

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 Section 16-115 as follows:

6 (220 ILCS 5/16-115)

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

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

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

1 notice is published, the Commission shall issue its order
2 granting or denying the application.

3 (c) An application for a certificate of service authority
4 shall identify the area or areas in which the applicant intends
5 to offer service and the types of services it intends to offer.
6 Applicants that seek to serve residential or small commercial
7 retail customers within a geographic area that is smaller than
8 an electric utility's service area shall submit evidence
9 demonstrating that the designation of this smaller area does
10 not violate Section 16-115A. An applicant that seeks to serve
11 residential or small commercial retail customers may state in
12 its application for certification any limitations that will be
13 imposed on the number of customers or maximum load to be
14 served.

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

19 (1) That the applicant possesses sufficient technical,
20 financial and managerial resources and abilities to
21 provide the service for which it seeks a certificate of
22 service authority. In determining the level of technical,
23 financial and managerial resources and abilities which the
24 applicant must demonstrate, the Commission shall consider
25 (i) the characteristics, including the size and financial
26 sophistication, of the customers that the applicant seeks

1 to serve, and (ii) whether the applicant seeks to provide
2 electric power and energy using property, plant and
3 equipment which it owns, controls or operates;

4 (2) That the applicant will comply with all applicable
5 federal, State, regional and industry rules, policies,
6 practices and procedures for the use, operation, and
7 maintenance of the safety, integrity and reliability, of
8 the interconnected electric transmission system;

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

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

22 (5) (Blank) ~~That if the applicant, its corporate~~
23 ~~affiliates or the applicant's principal source of~~
24 ~~electricity (to the extent such source is known at the time~~
25 ~~of the application) owns or controls facilities, for public~~
26 ~~use, for the transmission or distribution of electricity to~~

1 ~~end users within a defined geographic area to which~~
2 ~~electric power and energy can be physically and~~
3 ~~economically delivered by the electric utility or~~
4 ~~utilities in whose service area or areas the proposed~~
5 ~~service will be offered, the applicant, its corporate~~
6 ~~affiliates or principal source of electricity, as the case~~
7 ~~may be, provides delivery services to the electric utility~~
8 ~~or utilities in whose service area or areas the proposed~~
9 ~~service will be offered that are reasonably comparable to~~
10 ~~those offered by the electric utility, and provided~~
11 ~~further, that the applicant agrees to certify annually to~~
12 ~~the Commission that it is continuing to provide such~~
13 ~~delivery services and that it has not knowingly assisted~~
14 ~~any person or entity to avoid the requirements of this~~
15 ~~Section. For purposes of this subparagraph, "principal~~
16 ~~source of electricity" shall mean a single source that~~
17 ~~supplies at least 65% of the applicant's electric power and~~
18 ~~energy, and the purchase of transmission and distribution~~
19 ~~services pursuant to a filed tariff under the jurisdiction~~
20 ~~of the Federal Energy Regulatory Commission or a state~~
21 ~~public utility commission shall not constitute control of~~
22 ~~access to the provider's transmission and distribution~~
23 ~~facilities;~~

24 (6) With respect to an applicant that seeks to serve
25 residential or small commercial retail customers, that the
26 area to be served by the applicant and any limitations it

1 proposes on the number of customers or maximum amount of
2 load to be served meet the provisions of Section 16-115A,
3 provided, that the Commission can extend the time for
4 considering such a certificate request by up to 90 days,
5 and can schedule hearings on such a request;

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

8 (8) That the applicant will comply with all other
9 applicable laws and regulations.

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

1 required to pay transition charges on the power and energy that
2 such retail customer takes from the facility.

3 (f) The Commission shall have the authority to promulgate
4 rules and regulations to carry out the provisions of this
5 Section. On or before May 1, 1999, the Commission shall adopt a
6 rule or rules applicable to the certification of those
7 alternative retail electric suppliers that seek to serve only
8 nonresidential retail customers with maximum electrical
9 demands of one megawatt or more which shall provide for (i)
10 expedited and streamlined procedures for certification of such
11 alternative retail electric suppliers and (ii) specific
12 criteria which, if met by any such alternative retail electric
13 supplier, shall constitute the demonstration of technical,
14 financial and managerial resources and abilities to provide
15 service required by subsection (d) (1) of this Section, such as
16 a requirement to post a bond or letter of credit, from a
17 responsible surety or financial institution, of sufficient
18 size for the nature and scope of the services to be provided;
19 demonstration of adequate insurance for the scope and nature of
20 the services to be provided; and experience in providing
21 similar services in other jurisdictions.

22 (Source: P.A. 90-561, eff. 12-16-97; 91-50, eff. 6-30-99.)