



Rep. Thomas Holbrook

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1 AMENDMENT TO SENATE BILL 1299

2 AMENDMENT NO. _____. Amend Senate Bill 1299, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Public Utilities Act is amended by adding
6 Sections 8-205.5 and 20-130 and by changing Sections 8-406,
7 8-503, 16-102, 16-103, and 16-118 as follows:

8 (220 ILCS 5/8-205.5 new)

9 Sec. 8-205.5. Termination of utility service prior to March
10 31, 2008. Notwithstanding any other provision of this Act or
11 any other law to the contrary, a public utility that, on
12 December 31, 2005, served at least 100,000 electric customers
13 in Illinois may not terminate electric service to a residential
14 customer for nonpayment prior to March 31, 2008.

15 (220 ILCS 5/8-406) (from Ch. 111 2/3, par. 8-406)

1 Sec. 8-406. Certificate of public convenience and
2 necessity.

3 (a) No public utility not owning any city or village
4 franchise nor engaged in performing any public service or in
5 furnishing any product or commodity within this State as of
6 July 1, 1921 and not possessing a certificate of public
7 convenience and necessity from the Illinois Commerce
8 Commission, the State Public Utilities Commission or the Public
9 Utilities Commission, at the time this amendatory Act of 1985
10 goes into effect, shall transact any business in this State
11 until it shall have obtained a certificate from the Commission
12 that public convenience and necessity require the transaction
13 of such business.

14 (b) No public utility shall begin the construction of any
15 new plant, equipment, property or facility which is not in
16 substitution of any existing plant, equipment, property or
17 facility or any extension or alteration thereof or in addition
18 thereto, unless and until it shall have obtained from the
19 Commission a certificate that public convenience and necessity
20 require such construction. Whenever after a hearing the
21 Commission determines that any new construction or the
22 transaction of any business by a public utility will promote
23 the public convenience and is necessary thereto, it shall have
24 the power to issue certificates of public convenience and
25 necessity. The Commission shall determine that proposed
26 construction will promote the public convenience and necessity

1 only if the utility demonstrates: (1) that the proposed
2 construction is necessary to provide adequate, reliable, and
3 efficient service to its customers and is the least-cost means
4 of satisfying the service needs of its customers or that the
5 proposed construction will promote the development of an
6 effectively competitive electricity market that operates
7 efficiently, is equitable to all customers, and is the least
8 cost means of satisfying those objectives; (2) that the utility
9 is capable of efficiently managing and supervising the
10 construction process and has taken sufficient action to ensure
11 adequate and efficient construction and supervision thereof;
12 and (3) that the utility is capable of financing the proposed
13 construction without significant adverse financial
14 consequences for the utility or its customers.

15 (c) After the effective date of this amendatory Act of
16 1987, no construction shall commence on any new nuclear power
17 plant to be located within this State, and no certificate of
18 public convenience and necessity or other authorization shall
19 be issued therefor by the Commission, until the Director of the
20 Illinois Environmental Protection Agency finds that the United
21 States Government, through its authorized agency, has
22 identified and approved a demonstrable technology or means for
23 the disposal of high level nuclear waste, or until such
24 construction has been specifically approved by a statute
25 enacted by the General Assembly.

26 As used in this Section, "high level nuclear waste" means

1 those aqueous wastes resulting from the operation of the first
2 cycle of the solvent extraction system or equivalent and the
3 concentrated wastes of the subsequent extraction cycles or
4 equivalent in a facility for reprocessing irradiated reactor
5 fuel and shall include spent fuel assemblies prior to fuel
6 reprocessing.

7 (d) In making its determination, the Commission shall
8 attach primary weight to the cost or cost savings to the
9 customers of the utility. The Commission may consider any or
10 all factors which will or may affect such cost or cost savings.

11 (e) The Commission may issue a temporary certificate which
12 shall remain in force not to exceed one year in cases of
13 emergency, to assure maintenance of adequate service or to
14 serve particular customers, without notice or hearing, pending
15 the determination of an application for a certificate, and may
16 by regulation exempt from the requirements of this Section
17 temporary acts or operations for which the issuance of a
18 certificate will not be required in the public interest.

19 A public utility shall not be required to obtain but may
20 apply for and obtain a certificate of public convenience and
21 necessity pursuant to this Section with respect to any matter
22 as to which it has received the authorization or order of the
23 Commission under the Electric Supplier Act, and any such
24 authorization or order granted a public utility by the
25 Commission under that Act shall as between public utilities be
26 deemed to be, and shall have except as provided in that Act the

1 same force and effect as, a certificate of public convenience
2 and necessity issued pursuant to this Section.

3 No electric cooperative shall be made or shall become a
4 party to or shall be entitled to be heard or to otherwise
5 appear or participate in any proceeding initiated under this
6 Section for authorization of power plant construction and as to
7 matters as to which a remedy is available under The Electric
8 Supplier Act.

9 (f) Such certificates may be altered or modified by the
10 Commission, upon its own motion or upon application by the
11 person or corporation affected. Unless exercised within a
12 period of 2 years from the grant thereof authority conferred by
13 a certificate of convenience and necessity issued by the
14 Commission shall be null and void.

15 No certificate of public convenience and necessity shall be
16 construed as granting a monopoly or an exclusive privilege,
17 immunity or franchise.

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

19 (220 ILCS 5/8-503) (from Ch. 111 2/3, par. 8-503)

20 Sec. 8-503. Whenever the Commission, after a hearing, shall
21 find that additions, extensions, repairs or improvements to, or
22 changes in, the existing plant, equipment, apparatus,
23 facilities or other physical property of any public utility or
24 of any 2 or more public utilities are necessary and ought
25 reasonably to be made or that a new structure or structures is

1 or are necessary and should be erected, to promote the security
2 or convenience of its employees or the public or promote the
3 development of an effectively competitive electricity market,
4 or in any other way to secure adequate service or facilities,
5 the Commission shall make and serve an order authorizing or
6 directing that such additions, extensions, repairs,
7 improvements or changes be made, or such structure or
8 structures be erected at the location, in the manner and within
9 the time specified in said order; provided, however, that the
10 Commission shall have no authority to order the construction,
11 addition or extension of any electric generating plant unless
12 the public utility requests a certificate for the construction
13 of the plant pursuant to Section 8-406 and in conjunction with
14 such request also requests the entry of an order under this
15 Section. If any additions, extensions, repairs, improvements
16 or changes, or any new structure or structures, which the
17 Commission has authorized or ordered to be erected, require
18 joint action by 2 or more public utilities, the Commission
19 shall notify the said public utilities that such additions,
20 extensions, repairs, improvements or changes or new structure
21 or structures have been authorized or ordered and that the same
22 shall be made at the joint cost whereupon the said public
23 utilities shall have such reasonable time as the Commission may
24 grant within which to agree upon the apportionment or division
25 of cost of such additions, extensions, repairs, improvements or
26 changes or new structure or structures, which each shall bear.

1 If at the expiration of such time such public utilities shall
2 fail to file with the Commission a statement that an agreement
3 has been made for a division or apportionment of the cost or
4 expense of such additions, extensions, repairs, improvements
5 or changes, or new structure or structures, the Commission
6 shall have authority, after further hearing, to make an order
7 fixing the proportion of such cost or expense to be borne by
8 each public utility and the manner in which the same shall be
9 paid or secured.

10 Nothing in this Act shall prevent the Commission, upon its
11 own motion or upon petition, from ordering, after a hearing,
12 the extension, construction, connection or interconnection of
13 plant, equipment, pipe, line, facilities or other physical
14 property of a public utility in whatever configuration the
15 Commission finds necessary to ensure that natural gas is made
16 available to consumers at no increased cost to the customers of
17 the utility supplying the gas.

18 Whenever the Commission finds, after a hearing, that the
19 public convenience or necessity requires it, the Commission may
20 order public utilities subject to its jurisdiction to work
21 jointly (1) for the purpose of purchasing and distributing
22 natural gas or gas substitutes, provided it shall not increase
23 the cost of gas to the customers of the participating
24 utilities, or (2) for any other reasonable purpose.

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

1 (220 ILCS 5/16-102)

2 Sec. 16-102. Definitions. For the purposes of this Article
3 the following terms shall be defined as set forth in this
4 Section.

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

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

1 of, and the base rates or the contract rates applicable to, the
2 third-party contractor in accordance with Section 16-102.

3 "Base rates" means the rates for those tariffed services
4 that the electric utility is required to offer pursuant to
5 subsection (a) of Section 16-103 and that were identified in a
6 rate order for collection of the electric utility's base rate
7 revenue requirement, excluding (i) separate automatic rate
8 adjustment riders then in effect, (ii) special or negotiated
9 contract rates, (iii) delivery services tariffs filed pursuant
10 to Section 16-108, (iv) real-time pricing, or (v) tariffs that
11 were in effect prior to October 1, 1996 and that based charges
12 for services on an index or average of other utilities'
13 charges, but including (vi) any subsequent redesign of such
14 rates for tariffed services that is authorized by the
15 Commission after notice and hearing.

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

22 "Contract service" means (1) services, including the
23 provision of electric power and energy or other services, that
24 are provided by mutual agreement between an electric utility
25 and a retail customer that is located in the electric utility's
26 service area, provided that, delivery services shall not be a

1 contract service until such services are declared competitive
2 pursuant to Section 16-113; and also means (2) the provision of
3 electric power and energy by an electric utility to retail
4 customers outside the electric utility's service area pursuant
5 to Section 16-116. Provided, however, contract service does not
6 include electric utility services provided pursuant to (i)
7 contracts that retail customers are required to execute as a
8 condition of receiving tariffed services, or (ii) special or
9 negotiated rate contracts for electric utility services that
10 were entered into between an electric utility and a retail
11 customer prior to the effective date of this amendatory Act of
12 1997 and filed with the Commission.

13 "Delivery services" means those services provided by the
14 electric utility that are necessary in order for the
15 transmission and distribution systems to function so that
16 retail customers located in the electric utility's service area
17 can receive electric power and energy from suppliers other than
18 the electric utility, and shall include, without limitation,
19 standard metering and billing services.

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

24 "Mandatory transition period" means the period from the
25 effective date of Public Act 90-561 ~~this amendatory Act of 1997~~
26 through January 1, 2007.

1 "Municipal system" shall have the meaning set forth in
2 Section 17-100.

3 "Real-time pricing" means tariffed retail charges for
4 delivered electric power and energy that vary hour-to-hour and
5 are determined from wholesale market prices using a methodology
6 approved by the Illinois Commerce Commission.

7 "Residential customer" means those retail customers of an
8 electric utility that receive (i) electric utility service for
9 household purposes distributed to a dwelling of 2 or fewer
10 units that is billed under a residential rate or (ii) electric
11 utility service for household purposes distributed to a
12 dwelling unit or units that is billed under a residential rate
13 and is registered by a separate meter for each dwelling unit.

14 "Retail customer" means a single entity using electric
15 power or energy at a single premises and that (A) either (i) is
16 receiving or is eligible to receive tariffed services from an
17 electric utility, or (ii) that is served by a municipal system
18 or electric cooperative within any area in which the municipal
19 system or electric cooperative is or would be entitled to
20 provide service under the law in effect immediately prior to
21 the effective date of this amendatory Act of 1997, or (B) an
22 entity which on the effective date of this Act was receiving
23 electric service from a public utility and (i) was engaged in
24 the practice of resale and redistribution of such electricity
25 within a building prior to January 2, 1957, or (ii) was
26 providing lighting services to tenants in a multi-occupancy

1 building, but only to the extent such resale, redistribution or
2 lighting service is authorized by the electric utility's
3 tariffs that were on file with the Commission on the effective
4 date of this Act.

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

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

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

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

25 (1) the amount of revenue that an electric utility
26 would receive from the retail customer or customers if it

1 were serving such customers' electric power and energy
2 requirements as a tariffed service based on (A) all of the
3 customers' actual usage during the 3 years ending 90 days
4 prior to the date on which such customers were first
5 eligible for delivery services pursuant to Section 16-104,
6 and (B) on (i) the base rates in effect on October 1, 1996
7 (adjusted for the reductions required by subsection (b) of
8 Section 16-111, for any reduction resulting from a rate
9 decrease under Section 16-101(b), for any restatement of
10 base rates made in conjunction with an elimination of the
11 fuel adjustment clause pursuant to subsection (b), (d), or
12 (f) of Section 9-220 and for any removal of decommissioning
13 costs from base rates pursuant to Section 16-114) and any
14 separate automatic rate adjustment riders (other than a
15 decommissioning rate as defined in Section 16-114) under
16 which the customers were receiving or, had they been
17 customers, would have received electric power and energy
18 from the electric utility during the year immediately
19 preceding the date on which such customers were first
20 eligible for delivery service pursuant to Section 16-104,
21 or (ii) to the extent applicable, any contract rates,
22 including contracts or rates for consolidated or
23 aggregated billing, under which such customers were
24 receiving electric power and energy from the electric
25 utility during such year;

26 (2) less the amount of revenue, other than revenue from

1 transition charges and decommissioning rates, that the
2 electric utility would receive from such retail customers
3 for delivery services provided by the electric utility,
4 assuming such customers were taking delivery services for
5 all of their usage, based on the delivery services tariffs
6 in effect during the year for which the transition charge
7 is being calculated and on the usage identified in
8 paragraph (1);

9 (3) less the market value for the electric power and
10 energy that the electric utility would have used to supply
11 all of such customers' electric power and energy
12 requirements, as a tariffed service, based on the usage
13 identified in paragraph (1), with such market value
14 determined in accordance with Section 16-112 of this Act;

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

21 (A) for nonresidential retail customers, an amount
22 equal to the greater of (i) 0.5 cents per kilowatt-hour
23 during the period October 1, 1999 through December 31,
24 2004, 0.6 cents per kilowatt-hour in calendar year
25 2005, and 0.9 cents per kilowatt-hour in calendar year
26 2006, multiplied in each year by the usage identified

1 in paragraph (1), or (ii) an amount equal to the
2 following percentages of the amount produced by
3 applying the applicable base rates (adjusted as
4 described in subparagraph (1)(B)) or contract rate to
5 the usage identified in paragraph (1): 8% for the
6 period October 1, 1999 through December 31, 2002, 10%
7 in calendar years 2003 and 2004, 11% in calendar year
8 2005 and 12% in calendar year 2006; and

9 (B) for residential retail customers, an amount
10 equal to the following percentages of the amount
11 produced by applying the base rates in effect on
12 October 1, 1996 (adjusted as described in subparagraph
13 (1)(B)) to the usage identified in paragraph (1): (i)
14 6% from May 1, 2002 through December 31, 2002, (ii) 7%
15 in calendar years 2003 and 2004, (iii) 8% in calendar
16 year 2005, and (iv) 10% in calendar year 2006;

17 (5) divided by the usage of such customers identified
18 in paragraph (1),
19 provided that the transition charge shall never be less than
20 zero.

21 "Unbundled service" means a component or constituent part
22 of a tariffed service which the electric utility subsequently
23 offers separately to its customers.

24 (Source: P.A. 94-977, eff. 6-30-06.)

1 Sec. 16-103. Service obligations of electric utilities.

2 (a) An electric utility shall continue offering to retail
3 customers each tariffed service that it offered as a distinct
4 and identifiable service on the effective date of this
5 amendatory Act of 1997 until the service is (i) declared
6 competitive pursuant to Section 16-113, or (ii) abandoned
7 pursuant to Section 8-508. Nothing in this subsection shall be
8 construed as limiting an electric utility's right to propose,
9 or the Commission's power to approve, allow or order
10 modifications in the rates, terms and conditions for such
11 services pursuant to Article IX or Section 16-111 of this Act.

12 (b) An electric utility shall also offer, as tariffed
13 services, delivery services in accordance with this Article,
14 the power purchase options described in Section 16-110 and
15 real-time pricing as provided in Section 16-107.

16 (c) Notwithstanding any other provision of this Article,
17 each electric utility shall continue offering to all
18 residential customers and to all small commercial retail
19 customers in its service area, as a tariffed service, bundled
20 electric power and energy delivered to the customer's premises
21 consistent with the bundled utility service provided by the
22 electric utility on the effective date of this amendatory Act
23 of 1997. Upon declaration of the provision of electric power
24 and energy as competitive, the electric utility shall continue
25 to offer to such customers, as a tariffed service, bundled
26 service options at rates which reflect recovery of all cost

1 components for providing the service. For those components of
2 the service which have been declared competitive, cost shall be
3 the market based prices. Market based prices as referred to
4 herein shall mean, for electric power and energy, either (i)
5 those prices for electric power and energy determined as
6 provided in Section 16-112, or (ii) the electric utility's cost
7 of obtaining the electric power and energy at wholesale through
8 a competitive bidding or other arms-length acquisition
9 process.

10 (c-1) Electric utilities that serve at least 1,000,000
11 customers must provide tariffed service to Unit Owners'
12 Associations, as defined by Section 2 of the Condominium
13 Property Act, for condominium properties that are not
14 restricted to nonresidential use at rates that do not exceed
15 the rates offered to residential customers. Within 10 days
16 after the effective date of this amendatory Act of the 95th
17 General Assembly, each electric utility shall provide the
18 tariffed service to Unit Owners' Associations required by this
19 subsection and shall reinstate any all-electric discount
20 applicable to any Unit Owners' Association that received such a
21 discount on December 31, 2006.

22 (d) Any residential or small commercial retail customer
23 which elects delivery services is entitled to return to the
24 electric utility's bundled utility tariffed service offering
25 provided in accordance with subsection (c) of this Section upon
26 payment of a reasonable administrative fee which shall be set

1 forth in the tariff, provided, however, that the electric
2 utility shall be entitled to impose the condition that such
3 customer may not elect delivery services for up to 24 months
4 thereafter.

5 (e) The Commission shall not require an electric utility to
6 offer any tariffed service other than the services required by
7 this Section, and shall not require an electric utility to
8 offer any competitive service.

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

10 (220 ILCS 5/16-118)

11 Sec. 16-118. Services provided by electric utilities to
12 alternative retail electric suppliers.

13 (a) It is in the best interest of Illinois energy consumers
14 to promote fair and open competition in the provision of
15 electric power and energy and to prevent anticompetitive
16 practices in the provision of electric power and energy.
17 Therefore, to the extent an electric utility provides electric
18 power and energy or delivery services to alternative retail
19 electric suppliers and such services are not subject to the
20 jurisdiction of the Federal Energy Regulatory Commission, and
21 are not competitive services, they shall be provided through
22 tariffs that are filed with the Commission, pursuant to Article
23 IX of this Act. Each electric utility shall permit alternative
24 retail electric suppliers to interconnect facilities to those
25 owned by the utility provided they meet established standards

1 for such interconnection, and may provide standby or other
2 services to alternative retail electric suppliers. The
3 alternative retail electric supplier shall sign a contract
4 setting forth the prices, terms and conditions for
5 interconnection with the electric utility and the prices, terms
6 and conditions for services provided by the electric utility to
7 the alternative retail electric supplier in connection with the
8 delivery by the electric utility of electric power and energy
9 supplied by the alternative retail electric supplier.

10 (b) An electric utility shall file a tariff pursuant to
11 Article IX of the Act that would allow alternative retail
12 electric suppliers or electric utilities other than the
13 electric utility in whose service area retail customers are
14 located to issue single bills to the retail customers for both
15 the services provided by such alternative retail electric
16 supplier or other electric utility and the delivery services
17 provided by the electric utility to such customers. The tariff
18 filed pursuant to this subsection shall (i) require partial
19 payments made by retail customers to be credited first to the
20 electric utility's tariffed services, (ii) impose commercially
21 reasonable terms with respect to credit and collection,
22 including requests for deposits, (iii) retain the electric
23 utility's right to disconnect the retail customers, if it does
24 not receive payment for its tariffed services, in the same
25 manner that it would be permitted to if it had billed for the
26 services itself, and (iv) require the alternative retail

1 electric supplier or other electric utility that elects the
2 billing option provided by this tariff to include on each bill
3 to retail customers an identification of the electric utility
4 providing the delivery services and a listing of the charges
5 applicable to such services. The tariff filed pursuant to this
6 subsection may also include other just and reasonable terms and
7 conditions. In addition, an electric utility, an alternative
8 retail electric supplier or electric utility other than the
9 electric utility in whose service area the customer is located,
10 and a customer served by such alternative retail electric
11 supplier or other electric utility, may enter into an agreement
12 pursuant to which the alternative retail electric supplier or
13 other electric utility pays the charges specified in Section
14 16-108, or other customer-related charges, including taxes and
15 fees, in lieu of such charges being recovered by the electric
16 utility directly from the customer.

17 (c) An electric utility with more than 100,000 customers
18 shall file a tariff pursuant to Article IX of this Act that
19 provides alternative retail electric suppliers, and electric
20 utilities other than the electric utility in whose service area
21 the retail customers are located with the option to have the
22 electric utility purchase their receivables for power and
23 energy service provided to retail customers with a
24 non-coincident peak demand of less than 400 kilowatts.
25 Receivables for power and energy of alternative retail electric
26 suppliers or electric utilities other than the electric utility

1 in whose service area the retail customers are located shall be
2 purchased by the electric utility at a just and reasonable
3 discount rate to be reviewed and approved by the Commission
4 after notice and hearing. The discount rate shall be based on
5 the electric utility's historical bad debt and any reasonable
6 start-up costs and administrative costs associated with the
7 electric utility's purchase of receivables. The discounted
8 rate for purchase of receivables shall be included in the
9 tariff filed pursuant to this subsection (c). The discount rate
10 filed pursuant to this subsection shall be subject to periodic
11 Commission review. The electric utility shall impose the same
12 terms on retail customers with respect to credit and
13 collection, including requests for deposits, and retain the
14 electric utility's right to disconnect the retail customers, if
15 it does not receive payment for its tariffed services or
16 purchased receivables, in the same manner that it would be
17 permitted to if the retail customers purchased power and energy
18 from the electric utility. The tariff filed pursuant to this
19 subsection (c) may also include other just and reasonable terms
20 and conditions and shall provide for the prudently incurred
21 costs associated with the provision of this service pursuant to
22 this subsection (c).

23 (d) An electric utility with more than 100,000 customers
24 shall file a tariff pursuant to Article IX of this Act that
25 would provide alternative retail electric suppliers or
26 electric utilities other than the electric utility in whose

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

22 (e) Within 45 days after the effective date of this
23 amendatory Act of the 95th General Assembly, each electric
24 utility with more than 100,000 customers in this State shall
25 file a tariff pursuant to Article IX of this Act that provides
26 alternative retail electric suppliers with the option to have

1 the electric utility purchase 2 billing cycles worth of
2 uncollectible receivables for power and energy service
3 provided to a retail customer with a non-coincident peak demand
4 of less than 400 kilowatts upon returning that customer to that
5 electric utility for delivery and energy service after that
6 alternative retail electric supplier has made reasonable
7 collection efforts on that account. These receivables will be
8 purchased at discounted rates based on historical bad debt for
9 receivables that are outstanding for a similar length of time.
10 The electric utility retains the right to impose the same terms
11 on these retail customers with respect to credit and
12 collection, including requests for deposits, and retain the
13 right to disconnect these retail customers in the same manner
14 that it would be permitted to if the customers had purchased
15 power and energy from the utility. The electric utility shall
16 recover the cost of such uncollectable receivables purchased,
17 as well as any prudently incurred administrative expenses
18 incurred in connection with this subsection through its tariff
19 filing implementing this service with the Commission but shall
20 not permit the double recovery of utility bad debt expenses
21 from customers.

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

23 (220 ILCS 5/20-130 new)

24 Sec. 20-130. Retail choice and referral programs.

25 (a) The Commission shall have the authority to establish

1 retail choice and referral programs to be administered by an
2 electric utility or the State in which residential and small
3 commercial customers receive incentives, including, but not
4 limited to, discounted rate introductory offers for switching
5 to participating electric suppliers.

6 (b) Reasonable costs associated with the implementation
7 and operation of customer choice and referral programs may be
8 recovered in an electric utility's distribution rates.
9 Reasonable costs associated with the implementation and
10 operation of a customer choice program may also be recovered
11 from retail electric suppliers participating in a customer
12 choice and referral program. In no event, however, shall the
13 Commission mandate a cost recovery mechanism without first
14 providing all interested parties notice and an opportunity to
15 be heard in a hearing before the Commission.

16 (c) The Office of Retail Market Development shall serve as
17 the clearinghouse for the development of retail choice and
18 referral programs and shall work with electric utilities and
19 interested parties on a continuous basis to implement and
20 improve upon the programs. Nothing in this Section, however,
21 shall prevent an electric utility on its own accord from
22 implementing retail choice and referral programs.

23 (d) Only customers that qualify for utility service shall
24 be eligible for retail choice and referral programs.

25 (e) The Office of Retail Market Development shall
26 immediately upon the effective date of this amendatory Act of

1 the 95th General Assembly explore for possible implementation
2 on as expedited basis as possible the following retail choice
3 and referral programs:

4 (1) An introductory fixed discount program in which
5 suppliers participating in the program offer customers a
6 fixed percentage discount off of the electric utility's
7 supply rate for a set number of billing periods. Customers
8 would be able to enroll in the program by using an online
9 enrollment form, completing an enrollment card found in
10 their monthly electric utility bill, or by calling a
11 toll-free number. Customers would be free to withdraw from
12 the program at any time and select another alternative
13 retail electric supplier or return to the electric utility.

14 (2) A new customer program in which electric utilities
15 would offer consumers initiating new electric service a
16 choice of offers from participating electric suppliers to
17 provide the consumer's electric supply service. Customers
18 expressing a preference for a specific electric supplier
19 would be enrolled with that supplier. Customers not
20 expressing a preference for a specific electric supplier
21 would be offered the opportunity to enroll with an electric
22 supplier selected randomly on a rotating basis.

23 (3) A customer service call center referral program in
24 which customers calling an electric utility's call center
25 would be offered enrollment with an alternative retail
26 electric supplier and informed that they have the option to

1 receive immediate savings or introductory offers by
2 participating in the referral program. Customers choosing
3 to participate would be transferred to a customer service
4 representative for the program and would either select the
5 electric supplier from which they would like to take
6 service or be placed with a participating electric supplier
7 chosen at random on a rotating basis.

8 Nothing in this Section shall prevent the Office of Retail
9 Market Development or the Commission from considering retail
10 choice and referral programs in addition to the programs
11 outlined in this Section.

12 Section 10. The Consumer Fraud and Deceptive Business
13 Practices Act is amended by changing Section 2EE as follows:

14 (815 ILCS 505/2EE)

15 Sec. 2EE. Electric service provider selection. An electric
16 service provider shall not submit or execute a change in a
17 subscriber's selection of a provider of electric service unless
18 and until (i) the provider first discloses all material terms
19 and conditions of the offer to the subscriber; (ii) the
20 provider has obtained the subscriber's express agreement to
21 accept the offer after the disclosure of all material terms and
22 conditions of the offer; and (iii) the provider has confirmed
23 the request for a change in accordance with one of the
24 following procedures ~~except as follows:~~

1 (a) The new electric service provider has obtained the
2 subscriber's ~~customer's~~ written or electronically signed
3 authorization in a form that meets the following requirements:

4 (1) An electric service provider shall obtain any
5 necessary written authorization from a subscriber for a
6 change in electric service by using a letter of agency as
7 specified in this Section. Any letter of agency that does
8 not conform with this Section is invalid.

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

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

18 (4) Notwithstanding subparagraphs (a)(1) and (a)(2) of
19 this Section, the letter of agency may be combined with
20 checks that contain only the required letter of agency
21 language prescribed in subparagraph (a) (5) ~~paragraph (5)~~
22 of this Section and the necessary information to make the
23 check a negotiable instrument. The letter of agency check
24 shall not contain any promotional language or material. The
25 letter of agency check shall contain in easily readable,
26 bold-face type on the face of the check, a notice that the

1 consumer is authorizing an electric service provider
2 change by signing the check. The letter of agency language
3 also shall be placed near the signature line on the back of
4 the check.

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

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

9 (ii) The decision to change the electric service
10 provider from the current provider to the prospective
11 provider;

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

18 (iv) That the subscriber understand that any
19 electric service provider selection the subscriber
20 chooses may involve a charge to the subscriber for
21 changing the subscriber's electric service provider.

22 (6) Letters of agency shall not suggest or require that
23 a subscriber take some action in order to retain the
24 subscriber's current electric service provider.

25 (7) If any portion of a letter of agency is translated
26 into another language, then all portions of the letter of

1 agency must be translated into that language.

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

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

16 A supplier or supplier's sales representative initiating a
17 3-way conference call or a call through an automated
18 verification system must drop off the call once the 3-way
19 connection has been established.

20 All third-party verification methods shall elicit, at a
21 minimum, the following information: (i) the identify of the
22 subscriber; (ii) confirmation that the person on the call is
23 authorized to make the supplier change; (iii) confirmation that
24 the person on the call wants to make the supplier change; (iv)
25 the names of the suppliers affected by the change; (v) the
26 service address of the supply to be switched; and (vi) the

1 price of the service to be supplied and the material terms and
2 conditions of the service being offered, including whether any
3 early termination fees apply. Third-party verifiers may not
4 market the supplier's services by providing additional
5 information, including information regarding procedures to
6 block or otherwise freeze an account against further changes.

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

15 (c) When a subscriber initiates the call to the prospective
16 electric supplier and the prospective electric supplier has,
17 with the consent of the customer, made a date-stamped and
18 time-stamped audio recording that elicits, at a minimum, the
19 following information:

20 (1) the identity of the subscriber;

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

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

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

26 (5) the service address of the supply to be switched;

1 and

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

5 Submitting suppliers shall maintain and preserve the audio
6 records containing the information set forth above for a
7 minimum period of 2 years.

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

15 (1) Require the violating electric service provider to
16 refund to the subscriber charges collected in excess of
17 those that would have been charged by the subscriber's
18 authorized electric service provider.

19 (2) Require the violating electric service provider to
20 pay to the subscriber's authorized electric supplier the
21 amount the authorized electric supplier would have
22 collected for the electric service. The Commission is
23 authorized to reduce this payment by any amount already
24 paid by the violating electric supplier to the subscriber's
25 authorized provider for electric service.

26 (3) Require the violating electric subscriber to pay a

1 fine of up to \$1,000 into the Public Utility Fund for each
2 repeated and intentional violation of this Section.

3 (4) Issue a cease and desist order.

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

7 (e) For purposes of this Section, "electric service
8 provider" shall have the meaning given that phrase in Section
9 6.5 of the Attorney General Act.

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

11 Section 99. Effective date. This Act takes effect upon
12 becoming law."