

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Public Utilities Act is amended by changing Sections 3-105, 3-121, and 19-105 as follows:

(220 ILCS 5/3-105) (from Ch. 111 2/3, par. 3-105)

Sec. 3-105. Public utility. "Public utility" means and includes, except where otherwise expressly provided in this Section, every corporation, company, limited liability company, association, joint stock company or association, firm, partnership or individual, their lessees, trustees, or receivers appointed by any court whatsoever that owns, controls, operates or manages, within this State, directly or indirectly, for public use, any plant, equipment or property used or to be used for or in connection with, or owns or controls any franchise, license, permit or right to engage in:

- a. the production, storage, transmission, sale, delivery or furnishing of heat, cold, power, electricity, water, or light, except when used solely for communications purposes;
- b. the disposal of sewerage; or
- c. the conveyance of oil or gas by pipe line.

"Public utility" does not include, however:

1. public utilities that are owned and operated by any political subdivision, public institution of higher education or municipal corporation of this State, or public utilities that are owned by such political subdivision, public institution of higher education, or municipal corporation and operated by any of its lessees or operating agents;
2. water companies which are purely mutual concerns, having no rates or charges for services, but paying the

operating expenses by assessment upon the members of such a company and no other person;

3. electric cooperatives as defined in Section 3-119;

4. the following natural gas cooperatives:

(A) residential natural gas cooperatives that are not-for-profit corporations established for the purpose of administering and operating, on a cooperative basis, the furnishing of natural gas to residences for the benefit of their members who are residential consumers of natural gas. For entities qualifying as residential natural gas cooperatives and recognized by the Illinois Commerce Commission as such, the State shall guarantee legally binding contracts entered into by residential natural gas cooperatives for the express purpose of acquiring natural gas supplies for their members. The Illinois Commerce Commission shall establish rules and regulations providing for such guarantees. The total liability of the State in providing all such guarantees shall not at any time exceed \$1,000,000, nor shall the State provide such a guarantee to a residential natural gas cooperative for more than 3 consecutive years; and

(B) natural gas cooperatives that are not-for-profit corporations operated for the purpose of administering, on a cooperative basis, the furnishing of natural gas for the benefit of their members and that, prior to 90 days after the effective date of this amendatory Act of the 94th General Assembly, either had acquired or had entered into an asset purchase agreement to acquire all or substantially all of the operating assets of a public utility or natural gas cooperative with the intention of operating those assets as a natural gas cooperative;

5. sewage disposal companies which provide sewage disposal services on a mutual basis without establishing rates or charges for services, but paying the operating

expenses by assessment upon the members of the company and no others;

6. (Blank);

7. cogeneration facilities, small power production facilities, and other qualifying facilities, as defined in the Public Utility Regulatory Policies Act and regulations promulgated thereunder, except to the extent State regulatory jurisdiction and action is required or authorized by federal law, regulations, regulatory decisions or the decisions of federal or State courts of competent jurisdiction;

8. the ownership or operation of a facility that sells compressed natural gas at retail to the public for use only as a motor vehicle fuel and the selling of compressed natural gas at retail to the public for use only as a motor vehicle fuel; and

9. alternative retail electric suppliers as defined in Article XVI.

(Source: P.A. 89-42, eff. 1-1-96; 90-561, eff. 12-16-97.)

(220 ILCS 5/3-121) (from Ch. 111 2/3, par. 3-121)

Sec. 3-121. As used in Section 2-202 of this Act, the term "gross revenue" includes all revenue which (1) is collected by a public utility subject to regulations under this Act (a) pursuant to the rates, other charges, and classifications which it is required to file under Section 9-102 of this Act and (b) pursuant to emergency rates as permitted by Section 9-104 of this Act, and (2) is derived from the intrastate public utility business of such a utility. Such term does not include revenue derived by such a public utility from the sale of public utility services, products or commodities to another public utility, ~~or~~ to an electric cooperative, or to a natural gas cooperative for resale by such public utility, ~~or~~ electric cooperative, or natural gas cooperative. "Gross revenue" shall not include any charges added to customers' bills pursuant to the provisions of Section 9-221, 9-221.1 and 9-222 of this Act

or consideration received from business enterprises certified under Section 9-222.1 of this Act to the extent of such exemption and during the period in which the exemption is in effect.

(Source: P.A. 85-1021.)

(220 ILCS 5/19-105)

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

"Alternative gas supplier" means every person, cooperative, corporation, municipal corporation, company, association, joint stock company or association, firm, partnership, individual, or other entity, their lessees, trustees, or receivers appointed by any court whatsoever, that offers gas for sale, lease, or in exchange for other value received to one or more customers, or that engages in the furnishing of gas to one or more customers, and shall include affiliated interests of a gas utility, resellers, aggregators and marketers, but shall not include (i) gas utilities (or any agent of the gas utility to the extent the gas utility provides tariffed services to customers through an agent); (ii) public utilities that are owned and operated by any political subdivision, public institution of higher education or municipal corporation of this State, or public utilities that are owned by a political subdivision, public institution of higher education, or municipal corporation and operated by any of its lessees or operating agents; (iii) ~~residential~~ natural gas cooperatives that are not-for-profit corporations operated ~~established~~ for the purpose of administering ~~and operating~~, on a cooperative basis, the furnishing of natural gas ~~to residences~~ for the benefit of their members who are ~~residential~~ consumers of natural gas; and (iv) the ownership or operation of a facility that sells compressed natural gas at retail to the public for use only as a motor vehicle fuel and the selling of compressed natural gas at retail to the public for use only

as a motor vehicle fuel.

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

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

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

"Small commercial customer" means a nonresidential retail customer of a natural gas utility who is identified by the alternative gas supplier, prior to becoming a customer of the alternative gas supplier, as consuming 5,000 or fewer therms of natural gas during the previous year; provided that any alternative gas supplier may remove the customer from designation as a "small commercial customer" if the customer consumes more than 5,000 therms of natural gas in any calendar year after becoming a customer of the alternative gas supplier.

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

"Transportation services" means those services provided by the gas utility that are necessary in order for the storage, transmission and distribution systems to function so that customers located in the gas utility's service area can receive gas from suppliers other than the gas utility and shall

include, without limitation, standard metering and billing services.

(Source: P.A. 92-529, eff. 2-8-02; 92-852, eff. 8-26-02.)

Section 15. The General Not For Profit Corporation Act of 1986 is amended by changing Section 103.05 as follows:

(805 ILCS 105/103.05) (from Ch. 32, par. 103.05)

Sec. 103.05. Purposes and authority of corporations; particular purposes; exemptions.

(a) Not-for-profit corporations may be organized under this Act for any one or more of the following or similar purposes:

- (1) Charitable.
- (2) Benevolent.
- (3) Eleemosynary.
- (4) Educational.
- (5) Civic.
- (6) Patriotic.
- (7) Political.
- (8) Religious.
- (9) Social.
- (10) Literary.
- (11) Athletic.
- (12) Scientific.
- (13) Research.
- (14) Agricultural.
- (15) Horticultural.
- (16) Soil improvement.
- (17) Crop improvement.
- (18) Livestock or poultry improvement.
- (19) Professional, commercial, industrial, or trade association.
- (20) Promoting the development, establishment, or expansion of industries.
- (21) Electrification on a cooperative basis.

(22) Telephone service on a mutual or cooperative basis.

(23) Ownership and operation of water supply facilities for drinking and general domestic use on a mutual or cooperative basis.

(24) Ownership or administration of residential property on a cooperative basis.

(25) Administration and operation of property owned on a condominium basis or by a homeowner association.

(26) Administration and operation of an organization on a cooperative basis producing or furnishing goods, services, or facilities primarily for the benefit of its members who are consumers of those goods, services, or facilities.

(27) Operation of a community mental health board or center organized pursuant to the Community Mental Health Act for the purpose of providing direct patient services.

(28) Provision of debt management services as authorized by the Debt Management Service Act.

(29) Promotion, operation, and administration of a ridesharing arrangement as defined in Section 1-176.1 of the Illinois Vehicle Code.

(30) The administration and operation of an organization for the purpose of assisting low-income consumers in the acquisition of utility and telephone services.

(31) Any purpose permitted to be exempt from taxation under Sections 501(c) or 501(d) of the United States Internal Revenue Code, as now in or hereafter amended.

(32) Any purpose that would qualify for tax-deductible gifts under the Section 170(c) of the United States Internal Revenue Code, as now or hereafter amended. Any such purpose is deemed to be charitable under subsection (a) (1) of this Section.

(33) Furnishing of natural gas on a cooperative basis.

(b) A corporation may be organized hereunder to serve in an

area that adjoins or borders (except for any intervening natural watercourse) an area located in an adjoining state intended to be similarly served, and the corporation may join any corporation created by the adjoining state having an identical purpose and organized as a not-for-profit corporation. Whenever any corporation organized under this Act so joins with a foreign corporation having an identical purpose, the corporation shall be permitted to do business in Illinois as one corporation; provided (1) that the name, bylaw provisions, officers, and directors of each corporation are identical, (2) that the foreign corporation complies with the provisions of this Act relating to the admission of foreign corporation, and (3) that the Illinois corporation files a statement with the Secretary of State indicating that it has joined with a foreign corporation setting forth the name thereof and the state of its incorporation.

(Source: P.A. 92-33, eff. 7-1-01.)

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