



Rep. George Scully Jr.

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1 AMENDMENT TO SENATE BILL 1705

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1705, AS AMENDED,  
3 by replacing everything after the enacting clause with the  
4 following:

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

7 (220 ILCS 5/16-101A)

8 Sec. 16-101A. Legislative findings.

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

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

1 services market.

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

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

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

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

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

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

7 (220 ILCS 5/16-102)

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

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

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

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

1 to Section 16-108, (iv) real-time pricing, or (v) tariffs that  
2 were in effect prior to October 1, 1996 and that based charges  
3 for services on an index or average of other utilities'  
4 charges, but including (vi) any subsequent redesign of such  
5 rates for tariffed services that is authorized by the  
6 Commission after notice and hearing.

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

13 "Contract service" means (1) services, including the  
14 provision of electric power and energy or other services, that  
15 are provided by mutual agreement between an electric utility  
16 and a retail customer that is located in the electric utility's  
17 service area, provided that, delivery services shall not be a  
18 contract service until such services are declared competitive  
19 pursuant to Section 16-113; and also means (2) the provision of  
20 electric power and energy by an electric utility to retail  
21 customers outside the electric utility's service area pursuant  
22 to Section 16-116. Provided, however, contract service does not  
23 include electric utility services provided pursuant to (i)  
24 contracts that retail customers are required to execute as a  
25 condition of receiving tariffed services, or (ii) special or  
26 negotiated rate contracts for electric utility services that  
27 were entered into between an electric utility and a retail  
28 customer prior to the effective date of this amendatory Act of  
29 1997 and filed with the Commission.

30 "Delivery services" means those services provided by the  
31 electric utility that are necessary in order for the  
32 transmission and distribution systems to function so that  
33 retail customers located in the electric utility's service area  
34 can receive electric power and energy from suppliers other than

1 the electric utility, and shall include, without limitation,  
2 standard metering and billing services.

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

7 "Mandatory transition period" means the period from the  
8 effective date of this amendatory Act of 1997 through January  
9 1, 2007.

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

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

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

1 date of this Act.

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

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

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

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

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

1 (f) of Section 9-220 and for any removal of decommissioning  
2 costs from base rates pursuant to Section 16-114) and any  
3 separate automatic rate adjustment riders (other than a  
4 decommissioning rate as defined in Section 16-114) under  
5 which the customers were receiving or, had they been  
6 customers, would have received electric power and energy  
7 from the electric utility during the year immediately  
8 preceding the date on which such customers were first  
9 eligible for delivery service pursuant to Section 16-104,  
10 or (ii) to the extent applicable, any contract rates,  
11 including contracts or rates for consolidated or  
12 aggregated billing, under which such customers were  
13 receiving electric power and energy from the electric  
14 utility during such year;

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

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

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



1 "mitigation factor":

2 (A) for nonresidential retail customers, an amount  
3 equal to the greater of (i) 0.5 cents per kilowatt-hour  
4 during the period October 1, 1999 through December 31,  
5 2004, 0.6 cents per kilowatt-hour in calendar year  
6 2005, and 0.9 cents per kilowatt-hour in calendar year  
7 2006, multiplied in each year by the usage identified  
8 in paragraph (1), or (ii) an amount equal to the  
9 following percentages of the amount produced by  
10 applying the applicable base rates (adjusted as  
11 described in subparagraph (1)(B)) or contract rate to  
12 the usage identified in paragraph (1): 8% for the  
13 period October 1, 1999 through December 31, 2002, 10%  
14 in calendar years 2003 and 2004, 11% in calendar year  
15 2005 and 12% in calendar year 2006; and

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

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

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

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

32 (220 ILCS 5/16-107)

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

1 (a) Each electric utility shall file, on or before May 1,  
2 1998, a tariff or tariffs which allow nonresidential retail  
3 customers in the electric utility's service area to elect  
4 real-time pricing beginning October 1, 1998.

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

9 (b-5) Each electric utility shall file a tariff or tariffs  
10 allowing residential retail customers in the electric  
11 utility's service area to elect real-time pricing beginning  
12 January 2, 2007. A customer who elects real-time pricing shall  
13 remain on such rate for a minimum of 12 months. The Commission  
14 may, after notice and hearing, approve the tariff or tariffs,  
15 provided that the Commission finds that the potential for  
16 demand reductions will result in net economic benefits to all  
17 residential customers of the electric utility. In examining  
18 economic benefits from demand reductions, the Commission  
19 shall, at a minimum, consider the following: improvements to  
20 system reliability and power quality, reduction in wholesale  
21 market prices and price volatility, electric utility cost  
22 avoidance and reductions, and market power mitigation. A tariff  
23 or tariffs approved pursuant to this subsection (b-5) shall, at  
24 a minimum, describe (i) the methodology for determining the  
25 market price of energy to be reflected in the real-time rate  
26 and (ii) the manner in which customers who elect real-time  
27 pricing will be provided with ready access to hourly market  
28 prices, including, but not limited to, day-ahead hourly energy  
29 prices.

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

32 (b-10) Each electric utility providing real-time pricing  
33 pursuant to subsection (b-5) shall install a meter capable of  
34 recording hourly interval energy use at the service location of

1 each customer that elects real-time pricing pursuant to this  
2 subsection.

3 (b-15) If the Commission issues an order pursuant to  
4 subsection (b-5), the affected electric utility shall contract  
5 with an entity not affiliated with the electric utility to  
6 serve as a program administrator to develop and implement a  
7 program to provide consumer outreach, enrollment, and  
8 education concerning real-time pricing and to establish and  
9 administer an information system and technical and other  
10 customer assistance that is necessary to enable customers to  
11 manage electricity use. The program administrator: (i) shall be  
12 selected and compensated by the electric utility, subject to  
13 Commission approval; (ii) shall have demonstrated technical  
14 and managerial competence in the development and  
15 administration of demand management programs; and (iii) may  
16 develop and implement risk management, energy efficiency, and  
17 other services related to energy use management for which the  
18 program administrator shall be compensated by participants in  
19 the program receiving such services. The electric utility shall  
20 provide the program administrator with all information and  
21 assistance necessary to perform the program administrator's  
22 duties, including, but not limited to, customer, account, and  
23 energy use data. The electric utility shall permit the program  
24 administrator to include inserts in residential customer bills  
25 2 times per year to assist with customer outreach and  
26 enrollment.

27 The program administrator shall submit an annual report to  
28 the electric utility no later than April 1 of each year  
29 describing the operation and results of the program, including  
30 information concerning the number and types of customers using  
31 real-time pricing, changes in customers' energy use patterns,  
32 an assessment of the value of the program to both participants  
33 and non-participants, and recommendations concerning  
34 modification of the program and the tariff or tariffs filed

1 under subsection (b-5). This report shall be filed by the  
2 electric utility with the Commission within 30 days of receipt  
3 and shall be available to the public on the Commission's web  
4 site.

5 (b-20) The Commission shall monitor the performance of  
6 programs established pursuant to subsection (b-15) and shall  
7 order the termination or modification of a program if it  
8 determines that the program is not, after a reasonable period  
9 of time for development not to exceed 4 years, resulting in net  
10 benefits to the residential customers of the electric utility.

11 (b-25) An electric utility shall be entitled to recover  
12 reasonable costs incurred in complying with an order issued  
13 pursuant to this Section.

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

16 (d) This Section does not apply to any electric utility  
17 providing service to 100,000 or fewer customers.

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

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