



Sen. Don Harmon

Filed: 5/3/2018

10000SB3577sam001

LRB100 20692 SMS 39388 a

1 AMENDMENT TO SENATE BILL 3577

2 AMENDMENT NO. _____. Amend Senate Bill 3577 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Public Utilities Act is amended by adding
5 Sections 2-204 and 20-140 and by changing Sections 16-115,
6 16-115A, 16-115B, 16-119, 19-115, and 20-110 as follows:

7 (220 ILCS 5/2-204 new)

8 Sec. 2-204. Alternative Retail Electric Supplier and
9 Alternative Gas Supplier Enforcement and Consumer Education
10 Operations Account.

11 (a) The Alternative Retail Electric Supplier and
12 Alternative Gas Supplier Enforcement and Consumer Education
13 Operations Account is created as a separate account within the
14 Public Utilities Fund.

15 (b) The Account is administered by the Commission for the
16 Commission's operations pursuant to Sections 16-115, 16-115A,

1 16-115B, 16-117, 16-120, 19-115, 19-120, 19-125, 19-130, and
2 20-110.

3 (c) All moneys used by the Commission from the Account are
4 subject to appropriation by the General Assembly.

5 (d) All disbursements from the Account shall be made only
6 upon warrants of the State Comptroller drawn upon the State
7 Treasurer as custodian of the Account upon vouchers signed by
8 the chairman or executive director or by the person or persons
9 designated by the chairman or executive director for that
10 purpose. The State Comptroller is authorized to draw the
11 warrant upon vouchers so signed. The State Treasurer shall
12 accept all warrants so signed and shall be released from
13 liability for all payments made on those warrants.

14 (e) The Account shall not be subject to sweeps,
15 administrative charges, or chargebacks, including, but not
16 limited to, those authorized under Section 8h of the State
17 Finance Act, that would in any way result in the transfer of
18 any funds from the Account to any other fund of this State or
19 in having any such funds utilized for any purpose other than
20 the express purposes set forth in this Section.

21 (f) Assessment payments under subsection (i-5) of Section
22 2-202 of entities possessing certificates of service authority
23 as alternative retail electric suppliers under Section 16-115
24 and entities possessing certificates of service authority as
25 alternative gas suppliers under Section 19-110 and fines
26 imposed under subsection (i) of Section 16-115A, subsection (b)

1 of Section 16-115B, subsection (d) of Section 19-115, and
2 subsection (c) of Section 19-120 shall be deposited into the
3 Account.

4 (220 ILCS 5/16-115)

5 Sec. 16-115. Certification of alternative retail electric
6 suppliers.

7 (a) Any alternative retail electric supplier must obtain a
8 certificate of service authority from the Commission in
9 accordance with this Section before serving any retail customer
10 or other user located in this State. An alternative retail
11 electric supplier may request, and the Commission may grant, a
12 certificate of service authority for the entire State or for a
13 specified geographic area of the State.

14 (b) An alternative retail electric supplier seeking a
15 certificate of service authority shall file with the Commission
16 a verified application containing information showing that the
17 applicant meets the requirements of this Section. The
18 alternative retail electric supplier shall publish notice of
19 its application in the official State newspaper within 10 days
20 following the date of its filing. No later than 45 days after
21 the application is properly filed with the Commission, and such
22 notice is published, the Commission shall issue its order
23 granting or denying the application. The Commission may extend
24 the time for considering a certificate of service authority
25 request by up to 90 days and may schedule hearings on the

1 request if:

2 (1) a party to the application proceeding has formally
3 requested that the Commission hold hearings in a pleading
4 that alleges that one or more of the allegations or
5 certifications in the application is false or misleading;
6 or

7 (2) any other facts or circumstances exist that will
8 necessitate additional time or evidence in order to
9 determine whether a certificate of service authority
10 should be issued.

11 (c) An application for a certificate of service authority
12 shall identify the area or areas in which the applicant intends
13 to offer service and the types of services it intends to offer.
14 Applicants that seek to serve residential or small commercial
15 retail customers within a geographic area that is smaller than
16 an electric utility's service area shall submit evidence
17 demonstrating that the designation of this smaller area does
18 not violate Section 16-115A. An applicant that seeks to serve
19 residential or small commercial retail customers may state in
20 its application for certification any limitations that will be
21 imposed on the number of customers or maximum load to be
22 served.

23 (d) The Commission shall grant the application for a
24 certificate of service authority if it makes the findings set
25 forth in this subsection based on the verified application and
26 such other information as the applicant may submit:

1 (1) That the applicant possesses sufficient technical,
2 financial and managerial resources and abilities to
3 provide the service for which it seeks a certificate of
4 service authority. In determining the level of technical,
5 financial and managerial resources and abilities which the
6 applicant must demonstrate, the Commission shall consider
7 (i) the characteristics, including the size and financial
8 sophistication, of the customers that the applicant seeks
9 to serve, ~~and~~ (ii) whether the applicant seeks to provide
10 electric power and energy using property, plant and
11 equipment which it owns, controls or operates, and (iii)
12 the applicant's commitment of resources to the management
13 of sales and marketing staff, through affirmative
14 managerial policies, independent audits, technology,
15 hands-on field monitoring and training, and, in the case of
16 applicants who will have sales personnel or sales agents
17 within the State of Illinois, the applicant's managerial
18 presence within the State;

19 (2) That the applicant will comply with all applicable
20 federal, State, regional and industry rules, policies,
21 practices and procedures for the use, operation, and
22 maintenance of the safety, integrity and reliability, of
23 the interconnected electric transmission system;

24 (3) That the applicant will only provide service to
25 retail customers in an electric utility's service area that
26 are eligible to take delivery services under this Act;

1 (4) That the applicant will comply with such
2 informational or reporting requirements as the Commission
3 may by rule establish and provide the information required
4 by Section 16-112. Any data related to contracts for the
5 purchase and sale of electric power and energy shall be
6 made available for review by the Staff of the Commission on
7 a confidential and proprietary basis and only to the extent
8 and for the purposes which the Commission determines are
9 reasonably necessary in order to carry out the purposes of
10 this Act;

11 (5) That the applicant will procure renewable energy
12 resources in accordance with Section 16-115D of this Act,
13 and will source electricity from clean coal facilities, as
14 defined in Section 1-10 of the Illinois Power Agency Act,
15 in amounts at least equal to the percentages set forth in
16 subsections (c) and (d) of Section 1-75 of the Illinois
17 Power Agency Act. For purposes of this Section:

18 (i) (Blank);

19 (ii) (Blank);

20 (iii) the required sourcing of electricity
21 generated by clean coal facilities, other than the
22 initial clean coal facility, shall be limited to the
23 amount of electricity that can be procured or sourced
24 at a price at or below the benchmarks approved by the
25 Commission each year in accordance with item (1) of
26 subsection (c) and items (1) and (5) of subsection (d)

1 of Section 1-75 of the Illinois Power Agency Act;

2 (iv) all alternative retail electric suppliers
3 shall execute a sourcing agreement to source
4 electricity from the initial clean coal facility, on
5 the terms set forth in paragraphs (3) and (4) of
6 subsection (d) of Section 1-75 of the Illinois Power
7 Agency Act, except that in lieu of the requirements in
8 subparagraphs (A) (v), (B) (i), (C) (v), and (C) (vi) of
9 paragraph (3) of that subsection (d), the applicant
10 shall execute one or more of the following:

11 (1) if the sourcing agreement is a power
12 purchase agreement, a contract with the initial
13 clean coal facility to purchase in each hour an
14 amount of electricity equal to all clean coal
15 energy made available from the initial clean coal
16 facility during such hour, which the utilities are
17 not required to procure under the terms of
18 subsection (d) of Section 1-75 of the Illinois
19 Power Agency Act, multiplied by a fraction, the
20 numerator of which is the alternative retail
21 electric supplier's retail market sales of
22 electricity (expressed in kilowatthours sold) in
23 the State during the prior calendar month and the
24 denominator of which is the total sales of
25 electricity (expressed in kilowatthours sold) in
26 the State by alternative retail electric suppliers

1 during such prior month that are subject to the
2 requirements of this paragraph (5) of subsection
3 (d) of this Section and subsection (d) of Section
4 1-75 of the Illinois Power Agency Act plus the
5 total sales of electricity (expressed in
6 kilowatthours sold) by utilities outside of their
7 service areas during such prior month, pursuant to
8 subsection (c) of Section 16-116 of this Act; or

9 (2) if the sourcing agreement is a contract for
10 differences, a contract with the initial clean
11 coal facility in each hour with respect to an
12 amount of electricity equal to all clean coal
13 energy made available from the initial clean coal
14 facility during such hour, which the utilities are
15 not required to procure under the terms of
16 subsection (d) of Section 1-75 of the Illinois
17 Power Agency Act, multiplied by a fraction, the
18 numerator of which is the alternative retail
19 electric supplier's retail market sales of
20 electricity (expressed in kilowatthours sold) in
21 the State during the prior calendar month and the
22 denominator of which is the total sales of
23 electricity (expressed in kilowatthours sold) in
24 the State by alternative retail electric suppliers
25 during such prior month that are subject to the
26 requirements of this paragraph (5) of subsection

1 (d) of this Section and subsection (d) of Section
2 1-75 of the Illinois Power Agency Act plus the
3 total sales of electricity (expressed in
4 kilowatthours sold) by utilities outside of their
5 service areas during such prior month, pursuant to
6 subsection (c) of Section 16-116 of this Act;

7 (v) if, in any year after the first year of
8 commercial operation, the owner of the clean coal
9 facility fails to demonstrate to the Commission that
10 the initial clean coal facility captured and
11 sequestered at least 50% of the total carbon emissions
12 that the facility would otherwise emit or that
13 sequestration of emissions from prior years has
14 failed, resulting in the release of carbon into the
15 atmosphere, the owner of the facility must offset
16 excess emissions. Any such carbon offsets must be
17 permanent, additional, verifiable, real, located
18 within the State of Illinois, and legally and
19 practicably enforceable. The costs of any such offsets
20 that are not recoverable shall not exceed \$15 million
21 in any given year. No costs of any such purchases of
22 carbon offsets may be recovered from an alternative
23 retail electric supplier or its customers. All carbon
24 offsets purchased for this purpose and any carbon
25 emission credits associated with sequestration of
26 carbon from the facility must be permanently retired.

1 The initial clean coal facility shall not forfeit its
2 designation as a clean coal facility if the facility
3 fails to fully comply with the applicable carbon
4 sequestration requirements in any given year, provided
5 the requisite offsets are purchased. However, the
6 Attorney General, on behalf of the People of the State
7 of Illinois, may specifically enforce the facility's
8 sequestration requirement and the other terms of this
9 contract provision. Compliance with the sequestration
10 requirements and offset purchase requirements that
11 apply to the initial clean coal facility shall be
12 reviewed annually by an independent expert retained by
13 the owner of the initial clean coal facility, with the
14 advance written approval of the Attorney General;

15 (vi) The Commission shall, after notice and
16 hearing, revoke the certification of any alternative
17 retail electric supplier that fails to execute a
18 sourcing agreement with the initial clean coal
19 facility as required by item (5) of subsection (d) of
20 this Section. The sourcing agreements with this
21 initial clean coal facility shall be subject to both
22 approval of the initial clean coal facility by the
23 General Assembly and satisfaction of the requirements
24 of item (4) of subsection (d) of Section 1-75 of the
25 Illinois Power Agency Act, and shall be executed within
26 90 days after any such approval by the General

1 Assembly. The Commission shall not accept an
2 application for certification from an alternative
3 retail electric supplier that has lost certification
4 under this subsection (d), or any corporate affiliate
5 thereof, for at least one year from the date of
6 revocation;

7 (6) With respect to an applicant that seeks to serve
8 residential or small commercial retail customers, that the
9 area to be served by the applicant and any limitations it
10 proposes on the number of customers or maximum amount of
11 load to be served meet the provisions of Section 16-115A,
12 provided, that the Commission can extend the time for
13 considering such a certificate request by up to 90 days,
14 and can schedule hearings on such a request;

15 (7) That the applicant meets the requirements of
16 subsection (a) of Section 16-128; ~~and~~

17 (8) That the applicant is not the subject of any
18 lawsuit filed in a court of law or formal complaints filed
19 with a regulatory agency alleging fraud, deception, or
20 unfair marketing practices or other similar allegations
21 identifying the name, case number, and jurisdiction of each
22 such lawsuit or complaint. For the purposes of this item
23 (8), "formal complaints" include only those complaints
24 that seek a binding determination from a state or federal
25 regulatory body;

26 (9) That the applicant shall continue to comply with

1 requirements for certification stated in Section 16-115;

2 (10) That the applicant seeking to service all eligible
3 retail customers shall execute and maintain a license or
4 permit bond issued by a qualifying surety or insurance
5 company authorized to transact business in the State of
6 Illinois in favor of the People of the State of Illinois.
7 The amount of the bond is \$600,000, and the bond is
8 conditioned upon the full and faithful performance of all
9 duties and obligations of the applicant as an alternative
10 retail electric supplier and is valid for a period of not
11 less than one year. The cost of the bond shall be paid by
12 the applicant. The applicant shall file a copy of this
13 bond, with a notarized verification page from the issuer,
14 as part of its application for certification under 83 Ill.
15 Adm. Code 451.50 and as a condition for continuing
16 compliance with certification requirements for alternative
17 retail electric suppliers under 83 Ill. Adm. Code
18 451.Subpart H; and

19 (11) ~~(8)~~ That the applicant will comply with all other
20 applicable laws and regulations.

21 The Commission may deny with prejudice an application in
22 which the applicant repeatedly fails to provide the Commission
23 with information sufficient for the Commission to grant the
24 application.

25 (d-5) (Blank).

26 (e) A retail customer that owns a cogeneration or

1 self-generation facility and that seeks certification only to
2 provide electric power and energy from such facility to retail
3 customers at separate locations which customers are both (i)
4 owned by, or a subsidiary or other corporate affiliate of, such
5 applicant and (ii) eligible for delivery services, shall be
6 granted a certificate of service authority upon filing an
7 application and notifying the Commission that it has entered
8 into an agreement with the relevant electric utilities pursuant
9 to Section 16-118. Provided, however, that if the retail
10 customer owning such cogeneration or self-generation facility
11 would not be charged a transition charge due to the exemption
12 provided under subsection (f) of Section 16-108 prior to the
13 certification, and the retail customers at separate locations
14 are taking delivery services in conjunction with purchasing
15 power and energy from the facility, the retail customer on
16 whose premises the facility is located shall not thereafter be
17 required to pay transition charges on the power and energy that
18 such retail customer takes from the facility.

19 (f) The Commission shall have the authority to promulgate
20 rules and regulations to carry out the provisions of this
21 Section. On or before May 1, 1999, the Commission shall adopt a
22 rule or rules applicable to the certification of those
23 alternative retail electric suppliers that seek to serve only
24 nonresidential retail customers with maximum electrical
25 demands of one megawatt or more which shall provide for (i)
26 expedited and streamlined procedures for certification of such

1 alternative retail electric suppliers and (ii) specific
2 criteria which, if met by any such alternative retail electric
3 supplier, shall constitute the demonstration of technical,
4 financial and managerial resources and abilities to provide
5 service required by subsection (d) (1) of this Section, such as
6 a requirement to post a bond or letter of credit, from a
7 responsible surety or financial institution, of sufficient
8 size for the nature and scope of the services to be provided;
9 demonstration of adequate insurance for the scope and nature of
10 the services to be provided; and experience in providing
11 similar services in other jurisdictions.

12 (g) An alternative retail electric supplier may seek
13 confidential treatment for the following information by filing
14 an affidavit with the Commission so long as the affidavit meets
15 the requirements in this subsection (g):

16 (1) the total annual kilowatt-hours delivered and sold
17 by an alternative retail electric supplier to retail
18 customers within each utility service territory and the
19 total annual kilowatt-hours delivered and sold by an
20 alternative retail electric supplier to retail customers
21 in all utility service territories in the preceding
22 calendar year as required by 83 Ill. Adm. Code 451.770;

23 (2) the total peak demand supplied by an alternative
24 retail electric supplier during the previous year in each
25 utility service territory as required by 83 Ill. Adm. Code
26 465.40;

1 (3) a good faith estimate of the amount an alternative
2 retail electric supplier expects to be obliged to pay the
3 utility under single billing tariffs during the next 12
4 months and the amount of any bond or letter of credit used
5 to demonstrate an alternative retail electric supplier's
6 credit worthiness to provide single billing services
7 pursuant to 83 Ill. Adm. Code 451.510(a) and (b).

8 The affidavit must be filed contemporaneously with the
9 information for which confidential treatment is sought and must
10 clearly state that the affiant seeks confidential treatment
11 pursuant to this subsection (g) and the information for which
12 confidential treatment is sought must be clearly identified on
13 the confidential version of the document filed with the
14 Commission. The affidavit must be accompanied by a
15 "confidential" and a "public" version of the document or
16 documents containing the information for which confidential
17 treatment is sought.

18 If the alternative retail electric supplier has met the
19 affidavit requirements of this subsection (g), then the
20 Commission shall afford confidential treatment to the
21 information identified in the affidavit for a period of 2 years
22 after the date the affidavit is received by the Commission.

23 Nothing in this subsection (g) prevents an alternative
24 retail electric supplier from filing a petition with the
25 Commission seeking confidential treatment for information
26 beyond that identified in this subsection (g) or for

1 information contained in other reports or documents filed with
2 the Commission.

3 Nothing in this subsection (g) prevents the Commission, on
4 its own motion, or any party from filing a formal petition with
5 the Commission seeking to reconsider the conferring of
6 confidential status on an item of information afforded
7 confidential treatment pursuant to this subsection (g).

8 The Commission, on its own motion, may at any time initiate
9 a docketed proceeding to investigate the continued
10 applicability of this subsection (g) to the information
11 contained in items (i), (ii), and (iii) of this subsection (g).
12 If, at the end of such investigation, the Commission determines
13 that a particular item of information should no longer be
14 eligible for the affidavit-based process outlined in this
15 subsection (g), the Commission may enter an order to remove
16 that item from the list of items eligible for the process set
17 forth in this subsection (g). Notwithstanding any such order,
18 in the event the Commission makes such a determination, nothing
19 in this subsection (g) prevents an alternative retail electric
20 supplier desiring confidential treatment for such information
21 from filing a formal petition with the Commission seeking
22 confidential treatment for such information.

23 (Source: P.A. 99-332, eff. 8-10-15.)

24 (220 ILCS 5/16-115A)

25 Sec. 16-115A. Obligations of alternative retail electric

1 suppliers.

2 (a) An alternative retail electric supplier shall:

3 (i) comply with the requirements imposed on public
4 utilities by Sections 8-201 through 8-207, 8-301, 8-505 and
5 8-507 of this Act, to the extent that these Sections have
6 application to the services being offered by the
7 alternative retail electric supplier; and

8 (ii) continue to comply with the requirements for
9 certification stated in subsection (d) of Section 16-115.

10 (b) An alternative retail electric supplier shall obtain
11 verifiable authorization from a customer, in a form or manner
12 approved by the Commission consistent with Section 2EE of the
13 Consumer Fraud and Deceptive Business Practices Act, before the
14 customer is switched from another supplier.

15 (c) No alternative retail electric supplier, or electric
16 utility other than the electric utility in whose service area a
17 customer is located, shall (i) enter into or employ any
18 arrangements which have the effect of preventing a retail
19 customer with a maximum electrical demand of less than one
20 megawatt from having access to the services of the electric
21 utility in whose service area the customer is located or (ii)
22 charge retail customers for such access. This subsection shall
23 not be construed to prevent an arms-length agreement between a
24 supplier and a retail customer that sets a term of service,
25 notice period for terminating service and provisions governing
26 early termination through a tariff or contract as allowed by

1 Section 16-119.

2 (d) An alternative retail electric supplier that is
3 certified to serve residential or small commercial retail
4 customers shall not:

5 (1) deny service to a customer or group of customers
6 nor establish any differences as to prices, terms,
7 conditions, services, products, facilities, or in any
8 other respect, whereby such denial or differences are based
9 upon race, gender or income.

10 (2) deny service to a customer or group of customers
11 based on locality nor establish any unreasonable
12 difference as to prices, terms, conditions, services,
13 products, or facilities as between localities.

14 (e) An alternative retail electric supplier shall comply
15 with the following requirements with respect to the marketing,
16 offering and provision of products or services to residential
17 and small commercial retail customers:

18 (i) Any marketing materials which make statements
19 concerning prices, terms and conditions of service shall
20 contain information that adequately discloses the prices,
21 terms and conditions of the products or services that the
22 alternative retail electric supplier is offering or
23 selling to the customer. All marketing materials,
24 including electronic marketing materials, that include a
25 price per kilowatt hour for competitive electricity
26 service shall include the following statement: "(Name of

1 alternative retail electric supplier) is not the same
2 entity as your electric utility delivery company. You are
3 not required to enroll with (name of alternative retail
4 electric supplier). For information on comparison rates
5 for utility electric supply service and understanding your
6 electric supply choices, go to the Illinois Commerce
7 Commission's free website at www.pluginillinois.org."
8 This requirement does not apply to materials that do not
9 list a price per kilowatt hour for competitive electricity
10 services or to billboards.

11 (ii) Before any customer is switched from another
12 supplier, the alternative retail electric supplier shall
13 give the customer written information that adequately
14 discloses, in plain language, the prices, terms and
15 conditions of the products and services being offered and
16 sold to the customer.

17 (iii) An alternative retail electric supplier shall
18 provide documentation to the Commission and to customers
19 that substantiates any claims made by the alternative
20 retail electric supplier regarding the technologies and
21 fuel types used to generate the electricity offered or sold
22 to customers.

23 (iv) The alternative retail electric supplier shall
24 provide to the customer (1) itemized billing statements
25 that describe the products and services provided to the
26 customer and their prices, and (2) an additional statement,

1 at least annually, that adequately discloses the average
2 monthly prices, and the terms and conditions, of the
3 products and services sold to the customer.

4 (v) No less than 30 days before a residential
5 customer's variable rate changes, the alternative retail
6 electric supplier shall send a separate written notice to
7 the customer informing the customer of an upcoming rate
8 change if the residential variable rate customer's rate
9 increases by more than 20% from one monthly billing period
10 to the next. This requirement does not apply if the
11 variable rate can be determined based on some combination
12 of: (1) publicly available information, such as an index,
13 and (2) a formula provided by the alternative retail
14 electric supplier in the contract using only publicly
15 available information or for time of use based pricing. A
16 customer shall have the right to choose to receive the
17 notice in electronic or paper form, including an option to
18 receive notice via login through an online account with the
19 alternative retail electric supplier.

20 (vi) The alternative retail electric supplier shall
21 send a separate written notice if a residential customer's
22 contract includes a provision that results in a change to
23 the residential customer's rate plan of the upcoming change
24 at least 30 days, but no more than 60 days, before the
25 change. The separate written notice shall conform to the
26 requirements in 83 Ill. Adm. Code 412.165(e). A customer

1 shall have the right to choose to receive the notice in
2 electronic or paper form, including an option to receive
3 notice via login through an online account with the
4 alternative retail electric supplier.

5 For purposes of this subsection (e), "variable" means the
6 per-unit charge for electric power and energy service changes
7 at any time during the term of the contract but do not change
8 more than once per billing period.

9 (f) An alternative retail electric supplier may limit the
10 overall size or availability of a service offering by
11 specifying one or more of the following: a maximum number of
12 customers, maximum amount of electric load to be served, time
13 period during which the offering will be available, or other
14 comparable limitation, but not including the geographic
15 locations of customers within the area which the alternative
16 retail electric supplier is certificated to serve. The
17 alternative retail electric supplier shall file the terms and
18 conditions of such service offering including the applicable
19 limitations with the Commission prior to making the service
20 offering available to customers.

21 (g) Nothing in this Section shall be construed as
22 preventing an alternative retail electric supplier, which is an
23 affiliate of, or which contracts with, (i) an industry or trade
24 organization or association, (ii) a membership organization or
25 association that exists for a purpose other than the purchase
26 of electricity, or (iii) another organization that meets

1 criteria established in a rule adopted by the Commission, from
2 offering through the organization or association services at
3 prices, terms and conditions that are available solely to the
4 members of the organization or association.

5 (h) An alternative retail electric supplier shall maintain
6 sufficient managerial resources and abilities to provide the
7 service for which it has a certificate of service authority. In
8 determining the level of managerial resources and abilities
9 that the alternative retail electric supplier shall
10 demonstrate, the Commission shall consider, in addition to the
11 requirements in subsection (d) of Section 16-115, the
12 following:

13 (1) complaints to the Commission by consumers
14 regarding the alternative retail electric supplier,
15 including those that reflect on the alternative retail
16 electric supplier's ability to properly manage
17 solicitation and authorization; and

18 (2) the alternative retail electric supplier's
19 involvement in the Commission's consumer complaint
20 process, including the resources the alternative retail
21 electric supplier dedicates to the process and the
22 alternative retail electric supplier's ability to manage
23 the issues raised by complaints and the resolutions of the
24 complaints.

25 The provisions of this subsection (h) apply only to
26 alternative retail electric suppliers serving or seeking to

1 serve residential or small commercial customers and only to the
2 extent those alternative retail electric suppliers provide
3 services to residential or small commercial customers, unless
4 otherwise noted.

5 For purposes of this subsection (h), "complaint" means an
6 objection made to an alternative retail electric supplier by a
7 customer as to its charges, facilities, or service, the
8 disposal of which requires investigation or analysis.
9 "Complaint" includes a customer identifying and asking an
10 alternative retail electric supplier to address or resolve a
11 problem or concern. "Complaint" does not include contact that
12 is limited to inquiry or seeking information.

13 (i) Complaints may be filed with the Commission under this
14 Section by a customer whose electric supply service has been
15 provided by an alternative electric supplier in a manner not in
16 compliance with subsection (b), (d), (e), or (h). If, after
17 notice and hearing, the Commission finds that an alternative
18 retail electric supplier has violated subsection (b), (d), (e),
19 or (h), then the Commission may, in its discretion, do any one
20 or more of the following:

21 (1) require the violating alternative retail electric
22 supplier to refund the customer charges collected in excess
23 of those that would have been charged by the customer's
24 authorized electric provider;

25 (2) require the violating alternative retail electric
26 supplier to pay a fine of \$5,000 for each violation;

1 (3) issue a cease and desist order; or

2 (4) for a pattern of violations or for intentionally
3 violating a cease and desist order, revoke the violating
4 alternative retail electric supplier's certificate of
5 service authority.

6 (j) All fines shall be deposited into the Alternative
7 Retail Electric Supplier and Alternative Gas Supplier
8 Enforcement and Consumer Education Operations Account.

9 (Source: P.A. 90-561, eff. 12-16-97.)

10 (220 ILCS 5/16-115B)

11 Sec. 16-115B. Commission oversight of services provided by
12 alternative retail electric suppliers.

13 (a) The Commission shall have jurisdiction in accordance
14 with the provisions of Article X of this Act to entertain and
15 dispose of any complaint against any alternative retail
16 electric supplier alleging (i) that the alternative retail
17 electric supplier has violated or is in nonconformance with any
18 applicable provisions of Section 16-115 through Section
19 16-115A; (ii) that an alternative retail electric supplier
20 serving retail customers having maximum demands of less than
21 one megawatt has failed to provide service in accordance with
22 the terms of its contract or contracts with such customer or
23 customers; (iii) that the alternative retail electric supplier
24 has violated or is in non-conformance with the delivery
25 services tariff of, or any of its agreements relating to

1 delivery services with, the electric utility, municipal
2 system, or electric cooperative providing delivery services;
3 or (iv) that the alternative retail electric supplier has
4 violated or failed to comply with the requirements of Sections
5 8-201 through 8-207, 8-301, 8-505, or 8-507 of this Act as made
6 applicable to alternative retail electric suppliers.

7 (b) By January 1 of 2019 and by January 1 of each year
8 thereafter, the Commission shall have the authority on its own
9 motion to order an alternative retail electric supplier to
10 enter into a Commission compliance plan as described below:

11 (1) The Commission shall annually review the previous
12 12 months of complaint statistics for trends and patterns,
13 including whether particular alternative retail electric
14 suppliers have consistently higher than average complaint
15 rates related to a specific marketing channel. The
16 Commission shall do so without initiating a docketed
17 proceeding.

18 (2) If the Commission determines that an alternative
19 retail electric supplier has a consistently higher than
20 average complaint rate related to a specific marketing
21 channel, the Commission staff shall informally investigate
22 the reasons for the consistently higher than average
23 complaint rate. The informal investigation shall include
24 at least one invitation to the affected alternative retail
25 electric supplier for a meeting. Subject to the limitations
26 in paragraph (3), the results of the information

1 investigation shall be confidential.

2 (3) If, pursuant to its informal investigation, the
3 Commission staff recommends that the Commission pursue a
4 compliance plan for a particular alternative retail
5 electric supplier, then the Commission staff shall provide
6 the Commission with a report. Upon receipt of the report,
7 the Commission may open a proceeding to consider whether to
8 impose a compliance plan and what that plan shall include.
9 The Commission shall issue a final order in this proceeding
10 no later than one year after the proceeding is initiated.

11 (4) A compliance plan shall be developed to address the
12 substance of complaints identified in the report prepared
13 pursuant to paragraph (3) or other substantiated
14 complaints and shall be proportional to the substantiated
15 violations of this Act, the Commission's rules, or other
16 legal requirements imposed on the alternative retail
17 electric supplier.

18 (5) Upon its own motion or on complaint of a party, if
19 the Commission finds that an alternative retail electric
20 supplier did not follow its compliance plan and failed to
21 cure any defects or deficiencies in compliance within a
22 reasonable time frame, the Commission may impose a penalty
23 consistent with subsections (c) and (d).

24 For purposes of this subsection (b), "complaint" means an
25 objection made to an alternative retail electric supplier, by a
26 customer or another entity, as to its charges, facilities, or

1 service, the disposal of which requires investigation or
2 analysis. "Complaint" includes a customer or other entity
3 identifying and asking an alternative retail electric supplier
4 to address or resolve a problem or concern. "Complaint" does
5 not include contact that is limited to inquiry or seeking
6 information.

7 (c) ~~(b)~~ The Commission shall have authority, after notice
8 and hearing held on complaint or on the Commission's own
9 motion, to do any one or more of the following:

10 (1) If the Commission finds, upon receipt of a report
11 pursuant to paragraph (3) of subsection (b), sufficient
12 evidence of a repeated pattern of conduct or circumstances
13 that is contrary to Section 16-115A and 83 Adm. Ill. Code
14 Part 412 and that the public interest, safety, and welfare
15 imperatively requires immediate action, issue an informal
16 notice, without initiating a docketed proceeding, to the
17 alternative retail electric supplier to show cause why an
18 order to cease and desist should not be entered against the
19 alternative retail electric supplier. The Commission's
20 informal notice shall clearly set forth the evidence relied
21 upon by the Commission, including, but not limited to, the
22 provisions in subsection (d) of Section 16-115 and
23 subsection (h) of Section 16-115A. The Commission shall
24 allow the alternative retail electric supplier at least 10
25 business days from the date of the informal notice to file
26 an answer to the satisfaction of the Commission. Failure of

1 the alternative retail electric supplier to answer to the
2 satisfaction of the Commission shall cause an order to
3 cease and desist to be issued immediately by the
4 Commission.

5 (2) Order ~~(1) To order~~ an alternative retail electric
6 supplier to cease and desist, or correct, any violation of
7 or non-conformance with the provisions of Section 16-115 or
8 16-115A.~~†~~

9 (3) Impose ~~(2) To impose~~ financial penalties for
10 violations of or non-conformances with the provisions of
11 Section 16-115 or 16-115A, not to exceed (i) \$10,000 per
12 occurrence or (ii) \$30,000 per day for those violations or
13 non-conformances which continue after the Commission
14 issues a cease and desist order.~~†~~ and

15 (4) Alter ~~(3) To alter~~, modify, revoke, or suspend the
16 certificate of service authority of an alternative retail
17 electric supplier for substantial or repeated violations
18 of or non-conformances with the provisions of Section
19 16-115 or 16-115A.

20 (d) If the Commission assesses a penalty against an
21 alternative retail electric supplier under any provision of
22 this Article XVI, the Commission shall determine on a
23 case-by-case basis the value of that penalty based on the
24 following factors:

25 (1) the nature of the violations found and the
26 alternative retail electric supplier's history of

1 substantiated complaints or adjudicated violations;

2 (2) the alternative retail electric supplier's
3 culpability;

4 (3) whether the factual and legal circumstances
5 surrounding the violations were clear at the time of the
6 violation;

7 (4) whether the alternative retail electric supplier
8 had actual notice of the violations with a reasonable time
9 to mitigate;

10 (5) existence or strength of compliance and internal
11 monitoring programs;

12 (6) whether the alternative retail electric supplier
13 made a good faith effort to compensate consumers harmed;
14 and

15 (7) any context-appropriate factors that the
16 Commission deems appropriate.

17 The Commission may by majority vote adopt and change from
18 time to time a public guidance document setting out its
19 interpretation of this subsection.

20 (e) All fines shall be deposited into the Alternative
21 Retail Electric Supplier and Alternative Gas Supplier
22 Enforcement and Consumer Education Operations Account.

23 (f) The Commission shall conduct at least one mandatory
24 compliance education workshop annually for alternative retail
25 electric suppliers that service retail and small commercial
26 retail customers in an electric utility's service area

1 regarding statutory and rule requirements, consumer complaint
2 statistics, and any other information determined necessary by
3 the Commission. Completion of the Commission's compliance
4 workshop by an alternative retail electric supplier must be in
5 person and is a condition for continuing compliance with
6 certification requirements for an alternative retail electric
7 supplier under 83 Ill. Adm. Code 451.Subpart H.

8 (Source: P.A. 90-561, eff. 12-16-97.)

9 (220 ILCS 5/16-119)

10 Sec. 16-119. Switching suppliers.

11 (a) An electric utility or an alternative retail electric
12 supplier may establish a term of service, notice period for
13 terminating service and provisions governing early termination
14 through a tariff or contract. A customer may change its
15 supplier subject to tariff or contract terms and conditions.
16 Any notice provisions; or provision for a fee, charge or
17 penalty with early termination of a contract; shall be
18 conspicuously disclosed in any tariff or contract. Any tariff
19 filed or contract renewed or entered into on and after the
20 effective date of this amendatory Act of the 99th General
21 Assembly that contains an early termination clause shall
22 disclose the amount of the early termination fee or penalty,
23 provided that any early termination fee or penalty shall not
24 exceed \$50 total for residential customers and \$150 for small
25 commercial retail customers as defined in Section 16-102 of

1 this Act, regardless of whether or not the tariff or contract
2 is a multiyear tariff or contract. A customer shall remain
3 responsible for any unpaid charges owed to an electric utility
4 or alternative retail electric supplier at the time it switches
5 to another provider.

6 The caps on early termination fees and penalties under this
7 Section shall apply only to early termination fees and
8 penalties for early termination of electric service. The caps
9 shall not apply to charges or fees for devices, equipment, or
10 other services provided by the utility or alternative retail
11 electric supplier.

12 (b) Notwithstanding the requirements of subsection (a),
13 each electric utility shall, within 90 days after the effective
14 date of this amendatory Act of the 100th General Assembly,
15 modify its tariff carrying out this Section to reflect the
16 following:

17 (1) No customer who is receiving Low-Income Home Energy
18 Assistance Program funds may be switched to an alternative
19 retail electric supplier except subject to a government
20 aggregation program or to an order entered by the
21 Commission that approves a Low-Income Home Energy
22 Assistance Program savings guarantee plan for alternative
23 retail electric supplier offerings.

24 (2) If an alternative retail electric supplier
25 attempts to enroll a Low-Income Home Energy Assistance
26 Program customer other than through a government

1 aggregation program or an order entered by the Commission
2 that approves a Low-Income Energy Assistance Program
3 savings guarantee plan for alternative retail electric
4 supplier offerings, the electric utility shall deny the
5 supplier switch and inform the alternative retail electric
6 supplier of the reason.

7 (Source: P.A. 99-103, eff. 7-22-15; 99-107, eff. 7-22-15.)

8 (220 ILCS 5/19-115)

9 Sec. 19-115. Obligations of alternative gas suppliers.

10 (a) The provisions of this Section shall apply only to
11 alternative gas suppliers serving or seeking to serve
12 residential or small commercial customers and only to the
13 extent such alternative gas suppliers provide services to
14 residential or small commercial customers.

15 (b) An alternative gas supplier shall:

16 (1) comply with the requirements imposed on public
17 utilities by Sections 8-201 through 8-207, 8-301, 8-505 and
18 8-507 of this Act, to the extent that these Sections have
19 application to the services being offered by the
20 alternative gas supplier;

21 (2) continue to comply with the requirements for
22 certification stated in Section 19-110;

23 (3) comply with complaint procedures established by
24 the Commission;

25 (4) except as provided in subsection (h) of this

1 Section, file with the Chief Clerk of the Commission,
2 within 20 business days after the effective date of this
3 amendatory Act of the 95th General Assembly, a copy of bill
4 formats, standard customer contract and customer complaint
5 and resolution procedures, and the name and telephone
6 number of the company representative whom Commission
7 employees may contact to resolve customer complaints and
8 other matters. In the case of a gas supplier that engages
9 in door-to-door solicitation, the company shall file with
10 the Commission the consumer information disclosure
11 required by item (3) of subsection (c) of Section 2DDD of
12 the Consumer Fraud and Deceptive Business Practices Act and
13 shall file updated information within 10 business days
14 after changes in any of the documents or information
15 required to be filed by this item (4); and

16 (5) maintain a customer call center where customers can
17 reach a representative and receive current information. At
18 least once every 6 months, each alternative gas supplier
19 shall provide written information to customers explaining
20 how to contact the call center. The average answer time for
21 calls placed to the call center shall not exceed 60 seconds
22 where a representative or automated system is ready to
23 render assistance and/or accept information to process
24 calls. The abandon rate for calls placed to the call center
25 shall not exceed 10%. Each alternative gas supplier shall
26 maintain records of the call center's telephone answer time

1 performance and abandon call rate. These records shall be
2 kept for a minimum of 2 years and shall be made available
3 to Commission personnel upon request. In the event that
4 answer times and/or abandon rates exceed the limits
5 established above, the reporting alternative gas supplier
6 may provide the Commission or its personnel with
7 explanatory details. At a minimum, these records shall
8 contain the following information in monthly increments:

9 (A) total number of calls received;

10 (B) number of calls answered;

11 (C) average answer time;

12 (D) number of abandoned calls; and

13 (E) abandon call rate.

14 Alternative gas suppliers that do not have electronic
15 answering capability that meets these requirements shall
16 notify the Manager of the Commission's Consumer Services
17 Division or its successor within 30 days following the
18 effective date of this amendatory Act of the 95th General
19 Assembly and work with Staff to develop individualized
20 reporting requirements as to the call volume and responsiveness
21 of the call center.

22 On or before March 1 of every year, each entity shall file
23 a report with the Chief Clerk of the Commission for the
24 preceding calendar year on its answer time and abandon call
25 rate for its call center. A copy of the report shall be sent to
26 the Manager of the Consumer Services Division or its successor.

1 (c) An alternative gas supplier shall not submit or execute
2 a change in a customer's selection of a natural gas provider
3 unless and until (i) the alternative gas supplier first
4 discloses all material terms and conditions of the offer to the
5 customer; (ii) the alternative gas supplier has obtained the
6 customer's express agreement to accept the offer after the
7 disclosure of all material terms and conditions of the offer;
8 and (iii) the alternative gas supplier has confirmed the
9 request for a change in accordance with one of the following
10 procedures:

11 (1) The alternative gas supplier has obtained the
12 customer's written or electronically signed authorization
13 in a form that meets the following requirements:

14 (A) An alternative gas supplier shall obtain any
15 necessary written or electronically signed
16 authorization from a customer for a change in natural
17 gas service by using a letter of agency as specified in
18 this Section. Any letter of agency that does not
19 conform with this Section is invalid.

20 (B) The letter of agency shall be a separate
21 document (or an easily separable document containing
22 only the authorization language described in item (E)
23 of this paragraph (1)) whose sole purpose is to
24 authorize a natural gas provider change. The letter of
25 agency must be signed and dated by the customer
26 requesting the natural gas provider change.

1 (C) The letter of agency shall not be combined with
2 inducements of any kind on the same document.

3 (D) Notwithstanding items (A) and (B) of this
4 paragraph (1), the letter of agency may be combined
5 with checks that contain only the required letter of
6 agency language prescribed in item (E) of this
7 paragraph (1) and the necessary information to make the
8 check a negotiable instrument. The letter of agency
9 check shall not contain any promotional language or
10 material. The letter of agency check shall contain in
11 easily readable, bold face type on the face of the
12 check a notice that the consumer is authorizing a
13 natural gas provider change by signing the check. The
14 letter of agency language also shall be placed near the
15 signature line on the back of the check.

16 (E) At a minimum, the letter of agency must be
17 printed with a print of sufficient size to be clearly
18 legible and must contain clear and unambiguous
19 language that confirms:

20 (i) the customer's billing name and address;

21 (ii) the decision to change the natural gas
22 provider from the current provider to the
23 prospective alternative gas supplier;

24 (iii) the terms, conditions, and nature of the
25 service to be provided to the customer, including,
26 but not limited to, the rates for the service

1 contracted for by the customer; and

2 (iv) that the customer understands that any
3 natural gas provider selection the customer
4 chooses may involve a charge to the customer for
5 changing the customer's natural gas provider.

6 (F) Letters of agency shall not suggest or require
7 that a customer take some action in order to retain the
8 customer's current natural gas provider.

9 (G) If any portion of a letter of agency is
10 translated into another language, then all portions of
11 the letter of agency must be translated into that
12 language.

13 (2) An appropriately qualified independent third party
14 has obtained, in accordance with the procedures set forth
15 in this paragraph (2), the customer's oral authorization to
16 change natural gas providers that confirms and includes
17 appropriate verification data. The independent third party
18 must (i) not be owned, managed, controlled, or directed by
19 the alternative gas supplier or the alternative gas
20 supplier's marketing agent; (ii) not have any financial
21 incentive to confirm provider change requests for the
22 alternative gas supplier or the alternative gas supplier's
23 marketing agent; and (iii) operate in a location physically
24 separate from the alternative gas supplier or the
25 alternative gas supplier's marketing agent. Automated
26 third-party verification systems and 3-way conference

1 calls may be used for verification purposes so long as the
2 other requirements of this paragraph (2) are satisfied. An
3 alternative gas supplier or alternative gas supplier's
4 sales representative initiating a 3-way conference call or
5 a call through an automated verification system must drop
6 off the call once the 3-way connection has been
7 established. All third-party verification methods shall
8 elicit, at a minimum, the following information:

9 (A) the identity of the customer;

10 (B) confirmation that the person on the call is
11 authorized to make the provider change;

12 (C) confirmation that the person on the call wants
13 to make the provider change;

14 (D) the names of the providers affected by the
15 change;

16 (E) the service address of the service to be
17 switched; and

18 (F) the price of the service to be provided and the
19 material terms and conditions of the service being
20 offered, including whether any early termination fees
21 apply.

22 Third-party verifiers may not market the alternative
23 gas supplier's services by providing additional
24 information. All third-party verifications shall be
25 conducted in the same language that was used in the
26 underlying sales transaction and shall be recorded in their

1 entirety. Submitting alternative gas suppliers shall
2 maintain and preserve audio records of verification of
3 customer authorization for a minimum period of 2 years
4 after obtaining the verification. Automated systems must
5 provide customers with an option to speak with a live
6 person at any time during the call.

7 (3) The alternative gas supplier has obtained the
8 customer's authorization via an automated verification
9 system to change natural gas service via telephone. An
10 automated verification system is an electronic system
11 that, through pre-recorded prompts, elicits voice
12 responses, touchtone responses, or both, from the customer
13 and records both the prompts and the customer's responses.
14 Such authorization must elicit the information in
15 paragraph (2)(A) through (F) of this subsection (c).
16 Alternative gas suppliers electing to confirm sales
17 electronically through an automated verification system
18 shall establish one or more toll-free telephone numbers
19 exclusively for that purpose. Calls to the number or
20 numbers shall connect a customer to a voice response unit,
21 or similar mechanism, that makes a date-stamped,
22 time-stamped recording of the required information
23 regarding the alternative gas supplier change.

24 The alternative gas supplier shall not use such
25 electronic authorization systems to market its services.

26 (4) When a consumer initiates the call to the

1 prospective alternative gas supplier, in order to enroll
2 the consumer as a customer, the prospective alternative gas
3 supplier must, with the consent of the customer, make a
4 date-stamped, time-stamped audio recording that elicits,
5 at a minimum, the following information:

6 (A) the identity of the customer;

7 (B) confirmation that the person on the call is
8 authorized to make the provider change;

9 (C) confirmation that the person on the call wants
10 to make the provider change;

11 (D) the names of the providers affected by the
12 change;

13 (E) the service address of the service to be
14 switched; and

15 (F) the price of the service to be supplied and the
16 material terms and conditions of the service being
17 offered, including whether any early termination fees
18 apply.

19 Submitting alternative gas suppliers shall maintain
20 and preserve the audio records containing the information
21 set forth above for a minimum period of 2 years.

22 (5) In the event that a customer enrolls for service
23 from an alternative gas supplier via an Internet website,
24 the alternative gas supplier shall obtain an
25 electronically signed letter of agency in accordance with
26 paragraph (1) of this subsection (c) and any customer

1 information shall be protected in accordance with all
2 applicable statutes and regulations. In addition, an
3 alternative gas supplier shall provide the following when
4 marketing via an Internet website:

5 (A) The Internet enrollment website shall, at a
6 minimum, include:

7 (i) a copy of the alternative gas supplier's
8 customer contract that clearly and conspicuously
9 discloses all terms and conditions; and

10 (ii) a conspicuous prompt for the customer to
11 print or save a copy of the contract.

12 (B) Any electronic version of the contract shall be
13 identified by version number, in order to ensure the
14 ability to verify the particular contract to which the
15 customer assents.

16 (C) Throughout the duration of the alternative gas
17 supplier's contract with a customer, the alternative
18 gas supplier shall retain and, within 3 business days
19 of the customer's request, provide to the customer an
20 e-mail, paper, or facsimile of the terms and conditions
21 of the numbered contract version to which the customer
22 assents.

23 (D) The alternative gas supplier shall provide a
24 mechanism by which both the submission and receipt of
25 the electronic letter of agency are recorded by time
26 and date.

1 (E) After the customer completes the electronic
2 letter of agency, the alternative gas supplier shall
3 disclose conspicuously through its website that the
4 customer has been enrolled, and the alternative gas
5 supplier shall provide the customer an enrollment
6 confirmation number.

7 (6) When a customer is solicited in person by the
8 alternative gas supplier's sales agent, the alternative
9 gas supplier may only obtain the customer's authorization
10 to change natural gas service through the method provided
11 for in paragraph (2) of this subsection (c).

12 Alternative gas suppliers must be in compliance with this
13 subsection (c) within 90 days after the effective date of this
14 amendatory Act of the 95th General Assembly.

15 Notwithstanding the requirements under this subsection
16 (c), each natural gas utility shall, within 90 days after the
17 effective date of this amendatory Act of the 100th General
18 Assembly, modify its tariff carrying out this Section to
19 reflect the following:

20 (i) No customer who is receiving Low-Income Home Energy
21 Assistance Program funds may be switched to an alternative
22 gas supplier except subject to government aggregation
23 programs or to an order entered by the Commission that
24 approves a Low-Income Home Energy Assistance savings
25 guarantee plan for alternative gas supplier offerings.

26 (ii) If an alternative gas supplier attempts to enroll

1 a Low-Income Home Energy Assistance Program customer other
2 than through a government aggregation program or an order
3 entered by the Commission that approves a Low-Income Home
4 Energy Assistance Program savings guarantee plan for
5 alternative gas supplier offerings, the natural gas
6 utility shall deny the supplier switch and inform the
7 alternative gas supplier of the reason.

8 (d) Complaints may be filed with the Commission under this
9 Section by a customer whose natural gas service has been
10 provided by an alternative gas supplier in a manner not in
11 compliance with subsection (c) of this Section. If, after
12 notice and hearing, the Commission finds that an alternative
13 gas supplier has violated subsection (c), then the Commission
14 may in its discretion do any one or more of the following:

15 (1) Require the violating alternative gas supplier to
16 refund the customer charges collected in excess of those
17 that would have been charged by the customer's authorized
18 natural gas provider.

19 (2) Require the violating alternative gas supplier to
20 pay to the customer's authorized natural gas provider the
21 amount the authorized natural gas provider would have
22 collected for natural gas service. The Commission is
23 authorized to reduce this payment by any amount already
24 paid by the violating alternative gas supplier to the
25 customer's authorized natural gas provider.

26 (3) Require the violating alternative gas supplier to

1 pay a fine of up to \$1,000 into the Public Utility Fund for
2 each repeated and intentional violation of this Section.

3 (4) Issue a cease and desist order.

4 (5) For a pattern of violation of this Section or for
5 intentionally violating a cease and desist order, revoke
6 the violating alternative gas supplier's certificate of
7 service authority.

8 (e) No alternative gas supplier shall:

9 (1) enter into or employ any arrangements which have
10 the effect of preventing any customer from having access to
11 the services of the gas utility in whose service area the
12 customer is located;

13 (2) charge customers for such access;

14 (3) bill for goods or services not authorized by the
15 customer; or

16 (4) bill for a disputed amount where the alternative
17 gas supplier has been provided notice of such dispute. The
18 supplier shall attempt to resolve a dispute with the
19 customer. When the dispute is not resolved to the
20 customer's satisfaction, the supplier shall inform the
21 customer of the right to file an informal complaint with
22 the Commission and provide contact information. While the
23 pending dispute is active at the Commission, an alternative
24 gas supplier may bill only for the undisputed amount until
25 the Commission has taken final action on the complaint.

26 (f) An alternative gas supplier that is certified to serve

1 residential or small commercial customers shall not:

2 (1) deny service to a customer or group of customers
3 nor establish any differences as to prices, terms,
4 conditions, services, products, facilities, or in any
5 other respect, whereby such denial or differences are based
6 upon race, gender, or income;

7 (2) deny service based on locality, nor establish any
8 unreasonable difference as to prices, terms, conditions,
9 services, products, or facilities as between localities;

10 (3) include in any agreement a provision that obligates
11 a customer to the terms of the agreement if the customer
12 (i) moves outside the State of Illinois; (ii) moves to a
13 location without a transportation service program; or
14 (iii) moves to a location where the customer will not
15 require natural gas service, provided that nothing in this
16 subsection precludes an alternative gas supplier from
17 taking any action otherwise available to it to collect a
18 debt that arises out of service provided to the customer
19 before the customer moved; or

20 (4) assign the agreement to any alternative natural gas
21 supplier, unless:

22 (A) the supplier is an alternative gas supplier
23 certified by the Commission;

24 (B) the rates, terms, and conditions of the
25 agreement being assigned do not change during the
26 remainder of the time covered by the agreement;

1 (C) the customer is given no less than 30 days
2 prior written notice of the assignment and contact
3 information for the new supplier; and

4 (D) the supplier assigning the contract provides
5 contact information that a customer can use to resolve
6 a dispute.

7 (g) An alternative gas supplier shall comply with the
8 following requirements with respect to the marketing,
9 offering, and provision of products or services:

10 (1) Any marketing materials which make statements
11 concerning prices, terms, and conditions of service shall
12 contain information that adequately discloses the prices,
13 terms and conditions of the products or services.

14 (2) Before any customer is switched from another
15 supplier, the alternative gas supplier shall give the
16 customer written information that clearly and
17 conspicuously discloses, in plain language, the prices,
18 terms, and conditions of the products and services being
19 offered and sold to the customer. Nothing in this paragraph
20 (2) may be read to relieve an alternative gas supplier from
21 the duties imposed on it by item (3) of subsection (c) of
22 Section 2DDD of the Consumer Fraud and Deceptive Business
23 Practices Act.

24 (3) The alternative gas supplier shall provide to the
25 customer:

26 (A) accurate, timely, and itemized billing

1 statements that describe the products and services
2 provided to the customer and their prices and that
3 specify the gas consumption amount and any service
4 charges and taxes; provided that this item (g) (3) (A)
5 does not apply to small commercial customers;

6 (B) billing statements that clearly and
7 conspicuously discloses the name and contact
8 information for the alternative gas supplier;

9 (C) an additional statement, at least annually,
10 that adequately discloses the average monthly prices,
11 and the terms and conditions, of the products and
12 services sold to the customer; provided that this item
13 (g) (3) (C) does not apply to small commercial
14 customers;

15 (D) refunds of any deposits with interest within 30
16 days after the date that the customer changes gas
17 suppliers or discontinues service if the customer has
18 satisfied all of his or her outstanding financial
19 obligations to the alternative gas supplier at an
20 interest rate set by the Commission which shall be the
21 same as that required of gas utilities; and

22 (E) refunds, in a timely fashion, of all undisputed
23 overpayments upon the oral or written request of the
24 customer.

25 (4) An alternative gas supplier and its sales agents
26 shall refrain from any direct marketing or soliciting to

1 consumers on the gas utility's "Do Not Contact List", which
2 the alternative gas supplier shall obtain on the 15th
3 calendar day of the month from the gas utility in whose
4 service area the consumer is provided with gas service. If
5 the 15th calendar day is a non-business day, then the
6 alternative gas supplier shall obtain the list on the next
7 business day following the 15th calendar day of that month.

8 (5) Early Termination.

9 (A) Any agreement that contains an early
10 termination clause shall disclose the amount of the
11 early termination fee, provided that any early
12 termination fee or penalty shall not exceed \$50 total,
13 regardless of whether or not the agreement is a
14 multiyear agreement.

15 (B) In any agreement that contains an early
16 termination clause, an alternative gas supplier shall
17 provide the customer the opportunity to terminate the
18 agreement without any termination fee or penalty
19 within 10 business days after the date of the first
20 bill issued to the customer for products or services
21 provided by the alternative gas supplier. The
22 agreement shall disclose the opportunity and provide a
23 toll-free phone number that the customer may call in
24 order to terminate the agreement.

25 (6) Within 2 business days after electronic receipt of
26 a customer switch from the alternative gas supplier and

1 confirmation of eligibility, the gas utility shall provide
2 the customer written notice confirming the switch. The gas
3 utility shall not switch the service until 10 business days
4 after the date on the notice to the customer.

5 (7) The alternative gas supplier shall provide each
6 customer the opportunity to rescind its agreement without
7 penalty within 10 business days after the date on the gas
8 utility notice to the customer. The alternative gas
9 supplier shall disclose all of the following:

10 (A) that the gas utility shall send a notice
11 confirming the switch;

12 (B) that from the date the utility issues the
13 notice confirming the switch, the customer shall have
14 10 business days to rescind the switch without penalty;

15 (C) that the customer shall contact the gas utility
16 or the alternative gas supplier to rescind the switch;
17 and

18 (D) the contact information for the gas utility.

19 The alternative gas supplier disclosure shall be
20 included in its sales solicitations, contracts, and all
21 applicable sales verification scripts.

22 (h) An alternative gas supplier may limit the overall size
23 or availability of a service offering by specifying one or more
24 of the following:

25 (1) a maximum number of customers and maximum amount of
26 gas load to be served;

1 (2) time period during which the offering will be
2 available; or

3 (3) other comparable limitation, but not including the
4 geographic locations of customers within the area which the
5 alternative gas supplier is certificated to serve.

6 The alternative gas supplier shall file the terms and
7 conditions of such service offering including the applicable
8 limitations with the Commission prior to making the service
9 offering available to customers.

10 (i) Nothing in this Section shall be construed as
11 preventing an alternative gas supplier that is an affiliate of,
12 or which contracts with, (i) an industry or trade organization
13 or association, (ii) a membership organization or association
14 that exists for a purpose other than the purchase of gas, or
15 (iii) another organization that meets criteria established in a
16 rule adopted by the Commission from offering through the
17 organization or association services at prices, terms and
18 conditions that are available solely to the members of the
19 organization or association.

20 (Source: P.A. 95-1051, eff. 4-10-09.)

21 (220 ILCS 5/20-110)

22 Sec. 20-110. Office of Retail Market Development. Within 90
23 days after the effective date of this amendatory Act of the
24 94th General Assembly, subject to appropriation, the
25 Commission shall establish an Office of Retail Market

1 Development and employ on its staff a Director of Retail Market
2 Development to oversee the Office. The Director shall have
3 authority to employ or otherwise retain at least 2
4 professionals dedicated to the task of actively seeking out
5 ways to promote retail competition in Illinois to benefit all
6 Illinois consumers.

7 The Office shall actively seek input from all interested
8 parties and shall develop a thorough understanding and critical
9 analyses of the tools and techniques used to promote retail
10 competition in other states.

11 The Office shall monitor existing competitive conditions
12 in Illinois, identify barriers to retail competition for all
13 customer classes, and actively explore and propose to the
14 Commission and to the General Assembly solutions to overcome
15 identified barriers. The Director may include municipal
16 aggregation of customers and creating and designing customer
17 choice programs as tools for retail market development.
18 Solutions proposed by the Office to promote retail competition
19 must also promote safe, reliable, and affordable electric
20 service.

21 On or before June 30 of each year, the Director shall
22 submit a report to the Commission, the General Assembly, and
23 the Governor, that details specific accomplishments achieved
24 by the Office in the prior 12 months in promoting retail
25 electric competition and that suggests administrative and
26 legislative action necessary to promote further improvements

1 in retail electric competition. The report to the General
2 Assembly shall be filed with the Clerk of the House of
3 Representatives and the Secretary of State in electronic form
4 only, in the manner that the Clerk and the Secretary shall
5 direct. Any information in this report involving price
6 comparisons between electric utilities, electric utilities
7 providing service outside their service territories, or
8 alternative retail electric suppliers shall also include the
9 combined value of additional products and services offered by
10 the competitive retail electric market, including, but not
11 limited to, the cash value of energy control technologies
12 provided, the megawatt hours of energy savings realized by
13 customers utilizing energy control technologies, the megawatt
14 hours of renewable energy exclusive of State mandated
15 purchases, and the total amounts of cash or cash equivalent
16 offers. The Commission may include other energy savings and
17 marketing savings programs as they develop in the market.

18 (Source: P.A. 94-1095, eff. 2-2-07.)

19 (220 ILCS 5/20-140 new)

20 Sec. 20-140. Expanded use of energy savings programs.

21 (a) The Commission may establish a program for promoting
22 expanded use of energy savings programs for residential and
23 small commercial customers. The program shall include the use
24 of thermostats, lights, plugs, and other devices that allow a
25 customer to control and reduce his or her energy usage. The

1 program shall not discriminate based on brand names and shall
2 include ways to promote those devices and incentives for
3 residential customers, including both homeowners and renters.

4 (b) On or before September 1, 2018 and every 2 years
5 thereafter, the Commission shall initiate a collaborative
6 workshop for stakeholders, retail electric suppliers,
7 advocates for energy savings, and industry representatives
8 developing energy savings devices and applicants.

9 (c) Any recommendations arising from the workshop process
10 under this Section shall be included in the annual report of
11 the Office of Retail Market Development.

12 Section 10. The Citizens Utility Board Act is amended by
13 changing Section 5 as follows:

14 (220 ILCS 10/5) (from Ch. 111 2/3, par. 905)

15 Sec. 5. Powers and duties.

16 (1) The corporation shall:

17 (a) Represent and protect the interests of the
18 residential utility consumers of this State. All actions by
19 the corporation under this Act shall be directed toward
20 such duty; provided that the corporation may also give due
21 consideration to the interests of business in the State.

22 (b) Inform, in so far as possible, all utility
23 consumers about the corporation, including the procedure
24 for obtaining membership in the corporation.

1 (2) The corporation shall have all the powers necessary or
2 convenient for the effective representation and protection of
3 the interest of utility consumers and to implement this Act,
4 including the following powers in addition to all other powers
5 granted by this Act.

6 (a) To make, amend and repeal bylaws and rules for the
7 regulation of its affairs and the conduct of its business;
8 to adopt an official seal and alter it at pleasure; to
9 maintain an office; to sue and be sued in its own name,
10 plead and be impleaded; and to make and execute contracts
11 and other instruments necessary or convenient to the
12 exercise of the powers of the corporation.

13 (b) To employ such agents, employees and special
14 advisors as it finds necessary and to fix their
15 compensation.

16 (c) To solicit and accept gifts, loans, including loans
17 made by the Illinois Commerce Commission from funds
18 appropriated for that purpose by law, or other aid in order
19 to support activities concerning the interests of utility
20 consumers. Except as provided in Section 5.1, the
21 corporation may not accept gifts, loans or other aid from
22 any public utility or from any director, employee or agent
23 or member of the immediate family of a director, employee
24 or agent of any public utility and, after the first
25 election the corporation, may not accept from any
26 individual, private corporation, association or

1 partnership in any single year a total of more than \$1,000
2 in gifts. Under this paragraph, "aid" does not mean payment
3 of membership dues.

4 (d) To intervene as a party or otherwise participate on
5 behalf of utility consumers in any proceeding which affects
6 the interest of utility consumers.

7 (e) To represent the interests of utility consumers
8 before the Illinois Commerce Commission, the Federal
9 Energy Regulatory Commission, the Federal Communications
10 Commission, the courts, and other public bodies, except
11 that no director, employee or agent of the corporation may
12 engage in lobbying without first complying with any
13 applicable statute, administrative rule or other
14 regulation relating to lobbying.

15 (f) To establish annual dues which shall be set at a
16 level that provides sufficient funding for the corporation
17 to effectively perform its powers and duties, and is
18 affordable for as many utility consumers as is possible.

19 (g) To implement solicitation for corporation funding
20 and membership.

21 (h) To seek tax exempt status under State and federal
22 law, including 501(c)(3) status under the United States
23 Internal Revenue Code.

24 (i) To provide information and advice to utility
25 consumers on any matter with respect to utility service,
26 including but not limited to information and advice on

1 benefits and methods of energy conservation.

2 (3) The powers, duties, rights and privileges conferred or
3 imposed upon the corporation by this Act may not be
4 transferred.

5 (4) The corporation shall refrain from interfering with
6 collective bargaining rights of any employees of a public
7 utility.

8 (5) The corporation shall provide all consumer complaints
9 regarding service by entities possessing a certificate of
10 service authority as an alternative retail electric supplier
11 under Section 16-115 of the Public Utilities Act and entities
12 possessing certificates of service authority as an alternative
13 gas supplier under Section 19-110 of the Public Utilities Act
14 to the Consumer Services Division of the Illinois Commerce
15 Commission.

16 For purposes of this subsection (5), "complaint" means an
17 objection made to an alternative retail electric supplier or to
18 an alternative gas supplier by a customer or another entity as
19 to its charges, facilities, or service, the disposal of which
20 requires investigation or analysis. "Complaint" includes a
21 customer or other entity identifying and asking an alternative
22 retail electric supplier or alternative gas supplier to address
23 or resolve a problem or concern. "Complaint" does not include
24 contact that is limited to inquiry or seeking information.

25 (Source: P.A. 91-50, eff. 6-30-99.)

1 Section 15. The Consumer Fraud and Deceptive Business
2 Practices Act is amended by changing Section 2EE as follows:

3 (815 ILCS 505/2EE)

4 Sec. 2EE. Electric service provider selection. An electric
5 service provider shall not submit or execute a change in a
6 subscriber's selection of a provider of electric service unless
7 and until (i) the provider first discloses all material terms
8 and conditions of the offer to the subscriber; (ii) the
9 provider has obtained the subscriber's express agreement to
10 accept the offer after the disclosure of all material terms and
11 conditions of the offer; and (iii) the provider has confirmed
12 the request for a change in accordance with one of the
13 following procedures:

14 (a) The new electric service provider has obtained the
15 subscriber's written or electronically signed authorization in
16 a form that meets the following requirements:

17 (1) An electric service provider shall obtain any
18 necessary written or electronically signed authorization
19 from a subscriber for a change in electric service by using
20 a letter of agency as specified in this Section. Any letter
21 of agency that does not conform with this Section is
22 invalid.

23 (2) The letter of agency shall be a separate document
24 (an easily separable document containing only the
25 authorization language described in subparagraph (a) (5) of

1 this Section) whose sole purpose is to authorize an
2 electric service provider change. The letter of agency must
3 be signed and dated by the subscriber requesting the
4 electric service provider change.

5 (3) The letter of agency shall not be combined with
6 inducements of any kind on the same document.

7 (4) Notwithstanding subparagraphs (a) (1) and (a) (2) of
8 this Section, the letter of agency may be combined with
9 checks that contain only the required letter of agency
10 language prescribed in subparagraph (a) (5) of this Section
11 and the necessary information to make the check a
12 negotiable instrument. The letter of agency check shall not
13 contain any promotional language or material. The letter of
14 agency check shall contain in easily readable, bold-face
15 type on the face of the check, a notice that the consumer
16 is authorizing an electric service provider change by
17 signing the check. The letter of agency language also shall
18 be placed near the signature line on the back of the check.

19 (5) At a minimum, the letter of agency must be printed
20 with a print of sufficient size to be clearly legible, and
21 must contain clear and unambiguous language that confirms:

22 (i) The subscriber's billing name and address;

23 (ii) The decision to change the electric service
24 provider from the current provider to the prospective
25 provider;

26 (iii) The terms, conditions, and nature of the

1 service to be provided to the subscriber must be
2 clearly and conspicuously disclosed, in writing, and
3 an electric service provider must directly establish
4 the rates for the service contracted for by the
5 subscriber; and

6 (iv) That the subscriber understand that any
7 electric service provider selection the subscriber
8 chooses may involve a charge to the subscriber for
9 changing the subscriber's electric service provider.

10 (6) Letters of agency shall not suggest or require that
11 a subscriber take some action in order to retain the
12 subscriber's current electric service provider.

13 (7) If any portion of a letter of agency is translated
14 into another language, then all portions of the letter of
15 agency must be translated into that language.

16 (b) An appropriately qualified independent third party has
17 obtained, in accordance with the procedures set forth in this
18 subsection (b), the subscriber's oral authorization to change
19 electric suppliers that confirms and includes appropriate
20 verification data. The independent third party (i) must not be
21 owned, managed, controlled, or directed by the supplier or the
22 supplier's marketing agent; (ii) must not have any financial
23 incentive to confirm supplier change requests for the supplier
24 or the supplier's marketing agent; and (iii) must operate in a
25 location physically separate from the supplier or the
26 supplier's marketing agent.

1 Automated third-party verification systems and 3-way
2 conference calls may be used for verification purposes so long
3 as the other requirements of this subsection (b) are satisfied.

4 A supplier or supplier's sales representative initiating a
5 3-way conference call or a call through an automated
6 verification system must drop off the call once the 3-way
7 connection has been established.

8 All third-party verification methods shall elicit, at a
9 minimum, the following information: (i) the identity of the
10 subscriber; (ii) confirmation that the person on the call is
11 authorized to make the supplier change; (iii) confirmation that
12 the person on the call wants to make the supplier change; (iv)
13 the names of the suppliers affected by the change; (v) the
14 service address of the supply to be switched; and (vi) the
15 price of the service to be supplied and the material terms and
16 conditions of the service being offered, including whether any
17 early termination fees apply. Third-party verifiers may not
18 market the supplier's services by providing additional
19 information, including information regarding procedures to
20 block or otherwise freeze an account against further changes.

21 All third-party verifications shall be conducted in the
22 same language that was used in the underlying sales transaction
23 and shall be recorded in their entirety. Submitting suppliers
24 shall maintain and preserve audio records or electronic
25 versions, if automated, of verification of subscriber
26 authorization for a minimum period of 2 years after obtaining

1 the verification. Automated systems must provide consumers
2 with an option to speak with a live person at any time during
3 the call.

4 (c) When a subscriber initiates the call to the prospective
5 electric supplier, in order to enroll the subscriber as a
6 customer, the prospective electric supplier must, with the
7 consent of the customer, make a date-stamped, time-stamped
8 audio recording that elicits, at a minimum, the following
9 information:

10 (1) the identity of the subscriber;

11 (2) confirmation that the person on the call is
12 authorized to make the supplier change;

13 (3) confirmation that the person on the call wants to
14 make the supplier change;

15 (4) the names of the suppliers affected by the change;

16 (5) the service address of the supply to be switched;
17 and

18 (6) the price of the service to be supplied and the
19 material terms and conditions of the service being offered,
20 including whether any early termination fees apply.

21 Submitting suppliers shall maintain and preserve the audio
22 records containing the information set forth above for a
23 minimum period of 2 years.

24 (d) Complaints may be filed with the Illinois Commerce
25 Commission under this Section by a subscriber whose electric
26 service has been provided by an electric service supplier in a

1 manner not in compliance with this Section. If, after notice
2 and hearing, the Commission finds that an electric service
3 provider has violated this Section, the Commission may in its
4 discretion do any one or more of the following:

5 (1) Require the violating electric service provider to
6 refund to the subscriber charges collected in excess of
7 those that would have been charged by the subscriber's
8 authorized electric service provider.

9 (2) Require the violating electric service provider to
10 pay to the subscriber's authorized electric supplier the
11 amount the authorized electric supplier would have
12 collected for the electric service. The Commission is
13 authorized to reduce this payment by any amount already
14 paid by the violating electric supplier to the subscriber's
15 authorized provider for electric service.

16 (3) Require the violating electric subscriber to pay a
17 fine of up to \$1,000 into the Public Utility Fund for each
18 repeated and intentional violation of this Section.

19 (4) Issue a cease and desist order.

20 (5) For a pattern of violation of this Section or for
21 intentionally violating a cease and desist order, revoke
22 the violating provider's certificate of service authority.

23 (e) For purposes of this Section, "electric service
24 provider" shall have the meaning given that phrase in Section
25 6.5 of the Attorney General Act.

26 (Source: P.A. 95-700, eff. 11-9-07.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.".