

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 adding  
5 Section 16-115C as follows:

6 (220 ILCS 5/16-115C new)

7 Sec. 16-115C. Licensure of agents, brokers, and  
8 consultants engaged in the procurement or sale of retail  
9 electricity supply for third parties.

10 (a) The purpose of this Section is to adopt licensing and  
11 code of conduct rules in a competitive retail electricity  
12 market to protect Illinois consumers from unfair or deceptive  
13 acts or practices and to provide persons acting as agents,  
14 brokers, and consultants engaged in the procurement or sale of  
15 retail electricity supply for third parties with notice of the  
16 illegality of those acts or practices.

17 (b) For purposes of this Section, "agents, brokers, and  
18 consultants engaged in the procurement or sale of retail  
19 electricity supply for third parties" means any person or  
20 entity that attempts to procure on behalf of or sell retail  
21 electric service to an electric customer in the State. "Agents,  
22 brokers, and consultants engaged in the procurement or sale of  
23 retail electricity supply for third parties" does not include

1 any entity licensed as an alternative retail electric supplier  
2 pursuant to 83 Ill. Adm. Code 451 offering retail electric  
3 service on its own behalf, any person acting exclusively on  
4 behalf of a single alternative retail electric supplier on  
5 condition that exclusivity is disclosed to any third party  
6 contracted in such agent capacity, any person or entity  
7 representing a municipal power agency, as defined in Section  
8 11-119.1-3 of the Illinois Municipal Code, or any person or  
9 entity that is attempting to procure on behalf of or sell  
10 retail electric service to a third party that has aggregate  
11 billing demand of all of its affiliated electric service  
12 accounts in Illinois of greater than 1,500 kW.

13 (c) No person or entity shall act as an agent, broker, or  
14 consultant engaged in the procurement or sale of retail  
15 electricity supply for third parties unless that person or  
16 entity is licensed by the Commission under this Section or is  
17 offering services on their own behalf under 83 Ill. Adm. Code  
18 451.

19 (d) The Commission shall create requirements for licensure  
20 as an agent, broker, or consultant engaged in the procurement  
21 or sale of retail electricity supply for third parties, which  
22 shall include all of the following criteria:

23 (1) Technical competence.

24 (2) Managerial competence.

25 (3) Financial responsibility, including the posting of  
26 an appropriate performance bond.

1           (4) Annual reporting requirements.

2           (e) Any person or entity required to be licensed under this  
3 Section must:

4           (1) disclose in plain language in writing to all  
5 persons it solicits the total anticipated remuneration to  
6 be paid to it by any third party over the period of the  
7 proposed underlying customer contract;

8           (2) not hold itself out as independent or unaffiliated  
9 with any supplier, or both, or use words reasonably  
10 calculated to give that impression, unless the person  
11 offering service under this Section has no contractual  
12 relationship with any retail electricity supplier or its  
13 affiliates regarding retail electric service in Illinois;

14           (3) not utilize false, misleading, materially  
15 inaccurate, defamatory, or otherwise deceptive language or  
16 materials in the soliciting or providing of its services;

17           (4) maintain copies of all marketing materials  
18 disseminated to third parties for a period of not less than  
19 3 years;

20           (5) not present electricity pricing information in a  
21 manner that favors one supplier over another, unless a  
22 valid pricing comparison is made utilizing all relevant  
23 costs and terms; and

24           (6) comply with the requirements of Sections 2EE, 2FF,  
25 2GG, and 2HH of the Consumer Fraud and Deceptive Business  
26 Practices Act.

1       (f) Any person or entity licensed under this Section shall  
2 file with the Commission all of the following information no  
3 later than March of each year:

4           (1) A verified report detailing any and all contractual  
5 relationships that it has with certified electricity  
6 suppliers in the State regarding retail electric service in  
7 Illinois.

8           (2) A verified report detailing the distribution of its  
9 customers with the various certified electricity suppliers  
10 in Illinois during the prior calendar year. A report under  
11 this Section shall not be required to contain  
12 customer-identifying information.

13           (3) A copy of its verified financial statement.

14           (4) A verified statement of any changes to the original  
15 licensure qualifications and notice of continuing  
16 compliance with all requirements.

17       (g) The Commission shall have jurisdiction over  
18 disciplinary proceedings and complaints for violations of this  
19 Section. The findings of a violation of this Section by the  
20 Commission shall result in a progressive disciplinary scale.  
21 For a first violation, the Commission shall suspend the license  
22 of the person so disciplined for a period of no less than one  
23 month. For a second violation within a 5-year period, the  
24 Commission shall suspend the license for the person so  
25 disciplined for a period of not less than 6 months. For a third  
26 or subsequent violation within a 5-year period, the Commission

1 shall suspend the license of the disciplined person for a  
2 period of not less than 2 years.

3 (h) This Section shall not apply to a retail customer that  
4 operates or manages either directly or indirectly any  
5 facilities, equipment, or property used or contemplated to be  
6 used to distribute electric power or energy if that retail  
7 customer is a political subdivision or public institution of  
8 higher education of this State, or any corporation, company,  
9 limited liability company, association, joint-stock company or  
10 association, firm, partnership, or individual, or their  
11 lessees, trusts, or receivers appointed by any court whatsoever  
12 that are owned or controlled by the political subdivision,  
13 public institution of higher education, or operated by any of  
14 its lessees or operating agents.

15 Section 99. Effective date. This Act takes effect upon  
16 becoming law.