



Rep. Michael G. Connelly

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09600HB5147ham002

LRB096 18562 AMC 38895 a

1 AMENDMENT TO HOUSE BILL 5147

2 AMENDMENT NO. _____. Amend House Bill 5147, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Public Utilities Act is amended by changing
6 Section 16-108 as follows:

7 (220 ILCS 5/16-108)

8 Sec. 16-108. Recovery of costs associated with the ~~the~~
9 provision of delivery services.

10 (a) An electric utility shall file a delivery services
11 tariff with the Commission at least 210 days prior to the date
12 that it is required to begin offering such services pursuant to
13 this Act. An electric utility shall provide the components of
14 delivery services that are subject to the jurisdiction of the
15 Federal Energy Regulatory Commission at the same prices, terms
16 and conditions set forth in its applicable tariff as approved

1 or allowed into effect by that Commission. The Commission shall
2 otherwise have the authority pursuant to Article IX to review,
3 approve, and modify the prices, terms and conditions of those
4 components of delivery services not subject to the jurisdiction
5 of the Federal Energy Regulatory Commission, including the
6 authority to determine the extent to which such delivery
7 services should be offered on an unbundled basis. In making any
8 such determination the Commission shall consider, at a minimum,
9 the effect of additional unbundling on (i) the objective of
10 just and reasonable rates, (ii) electric utility employees, and
11 (iii) the development of competitive markets for electric
12 energy services in Illinois.

13 (b) The Commission shall enter an order approving, or
14 approving as modified, the delivery services tariff no later
15 than 30 days prior to the date on which the electric utility
16 must commence offering such services. The Commission may
17 subsequently modify such tariff pursuant to this Act.

18 (c) The electric utility's tariffs shall define the classes
19 of its customers for purposes of delivery services charges.
20 Delivery services shall be priced and made available to all
21 retail customers electing delivery services in each such class
22 on a nondiscriminatory basis regardless of whether the retail
23 customer chooses the electric utility, an affiliate of the
24 electric utility, or another entity as its supplier of electric
25 power and energy. Charges for delivery services shall be cost
26 based, and shall allow the electric utility to recover the

1 costs of providing delivery services through its charges to its
2 delivery service customers that use the facilities and services
3 associated with such costs. Such costs shall include the costs
4 of owning, operating and maintaining transmission and
5 distribution facilities. The Commission shall also be
6 authorized to consider whether, and if so to what extent, the
7 following costs are appropriately included in the electric
8 utility's delivery services rates: (i) the costs of that
9 portion of generation facilities used for the production and
10 absorption of reactive power in order that retail customers
11 located in the electric utility's service area can receive
12 electric power and energy from suppliers other than the
13 electric utility, and (ii) the costs associated with the use
14 and redispatch of generation facilities to mitigate
15 constraints on the transmission or distribution system in order
16 that retail customers located in the electric utility's service
17 area can receive electric power and energy from suppliers other
18 than the electric utility. Nothing in this subsection shall be
19 construed as directing the Commission to allocate any of the
20 costs described in (i) or (ii) that are found to be
21 appropriately included in the electric utility's delivery
22 services rates to any particular customer group or geographic
23 area in setting delivery services rates.

24 (d) The Commission shall establish charges, terms and
25 conditions for delivery services that are just and reasonable
26 and shall take into account customer impacts when establishing

1 such charges. In establishing charges, terms and conditions for
2 delivery services, the Commission shall take into account
3 voltage level differences. A retail customer shall have the
4 option to request to purchase electric service at any delivery
5 service voltage reasonably and technically feasible from the
6 electric facilities serving that customer's premises provided
7 that there are no significant adverse impacts upon system
8 reliability or system efficiency. A retail customer shall also
9 have the option to request to purchase electric service at any
10 point of delivery that is reasonably and technically feasible
11 provided that there are no significant adverse impacts on
12 system reliability or efficiency. Such requests shall not be
13 unreasonably denied.

14 (e) Electric utilities shall recover the costs of
15 installing, operating or maintaining facilities for the
16 particular benefit of one or more delivery services customers,
17 including without limitation any costs incurred in complying
18 with a customer's request to be served at a different voltage
19 level, directly from the retail customer or customers for whose
20 benefit the costs were incurred, to the extent such costs are
21 not recovered through the charges referred to in subsections
22 (c) and (d) of this Section.

23 (f) An electric utility shall be entitled but not required
24 to implement transition charges in conjunction with the
25 offering of delivery services pursuant to Section 16-104. If an
26 electric utility implements transition charges, it shall

1 implement such charges for all delivery services customers and
2 for all customers described in subsection (h), but shall not
3 implement transition charges for power and energy that a retail
4 customer takes from cogeneration or self-generation facilities
5 located on that retail customer's premises, if such facilities
6 meet the following criteria:

7 (i) the cogeneration or self-generation facilities
8 serve a single retail customer and are located on that
9 retail customer's premises (for purposes of this
10 subparagraph and subparagraph (ii), an industrial or
11 manufacturing retail customer and a third party contractor
12 that is served by such industrial or manufacturing customer
13 through such retail customer's own electrical distribution
14 facilities under the circumstances described in subsection
15 (vi) of the definition of "alternative retail electric
16 supplier" set forth in Section 16-102, shall be considered
17 a single retail customer);

18 (ii) the cogeneration or self-generation facilities
19 either (A) are sized pursuant to generally accepted
20 engineering standards for the retail customer's electrical
21 load at that premises (taking into account standby or other
22 reliability considerations related to that retail
23 customer's operations at that site) or (B) if the facility
24 is a cogeneration facility located on the retail customer's
25 premises, the retail customer is the thermal host for that
26 facility and the facility has been designed to meet that

1 retail customer's thermal energy requirements resulting in
2 electrical output beyond that retail customer's electrical
3 demand at that premises, comply with the operating and
4 efficiency standards applicable to "qualifying facilities"
5 specified in title 18 Code of Federal Regulations Section
6 292.205 as in effect on the effective date of this
7 amendatory Act of 1999;

8 (iii) the retail customer on whose premises the
9 facilities are located either has an exclusive right to
10 receive, and corresponding obligation to pay for, all of
11 the electrical capacity of the facility, or in the case of
12 a cogeneration facility that has been designed to meet the
13 retail customer's thermal energy requirements at that
14 premises, an identified amount of the electrical capacity
15 of the facility, over a minimum 5-year period; and

16 (iv) if the cogeneration facility is sized for the
17 retail customer's thermal load at that premises but exceeds
18 the electrical load, any sales of excess power or energy
19 are made only at wholesale, are subject to the jurisdiction
20 of the Federal Energy Regulatory Commission, and are not
21 for the purpose of circumventing the provisions of this
22 subsection (f).

23 If a generation facility located at a retail customer's
24 premises does not meet the above criteria, an electric utility
25 implementing transition charges shall implement a transition
26 charge until December 31, 2006 for any power and energy taken

1 by such retail customer from such facility as if such power and
2 energy had been delivered by the electric utility. Provided,
3 however, that an industrial retail customer that is taking
4 power from a generation facility that does not meet the above
5 criteria but that is located on such customer's premises will
6 not be subject to a transition charge for the power and energy
7 taken by such retail customer from such generation facility if
8 the facility does not serve any other retail customer and
9 either was installed on behalf of the customer and for its own
10 use prior to January 1, 1997, or is both predominantly fueled
11 by byproducts of such customer's manufacturing process at such
12 premises and sells or offers an average of 300 megawatts or
13 more of electricity produced from such generation facility into
14 the wholesale market. Such charges shall be calculated as
15 provided in Section 16-102, and shall be collected on each
16 kilowatt-hour delivered under a delivery services tariff to a
17 retail customer from the date the customer first takes delivery
18 services until December 31, 2006 except as provided in
19 subsection (h) of this Section. Provided, however, that an
20 electric utility, other than an electric utility providing
21 service to at least 1,000,000 customers in this State on
22 January 1, 1999, shall be entitled to petition for entry of an
23 order by the Commission authorizing the electric utility to
24 implement transition charges for an additional period ending no
25 later than December 31, 2008. The electric utility shall file
26 its petition with supporting evidence no earlier than 16

1 months, and no later than 12 months, prior to December 31,
2 2006. The Commission shall hold a hearing on the electric
3 utility's petition and shall enter its order no later than 8
4 months after the petition is filed. The Commission shall
5 determine whether and to what extent the electric utility shall
6 be authorized to implement transition charges for an additional
7 period. The Commission may authorize the electric utility to
8 implement transition charges for some or all of the additional
9 period, and shall determine the mitigation factors to be used
10 in implementing such transition charges; provided, that the
11 Commission shall not authorize mitigation factors less than
12 110% of those in effect during the 12 months ended December 31,
13 2006. In making its determination, the Commission shall
14 consider the following factors: the necessity to implement
15 transition charges for an additional period in order to
16 maintain the financial integrity of the electric utility; the
17 prudence of the electric utility's actions in reducing its
18 costs since the effective date of this amendatory Act of 1997;
19 the ability of the electric utility to provide safe, adequate
20 and reliable service to retail customers in its service area;
21 and the impact on competition of allowing the electric utility
22 to implement transition charges for the additional period.

23 (g) The electric utility shall file tariffs that establish
24 the transition charges to be paid by each class of customers to
25 the electric utility in conjunction with the provision of
26 delivery services. The electric utility's tariffs shall define

1 the classes of its customers for purposes of calculating
2 transition charges. The electric utility's tariffs shall
3 provide for the calculation of transition charges on a
4 customer-specific basis for any retail customer whose average
5 monthly maximum electrical demand on the electric utility's
6 system during the 6 months with the customer's highest monthly
7 maximum electrical demands equals or exceeds 3.0 megawatts for
8 electric utilities having more than 1,000,000 customers, and
9 for other electric utilities for any customer that has an
10 average monthly maximum electrical demand on the electric
11 utility's system of one megawatt or more, and (A) for which
12 there exists data on the customer's usage during the 3 years
13 preceding the date that the customer became eligible to take
14 delivery services, or (B) for which there does not exist data
15 on the customer's usage during the 3 years preceding the date
16 that the customer became eligible to take delivery services, if
17 in the electric utility's reasonable judgment there exists
18 comparable usage information or a sufficient basis to develop
19 such information, and further provided that the electric
20 utility can require customers for which an individual
21 calculation is made to sign contracts that set forth the
22 transition charges to be paid by the customer to the electric
23 utility pursuant to the tariff.

24 (h) An electric utility shall also be entitled to file
25 tariffs that allow it to collect transition charges from retail
26 customers in the electric utility's service area that do not

1 take delivery services but that take electric power or energy
2 from an alternative retail electric supplier or from an
3 electric utility other than the electric utility in whose
4 service area the customer is located. Such charges shall be
5 calculated, in accordance with the definition of transition
6 charges in Section 16-102, for the period of time that the
7 customer would be obligated to pay transition charges if it
8 were taking delivery services, except that no deduction for
9 delivery services revenues shall be made in such calculation,
10 and usage data from the customer's class shall be used where
11 historical usage data is not available for the individual
12 customer. The customer shall be obligated to pay such charges
13 on a lump sum basis on or before the date on which the customer
14 commences to take service from the alternative retail electric
15 supplier or other electric utility, provided, that the electric
16 utility in whose service area the customer is located shall
17 offer the customer the option of signing a contract pursuant to
18 which the customer pays such charges ratably over the period in
19 which the charges would otherwise have applied.

20 (i) An electric utility shall be entitled to add to the
21 bills of delivery services customers charges pursuant to
22 Sections 9-221, 9-222 (except as provided in Section 9-222.1),
23 and Section 16-114 of this Act, Section 5-5 of the Electricity
24 Infrastructure Maintenance Fee Law, Section 6-5 of the
25 Renewable Energy, Energy Efficiency, and Coal Resources
26 Development Law of 1997, and Section 13 of the Energy

1 Assistance Act.

2 (j) If a retail customer that obtains electric power and
3 energy from cogeneration or self-generation facilities
4 installed for its own use on or before January 1, 1997,
5 subsequently takes service from an alternative retail electric
6 supplier or an electric utility other than the electric utility
7 in whose service area the customer is located for any portion
8 of the customer's electric power and energy requirements
9 formerly obtained from those facilities (including that amount
10 purchased from the utility in lieu of such generation and not
11 as standby power purchases, under a cogeneration displacement
12 tariff in effect as of the effective date of this amendatory
13 Act of 1997), the transition charges otherwise applicable
14 pursuant to subsections (f), (g), or (h) of this Section shall
15 not be applicable in any year to that portion of the customer's
16 electric power and energy requirements formerly obtained from
17 those facilities, provided, that for purposes of this
18 subsection (j), such portion shall not exceed the average
19 number of kilowatt-hours per year obtained from the
20 cogeneration or self-generation facilities during the 3 years
21 prior to the date on which the customer became eligible for
22 delivery services, except as provided in subsection (f) of
23 Section 16-110.

24 (Source: P.A. 91-50, eff. 6-30-99; 92-690, eff. 7-18-02.)".