



Sen. Terry Link

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1 AMENDMENT TO SENATE BILL 661

2 AMENDMENT NO. _____. Amend Senate Bill 661 by replacing
3 everything after the enacting clause with the following:

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

6 (220 ILCS 5/16-131 new)

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

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

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

5 (b) For purposes of this Section:

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

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

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

1 distribution facilities and equipment shall be the obligation
2 of the electric utility that provides delivery services to the
3 retail customer.

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

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

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

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

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

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

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

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

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

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

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

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

18 (220 ILCS 5/16-132 new)

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

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

25 (b) For purposes of this Section:

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

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

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

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

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

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

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

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

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

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

25 (4) Maintain all records relating to new electric
26 service requests received from retail customers.

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

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

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

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

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

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

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

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

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

25 Section 99. Effective date. This Act takes effect upon

1 becoming law.".