



Sen. James F. Clayborne Jr.

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1 AMENDMENT TO SENATE BILL 2807

2 AMENDMENT NO. _____. Amend Senate Bill 2807, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Public Utilities Act is amended by changing
6 Sections 3-105, 3-121, and 19-105 as follows:

7 (220 ILCS 5/3-105) (from Ch. 111 2/3, par. 3-105)

8 Sec. 3-105. Public utility. "Public utility" means and
9 includes, except where otherwise expressly provided in this
10 Section, every corporation, company, limited liability
11 company, association, joint stock company or association,
12 firm, partnership or individual, their lessees, trustees, or
13 receivers appointed by any court whatsoever that owns,
14 controls, operates or manages, within this State, directly or
15 indirectly, for public use, any plant, equipment or property
16 used or to be used for or in connection with, or owns or
17 controls any franchise, license, permit or right to engage in:

18 a. the production, storage, transmission, sale,
19 delivery or furnishing of heat, cold, power, electricity,
20 water, or light, except when used solely for communications
21 purposes;

22 b. the disposal of sewerage; or

23 c. the conveyance of oil or gas by pipe line.

24 "Public utility" does not include, however:

1 1. public utilities that are owned and operated by any
2 political subdivision, public institution of higher
3 education or municipal corporation of this State, or public
4 utilities that are owned by such political subdivision,
5 public institution of higher education, or municipal
6 corporation and operated by any of its lessees or operating
7 agents;

8 2. water companies which are purely mutual concerns,
9 having no rates or charges for services, but paying the
10 operating expenses by assessment upon the members of such a
11 company and no other person;

12 3. electric cooperatives as defined in Section 3-119;

13 4. the following natural gas cooperatives:

14 (A) residential natural gas cooperatives that are
15 not-for-profit corporations established for the
16 purpose of administering and operating, on a
17 cooperative basis, the furnishing of natural gas to
18 residences for the benefit of their members who are
19 residential consumers of natural gas. For entities
20 qualifying as residential natural gas cooperatives and
21 recognized by the Illinois Commerce Commission as
22 such, the State shall guarantee legally binding
23 contracts entered into by residential natural gas
24 cooperatives for the express purpose of acquiring
25 natural gas supplies for their members. The Illinois
26 Commerce Commission shall establish rules and
27 regulations providing for such guarantees. The total
28 liability of the State in providing all such guarantees
29 shall not at any time exceed \$1,000,000, nor shall the
30 State provide such a guarantee to a residential natural
31 gas cooperative for more than 3 consecutive years; and

32 (B) natural gas cooperatives that are
33 not-for-profit corporations operated for the purpose
34 of administering, on a cooperative basis, the

1 furnishing of natural gas for the benefit of their
2 members and that, prior to 90 days after the effective
3 date of this amendatory Act of the 94th General
4 Assembly, either had acquired or had entered into an
5 asset purchase agreement to acquire all or
6 substantially all of the operating assets of a public
7 utility or natural gas cooperative with the intention
8 of operating those assets as a natural gas cooperative;

9 5. sewage disposal companies which provide sewage
10 disposal services on a mutual basis without establishing
11 rates or charges for services, but paying the operating
12 expenses by assessment upon the members of the company and
13 no others;

14 6. (Blank);

15 7. cogeneration facilities, small power production
16 facilities, and other qualifying facilities, as defined in
17 the Public Utility Regulatory Policies Act and regulations
18 promulgated thereunder, except to the extent State
19 regulatory jurisdiction and action is required or
20 authorized by federal law, regulations, regulatory
21 decisions or the decisions of federal or State courts of
22 competent jurisdiction;

23 8. the ownership or operation of a facility that sells
24 compressed natural gas at retail to the public for use only
25 as a motor vehicle fuel and the selling of compressed
26 natural gas at retail to the public for use only as a motor
27 vehicle fuel; and

28 9. alternative retail electric suppliers as defined in
29 Article XVI.

30 (Source: P.A. 89-42, eff. 1-1-96; 90-561, eff. 12-16-97.)

31 (220 ILCS 5/3-121) (from Ch. 111 2/3, par. 3-121)

32 Sec. 3-121. As used in Section 2-202 of this Act, the term
33 "gross revenue" includes all revenue which (1) is collected by

1 a public utility subject to regulations under this Act (a)
2 pursuant to the rates, other charges, and classifications which
3 it is required to file under Section 9-102 of this Act and (b)
4 pursuant to emergency rates as permitted by Section 9-104 of
5 this Act, and (2) is derived from the intrastate public utility
6 business of such a utility. Such term does not include revenue
7 derived by such a public utility from the sale of public
8 utility services, products or commodities to another public
9 utility, ~~or~~ to an electric cooperative, or to a natural gas
10 cooperative for resale by such public utility, ~~or~~ electric
11 cooperative, or natural gas cooperative. "Gross revenue" shall
12 not include any charges added to customers' bills pursuant to
13 the provisions of Section 9-221, 9-221.1 and 9-222 of this Act
14 or consideration received from business enterprises certified
15 under Section 9-222.1 of this Act to the extent of such
16 exemption and during the period in which the exemption is in
17 effect.

18 (Source: P.A. 85-1021.)

19 (220 ILCS 5/19-105)

20 Sec. 19-105. Definitions. For the purposes of this Article,
21 the following terms shall be defined as set forth in this
22 Section.

23 "Alternative gas supplier" means every person,
24 cooperative, corporation, municipal corporation, company,
25 association, joint stock company or association, firm,
26 partnership, individual, or other entity, their lessees,
27 trustees, or receivers appointed by any court whatsoever, that
28 offers gas for sale, lease, or in exchange for other value
29 received to one or more customers, or that engages in the
30 furnishing of gas to one or more customers, and shall include
31 affiliated interests of a gas utility, resellers, aggregators
32 and marketers, but shall not include (i) gas utilities (or any
33 agent of the gas utility to the extent the gas utility provides

1 tariffed services to customers through an agent); (ii) public
2 utilities that are owned and operated by any political
3 subdivision, public institution of higher education or
4 municipal corporation of this State, or public utilities that
5 are owned by a political subdivision, public institution of
6 higher education, or municipal corporation and operated by any
7 of its lessees or operating agents; (iii) ~~residential~~ natural
8 gas cooperatives that are not-for-profit corporations operated
9 ~~established~~ for the purpose of administering ~~and operating~~, on
10 a cooperative basis, the furnishing of natural gas ~~to~~
11 ~~residences~~ for the benefit of their members who are ~~residential~~
12 consumers of natural gas; and (iv) the ownership or operation
13 of a facility that sells compressed natural gas at retail to
14 the public for use only as a motor vehicle fuel and the selling
15 of compressed natural gas at retail to the public for use only
16 as a motor vehicle fuel.

17 "Gas utility" means a public utility, as defined in Section
18 3-105 of this Act, that has a franchise, license, permit, or
19 right to furnish or sell gas or transportation services to
20 customers within a service area.

21 "Residential customer" means a customer who receives gas
22 utility service for household purposes distributed to a
23 dwelling of 2 or fewer units which is billed under a
24 residential rate or gas utility service for household purposes
25 distributed to a dwelling unit or units which is billed under a
26 residential rate and is registered by a separate meter for each
27 dwelling unit.

28 "Service area" means (i) the geographic area within which a
29 gas utility was lawfully entitled to provide gas to customers
30 as of the effective date of this amendatory Act of the 92nd
31 General Assembly and includes (ii) the location of any customer
32 to which the gas utility was lawfully providing gas utility
33 services on such effective date.

34 "Small commercial customer" means a nonresidential retail

1 customer of a natural gas utility who is identified by the
2 alternative gas supplier, prior to becoming a customer of the
3 alternative gas supplier, as consuming 5,000 or fewer therms of
4 natural gas during the previous year; provided that any
5 alternative gas supplier may remove the customer from
6 designation as a "small commercial customer" if the customer
7 consumes more than 5,000 therms of natural gas in any calendar
8 year after becoming a customer of the alternative gas supplier.

9 "Tariffed service" means a service provided to customers by
10 a gas utility as defined by its rates on file with the
11 Commission pursuant to the provisions of Article IX of this
12 Act.

13 "Transportation services" means those services provided by
14 the gas utility that are necessary in order for the storage,
15 transmission and distribution systems to function so that
16 customers located in the gas utility's service area can receive
17 gas from suppliers other than the gas utility and shall
18 include, without limitation, standard metering and billing
19 services.

20 (Source: P.A. 92-529, eff. 2-8-02; 92-852, eff. 8-26-02.)

21 Section 15. The General Not For Profit Corporation Act of
22 1986 is amended by changing Section 103.05 as follows:

23 (805 ILCS 105/103.05) (from Ch. 32, par. 103.05)

24 Sec. 103.05. Purposes and authority of corporations;
25 particular purposes; exemptions.

26 (a) Not-for-profit corporations may be organized under
27 this Act for any one or more of the following or similar
28 purposes:

- 29 (1) Charitable.
- 30 (2) Benevolent.
- 31 (3) Eleemosynary.
- 32 (4) Educational.

- 1 (5) Civic.
- 2 (6) Patriotic.
- 3 (7) Political.
- 4 (8) Religious.
- 5 (9) Social.
- 6 (10) Literary.
- 7 (11) Athletic.
- 8 (12) Scientific.
- 9 (13) Research.
- 10 (14) Agricultural.
- 11 (15) Horticultural.
- 12 (16) Soil improvement.
- 13 (17) Crop improvement.
- 14 (18) Livestock or poultry improvement.
- 15 (19) Professional, commercial, industrial, or trade
- 16 association.
- 17 (20) Promoting the development, establishment, or
- 18 expansion of industries.
- 19 (21) Electrification on a cooperative basis.
- 20 (22) Telephone service on a mutual or cooperative
- 21 basis.
- 22 (23) Ownership and operation of water supply
- 23 facilities for drinking and general domestic use on a
- 24 mutual or cooperative basis.
- 25 (24) Ownership or administration of residential
- 26 property on a cooperative basis.
- 27 (25) Administration and operation of property owned on
- 28 a condominium basis or by a homeowner association.
- 29 (26) Administration and operation of an organization
- 30 on a cooperative basis producing or furnishing goods,
- 31 services, or facilities primarily for the benefit of its
- 32 members who are consumers of those goods, services, or
- 33 facilities.
- 34 (27) Operation of a community mental health board or

1 center organized pursuant to the Community Mental Health
2 Act for the purpose of providing direct patient services.

3 (28) Provision of debt management services as
4 authorized by the Debt Management Service Act.

5 (29) Promotion, operation, and administration of a
6 ridesharing arrangement as defined in Section 1-176.1 of
7 the Illinois Vehicle Code.

8 (30) The administration and operation of an
9 organization for the purpose of assisting low-income
10 consumers in the acquisition of utility and telephone
11 services.

12 (31) Any purpose permitted to be exempt from taxation
13 under Sections 501(c) or 501(d) of the United States
14 Internal Revenue Code, as now in or hereafter amended.

15 (32) Any purpose that would qualify for tax-deductible
16 gifts under the Section 170(c) of the United States
17 Internal Revenue Code, as now or hereafter amended. Any
18 such purpose is deemed to be charitable under subsection
19 (a) (1) of this Section.

20 (33) Furnishing of natural gas on a cooperative basis.

21 (b) A corporation may be organized hereunder to serve in an
22 area that adjoins or borders (except for any intervening
23 natural watercourse) an area located in an adjoining state
24 intended to be similarly served, and the corporation may join
25 any corporation created by the adjoining state having an
26 identical purpose and organized as a not-for-profit
27 corporation. Whenever any corporation organized under this Act
28 so joins with a foreign corporation having an identical
29 purpose, the corporation shall be permitted to do business in
30 Illinois as one corporation; provided (1) that the name, bylaw
31 provisions, officers, and directors of each corporation are
32 identical, (2) that the foreign corporation complies with the
33 provisions of this Act relating to the admission of foreign
34 corporation, and (3) that the Illinois corporation files a

1 statement with the Secretary of State indicating that it has
2 joined with a foreign corporation setting forth the name
3 thereof and the state of its incorporation.

4 (Source: P.A. 92-33, eff. 7-1-01.)

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