



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5760

Introduced 3/5/2024, by Rep. Eva-Dina Delgado

SYNOPSIS AS INTRODUCED:

220 ILCS 5/16-115C

Amends the Public Utilities Act. Allows the Illinois Commerce Commission to deny a license for an agent, broker, or consultant engaged in the procurement or sale of retail electricity supply for third parties if the Commission determines the applicant has failed to demonstrate that the applicant possesses the necessary competence or is unlikely to fulfill the applicant's ongoing obligations as an agent, broker, or consultant. Provides that violations of the provisions related to the licensure of agents, brokers, and consultants engaged in the procurement or sale of retail electricity supply for third parties shall be as follows: (1) for a first violation, the Commission may, in addition or as an alternative to the suspension of a license, impose a fine up to \$5,000 per violation; (2) for a second violation within a 5-year period, the Commission may (rather than shall) suspend the license of the person or entity for a period of not less than 6 months and, in addition or as an alternative, impose a fine up to \$10,000 per violation; and (3) for a third or subsequent violation within a 5-year period, the Commission may (rather than shall) suspend the license of the disciplined person or entity for a period of not less than 2 years and, in addition or as an alternative, impose a fine up to \$20,000 per violation.

LRB103 36123 LNS 66214 b

1 AN ACT concerning regulations.

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 16-115C as follows:

6 (220 ILCS 5/16-115C)

7 Sec. 16-115C. Licensure of agents, brokers, and
8 consultants engaged in the procurement or sale of retail
9 electricity supply for third parties.

10 (a) The purpose of this Section is to adopt licensing and
11 code of conduct rules in a competitive retail electricity
12 market to protect Illinois consumers from unfair or deceptive
13 acts or practices and to provide persons acting as agents,
14 brokers, and consultants engaged in the procurement or sale of
15 retail electricity supply for third parties with notice of the
16 illegality of those acts or practices.

17 (a-5) All third-party sales representatives engaged in the
18 marketing of retail electricity supply must, prior to the
19 customer signing a contract, disclose that they are not
20 employed by the electric utility operating in the applicable
21 service territory.

22 (b) For purposes of this Section, "agents, brokers, and
23 consultants engaged in the procurement or sale of retail

1 electricity supply for third parties" means any person or
2 entity that attempts to procure on behalf of or sell retail
3 electric service to an electric customer in the State.
4 "Agents, brokers, and consultants engaged in the procurement
5 or sale of retail electricity supply for third parties" does
6 not include the Illinois Power Agency or any of its employees,
7 any entity licensed as an alternative retail electric supplier
8 pursuant to 83 Ill. Adm. Code 451 offering retail electric
9 service on its own behalf, any person acting exclusively on
10 behalf of a single alternative retail electric supplier on
11 condition that exclusivity is disclosed to any third party
12 contracted in such agent capacity, any person acting
13 exclusively on behalf of a retail electric supplier on
14 condition that exclusivity is disclosed to any third party
15 contracted in such agent capacity, any person or entity
16 representing a municipal power agency, as defined in Section
17 11-119.1-3 of the Illinois Municipal Code, or any person or
18 entity that is attempting to procure on behalf of or sell
19 retail electric service to a third party that has aggregate
20 billing demand of all of its affiliated electric service
21 accounts in Illinois of greater than 1,500 kilowatts.

22 (c) No person or entity shall act as an agent, broker, or
23 consultant engaged in the procurement or sale of retail
24 electricity supply for third parties unless that person or
25 entity is licensed by the Commission under this Section or is
26 offering services on their own behalf under 83 Ill. Adm. Code

1 451. A license granted pursuant to this Section is not
2 property, and the grant of a license to an entity does not
3 create a property interest in the license.

4 (d) The Commission shall create requirements for licensure
5 as an agent, broker, or consultant engaged in the procurement
6 or sale of retail electricity supply for third parties, and
7 may, in its discretion, deny a license if the Commission
8 determines the applicant has failed to demonstrate that the
9 applicant possesses the necessary competence or is unlikely to
10 fulfill the applicant's ongoing obligations as an agent,
11 broker, or consultant. The requirements ~~which~~ shall include
12 all of the following criteria:

13 (1) Technical competence.

14 (2) Managerial competence.

15 (3) Financial responsibility, including the posting of
16 an appropriate performance bond.

17 (4) Annual reporting requirements.

18 (e) Any person or entity required to be licensed under
19 this Section must:

20 (1) disclose in plain language in writing to all
21 persons it solicits (i) before July 1, 2011, the total
22 anticipated remuneration to be paid to it by any third
23 party over the period of the proposed underlying customer
24 contract and (ii) on or after July 1, 2011, the total price
25 per kilowatt-hour, and the total anticipated cost,
26 inclusive of all fees or commissions received by the

1 licensee, to be paid by the customer over the period of the
2 proposed underlying customer contract;

3 (2) disclose, if applicable, to all customers, prior
4 to the customer signing a contract, the fact that they
5 will be receiving compensation from the supplier;

6 (3) not hold itself out as independent or unaffiliated
7 with any supplier, or both, or use words reasonably
8 calculated to give that impression, unless the person
9 offering service under this Section has no contractual
10 relationship with any retail electricity supplier or its
11 affiliates regarding retail electric service in Illinois;

12 (4) not utilize false, misleading, materially
13 inaccurate, defamatory, or otherwise deceptive language or
14 materials in the soliciting or providing of its services;

15 (5) maintain copies of all marketing materials
16 disseminated to third parties for a period of not less
17 than 3 years;

18 (6) not present electricity pricing information in a
19 manner that favors one supplier over another, unless a
20 valid pricing comparison is made utilizing all relevant
21 costs and terms; and

22 (7) comply with the requirements of Sections 2EE, 2FF,
23 2GG, and 2HH of the Consumer Fraud and Deceptive Business
24 Practices Act.

25 (f) Any person or entity licensed under this Section shall
26 file with the Commission all of the following information no

1 later than March of each year:

2 (1) A verified report detailing any and all
3 contractual relationships that it has with certified
4 electricity suppliers in the State regarding retail
5 electric service in Illinois.

6 (2) A verified report detailing the distribution of
7 its customers with the various certified electricity
8 suppliers in Illinois during the prior calendar year. A
9 report under this Section shall not be required to contain
10 customer-identifying information.

11 A public redacted version of the verified report may
12 be submitted to the Commission along with a proprietary
13 version. The public redacted version may redact from the
14 verified report the name or names of every certified
15 electricity supplier contained in the report to protect
16 against disclosure of competitively sensitive market share
17 information. The information shall be afforded proprietary
18 treatment for 2 years after the date of the filing of the
19 verified report.

20 (3) A verified statement of any changes to the
21 original licensure qualifications and notice of continuing
22 compliance with all requirements.

23 (g) The Commission shall have jurisdiction over
24 complaints, including on the Commission's own motion, for
25 violations of this Section. The findings of a violation of
26 this Section by the Commission shall result in discipline on a

1 progressive scale. For a first violation, the Commission may~~7~~
2 ~~in its discretion,~~ suspend the license of the person or entity
3 for a period of no less than one month and, in addition or as
4 an alternative, impose a fine up to \$5,000 per violation. For a
5 second violation within a 5-year period, the Commission may
6 ~~shall~~ suspend the license of the person or entity for a period
7 of not less than 6 months and, in addition or as an
8 alternative, impose a fine up to \$10,000 per violation. For a
9 third or subsequent violation within a 5-year period, the
10 Commission may ~~shall~~ suspend the license of the disciplined
11 person or entity for a period of not less than 2 years and, in
12 addition or as an alternative, impose a fine up to \$20,000 per
13 violation. Notwithstanding the minimum progressive
14 suspensions, the Commission shall have authority, in its
15 discretion, to impose whatever reasonable disciplinary
16 measures it deems appropriate for any violation, including,
17 but not limited to, terminating the license of the person or
18 entity.

19 (h) This Section shall not apply to a retail customer that
20 operates or manages either directly or indirectly any
21 facilities, equipment, or property used or contemplated to be
22 used to distribute electric power or energy if that retail
23 customer is a political subdivision or public institution of
24 higher education of this State, or any corporation, company,
25 limited liability company, association, joint-stock company or
26 association, firm, partnership, or individual, or their

1 lessees, trusts, or receivers appointed by any court
2 whatsoever that are owned or controlled by the political
3 subdivision, public institution of higher education, or
4 operated by any of its lessees or operating agents.

5 (Source: P.A. 102-958, eff. 1-1-23.)