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1 AMENDMENT TO SENATE BILL 1705

2 AMENDMENT NO. _____. Amend Senate Bill 1705 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Public Utilities Act is amended by changing
5 Sections 16-101A, 16-102, and 16-107 as follows:

6 (220 ILCS 5/16-101A)

7 Sec. 16-101A. Legislative findings.

8 (a) The citizens and businesses of the State of Illinois
9 have been well-served by a comprehensive electrical utility
10 system which has provided safe, reliable, and affordable
11 service. The electrical utility system in the State of Illinois
12 has historically been subject to State and federal regulation,
13 aimed at assuring the citizens and businesses of the State of
14 safe, reliable, and affordable service, while at the same time
15 assuring the utility system of a return on its investment.

16 (b) Competitive forces are affecting the market for
17 electricity as a result of recent federal regulatory and
18 statutory changes and the activities of other states.
19 Competition in the electric services market may create
20 opportunities for new products and services for customers and
21 lower costs for users of electricity. Long-standing regulatory
22 relationships need to be altered to accommodate the competition
23 that could fundamentally alter the structure of the electric
24 services market.

1 (c) With the advent of increasing competition in this
2 industry, the State has a continued interest in assuring that
3 the safety, reliability, and affordability of electrical power
4 is not sacrificed to competitive pressures, and to that end,
5 intends to implement safeguards to assure that the industry
6 continues to operate the electrical system in a manner that
7 will serve the public's interest. Under the existing regulatory
8 framework, the industry has been encouraged to undertake
9 certain investments in its physical plant and personnel to
10 enhance its efficient operation, the cost of which it has been
11 permitted to pass on to consumers. The State has an interest in
12 providing the existing utilities a reasonable opportunity to
13 obtain a return on certain investments on which they depended
14 in undertaking those commitments in the first instance while,
15 at the same time, not permitting new entrants into the industry
16 to take unreasonable advantage of the investments made by the
17 formerly regulated industry.

18 (d) A competitive wholesale and retail market must benefit
19 all Illinois citizens. The Illinois Commerce Commission should
20 act to promote the development of an effectively competitive
21 electricity market that operates efficiently and is equitable
22 to all consumers. Consumer protections must be in place to
23 ensure that all customers continue to receive safe, reliable,
24 affordable, and environmentally safe electric service.

25 (e) All consumers must benefit in an equitable and timely
26 fashion from the lower costs for electricity that result from
27 retail and wholesale competition and receive sufficient
28 information to make informed choices among suppliers and
29 services. The use of renewable resources and energy efficiency
30 resources should be encouraged in competitive markets.

31 (f) The efficiency of electric markets depends both upon
32 the competitiveness of supply and upon the
33 price-responsiveness of the demand for service. Therefore, to
34 ensure the lowest total cost of service and to enhance the

1 reliability of service, all classes of the electricity
2 customers of electric utilities should have access to and be
3 able to voluntarily use real-time pricing and other price- and
4 demand-response mechanisms.

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

6 (220 ILCS 5/16-102)

7 Sec. 16-102. Definitions. For the purposes of this Article
8 the following terms shall be defined as set forth in this
9 Section.

10 "Alternative retail electric supplier" means every person,
11 cooperative, corporation, municipal corporation, company,
12 association, joint stock company or association, firm,
13 partnership, individual, or other entity, their lessees,
14 trustees, or receivers appointed by any court whatsoever, that
15 offers electric power or energy for sale, lease or in exchange
16 for other value received to one or more retail customers, or
17 that engages in the delivery or furnishing of electric power or
18 energy to such retail customers, and shall include, without
19 limitation, resellers, aggregators and power marketers, but
20 shall not include (i) electric utilities (or any agent of the
21 electric utility to the extent the electric utility provides
22 tariffed services to retail customers through that agent), (ii)
23 any electric cooperative or municipal system as defined in
24 Section 17-100 to the extent that the electric cooperative or
25 municipal system is serving retail customers within any area in
26 which it is or would be entitled to provide service under the
27 law in effect immediately prior to the effective date of this
28 amendatory Act of 1997, (iii) a public utility that is owned
29 and operated by any public institution of higher education of
30 this State, or a public utility that is owned by such public
31 institution of higher education and operated by any of its
32 lessees or operating agents, within any area in which it is or
33 would be entitled to provide service under the law in effect

1 immediately prior to the effective date of this amendatory Act
2 of 1997, (iv) a retail customer to the extent that customer
3 obtains its electric power and energy from that customer's own
4 cogeneration or self-generation facilities, (v) an entity that
5 owns, operates, sells, or arranges for the installation of a
6 customer's own cogeneration or self-generation facilities, but
7 only to the extent the entity is engaged in owning, selling or
8 arranging for the installation of such facility, or operating
9 the facility on behalf of such customer, provided however that
10 any such third party owner or operator of a facility built
11 after January 1, 1999, complies with the labor provisions of
12 Section 16-128(a) as though such third party were an
13 alternative retail electric supplier, or (vi) an industrial or
14 manufacturing customer that owns its own distribution
15 facilities, to the extent that the customer provides service
16 from that distribution system to a third-party contractor
17 located on the customer's premises that is integrally and
18 predominantly engaged in the customer's industrial or
19 manufacturing process; provided, that if the industrial or
20 manufacturing customer has elected delivery services, the
21 customer shall pay transition charges applicable to the
22 electric power and energy consumed by the third-party
23 contractor unless such charges are otherwise paid by the third
24 party contractor, which shall be calculated based on the usage
25 of, and the base rates or the contract rates applicable to, the
26 third-party contractor in accordance with Section 16-102.

27 "Base rates" means the rates for those tariffed services
28 that the electric utility is required to offer pursuant to
29 subsection (a) of Section 16-103 and that were identified in a
30 rate order for collection of the electric utility's base rate
31 revenue requirement, excluding (i) separate automatic rate
32 adjustment riders then in effect, (ii) special or negotiated
33 contract rates, (iii) delivery services tariffs filed pursuant
34 to Section 16-108, (iv) real-time pricing, or (v) tariffs that

1 were in effect prior to October 1, 1996 and that based charges
2 for services on an index or average of other utilities'
3 charges, but including (vi) any subsequent redesign of such
4 rates for tariffed services that is authorized by the
5 Commission after notice and hearing.

6 "Competitive service" includes (i) any service that has
7 been declared to be competitive pursuant to Section 16-113 of
8 this Act, (ii) contract service, and (iii) services, other than
9 tariffed services, that are related to, but not necessary for,
10 the provision of electric power and energy or delivery
11 services.

12 "Contract service" means (1) services, including the
13 provision of electric power and energy or other services, that
14 are provided by mutual agreement between an electric utility
15 and a retail customer that is located in the electric utility's
16 service area, provided that, delivery services shall not be a
17 contract service until such services are declared competitive
18 pursuant to Section 16-113; and also means (2) the provision of
19 electric power and energy by an electric utility to retail
20 customers outside the electric utility's service area pursuant
21 to Section 16-116. Provided, however, contract service does not
22 include electric utility services provided pursuant to (i)
23 contracts that retail customers are required to execute as a
24 condition of receiving tariffed services, or (ii) special or
25 negotiated rate contracts for electric utility services that
26 were entered into between an electric utility and a retail
27 customer prior to the effective date of this amendatory Act of
28 1997 and filed with the Commission.

29 "Delivery services" means those services provided by the
30 electric utility that are necessary in order for the
31 transmission and distribution systems to function so that
32 retail customers located in the electric utility's service area
33 can receive electric power and energy from suppliers other than
34 the electric utility, and shall include, without limitation,

1 standard metering and billing services.

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

6 "Mandatory transition period" means the period from the
7 effective date of this amendatory Act of 1997 through January
8 1, 2007.

9 "Municipal system" shall have the meaning set forth in
10 Section 17-100.

11 "Real-time pricing" means tariffed retail charges for
12 delivered electric power and energy that vary ~~on an~~
13 hour-to-hour and are determined from wholesale market prices
14 using a methodology approved by the Illinois Commerce
15 Commission basis for nonresidential retail customers and that
16 ~~vary on a periodic basis during the day for residential retail~~
17 ~~customers.~~

18 "Retail customer" means a single entity using electric
19 power or energy at a single premises and that (A) either (i) is
20 receiving or is eligible to receive tariffed services from an
21 electric utility, or (ii) that is served by a municipal system
22 or electric cooperative within any area in which the municipal
23 system or electric cooperative is or would be entitled to
24 provide service under the law in effect immediately prior to
25 the effective date of this amendatory Act of 1997, or (B) an
26 entity which on the effective date of this Act was receiving
27 electric service from a public utility and (i) was engaged in
28 the practice of resale and redistribution of such electricity
29 within a building prior to January 2, 1957, or (ii) was
30 providing lighting services to tenants in a multi-occupancy
31 building, but only to the extent such resale, redistribution or
32 lighting service is authorized by the electric utility's
33 tariffs that were on file with the Commission on the effective
34 date of this Act.

1 "Service area" means (i) the geographic area within which
2 an electric utility was lawfully entitled to provide electric
3 power and energy to retail customers as of the effective date
4 of this amendatory Act of 1997, and includes (ii) the location
5 of any retail customer to which the electric utility was
6 lawfully providing electric utility services on such effective
7 date.

8 "Small commercial retail customer" means those
9 nonresidential retail customers of an electric utility
10 consuming 15,000 kilowatt-hours or less of electricity
11 annually in its service area.

12 "Tariffed service" means services provided to retail
13 customers by an electric utility as defined by its rates on
14 file with the Commission pursuant to the provisions of Article
15 IX of this Act, but shall not include competitive services.

16 "Transition charge" means a charge expressed in cents per
17 kilowatt-hour that is calculated for a customer or class of
18 customers as follows for each year in which an electric utility
19 is entitled to recover transition charges as provided in
20 Section 16-108:

21 (1) the amount of revenue that an electric utility
22 would receive from the retail customer or customers if it
23 were serving such customers' electric power and energy
24 requirements as a tariffed service based on (A) all of the
25 customers' actual usage during the 3 years ending 90 days
26 prior to the date on which such customers were first
27 eligible for delivery services pursuant to Section 16-104,
28 and (B) on (i) the base rates in effect on October 1, 1996
29 (adjusted for the reductions required by subsection (b) of
30 Section 16-111, for any reduction resulting from a rate
31 decrease under Section 16-101(b), for any restatement of
32 base rates made in conjunction with an elimination of the
33 fuel adjustment clause pursuant to subsection (b), (d), or
34 (f) of Section 9-220 and for any removal of decommissioning

1 costs from base rates pursuant to Section 16-114) and any
2 separate automatic rate adjustment riders (other than a
3 decommissioning rate as defined in Section 16-114) under
4 which the customers were receiving or, had they been
5 customers, would have received electric power and energy
6 from the electric utility during the year immediately
7 preceding the date on which such customers were first
8 eligible for delivery service pursuant to Section 16-104,
9 or (ii) to the extent applicable, any contract rates,
10 including contracts or rates for consolidated or
11 aggregated billing, under which such customers were
12 receiving electric power and energy from the electric
13 utility during such year;

14 (2) less the amount of revenue, other than revenue from
15 transition charges and decommissioning rates, that the
16 electric utility would receive from such retail customers
17 for delivery services provided by the electric utility,
18 assuming such customers were taking delivery services for
19 all of their usage, based on the delivery services tariffs
20 in effect during the year for which the transition charge
21 is being calculated and on the usage identified in
22 paragraph (1);

23 (3) less the market value for the electric power and
24 energy that the electric utility would have used to supply
25 all of such customers' electric power and energy
26 requirements, as a tariffed service, based on the usage
27 identified in paragraph (1), with such market value
28 determined in accordance with Section 16-112 of this Act;

29 (4) less the following amount which represents the
30 amount to be attributed to new revenue sources and cost
31 reductions by the electric utility through the end of the
32 period for which transition costs are recovered pursuant to
33 Section 16-108, referred to in this Article XVI as a
34 "mitigation factor":

1 (A) for nonresidential retail customers, an amount
2 equal to the greater of (i) 0.5 cents per kilowatt-hour
3 during the period October 1, 1999 through December 31,
4 2004, 0.6 cents per kilowatt-hour in calendar year
5 2005, and 0.9 cents per kilowatt-hour in calendar year
6 2006, multiplied in each year by the usage identified
7 in paragraph (1), or (ii) an amount equal to the
8 following percentages of the amount produced by
9 applying the applicable base rates (adjusted as
10 described in subparagraph (1)(B)) or contract rate to
11 the usage identified in paragraph (1): 8% for the
12 period October 1, 1999 through December 31, 2002, 10%
13 in calendar years 2003 and 2004, 11% in calendar year
14 2005 and 12% in calendar year 2006; and

15 (B) for residential retail customers, an amount
16 equal to the following percentages of the amount
17 produced by applying the base rates in effect on
18 October 1, 1996 (adjusted as described in subparagraph
19 (1)(B)) to the usage identified in paragraph (1): (i)
20 6% from May 1, 2002 through December 31, 2002, (ii) 7%
21 in calendar years 2003 and 2004, (iii) 8% in calendar
22 year 2005, and (iv) 10% in calendar year 2006;

23 (5) divided by the usage of such customers identified
24 in paragraph (1),
25 provided that the transition charge shall never be less than
26 zero.

27 "Unbundled service" means a component or constituent part
28 of a tariffed service which the electric utility subsequently
29 offers separately to its customers.

30 (Source: P.A. 91-50, eff. 6-30-99; 92-537, eff. 6-6-02.)

31 (220 ILCS 5/16-107)

32 Sec. 16-107. Real-time pricing.

33 (a) Each electric utility shall file, on or before May 1,

1 1998, a tariff or tariffs which allow nonresidential retail
2 customers in the electric utility's service area to elect
3 real-time pricing beginning October 1, 1998.

4 (b) Each electric utility shall file, on or before May 1,
5 2000, a tariff or tariffs which allow residential retail
6 customers in the electric utility's service area to elect
7 real-time pricing beginning October 1, 2000.

8 (b-5) Each electric utility shall file a tariff or tariffs
9 allowing residential retail customers in the electric
10 utility's service area to elect real-time pricing beginning
11 January 1, 2007. The Commission may, after notice and hearing,
12 approve the tariff or tariffs, provided that the Commission
13 finds that the potential for demand reductions will result in
14 net economic benefits to all residential customers of the
15 electric utility. A tariff or tariffs filed pursuant to that
16 order shall describe: (i) the methodology for determining the
17 market price of energy to be reflected in the real-time rate;
18 (ii) cost-based distribution and transmission charges that are
19 no greater than the charges made to other residential
20 customers; (iii) a customer charge no greater than that charged
21 to other residential customers; and (iv) an information system
22 that provides customers ready access to hourly market prices,
23 including, but not limited to, day-ahead hourly energy prices.

24 A proceeding under this subsection (b-5) may not exceed 120
25 days in length.

26 (b-10) Each electric utility providing real-time pricing
27 pursuant to subsection (b-5) shall install a meter capable of
28 recording hourly interval energy use at the service location of
29 each customer that elects real-time pricing pursuant to this
30 subsection.

31 (b-15) If the Commission issues an order pursuant to
32 subsection (b-5), the affected electric utility shall contract
33 with an entity not affiliated with the electric utility to
34 serve as a program administrator to develop and implement a

1 program to provide consumer outreach, enrollment, and
2 education concerning real-time pricing and to establish and
3 administer an information system and technical and other
4 customer assistance that is necessary to enable customers to
5 manage electricity use. The program administrator: (i) shall be
6 selected and compensated by the electric utility, subject to
7 Commission approval; (ii) shall have demonstrated technical
8 and managerial competence in the development and
9 administration of demand management programs; and (iii) may
10 develop and implement risk management, energy efficiency, and
11 other services related to energy use management for which the
12 program administrator shall be compensated by participants in
13 the program receiving such services. The electric utility shall
14 provide the program administrator with all information and
15 assistance necessary to perform the program administrator's
16 duties, including, but not limited to, customer, account, and
17 energy use data. The electric utility shall permit the program
18 administrator to include inserts in residential customer bills
19 2 times per year to assist with customer outreach and
20 enrollment.

21 The program administrator shall submit an annual report to
22 the electric utility no later than April 1 of each year
23 describing the operation and results of the program, including
24 information concerning the number and types of customers using
25 real-time pricing, changes in customers' energy use patterns,
26 an assessment of the value of the program to both participants
27 and non-participants, and recommendations concerning
28 modification of the program and the tariff or tariffs filed
29 under subsection (b-5). This report shall be filed by the
30 electric utility with the Commission within 30 days of receipt
31 and shall be available to the public on the Commission's web
32 site.

33 (b-20) The Commission shall monitor the performance of
34 programs established pursuant to subsection (b-15) and shall

1 order the termination or modification of a program if it
2 determines that the program is not, after a reasonable period
3 of time for development not to exceed 4 years, resulting in net
4 benefits to the residential customers of the electric utility.

5 (b-25) An electric utility shall be entitled to recover
6 reasonable costs incurred in complying with an order issued
7 pursuant to this Section by imposing a uniform charge, included
8 in its customer charge, on the residential customers in its
9 service territory.

10 (c) The electric utility's tariff or tariffs filed pursuant
11 to this Section shall be subject to Article IX.

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

13 Section 99. Effective date. This Act takes effect upon
14 becoming law."