**Section 451.110 Financial Qualifications under Subpart B**

a) An applicant shall be deemed to possess sufficient financial capabilities to serve non-residential retail customers with maximum electrical demand of one megawatt or more if the applicant meets any of the following criteria:

1) The applicant maintains at least one of the following commercial paper ratings: A-2 or higher from Standard & Poor's or its successor, P-2 or higher from Moody's Investors Service or its successor, or F-2 or higher from Fitch Ratings or its successor; or at least one of the following long-term credit ratings: BBB- or higher from Standard & Poor's or its successor, Baa3 or higher from Moody's Investors Service or its successor, or BBB- or higher from Fitch Ratings or its successor. The applicant shall provide with its application a copy of the ratings agency reports that present the ratings of the applicant.

2) The applicant maintains one or more lines of credit with RTOs and/or unaffiliated wholesale suppliers for electric energy for delivery to the service territories of the utilities for which the applicant is seeking a certificate.

A) The amount of credit available to the applicant under the credit agreements shall, in aggregate, be no less than the greater of $500,000 or 5% of the amount of the applicant's revenue for its most recently completed 12-month fiscal year. That amount of revenue must appear in the applicant's certified financial statements, or those of the applicant's parent, that have received an accountant's report that certifies those financial statements to be free of material misstatement. If the applicant is using the certified financial statements of its parent, the minimum required amount of credit available under the credit agreements shall be determined using the applicable revenue amount from the segment information section of the certified financial statements of the applicant's parent as follows:

i) If the applicant is listed separately in the segment information section, the applicant's revenue shall be used; or

ii) If the segment information section is broken down by operation, or other means, the revenue for the entire segment of which the applicant is part shall be used, unless a certified breakdown of the segment by company is provided.

iii) In the alternative, the applicant's revenue from sales to Illinois retail customers may be used. In these circumstances, the revenue from sales to Illinois retail customers must be provided in the certified financial statements or in internal documents accompanied by a verified statement from a company officer.

B) The credit agreement shall be valid for a period of not less than one year.

C) The applicant shall provide a copy of the following:

i) A schedule, with references to each input of the calculation, showing the currently available amount of each line of credit, including all deductions resulting from any covenants or other limitations governing each agreement;

ii) The credit agreements;

iii) The applicant's certified financial statements, including the accountant's report, or those of the applicant's parent, as applicable;

iv) If the applicant's revenue from sales to Illinois retail customers is to be used, the applicant must submit certified financial statements that present this information, or internal documents that present this information and a verified statement from a company officer attesting to the accuracy of those internal documents; and

v) A schedule showing the 5% of revenue calculation, with a reference to the applicant's certified financial statements, certified letter from an officer of the applicant verifying Illinois revenue, or internal documents, as applicable, provided for the revenue input of the calculation.

3) The applicant demonstrates and certifies it is a member of one or more RTOs and purchases 100% of its physical electric energy from the RTOs for delivery to the service territories of the utilities for which the applicant is seeking a certificate.

4) The applicant shall execute and maintain an unconditional guarantee, payment bond, or letter of credit that upon failure to comply with its contractual obligations to supply energy to its customers, shall be payable to the People of the State of Illinois. Any dollar limitation on the unconditional guarantee, payment bond, or letter of credit shall equal not less than the product of 1080 times the applicant's expected peak hourly demand expressed in MWs over the next 12 months times the average of the 45 highest daily market prices of electric energy traded during the previous year. Each February, the Commission shall choose a published price index for electricity for use in this subsection (a)(4). The daily market price of electric energy shall equal the published price index for electricity traded in Illinois, except in the event that no price index for electricity traded in the State of Illinois is published, then the daily market price of electricity shall be determined by the use of a published price index for electricity traded at the nearest location to the State of Illinois. The unconditional guarantee, payment bond, or letter of credit shall be valid for a period of not less than one year. All payments to be made through the unconditional guarantee, payment bond, or letter of credit under this Section shall be paid in accordance with a Commission Order authorizing such payment.

A) Unconditional Guarantee. The guarantor shall maintain at least one of the following commercial paper ratings: A-2 or higher from Standard & Poor's or its successor, P-2 or higher from Moody's Investors Service or its successor, or F-2 or higher from Fitch Ratings or its successor; or at least one of the following long-term credit ratings: BBB- or higher from Standard & Poor's or its successor, Baa3 or higher from Moody's Investors Service or its successor, or BBB- or higher from Fitch Ratings or its successor. The applicant shall provide a copy of the following:

i) The unconditional guarantee;

ii) The ratings agency report that presents the applicable rating of the guarantor; and

iii) A good faith estimate of the applicant's expected peak hourly demand expressed in MWs over the next 12 months.

B) Payment Bond. The payment bond or payment bonds shall be issued by a qualifying surety authorized to transact business in the State of Illinois or by a surety whose Best's rating is A- or better and whose Best's financial size category is VII or larger, and whose contract of insurance is issued pursuant to Section 445 or 445a of the Illinois Insurance Code [215 ILCS 5/445 or 445a] and countersigned by the Surplus Line Association of Illinois or its successor. The applicant shall provide a copy of the following:

i) The payment bonds or the contract of insurance with the countersignature of the Surplus Line Association of Illinois or its successor as applicable;

ii) Documentation demonstrating that the surety issuing the payment bond is a qualified surety authorized to transact business in the State of Illinois or a surety with a satisfactory Best's rating and financial size category, as applicable; and

iii) A good faith estimate of the applicant's expected peak hourly demand expressed in MWs over the next 12 months.

C) Letter of Credit. The letter of credit shall be irrevocable and issued by a financial institution with a long-term obligation rating of A- or higher from Standard & Poor's or its successor, A3 or higher from Moody's Investors Service or its successor, or A- or higher from Fitch Ratings or its successor. The applicant shall provide a copy of the following:

i) The letter of credit;

ii) The ratings agency report that presents the long-term obligation rating of the financial institution extending the credit; and

iii) A good faith estimate of the applicant's expected peak hourly demand expressed in MWs over the next twelve months.

5) The applicant maintains a line of credit or revolving credit agreement.

A) The line of credit or revolving credit agreement must be from a financial institution with a long-term obligation rating of A- or higher from Standard & Poor's or its successor, A3 or higher from Moody's Investors Service or its successor, or A- or higher from Fitch Ratings or its successor.

B) The amount of the line of credit or revolving credit agreement shall be no less than the greater of $500,000 or 5% of the amount of revenue for the most recently completed 12-month fiscal year. That amount of revenue must appear in the applicant's certified financial statements, or those of the applicant's parent, that have received an accountant's report that certifies those financial statements to be free of material misstatement. If the applicant is using the certified financial statements of its parent, the minimum required amount of credit available under the line of credit or revolving credit agreement shall be determined using the applicable revenue amount from the segment information section of the certified financial statements of the applicant's parent.

i) If the applicant is listed separately in the segment information section, the applicant's revenue shall be used.

ii) If the segment information section is broken down by operation, or other means, the revenue for the entire segment of which the applicant is part shall be used, unless a certified breakdown of the segment by company is provided.

C) The line of credit or revolving credit agreement shall be valid for a period of not less than one year.

D) The applicant shall provide a copy of the following:

i) The line of credit or revolving credit agreement;

ii) The ratings agency report that presents the long-term obligation rating of the financial institution extending the credit;

iii) The certified financial statements, including the accountant's report, of the applicant or those of the applicant's parent, as applicable; and

iv) A schedule showing the 5% of revenue calculation, with a reference to the applicant's certified financial statements provided for the revenue input of the calculation.

b) An applicant that will provide electric power and energy with property, plant, and equipment that it owns, controls, or operates shall have in force, and provide proof that it has in force, general liability insurance that shall remain in effect for a period of not less than one year.

1) The applicant shall be deemed to have sufficient commercial general liability insurance if that coverage is in the amount of at least $100,000,000. The commercial general liability insurance must be maintained with insurance companies assigned Best's ratings of A- or better and Best's financial sizes of VII or larger.

2) The applicant shall provide a certificate of insurance as part of its application for certification. If the applicant or ARES renews or makes changes in its insurance coverage, the insurance coverage must be continuous and without interruption. The certificate of insurance and the insurance policies shall contain a provision that coverage afforded under the policies shall not be cancelled, allowed to expire, or subjected to a reduction in the limits in any manner unless at least 30 days prior written notice (10 days notice in the case of nonpayment of premium) has been given to the Commission.

(Source: Amended at 34 Ill. Reg. 15283, effective September 25, 2010)