



Sen. Ira I. Silverstein

Filed: 3/8/2010

09600SB3627sam003

LRB096 18256 MJR 38361 a

1 AMENDMENT TO SENATE BILL 3627

2 AMENDMENT NO. _____. Amend Senate Bill 3627 by replacing
3 everything after the enacting clause with the following:

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

6 (220 ILCS 5/16-115C)

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

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

1 (a-5) All third-party sales representatives engaged in the
2 marketing of retail electricity supply must, prior to the
3 customer signing a contract, disclose that they are not
4 employed by the electric utility operating in the applicable
5 service territory.

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

26 (c) No person or entity shall act as an agent, broker, or

1 consultant engaged in the procurement or sale of retail
2 electricity supply for third parties unless that person or
3 entity is licensed by the Commission under this Section or is
4 offering services on their own behalf under 83 Ill. Adm. Code
5 451.

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

10 (1) Technical competence.

11 (2) Managerial competence.

12 (3) Financial responsibility, including the posting of
13 an appropriate performance bond.

14 (4) Annual reporting requirements.

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

17 (1) disclose in plain language in writing to all
18 persons it solicits the price per kilowatt-hour, inclusive
19 of all fees received by the licensee, to be paid by the
20 customer ~~total anticipated remuneration to be paid to it by~~
21 ~~any third party~~ over the period of the proposed underlying
22 customer contract;

23 (2) disclose if applicable to all customers, prior to
24 the customer signing a contract, the fact that they will be
25 receiving compensation from the supplier;

26 (3) ~~(2)~~ not hold itself out as independent or

1 unaffiliated with any supplier, or both, or use words
2 reasonably calculated to give that impression, unless the
3 person offering service under this Section has no
4 contractual relationship with any retail electricity
5 supplier or its affiliates regarding retail electric
6 service in Illinois;

7 (4) ~~(3)~~ not utilize false, misleading, materially
8 inaccurate, defamatory, or otherwise deceptive language or
9 materials in the soliciting or providing of its services;

10 (5) ~~(4)~~ maintain copies of all marketing materials
11 disseminated to third parties for a period of not less than
12 3 years;

13 (6) ~~(5)~~ not present electricity pricing information in
14 a manner that favors one supplier over another, unless a
15 valid pricing comparison is made utilizing all relevant
16 costs and terms; and

17 (7) ~~(6)~~ comply with the requirements of Sections 2EE,
18 2FF, 2GG, and 2HH of the Consumer Fraud and Deceptive
19 Business Practices Act.

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

23 (1) A verified report detailing any and all contractual
24 relationships that it has with certified electricity
25 suppliers in the State regarding retail electric service in
26 Illinois.

1 (2) A verified report detailing the distribution of its
2 customers with the various certified electricity suppliers
3 in Illinois during the prior calendar year. A report under
4 this Section shall not be required to contain
5 customer-identifying information. A public redacted
6 version of the verified report shall be submitted to the
7 Commission along with a proprietary version. The public
8 redacted version shall redact from the verified report the
9 names of every certified electricity supplier contained in
10 the report to protect against disclosure of competitively
11 sensitive market share information. The information shall
12 be afforded proprietary treatment by the Commission for 2
13 years from the date of the filing of the verified report.

14 ~~(3) A copy of its verified financial statement.~~

15 (4) ~~(4)~~ A verified statement of any changes to the
16 original licensure qualifications and notice of continuing
17 compliance with all requirements.

18 (g) The Commission shall have jurisdiction over
19 disciplinary proceedings and complaints for violations of this
20 Section. The findings of a violation of this Section by the
21 Commission shall result in a progressive disciplinary scale.
22 For a first violation, the Commission shall suspend the license
23 of the person so disciplined for a period of no less than one
24 month. For a second violation within a 5-year period, the
25 Commission shall suspend the license for the person so
26 disciplined for a period of not less than 6 months. For a third

1 or subsequent violation within a 5-year period, the Commission
2 shall suspend the license of the disciplined person for a
3 period of not less than 2 years.

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

16 (Source: P.A. 95-679, eff. 10-11-07.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law."