

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission :
On Its Own Motion :
vs. :
Ameren Illinois Company d/b/a Ameren :
Illinois, Commonwealth Edison Company, :
The Peoples Gas Light and Coke Company, : **13-0077**
North Shore Gas Company, and Northern :
Illinois Gas Company d/b/a Nicor Gas :
Company :
: :
: :
Adoption of Policies Concerning the :
Illinois Statewide Technical Reference :
Manual for Energy Efficiency. :

ORDER

By Order of the Commission:

Pursuant to Sections 8-103 and 8-104 of the Illinois Public Utilities Act ("Act" or "PUA"), certain Illinois electric and gas utilities, in coordination with the Illinois Department of Commerce and Economic Opportunity ("DCEO"), are required to file three-year Energy Efficiency ("EE") Plans with the Illinois Commerce Commission ("Commission") to meet the applicable EE standards specified in the statute. 220 ILCS § 5/8-103, 8-104. Between September 29, 2010, and October 1, 2010, Illinois electric and gas utilities filed petitions for approval of EE Plans pursuant to Sections 8-103 and 8-104 of the Act. On December 21, 2010, and May 24, 2011, the Commission entered several Orders approving development of EE Plans and directed stakeholders to develop a statewide Technical Reference Manual ("TRM"). (See, Final Orders in Docket Nos. 10-0562, 10-0564, 10-0570, 10-0568; *also see* Docket No. 10-0568 Order on Rehearing). On January 24, 2013, and on the recommendation contained in a Commission Staff Report submitted by the Commission Staff's Policy Division dated December 18, 2012, the Commission issued an order initiating this proceeding to consider adoption of policies concerning the Illinois Statewide Technical Reference Manual for Energy Efficiency ("IL-TRM"). Pursuant to that initiating order, Ameren Illinois Company d/b/a Ameren Illinois ("Ameren Illinois"), Commonwealth Edison Company ("ComEd"), The Peoples Gas Light and Coke Company and North Shore Gas Company ("Peoples Gas/North Shore Gas" or "PG/NSG"), and Northern Illinois Gas Company d/b/a Nicor Gas Company ("Nicor Gas") (collectively, referred to herein as the "Utilities") were made respondents. The Attorney General of the State of Illinois ("AG") and the Citizens Utility Board ("CUB") also appeared. Collectively, the Utilities, Commission Staff, the AG and CUB are referred to herein as the "Parties".

Pursuant to notice duly given in accordance with the law and the rules and regulations of the Commission, a status hearing was held before a duly authorized Administrative Law Judge ("ALJ") of the Commission, at its offices in Chicago, Illinois on February 20, 2013. In preparation for said hearing, Staff prepared a draft Proposed Order, which was circulated to the Parties for review. On March 8, 2013, Staff filed its Proposed Order which all of the parties to this docket subsequently agreed to. The ALJ marked the record "Heard and Taken" on March 19, 2013.

The Illinois Statewide Technical Reference Manual and Policy Document

The IL-TRM, dated September 14, 2012, was developed by the TRM Administrator with input from the Parties and the Illinois Energy Efficiency Stakeholder Advisory Group ("SAG") participants to comply with the Commission's Orders from the Utilities' EE Plan dockets. As set forth in the TRM Policy Document, the purpose of the IL-TRM is to provide a transparent and consistent basis for calculating energy (electric kilowatt-hours (kWh) and natural gas therms) and capacity (electric kilowatts (kW)) savings generated by the State of Illinois' energy efficiency programs which are administered by DCEO and the state's largest electric and gas Utilities (collectively, "Program Administrators"). The TRM is a technical document that is filed with the Commission and is intended to fulfill a series of objectives, including:

- "Serve as a common reference document for all... stakeholders, [Program Administrators], and the Commission, so as to provide transparency to all parties regarding savings assumptions and calculations and the underlying sources of those assumptions and calculations.
- Support the calculation of the Illinois Total Resource Cost test ("TRC"), as well as other cost-benefit tests in support of program design, evaluation and regulatory compliance. Actual cost-benefit calculations and the calculation of avoided costs will not be part of this TRM.
- Identify gaps in robust, primary data for Illinois, that can be addressed via evaluation efforts and/or other targeted end-use studies.
- [Provide] a process for periodically updating and maintaining records, and preserve a clear record of what deemed parameters are/were in effect at what times to facilitate evaluation and data accuracy reviews.
- [S]upport coincident peak capacity (for electric) savings estimates and calculations for electric utilities in a manner consistent with the methodologies employed by the utility's Regional Transmission Organization ("RTO"), as well as those necessary for statewide Illinois tracking of coincident peak capacity impacts."

TRM Policy Document, p. 4.

The Staff Report from the Commission's Policy Division dated December 18, 2012, includes, as attachments, the Policy Document for the Illinois Statewide Technical Reference Manual for Energy Efficiency final as of October 25, 2012 (Attachment A) ("IL-TRM Policy Document"), and the contract language concerning TRM Administrator independence dated November 27, 2012 (Attachment C). The purpose of the TRM Policy Document is to provide transparency of and consistency in the applicability of TRM values so that all stakeholders have a common reference document for measure, program and portfolio savings. This common reference document enables meaningful cross-program comparisons, provides a consistent basis for savings calculations, and creates stability and certainty for Program Administrators as they make program design and implementation decisions. In addition, a common and transparent reference document for the use and applicability of the TRM may reduce costs to Program Administrators and stakeholders in preparing and reviewing energy efficiency Plan filings and reporting and reviewing energy savings as review of savings occurs in a single, coordinated process rather than separately and independently for each of the Illinois Program Administrators.

On January 9, 2013, the first edition of the IL-TRM was approved by the Commission in Docket No. 12-0528. During the development of the IL-TRM, Parties concluded that a consistent set of TRM policies should be adopted by the Commission in order to ensure that the recorded TRM values and calculation of energy savings are applied and calculated consistently across all Program Administrators¹ in the state. As noted in the Staff Report submitted September 14, 2012 to the Commission, and subsequently filed in Docket No. 12-0528, Staff stated that it anticipated recommending that the Commission initiate a proceeding regarding TRM policy issues at a later date. At that time, the SAG had not reached consensus regarding a number of TRM policy issues. However, based on continuing collaboration within the SAG, a consensus view is now represented in the IL-TRM Policies attached to the Staff Report in this proceeding. Commission approval of the IL-TRM Policies in this docket will eliminate the inefficiencies of litigating these policies in each of the Utilities' separate three-year EE Plan dockets and provide certainty regarding the use and application of the IL-TRM on an on-going basis, which will provide consistency in evaluating energy savings over multiple years and among all the Illinois Program Administrators. As noted in the Staff Report, this consistency will fulfill the Commission's articulated goal of establishing regularity in the evaluation and calculation of energy savings, as noted in the Commission's Orders directing a statewide TRM be created.

¹ In the IL-TRM and the IL-TRM Policy Document, the term "Program Administrators" refers to the entities that administer energy efficiency programs in Illinois pursuant to Sections 8-103 and 8-104 of the Illinois Public Utilities Act. 220 ILCS 5/8-103; 220 ILCS 5/8-104. The Program Administrators include Ameren, ComEd, DCEO, Nicor Gas, and Peoples Gas/North Shore Gas.

I. Statutory Authority

Section 8-103. Energy Efficiency and Demand-Response Measures.

Section 8-103 of the Act requires, among other things, electric utilities and DCEO to use cost-effective energy efficiency and demand-response programs and measures to reduce delivery load, and also allows for the recovery of costs for reasonable and prudent expenses incurred in implementing these programs and measures. As noted above, the Commission is authorized under subsections (e) and (f) of Section 8-103 to approve the Utilities' filing and delivery of cost-efficient energy efficiency programs.

Section 8-104. Natural Gas Energy Efficiency Programs.

Section 8-104 of the Act requires, among other things, natural gas utilities and DCEO to use cost-effective energy efficiency programs and measures to reduce direct and indirect costs to consumers, and also allows for the recovery of costs for reasonable and prudent expenses incurred in implementing these programs and measures. As noted above, the Commission is authorized under subsections (e) and (f) of Section 8-104 to approve the Utilities' filing and delivery of cost-efficient energy efficiency programs.

II. Parties' Position

The Staff Report from the Commission's Policy Division dated December 18, 2012, includes, as attachments, the IL-TRM Policy Document final as of October 25, 2012 (Attachment A), the TRM Administrator independence draft order language dated October 26, 2012 (Attachment B), and the contract language concerning TRM Administrator independence dated November 27, 2012 (Attachment C) (collectively the attachments to the Staff Report are referred to as "IL-TRM Policies"). Staff indicated that the IL-TRM Policies pertain to (1) the applicability of the IL-TRM in planning, implementing, and evaluating EE measures; and (2) the process for annually updating the IL-TRM, including: (i) identification of roles and responsibilities for stakeholders in the TRM Update Process; (ii) requirements surrounding the TRM Administrator to ensure transparency in the TRM Update Process and independence of the TRM Administrator; and (iii) a timeline for updating the IL-TRM.

The Parties believe that the consistency they anticipate from the Commission's adoption of the IL-TRM Policies would fulfill the Commission's articulated goal in the Commission's Orders directing a statewide TRM be created. Based on the continuing collaboration within the SAG, a consensus view is represented in the IL-TRM Policies.

The Parties agree with Staff's recommendation that the IL-TRM Policies filed in this docket should be adopted by the Commission.

III. Commission Analysis and Conclusion

The Commission has broad legal authority under Sections 8-103 and 8-104 of the Act to determine whether the IL-TRM Policies filed in this docket are consistent with the Commission's Orders from the Utilities' EE Plan dockets. The Commission appreciates the collaborative efforts of the participants in producing the IL-TRM Policies, and agrees with the Parties that the IL-TRM Policies are consistent with the Commission's Orders and will help ensure consistency in the evaluation and calculation of energy savings for Section 8-103 and 8-104 EE programs. Accordingly, the Commission adopts the IL-TRM Policies that were filed as attachments A and C to the Staff Report on January 24, 2013, in this docket.

Pursuant to 220 ILCS 5/8-103 and 220 ILCS 5/8-104, the Utilities and DCEO are responsible for administering energy efficiency programs in the State of Illinois in order to achieve specified energy savings goals. The purpose of the IL-TRM is to provide a transparent and consistent basis for calculating energy (electric kilowatt-hours ("kWh") or natural gas therms) and capacity (electric kilowatts ("kW")) savings generated by the State of Illinois' energy efficiency programs, which are administered by the Program Administrators. In this Order, the Commission directs that the independent evaluators perform savings verification based on the Commission-approved TRM and present these savings verification values within the appropriate annual independent evaluation reports of the Program Administrators' energy efficiency portfolios completed pursuant to 220 ILCS 5/8-103(f)(7) and 220 ILCS 5/8-104(f)(8). The Commission further directs these TRM savings verification values to be used where applicable for the purpose of measuring savings toward compliance with Program Administrators' energy savings goals set forth in Sections 8-103 and 8-104 of the Illinois Public Utilities Act.

As this Commission has previously determined:

We note that the evaluator would not be "independent," as required by statute, if Ameren [ComEd] had total control over that evaluator... Ameren [ComEd] must gain Commission consent to make the hiring and firing decisions regarding this evaluator.

Docket No. 07-0539, Order on Rehearing at 3, March 26, 2008 [Docket No. 07-0540, Order on Rehearing at 3, March 26, 2008].

Because the TRM Administrator will manage the process of updating the TRM document that the independent evaluators are required to use when performing savings verification, the results of which the Commission agrees will be used where applicable to assess whether the Program Administrators have met their statutory savings goals, the TRM Administrator must be independent from the Program Administrators. Such independence is critical to the integrity of the Illinois Statewide TRM document, and therefore, protocols similar to those in place for the independent evaluators, shall be put into place to ensure that independence is maintained. The protocols include:

(1) the Program Administrator(s) shall submit any contract with an independent TRM Administrator as a compliance filing in this docket within ten days of its execution;

(2) the Program Administrator(s) shall submit any contract with an independent TRM Administrator as a compliance filing in this docket within ten days after entry of this Order for contracts previously executed;

(3) any contract(s) between the Program Administrator(s) and the independent TRM Administrator shall provide that the Illinois Commerce Commission has the right to:

(a) approve or reject the contract;

(b) direct the Program Administrator(s) to terminate the TRM Administrator, if the Commission determines that the TRM Administrator is not acting independently, or is unable or unwilling to independently administer the TRM; and

(c) approve or reject any action by the Program Administrator(s) that would result in termination of the TRM Administrator during the term of the contract.

Pursuant to such protocols, if Staff or any other interested party has a good-faith basis to believe after review of these compliance filings and any other relevant information that the TRM Administrator is not acting independently, or is unable or unwilling to do so, it may petition or otherwise complain to the Commission setting forth its basis for such belief, whereupon, the Commission may, in its discretion, initiate a proceeding to rule upon such petition or complaint. It is not the Commission's intent to terminate a contract without an opportunity for the Program Administrators, the TRM Administrator, and other interested parties to be heard. These provisions shall be construed for the purposes of determining TRM Administrator independence.

V. Findings and Orderings Paragraphs

The Commission, being fully advised in the premises, is of the opinion and finds that:

- (1) The Commission has jurisdiction over the subject matter hereof and the parties hereto;
- (2) The recitals of fact set forth in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact;
- (3) The IL-TRM Policies filed in this docket as attachments A and C to the Staff Report, are approved and adopted;

- (4) The Program Administrator(s) shall submit any contract with an independent TRM Administrator as a compliance filing in this docket within ten days of its execution; and
- (5) The Program Administrator(s) shall submit any contract with an independent TRM Administrator as a compliance filing in this docket within ten days after entry of this Order for contracts previously executed;

Any contract(s) between the Program Administrator(s) and the independent TRM Administrator shall provide that the Commission has the right to: (a) approve or reject the contract; (b) direct the Program Administrator(s) to terminate the TRM Administrator, if the Commission determines after notice and hearing that the TRM Administrator is not acting independently, or is unable or unwilling to independently administer the TRM; and (c) approve or reject any action by the Program Administrator(s) that would result in termination of the TRM Administrator during the term of the contract.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the IL-TRM Policies, as filed in this docket, are approved and adopted.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the parties shall comply with findings three (3) through five (5).

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 27th day of March, 2013.

(SIGNED) DOUGLAS P. SCOTT

Chairman