

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Public Utilities Act is amended by changing
5 Sections 3-105, 3-121, and 19-105 as follows:

6 (220 ILCS 5/3-105) (from Ch. 111 2/3, par. 3-105)

7 Sec. 3-105. Public utility. "Public utility" means and
8 includes, except where otherwise expressly provided in this
9 Section, every corporation, company, limited liability
10 company, association, joint stock company or association,
11 firm, partnership or individual, their lessees, trustees, or
12 receivers appointed by any court whatsoever that owns,
13 controls, operates or manages, within this State, directly or
14 indirectly, for public use, any plant, equipment or property
15 used or to be used for or in connection with, or owns or
16 controls any franchise, license, permit or right to engage in:

17 a. the production, storage, transmission, sale,
18 delivery or furnishing of heat, cold, power, electricity,
19 water, or light, except when used solely for communications
20 purposes;

21 b. the disposal of sewerage; or

22 c. the conveyance of oil or gas by pipe line.

23 "Public utility" does not include, however:

24 1. public utilities that are owned and operated by any
25 political subdivision, public institution of higher
26 education or municipal corporation of this State, or public
27 utilities that are owned by such political subdivision,
28 public institution of higher education, or municipal
29 corporation and operated by any of its lessees or operating
30 agents;

31 2. water companies which are purely mutual concerns,
32 having no rates or charges for services, but paying the

1 operating expenses by assessment upon the members of such a
2 company and no other person;

3 3. electric cooperatives as defined in Section 3-119;

4 4. the following natural gas cooperatives:

5 (A) residential natural gas cooperatives that are
6 not-for-profit corporations established for the
7 purpose of administering and operating, on a
8 cooperative basis, the furnishing of natural gas to
9 residences for the benefit of their members who are
10 residential consumers of natural gas. For entities
11 qualifying as residential natural gas cooperatives and
12 recognized by the Illinois Commerce Commission as
13 such, the State shall guarantee legally binding
14 contracts entered into by residential natural gas
15 cooperatives for the express purpose of acquiring
16 natural gas supplies for their members. The Illinois
17 Commerce Commission shall establish rules and
18 regulations providing for such guarantees. The total
19 liability of the State in providing all such guarantees
20 shall not at any time exceed \$1,000,000, nor shall the
21 State provide such a guarantee to a residential natural
22 gas cooperative for more than 3 consecutive years; and

23 (B) natural gas cooperatives that are
24 not-for-profit corporations operated for the purpose
25 of administering, on a cooperative basis, the
26 furnishing of natural gas for the benefit of their
27 members and that, prior to 90 days after the effective
28 date of this amendatory Act of the 94th General
29 Assembly, either had acquired or had entered into an
30 asset purchase agreement to acquire all or
31 substantially all of the operating assets of a public
32 utility or natural gas cooperative with the intention
33 of operating those assets as a natural gas cooperative;

34 5. sewage disposal companies which provide sewage
35 disposal services on a mutual basis without establishing
36 rates or charges for services, but paying the operating

1 expenses by assessment upon the members of the company and
2 no others;

3 6. (Blank);

4 7. cogeneration facilities, small power production
5 facilities, and other qualifying facilities, as defined in
6 the Public Utility Regulatory Policies Act and regulations
7 promulgated thereunder, except to the extent State
8 regulatory jurisdiction and action is required or
9 authorized by federal law, regulations, regulatory
10 decisions or the decisions of federal or State courts of
11 competent jurisdiction;

12 8. the ownership or operation of a facility that sells
13 compressed natural gas at retail to the public for use only
14 as a motor vehicle fuel and the selling of compressed
15 natural gas at retail to the public for use only as a motor
16 vehicle fuel; and

17 9. alternative retail electric suppliers as defined in
18 Article XVI.

19 (Source: P.A. 89-42, eff. 1-1-96; 90-561, eff. 12-16-97.)

20 (220 ILCS 5/3-121) (from Ch. 111 2/3, par. 3-121)

21 Sec. 3-121. As used in Section 2-202 of this Act, the term
22 "gross revenue" includes all revenue which (1) is collected by
23 a public utility subject to regulations under this Act (a)
24 pursuant to the rates, other charges, and classifications which
25 it is required to file under Section 9-102 of this Act and (b)
26 pursuant to emergency rates as permitted by Section 9-104 of
27 this Act, and (2) is derived from the intrastate public utility
28 business of such a utility. Such term does not include revenue
29 derived by such a public utility from the sale of public
30 utility services, products or commodities to another public
31 utility, ~~or~~ to an electric cooperative, or to a natural gas
32 cooperative for resale by such public utility, ~~or~~ electric
33 cooperative, or natural gas cooperative. "Gross revenue" shall
34 not include any charges added to customers' bills pursuant to
35 the provisions of Section 9-221, 9-221.1 and 9-222 of this Act

1 or consideration received from business enterprises certified
2 under Section 9-222.1 of this Act to the extent of such
3 exemption and during the period in which the exemption is in
4 effect.

5 (Source: P.A. 85-1021.)

6 (220 ILCS 5/19-105)

7 Sec. 19-105. Definitions. For the purposes of this Article,
8 the following terms shall be defined as set forth in this
9 Section.

10 "Alternative gas supplier" means every person,
11 cooperative, corporation, municipal corporation, company,
12 association, joint stock company or association, firm,
13 partnership, individual, or other entity, their lessees,
14 trustees, or receivers appointed by any court whatsoever, that
15 offers gas for sale, lease, or in exchange for other value
16 received to one or more customers, or that engages in the
17 furnishing of gas to one or more customers, and shall include
18 affiliated interests of a gas utility, resellers, aggregators
19 and marketers, but shall not include (i) gas utilities (or any
20 agent of the gas utility to the extent the gas utility provides
21 tariffed services to customers through an agent); (ii) public
22 utilities that are owned and operated by any political
23 subdivision, public institution of higher education or
24 municipal corporation of this State, or public utilities that
25 are owned by a political subdivision, public institution of
26 higher education, or municipal corporation and operated by any
27 of its lessees or operating agents; (iii) ~~residential~~ natural
28 gas cooperatives that are not-for-profit corporations operated
29 ~~established~~ for the purpose of administering ~~and operating~~, on
30 a cooperative basis, the furnishing of natural gas ~~to~~
31 ~~residences~~ for the benefit of their members who are ~~residential~~
32 consumers of natural gas; and (iv) the ownership or operation
33 of a facility that sells compressed natural gas at retail to
34 the public for use only as a motor vehicle fuel and the selling
35 of compressed natural gas at retail to the public for use only

1 as a motor vehicle fuel.

2 "Gas utility" means a public utility, as defined in Section
3 3-105 of this Act, that has a franchise, license, permit, or
4 right to furnish or sell gas or transportation services to
5 customers within a service area.

6 "Residential customer" means a customer who receives gas
7 utility service for household purposes distributed to a
8 dwelling of 2 or fewer units which is billed under a
9 residential rate or gas utility service for household purposes
10 distributed to a dwelling unit or units which is billed under a
11 residential rate and is registered by a separate meter for each
12 dwelling unit.

13 "Service area" means (i) the geographic area within which a
14 gas utility was lawfully entitled to provide gas to customers
15 as of the effective date of this amendatory Act of the 92nd
16 General Assembly and includes (ii) the location of any customer
17 to which the gas utility was lawfully providing gas utility
18 services on such effective date.

19 "Small commercial customer" means a nonresidential retail
20 customer of a natural gas utility who is identified by the
21 alternative gas supplier, prior to becoming a customer of the
22 alternative gas supplier, as consuming 5,000 or fewer therms of
23 natural gas during the previous year; provided that any
24 alternative gas supplier may remove the customer from
25 designation as a "small commercial customer" if the customer
26 consumes more than 5,000 therms of natural gas in any calendar
27 year after becoming a customer of the alternative gas supplier.

28 "Tariffed service" means a service provided to customers by
29 a gas utility as defined by its rates on file with the
30 Commission pursuant to the provisions of Article IX of this
31 Act.

32 "Transportation services" means those services provided by
33 the gas utility that are necessary in order for the storage,
34 transmission and distribution systems to function so that
35 customers located in the gas utility's service area can receive
36 gas from suppliers other than the gas utility and shall

1 include, without limitation, standard metering and billing
2 services.

3 (Source: P.A. 92-529, eff. 2-8-02; 92-852, eff. 8-26-02.)

4 Section 15. The General Not For Profit Corporation Act of
5 1986 is amended by changing Section 103.05 as follows:

6 (805 ILCS 105/103.05) (from Ch. 32, par. 103.05)

7 Sec. 103.05. Purposes and authority of corporations;
8 particular purposes; exemptions.

9 (a) Not-for-profit corporations may be organized under
10 this Act for any one or more of the following or similar
11 purposes:

12 (1) Charitable.

13 (2) Benevolent.

14 (3) Eleemosynary.

15 (4) Educational.

16 (5) Civic.

17 (6) Patriotic.

18 (7) Political.

19 (8) Religious.

20 (9) Social.

21 (10) Literary.

22 (11) Athletic.

23 (12) Scientific.

24 (13) Research.

25 (14) Agricultural.

26 (15) Horticultural.

27 (16) Soil improvement.

28 (17) Crop improvement.

29 (18) Livestock or poultry improvement.

30 (19) Professional, commercial, industrial, or trade
31 association.

32 (20) Promoting the development, establishment, or
33 expansion of industries.

34 (21) Electrification on a cooperative basis.

1 (22) Telephone service on a mutual or cooperative
2 basis.

3 (23) Ownership and operation of water supply
4 facilities for drinking and general domestic use on a
5 mutual or cooperative basis.

6 (24) Ownership or administration of residential
7 property on a cooperative basis.

8 (25) Administration and operation of property owned on
9 a condominium basis or by a homeowner association.

10 (26) Administration and operation of an organization
11 on a cooperative basis producing or furnishing goods,
12 services, or facilities primarily for the benefit of its
13 members who are consumers of those goods, services, or
14 facilities.

15 (27) Operation of a community mental health board or
16 center organized pursuant to the Community Mental Health
17 Act for the purpose of providing direct patient services.

18 (28) Provision of debt management services as
19 authorized by the Debt Management Service Act.

20 (29) Promotion, operation, and administration of a
21 ridesharing arrangement as defined in Section 1-176.1 of
22 the Illinois Vehicle Code.

23 (30) The administration and operation of an
24 organization for the purpose of assisting low-income
25 consumers in the acquisition of utility and telephone
26 services.

27 (31) Any purpose permitted to be exempt from taxation
28 under Sections 501(c) or 501(d) of the United States
29 Internal Revenue Code, as now in or hereafter amended.

30 (32) Any purpose that would qualify for tax-deductible
31 gifts under the Section 170(c) of the United States
32 Internal Revenue Code, as now or hereafter amended. Any
33 such purpose is deemed to be charitable under subsection
34 (a) (1) of this Section.

35 (33) Furnishing of natural gas on a cooperative basis.

36 (b) A corporation may be organized hereunder to serve in an

1 area that adjoins or borders (except for any intervening
2 natural watercourse) an area located in an adjoining state
3 intended to be similarly served, and the corporation may join
4 any corporation created by the adjoining state having an
5 identical purpose and organized as a not-for-profit
6 corporation. Whenever any corporation organized under this Act
7 so joins with a foreign corporation having an identical
8 purpose, the corporation shall be permitted to do business in
9 Illinois as one corporation; provided (1) that the name, bylaw
10 provisions, officers, and directors of each corporation are
11 identical, (2) that the foreign corporation complies with the
12 provisions of this Act relating to the admission of foreign
13 corporation, and (3) that the Illinois corporation files a
14 statement with the Secretary of State indicating that it has
15 joined with a foreign corporation setting forth the name
16 thereof and the state of its incorporation.

17 (Source: P.A. 92-33, eff. 7-1-01.)

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.