

# HB3391



## 95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB3391

Introduced 2/26/2007, by Rep. Harry Osterman

### SYNOPSIS AS INTRODUCED:

220 ILCS 5/16-102

Amends the Public Utilities Act. Makes a technical change in a Section concerning definitions.

LRB095 08448 MJR 32261 b

A BILL FOR

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 Sections 16-102 and 16-103 as follows:

6 (220 ILCS 5/16-102)

7 Sec. 16-102. Definitions. For the ~~the~~ purposes of this  
8 Article the following terms shall be defined as set forth in  
9 this Section.

10 "Alternative retail electric supplier" means every person,  
11 cooperative, corporation, municipal corporation, company,  
12 association, joint stock company or association, firm,  
13 partnership, individual, or other entity, their lessees,  
14 trustees, or receivers appointed by any court whatsoever, that  
15 offers electric power or energy for sale, lease or in exchange  
16 for other value received to one or more retail customers, or  
17 that engages in the delivery or furnishing of electric power or  
18 energy to such retail customers, and shall include, without  
19 limitation, resellers, aggregators and power marketers, but  
20 shall not include (i) electric utilities (or any agent of the  
21 electric utility to the extent the electric utility provides  
22 tariffed services to retail customers through that agent), (ii)  
23 any electric cooperative or municipal system as defined in

1 Section 17-100 to the extent that the electric cooperative or  
2 municipal system is serving retail customers within any area in  
3 which it is or would be entitled to provide service under the  
4 law in effect immediately prior to the effective date of this  
5 amendatory Act of 1997, (iii) a public utility that is owned  
6 and operated by any public institution of higher education of  
7 this State, or a public utility that is owned by such public  
8 institution of higher education and operated by any of its  
9 lessees or operating agents, within any area in which it is or  
10 would be entitled to provide service under the law in effect  
11 immediately prior to the effective date of this amendatory Act  
12 of 1997, (iv) a retail customer to the extent that customer  
13 obtains its electric power and energy from that customer's own  
14 cogeneration or self-generation facilities, (v) an entity that  
15 owns, operates, sells, or arranges for the installation of a  
16 customer's own cogeneration or self-generation facilities, but  
17 only to the extent the entity is engaged in owning, selling or  
18 arranging for the installation of such facility, or operating  
19 the facility on behalf of such customer, provided however that  
20 any such third party owner or operator of a facility built  
21 after January 1, 1999, complies with the labor provisions of  
22 Section 16-128(a) as though such third party were an  
23 alternative retail electric supplier, or (vi) an industrial or  
24 manufacturing customer that owns its own distribution  
25 facilities, to the extent that the customer provides service  
26 from that distribution system to a third-party contractor

1 located on the customer's premises that is integrally and  
2 predominantly engaged in the customer's industrial or  
3 manufacturing process; provided, that if the industrial or  
4 manufacturing customer has elected delivery services, the  
5 customer shall pay transition charges applicable to the  
6 electric power and energy consumed by the third-party  
7 contractor unless such charges are otherwise paid by the third  
8 party contractor, which shall be calculated based on the usage  
9 of, and the base rates or the contract rates applicable to, the  
10 third-party contractor in accordance with Section 16-102.

11 "Base rates" means the rates for those tariffed services  
12 that the electric utility is required to offer pursuant to  
13 subsection (a) of Section 16-103 and that were identified in a  
14 rate order for collection of the electric utility's base rate  
15 revenue requirement, excluding (i) separate automatic rate  
16 adjustment riders then in effect, (ii) special or negotiated  
17 contract rates, (iii) delivery services tariffs filed pursuant  
18 to Section 16-108, (iv) real-time pricing, or (v) tariffs that  
19 were in effect prior to October 1, 1996 and that based charges  
20 for services on an index or average of other utilities'  
21 charges, but including (vi) any subsequent redesign of such  
22 rates for tariffed services that is authorized by the  
23 Commission after notice and hearing.

24 "Competitive service" includes (i) any service that has  
25 been declared to be competitive pursuant to Section 16-113 of  
26 this Act, (ii) contract service, and (iii) services, other than

1     tariffed services, that are related to, but not necessary for,  
2     the provision of electric power and energy or delivery  
3     services.

4             "Contract service" means (1) services, including the  
5     provision of electric power and energy or other services, that  
6     are provided by mutual agreement between an electric utility  
7     and a retail customer that is located in the electric utility's  
8     service area, provided that, delivery services shall not be a  
9     contract service until such services are declared competitive  
10    pursuant to Section 16-113; and also means (2) the provision of  
11    electric power and energy by an electric utility to retail  
12    customers outside the electric utility's service area pursuant  
13    to Section 16-116. Provided, however, contract service does not  
14    include electric utility services provided pursuant to (i)  
15    contracts that retail customers are required to execute as a  
16    condition of receiving tariffed services, or (ii) special or  
17    negotiated rate contracts for electric utility services that  
18    were entered into between an electric utility and a retail  
19    customer prior to the effective date of this amendatory Act of  
20    1997 and filed with the Commission.

21            "Delivery services" means those services provided by the  
22    electric utility that are necessary in order for the  
23    transmission and distribution systems to function so that  
24    retail customers located in the electric utility's service area  
25    can receive electric power and energy from suppliers other than  
26    the electric utility, and shall include, without limitation,

1 standard metering and billing services.

2 "Electric utility" means a public utility, as defined in  
3 Section 3-105 of this Act, that has a franchise, license,  
4 permit or right to furnish or sell electricity to retail  
5 customers within a service area.

6 "Mandatory transition period" means the period from the  
7 effective date of this amendatory Act of 1997 through January  
8 1, 2007.

9 "Municipal system" shall have the meaning set forth in  
10 Section 17-100.

11 "Real-time pricing" means tariffed retail charges for  
12 delivered electric power and energy that vary hour-to-hour and  
13 are determined from wholesale market prices using a methodology  
14 approved by the Illinois Commerce Commission.

15 "Retail customer" means a single entity using electric  
16 power or energy at a single premises and that (A) either (i) is  
17 receiving or is eligible to receive tariffed services from an  
18 electric utility, or (ii) that is served by a municipal system  
19 or electric cooperative within any area in which the municipal  
20 system or electric cooperative is or would be entitled to  
21 provide service under the law in effect immediately prior to  
22 the effective date of this amendatory Act of 1997, or (B) an  
23 entity which on the effective date of this Act was receiving  
24 electric service from a public utility and (i) was engaged in  
25 the practice of resale and redistribution of such electricity  
26 within a building prior to January 2, 1957, or (ii) was

1 providing lighting services to tenants in a multi-occupancy  
2 building, but only to the extent such resale, redistribution or  
3 lighting service is authorized by the electric utility's  
4 tariffs that were on file with the Commission on the effective  
5 date of this Act.

6 "Service area" means (i) the geographic area within which  
7 an electric utility was lawfully entitled to provide electric  
8 power and energy to retail customers as of the effective date  
9 of this amendatory Act of 1997, and includes (ii) the location  
10 of any retail customer to which the electric utility was  
11 lawfully providing electric utility services on such effective  
12 date.

13 "Small commercial retail customer" means those  
14 nonresidential retail customers of an electric utility  
15 consuming 15,000 kilowatt-hours or less of electricity  
16 annually in its service area.

17 "Tariffed service" means services provided to retail  
18 customers by an electric utility as defined by its rates on  
19 file with the Commission pursuant to the provisions of Article  
20 IX of this Act, but shall not include competitive services.

21 "Transition charge" means a charge expressed in cents per  
22 kilowatt-hour that is calculated for a customer or class of  
23 customers as follows for each year in which an electric utility  
24 is entitled to recover transition charges as provided in  
25 Section 16-108:

26 (1) the amount of revenue that an electric utility

1 would receive from the retail customer or customers if it  
2 were serving such customers' electric power and energy  
3 requirements as a tariffed service based on (A) all of the  
4 customers' actual usage during the 3 years ending 90 days  
5 prior to the date on which such customers were first  
6 eligible for delivery services pursuant to Section 16-104,  
7 and (B) on (i) the base rates in effect on October 1, 1996  
8 (adjusted for the reductions required by subsection (b) of  
9 Section 16-111, for any reduction resulting from a rate  
10 decrease under Section 16-101(b), for any restatement of  
11 base rates made in conjunction with an elimination of the  
12 fuel adjustment clause pursuant to subsection (b), (d), or  
13 (f) of Section 9-220 and for any removal of decommissioning  
14 costs from base rates pursuant to Section 16-114) and any  
15 separate automatic rate adjustment riders (other than a  
16 decommissioning rate as defined in Section 16-114) under  
17 which the customers were receiving or, had they been  
18 customers, would have received electric power and energy  
19 from the electric utility during the year immediately  
20 preceding the date on which such customers were first  
21 eligible for delivery service pursuant to Section 16-104,  
22 or (ii) to the extent applicable, any contract rates,  
23 including contracts or rates for consolidated or  
24 aggregated billing, under which such customers were  
25 receiving electric power and energy from the electric  
26 utility during such year;



1           (2) less the amount of revenue, other than revenue from  
2 transition charges and decommissioning rates, that the  
3 electric utility would receive from such retail customers  
4 for delivery services provided by the electric utility,  
5 assuming such customers were taking delivery services for  
6 all of their usage, based on the delivery services tariffs  
7 in effect during the year for which the transition charge  
8 is being calculated and on the usage identified in  
9 paragraph (1);

10           (3) less the market value for the electric power and  
11 energy that the electric utility would have used to supply  
12 all of such customers' electric power and energy  
13 requirements, as a tariffed service, based on the usage  
14 identified in paragraph (1), with such market value  
15 determined in accordance with Section 16-112 of this Act;

16           (4) less the following amount which represents the  
17 amount to be attributed to new revenue sources and cost  
18 reductions by the electric utility through the end of the  
19 period for which transition costs are recovered pursuant to  
20 Section 16-108, referred to in this Article XVI as a  
21 "mitigation factor":

22           (A) for nonresidential retail customers, an amount  
23 equal to the greater of (i) 0.5 cents per kilowatt-hour  
24 during the period October 1, 1999 through December 31,  
25 2004, 0.6 cents per kilowatt-hour in calendar year  
26 2005, and 0.9 cents per kilowatt-hour in calendar year

1           2006, multiplied in each year by the usage identified  
2           in paragraph (1), or (ii) an amount equal to the  
3           following percentages of the amount produced by  
4           applying the applicable base rates (adjusted as  
5           described in subparagraph (1)(B)) or contract rate to  
6           the usage identified in paragraph (1): 8% for the  
7           period October 1, 1999 through December 31, 2002, 10%  
8           in calendar years 2003 and 2004, 11% in calendar year  
9           2005 and 12% in calendar year 2006; and

10           (B) for residential retail customers, an amount  
11           equal to the following percentages of the amount  
12           produced by applying the base rates in effect on  
13           October 1, 1996 (adjusted as described in subparagraph  
14           (1)(B)) to the usage identified in paragraph (1): (i)  
15           6% from May 1, 2002 through December 31, 2002, (ii) 7%  
16           in calendar years 2003 and 2004, (iii) 8% in calendar  
17           year 2005, and (iv) 10% in calendar year 2006;

18           (5) divided by the usage of such customers identified  
19           in paragraph (1),  
20           provided that the transition charge shall never be less than  
21           zero.

22           "Unbundled service" means a component or constituent part  
23           of a tariffed service which the electric utility subsequently  
24           offers separately to its customers.

25           (Source: P.A. 94-977, eff. 6-30-06.)