



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB0432

Introduced 1/26/2007, by Rep. Thomas Holbrook

SYNOPSIS AS INTRODUCED:

220 ILCS 5/16-115

Amends the Electric Service Customer Choice and Rate Relief Law of 1997 in the Public Utilities Act. In a provision concerning an application for a certificate of service authority, exempts an applicant (i) whose principal business and source of revenue are not the generation, transmission, distribution, or sale of electricity, and (ii) if the applicant is making electricity sales due to historical precedent or convenience, those sales shall only be made to entities that are located on or adjacent to the premises of the applicant and if the total monthly energy consumption of those entities is less than 5% of the monthly energy consumption of the applicant. Effective immediately.

LRB095 06691 MJR 26803 b

FISCAL NOTE ACT
MAY APPLY

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 16-115 as follows:

6 (220 ILCS 5/16-115)

7 Sec. 16-115. Certification of alternative retail electric
8 suppliers.

9 (a) Any alternative retail electric supplier must obtain a
10 certificate of service authority from the Commission in
11 accordance with this Section before serving any retail customer
12 or other user located in this State. An alternative retail
13 electric supplier may request, and the Commission may grant, a
14 certificate of service authority for the entire State or for a
15 specified geographic area of the State.

16 (b) An alternative retail electric supplier seeking a
17 certificate of service authority shall file with the Commission
18 a verified application containing information showing that the
19 applicant meets the requirements of this Section. The
20 alternative retail electric supplier shall publish notice of
21 its application in the official State newspaper within 10 days
22 following the date of its filing. No later than 45 days after
23 the application is properly filed with the Commission, and such

1 notice is published, the Commission shall issue its order
2 granting or denying the application.

3 (c) An application for a certificate of service authority
4 shall identify the area or areas in which the applicant intends
5 to offer service and the types of services it intends to offer.
6 Applicants that seek to serve residential or small commercial
7 retail customers within a geographic area that is smaller than
8 an electric utility's service area shall submit evidence
9 demonstrating that the designation of this smaller area does
10 not violate Section 16-115A. An applicant that seeks to serve
11 residential or small commercial retail customers may state in
12 its application for certification any limitations that will be
13 imposed on the number of customers or maximum load to be
14 served.

15 (d) The Commission shall grant the application for a
16 certificate of service authority if it makes the findings set
17 forth in this subsection based on the verified application and
18 such other information as the applicant may submit:

19 (1) That the applicant possesses sufficient technical,
20 financial and managerial resources and abilities to
21 provide the service for which it seeks a certificate of
22 service authority. In determining the level of technical,
23 financial and managerial resources and abilities which the
24 applicant must demonstrate, the Commission shall consider
25 (i) the characteristics, including the size and financial
26 sophistication, of the customers that the applicant seeks

1 to serve, and (ii) whether the applicant seeks to provide
2 electric power and energy using property, plant and
3 equipment which it owns, controls or operates;

4 (2) That the applicant will comply with all applicable
5 federal, State, regional and industry rules, policies,
6 practices and procedures for the use, operation, and
7 maintenance of the safety, integrity and reliability, of
8 the interconnected electric transmission system;

9 (3) That the applicant will only provide service to
10 retail customers in an electric utility's service area that
11 are eligible to take delivery services under this Act;

12 (4) That the applicant will comply with such
13 informational or reporting requirements as the Commission
14 may by rule establish and provide the information required
15 by Section 16-112. Any data related to contracts for the
16 purchase and sale of electric power and energy shall be
17 made available for review by the Staff of the Commission on
18 a confidential and proprietary basis and only to the extent
19 and for the purposes which the Commission determines are
20 reasonably necessary in order to carry out the purposes of
21 this Act;

22 (5) That if the applicant, its corporate affiliates or
23 the applicant's principal source of electricity (to the
24 extent such source is known at the time of the application)
25 owns or controls facilities, for public use, for the
26 transmission or distribution of electricity to end-users

1 within a defined geographic area to which electric power
2 and energy can be physically and economically delivered by
3 the electric utility or utilities in whose service area or
4 areas the proposed service will be offered, the applicant,
5 its corporate affiliates or principal source of
6 electricity, as the case may be, provides delivery services
7 to the electric utility or utilities in whose service area
8 or areas the proposed service will be offered that are
9 reasonably comparable to those offered by the electric
10 utility, and provided further, that the applicant agrees to
11 certify annually to the Commission that it is continuing to
12 provide such delivery services and that it has not
13 knowingly assisted any person or entity to avoid the
14 requirements of this Section. For purposes of this
15 subparagraph, "principal source of electricity" shall mean
16 a single source that supplies at least 65% of the
17 applicant's electric power and energy, and the purchase of
18 transmission and distribution services pursuant to a filed
19 tariff under the jurisdiction of the Federal Energy
20 Regulatory Commission or a state public utility commission
21 shall not constitute control of access to the provider's
22 transmission and distribution facilities. The findings set
23 forth in this subparagraph shall not be required of an
24 applicant (i) whose principal business and source of
25 revenue are not the generation, transmission,
26 distribution, or sale of electricity, and (ii) if the

1 applicant is making electricity sales due to historical
2 precedent or convenience, those sales shall only be made to
3 entities that are located on or adjacent to the premises of
4 the applicant and if the total monthly energy consumption
5 of those entities is less than 5% of the monthly energy
6 consumption of the applicant;

7 (6) With respect to an applicant that seeks to serve
8 residential or small commercial retail customers, that the
9 area to be served by the applicant and any limitations it
10 proposes on the number of customers or maximum amount of
11 load to be served meet the provisions of Section 16-115A,
12 provided, that the Commission can extend the time for
13 considering such a certificate request by up to 90 days,
14 and can schedule hearings on such a request;

15 (7) That the applicant meets the requirements of
16 subsection (a) of Section 16-128; and

17 (8) That the applicant will comply with all other
18 applicable laws and regulations.

19 (e) A retail customer that owns a cogeneration or
20 self-generation facility and that seeks certification only to
21 provide electric power and energy from such facility to retail
22 customers at separate locations which customers are both (i)
23 owned by, or a subsidiary or other corporate affiliate of, such
24 applicant and (ii) eligible for delivery services, shall be
25 granted a certificate of service authority upon filing an
26 application and notifying the Commission that it has entered

1 into an agreement with the relevant electric utilities pursuant
2 to Section 16-118. Provided, however, that if the retail
3 customer owning such cogeneration or self-generation facility
4 would not be charged a transition charge due to the exemption
5 provided under subsection (f) of Section 16-108 prior to the
6 certification, and the retail customers at separate locations
7 are taking delivery services in conjunction with purchasing
8 power and energy from the facility, the retail customer on
9 whose premises the facility is located shall not thereafter be
10 required to pay transition charges on the power and energy that
11 such retail customer takes from the facility.

12 (f) The Commission shall have the authority to promulgate
13 rules and regulations to carry out the provisions of this
14 Section. On or before May 1, 1999, the Commission shall adopt a
15 rule or rules applicable to the certification of those
16 alternative retail electric suppliers that seek to serve only
17 nonresidential retail customers with maximum electrical
18 demands of one megawatt or more which shall provide for (i)
19 expedited and streamlined procedures for certification of such
20 alternative retail electric suppliers and (ii) specific
21 criteria which, if met by any such alternative retail electric
22 supplier, shall constitute the demonstration of technical,
23 financial and managerial resources and abilities to provide
24 service required by subsection (d) (1) of this Section, such as
25 a requirement to post a bond or letter of credit, from a
26 responsible surety or financial institution, of sufficient

1 size for the nature and scope of the services to be provided;
2 demonstration of adequate insurance for the scope and nature of
3 the services to be provided; and experience in providing
4 similar services in other jurisdictions.

5 (Source: P.A. 90-561, eff. 12-16-97; 91-50, eff. 6-30-99.)

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