



Rep. Kevin Joyce

Filed: 4/25/2007

09500HB0818ham002

LRB095 08558 MJR 35429 a

1 AMENDMENT TO HOUSE BILL 818

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 818, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Public Utilities Act is amended by adding  
6 Sections 16-131 and 16-132 as follows:

7 (220 ILCS 5/16-131 new)

8 Sec. 16-131. Prohibition against the installation,  
9 operation, and maintenance of electric distribution facilities  
10 and equipment.

11 (a) The General Assembly finds that the installation,  
12 maintenance, and operation of electric distribution facilities  
13 and equipment has traditionally been performed by electric  
14 utility employees and personnel of electric utility  
15 contractors who have the requisite skills, training, and  
16 experience to properly and safely install, maintain, and

1 operate these facilities and equipment. The General Assembly  
2 further finds that it is unjust and unreasonable and a public  
3 safety and system reliability hazard for retail customers or  
4 persons or entities on their behalf to install, maintain or  
5 operate electric distribution facilities or equipment.

6 (b) For purposes of this Section:

7 "Retail customer", "alternative retail electric supplier",  
8 and "electric utility" have the same meanings as those terms  
9 are defined in Section 16-102 of the Public Utilities Act.

10 "Electric distribution facilities and equipment" means any  
11 and all of the facilities and equipment, including, but not  
12 limited to, substations, distribution feeder circuits,  
13 switches, protective equipment, primary circuits, distribution  
14 transformers, line extensions and service extensions both  
15 above or below ground, conduit, risers, elbows, transformer  
16 pads, junction boxes, manholes, pedestals, conductors, and all  
17 associated fittings that connect the transmission system to  
18 either the weatherhead on the retail customer's building or  
19 other structure for above ground service or to the terminals on  
20 the meter base of the retail customer's building or other  
21 structure for below ground service.

22 (c) Notwithstanding any law, tariff or Commission rule,  
23 order, or decision to the contrary, no electric utility shall  
24 allow a retail customer or any person, corporation, or agent on  
25 behalf of such customer to install, operate, or maintain any  
26 electric distribution facilities and equipment. The

1 installation, operation, and maintenance of any electric  
2 distribution facilities and equipment shall be the obligation  
3 of the electric utility that provides delivery services to the  
4 retail customer.

5 (d) Subsection (c) of this Section shall not apply to a  
6 retail customer of a municipal system or electric cooperative  
7 as the terms "municipal system" and "electric cooperative" are  
8 respectively defined in Sections 3-119 and 16-102 of the Public  
9 Utilities Act.

10 (e) Subsection (c) of this Section shall not apply to a  
11 retail customer if that retail customer:

12 (1) receives electric energy or power to engage  
13 primarily in industrial, manufacturing, or large  
14 commercial activities of any kind, including activities  
15 ancillary or incidental thereto, and that retail customer  
16 receives at a point of delivery electric energy or power at  
17 a voltage of 2400 volts or greater; or

18 (2) is an alternative retail electric supplier using  
19 its own electric distribution facilities and equipment to  
20 serve its customers.

21 Nothing in this subsection (e) shall be construed to permit  
22 the retail customer to own, install, operate, or maintain the  
23 meter used by the electric utility or alternative retail  
24 electric supplier used to measure the electric power or energy  
25 usage of the retail customer. For purposes of this subsection  
26 (e), a "point of delivery" means the point at which the

1 electric utility or alternative retail electric supplier  
2 providing electric distribution facilities and equipment  
3 connects its facilities and equipment to the electric  
4 distribution facilities and equipment owned or rented by the  
5 retail customer, without regard to the location or ownership of  
6 transformers, substations, or meters.

7 (f) The employees of an electric utility, including the  
8 collective bargaining representative or representatives of  
9 such employees, that are obligated to install, operate, or  
10 maintain electric distribution facilities and equipment shall  
11 have an independent statutory cause of action under State law  
12 to file a complaint against an electric utility, retail  
13 customer or person, corporation, or agent acting on behalf of a  
14 retail customer in circuit court for alleged violations of  
15 subsection (c) of this Section.

16 The employees of an electric utility, including the  
17 collective bargaining representative or representatives of  
18 such employees, may file a complaint in the circuit court of  
19 Cook, Sangamon, or Madison County or the circuit court of any  
20 county in which the alleged violation of subsection (c) of this  
21 Section has or is about to occur in order to have the alleged  
22 violation stopped or prevented either by mandamus or  
23 injunction. The circuit court shall specify a time, not  
24 exceeding 21 days after the service of the copy of the  
25 complaint for mandamus or injunction for the filing of an  
26 answer, and in the meantime the named defendant or defendants

1 shall be restrained from continuing an alleged violation  
2 pending a hearing before the court. In the event of default, or  
3 after answer, the circuit court shall immediately inquire into  
4 the facts and circumstances of the case and enter an  
5 appropriate order with respect to the matters in the complaint.  
6 An appeal may be taken from the final judgment in the same  
7 manner and with the same effect as appeals are taken from  
8 judgments of the circuit court in other actions for mandamus or  
9 injunction.

10 Nothing in this subsection (f) shall limited the rights of  
11 employees of an electric utility, including the collective  
12 bargaining representative or representatives of such  
13 employees, that is obligated to install, operate, or maintain  
14 electric distribution facilities and equipment to file a  
15 complaint against the electric utility, retail customer, or  
16 person, corporation, or agent acting on behalf of a retail  
17 customer with the Commission for alleged violations of  
18 subsection (c) of this Section.

19 (g) In any case in which an employee of an electric  
20 utility, including the collective bargaining representative or  
21 representatives of such employees, demonstrates that an  
22 electric utility, retail customer or a person, corporation, or  
23 agent acting on behalf of a retail customer has violated or is  
24 about to violate subsection (c) of this Section, the circuit  
25 court shall permanently restrain the defendant or defendants  
26 from continuing the alleged violation and award the party

1 bringing the action the reasonable expenses of the litigation,  
2 including all reasonable attorney's fees. The circuit court  
3 shall impose a civil penalty of not less than \$2,000 and not  
4 greater than \$30,000 for each violation. Each violation of  
5 subsection (c) of this Section shall be considered a separate  
6 and distinct violation. In the event of a continuing violation,  
7 each day's continuance thereof shall be a separate and distinct  
8 offense, provided, however, that the cumulative penalty for any  
9 continuing violation shall not exceed \$500,000, and that these  
10 limits shall not apply where the violation was intentional and  
11 either (i) created substantial risk to the safety of the  
12 utility's employees or customers or the public; or (ii) was  
13 intended to cause economic benefits to accrue to the violator.  
14 No penalties shall accrue under this subsection (g) until 15  
15 days after the mailing of a notice to such party or parties  
16 that they are in violation of subsection (c) of this Section,  
17 except that this notice provision shall not apply when the  
18 violation was intentional.

19 (220 ILCS 5/16-132 new)

20 Sec. 16-132. Installation of new electric distribution  
21 facilities and equipment for retail customers; customer  
22 credits.

23 (a) It is the intent of the General Assembly that every  
24 electric utility meet minimum deadlines for the installation of  
25 new electric service requested by retail customers.

1       (b) For purposes of this Section:

2       "Agricultural use" has the same meaning as a person or  
3 entity engaged in activities defined as "production  
4 agriculture" under Section 3-35 of the Use Tax Act.

5       "Electric distribution facilities and equipment" has the  
6 same meaning as the term defined in subsection (b) of Section  
7 16-131 of this Act.

8       "Retail customer" means a retail customer as defined by  
9 Section 16-102 of this Act that receives or is eligible to  
10 receive delivery services from an electric utility and uses  
11 electric power or energy for residential use, agricultural use,  
12 or small commercial use. The term "residential use" for  
13 purposes of this Section shall include a subdivision developer  
14 requesting new electric service for one or more residences.

15       "Small commercial use" means the receipt at a single  
16 premises electric power or energy at a voltage of less than  
17 2,400 volts for use in commercial activities.

18       (c) The Commission shall promulgate rules establishing  
19 deadlines by which electric utilities must install electric  
20 distribution facilities and equipment so retail customers can  
21 receive new electric service. The rules shall be consistent  
22 with Section 16-131 of this Act and shall include fines,  
23 penalties, customer credits, and other enforcement mechanisms.  
24 In developing the rules, the Commission shall consider, at a  
25 minimum, the electric utility's gross annual intrastate  
26 revenue; the frequency, duration, and recurrence of the

1 violation; and the relative harm caused to the affected retail  
2 customer or other users of electric distribution facilities and  
3 equipment. In imposing fines, the Commission shall take into  
4 account compensation or credits paid by the electric utility to  
5 its retail customers pursuant to this Section. These rules  
6 shall become effective within one year after the effective date  
7 of this amendatory Act of the 95th General Assembly.

8 (d) The rules shall, at a minimum, require each electric  
9 utility to do all of the following:

10 (1) Install electric distribution facilities and  
11 equipment for new electric service within 15 business days  
12 after the receipt of an order from the retail customer  
13 unless that customer requests an installation date that is  
14 beyond 15 business days after placing the order for new  
15 electric service and to inform the retail customer of its  
16 duty to install service within this timeframe. If  
17 installation of new electric service is requested on or by  
18 a date more than 15 business days in the future, the  
19 electric utility shall install service by the date  
20 requested.

21 (2) Keep all installation appointments for new  
22 electric service when a customer premises visit requires a  
23 retail customer to be present.

24 (3) Inform a customer when an appointment requires the  
25 retail customer to be present.

26 (4) Maintain all records relating to new electric



1 service requests received from retail customers.

2 (5) Report to the Commission all new electric service  
3 requests that were or were not installed by the deadline  
4 established by this subsection (d).

5 (e) The rules shall include provisions for retail customers  
6 to be credited by the electric utility for violations of new  
7 electric service deadlines as described in subsection (d) of  
8 this Section. The credits shall be applied on the statement  
9 issued to the retail customer for the next monthly billing  
10 cycle following the violation or following the discovery of the  
11 violation. The performance levels established in subsection  
12 (d) of this Section shall be used by the Commission, at a  
13 minimum, to assess whether the electric utility has sufficient  
14 staffing levels of electric utility employees who perform new  
15 electric service installations. At a minimum, the rules for  
16 customer credits shall include the following:

17 (1) If an electric utility fails to install new  
18 electric service as required under subsection (d) of this  
19 Section, the electric utility shall waive 50% of any  
20 installation charges, or in the absence of an installation  
21 charge, the electric utility shall provide the customer  
22 with a credit of \$100. If the electric utility fails to  
23 install service within 20 business days after the service  
24 request is placed, or fails to install service within 5  
25 business days after the retail customer's requested  
26 installation date, if the requested date was more than 15

1 business days after the date of the order, the electric  
2 utility shall waive 100% of the installation charge, or in  
3 the absence of an installation charge, the electric utility  
4 shall provide a credit of \$200. For each day that the  
5 failure to install new electric service continues beyond  
6 the initial 20 business days, or beyond 5 business days  
7 after the retail customer's requested installation date,  
8 if the requested date was more than 15 business days after  
9 the date of the order, the electric utility shall also  
10 provide an additional credit of \$20 per day.

11 (2) If the electric utility fails to keep a scheduled  
12 installation appointment when a customer premises visit  
13 requires a retail customer to be present, the electric  
14 utility shall credit the customer \$50 per missed  
15 appointment. A credit required by this subsection (d) does  
16 not apply when the electric utility provides the retail  
17 customer with 24-hour notice of its inability to keep the  
18 appointment.

19 (3) Credits required by this subsection do not apply if  
20 the violation of a service quality standard: (A) occurs as  
21 a result of a negligent or willful act of the retail  
22 customer; (B) occurs as a result of a malfunction of  
23 customer-owned equipment or inside wiring; (C) occurs as a  
24 result of, or is extended by, an emergency situation as  
25 defined in Commission rules, provided that a strike,  
26 lockout or other work stoppage caused by a labor dispute

1       between the electric utility and its employees shall not  
2       constitute an emergency situation; (D) is extended by the  
3       electric utility's ability to gain access to the customer's  
4       premises to due to the customer missing an appointment,  
5       provided that the violation is not extended further by the  
6       electric utility; (E) occurs as a result of a retail  
7       customer request to change the scheduled appointment,  
8       provided that the violation is not further extended by the  
9       electric utility; or (F) occurs as a result of an electric  
10      utility's right to refuse service to a customer as provided  
11      in the Commission's rules.

12           (4) The provisions of this subsection (e) are  
13      cumulative and shall not in any way diminish or replace  
14      other civil or administrative remedies available to a  
15      retail customer.

16      (e) The rules shall require each electric utility to  
17      provide to the Commission, on a quarterly basis and in a form  
18      suitable for posting on the Commission's website, a public  
19      report that includes performance data for new electric service  
20      installations. The performance data shall be disaggregated for  
21      each geographic area of the State for which the electric  
22      utility operates and in a manner established by the Commission.  
23      The report shall include, at minimum, performance data on new  
24      electric service installations and missed installation  
25      commitments.

1           Section 99. Effective date. This Act takes effect upon  
2    becoming law.".