

1 AN ACT in relation to utilities.

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
5 changing Sections 19-105, 19-110, 19-115, and 19-120 and
6 adding Sections 7-208, 7-209, 19-125, 19-130, and 19-135 as
7 follows:

8 (220 ILCS 5/7-208 new)

9 Sec. 7-208. HVAC affiliate marketing.

10 (a) "HVAC affiliate" means all affiliated interests of a
11 gas utility that provide heating, ventilating, or air
12 conditioning services to customers within the service
13 territory of the affiliated gas utility.

14 (b) When an HVAC affiliate advertises or markets
15 heating, ventilating, or air conditioning services to the
16 public, it shall include a disclaimer that, if audible, is
17 conspicuous and if printed is of sufficient size to be
18 clearly legible, and that states:

19 (Insert name of affiliate) is an affiliate of (insert
20 name of gas utility) and is not regulated by the Illinois
21 Commerce Commission. Customers are not required to buy
22 products or services from (insert name of affiliate) in order
23 to receive the same quality of service from the gas utility.

24 (c) The requirements in subsection (b) apply to all
25 forms of advertising and marketing, including, but not
26 limited to, print, television, radio, internet, telephonic,
27 bill inserts, and newsletters.

28 (220 ILCS 5/7-209 new)

29 Sec. 7-209. Marketing limitation; gas utilities. If a
30 gas utility has an HVAC affiliate, the prohibition contained

1 in this Section applies to the employees of the gas utility.
2 While a gas utility employee is responding to a service call
3 related to services provided under tariffs on file with the
4 Illinois Commerce Commission, the employee of the gas utility
5 is prohibited from marketing the services of an HVAC
6 affiliate; provided, however, the gas utility employee may
7 refer the customer to the telephone directory in response to
8 specific requests for referrals. If a customer's gas
9 appliance or gas service has been disconnected due to an
10 emergency situation that requires immediate attention, a gas
11 utility employee may provide to that customer a list,
12 including contact phone numbers, that includes HVAC
13 affiliates and non-affiliated entities that provide heating,
14 ventilating, or air conditioning services.

15 (220 ILCS 5/19-105)

16 Sec. 19-105. Definitions. For the purposes of this
17 Article, the following terms shall be defined as set forth in
18 this Section.

19 "Alternative gas supplier" means every person,
20 cooperative, corporation, municipal corporation, company,
21 association, joint stock company or association, firm,
22 partnership, individual, or other entity, their lessees,
23 trustees, or receivers appointed by any court whatsoever,
24 that offers gas for sale, lease, or in exchange for other
25 value received to one or more customers, or that engages in
26 the furnishing of gas to one or more customers, and shall
27 include affiliated interests of a gas utility, resellers,
28 aggregators and marketers, but shall not include (i) gas
29 utilities (or any agent of the gas utility to the extent the
30 gas utility provides tariffed services to customers through
31 an agent); (ii) public utilities that are owned and operated
32 by any political subdivision, public institution of higher
33 education or municipal corporation of this State, or public

1 utilities that are owned by a political subdivision, public
2 institution of higher education, or municipal corporation and
3 operated by any of its lessees or operating agents; (iii)
4 residential natural gas cooperatives that are not-for-profit
5 corporations established for the purpose of administering and
6 operating, on a cooperative basis, the furnishing of natural
7 gas to residences for the benefit of their members who are
8 residential consumers of natural gas; and (iv) the ownership
9 or operation of a facility that sells compressed natural gas
10 at retail to the public for use only as a motor vehicle fuel
11 and the selling of compressed natural gas at retail to the
12 public for use only as a motor vehicle fuel.

13 "Gas utility" means a public utility, as defined in
14 Section 3-105 of this Act, that has a franchise, license,
15 permit, or right to furnish or sell gas or transportation
16 services to customers within a service area.

17 "Residential customer" means a customer who receives gas
18 utility service for household purposes distributed to a
19 dwelling of 2 or fewer units which is billed under a
20 residential rate or gas utility service for household
21 purposes distributed to a dwelling unit or units which is
22 billed under a residential rate and is registered by a
23 separate meter for each dwelling unit.

24 "Service area" means (i) the geographic area within which
25 a gas utility was lawfully entitled to provide gas to
26 customers as of the effective date of this amendatory Act of
27 the 92nd General Assembly and includes (ii) the location of
28 any customer to which the gas utility was lawfully providing
29 gas utility services on such effective date.

30 "Small commercial customer" means a nonresidential retail
31 customer of a natural gas utility who is identified by the
32 alternative gas supplier, prior to becoming a customer of the
33 alternative gas supplier, as consuming 5,000 or fewer therms
34 of natural gas during the previous year; provided that any

1 alternative gas supplier may remove the customer from
2 designation as a "small commercial customer" if the customer
3 consumes more than 5,000 therms of natural gas in any
4 calendar year after becoming a customer of the alternative
5 gas supplier.

6 "Tariffed service" means a service provided to customers
7 by a gas utility as defined by its rates on file with the
8 Commission pursuant to the provisions of Article IX of this
9 Act.

10 "Transportation services" means those services provided
11 by the gas utility that are necessary in order for the
12 storage, transmission and distribution systems to function so
13 that customers located in the gas utility's service area can
14 receive gas from suppliers other than the gas utility and
15 shall include, without limitation, standard metering and
16 billing services.

17 (Source: P.A. 92-529, eff. 2-8-02.)

18 (220 ILCS 5/19-110)

19 Sec. 19-110. Certification of alternative gas suppliers.

20 (a) The provisions of this Section shall apply only to
21 alternative gas suppliers serving or seeking to serve
22 residential or small commercial customers and only to the
23 extent such alternative gas suppliers provide services to
24 residential or small commercial customers.

25 (b) An alternative gas supplier must obtain a
26 certificate of service authority from the Commission in
27 accordance with this Section before serving any customer or
28 other user located in this State. An alternative gas
29 supplier may request, and the Commission may grant, a
30 certificate of service authority for the entire State or for
31 a specified geographic area of the State. A person,
32 corporation, or other entity acting as an alternative gas
33 supplier on the effective date of this amendatory Act of the

1 92nd General Assembly shall have 180 days from the effective
2 date of this amendatory Act of the 92nd General Assembly to
3 comply with the requirements of this Section in order to
4 continue to operate as an alternative gas supplier.

5 (c) An alternative gas supplier seeking a certificate of
6 service authority shall file with the Commission a verified
7 application containing information showing that the applicant
8 meets the requirements of this Section. The alternative gas
9 supplier shall publish notice of its application in the
10 official State newspaper within 10 days following the date of
11 its filing. No later than 45 days after the application is
12 properly filed with the Commission, and such notice is
13 published, the Commission shall issue its order granting or
14 denying the application.

15 (d) An application for a certificate of service
16 authority shall identify the area or areas in which the
17 applicant intends to offer service and the types of services
18 it intends to offer. Applicants that seek to serve
19 residential or small commercial customers within a geographic
20 area that is smaller than a gas utility's service area shall
21 submit evidence demonstrating that the designation of this
22 smaller area does not violate Section 19-115. An applicant
23 may state in its application for certification any
24 limitations that will be imposed on the number of customers
25 or maximum load to be served.

26 (e) The Commission shall grant the application for a
27 certificate of service authority if it makes the findings set
28 forth in this subsection based on the verified application
29 and such other information as the applicant may submit.

30 (1) That the applicant possess sufficient
31 technical, financial, and managerial resources and
32 abilities to provide the service for which it seeks a
33 certificate of service authority. In determining the
34 level of technical, financial, and managerial resources

1 and abilities which the applicant must demonstrate, the
2 Commission shall consider the characteristics, including
3 the size and financial sophistication of the customers
4 that the applicant seeks to serve, and shall consider
5 whether the applicant seeks to provide gas using
6 property, plant, and equipment that it owns, controls, or
7 operates.

8 (2) That the applicant will comply with all
9 applicable federal, State, regional, and industry rules,
10 policies, practices, and procedures for the use,
11 operation, and maintenance of the safety, integrity, and
12 reliability of the gas transmission system.

13 (3) That the applicant will comply with such
14 informational or reporting requirements as the Commission
15 may by rule establish.

16 (4) That the area to be served by the applicant and
17 any limitations it proposes on the number of customers or
18 maximum amount of load to be served meet the provisions
19 of Section 19-115, provided, that if the applicant seeks
20 to serve an area smaller than the service area of a gas
21 utility or proposes other limitations on the number of
22 customers or maximum amount of load to be served, the
23 Commission can extend the time for considering such a
24 certificate request by up to 90 days, and can schedule
25 hearings on such a request.

26 (5) That the applicant will comply with all other
27 applicable laws and rules.

28 (f) The Commission shall have the authority to
29 promulgate rules to carry out the provisions of this Section.
30 Within 30 days after the effective date of this amendatory
31 Act of the 92nd General Assembly, the Commission shall adopt
32 an emergency rule or rules applicable to the certification of
33 those gas suppliers that seek to serve residential customers.
34 Within 180 days of the effective date of this amendatory Act

1 of the 92nd General Assembly, the Commission shall adopt
 2 rules that specify criteria which, if met by any such
 3 alternative gas supplier, shall constitute the demonstration
 4 of technical, financial, and managerial resources and
 5 abilities to provide service required by item (1) of
 6 subsection (e) of this Section, such as a requirement to post
 7 a bond or letter of credit, from a responsible surety or
 8 financial institution, of sufficient size for the nature and
 9 scope of the services to be provided, demonstration of
 10 adequate insurance for the scope and nature of the services
 11 to be provided, and experience in providing similar services
 12 in other jurisdictions.

13 (Source: P.A. 92-529, eff. 2-8-02.)

14 (220 ILCS 5/19-115)

15 Sec. 19-115. Obligations of alternative gas suppliers.

16 (a) The provisions of this Section shall apply only to
 17 alternative gas suppliers serving or seeking to serve
 18 residential or small commercial customers and only to the
 19 extent such alternative gas suppliers provide services to
 20 residential or small commercial customers.

21 (b) An alternative gas supplier shall:

22 (1) comply with the requirements imposed on public
 23 utilities by Sections 8-201 through 8-207, 8-301, 8-505
 24 and 8-507 of this Act, to the extent that these Sections
 25 have application to the services being offered by the
 26 alternative gas supplier; and

27 (2) continue to comply with the requirements for
 28 certification stated in Section 19-110.

29 (c) An alternative gas supplier shall obtain verifiable
 30 authorization from a customer, in a form or manner approved
 31 by the Commission, before the customer is switched from
 32 another supplier.

33 (d) No alternative gas supplier shall:

1 (1) enter into or employ any arrangements which
 2 have the effect of preventing any customer from having
 3 access to the services of the gas utility in whose
 4 service area the customer is located; or

5 (2) charge customers for such access.

6 (e) An alternative gas supplier that is certified to
 7 serve residential or small commercial customers shall not:

8 (1) deny service to a customer or group of
 9 customers nor establish any differences as to prices,
 10 terms, conditions, services, products, facilities, or in
 11 any other respect, whereby such denial or differences are
 12 based upon race, gender, or income; or

13 (2) deny service based on locality, nor establish
 14 any unreasonable difference as to prices, terms,
 15 conditions, services, products, or facilities as between
 16 localities.

17 (f) An alternative gas supplier shall comply with the
 18 following requirements with respect to the marketing,
 19 offering, and provision of products or services:

20 (1) Any marketing materials which make statements
 21 concerning prices, terms, and conditions of service shall
 22 contain information that adequately discloses the prices,
 23 terms and conditions of the products or services.

24 (2) Before any customer is switched from another
 25 supplier, the alternative gas supplier shall give the
 26 customer written information that adequately discloses,
 27 in plain language, the prices, terms, and conditions of
 28 the products and services being offered and sold to the
 29 customer.

30 (3) The alternative gas supplier shall provide to
 31 the customer:

32 (A) accurate, timely, and itemized billing
 33 statements that describe the products and services
 34 provided to the customer and their prices and that

1 specify the gas consumption amount and any service
 2 charges and taxes; provided that this item (f)(3)(A)
 3 does not apply to small commercial customers; and

4 (B) an additional statement, at least
 5 annually, that adequately discloses the average
 6 monthly prices, and the terms and conditions, of the
 7 products and services sold to the customer; provided
 8 that this item (f)(3)(B) does not apply to small
 9 commercial customers;-

10 (C) refunds of any deposits with interest
 11 within 30 days after the date that the customer
 12 changes gas suppliers or discontinues service if the
 13 customer has satisfied all of his or her outstanding
 14 financial obligations to the alternative gas
 15 supplier at an interest rate set by the Commission
 16 which shall be the same as that required of gas
 17 utilities; and

18 (D) refunds, in a timely fashion, of all
 19 undisputed overpayments upon the oral or written
 20 request of the customer.

21 (g) An alternative gas supplier may limit the overall
 22 size or availability of a service offering by specifying one
 23 or more of the following:

24 (1) a maximum number of customers and maximum
 25 amount of gas load to be served;

26 (2) time period during which the offering will be
 27 available; or

28 (3) other comparable limitation, but not including
 29 the geographic locations of customers within the area
 30 which the alternative gas supplier is certificated to
 31 serve.

32 The alternative gas supplier shall file the terms and
 33 conditions of such service offering including the applicable
 34 limitations with the Commission prior to making the service

1 offering available to customers.

2 (h) Nothing in this Section shall be construed as
3 preventing an alternative gas supplier that is an affiliate
4 of, or which contracts with, (i) an industry or trade
5 organization or association, (ii) a membership organization
6 or association that exists for a purpose other than the
7 purchase of gas, or (iii) another organization that meets
8 criteria established in a rule adopted by the Commission from
9 offering through the organization or association services at
10 prices, terms and conditions that are available solely to the
11 members of the organization or association.

12 (Source: P.A. 92-529, eff. 2-8-02.)

13 (220 ILCS 5/19-120)

14 Sec. 19-120. Commission oversight of services provided
15 by gas suppliers.

16 (a) The provisions of this Section shall apply only to
17 alternative gas suppliers serving or seeking to serve
18 residential or small commercial customers and only to the
19 extent such alternative gas suppliers provide services to
20 residential or small commercial customers.

21 (b) The Commission shall have jurisdiction in accordance
22 with the provisions of Article X of this Act to entertain and
23 dispose of any complaint against any alternative gas supplier
24 alleging that:

25 (1) the alternative gas supplier has violated or is
26 in nonconformance with any applicable provisions of
27 Section 19-110 or Section 19-115;

28 (2) an alternative gas supplier has failed to
29 provide service in accordance with the terms of its
30 contract or contracts with a customer or customers;

31 (3) the alternative gas supplier has violated or is
32 in nonconformance with the transportation services tariff
33 of, or any of its agreements relating to transportation

1 services with, the gas utility or municipal system
2 providing transportation services; or

3 (4) the alternative gas supplier has violated or
4 failed to comply with the requirements of Sections 8-201
5 through 8-207, 8-301, 8-505, or 8-507 of this Act as made
6 applicable to alternative gas suppliers.

7 (c) The Commission shall have authority after notice and
8 hearing held on complaint or on the Commission's own motion
9 to:

10 (1) order an alternative gas supplier to cease and
11 desist, or correct, any violation of or nonconformance
12 with the provisions of Section 19-110 or 19-115;

13 (2) impose financial penalties for violations of or
14 nonconformances with the provisions of Section 19-110 or
15 19-115, not to exceed (i) \$10,000 per occurrence or (ii)
16 \$30,000 per day for those violations or nonconformances
17 which continue after the Commission issues a
18 cease-and-desist order; and

19 (3) alter, modify, revoke, or suspend the
20 certificate of service authority of an alternative gas
21 supplier for substantial or repeated violations of or
22 nonconformances with the provisions of Section 19-110 or
23 19-115.

24 (d) Nothing in this Act shall be construed to limit,
25 restrict, or mitigate in any way the power and authority of
26 the State's Attorneys or the Attorney General under the
27 Consumer Fraud and Deceptive Business Practices Act.

28 (Source: P.A. 92-529, eff. 2-8-02.)

29 (220 ILCS 5/19-125 new)

30 Sec. 19-125. Consumer education.

31 (a) The Commission shall make available upon request and
32 at no charge, and shall make available to the public on the
33 Internet through the State of Illinois World Wide Web site:

1 (1) a list of all certified alternative gas
 2 suppliers serving residential and small commercial
 3 customers within the service area of each gas utility
 4 including, in the case of the Internet, computer links to
 5 available web sites of the certified alternative gas
 6 suppliers;

7 (2) a list of all certified alternative gas
 8 suppliers serving residential or small commercial
 9 customers that have been found in the last 3 years by the
 10 Commission pursuant to Section 10-108 to have failed to
 11 provide service in accordance with this Act;

12 (3) guidelines to assist customers in determining
 13 which gas supplier is most appropriate for each customer;
 14 and

15 (4) Internet links to providers of information that
 16 enables customers to compare prices and services of gas
 17 utilities and alternative gas suppliers, if and when that
 18 information is available.

19 (b) In any service area where customers are able to
 20 choose their natural gas supplier, the Commission shall
 21 require gas utilities and alternative gas suppliers to inform
 22 customers of how they may contact the Commission in order to
 23 obtain information about the customer choice program.

24 (220 ILCS 5/19-130 new)

25 Sec. 19-130. Commission study and report. Beginning in
 26 2003, and ending in 2007, the Commission shall prepare an
 27 annual report regarding the development of natural gas
 28 markets in Illinois. The report shall be filed by July 1 of
 29 each year with the Joint Committee on Legislative Support
 30 Services of the General Assembly and the Governor and shall
 31 be publicly available. The report shall include, at a
 32 minimum, the following information:

33 (1) the aggregate annual demand of retail natural

1 gas customers in the State of Illinois in the preceding
2 calendar year;

3 (2) the total annual therms delivered and sold to
4 retail customers in the State of Illinois by each gas
5 utility and each alternative gas supplier in the
6 preceding calendar year;

7 (3) the percentage of therms delivered and sold to
8 customers in the State of Illinois in the preceding
9 calendar year by each gas utility and each alternative
10 gas supplier;

11 (4) the total number of customers in the State of
12 Illinois served in the preceding calendar year by each
13 gas utility and each alternative gas supplier;

14 (5) an analysis of the status and development of
15 the retail natural gas market in the State of Illinois;
16 and

17 (6) any other information the Commission considers
18 significant in assessing the development of gas markets
19 in the State of Illinois.

20 (220 ILCS 5/19-135 new)

21 Sec. 19-135. Single billing. It is the intent of the
22 General Assembly that in any service area where customers are
23 able to choose their natural gas supplier, a single billing
24 option shall be offered to customers for both the services
25 provided by the alternative gas supplier and the delivery
26 services provided by the gas utility. A gas utility shall
27 file a tariff pursuant to Article IX of this Act that allows
28 alternative gas suppliers to issue single bills to
29 residential and small commercial customers for both the
30 services provided by the alternative gas supplier and the
31 delivery services provided by the gas utility to customers;
32 provided that if a form of single billing is being offered in
33 a gas utility's service area on the effective date of this

1 amendatory Act of the 92nd General Assembly, that form of
2 single billing shall remain in effect unless and until
3 otherwise ordered by the Commission.

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.