



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5526

by Rep. Ryan Spain

SYNOPSIS AS INTRODUCED:

220 ILCS 5/16-115D

Amends the Public Utilities Act. Provides that the provisions of the Illinois Power Agency Act relating to the payments by retail customers of a utility for the purpose of recovering the utility's costs for procuring renewable energy credits shall not apply to an alternative retail electric supplier, or its customers, that operates a combined heat and power system in this State, or that has a corporate affiliate that operates a combined heat and power system in this State, and supplies electricity primarily to or for the benefit of certain specified facilities.

LRB101 17185 SPS 66587 b

1 AN ACT concerning regulation.

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

4 Section 5. The Public Utilities Act is amended by changing
5 Section 16-115D as follows:

6 (220 ILCS 5/16-115D)

7 Sec. 16-115D. Renewable portfolio standard for alternative
8 retail electric suppliers and electric utilities operating
9 outside their service territories.

10 (a) An alternative retail electric supplier shall be
11 responsible for procuring cost-effective renewable energy
12 resources as required under item (5) of subsection (d) of
13 Section 16-115 of this Act as outlined herein:

14 (1) The definition of renewable energy resources
15 contained in Section 1-10 of the Illinois Power Agency Act
16 applies to all renewable energy resources required to be
17 procured by alternative retail electric suppliers.

18 (2) Through May 31, 2017, the quantity of renewable
19 energy resources shall be measured as a percentage of the
20 actual amount of metered electricity (megawatt-hours)
21 delivered by the alternative retail electric supplier to
22 Illinois retail customers during the 12-month period June 1
23 through May 31, commencing June 1, 2009, and the comparable

1 12-month period in each year thereafter except as provided
2 in item (6) of this subsection (a).

3 (3) Through May 31, 2017, the quantity of renewable
4 energy resources shall be in amounts at least equal to the
5 annual percentages set forth in item (1) of subsection (c)
6 of Section 1-75 of the Illinois Power Agency Act. At least
7 60% of the renewable energy resources procured pursuant to
8 items (1) and (3) of subsection (b) of this Section shall
9 come from wind generation and, starting June 1, 2015, at
10 least 6% of the renewable energy resources procured
11 pursuant to items (1) and (3) of subsection (b) of this
12 Section shall come from solar photovoltaics. If, in any
13 given year, an alternative retail electric supplier does
14 not purchase at least these levels of renewable energy
15 resources, then the alternative retail electric supplier
16 shall make alternative compliance payments, as described
17 in subsection (d) of this Section.

18 (3.5) For the delivery year commencing June 1, 2017,
19 the quantity of renewable energy resources shall be at
20 least 13.0% of the uncovered amount of metered electricity
21 (megawatt-hours) delivered by the alternative retail
22 electric supplier to Illinois retail customers during the
23 delivery year, which uncovered amount shall equal 50% of
24 such metered electricity delivered by the alternative
25 retail electric supplier. For the delivery year commencing
26 June 1, 2018, the quantity of renewable energy resources

1 shall be at least 14.5% of the uncovered amount of metered
2 electricity (megawatt-hours) delivered by the alternative
3 retail electric supplier to Illinois retail customers
4 during the delivery year, which uncovered amount shall
5 equal 25% of such metered electricity delivered by the
6 alternative retail electric supplier. At least 32% of the
7 renewable energy resources procured by the alternative
8 retail electric supplier for its uncovered portion under
9 this paragraph (3.5) shall come from wind or photovoltaic
10 generation. The renewable energy resources procured under
11 this paragraph (3.5) shall not include any resources from a
12 facility whose costs were being recovered through rates
13 regulated by any state or states on or after January 1,
14 2017.

15 (4) The quantity and source of renewable energy
16 resources shall be independently verified through the PJM
17 Environmental Information System Generation Attribute
18 Tracking System (PJM-GATS) or the Midwest Renewable Energy
19 Tracking System (M-RETS), which shall document the
20 location of generation, resource type, month, and year of
21 generation for all qualifying renewable energy resources
22 that an alternative retail electric supplier uses to comply
23 with this Section. No later than June 1, 2009, the Illinois
24 Power Agency shall provide PJM-GATS, M-RETS, and
25 alternative retail electric suppliers with all information
26 necessary to identify resources located in Illinois,

1 within states that adjoin Illinois or within portions of
2 the PJM and MISO footprint in the United States that
3 qualify under the definition of renewable energy resources
4 in Section 1-10 of the Illinois Power Agency Act for
5 compliance with this Section 16-115D. Alternative retail
6 electric suppliers shall not be subject to the requirements
7 in item (3) of subsection (c) of Section 1-75 of the
8 Illinois Power Agency Act.

9 (5) All renewable energy credits used to comply with
10 this Section shall be permanently retired.

11 (6) The required procurement of renewable energy
12 resources by an alternative retail electric supplier shall
13 apply to all metered electricity delivered to Illinois
14 retail customers by the alternative retail electric
15 supplier pursuant to contracts executed or extended after
16 March 15, 2009.

17 (b) Compliance obligations.

18 (1) Through May 31, 2017, an alternative retail
19 electric supplier shall comply with the renewable energy
20 portfolio standards by making an alternative compliance
21 payment, as described in subsection (d) of this Section, to
22 cover at least one-half of the alternative retail electric
23 supplier's compliance obligation for the period prior to
24 June 1, 2017.

25 (2) For the delivery years beginning June 1, 2017 and
26 June 1, 2018, an alternative retail electric supplier need

1 not make any alternative compliance payment to meet any
2 portion of its compliance obligation, as set forth in
3 paragraph (3.5) of subsection (a) of this Section.

4 (3) An alternative retail electric supplier shall use
5 any one or combination of the following means to cover the
6 remainder of the alternative retail electric supplier's
7 compliance obligation, as set forth in paragraphs (3) and
8 (3.5) of subsection (a) of this Section, not covered by an
9 alternative compliance payment made under paragraphs (1)
10 and (2) of this subsection (b) of this Section:

11 (A) Generating electricity using renewable energy
12 resources identified pursuant to item (4) of
13 subsection (a) of this Section.

14 (B) Purchasing electricity generated using
15 renewable energy resources identified pursuant to item
16 (4) of subsection (a) of this Section through an energy
17 contract.

18 (C) Purchasing renewable energy credits from
19 renewable energy resources identified pursuant to item
20 (4) of subsection (a) of this Section.

21 (D) Making an alternative compliance payment as
22 described in subsection (d) of this Section.

23 (c) Use of renewable energy credits.

24 (1) Renewable energy credits that are not used by an
25 alternative retail electric supplier to comply with a
26 renewable portfolio standard in a compliance year may be

1 banked and carried forward up to 2 12-month compliance
2 periods after the compliance period in which the credit was
3 generated for the purpose of complying with a renewable
4 portfolio standard in those 2 subsequent compliance
5 periods. For the 2009-2010 and 2010-2011 compliance
6 periods, an alternative retail electric supplier may use
7 renewable credits generated after December 31, 2008 and
8 before June 1, 2009 to comply with this Section.

9 (2) An alternative retail electric supplier is
10 responsible for demonstrating that a renewable energy
11 credit used to comply with a renewable portfolio standard
12 is derived from a renewable energy resource and that the
13 alternative retail electric supplier has not used, traded,
14 sold, or otherwise transferred the credit.

15 (3) The same renewable energy credit may be used by an
16 alternative retail electric supplier to comply with a
17 federal renewable portfolio standard and a renewable
18 portfolio standard established under this Act. An
19 alternative retail electric supplier that uses a renewable
20 energy credit to comply with a renewable portfolio standard
21 imposed by any other state may not use the same credit to
22 comply with a renewable portfolio standard established
23 under this Act.

24 (d) Alternative compliance payments.

25 (1) The Commission shall establish and post on its
26 website, within 5 business days after entering an order

1 approving a procurement plan pursuant to Section 1-75 of
2 the Illinois Power Agency Act, maximum alternative
3 compliance payment rates, expressed on a per kilowatt-hour
4 basis, that will be applicable in the first compliance
5 period following the plan approval. A separate maximum
6 alternative compliance payment rate shall be established
7 for the service territory of each electric utility that is
8 subject to subsection (c) of Section 1-75 of the Illinois
9 Power Agency Act. Each maximum alternative compliance
10 payment rate shall be equal to the maximum allowable annual
11 estimated average net increase due to the costs of the
12 utility's purchase of renewable energy resources included
13 in the amounts paid by eligible retail customers in
14 connection with electric service, as described in item (2)
15 of subsection (c) of Section 1-75 of the Illinois Power
16 Agency Act for the compliance period, and as established in
17 the approved procurement plan. Following each procurement
18 event through which renewable energy resources are
19 purchased for one or more of these utilities for the
20 compliance period, the Commission shall establish and post
21 on its website estimates of the alternative compliance
22 payment rates, expressed on a per kilowatt-hour basis, that
23 shall apply for that compliance period. Posting of the
24 estimates shall occur no later than 10 business days
25 following the procurement event, however, the Commission
26 shall not be required to establish and post such estimates

1 more often than once per calendar month. By July 1 of each
2 year, the Commission shall establish and post on its
3 website the actual alternative compliance payment rates
4 for the preceding compliance year. For compliance years
5 beginning prior to June 1, 2014, each alternative
6 compliance payment rate shall be equal to the total amount
7 of dollars that the utility contracted to spend on
8 renewable resources, excepting the additional incremental
9 cost attributable to solar resources, for the compliance
10 period divided by the forecasted load of eligible retail
11 customers, at the customers' meters, as previously
12 established in the Commission-approved procurement plan
13 for that compliance year. For compliance years commencing
14 on or after June 1, 2014, each alternative compliance
15 payment rate shall be equal to the total amount of dollars
16 that the utility contracted to spend on all renewable
17 resources for the compliance period divided by the
18 forecasted load of retail customers for which the utility
19 is procuring renewable energy resources in a given delivery
20 year, at the customers' meters, as previously established
21 in the Commission-approved procurement plan for that
22 compliance year. The actual alternative compliance payment
23 rates may not exceed the maximum alternative compliance
24 payment rates established for the compliance period. For
25 purposes of this subsection (d), the term "eligible retail
26 customers" has the same meaning as found in Section

1 16-111.5 of this Act.

2 (2) In any given compliance year, an alternative retail
3 electric supplier may elect to use alternative compliance
4 payments to comply with all or a part of the applicable
5 renewable portfolio standard. In the event that an
6 alternative retail electric supplier elects to make
7 alternative compliance payments to comply with all or a
8 part of the applicable renewable portfolio standard, such
9 payments shall be made by September 1, 2010 for the period
10 of June 1, 2009 to May 1, 2010 and by September 1 of each
11 year thereafter for the subsequent compliance period, in
12 the manner and form as determined by the Commission. Any
13 election by an alternative retail electric supplier to use
14 alternative compliance payments is subject to review by the
15 Commission under subsection (e) of this Section.

16 (3) An alternative retail electric supplier's
17 alternative compliance payments shall be computed
18 separately for each electric utility's service territory
19 within which the alternative retail electric supplier
20 provided retail service during the compliance period,
21 provided that the electric utility was subject to
22 subsection (c) of Section 1-75 of the Illinois Power Agency
23 Act. For each service territory, the alternative retail
24 electric supplier's alternative compliance payment shall
25 be equal to (i) the actual alternative compliance payment
26 rate established in item (1) of this subsection (d),

1 multiplied by (ii) the actual amount of metered electricity
2 delivered by the alternative retail electric supplier to
3 retail customers for which the supplier has a compliance
4 obligation within the service territory during the
5 compliance period, multiplied by (iii) the result of one
6 minus the ratios of the quantity of renewable energy
7 resources used by the alternative retail electric supplier
8 to comply with the requirements of this Section within the
9 service territory to the product of the percentage of
10 renewable energy resources required under item (3) or (3.5)
11 of subsection (a) of this Section and the actual amount of
12 metered electricity delivered by the alternative retail
13 electrical supplier to retail customers for which the
14 supplier has a compliance obligation within the service
15 territory during the compliance period.

16 (4) Through May 31, 2017, all alternative compliance
17 payments by alternative retail electric suppliers shall be
18 deposited in the Illinois Power Agency Renewable Energy
19 Resources Fund and used to purchase renewable energy
20 credits, in accordance with Section 1-56 of the Illinois
21 Power Agency Act. Beginning April 1, 2012 and by April 1 of
22 each year thereafter, the Illinois Power Agency shall
23 submit an annual report to the General Assembly, the
24 Commission, and alternative retail electric suppliers that
25 shall include, but not be limited to:

26 (A) the total amount of alternative compliance

1 payments received in aggregate from alternative retail
2 electric suppliers by planning year for all previous
3 planning years in which the alternative compliance
4 payment was in effect;

5 (B) the amount of those payments utilized to
6 purchased renewable energy credits itemized by the
7 date of each procurement in which the payments were
8 utilized; and

9 (C) the unused and remaining balance in the Agency
10 Renewable Energy Resources Fund attributable to those
11 payments.

12 (4.5) Beginning with the delivery year commencing June
13 1, 2017, all alternative compliance payments by
14 alternative retail electric suppliers shall be remitted to
15 the applicable electric utility. To facilitate this
16 remittance, each electric utility shall file a tariff with
17 the Commission no later than 30 days following the
18 effective date of this amendatory Act of the 99th General
19 Assembly, which the Commission shall approve, after notice
20 and hearing, no later than 45 days after its filing. The
21 Illinois Power Agency shall use such payments to increase
22 the amount of renewable energy resources otherwise to be
23 procured under subsection (c) of Section 1-75 of the
24 Illinois Power Agency Act.

25 (5) The Commission, in consultation with the Illinois
26 Power Agency, shall establish a process or proceeding to

1 consider the impact of a federal renewable portfolio
2 standard, if enacted, on the operation of the alternative
3 compliance mechanism, which shall include, but not be
4 limited to, developing, to the extent permitted by the
5 applicable federal statute, an appropriate methodology to
6 apportion renewable energy credits retired as a result of
7 alternative compliance payments made in accordance with
8 this Section. The Commission shall commence any such
9 process or proceeding within 35 days after enactment of a
10 federal renewable portfolio standard.

11 (e) Each alternative retail electric supplier shall, by
12 September 1, 2010 and by September 1 of each year thereafter,
13 prepare and submit to the Commission a report, in a format to
14 be specified by the Commission, that provides information
15 certifying compliance by the alternative retail electric
16 supplier with this Section, including copies of all PJM-GATS
17 and M-RETS reports, and documentation relating to banking,
18 retiring renewable energy credits, and any other information
19 that the Commission determines necessary to ensure compliance
20 with this Section.

21 An alternative retail electric supplier may file
22 commercially or financially sensitive information or trade
23 secrets with the Commission as provided under the rules of the
24 Commission. To be filed confidentially, the information shall
25 be accompanied by an affidavit that sets forth both the reasons
26 for the confidentiality and a public synopsis of the

1 information.

2 (f) The Commission may initiate a contested case to review
3 allegations that the alternative retail electric supplier has
4 violated this Section, including an order issued or rule
5 promulgated under this Section. In any such proceeding, the
6 alternative retail electric supplier shall have the burden of
7 proof. If the Commission finds, after notice and hearing, that
8 an alternative retail electric supplier has violated this
9 Section, then the Commission shall issue an order requiring the
10 alternative retail electric supplier to:

11 (1) immediately comply with this Section; and

12 (2) if the violation involves a failure to procure the
13 requisite quantity of renewable energy resources or pay the
14 applicable alternative compliance payment by the annual
15 deadline, the Commission shall require the alternative
16 retail electric supplier to double the applicable
17 alternative compliance payment that would otherwise be
18 required to bring the alternative retail electric supplier
19 into compliance with this Section.

20 If an alternative retail electric supplier fails to comply
21 with the renewable energy resource portfolio requirement in
22 this Section more than once in a 5-year period, then the
23 Commission shall revoke the alternative electric supplier's
24 certificate of service authority. The Commission shall not
25 accept an application for a certificate of service authority
26 from an alternative retail electric supplier that has lost

1 certification under this subsection (f), or any corporate
2 affiliate thereof, for at least one year after the date of
3 revocation.

4 (g) All of the provisions of this Section apply to electric
5 utilities operating outside their service area except under
6 item (2) of subsection (a) of this Section the quantity of
7 renewable energy resources shall be measured as a percentage of
8 the actual amount of electricity (megawatt-hours) supplied in
9 the State outside of the utility's service territory during the
10 12-month period June 1 through May 31, commencing June 1, 2009,
11 and the comparable 12-month period in each year thereafter
12 except as provided in item (6) of subsection (a) of this
13 Section.

14 If any such utility fails to procure the requisite quantity
15 of renewable energy resources by the annual deadline, then the
16 Commission shall require the utility to double the alternative
17 compliance payment that would otherwise be required to bring
18 the utility into compliance with this Section.

19 If any such utility fails to comply with the renewable
20 energy resource portfolio requirement in this Section more than
21 once in a 5-year period, then the Commission shall order the
22 utility to cease all sales outside of the utility's service
23 territory for a period of at least one year.

24 (h) The provisions of this Section and the provisions of
25 subsection (d) of Section 16-115 of this Act relating to
26 procurement of renewable energy resources, and the provisions

1 of paragraph (6) of subsection (c) of Section 1-75 of the
2 Illinois Power Agency Act relating to the payments by retail
3 customers of a utility for the purpose of recovering the
4 utility's costs for procuring renewable energy credits, shall
5 not apply to an alternative retail electric supplier, or the
6 retail customers of an alternative retail electric supplier,
7 that operates a combined heat and power system in this State or
8 that has a corporate affiliate that operates such a combined
9 heat and power system in this State that supplies electricity
10 primarily to or for the benefit of: (i) facilities owned by the
11 supplier, its subsidiary, or other corporate affiliate; (ii)
12 facilities electrically integrated with the electrical system
13 of facilities owned by the supplier, its subsidiary, or other
14 corporate affiliate; or (iii) facilities that are adjacent to
15 the site on which the combined heat and power system is
16 located.

17 (i) The obligations of alternative retail electric
18 suppliers and electric utilities operating outside their
19 service territories to procure renewable energy resources,
20 make alternative compliance payments, and file annual reports,
21 and the obligations of the Commission to determine and post
22 alternative compliance payment rates, shall terminate after
23 May 31, 2019, provided that alternative retail electric
24 suppliers and electric utilities operating outside their
25 service territories shall be obligated to make all alternative
26 compliance payments that they were obligated to pay for periods

1 through and including May 31, 2019, but were not paid as of
2 that date. The Commission shall continue to enforce the payment
3 of unpaid alternative compliance payments in accordance with
4 subsections (f) and (g) of this Section. All alternative
5 compliance payments made after May 31, 2016 shall be remitted
6 to the applicable electric utility and used to purchase
7 renewable energy credits, in accordance with Section 1-75 of
8 the Illinois Power Agency Act.

9 This subsection (i) is intended to accommodate the
10 transition to the procurement of renewable energy resources for
11 all retail customers in the amounts specified under subsection
12 (c) of Section 1-75 of the Illinois Power Agency Act and
13 Section 16-111.5 of this Act, including but not limited to the
14 transition to a single charge applicable to all retail
15 customers to recover the costs of these resources. Each
16 alternative retail electric supplier shall certify in its
17 annual reports filed pursuant to subsection (e) of this Section
18 after May 31, 2019, that its retail customers are not paying
19 the costs of alternative compliance payments or renewable
20 energy resources that the alternative retail electric supplier
21 is not required to remit or purchase under this Section. The
22 Commission shall have the authority to initiate an emergency
23 rulemaking to adopt rules regarding such certification.

24 (Source: P.A. 99-906, eff. 6-1-17.)