

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

The People of the State of Illinois,	)	
<i>ex rel.</i> Lisa Madigan, Attorney General of the State of Illinois	)	
	)	
Petition to Approve an Illinois Energy Efficiency	)	15-XXXX
Policy Manual	)	

**VERIFIED PETITION FOR APPROVAL OF AN ILLINOIS ENERGY EFFICIENCY POLICY MANUAL**

The People of the State of Illinois, *ex rel.* Lisa Madigan, Attorney General of the State of Illinois (“People” or “AG”), pursuant to Section 10-101 of the Illinois Public Utilities Act (“Act”), hereby petition the Illinois Commerce Commission (“Commission”) for the approval of an Illinois Energy Efficiency Policy Manual (“Policy Manual”), which provides guiding principles for procurement, oversight, evaluation and operation of the electric and gas energy efficiency programs authorized under Sections 8-103 and 8-104 of the Act, and Section 16-111.5B of the Act, as applicable. As discussed below, the Policy Manual, developed over the course of a year through the collaboration and work of the Illinois energy efficiency Stakeholder Advisory Group (“SAG”) Policy Manual Subcommittee, including representatives of the Illinois Attorney General’s office, gas and electric utilities, the Illinois Department of Commerce and Economic Opportunity (“~~Department~~DCEO”), consumer and environmental stakeholders, the Commission Staff, independent evaluators, and an independent facilitation team, would be updated and revised as needed on an annual basis. A copy of the Policy Manual is attached as Exhibit A.

In support of this request, the People state the following:

1. Pursuant to Section 8-103 of the Act, electric utilities are required to design, oversee and implement energy efficiency measures and programs and demand response measures to

reduce delivery load. 220 ILCS 5/8-103. Similarly, natural gas utilities are required under Section 8-104 of the Act to design, oversee and implement energy efficiency measures and programs with a primary purpose of reducing total energy deliveries and reducing costs of utility service to consumers. 220 ILCS 5/8-104. Under both of these provisions of the Act, the Department DCEO is charged by the Illinois General Assembly to design and oversee energy efficiency measures and programs for public sector and low income residential customers. 220 ILCS 5/8-103(e); 220 ILCS 5/8-104(e). Electric and gas utilities, as modified by Section 8-104(m), collect revenues from all retail customers to recover all reasonable and prudent costs incurred for the operation and delivery of these programs through automatic adjustment clause tariffs filed with and approved by the Commission. 220 ILCS 5/8-103(e); 220 ILCS 5/8-104(e).

2. Section 16-111.5B of the Act requires, among other things, the Illinois Power Agency's annual procurement plan prepared under Section 16-111.5 of the Act to include "an assessment of opportunities to expand the programs promoting energy efficiency measures that have been offered under plans approved pursuant to Section 8-103 of this Act or to implement additional cost-effective energy efficiency programs or measures." 220 ILCS 5/16-111.5B(a)(2). Each Illinois utility procuring power pursuant to Section 16-111.5 must annually provide to the Illinois Power Agency by July 15 of each year, an assessment of cost-effective energy efficiency programs or measures that could be included in the procurement plan." 220 ILCS 5/16-111.5B(a)(3). The Commission-approved annual procurement plans thus can include additional energy efficiency programs that are negotiated and overseen by the electric utilities. Expenses incurred by the utilities to deliver these additional programs are recovered through the same automatic adjustment clause tariff that authorizes the collection of revenues from electric retail customers for Section 8-103 programs. 220 ILCS 5/16-111.5B(a)(6).

3. The Act sets forth numerous provisions related to the delivery of energy efficiency programs. Among other things, electric and gas utilities are required under Sections 8-103(f) and 8-104(f) of the Act to file plans every three years with the Commission to meet the energy savings reduction goals outlined in subsection (b) of Section 8-103 and subsection (c) of Section 8-104, as modified by the program spending cost limits listed in subsection (d) of Sections 8-103 and 8-104 of the Act and Commission order. 220 ILCS 5/8-103(b), (d); 220 ILCS 5/8-104(c), (d). Electric and gas utilities are required to meet the annual incremental savings goals in the applicable year or by demonstrating that the total cumulative annual savings within a three-year planning period was equal to the sum of each annual incremental savings requirement. 220 ILCS 5/8-103(b); 220 ILCS 5/8-104(c). Annual Commission reviews of the reasonableness and prudence of the expenses incurred in delivering the energy efficiency programs, along with a reconciliation of the expenses incurred and revenues collected for the programs is required under Sections 8-103(e) and 8-104(e) of the Act. 220 ILCS 5/8-103(e); 220 ILCS 5/8-104(e).

4. The Commission first established a SAG in final orders approving the Commonwealth Edison Company (“ComEd”) and Ameren Illinois Company (“Ameren Illinois”) first three-year energy efficiency plans. *See* ICC Docket No. 07-0539, Order of February 6, 2008 at 24; ICC Docket No. 07-0540, Order of February 6, 2008 at 32. The purpose of the SAG, as established by the Commission in these initial orders was “to review (the utilities’) progress towards achieving the required energy efficiency and demand response goals and to continue strengthening the portfolio.” *See* ICC Docket No. 07-0540, Order of February 6, 2008 at 32.

The Commission’s directives for the SAG included:

- Reviewing progress toward achieving the required energy efficiency and demand response goals and to continue strengthening the portfolio;
- Reviewing final program designs;

- Establishing agreed-upon performance metrics for measuring portfolio and program performance;
- Reviewing Plan progress against metrics and statutory goals;
- Reviewing program additions or discontinuations;
- Reviewing new proposed programs for the next program cycle; and
- Reviewing program budget shifts between programs where the change is more than 20%.

ICC Docket No. 07-0539, Order of February 6, 2008 at 24; ICC Docket No. 07-0540, Order of February 6, 2008 at 32.

5. The Commission expanded the role of the SAG to include gas utility participation in 2011. ICC Docket No. 10-0562, Order of May 24, 2011 at 43; ICC Docket No. 10-0564, Order of May 24, 2011 at 76. As the SAG has evolved over time, the Commission has directed the discussion of additional topics. In the orders approving the second three-year Section 8-103 and first three-year Section 8-104 plans, the Commission directed the utilities to discuss in the SAG, among other topics, the development of a statewide Technical Reference Manual, which was completed in 2013 and is updated each year.<sup>1</sup> SAG meetings and discussion are facilitated by an independent facilitation team.

6. ComEd, Ameren Illinois, [the Department DCEO](#), Northern Illinois Gas Company d/b/a Nicor Gas Company (“Nicor Gas”) and The Peoples Gas Light & Coke Company and North Shore Gas Company (“Peoples Gas/North Shore Gas”) filed their currently applicable three-year plans for Commission approval in the fall of 2013.<sup>2</sup> In each of these dockets, the AG submitted testimony that requested that the Commission direct the utilities and the [Department DCEO](#) to

<sup>1</sup> See, e.g., ICC Docket No. 10-0570, Order of December 21, 2010 at 59-60; ICC Docket No. 10-0564, Order of May 24, 2011 at 76; ICC Docket No. 10-0562, Order of May 24, 2011 at 30; and ICC Docket No. 10-0568, Order of December 21, 2010 at 69-70.

<sup>2</sup> See ICC Docket No. 13-0495 (ComEd), ICC Docket No. 13-0498 (Ameren Illinois), ICC Docket No. 13-0499 ([the Department DCEO](#)), ICC Docket No. 13-0549 (Nicor) and ICC Docket No. 13-0550 (Peoples Gas/North Shore Gas).

work with the SAG on the development of “an Illinois Energy Efficiency Policy Manual, designed to streamline and encourage consistency on various program-related policies for review and approval by the Commission.”<sup>3</sup> In each of the three-year plan Final Orders, the Commission approved the AG’s proposal, noting in the Ameren Illinois and ComEd three-year plan orders that the AG’s clarified proposal “is specific, addresses an inconsistency between utilities in Illinois that may warrant attention, and is reasonable.”<sup>4</sup> The Commission directed that each of the utilities and the Department DCEO work in the SAG to complete a Policy Manual “to ensure that programs across the state and as delivered by various program administrators can be meaningfully and consistently evaluated.”<sup>5</sup>

7. Consistent with that directive, the SAG created a Policy Manual Subcommittee that was open to all interested SAG participants. Regular participants included representatives from all five energy efficiency Program Administrators (Ameren, ComEd, Nicor Gas, Peoples Gas/North Shore Gas, and the Department DCEO), Commission Staff, independent evaluators, the AG’s Office, the Citizens Utility Board (“CUB”), and the Natural Resource Defense Council (“NRDC”). The industrial customer representative, the Illinois Industrial Energy Consumers (“IIEC”), also participated on an occasional basis. Participant backgrounds included Program Administrator leaders, attorneys, national and international energy efficiency consultants with experience in several jurisdictions with mature energy efficiency portfolios, and evaluation, measurement and verification (“EM&V”) experts. The Policy Manual Subcommittee held its first meeting on June 24, 2014. The group met frequently thereafter, often several times per

---

<sup>3</sup> See, e.g., ICC Docket No. 13-0495, Direct Testimony of Philip Mosenthal at 44-45.

<sup>4</sup> ICC Docket No. 13-0498, Order of January 28, 2014 at 129; ICC Docket No. 13-0495, Order of January 28, 2014 at 130; See also ICC Docket No. 13-0499, Order of January 28, 2014 at 23; ICC Docket No. 13-0550, Order of May 20, 2014 at 56; ICC Docket No. 13-0549, Order of May 20, 2014 at 57.

<sup>5</sup> *Id.*

month, through July of 2015. The discussions were facilitated by the SAG's independent facilitator.

8. The discussions related to the Policy Manual were held in the interest of working in good faith towards a compromise, consensus document. Various parties agreed to reach as much consensus on the Policy Manual as could be achieved, with the understanding that this balancing of interests was in the best interest of customers and the effectiveness of the energy efficiency programs. The attached verifications from the utilities, [the Department DCEO](#), and ratepayer and environmental stakeholders, attest to their participation in the Policy Manual process and their recommendation that the Policy Manual be approved as submitted.

9. The Policy Manual, attached as Exhibit A, provides guiding principles for procurement, oversight, evaluation and operation of the electric and gas energy efficiency programs authorized under Sections 8-103 and 8-104 of the Act, and Section 16-111.5B, as applicable. The principles and policies articulated in the Policy Manual were derived primarily from good faith discussions by the SAG participants designed to reach consensus, Commission orders, policies and procedures developed by the SAG, as well as best practices from state energy efficiency programs delivered throughout the nation. The definitions, description of roles and responsibilities, and all other content in the Policy Manual were also developed through a consensus decision-making process. The Program Administrators, including all utilities and [the Department DCEO](#), as well as stakeholders, including the People, NRDC, CUB, and the Environmental Law & Policy Center ("ELPC") support Commission approval of the Policy Manual. Verifications from representatives of each of these entities are attached to this Petition.

10. The goals of the Policy Manual, as stated therein, are to:

- Achieve consistent policies for utility ratepayer funded Energy Efficiency Programs;
- Reduce litigation before the Commission;
- Reduce Program Administrator risk for disallowance;
- Provide clarity and certainty for Program Administrators and other parties; and
- Create a policy framework that supports the delivery of cost-effective energy efficiency portfolios, consistent with the directives of Sections 8-103 and 8-104 of the Act, and pursuant to Section 16-111.5B of the Act.

*See Exhibit A, Section 2.2.*

11. The Policy Manual, among other content, includes chapters that address the roles and responsibilities of the SAG, Program Administrators and evaluators; goals of program and portfolio planning; budget allocation directives; cost category definitions; program administration and reporting requirements; evaluation policies; guidelines for when and how to measure cost-effectiveness; and EM&V work plan and reporting requirements. In addition to other important developments, the Policy Manual includes a provision for Program Administrators and SAG participants to work in a cooperative and iterative manner to develop the next three-year energy efficiency plan. Such cooperation includes discussion of foundational issues to plan development; including budgets, portfolio objectives, program ideas, and program design. As noted in the Policy Manual, a primary purpose of these cooperative and iterative discussions is to reduce the number of non-consensus issues and litigation associated with the applicable three-year plan dockets.

12. The proposed effective date of the Policy Manual is June 1, 2017 or the beginning of the next energy efficiency portfolio plans. The Policy Manual is intended to be a work in progress, with annual reviews and the development of additional detail and updates as needed.

To the extent the Policy Manual is modified annually, Commission approval will be sought by March 1<sup>st</sup> of each year.

13. As noted in the Policy Manual and paragraph 9 above, the utilities, the Department DCEO, and the aforementioned stakeholders present the Policy Manual for expedited Commission review in an effort to establish principles for procurement, oversight, evaluation and operation of energy efficiency programs in Illinois, and to minimize potential litigation in future proceedings, including three-year plan filings, energy savings and energy efficiency expense reconciliation dockets. Notwithstanding these goals, the parties recognize that the Commission retains the discretion to authorize deviations from the Policy Manual.

14. Given the fact that the next three year plan development process is underway, consistent with the Policy Manual<sup>6</sup>, The People, the Program Administrators and stakeholders identified in paragraph 9 of this Petition respectfully request that the Commission, after notice of this filing has been issued and a hearing held to determine next steps, approve the Policy Manual version 1.0 on an expedited basis within ninety (90) days of the date of this filing.

15. As shown in the attached Exhibit B, a spreadsheet entitled “Non-Consensus Issues”, the participants in the development of the Policy Manual were unable to reach consensus on certain issues addressed in the following five sections: (1) Section 1, Glossary; (2) Section 2, Overview and Guiding Principles; (3) Section 5, Cost Categories; (4) Section 6, Program Administration and Reporting; and (5) Section 8, Total Resource Cost Test. The People, the utilities, and the Department DCEO Program Administrators, CUB, NRDC and ELPC urge the Commission to make findings resolving only these five non-consensus issues, following the submission of comments or evidence by interested parties and Staff, and then, after resolution of

---

<sup>6</sup> Illinois Energy Efficiency Policy Manual Version 1.0, Section 3.7(iii) Draft Portfolio Outlines at 11.



those issues, approve the Manual, incorporating the resolution of those issues in the Final Order issued in this docket.

WHEREFORE, the People respectfully request that the Commission, on an expedited basis, resolve the five remaining non-consensus positions listed on Exhibit B, in accordance with the Majority Position described in that exhibit, and approve the Illinois Energy Efficiency Policy Manual, attached as Exhibit A to this Petition.

Respectfully submitted,

The People of the State of Illinois  
By Lisa Madigan, Attorney General

By: \_\_\_\_\_  
Karen L. Lusson  
Assistant Bureau Chief  
Public Utilities Bureau  
Illinois Attorney General's Office  
100 West Randolph Street, 11th Floor  
Chicago, Illinois 60601  
Telephone: (312) 814-1136  
E-mail: [klusson@atg.state.il.us](mailto:klusson@atg.state.il.us)

Dated: August 25, 2015