

1 AN ACT concerning public utilities.

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 adding
5 Section 7-210 as follows:

6 (220 ILCS 5/7-210 new)

7 Sec. 7-210. Commission oversight of nonpublic, unregulated
8 sales at retail of natural gas by public utilities.

9 (a) This Section shall apply to any gas utility that served
10 more than 60,000 gas customers but less than 75,000 gas
11 customers in this State on January 1, 2000 and that provides
12 competitive electric power and energy to electric delivery
13 service customers through a business division of its electric
14 utility pursuant to Section 16-116. For the purposes of this
15 Section, terms shall have the same meaning as defined in
16 Section 7-108, Article XVI, and Article XIX.

17 (b) After the effective date of this amendatory Act of the
18 93rd General Assembly, unregulated sales of natural gas by a
19 gas utility within or outside its service area shall be subject
20 to the provisions of this Section. This Section shall not be
21 interpreted to invalidate any contract for unregulated sales of
22 natural gas executed by a gas utility prior to the effective
23 date of this amendatory Act of the 93rd General Assembly, but
24 unregulated sales of natural gas pursuant to such contract
25 after the effective date of this amendatory Act of the 93rd
26 General Assembly shall be subject to the provisions of this
27 Section.

28 (c) A gas utility offering unregulated sales of natural gas
29 to an end-use customer within or outside its service area shall
30 be subject to Sections 7-102(g), 7-205, 7-206, and 9-230 with
31 respect to such sales.

32 (d) Notwithstanding any language of Article XIX to the

1 contrary, a gas utility offering unregulated sales of natural
2 gas to a residential customer or a small commercial customer
3 within or outside its service area shall be subject to Sections
4 19-110(e) (2), 19-110(e) (3), 19-110(e) (5), 19-115, and 19-120.

5 (e) A gas utility offering unregulated sales of natural gas
6 to an end-use customer within or outside its service area shall
7 not subsidize such sales through the utility's regulated
8 business. Costs and revenues from the gas utility's unregulated
9 sales of gas to an end-use customer within or outside its
10 service area shall not be included in the calculation of the
11 utility's regulated gas rates and charges.

12 (f) A gas utility offering unregulated sales of natural gas
13 to an end-use customer within or outside its service area shall
14 not discriminate in the provision of regulated gas service
15 based upon the existence or terms of an unregulated sale of
16 natural gas.

17 (g) The Commission shall require a gas utility to file
18 reports regarding its unregulated sales of natural gas in the
19 State. The reports shall be treated as confidential documents.
20 To the extent the Commission determines it to be necessary and
21 in the public interest, the Commission may order an audit of a
22 gas utility regarding its unregulated sales of natural gas in
23 the State.

24 (h) The Commission shall have the authority to require the
25 gas utility to file its contracts for unregulated sales of
26 natural gas in the State. The contracts shall be treated as
27 confidential documents.

28 (i) Within 120 days after the effective date of this
29 amendatory Act of the 93rd General Assembly, the Commission
30 shall adopt provisions requiring functional separation between
31 a gas utility's unregulated retail sales of natural gas in the
32 State and its regulated retail gas services in the State. In
33 establishing or considering the functional separations
34 provisions, the Commission shall take into account the effects
35 on the cost and reliability of service and the obligation of
36 the gas utility under the Act. The Commission shall adopt

1 separations provisions that are a cost effective means to
2 ensure compliance with this Section. The provisions adopted by
3 the Commission shall permit a gas utility to offer unregulated
4 retail sales of natural gas in the State through the same
5 business division of the utility that offers competitive
6 electric power and energy to electric delivery service
7 customers. Until provisions are adopted by the Commission, the
8 gas utility shall comply with the functional separations rules
9 for electric utilities adopted pursuant to Section 16-119A, to
10 the extent determined applicable by the Commission through
11 emergency rules established within 60 days of the passage of
12 this Act.

13 (j) A gas utility shall not release or assign gas storage
14 capacity procured for its regulated Illinois retail customers
15 to its business division offering unregulated retail sales of
16 natural gas or allow such storage capacity to be managed by
17 that business division.

18 (k) Except as approved by the Commission, a gas utility
19 shall not use gas commodity or interstate pipeline services for
20 unregulated retail sales of natural gas in the State if such
21 commodity or service was procured for its regulated Illinois
22 retail customers.

23 (l) In addition to any other remedy provided in the Act,
24 the Commission may order a gas utility to cease offering
25 unregulated retail sales of natural gas in the State if it
26 finds, after notice and hearing, that the gas utility willfully
27 violated this Section.

28 (m) This Section shall not be applicable to unregulated
29 sales of natural gas by an affiliate of a gas utility. Nothing
30 herein shall be construed as impacting the applicability of
31 other Sections of the Act to the unregulated sale of natural
32 gas by an affiliate.