



Rep. Kelly M. Burke

Filed: 3/21/2019

10100HB3028ham001

LRB101 07724 RJF 58297 a

1 AMENDMENT TO HOUSE BILL 3028

2 AMENDMENT NO. _____. Amend House Bill 3028 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Public Utilities Act is amended by changing
5 Sections 16-115, 16-115A, 16-115B, 16-118, 16-119, 19-115,
6 19-135, and 20-110 and by adding Section 20-140 as follows:

7 (220 ILCS 5/16-115)

8 Sec. 16-115. Certification of alternative retail electric
9 suppliers.

10 (a) Any alternative retail electric supplier must obtain a
11 certificate of service authority from the Commission in
12 accordance with this Section before serving any retail customer
13 or other user located in this State. An alternative retail
14 electric supplier may request, and the Commission may grant, a
15 certificate of service authority for the entire State or for a
16 specified geographic area of the State.

1 (b) An alternative retail electric supplier seeking a
2 certificate of service authority shall file with the Commission
3 a verified application containing information showing that the
4 applicant meets the requirements of this Section. The
5 alternative retail electric supplier shall publish notice of
6 its application in the official State newspaper within 10 days
7 following the date of its filing. No later than 45 days after
8 the application is properly filed with the Commission, and such
9 notice is published, the Commission shall issue its order
10 granting or denying the application. The Commission may extend
11 the time for considering a certificate of service authority
12 request by up to 90 days and may schedule hearings on the
13 request if:

14 (1) a party to the application proceeding has formally
15 requested that the Commission hold hearings in a pleading
16 that alleges that one or more of the allegations or
17 certifications in the application is false or misleading;
18 or

19 (2) any other facts or circumstances exist that will
20 necessitate additional time or evidence in order to
21 determine whether a certificate of service authority
22 should be issued.

23 (c) An application for a certificate of service authority
24 shall identify the area or areas in which the applicant intends
25 to offer service and the types of services it intends to offer.
26 Applicants that seek to serve residential or small commercial

1 retail customers within a geographic area that is smaller than
2 an electric utility's service area shall submit evidence
3 demonstrating that the designation of this smaller area does
4 not violate Section 16-115A. An applicant that seeks to serve
5 residential or small commercial retail customers may state in
6 its application for certification any limitations that will be
7 imposed on the number of customers or maximum load to be
8 served.

9 (d) The Commission shall grant the application for a
10 certificate of service authority if it makes the findings set
11 forth in this subsection based on the verified application and
12 such other information as the applicant may submit:

13 (1) That the applicant possesses sufficient technical,
14 financial and managerial resources and abilities to
15 provide the service for which it seeks a certificate of
16 service authority. In determining the level of technical,
17 financial and managerial resources and abilities which the
18 applicant must demonstrate, the Commission shall consider
19 (i) the characteristics, including the size and financial
20 sophistication, of the customers that the applicant seeks
21 to serve, ~~and~~ (ii) whether the applicant seeks to provide
22 electric power and energy using property, plant and
23 equipment which it owns, controls or operates, and (iii)
24 the applicant's commitment of resources to the management
25 of sales and marketing staff, through affirmative
26 managerial policies, independent audits, technology,

1 hands-on field monitoring and training, and, in the case of
2 applicants who will have sales personnel or sales agents
3 within the State of Illinois, the applicant's managerial
4 presence within the State;

5 (2) That the applicant will comply with all applicable
6 federal, State, regional and industry rules, policies,
7 practices and procedures for the use, operation, and
8 maintenance of the safety, integrity and reliability, of
9 the interconnected electric transmission system;

10 (3) That the applicant will only provide service to
11 retail customers in an electric utility's service area that
12 are eligible to take delivery services under this Act;

13 (4) That the applicant will comply with such
14 informational or reporting requirements as the Commission
15 may by rule establish and provide the information required
16 by Section 16-112. Any data related to contracts for the
17 purchase and sale of electric power and energy shall be
18 made available for review by the Staff of the Commission on
19 a confidential and proprietary basis and only to the extent
20 and for the purposes which the Commission determines are
21 reasonably necessary in order to carry out the purposes of
22 this Act;

23 (5) That the applicant will procure renewable energy
24 resources in accordance with Section 16-115D of this Act,
25 and will source electricity from clean coal facilities, as
26 defined in Section 1-10 of the Illinois Power Agency Act,

1 in amounts at least equal to the percentages set forth in
2 subsections (c) and (d) of Section 1-75 of the Illinois
3 Power Agency Act. For purposes of this Section:

4 (i) (Blank);

5 (ii) (Blank);

6 (iii) the required sourcing of electricity
7 generated by clean coal facilities, other than the
8 initial clean coal facility, shall be limited to the
9 amount of electricity that can be procured or sourced
10 at a price at or below the benchmarks approved by the
11 Commission each year in accordance with item (1) of
12 subsection (c) and items (1) and (5) of subsection (d)
13 of Section 1-75 of the Illinois Power Agency Act;

14 (iv) all alternative retail electric suppliers
15 shall execute a sourcing agreement to source
16 electricity from the initial clean coal facility, on
17 the terms set forth in paragraphs (3) and (4) of
18 subsection (d) of Section 1-75 of the Illinois Power
19 Agency Act, except that in lieu of the requirements in
20 subparagraphs (A) (v), (B) (i), (C) (v), and (C) (vi) of
21 paragraph (3) of that subsection (d), the applicant
22 shall execute one or more of the following:

23 (1) if the sourcing agreement is a power
24 purchase agreement, a contract with the initial
25 clean coal facility to purchase in each hour an
26 amount of electricity equal to all clean coal

1 energy made available from the initial clean coal
2 facility during such hour, which the utilities are
3 not required to procure under the terms of
4 subsection (d) of Section 1-75 of the Illinois
5 Power Agency Act, multiplied by a fraction, the
6 numerator of which is the alternative retail
7 electric supplier's retail market sales of
8 electricity (expressed in kilowatthours sold) in
9 the State during the prior calendar month and the
10 denominator of which is the total sales of
11 electricity (expressed in kilowatthours sold) in
12 the State by alternative retail electric suppliers
13 during such prior month that are subject to the
14 requirements of this paragraph (5) of subsection
15 (d) of this Section and subsection (d) of Section
16 1-75 of the Illinois Power Agency Act plus the
17 total sales of electricity (expressed in
18 kilowatthours sold) by utilities outside of their
19 service areas during such prior month, pursuant to
20 subsection (c) of Section 16-116 of this Act; or

21 (2) if the sourcing agreement is a contract for
22 differences, a contract with the initial clean
23 coal facility in each hour with respect to an
24 amount of electricity equal to all clean coal
25 energy made available from the initial clean coal
26 facility during such hour, which the utilities are

1 not required to procure under the terms of
2 subsection (d) of Section 1-75 of the Illinois
3 Power Agency Act, multiplied by a fraction, the
4 numerator of which is the alternative retail
5 electric supplier's retail market sales of
6 electricity (expressed in kilowatthours sold) in
7 the State during the prior calendar month and the
8 denominator of which is the total sales of
9 electricity (expressed in kilowatthours sold) in
10 the State by alternative retail electric suppliers
11 during such prior month that are subject to the
12 requirements of this paragraph (5) of subsection
13 (d) of this Section and subsection (d) of Section
14 1-75 of the Illinois Power Agency Act plus the
15 total sales of electricity (expressed in
16 kilowatthours sold) by utilities outside of their
17 service areas during such prior month, pursuant to
18 subsection (c) of Section 16-116 of this Act;

19 (v) if, in any year after the first year of
20 commercial operation, the owner of the clean coal
21 facility fails to demonstrate to the Commission that
22 the initial clean coal facility captured and
23 sequestered at least 50% of the total carbon emissions
24 that the facility would otherwise emit or that
25 sequestration of emissions from prior years has
26 failed, resulting in the release of carbon into the

1 atmosphere, the owner of the facility must offset
2 excess emissions. Any such carbon offsets must be
3 permanent, additional, verifiable, real, located
4 within the State of Illinois, and legally and
5 practicably enforceable. The costs of any such offsets
6 that are not recoverable shall not exceed \$15 million
7 in any given year. No costs of any such purchases of
8 carbon offsets may be recovered from an alternative
9 retail electric supplier or its customers. All carbon
10 offsets purchased for this purpose and any carbon
11 emission credits associated with sequestration of
12 carbon from the facility must be permanently retired.
13 The initial clean coal facility shall not forfeit its
14 designation as a clean coal facility if the facility
15 fails to fully comply with the applicable carbon
16 sequestration requirements in any given year, provided
17 the requisite offsets are purchased. However, the
18 Attorney General, on behalf of the People of the State
19 of Illinois, may specifically enforce the facility's
20 sequestration requirement and the other terms of this
21 contract provision. Compliance with the sequestration
22 requirements and offset purchase requirements that
23 apply to the initial clean coal facility shall be
24 reviewed annually by an independent expert retained by
25 the owner of the initial clean coal facility, with the
26 advance written approval of the Attorney General;

1 (vi) The Commission shall, after notice and
2 hearing, revoke the certification of any alternative
3 retail electric supplier that fails to execute a
4 sourcing agreement with the initial clean coal
5 facility as required by item (5) of subsection (d) of
6 this Section. The sourcing agreements with this
7 initial clean coal facility shall be subject to both
8 approval of the initial clean coal facility by the
9 General Assembly and satisfaction of the requirements
10 of item (4) of subsection (d) of Section 1-75 of the
11 Illinois Power Agency Act, and shall be executed within
12 90 days after any such approval by the General
13 Assembly. The Commission shall not accept an
14 application for certification from an alternative
15 retail electric supplier that has lost certification
16 under this subsection (d), or any corporate affiliate
17 thereof, for at least one year from the date of
18 revocation;

19 (6) With respect to an applicant that seeks to serve
20 residential or small commercial retail customers, that the
21 area to be served by the applicant and any limitations it
22 proposes on the number of customers or maximum amount of
23 load to be served meet the provisions of Section 16-115A,
24 provided, that the Commission can extend the time for
25 considering such a certificate request by up to 90 days,
26 and can schedule hearings on such a request;

1 (7) That the applicant meets the requirements of
2 subsection (a) of Section 16-128; ~~and~~

3 (8) That the applicant is not the subject of any
4 lawsuit filed in a court of law or formal complaints filed
5 with a regulatory agency alleging fraud, deception, or
6 unfair marketing practices or other similar allegations
7 identifying the name, case number, and jurisdiction of each
8 such lawsuit or complaint. For the purposes of this item
9 (8), "formal complaints" include only those complaints
10 that seek a binding determination from a state or federal
11 regulatory body;

12 (9) That the applicant shall continue to comply with
13 requirements for certification stated in Section 16-115;

14 (10) That the applicant seeking to service all eligible
15 retail customers shall execute and maintain a license or
16 permit bond issued by a qualifying surety or insurance
17 company authorized to transact business in the State of
18 Illinois in favor of the People of the State of Illinois.
19 The amount of the bond is \$600,000, and the bond is
20 conditioned upon the full and faithful performance of all
21 duties and obligations of the applicant as an alternative
22 retail electric supplier and is valid for a period of not
23 less than one year. The cost of the bond shall be paid by
24 the applicant. The applicant shall file a copy of this
25 bond, with a notarized verification page from the issuer,
26 as part of its application for certification under 83 Ill.

1 Adm. Code 451.50 and as a condition for continuing
2 compliance with certification requirements for alternative
3 retail electric suppliers under 83 Ill. Adm. Code
4 451.Subpart H; and

5 (11) ~~(8)~~ That the applicant will comply with all other
6 applicable laws and regulations.

7 The Commission may deny with prejudice an application in
8 which the applicant repeatedly fails to provide the Commission
9 with information sufficient for the Commission to grant the
10 application.

11 (d-5) (Blank).

12 (e) A retail customer that owns a cogeneration or
13 self-generation facility and that seeks certification only to
14 provide electric power and energy from such facility to retail
15 customers at separate locations which customers are both (i)
16 owned by, or a subsidiary or other corporate affiliate of, such
17 applicant and (ii) eligible for delivery services, shall be
18 granted a certificate of service authority upon filing an
19 application and notifying the Commission that it has entered
20 into an agreement with the relevant electric utilities pursuant
21 to Section 16-118. Provided, however, that if the retail
22 customer owning such cogeneration or self-generation facility
23 would not be charged a transition charge due to the exemption
24 provided under subsection (f) of Section 16-108 prior to the
25 certification, and the retail customers at separate locations
26 are taking delivery services in conjunction with purchasing

1 power and energy from the facility, the retail customer on
2 whose premises the facility is located shall not thereafter be
3 required to pay transition charges on the power and energy that
4 such retail customer takes from the facility.

5 (f) The Commission shall have the authority to promulgate
6 rules and regulations to carry out the provisions of this
7 Section. On or before May 1, 1999, the Commission shall adopt a
8 rule or rules applicable to the certification of those
9 alternative retail electric suppliers that seek to serve only
10 nonresidential retail customers with maximum electrical
11 demands of one megawatt or more which shall provide for (i)
12 expedited and streamlined procedures for certification of such
13 alternative retail electric suppliers and (ii) specific
14 criteria which, if met by any such alternative retail electric
15 supplier, shall constitute the demonstration of technical,
16 financial and managerial resources and abilities to provide
17 service required by subsection (d) (1) of this Section, such as
18 a requirement to post a bond or letter of credit, from a
19 responsible surety or financial institution, of sufficient
20 size for the nature and scope of the services to be provided;
21 demonstration of adequate insurance for the scope and nature of
22 the services to be provided; and experience in providing
23 similar services in other jurisdictions.

24 (g) An alternative retail electric supplier may seek
25 confidential treatment for the following information by filing
26 an affidavit with the Commission so long as the affidavit meets

1 the requirements in this subsection (g):

2 (1) the total annual kilowatt-hours delivered and sold
3 by an alternative retail electric supplier to retail
4 customers within each utility service territory and the
5 total annual kilowatt-hours delivered and sold by an
6 alternative retail electric supplier to retail customers
7 in all utility service territories in the preceding
8 calendar year as required by 83 Ill. Adm. Code 451.770;

9 (2) the total peak demand supplied by an alternative
10 retail electric supplier during the previous year in each
11 utility service territory as required by 83 Ill. Adm. Code
12 465.40;

13 (3) a good faith estimate of the amount an alternative
14 retail electric supplier expects to be obliged to pay the
15 utility under single billing tariffs during the next 12
16 months and the amount of any bond or letter of credit used
17 to demonstrate an alternative retail electric supplier's
18 credit worthiness to provide single billing services
19 pursuant to 83 Ill. Adm. Code 451.510(a) and (b).

20 The affidavit must be filed contemporaneously with the
21 information for which confidential treatment is sought and must
22 clearly state that the affiant seeks confidential treatment
23 pursuant to this subsection (g) and the information for which
24 confidential treatment is sought must be clearly identified on
25 the confidential version of the document filed with the
26 Commission. The affidavit must be accompanied by a

1 "confidential" and a "public" version of the document or
2 documents containing the information for which confidential
3 treatment is sought.

4 If the alternative retail electric supplier has met the
5 affidavit requirements of this subsection (g), then the
6 Commission shall afford confidential treatment to the
7 information identified in the affidavit for a period of 2 years
8 after the date the affidavit is received by the Commission.

9 Nothing in this subsection (g) prevents an alternative
10 retail electric supplier from filing a petition with the
11 Commission seeking confidential treatment for information
12 beyond that identified in this subsection (g) or for
13 information contained in other reports or documents filed with
14 the Commission.

15 Nothing in this subsection (g) prevents the Commission, on
16 its own motion, or any party from filing a formal petition with
17 the Commission seeking to reconsider the conferring of
18 confidential status on an item of information afforded
19 confidential treatment pursuant to this subsection (g).

20 The Commission, on its own motion, may at any time initiate
21 a docketed proceeding to investigate the continued
22 applicability of this subsection (g) to the information
23 contained in items (i), (ii), and (iii) of this subsection (g).
24 If, at the end of such investigation, the Commission determines
25 that a particular item of information should no longer be
26 eligible for the affidavit-based process outlined in this

1 subsection (g), the Commission may enter an order to remove
2 that item from the list of items eligible for the process set
3 forth in this subsection (g). Notwithstanding any such order,
4 in the event the Commission makes such a determination, nothing
5 in this subsection (g) prevents an alternative retail electric
6 supplier desiring confidential treatment for such information
7 from filing a formal petition with the Commission seeking
8 confidential treatment for such information.

9 (Source: P.A. 99-332, eff. 8-10-15.)

10 (220 ILCS 5/16-115A)

11 Sec. 16-115A. Obligations of alternative retail electric
12 suppliers.

13 (a) An alternative retail electric supplier shall:

14 (i) comply with the requirements imposed on public
15 utilities by Sections 8-201 through 8-207, 8-301, 8-505 and
16 8-507 of this Act, to the extent that these Sections have
17 application to the services being offered by the
18 alternative retail electric supplier; ~~and~~

19 (ii) continue to comply with the requirements for
20 certification stated in subsection (d) of Section 16-115;
21 and-

22 (iii) submit to the Commission and the Office of the
23 Attorney General, on January 1, 2020 and the first day of
24 each quarter thereafter, the rates the alternative retail
25 electric supplier charged to residential customers in the

1 prior quarter, including each distinct rate charged and
2 whether the rate was a fixed or variable rate, the basis
3 for the variable rate, and any fees charged in addition to
4 the supply rate, including monthly fees, flat fees, or
5 other service charges.

6 The Commission is authorized to adopt rules to implement
7 this subsection.

8 (b) An alternative retail electric supplier shall obtain
9 verifiable authorization from a customer, in a form or manner
10 approved by the Commission consistent with Section 2EE of the
11 Consumer Fraud and Deceptive Business Practices Act, before the
12 customer is switched from another supplier.

13 (c) No alternative retail electric supplier, or electric
14 utility other than the electric utility in whose service area a
15 customer is located, shall (i) enter into or employ any
16 arrangements which have the effect of preventing a retail
17 customer with a maximum electrical demand of less than one
18 megawatt from having access to the services of the electric
19 utility in whose service area the customer is located or (ii)
20 charge retail customers for such access. This subsection shall
21 not be construed to prevent an arms-length agreement between a
22 supplier and a retail customer that sets a term of service,
23 notice period for terminating service and provisions governing
24 early termination through a tariff or contract as allowed by
25 Section 16-119.

26 (d) An alternative retail electric supplier that is

1 certified to serve residential or small commercial retail
2 customers shall not:

3 (1) deny service to a customer or group of customers
4 nor establish any differences as to prices, terms,
5 conditions, services, products, facilities, or in any
6 other respect, whereby such denial or differences are based
7 upon race, gender or income.

8 (2) deny service to a customer or group of customers
9 based on locality nor establish any unreasonable
10 difference as to prices, terms, conditions, services,
11 products, or facilities as between localities.

12 (e) An alternative retail electric supplier shall comply
13 with the following requirements with respect to the marketing,
14 offering and provision of products or services to residential
15 and small commercial retail customers:

16 (i) Any marketing materials which make statements
17 concerning prices, terms and conditions of service shall
18 contain information that adequately discloses the prices,
19 terms and conditions of the products or services that the
20 alternative retail electric supplier is offering or
21 selling to the customer. All marketing materials,
22 including electronic marketing materials, that include a
23 price per kilowatt-hour for competitive electricity
24 service shall include the following statement: "(Name of
25 alternative retail electric supplier) is not the same
26 entity as your electric utility delivery company. You are

1 not required to enroll with (name of alternative retail
2 electric supplier). For information on comparison rates
3 for utility electric supply service and understanding your
4 electric supply choices, go to the Illinois Commerce
5 Commission's free website at www.pluginillinois.org". Any
6 alternative retail electric supplier solicitations or
7 materials marketing electric power or energy services to a
8 residential customer that contains a price per
9 kilowatt-hour shall include a Price to Compare reflecting
10 the fully avoidable costs of a typical customer, using a
11 methodology to calculate the Price to Compare that the
12 Commission shall adopt by rule. The Commission shall make
13 the Price to Compare available on the Commission's
14 pluginillinois.org website. The Commission is authorized
15 to adopt emergency rules to implement this paragraph. This
16 paragraph (i) does not apply to materials that do not list
17 a price per kilowatt-hour for competitive electricity
18 services or to billboards.

19 (ii) Before any customer is switched from another
20 supplier, the alternative retail electric supplier shall
21 give the customer written information that adequately
22 discloses, in plain language, the prices, terms and
23 conditions of the products and services being offered and
24 sold to the customer.

25 (iii) An alternative retail electric supplier shall
26 provide documentation to the Commission and to customers

1 that substantiates any claims made by the alternative
2 retail electric supplier regarding the technologies and
3 fuel types used to generate the electricity offered or sold
4 to customers.

5 (iv) The alternative retail electric supplier shall
6 provide to the customer (1) itemized billing statements
7 that describe the products and services provided to the
8 customer and their prices, and (2) an additional statement,
9 at least annually, that adequately discloses the average
10 monthly prices, and the terms and conditions, of the
11 products and services sold to the customer.

12 (v) No less than 30 days before a residential
13 customer's variable rate changes, the alternative retail
14 electric supplier shall send a separate written notice to
15 the customer informing the customer of an upcoming rate
16 change if the residential variable rate customer's rate
17 increases by more than 20% from one monthly billing period
18 to the next. This requirement does not apply if the
19 variable rate can be determined based on some combination
20 of: (1) publicly available information, such as an index,
21 and (2) a formula provided by the alternative retail
22 electric supplier in the contract using only publicly
23 available information or for time of use based pricing. A
24 customer shall have the right to choose to receive the
25 notice in electronic or paper form, including an option to
26 receive notice via login through an online account with the

1 alternative retail electric supplier.

2 (vi) The alternative retail electric supplier shall
3 send a separate written notice if a residential customer's
4 contract includes a provision that results in a change to
5 the residential customer's rate plan of the upcoming change
6 at least 30 days, but no more than 60 days, before the
7 change. The separate written notice shall conform to the
8 requirements in 83 Ill. Adm. Code 412.165(e). A customer
9 shall have the right to choose to receive the notice in
10 electronic or paper form, including an option to receive
11 notice via login through an online account with the
12 alternative retail electric supplier.

13 (vii) In the case of an automatic renewal of a contract
14 for which the initial term is a fixed price and that
15 changes after the initial term, an alternative retail
16 electric supplier shall provide a written notice to the
17 customer at least 30 days but no more than 60 days before
18 the end of the initial contract term that shall include a
19 side-by-side comparison of the current price and the price
20 for the first month of the new term.

21 For purposes of this subsection (e), "variable" means the
22 per-unit charge for electric power and energy service charges
23 at any time during the term of the contract but do not change
24 more than once per billing period.

25 (f) An alternative retail electric supplier may limit the
26 overall size or availability of a service offering by

1 specifying one or more of the following: a maximum number of
2 customers, maximum amount of electric load to be served, time
3 period during which the offering will be available, or other
4 comparable limitation, but not including the geographic
5 locations of customers within the area which the alternative
6 retail electric supplier is certificated to serve. The
7 alternative retail electric supplier shall file the terms and
8 conditions of such service offering including the applicable
9 limitations with the Commission prior to making the service
10 offering available to customers.

11 (g) Nothing in this Section shall be construed as
12 preventing an alternative retail electric supplier, which is an
13 affiliate of, or which contracts with, (i) an industry or trade
14 organization or association, (ii) a membership organization or
15 association that exists for a purpose other than the purchase
16 of electricity, or (iii) another organization that meets
17 criteria established in a rule adopted by the Commission, from
18 offering through the organization or association services at
19 prices, terms and conditions that are available solely to the
20 members of the organization or association.

21 (h) An alternative retail electric supplier shall maintain
22 sufficient managerial resources and abilities to provide the
23 service for which it has a certificate of service authority. In
24 determining the level of managerial resources and abilities
25 that the alternative retail electric supplier shall
26 demonstrate, the Commission shall consider, in addition to the

1 requirements in subsection (d) of Section 16-115, the
2 following:

3 (1) complaints to the Commission by consumers
4 regarding the alternative retail electric supplier,
5 including those that reflect on the alternative retail
6 electric supplier's ability to properly manage
7 solicitation and authorization; and

8 (2) the alternative retail electric supplier's
9 involvement in the Commission's consumer complaint
10 process, including the resources the alternative retail
11 electric supplier dedicates to the process and the
12 alternative retail electric supplier's ability to manage
13 the issues raised by complaints and the resolutions of the
14 complaints.

15 The provisions of this subsection (h) apply only to
16 alternative retail electric suppliers serving or seeking to
17 serve residential or small commercial customers and only to the
18 extent those alternative retail electric suppliers provide
19 services to residential or small commercial customers, unless
20 otherwise noted.

21 For purposes of this subsection (h), "complaint" means an
22 objection made to an alternative retail electric supplier by a
23 customer as to its charges, facilities, or service, the
24 disposal of which requires investigation or analysis.
25 "Complaint" includes a customer identifying and asking an
26 alternative retail electric supplier to address or resolve a

1 problem or concern. "Complaint" does not include contact that
2 is limited to inquiry or seeking information; however, the
3 definition of "complaint" for this purpose shall not be read or
4 interpreted to limit in any way the Commission's authority to
5 accept and seek resolution of informal complaints or inquiries
6 of any description submitted by a residential customer or small
7 business customer regarding an alternative retail electric
8 supplier.

9 (i) Complaints may be filed with the Commission under this
10 Section and Section 10-108 by a customer whose electric supply
11 service has been provided by an alternative electric supplier
12 in a manner not in compliance with subsection (b), (d), (e), or
13 (h) if the customer has first sought resolution of the dispute
14 arising from the non-compliant conduct complained of through
15 the Commission's informal complaint process. If, after notice
16 and hearing, the Commission finds that an alternative retail
17 electric supplier has violated subsection (b), (d), (e), or
18 (h), then the Commission may, in its discretion, do any one or
19 more of the following:

20 (1) require the violating alternative retail electric
21 supplier to refund the customer charges collected in excess
22 of those that would have been charged by the customer's
23 authorized electric provider;

24 (2) require the violating alternative retail electric
25 supplier to pay a fine of \$5,000 for each violation;

26 (3) issue a cease and desist order; or

1 (4) for a pattern of violations or for intentionally
2 violating a cease and desist order, revoke the violating
3 alternative retail electric supplier's certificate of
4 service authority.

5 (j) All fines shall be deposited into the Public Utilities
6 Fund.

7 (k) The Commission shall ensure alternative retail
8 electric suppliers have proper training in place to prohibit
9 impersonation of a utility. The Commission shall investigate
10 complaints of any company or its agents impersonating a
11 utility. A company contracting with or that employs a sales
12 agent found to be impersonating a utility shall be fined \$5,000
13 for each incident.

14 As used in this subsection:

15 "Impersonation" means wearing apparel or carrying items
16 using the utility name or logo with the intent of misleading
17 the customer into believing the agent is acting on behalf of or
18 working for the utility.

19 "Company" includes an alternative retail electric supplier
20 and any agent, broker, consultant, or other entity hired to
21 sell retail electricity services.

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

23 (220 ILCS 5/16-115B)

24 Sec. 16-115B. Commission oversight of services provided by
25 alternative retail electric suppliers.

1 (a) The Commission shall have jurisdiction in accordance
2 with the provisions of Article X of this Act to entertain and
3 dispose of any complaint against any alternative retail
4 electric supplier alleging (i) that the alternative retail
5 electric supplier has violated or is in nonconformance with any
6 applicable provisions of Section 16-115 through Section
7 16-115A; (ii) that an alternative retail electric supplier
8 serving retail customers having maximum demands of less than
9 one megawatt has failed to provide service in accordance with
10 the terms of its contract or contracts with such customer or
11 customers; (iii) that the alternative retail electric supplier
12 has violated or is in non-conformance with the delivery
13 services tariff of, or any of its agreements relating to
14 delivery services with, the electric utility, municipal
15 system, or electric cooperative providing delivery services;
16 or (iv) that the alternative retail electric supplier has
17 violated or failed to comply with the requirements of Sections
18 8-201 through 8-207, 8-301, 8-505, or 8-507 of this Act as made
19 applicable to alternative retail electric suppliers.

20 (b) In addition to other powers and authority granted it
21 under this Act, the Commission is authorized to require an
22 alternative retail electric supplier to enter into a compliance
23 plan. If the Commission comes into possession of information
24 causing it to conclude that an alternative retail electric
25 supplier is violating this Act or the Commission's rules, the
26 Commission may, after notice and hearing, enter an order

1 directing the alternative retail electric supplier to
2 implement such practices, procedures, oversight, or other
3 measures or refrain from such practices, conduct, or activities
4 as the Commission finds is necessary or reasonable to ensure
5 the alternative retail electric supplier's compliance with the
6 Act and the Commission's rules. Failure by an alternative
7 retail electric supplier to implement or comply with a
8 Commission-ordered compliance plan is a violation of this
9 Section. The Commission, in its discretion, may order a
10 compliance plan under such circumstances as it considers
11 warranted and is not required to order a compliance plan prior
12 to taking other enforcement action against an alternative
13 retail electric supplier.

14 (c) ~~(b)~~ The Commission shall have authority, after notice
15 and hearing held on complaint or on the Commission's own
16 motion, to do any one or more of the following:

17 (1) If the Commission finds sufficient evidence of a
18 repeated pattern of conduct or circumstances that is
19 contrary to Section 16-115A or 83 Adm. Ill. Code Part 412
20 and that constitutes a significant likelihood of
21 substantial harm to customers, the public interest, or an
22 adequately functioning market, it may issue an informal
23 notice, without initiating a docketed proceeding, to the
24 alternative retail electric supplier to show cause why an
25 order to cease and desist should not be entered against the
26 alternative retail electric supplier. The Commission's

1 informal notice shall clearly set forth the evidence relied
2 upon by the Commission, including, but not limited to, the
3 provisions in subsection (d) of Section 16-115 and
4 subsection (h) of Section 16-115A. The Commission shall
5 allow the alternative retail electric supplier at least 3
6 and no more than 5 business days from the date of the
7 informal notice to file an answer to the satisfaction of
8 the Commission. Failure of the alternative retail electric
9 supplier to answer to the satisfaction of the Commission
10 shall cause an order to cease and desist to be issued
11 immediately by the Commission.

12 (2) Order ~~(1) To order~~ an alternative retail electric
13 supplier to cease and desist, or correct, any violation of
14 or non-conformance with the provisions of Section 16-115 or
15 16-115A.~~†~~

16 (3) Impose ~~(2) To impose~~ financial penalties for
17 violations of or non-conformances with the provisions of
18 Section 16-115 or 16-115A, not to exceed (i) \$10,000 per
19 occurrence or (ii) \$30,000 per day for those violations or
20 non-conformances which continue after the Commission
21 issues a cease and desist order.~~† and~~

22 (4) Alter ~~(3) To alter~~, modify, revoke, or suspend the
23 certificate of service authority of an alternative retail
24 electric supplier for substantial or repeated violations
25 of or non-conformances with the provisions of Section
26 16-115 or 16-115A.

1 (d) In assessing a penalty against an alternative retail
2 electric supplier under any provision of this Article XVI, the
3 Commission may consider the following factors, in addition to
4 any other factor or consideration that the Commission in its
5 discretion considers to bear on the nature or gravity of the
6 violation:

7 (1) the nature of the violations found and the
8 alternative retail electric supplier's history of
9 substantiated complaints or adjudicated violations;

10 (2) the alternative retail electric supplier's
11 culpability;

12 (3) existence or strength of compliance and internal
13 monitoring programs;

14 (4) whether the alternative retail electric supplier
15 made a good faith effort to compensate consumers harmed;
16 and

17 (5) any context-appropriate factors that the
18 Commission deems appropriate.

19 (e) All fines shall be deposited into the Public Utilities
20 Fund.

21 (f) The Commission shall conduct at least one mandatory
22 compliance education workshop annually for alternative retail
23 electric suppliers that service retail and small commercial
24 retail customers in an electric utility's service area
25 regarding statutory and rule requirements, consumer complaint
26 statistics, and any other information determined necessary by

1 the Commission. Completion of the Commission's compliance
2 workshop by an alternative retail electric supplier, as
3 determined by the Commission, must be in person and is a
4 condition for continuing compliance with certification
5 requirements for an alternative retail electric supplier under
6 83 Ill. Adm. Code 451.Subpart H.

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

8 (220 ILCS 5/16-118)

9 Sec. 16-118. Services provided by electric utilities to
10 alternative retail electric suppliers.

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

1 alternative retail electric supplier shall sign a contract
2 setting forth the prices, terms and conditions for
3 interconnection with the electric utility and the prices, terms
4 and conditions for services provided by the electric utility to
5 the alternative retail electric supplier in connection with the
6 delivery by the electric utility of electric power and energy
7 supplied by the alternative retail electric supplier.

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

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

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

1 purchased by the electric utility at a just and reasonable
2 discount rate to be reviewed and approved by the Commission
3 after notice and hearing. The discount rate shall be based on
4 the electric utility's historical bad debt and any reasonable
5 start-up costs and administrative costs associated with the
6 electric utility's purchase of receivables. The discounted
7 rate for purchase of receivables shall be included in the
8 tariff filed pursuant to this subsection (c). The discount rate
9 filed pursuant to this subsection (c) shall be subject to
10 periodic Commission review. The electric utility retains the
11 right to impose the same terms on retail customers with respect
12 to credit and collection, including requests for deposits, and
13 retain the electric utility's right to disconnect the retail
14 customers, if it does not receive payment for its tariffed
15 services or purchased receivables, in the same manner that it
16 would be permitted to if the retail customers purchased power
17 and energy from the electric utility. The tariff filed pursuant
18 to this subsection (c) shall permit the electric utility to
19 recover from retail customers any uncollected receivables that
20 may arise as a result of the purchase of receivables under this
21 subsection (c), may also include other just and reasonable
22 terms and conditions, and shall provide for the prudently
23 incurred costs associated with the provision of this service
24 pursuant to this subsection (c). Nothing in this subsection (c)
25 permits the double recovery of bad debt expenses from
26 customers.

1 (d) An electric utility with more than 100,000 customers
2 shall file a tariff pursuant to Article IX of this Act that
3 would provide alternative retail electric suppliers or
4 electric utilities other than the electric utility in whose
5 service area retail customers are located with the option to
6 have the electric utility produce and provide single bills to
7 the retail customers for both the electric power and energy
8 service provided by the alternative retail electric supplier or
9 other electric utility and the delivery services provided by
10 the electric utility to the customers. The tariffs filed
11 pursuant to this subsection shall require the electric utility
12 to collect and remit customer payments for electric power and
13 energy service provided by alternative retail electric
14 suppliers or electric utilities other than the electric utility
15 in whose service area retail customers are located. The tariff
16 filed pursuant to this subsection shall require the electric
17 utility to include on each bill to retail customers an
18 identification of the alternative retail electric supplier or
19 other electric utility that elects the billing option. The
20 tariff filed pursuant to this subsection (d) may also include
21 other just and reasonable terms and conditions and shall
22 provide for the recovery of prudently incurred costs associated
23 with the provision of service pursuant to this subsection (d).
24 The costs associated with the provision of service pursuant to
25 this Section shall be subject to periodic Commission review.

26 (e) An electric utility with more than 100,000 customers in

1 this State shall file a tariff pursuant to Article IX of this
2 Act that provides alternative retail electric suppliers, and
3 electric utilities other than the electric utility in whose
4 service area the retail customers are located, with the option
5 to have the electric utility purchase 2 billing cycles worth of
6 uncollectible receivables for power and energy service
7 provided to residential retail customers and to
8 non-residential retail customers with a non-coincident peak
9 demand of less than 400 kilowatts upon returning that customer
10 to that electric utility for delivery and energy service after
11 that alternative retail electric supplier, or an electric
12 utility other than the electric utility in whose service area
13 the retail customer is located, has made reasonable collection
14 efforts on that account. Uncollectible receivables for power
15 and energy service of alternative retail electric suppliers, or
16 electric utilities other than the electric utility in whose
17 service area the retail customers are located, shall be
18 purchased by the electric utility at a just and reasonable
19 discount rate to be reviewed and approved by the Commission,
20 after notice and hearing. The discount rate shall be based on
21 the electric utility's historical bad debt for receivables that
22 are outstanding for a similar length of time and any reasonable
23 start-up costs and administrative costs associated with the
24 electric utility's purchase of receivables. The discounted
25 rate for purchase of uncollectible receivables shall be
26 included in the tariff filed pursuant to this subsection (e).

1 The electric utility retains the right to impose the same terms
2 on these retail customers with respect to credit and
3 collection, including requests for deposits, and retains the
4 right to disconnect these retail customers, if it does not
5 receive payment for its tariffed services or purchased
6 receivables, in the same manner that it would be permitted to
7 if the retail customers had purchased power and energy from the
8 electric utility. The tariff filed pursuant to this subsection
9 (e) shall permit the electric utility to recover from retail
10 customers any uncollectable receivables that may arise as a
11 result of the purchase of uncollectible receivables under this
12 subsection (e), may also include other just and reasonable
13 terms and conditions, and shall provide for the prudently
14 incurred costs associated with the provision of this service
15 pursuant to this subsection (e). Nothing in this subsection (e)
16 permits the double recovery of utility bad debt expenses from
17 customers. The electric utility may file a joint tariff for
18 this subsection (e) and subsection (c) of this Section.

19 (f) Every alternative retail electric supplier or electric
20 utility other than the electric utility in whose service area
21 retail customers are located that issue single bills to the
22 retail customers for the services provided by such alternative
23 retail electric supplier or other electric utility and the
24 delivery services provided by the electric utility to such
25 customers shall include on the single bills issued to
26 residential customers the current utility supply charge that

1 would apply to the customer for the billing period if the
2 customer obtained supply from the utility, including all fixed
3 or monthly supply charges and other charges, credits, or rates
4 that are part of the electric supply price.

5 (g) Every electric utility that provides delivery and
6 supply services shall include on each bill to residential
7 customers who obtain supply from an alternative retail electric
8 supplier the electric utility's total supply charge that would
9 apply to the customer for the billing period if the customer
10 obtained supply from the utility, including all fixed or
11 monthly supply charges and other charges, credits, or rates
12 that are part of the electric supply price.

13 (Source: P.A. 95-700, eff. 11-9-07.)

14 (220 ILCS 5/16-119)

15 Sec. 16-119. Switching suppliers.

16 (a) An electric utility or an alternative retail electric
17 supplier may establish a term of service, notice period for
18 terminating service and provisions governing early termination
19 through a tariff or contract. A customer may change its
20 supplier subject to tariff or contract terms and conditions.
21 Any notice provisions; or provision for a fee, charge or
22 penalty with early termination of a contract; shall be
23 conspicuously disclosed in any tariff or contract. Any tariff
24 filed or contract renewed or entered into on and after the
25 effective date of this amendatory Act of the 99th General

1 Assembly that contains an early termination clause shall
2 disclose the amount of the early termination fee or penalty,
3 provided that any early termination fee or penalty shall not
4 exceed \$50 total for residential customers and \$150 for small
5 commercial retail customers as defined in Section 16-102 of
6 this Act, regardless of whether or not the tariff or contract
7 is a multiyear tariff or contract. A customer shall remain
8 responsible for any unpaid charges owed to an electric utility
9 or alternative retail electric supplier at the time it switches
10 to another provider.

11 The caps on early termination fees and penalties under this
12 Section shall apply only to early termination fees and
13 penalties for early termination of electric service. The caps
14 shall not apply to charges or fees for devices, equipment, or
15 other services provided by the utility or alternative retail
16 electric supplier.

17 (b) Notwithstanding the requirements of subsection (a),
18 each electric utility shall, within 90 days after the effective
19 date of this amendatory Act of the 101st General Assembly,
20 modify its tariff carrying out this Section to reflect the
21 following:

22 (1) No customer who is receiving Low-Income Home Energy
23 Assistance Program funds may be switched to an alternative
24 retail electric supplier except subject to a government
25 aggregation program or to an order entered by the
26 Commission that approves a Low-Income Home Energy

1 Assistance Program savings guarantee plan for alternative
2 retail electric supplier offerings.

3 (2) If an alternative retail electric supplier
4 attempts to enroll a Low-Income Home Energy Assistance
5 Program customer other than through a government
6 aggregation program or an order entered by the Commission
7 that approves a Low-Income Energy Assistance Program
8 savings guarantee plan for alternative retail electric
9 supplier offerings, the electric utility shall deny the
10 supplier switch and inform the alternative retail electric
11 supplier of the reason.

12 (Source: P.A. 99-103, eff. 7-22-15; 99-107, eff. 7-22-15.)

13 (220 ILCS 5/19-115)

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

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

20 (b) An alternative gas supplier shall:

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

1 (2) continue to comply with the requirements for
2 certification stated in Section 19-110;

3 (3) comply with complaint procedures established by
4 the Commission;

5 (4) except as provided in subsection (h) of this
6 Section, file with the Chief Clerk of the Commission,
7 within 20 business days after the effective date of this
8 amendatory Act of the 95th General Assembly, a copy of bill
9 formats, standard customer contract and customer complaint
10 and resolution procedures, and the name and telephone
11 number of the company representative whom Commission
12 employees may contact to resolve customer complaints and
13 other matters. In the case of a gas supplier that engages
14 in door-to-door solicitation, the company shall file with
15 the Commission the consumer information disclosure
16 required by item (3) of subsection (c) of Section 2DDD of
17 the Consumer Fraud and Deceptive Business Practices Act and
18 shall file updated information within 10 business days
19 after changes in any of the documents or information
20 required to be filed by this item (4); and

21 (5) maintain a customer call center where customers can
22 reach a representative and receive current information. At
23 least once every 6 months, each alternative gas supplier
24 shall provide written information to customers explaining
25 how to contact the call center. The average answer time for
26 calls placed to the call center shall not exceed 60 seconds

1 where a representative or automated system is ready to
2 render assistance and/or accept information to process
3 calls. The abandon rate for calls placed to the call center
4 shall not exceed 10%. Each alternative gas supplier shall
5 maintain records of the call center's telephone answer time
6 performance and abandon call rate. These records shall be
7 kept for a minimum of 2 years and shall be made available
8 to Commission personnel upon request. In the event that
9 answer times and/or abandon rates exceed the limits
10 established above, the reporting alternative gas supplier
11 may provide the Commission or its personnel with
12 explanatory details. At a minimum, these records shall
13 contain the following information in monthly increments:

14 (A) total number of calls received;

15 (B) number of calls answered;

16 (C) average answer time;

17 (D) number of abandoned calls; ~~and~~

18 (E) abandon call rate; ~~and~~.

19 (6) submit to the Commission and the Office of the
20 Attorney General, on January 1, 2020 and the first day of
21 each quarter thereafter, the rates the alternative gas
22 supplier charged to residential customers in the prior
23 quarter, including each distinct rate charged and whether
24 the rate was a fixed or variable rate, the basis for the
25 variable rate, and any fees charged in addition to the
26 supply rate, including monthly fees, flat fees, or other

1 service charges; the Commission is authorized to adopt
2 rules to implement this paragraph (6).

3 Alternative gas suppliers that do not have electronic
4 answering capability that meets these requirements shall
5 notify the Manager of the Commission's Consumer Services
6 Division or its successor within 30 days following the
7 effective date of this amendatory Act of the 95th General
8 Assembly and work with Staff to develop individualized
9 reporting requirements as to the call volume and responsiveness
10 of the call center.

11 On or before March 1 of every year, each entity shall file
12 a report with the Chief Clerk of the Commission for the
13 preceding calendar year on its answer time and abandon call
14 rate for its call center. A copy of the report shall be sent to
15 the Manager of the Consumer Services Division or its successor.

16 (c) An alternative gas supplier shall not submit or execute
17 a change in a customer's selection of a natural gas provider
18 unless and until (i) the alternative gas supplier first
19 discloses all material terms and conditions of the offer to the
20 customer; (ii) the alternative gas supplier has obtained the
21 customer's express agreement to accept the offer after the
22 disclosure of all material terms and conditions of the offer;
23 and (iii) the alternative gas supplier has confirmed the
24 request for a change in accordance with one of the following
25 procedures:

26 (1) The alternative gas supplier has obtained the

1 customer's written or electronically signed authorization
2 in a form that meets the following requirements:

3 (A) An alternative gas supplier shall obtain any
4 necessary written or electronically signed
5 authorization from a customer for a change in natural
6 gas service by using a letter of agency as specified in
7 this Section. Any letter of agency that does not
8 conform with this Section is invalid.

9 (B) The letter of agency shall be a separate
10 document (or an easily separable document containing
11 only the authorization language described in item (E)
12 of this paragraph (1)) whose sole purpose is to
13 authorize a natural gas provider change. The letter of
14 agency must be signed and dated by the customer
15 requesting the natural gas provider change.

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

18 (D) Notwithstanding items (A) and (B) of this
19 paragraph (1), the letter of agency may be combined
20 with checks that contain only the required letter of
21 agency language prescribed in item (E) of this
22 paragraph (1) and the necessary information to make the
23 check a negotiable instrument. The letter of agency
24 check shall not contain any promotional language or
25 material. The letter of agency check shall contain in
26 easily readable, bold face type on the face of the

1 check a notice that the consumer is authorizing a
2 natural gas provider change by signing the check. The
3 letter of agency language also shall be placed near the
4 signature line on the back of the check.

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

9 (i) the customer's billing name and address;

10 (ii) the decision to change the natural gas
11 provider from the current provider to the
12 prospective alternative gas supplier;

13 (iii) the terms, conditions, and nature of the
14 service to be provided to the customer, including,
15 but not limited to, the rates for the service
16 contracted for by the customer; and

17 (iv) that the customer understands that any
18 natural gas provider selection the customer
19 chooses may involve a charge to the customer for
20 changing the customer's natural gas provider.

21 (F) Letters of agency shall not suggest or require
22 that a customer take some action in order to retain the
23 customer's current natural gas provider.

24 (G) If any portion of a letter of agency is
25 translated into another language, then all portions of
26 the letter of agency must be translated into that

1 language.

2 (2) An appropriately qualified independent third party
3 has obtained, in accordance with the procedures set forth
4 in this paragraph (2), the customer's oral authorization to
5 change natural gas providers that confirms and includes
6 appropriate verification data. The independent third party
7 must (i) not be owned, managed, controlled, or directed by
8 the alternative gas supplier or the alternative gas
9 supplier's marketing agent; (ii) not have any financial
10 incentive to confirm provider change requests for the
11 alternative gas supplier or the alternative gas supplier's
12 marketing agent; and (iii) operate in a location physically
13 separate from the alternative gas supplier or the
14 alternative gas supplier's marketing agent. Automated
15 third-party verification systems and 3-way conference
16 calls may be used for verification purposes so long as the
17 other requirements of this paragraph (2) are satisfied. An
18 alternative gas supplier or alternative gas supplier's
19 sales representative initiating a 3-way conference call or
20 a call through an automated verification system must drop
21 off the call once the 3-way connection has been
22 established. All third-party verification methods shall
23 elicit, at a minimum, the following information:

24 (A) the identity of the customer;

25 (B) confirmation that the person on the call is
26 authorized to make the provider change;

1 (C) confirmation that the person on the call wants
2 to make the provider change;

3 (D) the names of the providers affected by the
4 change;

5 (E) the service address of the service to be
6 switched; and

7 (F) the price of the service to be provided and the
8 material terms and conditions of the service being
9 offered, including whether any early termination fees
10 apply.

11 Third-party verifiers may not market the alternative
12 gas supplier's services by providing additional
13 information. All third-party verifications shall be
14 conducted in the same language that was used in the
15 underlying sales transaction and shall be recorded in their
16 entirety. Submitting alternative gas suppliers shall
17 maintain and preserve audio records of verification of
18 customer authorization for a minimum period of 2 years
19 after obtaining the verification. Automated systems must
20 provide customers with an option to speak with a live
21 person at any time during the call.

22 (3) The alternative gas supplier has obtained the
23 customer's authorization via an automated verification
24 system to change natural gas service via telephone. An
25 automated verification system is an electronic system
26 that, through pre-recorded prompts, elicits voice

1 responses, touchtone responses, or both, from the customer
2 and records both the prompts and the customer's responses.
3 Such authorization must elicit the information in
4 paragraph (2)(A) through (F) of this subsection (c).
5 Alternative gas suppliers electing to confirm sales
6 electronically through an automated verification system
7 shall establish one or more toll-free telephone numbers
8 exclusively for that purpose. Calls to the number or
9 numbers shall connect a customer to a voice response unit,
10 or similar mechanism, that makes a date-stamped,
11 time-stamped recording of the required information
12 regarding the alternative gas supplier change.

13 The alternative gas supplier shall not use such
14 electronic authorization systems to market its services.

15 (4) When a consumer initiates the call to the
16 prospective alternative gas supplier, in order to enroll
17 the consumer as a customer, the prospective alternative gas
18 supplier must, with the consent of the customer, make a
19 date-stamped, time-stamped audio recording that elicits,
20 at a minimum, the following information:

21 (A) the identity of the customer;

22 (B) confirmation that the person on the call is
23 authorized to make the provider change;

24 (C) confirmation that the person on the call wants
25 to make the provider change;

26 (D) the names of the providers affected by the

1 change;

2 (E) the service address of the service to be
3 switched; and

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

8 Submitting alternative gas suppliers shall maintain
9 and preserve the audio records containing the information
10 set forth above for a minimum period of 2 years.

11 (5) In the event that a customer enrolls for service
12 from an alternative gas supplier via an Internet website,
13 the alternative gas supplier shall obtain an
14 electronically signed letter of agency in accordance with
15 paragraph (1) of this subsection (c) and any customer
16 information shall be protected in accordance with all
17 applicable statutes and regulations. In addition, an
18 alternative gas supplier shall provide the following when
19 marketing via an Internet website:

20 (A) The Internet enrollment website shall, at a
21 minimum, include:

22 (i) a copy of the alternative gas supplier's
23 customer contract that clearly and conspicuously
24 discloses all terms and conditions; and

25 (ii) a conspicuous prompt for the customer to
26 print or save a copy of the contract.

1 (B) Any electronic version of the contract shall be
2 identified by version number, in order to ensure the
3 ability to verify the particular contract to which the
4 customer assents.

5 (C) Throughout the duration of the alternative gas
6 supplier's contract with a customer, the alternative
7 gas supplier shall retain and, within 3 business days
8 of the customer's request, provide to the customer an
9 e-mail, paper, or facsimile of the terms and conditions
10 of the numbered contract version to which the customer
11 assents.

12 (D) The alternative gas supplier shall provide a
13 mechanism by which both the submission and receipt of
14 the electronic letter of agency are recorded by time
15 and date.

16 (E) After the customer completes the electronic
17 letter of agency, the alternative gas supplier shall
18 disclose conspicuously through its website that the
19 customer has been enrolled, and the alternative gas
20 supplier shall provide the customer an enrollment
21 confirmation number.

22 (6) When a customer is solicited in person by the
23 alternative gas supplier's sales agent, the alternative
24 gas supplier may only obtain the customer's authorization
25 to change natural gas service through the method provided
26 for in paragraph (2) of this subsection (c).

1 Alternative gas suppliers must be in compliance with this
2 subsection (c) within 90 days after the effective date of this
3 amendatory Act of the 95th General Assembly.

4 Notwithstanding the requirements under this subsection
5 (c), each natural gas utility shall, within 90 days after the
6 effective date of this amendatory Act of the 101st General
7 Assembly, modify its tariff carrying out this Section to
8 reflect the following:

9 (i) No customer who is receiving Low-Income Home Energy
10 Assistance Program funds may be switched to an alternative
11 gas supplier except subject to government aggregation
12 programs or to an order entered by the Commission that
13 approves a Low-Income Home Energy Assistance savings
14 guarantee plan for alternative gas supplier offerings.

15 (ii) If an alternative gas supplier attempts to enroll
16 a Low-Income Home Energy Assistance Program customer other
17 than through a government aggregation program or an order
18 entered by the Commission that approves a Low-Income Home
19 Energy Assistance Program savings guarantee plan for
20 alternative gas supplier offerings, the natural gas
21 utility shall deny the supplier switch and inform the
22 alternative gas supplier of the reason.

23 (d) Complaints may be filed with the Commission under this
24 Section by a customer whose natural gas service has been
25 provided by an alternative gas supplier in a manner not in
26 compliance with subsection (c) of this Section. If, after

1 notice and hearing, the Commission finds that an alternative
2 gas supplier has violated subsection (c), then the Commission
3 may in its discretion do any one or more of the following:

4 (1) Require the violating alternative gas supplier to
5 refund the customer charges collected in excess of those
6 that would have been charged by the customer's authorized
7 natural gas provider.

8 (2) Require the violating alternative gas supplier to
9 pay to the customer's authorized natural gas provider the
10 amount the authorized natural gas provider would have
11 collected for natural gas service. The Commission is
12 authorized to reduce this payment by any amount already
13 paid by the violating alternative gas supplier to the
14 customer's authorized natural gas provider.

15 (3) Require the violating alternative gas supplier to
16 pay a fine of up to \$1,000 into the Public Utility Fund for
17 each repeated and intentional violation of this Section.

18 (4) Issue a cease and desist order.

19 (5) For a pattern of violation of this Section or for
20 intentionally violating a cease and desist order, revoke
21 the violating alternative gas supplier's certificate of
22 service authority.

23 (e) No alternative gas supplier shall:

24 (1) enter into or employ any arrangements which have
25 the effect of preventing any customer from having access to
26 the services of the gas utility in whose service area the

1 customer is located;

2 (2) charge customers for such access;

3 (3) bill for goods or services not authorized by the
4 customer; or

5 (4) bill for a disputed amount where the alternative
6 gas supplier has been provided notice of such dispute. The
7 supplier shall attempt to resolve a dispute with the
8 customer. When the dispute is not resolved to the
9 customer's satisfaction, the supplier shall inform the
10 customer of the right to file an informal complaint with
11 the Commission and provide contact information. While the
12 pending dispute is active at the Commission, an alternative
13 gas supplier may bill only for the undisputed amount until
14 the Commission has taken final action on the complaint.

15 (f) An alternative gas supplier that is certified to serve
16 residential or small commercial customers shall not:

17 (1) deny service to a customer or group of customers
18 nor establish any differences as to prices, terms,
19 conditions, services, products, facilities, or in any
20 other respect, whereby such denial or differences are based
21 upon race, gender, or income;

22 (2) deny service based on locality, nor establish any
23 unreasonable difference as to prices, terms, conditions,
24 services, products, or facilities as between localities;

25 (3) include in any agreement a provision that obligates
26 a customer to the terms of the agreement if the customer

1 (i) moves outside the State of Illinois; (ii) moves to a
2 location without a transportation service program; or
3 (iii) moves to a location where the customer will not
4 require natural gas service, provided that nothing in this
5 subsection precludes an alternative gas supplier from
6 taking any action otherwise available to it to collect a
7 debt that arises out of service provided to the customer
8 before the customer moved; or

9 (4) assign the agreement to any alternative natural gas
10 supplier, unless:

11 (A) the supplier is an alternative gas supplier
12 certified by the Commission;

13 (B) the rates, terms, and conditions of the
14 agreement being assigned do not change during the
15 remainder of the time covered by the agreement;

16 (C) the customer is given no less than 30 days
17 prior written notice of the assignment and contact
18 information for the new supplier; and

19 (D) the supplier assigning the contract provides
20 contact information that a customer can use to resolve
21 a dispute.

22 (g) An alternative gas supplier shall comply with the
23 following requirements with respect to the marketing,
24 offering, and provision of products or services:

25 (1) Any marketing materials which make statements
26 concerning prices, terms, and conditions of service shall

1 contain information that adequately discloses the prices,
2 terms and conditions of the products or services.

3 (2) Before any customer is switched from another
4 supplier, the alternative gas supplier shall give the
5 customer written information that clearly and
6 conspicuously discloses, in plain language, the prices,
7 terms, and conditions of the products and services being
8 offered and sold to the customer. Nothing in this paragraph
9 (2) may be read to relieve an alternative gas supplier from
10 the duties imposed on it by item (3) of subsection (c) of
11 Section 2DDD of the Consumer Fraud and Deceptive Business
12 Practices Act.

13 (3) The alternative gas supplier shall provide to the
14 customer:

15 (A) accurate, timely, and itemized billing
16 statements that describe the products and services
17 provided to the customer and their prices and that
18 specify the gas consumption amount and any service
19 charges and taxes; provided that this item (g) (3) (A)
20 does not apply to small commercial customers;

21 (B) billing statements that clearly and
22 conspicuously discloses the name and contact
23 information for the alternative gas supplier;

24 (C) an additional statement, at least annually,
25 that adequately discloses the average monthly prices,
26 and the terms and conditions, of the products and

1 services sold to the customer; provided that this item
2 (g) (3) (C) does not apply to small commercial
3 customers;

4 (D) refunds of any deposits with interest within 30
5 days after the date that the customer changes gas
6 suppliers or discontinues service if the customer has
7 satisfied all of his or her outstanding financial
8 obligations to the alternative gas supplier at an
9 interest rate set by the Commission which shall be the
10 same as that required of gas utilities; and

11 (E) refunds, in a timely fashion, of all undisputed
12 overpayments upon the oral or written request of the
13 customer.

14 (4) An alternative gas supplier and its sales agents
15 shall refrain from any direct marketing or soliciting to
16 consumers on the gas utility's "Do Not Contact List", which
17 the alternative gas supplier shall obtain on the 15th
18 calendar day of the month from the gas utility in whose
19 service area the consumer is provided with gas service. If
20 the 15th calendar day is a non-business day, then the
21 alternative gas supplier shall obtain the list on the next
22 business day following the 15th calendar day of that month.

23 (5) Early Termination.

24 (A) Any agreement that contains an early
25 termination clause shall disclose the amount of the
26 early termination fee, provided that any early

1 termination fee or penalty shall not exceed \$50 total,
2 regardless of whether or not the agreement is a
3 multiyear agreement.

4 (B) In any agreement that contains an early
5 termination clause, an alternative gas supplier shall
6 provide the customer the opportunity to terminate the
7 agreement without any termination fee or penalty
8 within 10 business days after the date of the first
9 bill issued to the customer for products or services
10 provided by the alternative gas supplier. The
11 agreement shall disclose the opportunity and provide a
12 toll-free phone number that the customer may call in
13 order to terminate the agreement.

14 (6) Within 2 business days after electronic receipt of
15 a customer switch from the alternative gas supplier and
16 confirmation of eligibility, the gas utility shall provide
17 the customer written notice confirming the switch. The gas
18 utility shall not switch the service until 10 business days
19 after the date on the notice to the customer.

20 (7) The alternative gas supplier shall provide each
21 customer the opportunity to rescind its agreement without
22 penalty within 10 business days after the date on the gas
23 utility notice to the customer. The alternative gas
24 supplier shall disclose all of the following:

25 (A) that the gas utility shall send a notice
26 confirming the switch;

1 (B) that from the date the utility issues the
2 notice confirming the switch, the customer shall have
3 10 business days to rescind the switch without penalty;

4 (C) that the customer shall contact the gas utility
5 or the alternative gas supplier to rescind the switch;
6 and

7 (D) the contact information for the gas utility.

8 The alternative gas supplier disclosure shall be
9 included in its sales solicitations, contracts, and all
10 applicable sales verification scripts.

11 (h) An alternative gas supplier may limit the overall size
12 or availability of a service offering by specifying one or more
13 of the following:

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

16 (2) time period during which the offering will be
17 available; or

18 (3) other comparable limitation, but not including the
19 geographic locations of customers within the area which the
20 alternative gas supplier is certificated to serve.

21 The alternative gas supplier shall file the terms and
22 conditions of such service offering including the applicable
23 limitations with the Commission prior to making the service
24 offering available to customers.

25 (i) Nothing in this Section shall be construed as
26 preventing an alternative gas supplier that is an affiliate of,

1 or which contracts with, (i) an industry or trade organization
2 or association, (ii) a membership organization or association
3 that exists for a purpose other than the purchase of gas, or
4 (iii) another organization that meets criteria established in a
5 rule adopted by the Commission from offering through the
6 organization or association services at prices, terms and
7 conditions that are available solely to the members of the
8 organization or association.

9 (j) The Commission shall ensure alternative gas suppliers
10 have proper training in place to prohibit impersonation of a
11 utility. The Commission shall investigate complaints of any
12 company or its agents impersonating a utility. A company
13 contracting with or that employs a sales agent found to be
14 impersonating a utility shall be fined \$5,000 for each
15 incident.

16 As used in this subsection:

17 "Impersonation" means wearing apparel or carrying items
18 using the utility name or logo with the intent of misleading
19 the customer into believing the agent is acting on behalf of or
20 working for the utility.

21 "Company" includes an alternative gas supplier and any
22 agent, broker, consultant, or other entity hired to sell
23 natural gas services.

24 (Source: P.A. 95-1051, eff. 4-10-09.)

1 Sec. 19-135. Single billing.

2 (a) It is the intent of the General Assembly that in any
3 service area where customers are able to choose their natural
4 gas supplier, a single billing option shall be offered to
5 customers for both the services provided by the alternative gas
6 supplier and the delivery services provided by the gas utility.
7 A gas utility shall file a tariff pursuant to Article IX of
8 this Act that allows alternative gas suppliers to issue single
9 bills to residential and small commercial customers for both
10 the services provided by the alternative gas supplier and the
11 delivery services provided by the gas utility to customers;
12 provided that if a form of single billing is being offered in a
13 gas utility's service area on the effective date of this
14 amendatory Act of the 92nd General Assembly, that form of
15 single billing shall remain in effect unless and until
16 otherwise ordered by the Commission. Every alternative gas
17 supplier that issues a single bill for delivery and supply
18 shall include on the single bill issued to a residential
19 customer the current utility supply charge that would apply to
20 the customer for the billing period if the customer obtained
21 supply from the utility, including all fixed or monthly supply
22 charges and other charges, credits, or rates that are part of
23 the gas supply price.

24 (b) Every gas utility that offers supply choice and
25 provides delivery and alternative gas supply service on a
26 single bill to its residential customers shall include on the

1 bill of each residential customer who purchases supply services
2 from an alternative gas supplier the gas utility's total supply
3 charge for the billing period that would apply to the customer
4 for the billing period if the customer obtained supply from the
5 utility, including all fixed or monthly supply charges and
6 other charges, credits, or rates that are part of the gas
7 supply price.

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

9 (220 ILCS 5/20-110)

10 Sec. 20-110. Office of Retail Market Development. Within 90
11 days after the effective date of this amendatory Act of the
12 94th General Assembly, subject to appropriation, the
13 Commission shall establish an Office of Retail Market
14 Development and employ on its staff a Director of Retail Market
15 Development to oversee the Office. The Director shall have
16 authority to employ or otherwise retain at least 2
17 professionals dedicated to the task of actively seeking out
18 ways to promote retail competition in Illinois to benefit all
19 Illinois consumers.

20 The Office shall actively seek input from all interested
21 parties and shall develop a thorough understanding and critical
22 analyses of the tools and techniques used to promote retail
23 competition in other states.

24 The Office shall monitor existing competitive conditions
25 in Illinois, identify barriers to retail competition for all

1 customer classes, and actively explore and propose to the
2 Commission and to the General Assembly solutions to overcome
3 identified barriers. The Director may include municipal
4 aggregation of customers and creating and designing customer
5 choice programs as tools for retail market development.
6 Solutions proposed by the Office to promote retail competition
7 must also promote safe, reliable, and affordable electric
8 service.

9 On or before June 30 of each year, the Director shall
10 submit a report to the Commission, the General Assembly, and
11 the Governor, that details specific accomplishments achieved
12 by the Office in the prior 12 months in promoting retail
13 electric competition and that suggests administrative and
14 legislative action necessary to promote further improvements
15 in retail electric competition. The report to the General
16 Assembly shall be filed with the Clerk of the House of
17 Representatives and the Secretary of the Senate in electronic
18 form only, in the manner that the Clerk and the Secretary shall
19 direct. Any information in this report involving price
20 comparisons between electric utilities, electric utilities
21 providing service outside their service territories, or
22 alternative retail electric suppliers shall also include the
23 combined value of additional products and services offered by
24 the competitive retail electric market, including, but not
25 limited to, the cash value of energy control technologies
26 provided, the megawatt hours of energy savings realized by

1 customers utilizing energy control technologies, the megawatt
2 hours of renewable energy exclusive of State mandated
3 purchases, and the total amounts of cash or cash equivalent
4 offers. The Commission may include other energy savings and
5 marketing savings programs as they develop in the market. The
6 Commission is authorized to establish through administrative
7 rules standards, practices, forms, procedures, and policies
8 governing the reporting of alternative retail electric
9 suppliers of such products, services, energy savings,
10 renewable energy, and value of cash equivalent offers.

11 (Source: P.A. 94-1095, eff. 2-2-07.)

12 (220 ILCS 5/20-140 new)

13 Sec. 20-140. Expanded use of energy savings programs.

14 (a) The Commission may establish a program for promoting
15 expanded use of energy savings programs for residential and
16 small commercial customers. The program shall include the use
17 of thermostats, lights, plugs, and other devices that allow a
18 customer to control and reduce his or her energy usage. The
19 program shall not discriminate based on brand names and shall
20 include ways to promote those devices and incentives for
21 residential customers, including both homeowners and renters.
22 Nothing in this Section is intended to modify the rights or
23 obligations set forth in Sections 8-103B and 8-104 of this Act
24 or divert or reallocate the funding available under those
25 Sections.

1 (b) On or before September 1, 2019 and every 2 years
2 thereafter, the Commission shall initiate a collaborative
3 workshop for stakeholders, retail electric suppliers,
4 advocates for energy savings, and industry representatives
5 developing energy savings devices and applicants.

6 (c) Any recommendations arising from the workshop process
7 under this Section shall be included in the annual report of
8 the Office of Retail Market Development.

9 Section 10. The Citizens Utility Board Act is amended by
10 changing Section 5 as follows:

11 (220 ILCS 10/5) (from Ch. 111 2/3, par. 905)

12 Sec. 5. Powers and duties.

13 (1) The corporation shall:

14 (a) Represent and protect the interests of the
15 residential utility consumers of this State. All actions by
16 the corporation under this Act shall be directed toward
17 such duty; provided that the corporation may also give due
18 consideration to the interests of business in the State.

19 (b) Inform, in so far as possible, all utility
20 consumers about the corporation, including the procedure
21 for obtaining membership in the corporation.

22 (2) The corporation shall have all the powers necessary or
23 convenient for the effective representation and protection of
24 the interest of utility consumers and to implement this Act,

1 including the following powers in addition to all other powers
2 granted by this Act.

3 (a) To make, amend and repeal bylaws and rules for the
4 regulation of its affairs and the conduct of its business;
5 to adopt an official seal and alter it at pleasure; to
6 maintain an office; to sue and be sued in its own name,
7 plead and be impleaded; and to make and execute contracts
8 and other instruments necessary or convenient to the
9 exercise of the powers of the corporation.

10 (b) To employ such agents, employees and special
11 advisors as it finds necessary and to fix their
12 compensation.

13 (c) To solicit and accept gifts, loans, including loans
14 made by the Illinois Commerce Commission from funds
15 appropriated for that purpose by law, or other aid in order
16 to support activities concerning the interests of utility
17 consumers. Except as provided in Section 5.1, the
18 corporation may not accept gifts, loans or other aid from
19 any public utility or from any director, employee or agent
20 or member of the immediate family of a director, employee
21 or agent of any public utility and, after the first
22 election the corporation, may not accept from any
23 individual, private corporation, association or
24 partnership in any single year a total of more than \$1,000
25 in gifts. Under this paragraph, "aid" does not mean payment
26 of membership dues.

1 (d) To intervene as a party or otherwise participate on
2 behalf of utility consumers in any proceeding which affects
3 the interest of utility consumers.

4 (e) To represent the interests of utility consumers
5 before the Illinois Commerce Commission, the Federal
6 Energy Regulatory Commission, the Federal Communications
7 Commission, the courts, and other public bodies, except
8 that no director, employee or agent of the corporation may
9 engage in lobbying without first complying with any
10 applicable statute, administrative rule or other
11 regulation relating to lobbying.

12 (f) To establish annual dues which shall be set at a
13 level that provides sufficient funding for the corporation
14 to effectively perform its powers and duties, and is
15 affordable for as many utility consumers as is possible.

16 (g) To implement solicitation for corporation funding
17 and membership.

18 (h) To seek tax exempt status under State and federal
19 law, including 501(c)(3) status under the United States
20 Internal Revenue Code.

21 (i) To provide information and advice to utility
22 consumers on any matter with respect to utility service,
23 including but not limited to information and advice on
24 benefits and methods of energy conservation.

25 (3) The powers, duties, rights and privileges conferred or
26 imposed upon the corporation by this Act may not be

1 transferred.

2 (4) The corporation shall refrain from interfering with
3 collective bargaining rights of any employees of a public
4 utility.

5 (5) The corporation shall provide all consumer complaints
6 regarding service by entities possessing a certificate of
7 service authority as an alternative retail electric supplier
8 under Section 16-115 of the Public Utilities Act and entities
9 possessing certificates of service authority as an alternative
10 gas supplier under Section 19-110 of the Public Utilities Act
11 to the Consumer Services Division of the Illinois Commerce
12 Commission.

13 For purposes of this subsection (5), "complaint" means an
14 objection made to an alternative retail electric supplier or to
15 an alternative gas supplier by a customer or another entity as
16 to its charges, facilities, or service, the disposal of which
17 requires investigation or analysis. "Complaint" includes a
18 customer or other entity identifying and asking an alternative
19 retail electric supplier or alternative gas supplier to address
20 or resolve a problem or concern. "Complaint" does not include
21 contact that is limited to inquiry or seeking information.

22 (Source: P.A. 91-50, eff. 6-30-99.)

23 Section 15. The Consumer Fraud and Deceptive Business
24 Practices Act is amended by changing Section 2EE as follows:

1 (815 ILCS 505/2EE)

2 Sec. 2EE. Electric service provider selection. An electric
3 service provider shall not submit or execute a change in a
4 subscriber's selection of a provider of electric service unless
5 and until (i) the provider first discloses all material terms
6 and conditions of the offer to the subscriber; (ii) the
7 provider has obtained the subscriber's express agreement to
8 accept the offer after the disclosure of all material terms and
9 conditions of the offer; and (iii) the provider has confirmed
10 the request for a change in accordance with one of the
11 following procedures:

12 (a) The new electric service provider has obtained the
13 subscriber's written or electronically signed authorization in
14 a form that meets the following requirements:

15 (1) An electric service provider shall obtain any
16 necessary written or electronically signed authorization
17 from a subscriber for a change in electric service by using
18 a letter of agency as specified in this Section. Any letter
19 of agency that does not conform with this Section is
20 invalid.

21 (2) The letter of agency shall be a separate document
22 (an easily separable document containing only the
23 authorization language described in subparagraph (a)(5) of
24 this Section) whose sole purpose is to authorize an
25 electric service provider change. The letter of agency must
26 be signed and dated by the subscriber requesting the

1 electric service provider change.

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

4 (4) Notwithstanding subparagraphs (a) (1) and (a) (2) of
5 this Section, the letter of agency may be combined with
6 checks that contain only the required letter of agency
7 language prescribed in subparagraph (a) (5) of this Section
8 and the necessary information to make the check a
9 negotiable instrument. The letter of agency check shall not
10 contain any promotional language or material. The letter of
11 agency check shall contain in easily readable, bold-face
12 type on the face of the check, a notice that the consumer
13 is authorizing an electric service provider change by
14 signing the check. The letter of agency language also shall
15 be placed near the signature line on the back of the check.

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

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

20 (ii) The decision to change the electric service
21 provider from the current provider to the prospective
22 provider;

23 (iii) The terms, conditions, and nature of the
24 service to be provided to the subscriber must be
25 clearly and conspicuously disclosed, in writing, and
26 an electric service provider must directly establish

1 the rates for the service contracted for by the
2 subscriber; and

3 (iv) That the subscriber understand that any
4 electric service provider selection the subscriber
5 chooses may involve a charge to the subscriber for
6 changing the subscriber's electric service provider.

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

10 (7) If any portion of a letter of agency is translated
11 into another language, then all portions of the letter of
12 agency must be translated into that language.

13 (b) An appropriately qualified independent third party has
14 obtained, in accordance with the procedures set forth in this
15 subsection (b), the subscriber's oral authorization to change
16 electric suppliers that confirms and includes appropriate
17 verification data. The independent third party (i) must not be
18 owned, managed, controlled, or directed by the supplier or the
19 supplier's marketing agent; (ii) must not have any financial
20 incentive to confirm supplier change requests for the supplier
21 or the supplier's marketing agent; and (iii) must operate in a
22 location physically separate from the supplier or the
23 supplier's marketing agent.

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

1 A supplier or supplier's sales representative initiating a
2 3-way conference call or a call through an automated
3 verification system must drop off the call once the 3-way
4 connection has been established.

5 All third-party verification methods shall elicit, at a
6 minimum, the following information: (i) the identity of the
7 subscriber; (ii) confirmation that the person on the call is
8 authorized to make the supplier change; (iii) confirmation that
9 the person on the call wants to make the supplier change; (iv)
10 the names of the suppliers affected by the change; (v) the
11 service address of the supply to be switched; and (vi) the
12 price of the service to be supplied and the material terms and
13 conditions of the service being offered, including whether any
14 early termination fees apply. Third-party verifiers may not
15 market the supplier's services by providing additional
16 information, including information regarding procedures to
17 block or otherwise freeze an account against further changes.

18 All third-party verifications shall be conducted in the
19 same language that was used in the underlying sales transaction
20 and shall be recorded in their entirety. Submitting suppliers
21 shall maintain and preserve audio records or electronic
22 versions, if automated, of verification of subscriber
23 authorization for a minimum period of 2 years after obtaining
24 the verification. Automated systems must provide consumers
25 with an option to speak with a live person at any time during
26 the call.

1 (c) When a subscriber initiates the call to the prospective
2 electric supplier, in order to enroll the subscriber as a
3 customer, the prospective electric supplier must, with the
4 consent of the customer, make a date-stamped, time-stamped
5 audio recording that elicits, at a minimum, the following
6 information:

7 (1) the identity of the subscriber;

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

10 (3) confirmation that the person on the call wants to
11 make the supplier change;

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

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

14 and

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

18 Submitting suppliers shall maintain and preserve the audio
19 records containing the information set forth above for a
20 minimum period of 2 years.

21 (d) Complaints may be filed with the Illinois Commerce
22 Commission under this Section by a subscriber whose electric
23 service has been provided by an electric service supplier in a
24 manner not in compliance with this Section. If, after notice
25 and hearing, the Commission finds that an electric service
26 provider has violated this Section, the Commission may in its

1 discretion do any one or more of the following:

2 (1) Require the violating electric service provider to
3 refund to the subscriber charges collected in excess of
4 those that would have been charged by the subscriber's
5 authorized electric service provider.

6 (2) Require the violating electric service provider to
7 pay to the subscriber's authorized electric supplier the
8 amount the authorized electric supplier would have
9 collected for the electric service. The Commission is
10 authorized to reduce this payment by any amount already
11 paid by the violating electric supplier to the subscriber's
12 authorized provider for electric service.

13 (3) Require the violating electric subscriber to pay a
14 fine of up to \$1,000 into the Public Utility Fund for each
15 repeated and intentional violation of this Section.

16 (4) Issue a cease and desist order.

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

20 (e) For purposes of this Section, "electric service
21 provider" shall have the meaning given that phrase in Section
22 6.5 of the Attorney General Act.

23 (Source: P.A. 95-700, eff. 11-9-07.)

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