

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~~

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

(6) With respect to an applicant that seeks to serve residential or small commercial retail customers, that the 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.)

23 Section 99. Effective date. This Act takes effect upon  
24 becoming law.