr. Cuttica confirmed that any assumed reduction in gas will not necessarily accrue to the particular natural gas utility delivery system that is being credited with the theoretical savings. *Tr.* at 57.

Mr. Mosenthal's proposed methodology for measuring CHP savings, unlike the DCEO proposal, is transparent, apportions savings at the customer meter, consistent with current evaluation practices, and appropriately assigns savings to each affected utility system as it actually occurs. The Commission should order DCEO to revise its

CHP calculation of savings methodology consistent with the AG-recommended approach.

The Energy Performance Contracting (“EPC”) program, according to DCEO, is an effort to assist public sector customers in developing market-based performance contracts to capture efficiency savings, working with private energy service companies. DCEO Ex. 1.1. While this is a goal that the AG conceptually supports, it remains unclear why this is a stand-alone program and not simply a service of the Custom program. This creates a risk of creating confusion in the market. Integrating EPC into the Custom program would allow for better management of resources. AG Ex. 1.0 at 15. The AG, therefore, urges the Commission to instruct DCEO to include EPC in its Custom program in a revised Plan, filed pursuant to Section 8-103(f) and 8-104(f) of the Act. Again, it may be helpful for DCEO to seek the input of the SAG on these issues prior to implementing this program.

### **3. ELPC**

ELPC witness Crandall testified that DCEO’s programs are not adequately keeping up with the quick growth and escalating energy consumption that is occurring within electronic data centers and related facilities. ELPC Ex. 1.0 at 11-12. As Crandall explains, data center space can consume up to 100 to 200 times as much electricity as standard office space, making them “prime targets” for energy efficiency design and measures that could reduce electricity use and save energy. Id. at 13. Crandall testified that the availability of incentives through DCEO’s public sector custom rebate and SEDAC programs “are a constructive and positive step,” but they do not adequately respond to the developing need in this area. Id. at 12. Crandall recommended that the Commission “direct DCEO to implement a data center pilot program or modify its existing public sector programs to respond more comprehensively to data centers’ unique energy use characteristics.” Id. at 14.

In response to ELPC discovery requests, DCEO indicated that it would “strongly consider designing a pilot program with the assistance of SEDAC” if the demand for a targeted data center program increases. ELPC Group Cross Ex. 1 at 6. Following discussions with ELPC, DCEO agreed to some additional milestones regarding the development of a data center program. For example, DCEO agreed to update its energy efficiency potential study within the next six months to include the savings potential for public sector data center projects in Illinois and present the results of the updated study to the SAG. See ELPC Group Cross Ex. 1 at 15. Furthermore, DCEO agreed to follow Illinois State Procurement policies to provide the necessary technical assistance for data center projects in cases where SEDAC and/or EPC staff lack sufficient expertise.

DCEO’s agreements regarding further progress towards the development of a data center program in Illinois, as reflected in DCEO’s responses to ELPC Data Request 3.2, are reasonable and should be approved by the Commission and included in the Commission’s Order in this case.

### **4. Staff**

Staff notes that the purpose of the WWT program is to incent the purchase of High Speed Aeration Blowers and associated secondary equipment at waste water

facilities. DCEO Ex. 2.0, 23. The Plan proposes to pay the lesser of 100% of the Turbo Blower cost, or \$0.36 per kWh saved. Additionally, any of the secondary measures installed may receive grants through DCEO's standard and custom programs. Id. at 23.

Dr. Brightwell is concerned that the budget for the Wastewater Treatment Program is approximately \$5 million. The \$5 million budget is devoted to the High Speed Aeration Blowers and any secondary equipment will be incented through DCEO's standard and custom programs. Thus, more than 17.5% of the public sector electric funds are intended to incent projects in wastewater facilities. While the program may turn out to be successful, at present it is unproven, and there may be various events that halt the renovations at these facilities. To the extent that these potential events come to fruition, there could be substantial money allocated to renovations that are not possible. Staff recommends the Commission direct DCEO to either: (1) allocate much of this money to other programs with an understanding that it can be reallocated to the Waste Water Facilities Program if it proves to be successful; or (2) provide the Commission with a contingency Plan for reallocating these funds in the event that the money cannot be spent as effectively as anticipated in this Plan.

Dr. Brightwell also noted that the math for the incentives is not consistent with the stated intention to provide an incentive of the lesser of \$0.36 per kWh saved or 100% of the Turbo Blower cost. According to DCEO Ex. 2.8, the projected incentives are \$4,599,999 per year and estimated energy savings are 11,493 MWH per year. This amounts to about \$0.40 per kWh. Staff requested that DCEO reconcile this mathematical discrepancy; however the Department provided no explanation for the discrepancy in rebuttal.

DCEO stated that it may shift funds between its custom and targeted programs with the intent to drop any unsuccessful programs and to maximize possible savings. DCEO Ex. 8.0, 6. Staff states that DCEO appears to believe that shifting funds is consistent with Staff's recommendation to provide the Commission with a contingency plan in the event the Waste Water Treatment Program is less successful than possible. Id. Staff believes that a two sentence reference in DCEO's rebuttal testimony is an insufficient contingency plan and accordingly recommends that the Commission require DCEO to provide a thorough Contingency Plan as part of its EE compliance filing that it has agreed to submit.

ELPC witness Crandall proposed that the DCEO should implement a data center pilot program or modify its existing public sector programs due to the unique energy use characteristics of data centers. Staff does not support this recommendation; rather, Staff believes it may be productive for the DCEO to investigate a data center program. Staff witness Hinman testified that data center projects are typically customized projects that would already qualify under DCEO's Public Sector Custom Program, so an investigation is necessary to determine whether a dedicated Data Center Program is warranted. This investigation should be utilized to assess what the existing baseline and standard practices are for data centers operating in the public sector in Illinois. It should also address whether it would be cost-effective to implement a dedicated Data Center Program. Ultimately, Staff feels this is not the time for the Commission to direct the DCEO to unconditionally implement such a program. Staff recommends that if the

Commission is persuaded by ELPC's arguments, it first direct the DCEO to undertake an investigation as to the merits of such a program.

## **5. MCA**

MCA witness Natura testified that although the majority of the CHP technical potential resides in the industrial and large commercial market sectors, the DOE estimates that over 1,000 MW resides in the public sector. He states that CHP systems, when properly designed, installed, and operated, can provide electricity and thermal energy to these facilities at efficiencies reaching 60% to over 80%. Thus, the energy savings potential of CHP is significant. He also testified that the initial investment cost of a CHP system can be a project development barrier. He stated that the MCA believes that the proposed DCEO CHP Program will provide the cost effective incentives necessary to help move the market forward resulting in significant energy savings in Illinois.

In response to NRDC, MCA witness Natura states that CHP systems are a highly reliable technology that can displace centralized baseload electricity during peak hours. He testified that centralized power generation together with grid transmission and distribution line losses result in a loss of 2/3 of the heat potential of the fuel by the time the electricity reaches the end-user. That translates into a 33% efficiency. In contrast, the DCEO CHP Pilot Program establishes a 60% efficiency requirement for CHP systems. He opines that this is a marked energy savings that rightfully has a place in the DCEO energy efficiency portfolio as well as in all of the Illinois utilities' portfolios.

Mr. Natura states that NRDC's proposed standard of 75% efficiency is not achievable for many CHP projects. MCA supports the DCEO's proposed 60% efficiency for the total system. Mr. Natura states that while higher efficiencies are possible for large-scale industrial installations, they are not achievable in many of the facilities that would benefit from the DCEO pilot program. In particular, public sector CHP hosts are likely to be hospitals, universities, and commercial office space. Such facilities do not have sufficient thermal load to achieve the aggressive efficiency targets in the NRDC proposal.

Furthermore, Mr. Natura testified that DCEO's proposed 60% standard reflects the efficiency level required under federal tax credit program as well as under various other states' CHP programs. He concludes by recommending the Commission adopt DCEO's 60% standard.

## **6. NRDC**

NRDC supports the development of a CHP Program with well-designed incentives and strong terms and conditions. However, NRDC contends that DCEO's CHP Program as described in Plan 3 would allow DCEO to take credit for energy savings that do not actually occur, encourage project developers to over-size CHP systems (thus reducing efficiency), and would allow CHP systems to provide electrical and thermal energy to inefficient devices and processes.

NRDC provides several recommendations to design a stronger CHP Program. First, applications should be prioritized based on estimated overall system efficiency, taking into account the portion of the useful thermal output of the CHP system that will

actually be used. Second, applicants should be required to demonstrate end-use efficiency in their facilities either by having participated in DCEO energy efficiency programs in the past or by having demonstrated high end-use efficiency by conducting an energy audit and completing the implementation of all efficiency improvements with a payback period of one year or less. Third, for topping-cycle CHP systems, DCEO should only claim savings credit for the portion of the useful thermal output of the CHP system that is actually used. Specifically, the Program Template should be changed to state: "F Thermal CHP is the fuel that would have been used on-site by a boiler to provide the actual thermal output of the CHP system used by the site. If the efficiency of the replaced boiler is unknown, assume 80%" (DCEO Ex. 2.0 at 6, emphasis added to show change). And in calculating savings DCEO can take credit for, NRDC recommends (1) that DCEO evaluate savings in a proportional manner with the portion of fuel savings coming from thermal savings translated to Btus and the portion of fuel savings coming from electric savings translated to kWhs; this is in lieu of the 80%/20% electric/gas division in the plan now; and (2) that these savings should be on the heat rate of a marginal unit: a combined cycle gas facility. Lastly, for topping-cycle CHP systems, DCEO should modify the production incentive so that a project developer gets an incentive based on the fuel savings associated with the CHP system, and the minimum threshold for system efficiency should be increased to 75 percent.

DCEO responds to NRDC's recommendations by committing to include NRDC's suggestions in the RFP process and in the creation of the Program Implementation Guidelines. NRDC finds this response inadequate as NRDC's concerns are with the design of the CHP Program and urges the Commission to provide clear guidance on the Program design consistent with NRDC's recommendations.

## **7. Commission Analysis and Conclusion**

The AG appears to misunderstand the nature and organization of DCEO's Plan and programs. DCEO clarified in its reply brief that all of the targeted programs are subsets of DCEO's Standard and Custom Program, just as AG witness Mosenthal suggests. The Commission agrees with DCEO's decision to break the programs out, especially in instances where there are market barriers. Moreover, DCEO is best equipped at deciding how its programs should be organized. Consistent with this, the Commission finds Staff's concern regarding a contingency plan if DCEO is unable to use the WWT budget to be excessive. DCEO needs some flexibility to move funds, and, as addressed above, any shift above 20% will be brought to the Commission.

The Commission agrees that CHP applications should be prioritized by cost effectiveness - highest overall efficiency at least cost. This will maximize the benefits to ratepayers. In response to NRDC, DCEO has agreed to include an evaluation criterion in the competitive solicitation that requires the applicant to explain what they have done within their facility to improve overall energy efficiency. The Commission finds this reasonable. The Commission further agrees that for topping cycle CHP systems, DCEO should only be allowed to claim savings for the portion of the useful thermal output that is actually used.

Also, the Commission agrees with DCEO that requiring CHP systems to be designed to a minimum efficiency of 75%, as proposed by NRDC, will run the risk of

eliminating substantial cost effective savings from potential CHP sites. The Commission finds the compromise proposed by DCEO to be reasonable, i.e., systems that measure system efficiencies equal to or above 75% will qualify for the production incentive of \$0.08/kWh produced, and those that measure system efficiencies below 75% but above the minimum 60% will receive \$0.06/kWh.

The Commission declines to adopt the AG's recommendation regarding how to calculate the savings from a CHP system. DCEO's method correctly accounts for the fuel that would have been utilized to generate the electricity from the grid being supplied by the CHP system, accounts for the fuel that would have been used to generate the thermal energy recovered from the CHP system, and accounts for the increase in gas utilized at the site by the CHP system. As pointed out in Staff's brief on exceptions, the method for evaluating savings from CHP systems should be addressed in the Illinois Statewide Technical Resource Manual ("IL-TRM"). The Commission directs DCEO and its evaluator to work with the other utilities and the SAG to reach agreement on the most appropriate technical method to calculate savings from CHP systems in Illinois and include such methodology in the updated IL-TRM that gets submitted to the Commission for approval. DCEO's methodology is adopted until the IL-TRM process is completed.

ELPC recommends that the Commission direct DCEO to initiate a data center program. The Commission notes, however, that data center projects are typically customized projects that would already qualify under DCEO's Public Sector Custom Program, so an investigation is necessary to determine whether a dedicated Data Center Program is warranted. DCEO agreed to update its Energy Efficiency Potential Study within the next six months to include the savings potential for public sector data center projects in Illinois and to present the results to the Stakeholder Advisory Group. At that point, DCEO would determine if a data center program is justified. Staff recommended that the investigation should be utilized to assess what the existing baseline and standard practices are for data centers operating in the public sector in Illinois and address whether it would be cost-effective to implement a dedicated Data Center Program. This approach is reasonable and adopted by the Commission.

## **F. Market Transformation Programs**

### **1. DCEO**

DCEO believes that strong Market Transformation programs – in the form of technical assistance, training and education – are critical to the long-term success of the Illinois Energy Efficiency Portfolio. DCEO is proposing a similar set of Market Transformation programs as approved by the Commission under each of the two previous three-year plans. The programs include:

- SEDAC – provides advice, technical assistance, and energy audits to assist potential clients to identify the most promising building energy efficiency measures and quantify the benefits of those measures;
- Energy Performance Contracting ("EPC") Technical Assistance – technical assistance to public sector and non-profit entities interested in pursuing energy performance contracting as a financing option;



- Building Industry Training and Education (“BITE”) – umbrella program for many of the following training programs that also solicits proposals from consultants to provide marketing and outreach in particular sectors, such as schools or park districts;
- Building Operator Certification (“BOC”) – nationally recognized competency-based training and education program for building operators, including special program targeted to Illinois veterans;
- Building Energy Codes Education and Technical Assistance – education and training program for code officials, contractors, engineers, architects and other building professionals on most current Illinois Energy Conservation Code designed to increase compliance with the code;
- Lights for Learning – education and fundraising opportunity for k-12 schools and youth organizations, promoting sale of CFLs, LEDs, and other energy efficiency products;
- Illinois Home Performance – based on national Home Performance with ENERGY STAR® program, the program is a partnership between DCEO and the utilities to connect homeowners with qualified contractors and energy auditors to assess home energy performance make energy improvements, and certify performance; and
- Trade Ally Program – program to educate and communicate with the more than 300 trade allies of DCEO to increase understanding of and participation in DCEO Illinois Energy Now programs.

In addition to these programs, all of which are active programs under DCEO’s current Energy Efficiency Portfolio, DCEO is proposing an Illinois Codes Collaborative in conjunction with the Illinois utilities. DCEO and the utilities have formed a Codes Collaborative working group with assistance from the MEEA to facilitate the development of a statewide program to increase compliance with the Illinois Energy Conservation Code beyond the education and technical assistance currently provided by DCEO. The purpose has been to design and implement more aggressive programs for codes compliance, such as a Third Party Inspectors Program. DCEO Ex. 4.0, DCEO Ex. 8.0.

This collaboration is important for several reasons: builders and inspectors work across utility boundaries, the statewide energy code should be interpreted with consistency, program elements should be consistent across the state, and finally codes compliance is a statewide concern. In EEPS PY4/1, DCEO began to explore how to claim savings for energy savings attributable to the codes training funded from EEPS. The utilities and DCEO have worked together for over a year to take this further, agreeing on the input/output numbers, estimated savings and program costs, an allocation system and statewide TRC calculations.

Illinois is on the cutting edge when it comes to its code programs, and DCEO acknowledges that measuring and claiming savings will be an evolving and complicated process. The Codes Collaborative will continue to meet to hash out these issues and will continue to consult with the SAG as the initiative progresses. DCEO Ex. 8.0 at 13, 14.

Just as under its previous three-year plans, DCEO is proposing to spend up to 10 percent of its budget for Market Transformation programs. The only exception is that, depending on the nature of the Codes Collaborative initiative, the programs could in part be funded from the research and development budget.

In Plan 2 DCEO also proposed identifying and claiming savings from two of the programs: the SEDAC and Building Operator Certification. DCEO further proposed developing methods for identifying savings from residential and commercial buildings due to improvements in compliance with building energy codes attributable to the codes education and technical assistance. The Commission approved those plans. DCEO is proposing to claim savings from SEDAC, BOC, and Codes programs in Plan 3. Only direct energy savings beyond those installed with incentives from DCEO or utility programs would be claimed to ensure no double counting.

## **2. AG**

AG witness Mosenthal's initial analysis of DCEO's proposed SEDAC program raised a concern that any customer that follows through with actual implementation of the recommended measures could also collect financial incentives through the Standard, Custom, Aggregation or New Construction public sector programs. Because these customers would, by definition, be working with DCEO on a project and receiving these customized technical assistance services, there could be a risk that a particular customer's savings could be double counted. As noted above, the rebuttal testimony of DCEO has alleviated these concerns. DCEO Ex. 8.0 at 13. Nonetheless, the AG urges the Commission to enter an order directing DCEO to include the SEDAC program in its Custom program and encourage DCEO to continue seeking the input of the SAG in development of this program.

Similar to SEDAC, the AG notes that the Energy Performance Contracting program is a program that seeks to assist public sector customers in using performance contracting to do efficiency projects. Under the plan as designed, DCEO would provide various services to assist these customers in understanding, setting up and navigating these sometimes complex contracts. Although the AG initially raised concerns about double counting of savings, DCEO's rebuttal testimony included assurances that DCEO's consulting groups have taken measures to avoid double counting. DCEO Ex. 8.0 at 13. Nonetheless, the AG notes that maintaining this program as a standalone program risks creating market confusion and may create more of an administrative burden. The AG, therefore, urges the Commission to instruct DCEO to include EPC in its Custom program in a revised Plan, filed pursuant to Section 8-103(f) and 8-104(f) of the Act.

The AG notes that DCEO proposes a codes compliance initiative under its market transformation programs that would encourage better building efficiency code compliance by offering training, development of an infrastructure of building inspectors, and offering to fund building inspection costs. DCEO Ex. 1.1 at 24. The AG acknowledges that this approach may be worthwhile as a market transformation effort in Illinois in order to develop the workforce, expertise and resources for effective code enforcement and compliance. However, as originally filed, the plan was unclear as to how DCEO intends to estimate and claim savings for this initiative. On rebuttal

testimony, however, DCEO provided explanations of the methodology for calculating and quantifying residential and commercial energy savings. DCEO Exs. 6.1; 6.2. DCEO's proffered explanation represents sufficient progress for the People on the issue of calculation.

### **3. Commission Analysis and Conclusion**

The Commission accepts DCEO's proposed Market Transformation programs. The Commission approves spending up to 10 percent of its budget on these programs and additional funds from the three percent set aside for breakthrough equipment and programs, if necessary, to implement programs in conjunction with the utilities under the Illinois Codes Collaborative. Finally, the Commission approves DCEO claiming savings from its Market Transformation programs, provided that the evaluations are conducted to preclude double counting of savings.

Also, the Commission agrees with DCEO and rejects the AG's recommendation to incorporate the SEDAC and Energy Performance Contracting programs into its Custom program. The Commission notes with approval the track record of the SEDAC and EPC programs as evidence that they are legitimately standalone programs.

Finally, the Commission agrees with the AG that DCEO should work with SAG to improve these programs and resolve any issues that remain.

#### **G. Low Income Programs**

##### **1. DCEO**

The Energy Efficiency Portfolio statute requires that the utilities, in cooperation with DCEO, offer a portfolio of energy efficiency program to low income households with incomes at or below 80% of area median income, proportionate to the share of utility revenues in Illinois accounted for by households at or below 150% of the federal poverty level. Section 8-103(f)(4) and 8-104(f)(4). As in its first two three-year plans, DCEO has proposed to fulfill this mandate on behalf of the Utilities.

DCEO is proposing a similar set of Low Income programs as approved by the Commission under Plan 1 and Plan 2. The only change is that DCEO is raising the status of "Energy Savers," a project that retrofits multi-family housing, which had previously been funded under the Residential Retrofit program, so that it is now a standalone program. The programs include:

- Energy Efficient Affordable Housing Construction Program – provides grants to affordable housing developers to help cover the incremental costs of meeting energy efficiency standards beyond current building code requirements in new construction and gut rehab of low-income housing units;
- Residential Retrofit Program – provides grants to existing housing rehab programs and the state's Illinois Home Weatherization Assistance Program to retrofit existing low income housing with energy efficiency measures;
- Energy Savers Multi-family Program – designed as a "one-stop shop" for comprehensive energy efficiency services in existing low-income multi-family housing, works with building owners and managers to provide energy audits, financial guidance, construction oversight, and monitoring; and

- Efficiency Living Public Housing Program – assists the 99 public housing authorities (PHAs) across Illinois to identify energy efficiency opportunities in PHA buildings and provides incentives for efficiency measures.

While the Illinois statute (220 ILCS 5/103 and 5/104) exempts the low-income programs from the TRC test, DCEO has endeavored to design low income programs that are cost effective. The energy modeling used in development of the plan estimates an overall TRC for the low income programs of 0.97. The programs take a comprehensive, “building system” approach to energy efficiency in low income housing. They are designed to achieve the maximum amount of energy efficiency in the housing units served within the fiscal constraints of the programs. DCEO Ex. 3.0. For example, the programs have an important societal benefit that is not captured by a TRC analysis: they help reduce or eliminate the need for energy assistance for some households and, therefore, free up funds to serve additional households. DCEO Ex. 8.0.

## **2. Staff**

In the past, the Commission found that aspects of DCEO’s Plans that resulted in reduced overall energy efficiency savings (e.g., incenting relatively few 95% AFUE furnaces instead of relatively more 92% AFUE furnaces) were in compliance with the Illinois energy efficiency statute. Commonwealth Edison Co., Order Docket 10-0570, 67 (December 21, 2010). Nevertheless, circumstances under which this determination was made have materially changed. During the Plan 3 period it is no longer the case that the unrestricted energy efficiency savings goals of the statute can be met. Because spending caps are now binding constraints on management of EE Plans, choices that reduce overall energy savings, holding spending constant, necessarily cause Illinois to miss statutory spending goals by a larger margin. Taking actions that reduce overall energy savings was not necessarily inconsistent with the statute when such actions did not prevent statutory savings goals from being met. The Commission should find, however, that taking such actions when statutory savings are not being met, particularly when such actions do nothing to further any other of the statutory energy efficiency goals, does not comply with the statute.

The objective of DCEO’s low income programs is to put the most energy efficient equipment possible into each residence where renovations occur. DCEO Ex. 3.0, 8. The rationale for doing so is that there is usually only one opportunity to complete these projects and that getting as much savings as possible from each project serves the interests of ratepayers and taxpayers by decreasing the funds paid to low income customers through the Illinois Home Weatherization Assistance Program, through the Low Income Home Energy Assistance Program, or through federal grants to PHAs through the U.S. Department of Public Housing and Urban Development. *Id.* at 7. Since there is only one opportunity, DCEO also believes that the goal of reducing the payments to these customers through the various state and federal funding sources mentioned above justifies inclusion of cost-ineffective measures at the time these renovations take place. *Id.*

Dr. Brightwell refers to this as a “good of the few approach” because the logic behind the approach ignores that there are often costs of increasing the efficiency level of measures that are extremely disproportionate to the costs of the increased savings

that result. Staff Ex. 2.0, 15. As such, maximizing the savings achievable by any one facility ignores all the lost savings that are possible in other facilities if the money is instead distributed to increase the number of facilities in which projects occur. *Id.* That is, the programs are designed to benefit fewer customers and result in lower total energy savings than if the programs were instead designed to provide lower savings per facility and increase the total number of facilities where savings take place. By designing the programs to benefit fewer low income customers, DCEO is not minimizing the total payments that ratepayers and taxpayers pay to assist low income customers.

The rationale to include cost-ineffective measures in these residences for purposes of lower payments made by taxpayers through the state and federal assistance programs is also based on faulty logic. The TRC Test used to measure cost effectiveness in Illinois includes as benefits the net present value of the gas and electric savings over the expected life of a measure and compares it to the cost to obtain these savings. *Id.* If a measure is not cost-effective, it means that costs of the equipment are greater than the value of the gas and electric that is saved over the measures lifetime. *Id.* That is, under DCEO's Plan, if it costs ratepayers and taxpayers \$100 to install a piece of equipment that saves gas and electric valued at \$90, then it is justified to do so because the taxpayers and ratepayers avoid paying \$90 in LIHEAP and IHWAP payments. It glosses over the fact that these taxpayers and ratepayers just paid \$100 so they could avoid paying \$90.

For the reasons provided above and further explained Dr. Brightwell's testimony, Staff argues that the Commission should direct DCEO to increase the cost-effectiveness and energy savings of its low income programs by determining when less than top-of-the-line energy efficiency measures provide greater overall energy savings.

### **3. CUB**

In his direct testimony, Staff witness Brightwell notes that DCEO is installing not only energy efficient furnaces but what might be considered top of the line energy efficient furnaces. Staff Ex. 2.0 at 19. Dr. Brightwell recommends that DCEO install less efficient measures if that would enable DCEO to reach more customers. *Id.* Under this approach, DCEO would prioritize the installation of energy efficient but not necessarily top of-the-line energy efficient equipment "when the additional costs of top-of-the-line equipment increase disproportionately with increases in energy savings." *Id.* Under Staff's approach, DCEO would be able to install more energy efficient products, which will allow more low-income customers to be able to realize benefits from the program.

DCEO believes it may be "unclear" what changes the Department should make to reach more customers. DCEO Ex. 3.0 at 8-10. CUB appreciates DCEO's concerns, but believes this issue is worth investigating. The Commission should support Staff's proposal for DCEO to seek to lower per customer savings in order to increase the number of customers that are served for those specific measures or programs in which the costs disproportionately increase with the gained savings. The Commission should also order DCEO to work with the SAG to discuss how best to implement this proposal.

In addition, CUB notes that the Percentage of Income Payment Plan ("PIPP") is a component of the Low Income Home Energy Assistance Program ("LIHEAP") that caps the amount low-income customers pay on their utility bills to 6% of their income,

provided their household energy consumption does not cause their utility bills to exceed the maximum benefit. CUB Ex. 2.0 at 11. Participation in the PIPP also requires that participants receive information about becoming more energy efficient, and receive a referral to participate in the Illinois Home Weatherization Assistance Program (“IHWAP”). Id.

Participation in the PIPP is a better option for low-income customers in need of energy bill payment assistance than traditional LIHEAP payments because the amount customers pay is capped at 6%, those customers are connected with energy efficient upgrades, and those customers typically, if not always, receive a greater amount of assistance through PIPP than traditional LIHEAP grants. Id. All customers should have access to information about the existence of the program so that they may participate in the current or future years as needed. Co-promotion of energy efficiency programs and PIPP should eventually lead to decreased PIPP program costs and increased program accessibility.

DCEO administers both the low-income energy efficiency programs and the PIPP program. CUB recommends that DCEO coordinate with their colleagues who administer the LIHEAP and PIPP programs to design a simple strategy for customers who participate in DCEO’s low-income energy efficiency programs to learn about the PIPP program. That outreach could be as simple as a contractor mentioning and leaving a brochure about the program. CUB Ex. 2.0 at 12. DCEO stated in rebuttal testimony that the agency will discuss CUB’s recommendation with the managers of the LIHEAP program to see how the PIPP program could be promoted through DCEO’s low-income programs. DCEO Ex. 3.0 at 10. CUB recommends that the Commission adopt CUB’s proposal for DCEO programs to promote the PIPP.

#### **4. NRDC**

NRDC takes issue with Staff witness Brightwell’s criticism in testimony that it is not sound policy for DCEO to include low-income measures that do not pass the TRC test but that would be required to pass the screen for non-low income households. Staff Ex. 2.0 at 16. NRDC explains that the statutes do not require low-income programs to pass the TRC because the TRC simply does not capture all of the non-energy benefits these programs provide for low-income customers, including an increased ability to pay rent, reduced arrearages, increased health, improved comfort, and less stress. NRDC states that it is these non-energy benefits that make the implementation of measures appropriate even if they would not pass the screen for non-low income households.

#### **5. Commission Analysis and Conclusion**

The Commission approves DCEO’s proposed portfolio of low income energy efficiency programs, with an understanding that DCEO will work with its colleagues who administer the Low Income Home Energy Assistance Program, including the Percent of Income Payment Program option, to determine an outreach strategy for PIPP that makes administrative sense given the funding levels and program structure.

In addition, the Commission, while not ordering any changes, directs DCEO to work with SAG and explore whether more customers can be served under the low income program. The Commission finds that although the TRC test need not be met for

low income programs, Staff raises a valid argument that ratepayer funds could be utilized more effectively. Specifically the Commission recommends that DCEO evaluate Staff and CUB's suggestion to install less than top-of-the-line energy efficient furnaces when the corresponding energy savings do not warrant doing so. Actions such as this will decrease the cost per customer of DCEO's programs and allow it to reach more low-income households. It is important to the Commission that DCEO have the flexibility to implement efficiency programs in communities where they are much needed, but that those programs are continually improved upon to be as effective as possible at allowing as many members of those communities to benefit from the programs as is achievable.

## **H. DCEO's Natural Gas Self Direct Program**

### **1. DCEO**

Section 8-104 requires large gas customers who want to participate in the self-direct program (rather than pay into and participate in the gas utility programs) to apply to DCEO's Natural Gas Self Direct Program.

DCEO is required to review and approve applications. DCEO verifies compliance with the self-directing customer requirements through a review of the annual reports submitted by the approved Self Direct Program customers. Pursuant to 220 ILCS 5/8-104(m)(3), DCEO has the right to audit the information provided in the application and annual reports to ensure continued compliance. If DCEO determines that the customer is no longer in compliance, DCEO will follow the procedures for noncompliance outlined in this section of the statute.

DCEO has followed the statute closely in establishing application, customer approval guidelines and in the review of the annual reports submitted by the self direct customers. However, the legislation did not provide guidelines for project documentation or funding for DCEO to conduct site visits to verify completed projects and reported energy savings. DCEO is willing to use EEPS dollars for these activities if the Commission authorizes such use of EEPS dollars with an associated energy savings related to the expenditure of the DCEO funds.

DCEO's interpretation of the statute is that it does have the right to audit the activity of the Self-Direct Customer's energy efficiency projects. However, the term "audit" is not defined clearly in the statute. DCEO requests Commission clarification on this matter to create a clear guideline for project verification or evaluation. DCEO is currently working to create a more defined project verification structure for its Natural Gas Self Direct Program and would like to implement this with the support of the SAG and the Commission. DCEO is willing to use EEPS dollars for these activities if the Commission authorizes such use of EEPS dollars with an associated energy savings related to the expenditure of the DCEO funds.

### **2. AG**

While Section 8-104 does not provide or require any specific criteria in terms of measurement and verification, nothing in this Section of the Act precludes DCEO from establishing and implementing more rigorous procedures. The legislation clearly permits DCEO to "audit" the self-direct customer applications on the gas side. 220 ILCS 5/8-104(m)(3). The Commission, therefore, should order DCEO to increase the scrutiny

over the spending and savings in this program and ensure these funds are being spent wisely.

### **3. ELPC**

The Act allows certain large natural gas customers to apply to the Department to be designated as self-directing customers (“SDCs”) that may fund and implement “energy efficiency measures of the customer’s choosing” rather than pay into and participate in the gas utility programs. See 220 ILCS 5/8-104(m). The Act requires DCEO to develop the appropriate application forms for SDCs, review the applications to determine that they contain the information required by statute, and review annual reports that are filed by SDCs to document compliance with the statute. Importantly, the Act provides DCEO with the “right to audit the information provided in the customer’s application and annual reports to ensure continued compliance with the requirements of this subsection.” 220 ILCS 5/8-104(m)(3).

A total of 37 large gas users have been approved as self-directing customers to date and two additional customers have been approved as Exempt Customers under the statute, representing a total energy load exempted from the Natural Gas Efficiency Portfolio of 914 million therms (almost 12% of annual natural gas usage). DCEO Plan at 7. As ELPC witness Crandall explains, the annual savings claimed by self-directed customers in their first year are significantly greater than the gas savings DCEO expects to generate with its entire portfolio in the first year. See ELPC Ex. 1.0 at 7.

Given the magnitude and importance of savings claimed by SDCs as compared to the overall level of savings in DCEO’s natural gas portfolio, the Commission’s final order in this case should direct DCEO to more effectively carry out its oversight and audit responsibilities under the statute and make clear that DCEO can use EEPS dollars for these purposes. The Commission should also consider directing DCEO, the SAG and utilities to develop specific natural gas self-direct program guidelines and recommendations to be submitted to the Commission within six months of the Order in this proceeding, as recommended in the testimony of ELPC witness Crandall. See ELPC Ex. 1.0 at 8.

ELPC, NRDC, and the AG have all urged the Commission to require DCEO to more effectively audit and verify the claimed natural gas savings by self-direct customers to ensure that these claimed savings are real and the proposed programs are effective. See ELPC Initial Br. at 7-9; AG Initial Br. at 49; NRDC Initial Br. at 22-27. Notably, DCEO no longer appears to be arguing that it lacks the legal authority to effectively audit these programs and indicates that it is “willing to use EEPS dollars” to expand its project verification process for natural gas self-direct customers as recommended by the intervenors. DCEO Initial Brief at 31. As several parties pointed out, DCEO clearly has the statutory authority and responsibility to audit these programs to ensure that the projected savings actually occur. See ELPC Initial Br. at 7-9; AG Initial Br. at 49; NRDC Initial Br. at 22-27. In order to eliminate any uncertainty, the Commission should order DCEO to more effectively audit and verify savings from natural gas self-direct customers and make clear the Department is authorized to use EEPS funds for that purpose.



#### **4. NRDC**

NRDC supports the use of 1-2 percent of DCEO's EEPS gas budget to be used for verification activities and urges the Commission to direct DCEO to use such funds and to develop (with stakeholders) and carry out a sufficiently robust verification process that includes: (1) assessing whether the measures claimed to have been installed were, in fact, installed; (2) assessing whether the measures can reasonably be expected to save energy, which should include an assessment of what the baseline conditions for installed efficiency measures were; and (3) assess whether the funds withdrawn from the reserve account are appropriate for the measures installed. NRDC Ex. 1.0 at 18-19.

#### **5. Commission Analysis and Conclusion**

The Commission sees that, pursuant to the Act, the Department has the right to audit the information provided in the customer's application and annual reports to ensure continued compliance with the requirements of this subsection. 220 ILCS 5/8-104(m)(3). The annual report contains, among other things, the account balances, the energy efficiency measures undertaken and an estimate of the energy saved by the measure. 220 ILCS 5/8-104(m)(1)(E). There is no question that DCEO should be auditing whether the measures were installed and the energy saved. There is nothing in the statute that would prohibit the use of energy efficiency funds to perform the required audit. In order to eliminate any uncertainty, the Commission orders DCEO to more effectively audit and verify savings from natural gas self-direct customers and the Department is authorized to use EEPS funds for that purpose. The Commission further orders DCEO to report the verified savings to the Commission and the Stakeholder Advisory Group on an annual basis. In its BOE, DCEO reiterates its request to count the savings from the natural gas self-direct program towards its goal. The Commission declines however to grant this request because the statutory language is clear that these customers are to be excluded for purposes of calculating savings and spending goals. The purpose of the audit is to determine if these customers should be removed from the self-direct program and their funds put back into the general energy efficiency pool.

##### **I. Electric Self Direct**

##### **1. DCEO**

Given the vague project verification processes in the existing Natural Gas Self Direct statute, DCEO believes its priority in this docket is to clarify the project verification aspect for the existing Natural Gas Self Direct Program before it begins contemplating an electric self direct pilot program.

##### **2. AG**

The AG notes that REACT witness Fults argues that large commercial and industrial customers have significant barriers to working within the existing Illinois programs. REACT Ex. 1.0 at 8-11. He claims these programs are not well suited to participation by large customers and therefore proposes a self-direct program that would allow these large users greater flexibility in making efficiency improvements and retaining control over their own contributions toward efficiency. Id. at 11-14.

While the AG is sympathetic to the concerns expressed by Mr. Fults, and believes that some kind of pilot large customer program can and should be developed to address these perceived problems, the AG urges the Commission to reject the REACT Self-Direct program described in Mr. Fults' testimony. It should be noted that the AG is encouraged that Mr. Fults claims that "the members of REACT are committed to energy efficiency, and are not looking to avoid supporting this [Section 8-103 and 8-104 programs] effort." However, the proposal to create a self-direct program, as proposed in testimony, is unnecessary and will likely result in lower overall energy savings and net benefits to all ratepayers.

AG witness Mosenthal identified reasons why self-direct programs that allow customers to retain control of their efficiency funds and use them to cover 100% of the costs of "efficiency" projects often results in three undesirable outcomes:

1. Failure to leverage private investment. Permitting large C&I customers to opt out of the Section 8-103 and 8-104 programs means the efficiency program funds do not leverage additional private party investment in cost-effective efficiency. As a result, the Section 8-103 ratepayer funds are more limited in their overall impact. This is especially disappointing since the largest customers have the greatest access to capital to supplement the program funds.
2. Inadequate measurement and verification of energy savings. Many self-direct programs, including the Illinois gas self-direct program, do not have appropriate levels of measurement and verification to ensure that funds are used on appropriate and cost-effective efficiency. As a result, often a substantial portion of these funds are either used to fund free-ridership (e.g., customers simply accounting for the funds by allocating to things they were already doing), pay for non-cost-effective measures, or pay for business-as-usual plant investments that do not really improve efficiency over a standard practice new baseline efficiency (e.g., customers replace older equipment with standard new equipment and claim savings compared to the very old and less efficient equipment which would have been replaced anyway).
3. Creates inequitable cross-subsidies. Self-direct programs allow the heaviest users of energy to completely avoid contributing to overall ratepayer efficiency efforts, effectively requiring heavier cross-subsidies of the efficiency programs from the remaining customers, who both bear less responsibility for energy use and have less ability to participate in programs. Moreover, the largest users are responsible for a significant amount of the supply pressure that tends to drive up market prices and require expensive generation, transmission or distribution system upgrades. While they should not be sharing an inordinate burden in contributing to the health of the overall utility systems, they already typically pay the lowest retail supply rates and Mr. Mosenthal testified that he sees no policy reason they should be completely exempt from contributing to these broader societal goods and shift the entire energy savings burden to only smaller, lower-use customers.

AG Ex. 2.0 at 12-13.

The AG urges the Commission to reject REACT's proposed self-direct program. Rather, the ICC should direct REACT to engage with the program administrators and SAG to address its concerns and work with these parties to modify programs in ways that best serve its constituents. In addition, the ICC should make clear that program administrators can and must work with all appropriate customers to commit to multi-year projects that span currently approved program or planning periods, particularly in light of the recent modification to Section 8-104(b) of the Act, which permits achievement of annual savings goals over a three-year period. The People have reason to believe that REACT is willing to engage in such discussions, given recent data requests directed to the People, and truly appreciate that kind of cooperation and interest in developing a collaborative approach with ComEd and interested stakeholders to address these customers' concerns.

### **3. ELPC**

ELPC opines that the Commission should reject REACT's proposed self-direct program and direct REACT to work with the program administrators and the SAG to explore opportunities to improve the effectiveness of current EEPS opportunities for all customers, including REACT's constituents.

### **4. NRDC**

NRDC notes that REACT and other parties have raised the issue of creating a large customer electric self-direct pilot program and urges the Commission to direct interested parties to work together to propose a statewide pilot electric self-direct program over the coming months.

### **5. REACT**

REACT originally advocated for a Self-Direct Pilot Program. REACT advises the Commission that pursuant to a settlement recently reached with ComEd, REACT now supports a modified version of the ComEd Large C&I Pilot program, with details to be developed in a collaborative process following the conclusion of that proceeding. See Docket 13-0495, ComEd/REACT Joint Exs. 1 and 2. Accordingly, to the extent that the Commission approves the ComEd modified Large C&I Pilot program in Docket 13-0495, that program also should be made available to the largest energy users that fall under the DCEO portfolio.

### **6. Commission Analysis and Conclusion**

The Commission does not find it appropriate for DCEO to institute an electric self direct pilot program. The Commission notes that while DCEO has statutory authority to implement the gas self direct program, no similar provision exists for an electric self direct program.

ComEd has proposed a pilot for large electric customers in Docket 13-0495. The specifics of that pilot are addressed in that docket.

REACT, in its BOE, says, "[c]ertainly nothing in the statute precludes the Commission from directing DCEO to extend the benefits of any pilot program offered to the largest customers as part of the ComEd Energy Efficiency Plan to the largest customers that may fall under the DCEO portfolio." REACT BOE at 7. The

Commission does not understand if REACT is proposing that DCEO institute a pilot that mirrors ComEd's pilot or if REACT is proposing that large public sector customers now fall under ComEd's energy efficiency plan and not DCEO's plan. REACT's proposal is unclear and, hence, cannot be ordered.

## **J. Definition of Breakthrough Equipment and Devices**

### **1. DCEO**

DCEO agrees with Staff's proposed definition of "breakthrough equipment and devices". DCEO will identify in its compliance filing containing its modified savings goals a list of potential measures and programs which meet the definition that it could support through its portfolio.

### **2. NRDC**

NRDC urges the Commission to refrain from adopting Staff's definition. NRDC expresses concern that the definition Staff offers could open the door to inappropriate, after-the-fact challenges to cost-recovery for measures and/or programs that, in hindsight only, fail cost-effectiveness screenings. This could have a chilling effect on DCEO's willingness to consider new efficiency measures and/or program concepts, to the detriment of ratepayers. NRDC requests that if the Commission determines that a definition is needed, the Commission hold workshops in advance of adopting a definition to allow for stakeholder input into the development of the definition.

### **3. Staff**

Staff conducted a review of the Department's plan pursuant to Sections 8-103(g) and 8-104(g), which require that no more than 3% of EE program revenue be allocated for "demonstration of breakthrough equipment and devices." Staff has found that it is difficult to determine whether EE plans are in accordance with this provision, as the phrase "breakthrough equipment and devices" is not defined in the Act, nor has it been previously defined by the Commission. In order to facilitate the review of plans with respect to this portion of the Act, Staff urges the Commission to adopt Staff's definition of "breakthrough equipment and devices" in this proceeding as "measures or programs in their early stage of development that are subject to substantial uncertainty about their cost-effectiveness during the planning period." Adoption of this definition will ensure that the measures and programs falling under this definition are not classified as part of a standard program for reconciliation purposes. Accordingly, this will help to streamline the reconciliation process. This will also help the Department to ensure that its future Plans are consistent with the 3% ceiling on such spending as required under the Act. Therefore, Staff recommends that the Commission adopt its recommendation to define "breakthrough equipment and devices" as set forth above.

### **4. Commission Analysis and Conclusion**

Although DCEO accepts Staff's definition and has agreed to make a compliance filing to show which technologies meet Staff's definition, ComEd has proposed an alternate definition in Docket 13-0495 and, in Docket 13-0498, Ameren has proposed further discussion concerning Staff's definition through a workshop process before adoption. The Commission believes a consistent definition should be adopted across

the state and because the utilities are not represented in this proceeding, the Commission declines to adopt Staff's definition at this time. A statewide definition for "breakthrough equipment and devices" should be addressed at the SAG and it can be presented to the Commission for approval. The Commission directs DCEO 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 3.

## **K. Economically Efficient Potential**

### **1. DCEO**

DCEO believes that the Commission should not accept Staff's recommendation to direct DCEO to include "economically efficient potential" in its next Energy Efficiency Potential Study. DCEO's current study has utilized USEPA's definitions for conducting an economic potential study. DCEO believes this resulted in a reasonable estimation of the economic potential for energy efficiency in the public and low income sector in Illinois, aligned with the highest current industry standards. DCEO does not intend to revise the Energy Efficiency Potential Study at this time. DCEO will consider adding this additional analysis to its next Energy Efficiency Potential Study and is willing to discuss this with SAG, but does not believe the Commission should order DCEO to do so.

### **2. Staff**

Section 8-103A of the Act requires that, beginning in 2013, electric energy efficiency and demand-response plans include an analysis of additional cost-effective energy efficiency measures that could be implemented, by customer class, absent the limitations set forth in subsection (d) of Section 8-103. 220 ILCS 5/8-103A. The Department included a Potential Study based upon "economic potential."

Staff proposes that the Department's future feasibility studies include an analysis of economically efficient potential. Dr. Brightwell explained how to conduct an analysis of economically efficient potential and provided an example based on a comparison of 92% and 95% AFUE furnaces to make the case for greater possible energy savings in DCEO's low income programs. Staff Ex. 2.0 at 21-22. Given the significant benefits of this analysis to ratepayers and the fact that the Department does not take a position on including this analysis in future potential studies, Staff recommends that the Commission direct DCEO to include economically efficient potential in its next Potential Study. Further, the Commission should direct DCEO to identify measures which meet the definition in its compliance filing containing its modified savings goals.

### **3. Commission Analysis and Conclusion**

DCEO has agreed to consider including an analysis of economically efficient potential in its next Potential Study, filed pursuant to Section 8-103A. DCEO has indicated it is willing to discuss this with SAG, but does not believe the Commission should order it to perform such an analysis at this time. The Commission agrees with DCEO and its suggestion is adopted.

## **L. IPA Procurement**

### **1. DCEO**

DCEO believes that the Commission should make decisions regarding DCEO's role in the IPA proceeding in Docket 13-0546, rather than in this case.

### **2. AG**

The AG contends that DCEO's Plan does not include any leveraging of programs under Sections 8-103 and 8-104 of the Act with additional resources offered through the Illinois Power Authority ("IPA") Procurement process, provided for under Section 16-111.5B of the Act. 220 ILCS 5/16-111.5B.

DCEO submitted a proposal for program expansions to the IPA for funding and implementation under 16-111.5B. Unfortunately, the IPA's interpretation of Section 16-111.5B is that only Utilities can present proposals for additional energy efficiency programs to the IPA, and that if DCEO wants to participate, it must do so through the Utility RFP process outlined in that section of the PUA. Docket 13-0546, IPA Procurement Plan at 84.

DCEO's Initial Brief requests that the Commission not take any action related to the IPA procurement in this docket, noting that the issue is being addressed in that 13-0546 docket. DCEO IB at 25. That recommendation is acceptable, assuming some action is taken in that docket. Either way, unless and until the Commission addresses this problem, low income electric customers will continue to be short-changed in the delivery of energy efficiency programs.

### **3. Commission Analysis and Conclusion**

This issue is addressed in Docket 13-0546. It is not necessary or appropriate to address it here.

## **IV. Findings and Ordering Paragraphs**

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

- (1) the Illinois Department of Commerce and Economic Opportunity is a state agency that is statutorily obligated, pursuant to 220 ILCS 5/8-103(e) and 220 ILCS 5/8-104(e) to utilize 25% of a utility's electric and natural gas funding for energy efficiency;
- (2) the Commission has subject matter jurisdiction over this proceeding;
- (3) the statements of fact set forth in the prefatory portion of this Order are supported by the evidence and the record and are hereby adopted as findings of fact;
- (4) DCEO should be directed to request Commission approval to adjust its goals if it proposes to move more than 20% of the funds in one of its portfolios (public sector, market transformation or low income) to another;

- (5) DCEO should be directed to use energy efficiency funds to audit the natural gas self direct program, DCEO should be directed to report the verified savings to the Commission and the Stakeholder Advisory Group on an annual basis;
- (6) DCEO should be directed to resubmit its Plan, pursuant to Section 8-103(f) and 8-104(f), to remove the reduced realization rates proposed in its Plan for both public sector and low income programs, which have the effect of lowering proposed savings goals unnecessarily;
- (7) DCEO should be directed to incorporate the same NTG evaluation principles that apply to all utility efficiency programs for its public sector offerings, and thereby retain the calculation of net energy savings.
- (8) the testimony and exhibits admitted into the record provide substantial evidence that the Energy Efficiency Plan filed by the DCEO will meet the filing requirements of Section 8-103(f) and Section 8-104(f) of the Public Utilities Act, if DCEO submits a revised Plan 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;
- (9) DCEO should make a filing within 30 days of the date of this Order providing a revised Energy Efficiency and Demand Response Plan pursuant to Section 8-103 and 8-104 of the Public Utilities Act, which revised plan contains terms and provisions consistent with and reflective of the findings and determinations made in this Order.

IT IS THEREFORE ORDERED by the Commission that the Petition filed by the Department of Commerce and Economic Opportunity requesting approval of its Energy Efficiency and Demand Response Plan is hereby conditionally approved, subject to the Department of Commerce and Economic Opportunity filing a compliance filing that incorporates the findings and conclusions herein and is consistent with the conclusions contained herein.

IT IS FURTHER ORDERED that the Department of Commerce and Economic Opportunity is hereby authorized to and directed to make a filing within 30 days of the date of this Order, such filing shall be a revised Energy Efficiency and Demand Response Plan pursuant to Section 8-103 and 8-104 of the Public Utilities Act containing terms and provisions consistent with, and reflective of, the findings and determinations made in this Order.

IT IS FURTHER ORDERED that all motions, petitions, objections and other matters in this proceeding that remain unresolved are hereby disposed of in a manner consistent with the conclusions herein.

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

By Order of the Commission this 28<sup>th</sup> day of January, 2014.

(SIGNED) DOUGLAS P. SCOTT

Chairman