



Filed: 4/8/2008

09500HB5467ham001

LRB095 19475 MJR 48929 a

1 AMENDMENT TO HOUSE BILL 5467

2 AMENDMENT NO. _____. Amend House Bill 5467 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Public Utilities Act is amended by changing
5 Sections 19-110, 19-115, 19-120, and 19-125 as follows:

6 (220 ILCS 5/19-110)

7 Sec. 19-110. Certification of alternative gas suppliers.

8 (a) The provisions of this Section shall apply only to
9 alternative gas suppliers serving ~~or seeking to serve~~
10 residential or small commercial customers and only to the
11 extent such alternative gas suppliers provide services to
12 residential or small commercial customers.

13 (b) An alternative gas supplier must obtain a certificate
14 of service authority from the Commission in accordance with
15 this Section before serving any customer or other user located
16 in this State. ~~An alternative gas supplier may request, and the~~

1 ~~Commission may grant, a certificate of service authority for~~
2 ~~the entire State or for a specified geographic area of the~~
3 ~~State. A person, corporation, or other entity acting as an~~
4 ~~alternative gas supplier on the effective date of this~~
5 ~~amendatory Act of the 92nd General Assembly shall have 180 days~~
6 ~~from the effective date of this amendatory Act of the 92nd~~
7 ~~General Assembly to comply with the requirements of this~~
8 ~~Section in order to continue to operate as an alternative gas~~
9 ~~supplier.~~

10 (c) The Commission shall not grant any application for a
11 certificate of service authority, nor shall the Commission
12 approve any application, petition or other request,
13 authorizing the sale of natural gas to residential or small
14 commercial customers by an entity other than a gas utility.
15 Notwithstanding any provision of law to the contrary, no tariff
16 filed on or after February 1, 2008, shall provide for the sale
17 of natural gas to residential or small commercial customers by
18 a person or company other than a gas utility as defined in
19 Section 19-105 of this Article and in accordance with the
20 provisions of this Act governing that utility service.

21 An alternative gas supplier shall not solicit, enter into,
22 or extend any contracts with residential or small commercial
23 customers on or after the effective date of this amendatory Act
24 of the 95th General Assembly. Following the expiration of all
25 contracts that are in effect prior to the effective date of
26 this amendatory Act of the 95th General Assembly between an

1 alternative gas supplier and its residential or small
2 commercial customers, any certificate of service authority for
3 the alternative retail gas supplier shall thereafter become
4 null and void and those residential and small commercial
5 customers previously served under those contracts shall
6 thereafter purchase natural gas from their gas utility. Upon
7 the expiration of all contracts authorized under an existing
8 tariff permitting the sale of natural gas to residential or
9 small business customers by a person or company other than a
10 gas utility, the tariff shall be permanently cancelled. An
11 ~~alternative gas supplier seeking a certificate of service~~
12 ~~authority shall file with the Commission a verified application~~
13 ~~containing information showing that the applicant meets the~~
14 ~~requirements of this Section. The alternative gas supplier~~
15 ~~shall publish notice of its application in the official State~~
16 ~~newspaper within 10 days following the date of its filing. No~~
17 ~~later than 45 days after the application is properly filed with~~
18 ~~the Commission, and such notice is published, the Commission~~
19 ~~shall issue its order granting or denying the application.~~

20 (d) (Blank). ~~An application for a certificate of service~~
21 ~~authority shall identify the area or areas in which the~~
22 ~~applicant intends to offer service and the types of services it~~
23 ~~intends to offer. Applicants that seek to serve residential or~~
24 ~~small commercial customers within a geographic area that is~~
25 ~~smaller than a gas utility's service area shall submit evidence~~
26 ~~demonstrating that the designation of this smaller area does~~

1 ~~not violate Section 19-115. An applicant may state in its~~
2 ~~application for certification any limitations that will be~~
3 ~~imposed on the number of customers or maximum load to be~~
4 ~~served.~~

5 (e) The Commission shall grant the application for a
6 certificate of service authority that was filed before February
7 1, 2008, if it makes the findings set forth in this subsection
8 based on the verified application and such other information as
9 the applicant may submit.

10 (1) That the applicant possess sufficient technical,
11 financial, and managerial resources and abilities to
12 provide the service for which it seeks a certificate of
13 service authority. In determining the level of technical,
14 financial, and managerial resources and abilities which
15 the applicant must demonstrate, the Commission shall
16 consider the characteristics, including the size and
17 financial sophistication of the customers that the
18 applicant seeks to serve, and shall consider whether the
19 applicant seeks to provide gas using property, plant, and
20 equipment that it owns, controls, or operates.

21 (2) That the applicant will comply with all applicable
22 federal, State, regional, and industry rules, policies,
23 practices, and procedures for the use, operation, and
24 maintenance of the safety, integrity, and reliability of
25 the gas transmission system.

26 (3) That the applicant will comply with such

1 informational or reporting requirements as the Commission
2 may by rule establish.

3 (4) That the area to be served by the applicant and any
4 limitations it proposes on the number of customers or
5 maximum amount of load to be served meet the provisions of
6 Section 19-115, provided, that if the applicant seeks to
7 serve an area smaller than the service area of a gas
8 utility or proposes other limitations on the number of
9 customers or maximum amount of load to be served, the
10 Commission can extend the time for considering such a
11 certificate request by up to 90 days, and can schedule
12 hearings on such a request.

13 (5) That the applicant will comply with all other
14 applicable laws and rules.

15 (f) (Blank). ~~The Commission shall have the authority to~~
16 ~~promulgate rules to carry out the provisions of this Section.~~
17 ~~Within 30 days after the effective date of this amendatory Act~~
18 ~~of the 92nd General Assembly, the Commission shall adopt an~~
19 ~~emergency rule or rules applicable to the certification of~~
20 ~~those gas suppliers that seek to serve residential customers.~~
21 ~~Within 180 days of the effective date of this amendatory Act of~~
22 ~~the 92nd General Assembly, the Commission shall adopt rules~~
23 ~~that specify criteria which, if met by any such alternative gas~~
24 ~~supplier, shall constitute the demonstration of technical,~~
25 ~~financial, and managerial resources and abilities to provide~~
26 ~~service required by item (1) of subsection (c) of this Section,~~

1 ~~such as a requirement to post a bond or letter of credit, from~~
2 ~~a responsible surety or financial institution, of sufficient~~
3 ~~size for the nature and scope of the services to be provided,~~
4 ~~demonstration of adequate insurance for the scope and nature of~~
5 ~~the services to be provided, and experience in providing~~
6 ~~similar services in other jurisdictions.~~

7 (g) Notwithstanding any other rulemaking authority that
8 may exist, neither the Governor nor any agency or agency head
9 under the jurisdiction of the Governor has any authority to
10 make or promulgate rules to implement or enforce the provisions
11 of this amendatory Act of the 95th General Assembly. If,
12 however, the Governor believes that rules are necessary to
13 implement or enforce the provisions of this amendatory Act of
14 the 95th General Assembly, the Governor may suggest rules to
15 the General Assembly by filing them with the Clerk of the House
16 and the Secretary of the Senate and by requesting that the
17 General Assembly authorize such rulemaking by law, enact those
18 suggested rules into law, or take any other appropriate action
19 in the General Assembly's discretion. Nothing contained in this
20 amendatory Act of the 95th General Assembly shall be
21 interpreted to grant rulemaking authority under any other
22 Illinois statute where such authority is not otherwise
23 explicitly given. For the purposes of this amendatory Act of
24 the 95th General Assembly, "rules" is given the meaning
25 contained in Section 1-70 of the Illinois Administrative
26 Procedure Act, and "agency" and "agency head" are given the

1 meanings contained in Sections 1-20 and 1-25 of the Illinois
2 Administrative Procedure Act to the extent that such
3 definitions apply to agencies or agency heads under the
4 jurisdiction of the Governor.

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

6 (220 ILCS 5/19-115)

7 Sec. 19-115. Obligations of alternative gas suppliers.

8 (a) The provisions of this Section shall apply only to
9 alternative gas suppliers serving ~~or seeking to serve~~
10 residential or small commercial customers and only to the
11 extent such alternative gas suppliers provide services to
12 residential or small commercial customers.

13 (b) An alternative gas supplier shall:

14 (1) comply with the requirements imposed on public
15 utilities by Sections 8-201 through 8-207, 8-301, 8-505 and
16 8-507 of this Act, to the extent that these Sections have
17 application to the services being offered by the
18 alternative gas supplier; and

19 (2) continue to comply with the requirements for
20 certification stated in Section 19-110.

21 (c) An alternative gas supplier shall have in its
22 possession an authorization obtained prior to the switch that
23 verifies a customer's decision to switch to ~~obtain verifiable~~
24 ~~authorization from a customer, in a form or manner approved by~~
25 ~~the Commission, before the customer is switched from another~~

1 supplier. The authorization shall be obtained prior to the
2 switch and shall be in a form or manner approved by the
3 Commission.

4 (d) No alternative gas supplier shall:

5 (1) enter into or employ any arrangements which have
6 the effect of preventing any customer from having access to
7 the services of the gas utility in whose service area the
8 customer is located; ~~or~~

9 (2) charge customers for such access;

10 (3) on or after the effective date of this amendatory
11 Act of the 95th General Assembly, extend, solicit, or enter
12 into any contracts with residential or small commercial
13 customers; or

14 (4) collect or impose an early termination fee.

15 (e) An alternative gas supplier that is certified to serve
16 residential or small commercial customers shall not:

17 (1) deny service to a customer or group of customers
18 nor establish any differences as to prices, terms,
19 conditions, services, products, facilities, or in any
20 other respect, whereby such denial or differences are based
21 upon race, gender, or income; or

22 (2) deny service based on locality, nor establish any
23 unreasonable difference as to prices, terms, conditions,
24 services, products, or facilities as between localities.

25 (f) An alternative gas supplier shall comply with the
26 following requirements with respect to the marketing,

1 offering, and provision of products or services:

2 (1) Any marketing materials which make statements
3 concerning prices, terms, and conditions of service shall
4 contain information that adequately discloses the prices,
5 terms and conditions of the products or services.

6 (2) The alternative gas supplier shall be prohibited
7 from switching ~~Before~~ any customer ~~is switched~~ from another
8 supplier, beginning on the effective date of this
9 amendatory Act of the 95th General Assembly, ~~the~~
10 ~~alternative gas supplier shall give the customer written~~
11 ~~information that adequately discloses, in plain language,~~
12 ~~the prices, terms, and conditions of the products and~~
13 ~~services being offered and sold to the customer.~~

14 (3) The alternative gas supplier shall continue to
15 provide to the customer:

16 (A) accurate, timely, and itemized billing
17 statements that describe the products and services
18 provided to the customer and their prices and that
19 specify the gas consumption amount and any service
20 charges and taxes; ~~provided that this item (f) (3) (A)~~
21 ~~does not apply to small commercial customers;~~

22 (B) an additional statement, at least annually,
23 that adequately discloses the average monthly prices,
24 and the terms and conditions, of the products and
25 services sold to the customer; ~~provided that this item~~
26 ~~(f) (3) (B) does not apply to small commercial~~

1 ~~customers;~~

2 (C) refunds of any deposits with interest within 30
3 days after the date that the customer changes gas
4 suppliers or discontinues service if the customer has
5 satisfied all of his or her outstanding financial
6 obligations for alternative gas service, excluding
7 termination fees, to the alternative gas supplier at an
8 interest rate set by the Commission which shall be the
9 same as that required of gas utilities; and

10 (D) refunds, in a timely fashion, of all undisputed
11 overpayments upon the oral or written request of the
12 customer.

13 (g) All contracts that existed prior to the effective date
14 of this amendatory Act of the 95th General Assembly between an
15 alternative gas supplier and a residential or small commercial
16 customer shall automatically terminate on January 1, 2010. An
17 ~~alternative gas supplier may limit the overall size or~~
18 ~~availability of a service offering by specifying one or more of~~
19 ~~the following:~~

20 ~~(1) a maximum number of customers and maximum amount of~~
21 ~~gas load to be served;~~

22 ~~(2) time period during which the offering will be~~
23 ~~available; or~~

24 ~~(3) other comparable limitation, but not including the~~
25 ~~geographic locations of customers within the area which the~~
26 ~~alternative gas supplier is certificated to serve.~~

1 ~~The alternative gas supplier shall file the terms and~~
2 ~~conditions of such service offering including the applicable~~
3 ~~limitations with the Commission prior to making the service~~
4 ~~offering available to customers.~~

5 (h) (Blank). ~~Nothing in this Section shall be construed as~~
6 ~~preventing an alternative gas supplier that is an affiliate of,~~
7 ~~or which contracts with, (i) an industry or trade organization~~
8 ~~or association, (ii) a membership organization or association~~
9 ~~that exists for a purpose other than the purchase of gas, or~~
10 ~~(iii) another organization that meets criteria established in a~~
11 ~~rule adopted by the Commission from offering through the~~
12 ~~organization or association services at prices, terms and~~
13 ~~conditions that are available solely to the members of the~~
14 ~~organization or association.~~

15 (i) Notwithstanding any other rulemaking authority that
16 may exist, neither the Governor nor any agency or agency head
17 under the jurisdiction of the Governor has any authority to
18 make or promulgate rules to implement or enforce the provisions
19 of this amendatory Act of the 95th General Assembly. If,
20 however, the Governor believes that rules are necessary to
21 implement or enforce the provisions of this amendatory Act of
22 the 95th General Assembly, the Governor may suggest rules to
23 the General Assembly by filing them with the Clerk of the House
24 and the Secretary of the Senate and by requesting that the
25 General Assembly authorize such rulemaking by law, enact those
26 suggested rules into law, or take any other appropriate action

1 in the General Assembly's discretion. Nothing contained in this
2 amendatory Act of the 95th General Assembly shall be
3 interpreted to grant rulemaking authority under any other
4 Illinois statute where such authority is not otherwise
5 explicitly given. For the purposes of this amendatory Act of
6 the 95th General Assembly, "rules" is given the meaning
7 contained in Section 1-70 of the Illinois Administrative
8 Procedure Act, and "agency" and "agency head" are given the
9 meanings contained in Sections 1-20 and 1-25 of the Illinois
10 Administrative Procedure Act to the extent that such
11 definitions apply to agencies or agency heads under the
12 jurisdiction of the Governor.

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

14 (220 ILCS 5/19-120)

15 Sec. 19-120. Commission oversight of services provided by
16 gas suppliers.

17 (a) The provisions of this Section shall apply only to
18 alternative gas suppliers serving ~~or seeking to serve~~
19 residential or small commercial customers and only to the
20 extent such alternative gas suppliers provide services to
21 residential or small commercial customers.

22 (b) The Commission shall have jurisdiction in accordance
23 with the provisions of Article X of this Act to entertain and
24 dispose of any complaint against any alternative gas supplier
25 alleging that:

1 (1) the alternative gas supplier has violated or is in
2 nonconformance with any applicable provisions of Section
3 19-110 or Section 19-115;

4 (2) an alternative gas supplier has failed to provide
5 service in accordance with the terms of its contract or
6 contracts with a customer or customers;

7 (3) the alternative gas supplier has violated or is in
8 nonconformance with the transportation services tariff of,
9 or any of its agreements relating to transportation
10 services with, the gas utility or municipal system
11 providing transportation services; or

12 (4) the alternative gas supplier has violated or failed
13 to comply with the requirements of Sections 8-201 through
14 8-207, 8-301, 8-505, or 8-507 of this Act as made
15 applicable to alternative gas suppliers.

16 (c) The Commission shall have authority after notice and
17 hearing held on complaint or on the Commission's own motion to:

18 (1) order an alternative gas supplier to cease and
19 desist, or correct, any violation of or nonconformance with
20 the provisions of Section 19-110 or 19-115;

21 (2) impose financial penalties for violations of or
22 nonconformances with the provisions of Section 19-110 or
23 19-115, not to exceed (i) \$10,000 per occurrence or (ii)
24 \$30,000 per day for those violations or nonconformances
25 which continue after the Commission issues a
26 cease-and-desist order; and

1 (3) alter, modify, revoke, or suspend the certificate
2 of service authority of an alternative gas supplier for
3 substantial or repeated violations of or nonconformances
4 with the provisions of Section 19-110 or 19-115.

5 For purposes of this subsection (c), each violation of
6 Section 19-110 or 19-115 is a separate and distinct offense for
7 each residential or small commercial customer that an
8 alternative gas supplier supplies with gas. In the case of a
9 continuing violation, each day's continuance thereof shall be a
10 separate and distinct offense for each customer.

11 In construing and enforcing the provisions of this Act
12 relating to penalties, the act, omission, or failure of any
13 officer, agent, or employee of an alternative gas supplier that
14 is acting within the scope of his official duties or
15 employment, shall in every case be deemed to be the act,
16 omission, or failure of such alternative gas supplier.

17 (d) Nothing in this Act shall be construed to limit,
18 restrict, or mitigate in any way the power and authority of the
19 State's Attorneys or the Attorney General under the Consumer
20 Fraud and Deceptive Business Practices Act.

21 (e) Notwithstanding any other rulemaking authority that
22 may exist, neither the Governor nor any agency or agency head
23 under the jurisdiction of the Governor has any authority to
24 make or promulgate rules to implement or enforce the provisions
25 of this amendatory Act of the 95th General Assembly. If,
26 however, the Governor believes that rules are necessary to

1 implement or enforce the provisions of this amendatory Act of
2 the 95th General Assembly, the Governor may suggest rules to
3 the General Assembly by filing them with the Clerk of the House
4 and the Secretary of the Senate and by requesting that the
5 General Assembly authorize such rulemaking by law, enact those
6 suggested rules into law, or take any other appropriate action
7 in the General Assembly's discretion. Nothing contained in this
8 amendatory Act of the 95th General Assembly shall be
9 interpreted to grant rulemaking authority under any other
10 Illinois statute where such authority is not otherwise
11 explicitly given. For the purposes of this amendatory Act of
12 the 95th General Assembly, "rules" is given the meaning
13 contained in Section 1-70 of the Illinois Administrative
14 Procedure Act, and "agency" and "agency head" are given the
15 meanings contained in Sections 1-20 and 1-25 of the Illinois
16 Administrative Procedure Act to the extent that such
17 definitions apply to agencies or agency heads under the
18 jurisdiction of the Governor.

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

20 (220 ILCS 5/19-125)

21 Sec. 19-125. Consumer education.

22 (a) The Commission shall make available upon request and at
23 no charge, and shall make available to the public on the
24 Internet through the State of Illinois World Wide Web site:

25 (1) a list of all certified alternative gas suppliers

1 serving residential and small commercial customers within
2 the service area of each gas utility including, in the case
3 of the Internet, computer links to available web sites of
4 the certified alternative gas suppliers;

5 (2) a list of all certified alternative gas suppliers
6 serving residential or small commercial customers that
7 have been found in the last 3 years by the Commission
8 pursuant to Section 10-108 to have failed to provide
9 service in accordance with this Act;

10 (3) guidelines to assist customers in determining
11 which gas supplier is most appropriate for each customer;
12 ~~and~~

13 (4) Internet links to providers of information that
14 enable ~~enables~~ customers to compare prices and services of
15 gas utilities and alternative gas suppliers, if and when
16 that information is available; and-

17 (5) details regarding the implementation of subsection
18 (c) of Section 19-110 of this Article and item (3) of
19 subsection (d) and item (2) of subsection (f) of Section
20 19-115 of this Article.

21 (b) In any service area where customers are able to choose
22 their natural gas supplier, the Commission shall require gas
23 utilities and alternative gas suppliers to inform customers of
24 how they may contact the Commission in order to obtain
25 information about the customer choice program.

26 (c) Notwithstanding any other rulemaking authority that

1 may exist, neither the Governor nor any agency or agency head
2 under the jurisdiction of the Governor has any authority to
3 make or promulgate rules to implement or enforce the provisions
4 of this amendatory Act of the 95th General Assembly. If,
5 however, the Governor believes that rules are necessary to
6 implement or enforce the provisions of this amendatory Act of
7 the 95th General Assembly, the Governor may suggest rules to
8 the General Assembly by filing them with the Clerk of the House
9 and the Secretary of the Senate and by requesting that the
10 General Assembly authorize such rulemaking by law, enact those
11 suggested rules into law, or take any other appropriate action
12 in the General Assembly's discretion. Nothing contained in this
13 amendatory Act of the 95th General Assembly shall be
14 interpreted to grant rulemaking authority under any other
15 Illinois statute where such authority is not otherwise
16 explicitly given. For the purposes of this amendatory Act of
17 the 95th General Assembly, "rules" is given the meaning
18 contained in Section 1-70 of the Illinois Administrative
19 Procedure Act, and "agency" and "agency head" are given the
20 meanings contained in Sections 1-20 and 1-25 of the Illinois
21 Administrative Procedure Act to the extent that such
22 definitions apply to agencies or agency heads under the
23 jurisdiction of the Governor.

24 (Source: P.A. 92-852, eff. 8-26-02.)

25 Section 97. Severability. If any provision of this Act or

1 its application to any person or circumstance is held invalid,
2 the invalidity of that provision or application does not affect
3 other provisions or applications of this Act that can be given
4 effect without the invalid provision or application.

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