



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB2150

Introduced 2/20/2009, by Sen. Don Harmon

SYNOPSIS AS INTRODUCED:

220 ILCS 5/16-132 new

Amends the Electric Service Customer Choice and Rate Relief Law of 1997 in the Public Utilities Act. Provides that an alternative retail electric supplier shall be responsible for procuring cost-effective renewable energy resources as required under specified provisions of the Act in a specified manner. Provides that an alternative retail electric supplier shall comply with the renewable energy portfolio standards by any one or a combination of specified means. Contains provisions concerning the use of renewable energy certificates. Contains provisions concerning alternative compliance payments for alternative retail electric suppliers. Provides that each alternative retail electric supplier shall, by September 1, 2011 and by September 1 of each year thereafter, prepare, and submit to the Illinois Commerce Commission a report that provides information certifying compliance by the alternative retail electric supplier with specified provisions. Provides that upon complaint or the Commission's own motion, the Commission may conduct a contested case to review allegations that the alternative retail electric supplier has violated specified provisions. Contains an exemption from specified requirements for electric utilities that meet certain criteria. Provides that biennially, the Commission shall submit to the General Assembly a report that discusses the status of renewable energy in the State and the effect of certain provisions on electricity prices and retail and wholesale electric markets.

LRB096 08714 MJR 18846 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning utilities.

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 adding
5 Section 16-132 as follows:

6 (220 ILCS 5/16-132 new)

7 Sec. 16-132. Renewable portfolio standards.

8 (a) An alternative retail electric supplier shall be
9 responsible for procuring cost-effective renewable energy
10 resources as required under item (5) of subsection (d) of
11 Section 16-115 of this Act as follows:

12 (1) The definition of renewable energy resources
13 contained in Section 1-10 of the Illinois Power Agency Act
14 shall apply to all renewable energy resources required to
15 be procured by alternative retail electric suppliers.

16 (2) The quantity of renewable energy resources shall be
17 measured as a percentage of the actual amount of
18 electricity (megawatt-hours) supplied by the alternative
19 retail electric supplier in the prior calendar year, as
20 reported for that prior calendar year to the Commission.

21 (3) The quantity of renewable energy resources will be
22 in amounts at least equal to the percentages set forth in
23 item (1) of subsection (c) of Section 1-75 of the Illinois

1 Power Agency Act.

2 (4) The required procurement of renewable energy
3 resources by an alternative retail electric supplier
4 commences with the June 1, 2010 through May 31, 2011
5 procurement year, and continues each year thereafter for
6 the comparable 12-month period; provided, however, that
7 retail contracts in effect prior to January 12, 2009 are
8 exempt from compliance with these requirements, provided
9 that the alternative retail electric supplier submits all
10 documentation needed by the Commission to determine the
11 actual amount of electricity supplied under contracts that
12 may be excluded under this limitation. Any retail contracts
13 executed between January 12, 2009 and the effective date of
14 this amendatory Act of the 96th General Assembly shall be
15 exempt from compliance with these requirements for a
16 24-month period after the effective date of this amendatory
17 Act of the 96th General Assembly. Beginning with the June
18 1, 2012 through May 31, 2013 procurement year, all
19 megawatt-hours supplied by the alternative retail electric
20 supplier after June 1, 2011 to retail customers shall be
21 included in the calculation to determine the quantity of
22 renewable energy resources to be procured. Alternative
23 retail electric suppliers shall be required to submit all
24 documentation needed by the Commission to determine the
25 actual amount of electricity supplied under contracts that
26 may be excluded under either of the limitations included in

1 this Section.

2 (b) An alternative retail electric supplier shall comply
3 with the renewable energy portfolio standards by any one or a
4 combination of the following means:

5 (1) producing electricity from renewable energy
6 systems;

7 (2) purchasing electricity through a renewable energy
8 contract;

9 (3) purchasing renewable energy credits; or

10 (4) making an alternative compliance payment as
11 described in subsection (d) of this Section.

12 (c) Use of renewable energy certificates.

13 (1) Renewable energy certificates that are not used by
14 an alternative retail electric supplier to comply with a
15 renewable portfolio standard in a compliance year may be
16 banked and carried forward up to 2 years after the year of
17 generation for the purpose of complying with a renewable
18 portfolio standard in those 2 subsequent years.

19 (2) An alternative retail electric supplier is
20 responsible for demonstrating that a renewable energy
21 certificate used to comply with a renewable portfolio
22 standard is derived from a renewable energy resource and
23 that the alternative retail electric supplier has not used,
24 traded, sold, or otherwise transferred the certificate.

25 (3) The same renewable energy certificate may be used
26 by an alternative retail electric supplier to comply with a

1 federal renewable portfolio standard and a renewable
2 portfolio standard established under this Act. An
3 alternative retail electric supplier that uses a renewable
4 energy certificate to comply with a renewable portfolio
5 standard imposed by any other state may not use the same
6 certificate to comply with a renewable portfolio standard
7 established under this Act.

8 (d) Alternative compliance payments.

9 (1) The Commission shall establish an alternative
10 compliance rate for each compliance year for the
11 alternative retail electric suppliers that are subject to a
12 renewable portfolio standard. The rate shall be expressed
13 in dollars per megawatt-hour and shall at no time exceed
14 the amount paid by eligible retail customers of an electric
15 utility to meet the renewable portfolio standards set forth
16 in Section 1-75 of the Illinois Power Agency Act.

17 (2) In establishing an alternative compliance rate,
18 the Commission shall set the rate at least 3 years forward
19 so as to provide adequate incentive for the alternative
20 retail electric supplier to purchase or generate
21 qualifying renewable energy resources in lieu of using an
22 alternative compliance payment to meet the renewable
23 portfolio standard applicable to the alternative retail
24 electric supplier.

25 (3) In any given compliance year, an alternative retail
26 electric supplier may elect to use an alternative

1 compliance payment to comply with all or a part of the
2 applicable renewable portfolio standard. Any election by
3 an alternative retail electric supplier to use alternative
4 compliance payments is subject to review by the Commission
5 under subsection (e) of this Section.

6 (4) All alternative compliance payments by alternative
7 retail electric suppliers shall be deposited in an account
8 or accounts as shall be determined by the Commission on an
9 annual basis; provided, however, that 20% of assessed
10 alternative compliance charges shall be deposited in the
11 Renewable Energy Resources Trust Fund, the Energy
12 Efficiency Trust Fund, or the Public Utility Fund. Amounts
13 in both of the accounts shall accrue interest at the rate
14 of return authorized by the Commission.

15 (5) Amounts in accounts established under item (4) of
16 this subsection (d) may be expended only for costs
17 associated with incentive programs for new generating
18 capacity from renewable energy resources or energy
19 conservation programs within the State of Illinois. The
20 Commission must approve expenditures from an account or
21 accounts established under item (4) of this subsection.

22 (6) The Commission shall establish initial alternative
23 compliance rates as required by this Section no later than
24 June 1, 2009 and shall determine the formula or process for
25 annually setting the alternative compliance rate for 3
26 years forward no later than January 1 of each year for the

1 next 3-year period.

2 (e) Each alternative retail electric supplier shall, by
3 September 1, 2011 and by September 1 of each year thereafter,
4 prepare and submit to the Commission a report that provides
5 information certifying compliance by the alternative retail
6 electric supplier with this Section, including copies of all
7 PJM Environmental Information System's Generation Attribute
8 Tracking System ("PJM-GATS"), MISO's Midwest Renewable Energy
9 Tracking System ("MISO M-RETS") reports, or contracts and other
10 documentation relating to compliance. An alternative retail
11 electric supplier may file commercially or financially
12 sensitive information or trade secrets with the Commission as
13 provided under the rules of the Commission. To be filed
14 confidentially, the information shall be accompanied by an
15 affidavit that sets forth both the reasons for the
16 confidentiality and a public synopsis of the information.

17 (f) Within 120 days after the effective date of this
18 amendatory Act of the 96th General Assembly, but in no event
19 later than October 1, 2009, the Commission shall establish
20 rules to implement this Section, which may include, but are not
21 limited to, all of the following:

22 (1) A standard format for the submission of annual
23 reports by an alternative retail electric supplier.

24 (2) Use of the MISO M-RETS and PJM-GATS systems for
25 independent verification of the location of generation,
26 resource type, month and year of generation for all

1 eligible qualifying renewable energy facilities, including
2 all existing renewable energy systems eligible to receive
3 renewable energy credits and a procedure for certification
4 of new qualifying renewable energy facilities.

5 (3) A method for the banking, transferring, and
6 retiring of renewable energy certificates.

7 (4) A method to address the implications on the
8 required procurement of renewable resources when
9 alternative retail electric suppliers exit or enter the
10 Illinois market.

11 (5) Ensuring that alternative retail electric
12 suppliers are not placed at a competitive disadvantage
13 compared to the eligible retail customers of electric
14 utilities subject to Section 1-75 of the Illinois Power
15 Agency Act.

16 (6) The provision of any other information that the
17 Commission determines necessary.

18 (g) Upon complaint or the Commission's own motion, the
19 Commission may conduct a contested case to review allegations
20 that the alternative retail electric supplier has violated this
21 Section, including an order issued or rule promulgated under
22 this Section. If the Commission finds, after notice and
23 hearing, that an alternative electric supplier has violated
24 this Section, the Commission may do one or more of the
25 following:

26 (1) issue a cease and desist order;

1 (2) order the alternative retail electric supplier to
2 immediately come into compliance with the Act and to pay a
3 civil fine of not less than \$5,000 or more than \$50,000 for
4 each violation;

5 (3) revoke the license of the alternative electric
6 supplier; or

7 (4) impose any other penalty that the Commission deems
8 reasonable and appropriate.

9 The Commission shall not accept an application for
10 certification from an alternative retail electric supplier
11 that has lost certification under this subsection (g), or any
12 corporate affiliate thereof, for at least one year from the
13 date of revocation.

14 (h) All of the provisions of this Section apply to an
15 electric utility operating outside its service area, except
16 that under item (2) of subsection (a) of this Section the
17 quantity of renewable energy resources shall be measured as a
18 percentage of the actual amount of electricity
19 (megawatt-hours) supplied in this State outside of the
20 utility's service territory in the prior calendar year, as
21 reported for that prior calendar year to the Commission.

22 (i) Biennially, the Commission shall submit to the General
23 Assembly a report that discusses the status of renewable energy
24 in this State and the effect of this Section on electricity
25 prices and retail and wholesale electric markets. In each
26 report, the Commission shall make any recommendations it may

1 have concerning amendments to this Act.