



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3115

Introduced 2/19/2021, by Rep. Eva Dina Delgado

SYNOPSIS AS INTRODUCED:

New Act
5 ILCS 100/5-45.8 new

Creates the Renewable Gas and Low-Carbon Fuels Act. Provides that a public utility that provides natural gas distribution services in the State shall incorporate low-carbon fuels into its gas supply portfolio. Provides for goals for the total amount of renewable gas and other low-carbon fuels incorporated by the natural gas utility. Provides that for purposes of meeting the goals, low-carbon fuels that are purchased by the natural gas utility must include environmental commodities associated with the gas. Provides that a natural gas utility may seek authorization from the Illinois Commerce Commission to engage in low-carbon fuels activities. Provides that the Commission shall approve a low-carbon fuels activity if it determines the low-carbon fuels activity investment and expenses are consistent with the provisions of the Act and the natural gas utility has demonstrated that the low-carbon fuels activity provides one or more specified benefits. Provides that the Commission shall review and, by order, approve, or approve as modified, the natural gas utility's low-carbon fuels activity proposal within 180 days after the date on which it is filed. Provides that the Commission shall adopt rules governing filing requirements, reporting requirements, and the process for natural gas utilities to fully recover prudently incurred costs associated with low-carbon fuels activity. Provides that all environmental commodities from low-carbon fuels resulting from the purchase of low-carbon fuels for gas supply or the ownership of a low-carbon fuels facility shall be applied to the benefit of gas customers. Amends the Illinois Administrative Procedure Act to allow the Illinois Commerce Commission to adopt emergency rules. Effective immediately.

LRB102 14890 SPS 20243 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 1. Short title. This Act may be cited as the
5 Renewable Gas and Low-Carbon Fuels Act.

6 Section 5. Findings. The General Assembly finds the
7 following:

8 (1) Natural gas provides the citizens and businesses
9 of the State a safe, reliable, and affordable source of
10 energy.

11 (2) As Illinois transitions to a low-carbon energy
12 economy, alternative low-carbon energy carriers that can
13 support the needs of energy storage, resiliency, and
14 emissions reductions are essential.

15 (3) Hydrogen, or its derivatives, has significant
16 potential as a low-carbon energy carrier. Hydrogen is a
17 storable gas with high energy density and zero CO₂
18 emissions at the point of use. Hydrogen can be produced in
19 a variety of low-carbon or no-carbon methods.

20 (4) Methane emissions from organic waste are a
21 powerful greenhouse gas with approximately 25 times the
22 global warming potential of carbon dioxide.

23 (5) These methane emissions that would otherwise enter

1 the Earth's atmosphere, or non-beneficially flared, can be
2 captured and converted to renewable gas to create a fuel
3 compatible with natural gas utility systems that is
4 considered carbon-neutral and under certain circumstances
5 can be carbon-negative.

6 (7) Constructing a renewable gas production facility
7 to capture this methane from organic waste or other
8 renewable resources for use by the utility or its
9 customers has the added benefit of displacing geologic
10 natural gas, thus integrating and beneficially using what
11 would otherwise be waste methane and reducing the State's
12 carbon footprint, among other environmental benefits.

13 (8) Encouraging the gas utility industry to undertake
14 certain physical plant investments will promote the
15 development of the renewable gas and other low-carbon
16 fuels industry which, in turn, will create economic
17 activity and jobs in this State while also improving the
18 environment.

19 (9) Including renewable gas and other low-carbon fuels
20 resources in a natural gas utility's supply portfolio is a
21 cost effective way to provide beneficial environmental
22 impacts utilizing the natural gas utility infrastructure.

23 (10) The development of renewable gas and other
24 low-carbon fuels resources serves the public interest and
25 should be encouraged to leverage the natural gas system to
26 reduce greenhouse gas emissions and support a smooth

1 transition to a low-carbon energy economy in Illinois.

2 Section 10. Definitions. As used in this Act:

3 "Biogas" means a mixture consisting of primarily methane
4 and carbon dioxide that is released from the biological
5 decomposition or conversion of organic materials, including,
6 without limitation, biomass, manure, plant material, sewage,
7 and landfill waste.

8 "Biomass" has the meaning given that term in subsection
9 (d) of Section 16-127 of the Public Utilities Act.

10 "Commission" means the Illinois Commerce Commission.

11 "Environmental commodities" means non-tangible energy
12 credits, and any and all current and future rights, credits,
13 benefits, air quality credits, methane capture credits,
14 renewable energy credits, emission reductions, offsets, and
15 allowances, howsoever referred to, associated with the
16 capture, production, generation, transportation, use, and
17 environmental characteristics of biogas and low-carbon fuels,
18 the displacement of fossil-based natural gas for any use
19 (including, without limitation, thermal use, electricity
20 generation, and use as a transportation fuel), the reduction
21 of air pollutants or the avoidance of the emission of any gas,
22 chemical or other substance, including, without limitation,
23 any similar commodities, whether arising out of international,
24 federal, State, or local laws or regulations.

25 "Facility" means a facility or any part of the equipment

1 located at a facility that is used to create biogas, hydrogen,
2 low-carbon fuels, methane hydrogen, or other fuels, gather
3 biogas, gather hydrogen, gather low-carbon fuels or other
4 sources to make low-carbon fuels, process biogas or other
5 sources into low-carbon fuels, inject low-carbon fuels into a
6 natural gas pipeline or distribution system or determine the
7 constituents of low-carbon fuels before the injection of the
8 low-carbon Fuels into a natural gas pipeline or distribution
9 system.

10 "Low-carbon fuels" means renewable gas and other
11 low-carbon fuels, collectively or interchangeably.

12 "Natural gas utility" means a public utility that provides
13 natural gas distribution services in Illinois.

14 "Other low-carbon fuels" means any of the following
15 products processed to meet pipeline quality standards or
16 transportation fuel grade requirements:

17 (1) hydrogen or other fuels derived from zero-carbon
18 or low-carbon energy sources or from other sources where
19 the CO₂ produced is capture and stored; or

20 (2) methane gas derived from hydrogen or other fuels
21 derived from zero-carbon or low-carbon energy sources or
22 from other sources where the CO₂ produced is capture and
23 stored.

24 "Renewable energy sources" means hydroelectric,
25 geothermal, solar photovoltaic, wind, tidal, wave, biomass, or
26 biogas energy sources.

1 "Renewable gas" means any of the following products
2 processed to meet pipeline quality standards or transportation
3 fuel grade requirements:

4 (1) biogas;

5 (2) hydrogen derived from renewable energy sources; or

6 (3) methane gas derived from any combination of:

7 (A) biogas;

8 (B) hydrogen derived from renewable energy
9 sources; or

10 (C) carbon dioxide.

11 Section 15. Renewable gas and low-carbon fuels programs.

12 (a) A natural gas utility shall incorporate low-carbon
13 fuels into its natural gas supply portfolio. The goals for the
14 total amount of renewable gas and other low-carbon fuels
15 incorporated by the natural gas utility shall be as follows:

16 (1) by January 1, 2030, not less than 2% of the natural
17 gas utility's total gas supply portfolio (by volume);

18 (2) by January 1, 2035, not less than 3% of the natural
19 gas utility's total gas supply portfolio (by volume).

20 The calculation of the share of the supply portfolio shall
21 not include the volume of gas of any type delivered but not
22 sold by the natural gas utility.

23 (b) The natural gas utility shall make progress towards
24 the goals set forth in this Section prior to the first
25 milestone set forth in paragraph (1) of subsection (a). Within

1 2 years after the effective date of this Act, the natural gas
2 utility shall submit a plan setting forth, as of the date of
3 the plan, how it expects to achieve the goals set forth in
4 paragraphs (1) and (2) of subsection (a). This plan shall also
5 include a description of the natural gas utility's progress
6 towards the goals set forth in paragraphs (1) and (2) of
7 subsection (a).

8 (c) For purposes of meeting the goals set forth in
9 subsection (a), low-carbon fuels that are purchased by the
10 natural gas utility must include environmental commodities
11 associated with the gas. Nothing in this Section shall be
12 interpreted as preventing the gas utility from purchasing
13 low-carbon fuels without environmental commodities, although
14 such purchases shall not be applicable to meeting the goals
15 set forth in subsection (a) of this Section.

16 (d) A natural gas utility may seek authorization from the
17 Commission under this Section to engage in low-carbon fuels
18 activities, including, without limitation:

19 (1) making a financial investment in a low-carbon
20 fuels facility, including, but not limited to, owning, in
21 whole or in part, and operating a low-carbon fuels
22 facility connected to its distribution system;

23 (2) contracting with a producer of low-carbon fuels to
24 purchase gas supply from a low-carbon fuels facility;

25 (3) extending the transmission or distribution system
26 of the natural gas utility to interconnect with a

1 low-carbon fuels facility;

2 (4) purchasing gas produced from a low-carbon fuels
3 facility, whether or not the gas has environmental
4 commodities:

5 (A) to incorporate the gas produced from a
6 low-carbon fuels facility into the supply portfolio of
7 the natural gas utility; or

8 (B) to sell the gas produced from a low-carbon
9 fuels facility directly to the customers of the
10 natural gas utility;

11 (5) participating in a State or federal renewable
12 energy program or project if participation in the program
13 or project by the natural gas utility:

14 (A) consists of the purchase or sale of gas
15 produced by a low-carbon fuels facility or
16 environmental commodities by the natural gas utility;
17 and

18 (B) results in a reduction of the cost of gas
19 produced from a low-carbon fuels facility to the
20 customers of the natural gas utility;

21 (6) providing customers of the natural gas utility
22 with the option to purchase gas produced from a low-carbon
23 fuels facility, with or without environmental commodities,
24 directly from the natural gas utility;

25 (7) any other activity which develops sources of
26 low-carbon fuels in this State for the purpose of

1 providing the environmental benefits to this State noted
2 in subsection (e), creating jobs through the construction
3 and operation of low-carbon fuels facilities in this State
4 or diversifying the supply of energy in this State; or

5 (8) any other prudently incurred investments made by a
6 natural gas utility that contribute to the natural gas
7 utility meeting the targets set forth in subsection (a).

8 (e) The Commission shall approve a low-carbon fuels
9 activity pursuant to subsection (d) if it determines the
10 low-carbon fuels activity investment and expenses are: (1)
11 consistent with the provisions of this Section; and (2) the
12 natural gas utility has demonstrated that the low-carbon fuels
13 activity provides one or more of the following environmental
14 benefits to this State:

15 (1) the reduction or avoidance of emissions of any air
16 pollutant or greenhouse gas in this State;

17 (2) the displacement of geologic natural gas with
18 low-carbon fuels;

19 (3) the reduction or avoidance of any pollutant that
20 could have an adverse impact on the waters of this State;
21 or

22 (4) the alleviation of a local nuisance within this
23 State that is associated with the emission of odors.

24 Investments and costs incurred pursuant to this Section
25 shall be deemed prudent and reasonable if the Commission
26 determines that the natural gas utility's expenditures are

1 consistent with the provisions of this Section. The Commission
2 shall make determinations as to whether the execution of the
3 investments and the costs incurred pursuant to this Section
4 are reasonable and prudent in the natural gas utility's next
5 rate proceeding.

6 (f) The Commission shall review and, by order, approve, or
7 approve as modified, the natural gas utility's low-carbon
8 fuels activity proposal within 180 days after the date on
9 which it is filed. In the event the Commission approves the
10 proposed natural gas activity with modifications, the
11 Commission's order shall not become a final order subject to
12 petitions for rehearing until 15 days after service of same by
13 the Commission. The utility shall have 14 days following the
14 date of service of the order to notify the Commission in
15 writing whether it will accept any modifications so identified
16 in the order or whether it has elected not to proceed with the
17 proposal. If the utility notifies the Commission that it will
18 accept such modifications, the Commission shall issue an
19 amended order, without further hearing, within 14 days
20 following such notification, approving the proposal as
21 modified and such order shall be considered to be a final order
22 of the Commission subject to petitions for rehearing and
23 appellate procedures.

24 (g) All environmental commodities from low-carbon fuels
25 resulting from the purchase of low-carbon fuels for gas supply
26 or the ownership of a low-carbon fuels facility shall be

1 applied to the benefit of gas customers by reducing greenhouse
2 gas emissions in the State of Illinois through: (1) where
3 possible given the nature of the applicable environmental
4 commodities, by offsetting direct greenhouse gas emissions
5 from gas utility operations, including methane emissions, and
6 (2) replacing customer consumption of conventional natural gas
7 with low-carbon fuels, or another application that will reduce
8 greenhouse gas emissions in the State of Illinois.

9 (h) The cumulative amount of estimated rate impact of the
10 low-carbon fuels activities, measured beginning with the date
11 of the natural gas utility's most recent delivery service rate
12 order, shall not exceed an annual average 2% per year of the
13 utility's delivery base rate revenues. Each natural gas
14 utility request for authorization from the Commission under
15 subsection (d) shall include an estimate of the rate impacts
16 associated with the proposed low-carbon fuels activities. If
17 the natural gas utility estimates that the incremental rate
18 impact of a proposed low-carbon fuels natural gas activity
19 causes the natural gas utility to exceed the rate impact
20 limits contained in this subsection, the natural gas utility's
21 filing shall provide for a curtailment or delay the proposed
22 implementation of the low-carbon fuels activity as required to
23 maintain rate impacts below the limits set forth in this
24 subsection.

25 (i) The Commission shall adopt rules governing filing
26 requirements, reporting requirements, and the process for

1 natural gas utilities to fully recover prudently incurred
2 costs associated with low-carbon fuels activity described in
3 subsection (d). Rules adopted by the Commission under this
4 Section may not prohibit an affiliated interest of a natural
5 gas utility from making a capital investment in a low-carbon
6 fuels production project if the affiliated interest, as
7 defined in Section 7-101 of the Public Utilities Act is not a
8 public utility. The Commission shall adopt rules pursuant to
9 this subsection not later than December 31, 2021.

10 Section 90. The Illinois Administrative Procedure Act is
11 amended by adding Section 5-45.8 as follows:

12 (5 ILCS 100/5-45.8 new)

13 Sec. 5-45.8. Emergency rulemaking; Renewable Gas and
14 Low-Carbon Fuels Act. To provide for the expeditious and
15 timely implementation of the Renewable Gas and Low-Carbon
16 Fuels Act, emergency rules implementing the Renewable Gas and
17 Low-Carbon Fuels Act may be adopted in accordance with Section
18 5-45 by the Illinois Commerce Commission. The adoption of
19 emergency rules authorized by Section 5-45 and this Section is
20 deemed to be necessary for the public interest, safety, and
21 welfare.

22 This Section is repealed on January 1, 2027.

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