

HB4300



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB4300

Introduced 1/5/2022, by Rep. Jay Hoffman

SYNOPSIS AS INTRODUCED:

220 ILCS 5/9-244

from Ch. 111 2/3, par. 9-244

Amends the Public Utilities Act. Provides that the Illinois Commerce Commission, upon petition by a public utility (rather than an electric or gas public utility), and after notice and hearing, may authorize for some or all of the regulated services of that utility, the implementation of one or more alternative rate programs. Effective immediately.

LRB102 19129 SPS 27894 b

A BILL FOR

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 9-244 as follows:

6 (220 ILCS 5/9-244) (from Ch. 111 2/3, par. 9-244)

7 Sec. 9-244. Alternative rate regulation.

8 (a) Notwithstanding any of the ratemaking provisions of
9 this Article IX or other Sections of this Act, or the
10 Commission's rules that are deemed to require rate of return
11 regulation, and except as provided in Article XVI, the
12 Commission, upon petition by a ~~an electric or gas~~ public
13 utility, and after notice and hearing, may authorize for some
14 or all of the regulated services of that utility, the
15 implementation of one or more programs consisting of (i)
16 alternatives to rate of return regulation, including but not
17 limited to earnings sharing, rate moratoria, price caps or
18 flexible rate options, or (ii) other regulatory mechanisms
19 that reward or penalize the utility through the adjustment of
20 rates based on utility performance. In the case of other
21 regulatory mechanisms that reward or penalize utilities
22 through the adjustment of rates based on utility performance,
23 the utility's performance shall be compared to standards

1 established in the Commission order authorizing the
2 implementation of other regulatory mechanisms. The Commission
3 is specifically authorized to approve in response to such
4 petitions different forms of alternatives to rate of return
5 regulation or other regulatory mechanisms to fit the
6 particular characteristics and requirements of different
7 utilities and their service territories.

8 (b) The Commission shall approve the program if it finds,
9 based on the record, that:

10 (1) the program is likely to result in rates lower
11 than otherwise would have been in effect under traditional
12 rate of return regulation for the services covered by the
13 program and that are consistent with the provisions of
14 Section 9-241 of the Act; and

15 (2) the program is likely to result in other
16 substantial and identifiable benefits that would be
17 realized by customers served under the program and that
18 would not be realized in the absence of the program; and

19 (3) the utility is in compliance with applicable
20 Commission standards for reliability and implementation of
21 the program is not likely to adversely affect service
22 reliability; and

23 (4) implementation of the program is not likely to
24 result in deterioration of the utility's financial
25 condition; and

26 (5) implementation of the program is not likely to

1 adversely affect the development of competitive markets;
2 and

3 (6) the electric utility is in compliance with its
4 obligation to offer delivery services pursuant to Article
5 XVI; and

6 (7) the program includes annual reporting requirements
7 and other provisions that will enable the Commission to
8 adequately monitor its implementation of the program; and

9 (8) the program includes provisions for an equitable
10 sharing of any net economic benefits between the utility
11 and its customers to the extent the program is likely to
12 result in such benefits.

13 The Commission shall issue its order approving or denying
14 the program no later than 270 days from the date of filing of
15 the petition. Any program approved under this Section shall
16 continue in effect until revised, modified or terminated by
17 order of the Commission as provided in this Section. If the
18 Commission cannot make the above findings, it shall
19 specifically identify in its order the reason or reasons why
20 the proposed program does not meet the above criteria, and
21 shall identify any modifications supported in the record, if
22 any, that would cause the program to satisfy the above
23 criteria. In the event the order identifies any such
24 modifications it shall not become a final order subject to
25 petitions for rehearing until 15 days after service of same by
26 the Commission. The utility shall have 14 days following the

1 date of service of the order to notify the Commission in
2 writing whether it will accept any modifications so identified
3 in the order or whether it has elected not to proceed with the
4 program. If the utility notifies the Commission that it will
5 accept such modifications, the Commission shall issue an
6 amended order, without further hearing, within 14 days
7 following such notification, approving the program as modified
8 and such order shall be considered to be a final order of the
9 Commission subject to petitions for rehearing and appellate
10 procedures.

11 (c) The Commission shall open a proceeding to review any
12 program approved under subsection (b) 2 years after the
13 program is first implemented to determine whether the program
14 is meeting its objectives, and may make such revisions, no
15 later than 270 days after the proceeding is opened, as are
16 necessary to result in the program meeting its objectives. A
17 utility may elect to discontinue any program so revised. The
18 Commission shall not otherwise direct a utility to revise,
19 modify or cancel a program during its term of operation,
20 except as found necessary, after notice and hearing, to ensure
21 system reliability.

22 (d) Upon its own motion or complaint, the Commission may
23 investigate whether the utility is implementing an approved
24 program in accordance with the Commission order approving the
25 program. If the Commission finds after notice and hearing,
26 that the utility is not implementing the program in accordance

1 with such order, the Commission shall order the utility to
2 comply with the terms of the order. Complaints relating to the
3 program filed under Section 9-250 of this Act, alleging that
4 the program does not comply with that Section or the
5 requirements of subsection (b) shall not be filed sooner than
6 one year after the review provided for in subsection (c). The
7 complainant shall bear the burden of proving the allegations
8 in the complaint.

9 (e) The Commission shall not be authorized to allow or
10 order an electric utility to place a program into effect,
11 pursuant to this Section, applicable to delivery services
12 provided by a utility, unless the utility already has in
13 effect a delivery services tariff conforming to the
14 requirements of Section 16-108 of this Act.

15 (f) The Commission may, upon subsequent petition by the
16 utility, after notice and hearing, authorize the extension of
17 a program that was previously approved pursuant to this
18 Section or approve revisions or modifications of such a
19 program to be effective, after the initially approved program
20 has been in effect. Any such petition seeking an extension,
21 revision, or modification of such a program must be
22 accompanied by an evaluation of the program addressing the
23 criteria set forth in subsection (b) hereof. The utility's
24 petition may, but is not required to, specify a termination
25 date for the extended, revised or modified program. The
26 Commission may require a review of the extended, revised, or

1 modified program at such intervals as may be ordered by the
2 Commission, for the purpose of determining whether the program
3 should be revised, modified, or terminated.

4 (Source: P.A. 89-194, eff. 1-1-96; 90-561, eff. 12-16-97.)

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