



Rep. Thomas Holbrook

Filed: 5/16/2007

09500SB1366ham004

LRB095 10890 MJR 36469 a

1 AMENDMENT TO SENATE BILL 1366

2 AMENDMENT NO. _____. Amend Senate Bill 1366, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Public Utilities Act is amended by adding
6 Section 16-115C as follows:

7 (220 ILCS 5/16-115C new)

8 Sec. 16-115C. Licensure of agents, brokers, and
9 consultants engaged in the procurement or sale of retail
10 electricity supply for third parties.

11 (a) The purpose of this Section is to adopt licensing and
12 code of conduct rules in a competitive retail electricity
13 market to protect Illinois consumers from unfair or deceptive
14 acts or practices and to provide persons acting as agents,
15 brokers, and consultants engaged in the procurement or sale of
16 retail electricity supply for third parties with notice of the

1 illegality of those acts or practices.

2 (b) For purposes of this Section, "agents, brokers, and
3 consultants engaged in the procurement or sale of retail
4 electricity supply for third parties" means any person or
5 entity that attempts to procure on behalf of or sell retail
6 electric service to an electric customer in the State. "Agents,
7 brokers, and consultants engaged in the procurement or sale of
8 retail electricity supply for third parties" does not include
9 any entity licensed as an alternative retail electric supplier
10 pursuant to 83 Ill. Adm. Code 451 offering retail electric
11 service on its own behalf, any person acting exclusively on
12 behalf of a single alternative retail electric supplier on
13 condition that exclusivity is disclosed to any third party
14 contracted in such agent capacity, any person or entity
15 representing a municipal power agency, as defined in Section
16 11-119.1-3 of the Illinois Municipal Code, or any person or
17 entity that is attempting to procure on behalf of or sell
18 retail electric service to a third party that has aggregate
19 billing demand of all of its affiliated electric service
20 accounts in Illinois of greater than 1,500 kW.

21 (c) No person or entity shall act as an agent, broker, or
22 consultant engaged in the procurement or sale of retail
23 electricity supply for third parties unless that person or
24 entity is licensed by the Commission under this Section or is
25 offering services on their own behalf under 83 Ill. Adm. Code
26 451.

1 (d) The Commission shall create requirements for licensure
2 as an agent, broker, or consultant engaged in the procurement
3 or sale of retail electricity supply for third parties, which
4 shall include all of the following criteria:

5 (1) Technical competence.

6 (2) Managerial competence.

7 (3) Financial responsibility, including the posting of
8 an appropriate performance bond.

9 (4) Annual reporting requirements.

10 (e) Any person or entity required to be licensed under this
11 Section must:

12 (1) disclose to all persons it solicits the existence
13 of any contracts with retail electric suppliers or their
14 affiliates regarding retail electric service in Illinois
15 and the nature of those contract or contracts;

16 (2) provide to all persons it solicits a list of all
17 retail electric suppliers authorized to serve that person
18 per the then-current list of suppliers on the Commission's
19 website;

20 (3) not hold itself out as independent or unaffiliated
21 with any supplier, or both, or use words reasonably
22 calculated to give that impression, unless the person
23 offering service under this Section has no contractual
24 relationship with any retail electricity supplier or its
25 affiliates regarding retail electric service in Illinois;

26 (4) not utilize false, misleading, materially

1 inaccurate, defamatory, or otherwise deceptive language or
2 materials in the soliciting or providing of its services;

3 (5) maintain copies of all marketing materials
4 disseminated to third parties for a period of not less than
5 3 years;

6 (6) not present electricity pricing information in a
7 manner that favors one supplier over another, unless a
8 valid pricing comparison is made utilizing all relevant
9 costs and terms; and

10 (7) comply with the requirements of Sections 2EE, 2FF,
11 2GG, and 2HH of the Consumer Fraud and Deceptive Business
12 Practices Act.

13 (f) Any person or entity licensed under this Section shall
14 file with the Commission all of the following information no
15 later than March of each year:

16 (1) A verified report detailing any and all contractual
17 relationships that it has with certified electricity
18 suppliers in the State regarding retail electric service in
19 Illinois.

20 (2) A verified report detailing the distribution of its
21 customers with the various certified electricity suppliers
22 in Illinois during the prior calendar year.

23 (3) A copy of its audited financial statement.

24 (4) A verified statement of any changes to the original
25 licensure qualifications and notice of continuing
26 compliance with all requirements.

1 (g) The Commission shall have jurisdiction over
2 disciplinary proceedings and complaints for violations of this
3 Section. The findings of a violation of this Section by the
4 Commission shall result in a progressive disciplinary scale.
5 For a first violation, the Commission shall suspend the license
6 of the person so disciplined for a period of no less than one
7 month. For a second violation within a 5-year period, the
8 Commission shall suspend the license for the person so
9 disciplined for a period of not less than 6 months. For a third
10 or subsequent violation within a 5-year period, the Commission
11 shall suspend the license of the disciplined person for a
12 period of not less than 2 years.

13 (h) This Section shall not apply to a retail customer that
14 operates or manages either directly or indirectly any
15 facilities, equipment, or property used or contemplated to be
16 used to distribute electric power or energy if that retail
17 customer is a political subdivision or public institution of
18 higher education of this State, or any corporation, company,
19 limited liability company, association, joint-stock company or
20 association, firm, partnership, or individual, or their
21 lessees, trusts, or receivers appointed by any court whatsoever
22 that are owned or controlled by the political subdivision,
23 public institution of higher education, or operated by any of
24 its lessees or operating agents.

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

1 becoming law.".