

**101ST GENERAL ASSEMBLY****State of Illinois****2019 and 2020****SB2084**

Introduced 2/15/2019, by Sen. Don Harmon

SYNOPSIS AS INTRODUCED:

See Index

Amends the Public Utilities Act. Authorizes the Illinois Commerce Commission to extend the time for considering a certificate of service authority request by an alternative retail electric supplier under specified circumstances. Adds to the findings the Commission must make when granting a certificate of service authority for an alternative retail electric supplier. Requires an alternative retail electric supplier and an alternative gas supplier to provide the Commission and Attorney General the rates it charged to residential customers in the prior quarter. Requires an alternative retail electric supplier's marketing materials that include a price per kilowatt-hour for competitive electricity service include a specific statement that the alternative retail electric supplier is not the same entity as the customer's electric utility delivery company and directing the customer to the Commission's website. Requires an alternative retail electric supplier to provide notices to residential customers concerning certain rate changes. Provides that complaints against an alternative retail electric supplier may be filed with the Commission. Provides that the Commission shall ensure alternative retail electric suppliers and alternative gas suppliers have proper training in place to prohibit impersonation of a utility, investigate complaints, and impose fines for each incident. Provides that the Commission may establish a program for promising expanded use of energy savings programs for residential and small commercial customers. Amends the Consumer Fraud and Deceptive Business Practices Act. In provisions concerning electric service provider selection, provides that suppliers shall maintain and preserve an electronic version of third-party verifications if automated. Makes other changes. Effective immediately.

LRB101 07402 JRG 52442 b

FISCAL NOTE ACT
MAY APPLY**A BILL FOR**

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 16-115, 16-115A, 16-115B, 16-118, 16-119, 19-115,
6 19-135, and 20-110 and by adding Section 20-140 as follows:

7 (220 ILCS 5/16-115)

8 Sec. 16-115. Certification of alternative retail electric
9 suppliers.

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

17 (b) An alternative retail electric supplier seeking a
18 certificate of service authority shall file with the Commission
19 a verified application containing information showing that the
20 applicant meets the requirements of this Section. The
21 alternative retail electric supplier shall publish notice of
22 its application in the official State newspaper within 10 days
23 following the date of its filing. No later than 45 days after

1 the application is properly filed with the Commission, and such
2 notice is published, the Commission shall issue its order
3 granting or denying the application. The Commission may extend
4 the time for considering a certificate of service authority
5 request by up to 90 days and may schedule hearings on the
6 request if:

7 (1) a party to the application proceeding has formally
8 requested that the Commission hold hearings in a pleading
9 that alleges that one or more of the allegations or
10 certifications in the application is false or misleading;
11 or

12 (2) any other facts or circumstances exist that will
13 necessitate additional time or evidence in order to
14 determine whether a certificate of service authority
15 should be issued.

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

1 served.

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

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

24 (2) That the applicant will comply with all applicable
25 federal, State, regional and industry rules, policies,
26 practices and procedures for the use, operation, and

1 maintenance of the safety, integrity and reliability, of
2 the interconnected electric transmission system;

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

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

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

23 (i) (Blank);

24 (ii) (Blank);

25 (iii) the required sourcing of electricity
26 generated by clean coal facilities, other than the

1 initial clean coal facility, shall be limited to the
2 amount of electricity that can be procured or sourced
3 at a price at or below the benchmarks approved by the
4 Commission each year in accordance with item (1) of
5 subsection (c) and items (1) and (5) of subsection (d)
6 of Section 1-75 of the Illinois Power Agency Act;

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

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

1 electricity (expressed in kilowatthours sold) in
2 the State during the prior calendar month and the
3 denominator of which is the total sales of
4 electricity (expressed in kilowatthours sold) in
5 the State by alternative retail electric suppliers
6 during such prior month that are subject to the
7 requirements of this paragraph (5) of subsection
8 (d) of this Section and subsection (d) of Section
9 1-75 of the Illinois Power Agency Act plus the
10 total sales of electricity (expressed in
11 kilowatthours sold) by utilities outside of their
12 service areas during such prior month, pursuant to
13 subsection (c) of Section 16-116 of this Act; or

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

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

12 (v) if, in any year after the first year of
13 commercial operation, the owner of the clean coal
14 facility fails to demonstrate to the Commission that
15 the initial clean coal facility captured and
16 sequestered at least 50% of the total carbon emissions
17 that the facility would otherwise emit or that
18 sequestration of emissions from prior years has
19 failed, resulting in the release of carbon into the
20 atmosphere, the owner of the facility must offset
21 excess emissions. Any such carbon offsets must be
22 permanent, additional, verifiable, real, located
23 within the State of Illinois, and legally and
24 practicably enforceable. The costs of any such offsets
25 that are not recoverable shall not exceed \$15 million
26 in any given year. No costs of any such purchases of

1 carbon offsets may be recovered from an alternative
2 retail electric supplier or its customers. All carbon
3 offsets purchased for this purpose and any carbon
4 emission credits associated with sequestration of
5 carbon from the facility must be permanently retired.
6 The initial clean coal facility shall not forfeit its
7 designation as a clean coal facility if the facility
8 fails to fully comply with the applicable carbon
9 sequestration requirements in any given year, provided
10 the requisite offsets are purchased. However, the
11 Attorney General, on behalf of the People of the State
12 of Illinois, may specifically enforce the facility's
13 sequestration requirement and the other terms of this
14 contract provision. Compliance with the sequestration
15 requirements and offset purchase requirements that
16 apply to the initial clean coal facility shall be
17 reviewed annually by an independent expert retained by
18 the owner of the initial clean coal facility, with the
19 advance written approval of the Attorney General;

20 (vi) The Commission shall, after notice and
21 hearing, revoke the certification of any alternative
22 retail electric supplier that fails to execute a
23 sourcing agreement with the initial clean coal
24 facility as required by item (5) of subsection (d) of
25 this Section. The sourcing agreements with this
26 initial clean coal facility shall be subject to both

1 approval of the initial clean coal facility by the
2 General Assembly and satisfaction of the requirements
3 of item (4) of subsection (d) of Section 1-75 of the
4 Illinois Power Agency Act, and shall be executed within
5 90 days after any such approval by the General
6 Assembly. The Commission shall not accept an
7 application for certification from an alternative
8 retail electric supplier that has lost certification
9 under this subsection (d), or any corporate affiliate
10 thereof, for at least one year from the date of
11 revocation;

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

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

22 (8) That the applicant is not the subject of any
23 lawsuit filed in a court of law or formal complaints filed
24 with a regulatory agency alleging fraud, deception, or
25 unfair marketing practices or other similar allegations
26 identifying the name, case number, and jurisdiction of each

1 such lawsuit or complaint. For the purposes of this item
2 (8), "formal complaints" include only those complaints
3 that seek a binding determination from a state or federal
4 regulatory body;

5 (9) That the applicant shall continue to comply with
6 requirements for certification stated in Section 16-115;

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

24 (11) ~~(8)~~ That the applicant will comply with all other
25 applicable laws and regulations.

26 The Commission may deny with prejudice an application in

1 which the applicant repeatedly fails to provide the Commission
2 with information sufficient for the Commission to grant the
3 application.

4 (d-5) (Blank).

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

24 (f) The Commission shall have the authority to promulgate
25 rules and regulations to carry out the provisions of this
26 Section. On or before May 1, 1999, the Commission shall adopt a

1 rule or rules applicable to the certification of those
2 alternative retail electric suppliers that seek to serve only
3 nonresidential retail customers with maximum electrical
4 demands of one megawatt or more which shall provide for (i)
5 expedited and streamlined procedures for certification of such
6 alternative retail electric suppliers and (ii) specific
7 criteria which, if met by any such alternative retail electric
8 supplier, shall constitute the demonstration of technical,
9 financial and managerial resources and abilities to provide
10 service required by subsection (d) (1) of this Section, such as
11 a requirement to post a bond or letter of credit, from a
12 responsible surety or financial institution, of sufficient
13 size for the nature and scope of the services to be provided;
14 demonstration of adequate insurance for the scope and nature of
15 the services to be provided; and experience in providing
16 similar services in other jurisdictions.

17 (g) An alternative retail electric supplier may seek
18 confidential treatment for the following information by filing
19 an affidavit with the Commission so long as the affidavit meets
20 the requirements in this subsection (g):

21 (1) the total annual kilowatt-hours delivered and sold
22 by an alternative retail electric supplier to retail
23 customers within each utility service territory and the
24 total annual kilowatt-hours delivered and sold by an
25 alternative retail electric supplier to retail customers
26 in all utility service territories in the preceding

1 calendar year as required by 83 Ill. Adm. Code 451.770;

2 (2) the total peak demand supplied by an alternative
3 retail electric supplier during the previous year in each
4 utility service territory as required by 83 Ill. Adm. Code
5 465.40;

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

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

23 If the alternative retail electric supplier has met the
24 affidavit requirements of this subsection (g), then the
25 Commission shall afford confidential treatment to the
26 information identified in the affidavit for a period of 2 years

1 after the date the affidavit is received by the Commission.

2 Nothing in this subsection (g) prevents an alternative
3 retail electric supplier from filing a petition with the
4 Commission seeking confidential treatment for information
5 beyond that identified in this subsection (g) or for
6 information contained in other reports or documents filed with
7 the Commission.

8 Nothing in this subsection (g) prevents the Commission, on
9 its own motion, or any party from filing a formal petition with
10 the Commission seeking to reconsider the conferring of
11 confidential status on an item of information afforded
12 confidential treatment pursuant to this subsection (g).

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

1 confidential treatment for such information.

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

3 (220 ILCS 5/16-115A)

4 Sec. 16-115A. Obligations of alternative retail electric
5 suppliers.

6 (a) An alternative retail electric supplier shall:

7 (i) comply with the requirements imposed on public
8 utilities by Sections 8-201 through 8-207, 8-301, 8-505 and
9 8-507 of this Act, to the extent that these Sections have
10 application to the services being offered by the
11 alternative retail electric supplier; ~~and~~

12 (ii) continue to comply with the requirements for
13 certification stated in subsection (d) of Section 16-115;
14 and-

15 (iii) submit to the Commission and the Office of the
16 Attorney General, on January 1, 2020 and the first day of
17 each quarter thereafter, the rates the alternative retail
18 electric supplier charged to residential customers in the
19 prior quarter, including each distinct rate charged and
20 whether the rate was a fixed or variable rate, the basis
21 for the variable rate, and any fees charged in addition to
22 the supply rate, including monthly fees, flat fees, or
23 other service charges.

24 The Commission is authorized to adopt rules to implement
25 this subsection.

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

6 (c) No alternative retail electric supplier, or electric
7 utility other than the electric utility in whose service area a
8 customer is located, shall (i) enter into or employ any
9 arrangements which have the effect of preventing a retail
10 customer with a maximum electrical demand of less than one
11 megawatt from having access to the services of the electric
12 utility in whose service area the customer is located or (ii)
13 charge retail customers for such access. This subsection shall
14 not be construed to prevent an arms-length agreement between a
15 supplier and a retail customer that sets a term of service,
16 notice period for terminating service and provisions governing
17 early termination through a tariff or contract as allowed by
18 Section 16-119.

19 (d) An alternative retail electric supplier that is
20 certified to serve residential or small commercial retail
21 customers shall not:

22 (1) deny service to a customer or group of customers
23 nor establish any differences as to prices, terms,
24 conditions, services, products, facilities, or in any
25 other respect, whereby such denial or differences are based
26 upon race, gender or income.

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

5 (e) An alternative retail electric supplier shall comply
6 with the following requirements with respect to the marketing,
7 offering and provision of products or services to residential
8 and small commercial retail customers:

9 (i) Any marketing materials which make statements
10 concerning prices, terms and conditions of service shall
11 contain information that adequately discloses the prices,
12 terms and conditions of the products or services that the
13 alternative retail electric supplier is offering or
14 selling to the customer. All marketing materials,
15 including electronic marketing materials, that include a
16 price per kilowatt-hour for competitive electricity
17 service shall include the following statement: "(Name of
18 alternative retail electric supplier) is not the same
19 entity as your electric utility delivery company. You are
20 not required to enroll with (name of alternative retail
21 electric supplier). For information on comparison rates
22 for utility electric supply service and understanding your
23 electric supply choices, go to the Illinois Commerce
24 Commission's free website at www.pluginillinois.org". Any
25 alternative retail electric supplier solicitations or
26 materials marketing electric power or energy services to a

1 residential customer that contains a price per
2 kilowatt-hour shall include a Price to Compare reflecting
3 the fully avoidable costs of a typical customer, using a
4 methodology to calculate the Price to Compare that the
5 Commission shall adopt by rule. The Commission shall make
6 the Price to Compare available on the Commission's
7 pluginillinois.org website. The Commission is authorized
8 to adopt emergency rules to implement this paragraph. This
9 paragraph (i) does not apply to materials that do not list
10 a price per kilowatt-hour for competitive electricity
11 services or to billboards.

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

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

24 (iv) The alternative retail electric supplier shall
25 provide to the customer (1) itemized billing statements
26 that describe the products and services provided to the

1 customer and their prices, and (2) an additional statement,
2 at least annually, that adequately discloses the average
3 monthly prices, and the terms and conditions, of the
4 products and services sold to the customer.

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

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

1 requirements in 83 Ill. Adm. Code 412.165(e). A customer
2 shall have the right to choose to receive the notice in
3 electronic or paper form, including an option to receive
4 notice via login through an online account with the
5 alternative retail electric supplier.

6 (vii) In the case of an automatic renewal of a contract
7 for which the initial term is a fixed price and that
8 changes after the initial term, an alternative retail
9 electric supplier shall provide a written notice to the
10 customer at least 30 days but no more than 60 days before
11 the end of the initial contract term that shall include a
12 side-by-side comparison of the current price and the price
13 for the first month of the new term.

14 For purposes of this subsection (e), "variable" means the
15 per-unit charge for electric power and energy service charges
16 at any time during the term of the contract but do not change
17 more than once per billing period.

18 (f) An alternative retail electric supplier may limit the
19 overall size or availability of a service offering by
20 specifying one or more of the following: a maximum number of
21 customers, maximum amount of electric load to be served, time
22 period during which the offering will be available, or other
23 comparable limitation, but not including the geographic
24 locations of customers within the area which the alternative
25 retail electric supplier is certificated to serve. The
26 alternative retail electric supplier shall file the terms and

1 conditions of such service offering including the applicable
2 limitations with the Commission prior to making the service
3 offering available to customers.

4 (g) Nothing in this Section shall be construed as
5 preventing an alternative retail electric supplier, which is an
6 affiliate of, or which contracts with, (i) an industry or trade
7 organization or association, (ii) a membership organization or
8 association that exists for a purpose other than the purchase
9 of electricity, or (iii) another organization that meets
10 criteria established in a rule adopted by the Commission, from
11 offering through the organization or association services at
12 prices, terms and conditions that are available solely to the
13 members of the organization or association.

14 (h) An alternative retail electric supplier shall maintain
15 sufficient managerial resources and abilities to provide the
16 service for which it has a certificate of service authority. In
17 determining the level of managerial resources and abilities
18 that the alternative retail electric supplier shall
19 demonstrate, the Commission shall consider, in addition to the
20 requirements in subsection (d) of Section 16-115, the
21 following:

22 (1) complaints to the Commission by consumers
23 regarding the alternative retail electric supplier,
24 including those that reflect on the alternative retail
25 electric supplier's ability to properly manage
26 solicitation and authorization; and

1 (2) the alternative retail electric supplier's
2 involvement in the Commission's consumer complaint
3 process, including the resources the alternative retail
4 electric supplier dedicates to the process and the
5 alternative retail electric supplier's ability to manage
6 the issues raised by complaints and the resolutions of the
7 complaints.

8 The provisions of this subsection (h) apply only to
9 alternative retail electric suppliers serving or seeking to
10 serve residential or small commercial customers and only to the
11 extent those alternative retail electric suppliers provide
12 services to residential or small commercial customers, unless
13 otherwise noted.

14 For purposes of this subsection (h), "complaint" means an
15 objection made to an alternative retail electric supplier by a
16 customer as to its charges, facilities, or service, the
17 disposal of which requires investigation or analysis.
18 "Complaint" includes a customer identifying and asking an
19 alternative retail electric supplier to address or resolve a
20 problem or concern. "Complaint" does not include contact that
21 is limited to inquiry or seeking information; however, the
22 definition of "complaint" for this purpose shall not be read or
23 interpreted to limit in any way the Commission's authority to
24 accept and seek resolution of informal complaints or inquiries
25 of any description submitted by a residential customer or small
26 business customer regarding an alternative retail electric

1 supplier.

2 (i) Complaints may be filed with the Commission under this
3 Section and Section 10-108 by a customer whose electric supply
4 service has been provided by an alternative electric supplier
5 in a manner not in compliance with subsection (b), (d), (e), or
6 (h) if the customer has first sought resolution of the dispute
7 arising from the non-compliant conduct complained of through
8 the Commission's informal complaint process. If, after notice
9 and hearing, the Commission finds that an alternative retail
10 electric supplier has violated subsection (b), (d), (e), or
11 (h), then the Commission may, in its discretion, do any one or
12 more of the following:

13 (1) require the violating alternative retail electric
14 supplier to refund the customer charges collected in excess
15 of those that would have been charged by the customer's
16 authorized electric provider;

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

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

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

24 (j) All fines shall be deposited into the Public Utilities
25 Fund.

26 (k) The Commission shall ensure alternative retail

1 electric suppliers have proper training in place to prohibit
2 impersonation of a utility. The Commission shall investigate
3 complaints of any company or its agents impersonating a
4 utility. A company contracting with or that employs a sales
5 agent found to be impersonating a utility shall be fined \$5,000
6 for each incident.

7 As used in this subsection:

8 "Impersonation" means wearing apparel or carrying items
9 using the utility name or logo with the intent of misleading
10 the customer into believing the agent is acting on behalf of or
11 working for the utility.

12 "Company" includes an alternative retail electric supplier
13 and any agent, broker, consultant, or other entity hired to
14 sell retail electricity services.

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

16 (220 ILCS 5/16-115B)

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

19 (a) The Commission shall have jurisdiction in accordance
20 with the provisions of Article X of this Act to entertain and
21 dispose of any complaint against any alternative retail
22 electric supplier alleging (i) that the alternative retail
23 electric supplier has violated or is in nonconformance with any
24 applicable provisions of Section 16-115 through Section
25 16-115A; (ii) that an alternative retail electric supplier

1 serving retail customers having maximum demands of less than
2 one megawatt has failed to provide service in accordance with
3 the terms of its contract or contracts with such customer or
4 customers; (iii) that the alternative retail electric supplier
5 has violated or is in non-conformance with the delivery
6 services tariff of, or any of its agreements relating to
7 delivery services with, the electric utility, municipal
8 system, or electric cooperative providing delivery services;
9 or (iv) that the alternative retail electric supplier has
10 violated or failed to comply with the requirements of Sections
11 8-201 through 8-207, 8-301, 8-505, or 8-507 of this Act as made
12 applicable to alternative retail electric suppliers.

13 (b) In addition to other powers and authority granted it
14 under this Act, the Commission is authorized to require an
15 alternative retail electric supplier to enter into a compliance
16 plan. If the Commission comes into possession of information
17 causing it to conclude that an alternative retail electric
18 supplier is violating this Act or the Commission's rules, the
19 Commission may, after notice and hearing, enter an order
20 directing the alternative retail electric supplier to
21 implement such practices, procedures, oversight, or other
22 measures or refrain from such practices, conduct, or activities
23 as the Commission finds is necessary or reasonable to ensure
24 the alternative retail electric supplier's compliance with the
25 Act and the Commission's rules. Failure by an alternative
26 retail electric supplier to implement or comply with a

1 Commission-ordered compliance plan is a violation of this
2 Section. The Commission, in its discretion, may order a
3 compliance plan under such circumstances as it considers
4 warranted and is not required to order a compliance plan prior
5 to taking other enforcement action against an alternative
6 retail electric supplier.

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 sufficient evidence of a
11 repeated pattern of conduct or circumstances that is
12 contrary to Section 16-115A or 83 Adm. Ill. Code Part 412
13 and that constitutes a significant likelihood of
14 substantial harm to customers, the public interest, or an
15 adequately functioning market, it may 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 3
25 and no more than 5 business days from the date of the
26 informal notice to file an answer to the satisfaction of

1 the Commission. Failure of the alternative retail electric
2 supplier to answer to the satisfaction of the Commission
3 shall cause an order to cease and desist to be issued
4 immediately by the 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) In assessing a penalty against an alternative retail
21 electric supplier under any provision of this Article XVI, the
22 Commission may consider the following factors, in addition to
23 any other factor or consideration that the Commission in its
24 discretion considers to bear on the nature or gravity of the
25 violation:

26 (1) the nature of the violations found and the

1 alternative retail electric supplier's history of
2 substantiated complaints or adjudicated violations;

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

5 (3) existence or strength of compliance and internal
6 monitoring programs;

7 (4) whether the alternative retail electric supplier
8 made a good faith effort to compensate consumers harmed;
9 and

10 (5) any context-appropriate factors that the
11 Commission deems appropriate.

12 (e) All fines shall be deposited into the Public Utilities
13 Fund.

14 (f) The Commission shall conduct at least one mandatory
15 compliance education workshop annually for alternative retail
16 electric suppliers that service retail and small commercial
17 retail customers in an electric utility's service area
18 regarding statutory and rule requirements, consumer complaint
19 statistics, and any other information determined necessary by
20 the Commission. Completion of the Commission's compliance
21 workshop by an alternative retail electric supplier, as
22 determined by the Commission, must be in person and is a
23 condition for continuing compliance with certification
24 requirements for an alternative retail electric supplier under
25 83 Ill. Adm. Code 451.Subpart H.

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

1 (220 ILCS 5/16-118)

2 Sec. 16-118. Services provided by electric utilities to
3 alternative retail electric suppliers.

4 (a) It is in the best interest of Illinois energy consumers
5 to promote fair and open competition in the provision of
6 electric power and energy and to prevent anticompetitive
7 practices in the provision of electric power and energy.
8 Therefore, to the extent an electric utility provides electric
9 power and energy or delivery services to alternative retail
10 electric suppliers and such services are not subject to the
11 jurisdiction of the Federal Energy Regulatory Commission, and
12 are not competitive services, they shall be provided through
13 tariffs that are filed with the Commission, pursuant to Article
14 IX of this Act. Each electric utility shall permit alternative
15 retail electric suppliers to interconnect facilities to those
16 owned by the utility provided they meet established standards
17 for such interconnection, and may provide standby or other
18 services to alternative retail electric suppliers. The
19 alternative retail electric supplier shall sign a contract
20 setting forth the prices, terms and conditions for
21 interconnection with the electric utility and the prices, terms
22 and conditions for services provided by the electric utility to
23 the alternative retail electric supplier in connection with the
24 delivery by the electric utility of electric power and energy
25 supplied by the alternative retail electric supplier.

1 (b) An electric utility shall file a tariff pursuant to
2 Article IX of the Act that would allow alternative retail
3 electric suppliers or electric utilities other than the
4 electric utility in whose service area retail customers are
5 located to issue single bills to the retail customers for both
6 the services provided by such alternative retail electric
7 supplier or other electric utility and the delivery services
8 provided by the electric utility to such customers. The tariff
9 filed pursuant to this subsection shall (i) require partial
10 payments made by retail customers to be credited first to the
11 electric utility's tariffed services, (ii) impose commercially
12 reasonable terms with respect to credit and collection,
13 including requests for deposits, (iii) retain the electric
14 utility's right to disconnect the retail customers, if it does
15 not receive payment for its tariffed services, in the same
16 manner that it would be permitted to if it had billed for the
17 services itself, and (iv) require the alternative retail
18 electric supplier or other electric utility that elects the
19 billing option provided by this tariff to include on each bill
20 to retail customers an identification of the electric utility
21 providing the delivery services and a listing of the charges
22 applicable to such services. The tariff filed pursuant to this
23 subsection may also include other just and reasonable terms and
24 conditions. In addition, an electric utility, an alternative
25 retail electric supplier or electric utility other than the
26 electric utility in whose service area the customer is located,

1 and a customer served by such alternative retail electric
2 supplier or other electric utility, may enter into an agreement
3 pursuant to which the alternative retail electric supplier or
4 other electric utility pays the charges specified in Section
5 16-108, or other customer-related charges, including taxes and
6 fees, in lieu of such charges being recovered by the electric
7 utility directly from the customer.

8 (c) An electric utility with more than 100,000 customers
9 shall file a tariff pursuant to Article IX of this Act that
10 provides alternative retail electric suppliers, and electric
11 utilities other than the electric utility in whose service area
12 the retail customers are located, with the option to have the
13 electric utility purchase their receivables for power and
14 energy service provided to residential retail customers and
15 non-residential retail customers with a non-coincident peak
16 demand of less than 400 kilowatts. Receivables for power and
17 energy service of alternative retail electric suppliers or
18 electric utilities other than the electric utility in whose
19 service area the retail customers are located shall be
20 purchased by the electric utility at a just and reasonable
21 discount rate to be reviewed and approved by the Commission
22 after notice and hearing. The discount rate shall be based on
23 the electric utility's historical bad debt and any reasonable
24 start-up costs and administrative costs associated with the
25 electric utility's purchase of receivables. The discounted
26 rate for purchase of receivables shall be included in the

1 tariff filed pursuant to this subsection (c). The discount rate
2 filed pursuant to this subsection (c) shall be subject to
3 periodic Commission review. The electric utility retains the
4 right to impose the same terms on retail customers with respect
5 to credit and collection, including requests for deposits, and
6 retain the electric utility's right to disconnect the retail
7 customers, if it does not receive payment for its tariffed
8 services or purchased receivables, in the same manner that it
9 would be permitted to if the retail customers purchased power
10 and energy from the electric utility. The tariff filed pursuant
11 to this subsection (c) shall permit the electric utility to
12 recover from retail customers any uncollected receivables that
13 may arise as a result of the purchase of receivables under this
14 subsection (c), may also include other just and reasonable
15 terms and conditions, and shall provide for the prudently
16 incurred costs associated with the provision of this service
17 pursuant to this subsection (c). Nothing in this subsection (c)
18 permits the double recovery of bad debt expenses from
19 customers.

20 (d) An electric utility with more than 100,000 customers
21 shall file a tariff pursuant to Article IX of this Act that
22 would provide alternative retail electric suppliers or
23 electric utilities other than the electric utility in whose
24 service area retail customers are located with the option to
25 have the electric utility produce and provide single bills to
26 the retail customers for both the electric power and energy

1 service provided by the alternative retail electric supplier or
2 other electric utility and the delivery services provided by
3 the electric utility to the customers. The tariffs filed
4 pursuant to this subsection shall require the electric utility
5 to collect and remit customer payments for electric power and
6 energy service provided by alternative retail electric
7 suppliers or electric utilities other than the electric utility
8 in whose service area retail customers are located. The tariff
9 filed pursuant to this subsection shall require the electric
10 utility to include on each bill to retail customers an
11 identification of the alternative retail electric supplier or
12 other electric utility that elects the billing option. The
13 tariff filed pursuant to this subsection (d) may also include
14 other just and reasonable terms and conditions and shall
15 provide for the recovery of prudently incurred costs associated
16 with the provision of service pursuant to this subsection (d).
17 The costs associated with the provision of service pursuant to
18 this Section shall be subject to periodic Commission review.

19 (e) An electric utility with more than 100,000 customers in
20 this State shall file a tariff pursuant to Article IX of this
21 Act that provides alternative retail electric suppliers, and
22 electric utilities other than the electric utility in whose
23 service area the retail customers are located, with the option
24 to have the electric utility purchase 2 billing cycles worth of
25 uncollectible receivables for power and energy service
26 provided to residential retail customers and to

1 non-residential retail customers with a non-coincident peak
2 demand of less than 400 kilowatts upon returning that customer
3 to that electric utility for delivery and energy service after
4 that alternative retail electric supplier, or an electric
5 utility other than the electric utility in whose service area
6 the retail customer is located, has made reasonable collection
7 efforts on that account. Uncollectible receivables for power
8 and energy service of alternative retail electric suppliers, or
9 electric utilities other than the electric utility in whose
10 service area the retail customers are located, shall be
11 purchased by the electric utility at a just and reasonable
12 discount rate to be reviewed and approved by the Commission,
13 after notice and hearing. The discount rate shall be based on
14 the electric utility's historical bad debt for receivables that
15 are outstanding for a similar length of time and any reasonable
16 start-up costs and administrative costs associated with the
17 electric utility's purchase of receivables. The discounted
18 rate for purchase of uncollectible receivables shall be
19 included in the tariff filed pursuant to this subsection (e).
20 The electric utility retains the right to impose the same terms
21 on these retail customers with respect to credit and
22 collection, including requests for deposits, and retains the
23 right to disconnect these retail customers, if it does not
24 receive payment for its tariffed services or purchased
25 receivables, in the same manner that it would be permitted to
26 if the retail customers had purchased power and energy from the

1 electric utility. The tariff filed pursuant to this subsection
2 (e) shall permit the electric utility to recover from retail
3 customers any uncollectable receivables that may arise as a
4 result of the purchase of uncollectible receivables under this
5 subsection (e), may also include other just and reasonable
6 terms and conditions, and shall provide for the prudently
7 incurred costs associated with the provision of this service
8 pursuant to this subsection (e). Nothing in this subsection (e)
9 permits the double recovery of utility bad debt expenses from
10 customers. The electric utility may file a joint tariff for
11 this subsection (e) and subsection (c) of this Section.

12 (f) Every alternative retail electric supplier or electric
13 utility other than the electric utility in whose service area
14 retail customers are located that issue single bills to the
15 retail customers for the services provided by such alternative
16 retail electric supplier or other electric utility and the
17 delivery services provided by the electric utility to such
18 customers shall include on the single bills issued to
19 residential customers the current utility supply charge that
20 would apply to the customer for the billing period if the
21 customer obtained supply from the utility, including all fixed
22 or monthly supply charges and other charges, credits, or rates
23 that are part of the electric supply price.

24 (g) Every electric utility that provides delivery and
25 supply services shall include on each bill to residential
26 customers who obtain supply from an alternative retail electric

1 supplier the electric utility's total supply charge that would
2 apply to the customer for the billing period if the customer
3 obtained supply from the utility, including all fixed or
4 monthly supply charges and other charges, credits, or rates
5 that are part of the electric supply price.

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

7 (220 ILCS 5/16-119)

8 Sec. 16-119. Switching suppliers.

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

1 responsible for any unpaid charges owed to an electric utility
2 or alternative retail electric supplier at the time it switches
3 to another provider.

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

10 (b) Notwithstanding the requirements of subsection (a),
11 each electric utility shall, within 90 days after the effective
12 date of this amendatory Act of the 101st General Assembly,
13 modify its tariff carrying out this Section to reflect the
14 following:

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

22 (2) If an alternative retail electric supplier
23 attempts to enroll a Low-Income Home Energy Assistance
24 Program customer other than through a government
25 aggregation program or an order entered by the Commission
26 that approves a Low-Income Energy Assistance Program

1 savings guarantee plan for alternative retail electric
2 supplier offerings, the electric utility shall deny the
3 supplier switch and inform the alternative retail electric
4 supplier of the reason.

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

6 (220 ILCS 5/19-115)

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

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

13 (b) An alternative gas supplier shall:

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

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

21 (3) comply with complaint procedures established by
22 the Commission;

23 (4) except as provided in subsection (h) of this
24 Section, file with the Chief Clerk of the Commission,
25 within 20 business days after the effective date of this

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

14 (5) maintain a customer call center where customers can
15 reach a representative and receive current information. At
16 least once every 6 months, each alternative gas supplier
17 shall provide written information to customers explaining
18 how to contact the call center. The average answer time for
19 calls placed to the call center shall not exceed 60 seconds
20 where a representative or automated system is ready to
21 render assistance and/or accept information to process
22 calls. The abandon rate for calls placed to the call center
23 shall not exceed 10%. Each alternative gas supplier shall
24 maintain records of the call center's telephone answer time
25 performance and abandon call rate. These records shall be
26 kept for a minimum of 2 years and shall be made available

1 to Commission personnel upon request. In the event that
2 answer times and/or abandon rates exceed the limits
3 established above, the reporting alternative gas supplier
4 may provide the Commission or its personnel with
5 explanatory details. At a minimum, these records shall
6 contain the following information in monthly increments:

7 (A) total number of calls received;

8 (B) number of calls answered;

9 (C) average answer time;

10 (D) number of abandoned calls; ~~and~~

11 (E) abandon call rate; ~~and~~.

12 (6) submit to the Commission and the Office of the
13 Attorney General, on January 1, 2020 and the first day of
14 each quarter thereafter, the rates the alternative gas
15 supplier charged to residential customers in the prior
16 quarter, including each distinct rate charged and whether
17 the rate was a fixed or variable rate, the basis for the
18 variable rate, and any fees charged in addition to the
19 supply rate, including monthly fees, flat fees, or other
20 service charges; the Commission is authorized to adopt
21 rules to implement this paragraph (6).

22 Alternative gas suppliers that do not have electronic
23 answering capability that meets these requirements shall
24 notify the Manager of the Commission's Consumer Services
25 Division or its successor within 30 days following the
26 effective date of this amendatory Act of the 95th General

1 Assembly and work with Staff to develop individualized
2 reporting requirements as to the call volume and responsiveness
3 of the call center.

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

9 (c) An alternative gas supplier shall not submit or execute
10 a change in a customer's selection of a natural gas provider
11 unless and until (i) the alternative gas supplier first
12 discloses all material terms and conditions of the offer to the
13 customer; (ii) the alternative gas supplier has obtained the
14 customer's express agreement to accept the offer after the
15 disclosure of all material terms and conditions of the offer;
16 and (iii) the alternative gas supplier has confirmed the
17 request for a change in accordance with one of the following
18 procedures:

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

22 (A) An alternative gas supplier shall obtain any
23 necessary written or electronically signed
24 authorization from a customer for a change in natural
25 gas service by using a letter of agency as specified in
26 this Section. Any letter of agency that does not

1 conform with this Section is invalid.

2 (B) The letter of agency shall be a separate
3 document (or an easily separable document containing
4 only the authorization language described in item (E)
5 of this paragraph (1)) whose sole purpose is to
6 authorize a natural gas provider change. The letter of
7 agency must be signed and dated by the customer
8 requesting the natural gas provider change.

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

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

24 (E) At a minimum, the letter of agency must be
25 printed with a print of sufficient size to be clearly
26 legible and must contain clear and unambiguous

1 language that confirms:

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

3 (ii) the decision to change the natural gas
4 provider from the current provider to the
5 prospective alternative gas supplier;

6 (iii) the terms, conditions, and nature of the
7 service to be provided to the customer, including,
8 but not limited to, the rates for the service
9 contracted for by the customer; and

10 (iv) that the customer understands that any
11 natural gas provider selection the customer
12 chooses may involve a charge to the customer for
13 changing the customer's natural gas provider.

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

17 (G) If any portion of a letter of agency is
18 translated into another language, then all portions of
19 the letter of agency must be translated into that
20 language.

21 (2) An appropriately qualified independent third party
22 has obtained, in accordance with the procedures set forth
23 in this paragraph (2), the customer's oral authorization to
24 change natural gas providers that confirms and includes
25 appropriate verification data. The independent third party
26 must (i) not be owned, managed, controlled, or directed by

1 the alternative gas supplier or the alternative gas
2 supplier's marketing agent; (ii) not have any financial
3 incentive to confirm provider change requests for the
4 alternative gas supplier or the alternative gas supplier's
5 marketing agent; and (iii) operate in a location physically
6 separate from the alternative gas supplier or the
7 alternative gas supplier's marketing agent. Automated
8 third-party verification systems and 3-way conference
9 calls may be used for verification purposes so long as the
10 other requirements of this paragraph (2) are satisfied. An
11 alternative gas supplier or alternative gas supplier's
12 sales representative initiating a 3-way conference call or
13 a call through an automated verification system must drop
14 off the call once the 3-way connection has been
15 established. All third-party verification methods shall
16 elicit, at a minimum, the following information:

17 (A) the identity of the customer;

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

20 (C) confirmation that the person on the call wants
21 to make the provider change;

22 (D) the names of the providers affected by the
23 change;

24 (E) the service address of the service to be
25 switched; and

26 (F) the price of the service to be provided and the

1 material terms and conditions of the service being
2 offered, including whether any early termination fees
3 apply.

4 Third-party verifiers may not market the alternative
5 gas supplier's services by providing additional
6 information. All third-party verifications shall be
7 conducted in the same language that was used in the
8 underlying sales transaction and shall be recorded in their
9 entirety. Submitting alternative gas suppliers shall
10 maintain and preserve audio records of verification of
11 customer authorization for a minimum period of 2 years
12 after obtaining the verification. Automated systems must
13 provide customers with an option to speak with a live
14 person at any time during the call.

15 (3) The alternative gas supplier has obtained the
16 customer's authorization via an automated verification
17 system to change natural gas service via telephone. An
18 automated verification system is an electronic system
19 that, through pre-recorded prompts, elicits voice
20 responses, touchtone responses, or both, from the customer
21 and records both the prompts and the customer's responses.
22 Such authorization must elicit the information in
23 paragraph (2)(A) through (F) of this subsection (c).
24 Alternative gas suppliers electing to confirm sales
25 electronically through an automated verification system
26 shall establish one or more toll-free telephone numbers

1 exclusively for that purpose. Calls to the number or
2 numbers shall connect a customer to a voice response unit,
3 or similar mechanism, that makes a date-stamped,
4 time-stamped recording of the required information
5 regarding the alternative gas supplier change.

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

8 (4) When a consumer initiates the call to the
9 prospective alternative gas supplier, in order to enroll
10 the consumer as a customer, the prospective alternative gas
11 supplier must, with the consent of the customer, make a
12 date-stamped, time-stamped audio recording that elicits,
13 at a minimum, the following information:

14 (A) the identity of the customer;

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

17 (C) confirmation that the person on the call wants
18 to make the provider change;

19 (D) the names of the providers affected by the
20 change;

21 (E) the service address of the service to be
22 switched; and

23 (F) the price of the service to be supplied and the
24 material terms and conditions of the service being
25 offered, including whether any early termination fees
26 apply.

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

4 (5) In the event that a customer enrolls for service
5 from an alternative gas supplier via an Internet website,
6 the alternative gas supplier shall obtain an
7 electronically signed letter of agency in accordance with
8 paragraph (1) of this subsection (c) and any customer
9 information shall be protected in accordance with all
10 applicable statutes and regulations. In addition, an
11 alternative gas supplier shall provide the following when
12 marketing via an Internet website:

13 (A) The Internet enrollment website shall, at a
14 minimum, include:

15 (i) a copy of the alternative gas supplier's
16 customer contract that clearly and conspicuously
17 discloses all terms and conditions; and

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

20 (B) Any electronic version of the contract shall be
21 identified by version number, in order to ensure the
22 ability to verify the particular contract to which the
23 customer assents.

24 (C) Throughout the duration of the alternative gas
25 supplier's contract with a customer, the alternative
26 gas supplier shall retain and, within 3 business days

1 of the customer's request, provide to the customer an
2 e-mail, paper, or facsimile of the terms and conditions
3 of the numbered contract version to which the customer
4 assents.

5 (D) The alternative gas supplier shall provide a
6 mechanism by which both the submission and receipt of
7 the electronic letter of agency are recorded by time
8 and date.

9 (E) After the customer completes the electronic
10 letter of agency, the alternative gas supplier shall
11 disclose conspicuously through its website that the
12 customer has been enrolled, and the alternative gas
13 supplier shall provide the customer an enrollment
14 confirmation number.

15 (6) When a customer is solicited in person by the
16 alternative gas supplier's sales agent, the alternative
17 gas supplier may only obtain the customer's authorization
18 to change natural gas service through the method provided
19 for in paragraph (2) of this subsection (c).

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

23 Notwithstanding the requirements under this subsection
24 (c), each natural gas utility shall, within 90 days after the
25 effective date of this amendatory Act of the 101st General
26 Assembly, modify its tariff carrying out this Section to

1 reflect the following:

2 (i) No customer who is receiving Low-Income Home Energy
3 Assistance Program funds may be switched to an alternative
4 gas supplier except subject to government aggregation
5 programs or to an order entered by the Commission that
6 approves a Low-Income Home Energy Assistance savings
7 guarantee plan for alternative gas supplier offerings.

8 (ii) If an alternative gas supplier attempts to enroll
9 a Low-Income Home Energy Assistance Program customer other
10 than through a government aggregation program or an order
11 entered by the Commission that approves a Low-Income Home
12 Energy Assistance Program savings guarantee plan for
13 alternative gas supplier offerings, the natural gas
14 utility shall deny the supplier switch and inform the
15 alternative gas supplier of the reason.

16 (d) Complaints may be filed with the Commission under this
17 Section by a customer whose natural gas service has been
18 provided by an alternative gas supplier in a manner not in
19 compliance with subsection (c) of this Section. If, after
20 notice and hearing, the Commission finds that an alternative
21 gas supplier has violated subsection (c), then the Commission
22 may in its discretion do any one or more of the following:

23 (1) Require the violating alternative gas supplier to
24 refund the customer charges collected in excess of those
25 that would have been charged by the customer's authorized
26 natural gas provider.

1 (2) Require the violating alternative gas supplier to
2 pay to the customer's authorized natural gas provider the
3 amount the authorized natural gas provider would have
4 collected for natural gas service. The Commission is
5 authorized to reduce this payment by any amount already
6 paid by the violating alternative gas supplier to the
7 customer's authorized natural gas provider.

8 (3) Require the violating alternative gas supplier to
9 pay a fine of up to \$1,000 into the Public Utility Fund for
10 each repeated and intentional violation of this Section.

11 (4) Issue a cease and desist order.

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

16 (e) No alternative gas supplier shall:

17 (1) enter into or employ any arrangements which have
18 the effect of preventing any customer from having access to
19 the services of the gas utility in whose service area the
20 customer is located;

21 (2) charge customers for such access;

22 (3) bill for goods or services not authorized by the
23 customer; or

24 (4) bill for a disputed amount where the alternative
25 gas supplier has been provided notice of such dispute. The
26 supplier shall attempt to resolve a dispute with the

1 customer. When the dispute is not resolved to the
2 customer's satisfaction, the supplier shall inform the
3 customer of the right to file an informal complaint with
4 the Commission and provide contact information. While the
5 pending dispute is active at the Commission, an alternative
6 gas supplier may bill only for the undisputed amount until
7 the Commission has taken final action on the complaint.

8 (f) An alternative gas supplier that is certified to serve
9 residential or small commercial customers shall not:

10 (1) deny service to a customer or group of customers
11 nor establish any differences as to prices, terms,
12 conditions, services, products, facilities, or in any
13 other respect, whereby such denial or differences are based
14 upon race, gender, or income;

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

18 (3) include in any agreement a provision that obligates
19 a customer to the terms of the agreement if the customer
20 (i) moves outside the State of Illinois; (ii) moves to a
21 location without a transportation service program; or
22 (iii) moves to a location where the customer will not
23 require natural gas service, provided that nothing in this
24 subsection precludes an alternative gas supplier from
25 taking any action otherwise available to it to collect a
26 debt that arises out of service provided to the customer

1 before the customer moved; or

2 (4) assign the agreement to any alternative natural gas
3 supplier, unless:

4 (A) the supplier is an alternative gas supplier
5 certified by the Commission;

6 (B) the rates, terms, and conditions of the
7 agreement being assigned do not change during the
8 remainder of the time covered by the agreement;

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

12 (D) the supplier assigning the contract provides
13 contact information that a customer can use to resolve
14 a dispute.

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

18 (1) 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.

22 (2) Before any customer is switched from another
23 supplier, the alternative gas supplier shall give the
24 customer written information that clearly and
25 conspicuously discloses, in plain language, the prices,
26 terms, and conditions of the products and services being

1 offered and sold to the customer. Nothing in this paragraph
2 (2) may be read to relieve an alternative gas supplier from
3 the duties imposed on it by item (3) of subsection (c) of
4 Section 2DDD of the Consumer Fraud and Deceptive Business
5 Practices Act.

6 (3) The alternative gas supplier shall provide to the
7 customer:

8 (A) accurate, timely, and itemized billing
9 statements that describe the products and services
10 provided to the customer and their prices and that
11 specify the gas consumption amount and any service
12 charges and taxes; provided that this item (g) (3) (A)
13 does not apply to small commercial customers;

14 (B) billing statements that clearly and
15 conspicuously discloses the name and contact
16 information for the alternative gas supplier;

17 (C) an additional statement, at least annually,
18 that adequately discloses the average monthly prices,
19 and the terms and conditions, of the products and
20 services sold to the customer; provided that this item
21 (g) (3) (C) does not apply to small commercial
22 customers;

23 (D) refunds of any deposits with interest within 30
24 days after the date that the customer changes gas
25 suppliers or discontinues service if the customer has
26 satisfied all of his or her outstanding financial

1 obligations to the alternative gas supplier at an
2 interest rate set by the Commission which shall be the
3 same as that required of gas utilities; and

4 (E) refunds, in a timely fashion, of all undisputed
5 overpayments upon the oral or written request of the
6 customer.

7 (4) An alternative gas supplier and its sales agents
8 shall refrain from any direct marketing or soliciting to
9 consumers on the gas utility's "Do Not Contact List", which
10 the alternative gas supplier shall obtain on the 15th
11 calendar day of the month from the gas utility in whose
12 service area the consumer is provided with gas service. If
13 the 15th calendar day is a non-business day, then the
14 alternative gas supplier shall obtain the list on the next
15 business day following the 15th calendar day of that month.

16 (5) Early Termination.

17 (A) Any agreement that contains an early
18 termination clause shall disclose the amount of the
19 early termination fee, provided that any early
20 termination fee or penalty shall not exceed \$50 total,
21 regardless of whether or not the agreement is a
22 multiyear agreement.

23 (B) In any agreement that contains an early
24 termination clause, an alternative gas supplier shall
25 provide the customer the opportunity to terminate the
26 agreement without any termination fee or penalty

1 within 10 business days after the date of the first
2 bill issued to the customer for products or services
3 provided by the alternative gas supplier. The
4 agreement shall disclose the opportunity and provide a
5 toll-free phone number that the customer may call in
6 order to terminate the agreement.

7 (6) Within 2 business days after electronic receipt of
8 a customer switch from the alternative gas supplier and
9 confirmation of eligibility, the gas utility shall provide
10 the customer written notice confirming the switch. The gas
11 utility shall not switch the service until 10 business days
12 after the date on the notice to the customer.

13 (7) The alternative gas supplier shall provide each
14 customer the opportunity to rescind its agreement without
15 penalty within 10 business days after the date on the gas
16 utility notice to the customer. The alternative gas
17 supplier shall disclose all of the following:

18 (A) that the gas utility shall send a notice
19 confirming the switch;

20 (B) that from the date the utility issues the
21 notice confirming the switch, the customer shall have
22 10 business days to rescind the switch without penalty;

23 (C) that the customer shall contact the gas utility
24 or the alternative gas supplier to rescind the switch;
25 and

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

1 The alternative gas supplier disclosure shall be
2 included in its sales solicitations, contracts, and all
3 applicable sales verification scripts.

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

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

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

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

14 The alternative gas supplier shall file the terms and
15 conditions of such service offering including the applicable
16 limitations with the Commission prior to making the service
17 offering available to customers.

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

1 organization or association.

2 (j) The Commission shall ensure alternative gas suppliers
3 have proper training in place to prohibit impersonation of a
4 utility. The Commission shall investigate complaints of any
5 company or its agents impersonating a utility. A company
6 contracting with or that employs a sales agent found to be
7 impersonating a utility shall be fined \$5,000 for each
8 incident.

9 As used in this subsection:

10 "Impersonation" means wearing apparel or carrying items
11 using the utility name or logo with the intent of misleading
12 the customer into believing the agent is acting on behalf of or
13 working for the utility.

14 "Company" includes an alternative gas supplier and any
15 agent, broker, consultant, or other entity hired to sell
16 natural gas services.

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

18 (220 ILCS 5/19-135)

19 Sec. 19-135. Single billing.

20 (a) It is the intent of the General Assembly that in any
21 service area where customers are able to choose their natural
22 gas supplier, a single billing option shall be offered to
23 customers for both the services provided by the alternative gas
24 supplier and the delivery services provided by the gas utility.
25 A gas utility shall file a tariff pursuant to Article IX of

1 this Act that allows alternative gas suppliers to issue single
2 bills to residential and small commercial customers for both
3 the services provided by the alternative gas supplier and the
4 delivery services provided by the gas utility to customers;
5 provided that if a form of single billing is being offered in a
6 gas utility's service area on the effective date of this
7 amendatory Act of the 92nd General Assembly, that form of
8 single billing shall remain in effect unless and until
9 otherwise ordered by the Commission. Every alternative gas
10 supplier that issues a single bill for delivery and supply
11 shall include on the single bill issued to a residential
12 customer the current utility supply charge that would apply to
13 the customer for the billing period if the customer obtained
14 supply from the utility, including all fixed or monthly supply
15 charges and other charges, credits, or rates that are part of
16 the gas supply price.

17 (b) Every gas utility that offers supply choice and
18 provides delivery and alternative gas supply service on a
19 single bill to its residential customers shall include on the
20 bill of each residential customer who purchases supply services
21 from an alternative gas supplier the gas utility's total supply
22 charge for the billing period that would apply to the customer
23 for the billing period if the customer obtained supply from the
24 utility, including all fixed or monthly supply charges and
25 other charges, credits, or rates that are part of the gas
26 supply price.

1 (Source: P.A. 92-852, eff. 8-26-02.)

2 (220 ILCS 5/20-110)

3 Sec. 20-110. Office of Retail Market Development. Within 90
4 days after the effective date of this amendatory Act of the
5 94th General Assembly, subject to appropriation, the
6 Commission shall establish an Office of Retail Market
7 Development and employ on its staff a Director of Retail Market
8 Development to oversee the Office. The Director shall have
9 authority to employ or otherwise retain at least 2
10 professionals dedicated to the task of actively seeking out
11 ways to promote retail competition in Illinois to benefit all
12 Illinois consumers.

13 The Office shall actively seek input from all interested
14 parties and shall develop a thorough understanding and critical
15 analyses of the tools and techniques used to promote retail
16 competition in other states.

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

1 service.

2 On or before June 30 of each year, the Director shall
3 submit a report to the Commission, the General Assembly, and
4 the Governor, that details specific accomplishments achieved
5 by the Office in the prior 12 months in promoting retail
6 electric competition and that suggests administrative and
7 legislative action necessary to promote further improvements
8 in retail electric competition. The report to the General
9 Assembly shall be filed with the Clerk of the House of
10 Representatives and the Secretary of the Senate in electronic
11 form only, in the manner that the Clerk and the Secretary shall
12 direct. Any information in this report involving price
13 comparisons between electric utilities, electric utilities
14 providing service outside their service territories, or
15 alternative retail electric suppliers shall also include the
16 combined value of additional products and services offered by
17 the competitive retail electric market, including, but not
18 limited to, the cash value of energy control technologies
19 provided, the megawatt hours of energy savings realized by
20 customers utilizing energy control technologies, the megawatt
21 hours of renewable energy exclusive of State mandated
22 purchases, and the total amounts of cash or cash equivalent
23 offers. The Commission may include other energy savings and
24 marketing savings programs as they develop in the market. The
25 Commission is authorized to establish through administrative
26 rules standards, practices, forms, procedures, and policies

1 governing the reporting of alternative retail electric
2 suppliers of such products, services, energy savings,
3 renewable energy, and value of cash equivalent offers.

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

5 (220 ILCS 5/20-140 new)

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

7 (a) The Commission may establish a program for promoting
8 expanded use of energy savings programs for residential and
9 small commercial customers. The program shall include the use
10 of thermostats, lights, plugs, and other devices that allow a
11 customer to control and reduce his or her energy usage. The
12 program shall not discriminate based on brand names and shall
13 include ways to promote those devices and incentives for
14 residential customers, including both homeowners and renters.
15 Nothing in this Section is intended to modify the rights or
16 obligations set forth in Sections 8-103B and 8-104 of this Act
17 or divert or reallocate the funding available under those
18 Sections.

19 (b) On or before September 1, 2019 and every 2 years
20 thereafter, the Commission shall initiate a collaborative
21 workshop for stakeholders, retail electric suppliers,
22 advocates for energy savings, and industry representatives
23 developing energy savings devices and applicants.

24 (c) Any recommendations arising from the workshop process
25 under this Section shall be included in the annual report of

1 the Office of Retail Market Development.

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

4 (220 ILCS 10/5) (from Ch. 111 2/3, par. 905)

5 Sec. 5. Powers and duties.

6 (1) The corporation shall:

7 (a) Represent and protect the interests of the
8 residential utility consumers of this State. All actions by
9 the corporation under this Act shall be directed toward
10 such duty; provided that the corporation may also give due
11 consideration to the interests of business in the State.

12 (b) Inform, in so far as possible, all utility
13 consumers about the corporation, including the procedure
14 for obtaining membership in the corporation.

15 (2) The corporation shall have all the powers necessary or
16 convenient for the effective representation and protection of
17 the interest of utility consumers and to implement this Act,
18 including the following powers in addition to all other powers
19 granted by this Act.

20 (a) To make, amend and repeal bylaws and rules for the
21 regulation of its affairs and the conduct of its business;
22 to adopt an official seal and alter it at pleasure; to
23 maintain an office; to sue and be sued in its own name,
24 plead and be impleaded; and to make and execute contracts

1 and other instruments necessary or convenient to the
2 exercise of the powers of the corporation.

3 (b) To employ such agents, employees and special
4 advisors as it finds necessary and to fix their
5 compensation.

6 (c) To solicit and accept gifts, loans, including loans
7 made by the Illinois Commerce Commission from funds
8 appropriated for that purpose by law, or other aid in order
9 to support activities concerning the interests of utility
10 consumers. Except as provided in Section 5.1, the
11 corporation may not accept gifts, loans or other aid from
12 any public utility or from any director, employee or agent
13 or member of the immediate family of a director, employee
14 or agent of any public utility and, after the first
15 election the corporation, may not accept from any
16 individual, private corporation, association or
17 partnership in any single year a total of more than \$1,000
18 in gifts. Under this paragraph, "aid" does not mean payment
19 of membership dues.

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

23 (e) To represent the interests of utility consumers
24 before the Illinois Commerce Commission, the Federal
25 Energy Regulatory Commission, the Federal Communications
26 Commission, the courts, and other public bodies, except

1 that no director, employee or agent of the corporation may
2 engage in lobbying without first complying with any
3 applicable statute, administrative rule or other
4 regulation relating to lobbying.

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

9 (g) To implement solicitation for corporation funding
10 and membership.

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

14 (i) To provide information and advice to utility
15 consumers on any matter with respect to utility service,
16 including but not limited to information and advice on
17 benefits and methods of energy conservation.

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

21 (4) The corporation shall refrain from interfering with
22 collective bargaining rights of any employees of a public
23 utility.

24 (5) The corporation shall provide all consumer complaints
25 regarding service by entities possessing a certificate of
26 service authority as an alternative retail electric supplier

1 under Section 16-115 of the Public Utilities Act and entities
2 possessing certificates of service authority as an alternative
3 gas supplier under Section 19-110 of the Public Utilities Act
4 to the Consumer Services Division of the Illinois Commerce
5 Commission.

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

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

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

18 (815 ILCS 505/2EE)

19 Sec. 2EE. Electric service provider selection. An electric
20 service provider shall not submit or execute a change in a
21 subscriber's selection of a provider of electric service unless
22 and until (i) the provider first discloses all material terms
23 and conditions of the offer to the subscriber; (ii) the
24 provider has obtained the subscriber's express agreement to

1 accept the offer after the disclosure of all material terms and
2 conditions of the offer; and (iii) the provider has confirmed
3 the request for a change in accordance with one of the
4 following procedures:

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

8 (1) An electric service provider shall obtain any
9 necessary written or electronically signed authorization
10 from a subscriber for a change in electric service by using
11 a letter of agency as specified in this Section. Any letter
12 of agency that does not conform with this Section is
13 invalid.

14 (2) The letter of agency shall be a separate document
15 (an easily separable document containing only the
16 authorization language described in subparagraph (a)(5) of
17 this Section) whose sole purpose is to authorize an
18 electric service provider change. The letter of agency must
19 be signed and dated by the subscriber requesting the
20 electric service provider change.

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

23 (4) Notwithstanding subparagraphs (a)(1) and (a)(2) of
24 this Section, the letter of agency may be combined with
25 checks that contain only the required letter of agency
26 language prescribed in subparagraph (a)(5) of this Section

1 and the necessary information to make the check a
2 negotiable instrument. The letter of agency check shall not
3 contain any promotional language or material. The letter of
4 agency check shall contain in easily readable, bold-face
5 type on the face of the check, a notice that the consumer
6 is authorizing an electric service provider change by
7 signing the check. The letter of agency language also shall
8 be placed near the signature line on the back of the check.

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

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

13 (ii) The decision to change the electric service
14 provider from the current provider to the prospective
15 provider;

16 (iii) The terms, conditions, and nature of the
17 service to be provided to the subscriber must be
18 clearly and conspicuously disclosed, in writing, and
19 an electric service provider must directly establish
20 the rates for the service contracted for by the
21 subscriber; and

22 (iv) That the subscriber understand that any
23 electric service provider selection the subscriber
24 chooses may involve a charge to the subscriber for
25 changing the subscriber's electric service provider.

26 (6) Letters of agency shall not suggest or require that

1 a subscriber take some action in order to retain the
2 subscriber's current electric service provider.

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

6 (b) An appropriately qualified independent third party has
7 obtained, in accordance with the procedures set forth in this
8 subsection (b), the subscriber's oral authorization to change
9 electric suppliers that confirms and includes appropriate
10 verification data. The independent third party (i) must not be
11 owned, managed, controlled, or directed by the supplier or the
12 supplier's marketing agent; (ii) must not have any financial
13 incentive to confirm supplier change requests for the supplier
14 or the supplier's marketing agent; and (iii) must operate in a
15 location physically separate from the supplier or the
16 supplier's marketing agent.

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

20 A supplier or supplier's sales representative initiating a
21 3-way conference call or a call through an automated
22 verification system must drop off the call once the 3-way
23 connection has been established.

24 All third-party verification methods shall elicit, at a
25 minimum, the following information: (i) the identity of the
26 subscriber; (ii) confirmation that the person on the call is

1 authorized to make the supplier change; (iii) confirmation that
2 the person on the call wants to make the supplier change; (iv)
3 the names of the suppliers affected by the change; (v) the
4 service address of the supply to be switched; and (vi) the
5 price of the service to be supplied and the material terms and
6 conditions of the service being offered, including whether any
7 early termination fees apply. Third-party verifiers may not
8 market the supplier's services by providing additional
9 information, including information regarding procedures to
10 block or otherwise freeze an account against further changes.

11 All third-party verifications shall be conducted in the
12 same language that was used in the underlying sales transaction
13 and shall be recorded in their entirety. Submitting suppliers
14 shall maintain and preserve audio records or electronic
15 versions, if automated, of verification of subscriber
16 authorization for a minimum period of 2 years after obtaining
17 the verification. Automated systems must provide consumers
18 with an option to speak with a live person at any time during
19 the call.

20 (c) When a subscriber initiates the call to the prospective
21 electric supplier, in order to enroll the subscriber as a
22 customer, the prospective electric supplier must, with the
23 consent of the customer, make a date-stamped, time-stamped
24 audio recording that elicits, at a minimum, the following
25 information:

26 (1) the identity of the subscriber;

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

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

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

6 (5) the service address of the supply to be switched;
7 and

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

11 Submitting suppliers shall maintain and preserve the audio
12 records containing the information set forth above for a
13 minimum period of 2 years.

14 (d) Complaints may be filed with the Illinois Commerce
15 Commission under this Section by a subscriber whose electric
16 service has been provided by an electric service supplier in a
17 manner not in compliance with this Section. If, after notice
18 and hearing, the Commission finds that an electric service
19 provider has violated this Section, the Commission may in its
20 discretion do any one or more of the following:

21 (1) Require the violating electric service provider to
22 refund to the subscriber charges collected in excess of
23 those that would have been charged by the subscriber's
24 authorized electric service provider.

25 (2) Require the violating electric service provider to
26 pay to the subscriber's authorized electric supplier the

1 amount the authorized electric supplier would have
2 collected for the electric service. The Commission is
3 authorized to reduce this payment by any amount already
4 paid by the violating electric supplier to the subscriber's
5 authorized provider for electric service.

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

9 (4) Issue a cease and desist order.

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

13 (e) For purposes of this Section, "electric service
14 provider" shall have the meaning given that phrase in Section
15 6.5 of the Attorney General Act.

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

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

1 INDEX

2 Statutes amended in order of appearance

3 220 ILCS 5/16-115

4 220 ILCS 5/16-115A

5 220 ILCS 5/16-115B

6 220 ILCS 5/16-118

7 220 ILCS 5/16-119

8 220 ILCS 5/19-115

9 220 ILCS 5/19-135

10 220 ILCS 5/20-110

11 220 ILCS 5/20-140 new

12 220 ILCS 10/5 from Ch. 111 2/3, par. 905

13 815 ILCS 505/2EE