

1 AN ACT concerning public 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 changing
5 Section 19-145 and by adding Sections 19-150 and 19-155 as
6 follows:

7 (220 ILCS 5/19-145)

8 Sec. 19-145. Automatic adjustment clause tariff;
9 uncollectibles.

10 (a) A gas utility shall be permitted, at its election, to
11 recover through an automatic adjustment clause tariff the
12 incremental difference between its actual uncollectible amount
13 as set forth in Account 904 in the utility's most recent annual
14 Form 21 ILCC and the uncollectible amount included in the
15 utility's rates for the period reported in such annual Form 21
16 ILCC. The Commission may, in a proceeding to review a general
17 rate case filed subsequent to the effective date of the tariff
18 established under this Section, prospectively switch, from
19 using the actual uncollectible amount set forth in Account 904
20 to using net write-offs in such tariff, but only if net
21 write-offs are also used to determine the utility's
22 uncollectible amount in rates. In the event the Commission
23 requires such a change, it shall be made effective at the

1 beginning of the first full calendar year after the new rates
2 approved in such proceeding are first placed in effect and an
3 adjustment shall be made, if necessary, to ensure the change
4 does not result in double-recovery or unrecovered
5 uncollectible amounts for any year. For purposes of this
6 Section, "uncollectible amount" means the expense set forth in
7 Account 904 of the utility's Form 21 ILCC or cost of net
8 write-offs as appropriate. In the event the utility's rates
9 change during the period of time reported in its most recent
10 annual Form 21 ILCC, the uncollectible amount included in the
11 utility's rates during such period of time for purposes of this
12 Section will be a weighted average, based on revenues earned
13 during such period by the utility under each set of rates, of
14 the uncollectible amount included in the utility's rates at the
15 beginning of such period and at the end of such period. This
16 difference may either be a charge or a credit to customers
17 depending on whether the uncollectible amount is more or less
18 than the uncollectible amount then included in the utility's
19 rates.

20 (b) The tariff may be established outside the context of a
21 general rate case filing, and shall specify the terms of any
22 applicable audit. The Commission shall review and by order
23 approve, or approve as modified, the proposed tariff within 180
24 days after the date on which it is filed. Charges and credits
25 under the tariff shall be allocated to the appropriate customer
26 class or classes. In addition, customers who do not purchase

1 their gas supply from a gas utility and whose receivables are
2 not included in a purchase of receivable program under Section
3 19-150 shall not be charged by the utility for uncollectible
4 amounts associated with gas supply provided by the utility to
5 the utility's customers. Upon approval of the tariff, the
6 utility shall, based on the 2008 Form 21 ILCC, apply the
7 appropriate credit or charge based on the full year 2008
8 amounts for the remainder of the 2010 calendar year. Starting
9 with the 2009 Form 21 ILCC reporting period and each subsequent
10 period, the utility shall apply the appropriate credit or
11 charge over a 12-month period beginning with the June billing
12 period and ending with the May billing period, with the first
13 such billing period beginning June 2010.

14 (c) The approved tariff shall provide that the utility
15 shall file a petition with the Commission annually, no later
16 than August 31st, seeking initiation of an annual review to
17 reconcile all amounts collected with the actual uncollectible
18 amount in the prior period. As part of its review, the
19 Commission shall verify that the utility collects no more and
20 no less than its actual uncollectible amount in each applicable
21 Form 21 ILCC reporting period. The Commission shall review the
22 prudence and reasonableness of the utility's actions to pursue
23 minimization and collection of uncollectibles which shall
24 include, at a minimum, the 6 enumerated criteria set forth in
25 this Section. The Commission shall determine any required
26 adjustments and may include suggestions for prospective

1 changes in current practices. Nothing in this Section or the
2 implementing tariffs shall affect or alter the gas utility's
3 existing obligation to pursue collection of uncollectibles or
4 the gas utility's right to disconnect service. A utility that
5 has in effect a tariff authorized by this Section shall pursue
6 minimization of and collection of uncollectibles through the
7 following activities, including but not limited to:

8 (1) identifying customers with late payments;

9 (2) contacting the customers in an effort to obtain
10 payment;

11 (3) providing delinquent customers with information
12 about possible options, including payment plans and
13 assistance programs;

14 (4) serving disconnection notices;

15 (5) implementing disconnections based on the level of
16 uncollectibles; and

17 (6) pursuing collection activities based on the level
18 of uncollectibles.

19 (d) Nothing in this Section shall be construed to require a
20 utility to immediately disconnect service for nonpayment.

21 (Source: P.A. 96-33, eff. 7-10-09.)

22 (220 ILCS 5/19-150 new)

23 Sec. 19-150. Purchase of receivables.

24 (a) For the purposes of this Section:

25 "Qualifying alternative gas supplier" means an alternative

1 gas supplier that (i) is certified under Section 19-110 of this
2 Act and (ii) includes its charges for gas sales made in a gas
3 utility's service area on that gas utility's bill pursuant to
4 Section 19-135 of this Act.

5 "Administrative costs" means all of the utility's costs
6 incurred in its administration of the purchase of receivables
7 program except for the deemed intangible costs.

8 (b) Within 6 months after the effective date of this
9 amendatory Act of the 97th General Assembly, a gas utility with
10 at least 100,000 customers that offers transportation service
11 to residential customers and small commercial customers shall
12 file a tariff pursuant to Article IX of this Act that provides
13 qualifying alternative gas suppliers with the option to have
14 the gas utility purchase their receivables for gas sales that
15 are (1) made to residential customers and small commercial
16 customers, as those terms are defined in Section 19-105 of this
17 Article, and (2) charged on the gas utility's bill.

18 (c) Receivables for gas sales of qualifying alternative gas
19 suppliers that are charged on the gas utility's bill shall be
20 purchased by the gas utility at a discount rate of 1%. The rate
21 shall include 0.5% to be retained by the gas utility for
22 recovery of deemed intangible costs, and neither this 0.5%
23 portion of the rate, nor the deemed intangible costs, are
24 subject to review by the Commission. The remaining 0.5% of the
25 1% discount rate shall be retained by the gas utility for
26 recovery of the gas utility's administrative costs and is

1 subject to periodic review by the Commission. Any portion of
2 the 0.5% intended for recovery of administrative costs that is
3 found by the Commission, after notice and hearing, to be in
4 excess of just and reasonable costs shall annually, no later
5 than August 1, be provided to the Department of Commerce and
6 Economic Opportunity for the purpose of paying late payment
7 charges and reconnection fees for households at or below 150%
8 of the poverty level that have entered into a payment plan
9 behind the individual utility service territory that is making
10 the payment. The Department of Commerce and Economic
11 Opportunity shall spend the entire amount provided before
12 August 1 of the following year. To the extent there is a
13 surplus, the Department shall have the ability to pay commodity
14 arrears amounts for households at or below 150% of the
15 poverty level. Prior to August 1 of each year, the Department
16 of Commerce and Economic Opportunity shall provide a report to
17 the Commission on the number of households that received funds
18 from this payment and for what purpose the payment was made.

19 (d) In making a just and reasonable determination on the
20 administrative costs, the Commission shall consider:

21 (1) the gas utility's reasonable start-up costs and
22 administrative costs associated with the gas utility's
23 purchase of receivables;

24 (2) the impact, if used by the gas utility, of an
25 automatic adjustment clause tariff pursuant to Section
26 19-145 of this Act to recover uncollectible expense; and

1 (3) whether the gas utility recovers uncollectible
2 expenses from customers of qualifying alternative gas
3 suppliers through any of its existing rates or charges.

4 (e) Reasonable start-up costs and administrative costs
5 associated with the gas utility's purchase of receivables shall
6 in the first instance be recovered from qualifying alternative
7 gas suppliers through the gas utility's discount rate assessed
8 by the gas utility on those qualifying alternative gas
9 suppliers who have the gas utility purchase their receivables.

10 In order to prevent barriers to suppliers' use of a purchase of
11 receivables program and ensure full cost recovery for the gas
12 utility in a timely manner, a portion of the gas utility's
13 reasonable start-up costs, subject to reasonable carrying
14 charges as determined by the Commission, may be deferred for
15 later recovery from qualifying alternative gas suppliers who
16 have the gas utility purchase their receivables through the
17 discount rate or a monthly per bill fee, if such deferral is
18 deemed to be necessary by the Commission. The gas utility
19 retains the rights to (1) impose the same terms on residential
20 customers supplied by qualifying alternative gas suppliers
21 with respect to credit and collection, including requests for
22 deposits, and (2) disconnect the customers, if it does not
23 receive payment for its tariffed services or purchased
24 receivables, in the same manner that it would be permitted to
25 if the customers had purchased gas supply service from the gas
26 utility. Any combination gas and electric utility serving more

1 than 1,000,000 total customers shall be exempt from the
2 requirements of this Section unless and until the Commission
3 approves a proposed small volume transportation tariff that
4 includes consolidated billing and any associated cost recovery
5 provisions for an exempt utility. With regard to exempt
6 utilities, the Commission may approve a small volume
7 transportation tariff including consolidated billing and
8 associated cost recovery as part of a general rate increase or
9 other tariff filing.

10 (f) The tariff filed pursuant to this Section shall permit
11 the gas utility to recover from customers any uncollected
12 receivables that may arise as a result of the purchase of
13 receivables under this Section. The tariff filed pursuant to
14 this Section shall provide for recovery of the prudently
15 incurred costs associated with the provision of this service
16 pursuant to this Section and may include other just and
17 reasonable terms and conditions. Nothing in this Section
18 permits the double recovery of uncollectible expenses from
19 customers.

20 (g) Amounts collected by the gas utility attributable to
21 the 0.5% portion of the discount rate under this Section for
22 deemed intangible costs shall not be used by the Commission to
23 lower the base rate revenue requirement of the gas utility in
24 any subsequent rate case. In order to limit the implications on
25 short-term debt of the gas utility, a gas utility may choose to
26 delay purchase of unpaid receivables until the bill due date.

1 Other than for initial implementation of the purchase of
2 receivables program, when so choosing, a gas utility shall
3 remit payments to the alternative gas suppliers no more than 2
4 business days after the due date.

5 (220 ILCS 5/19-155 new)

6 Sec. 19-155. Aggregation of natural gas load by
7 municipalities and counties.

8 (a) The corporate authorities of a municipality or county
9 board of a county may adopt an ordinance under which it may
10 aggregate in accordance with this Section residential
11 customers and small commercial customer natural gas loads
12 located, respectively, within the municipality or the
13 unincorporated areas of the county and, for that purpose, may
14 solicit bids and enter into service agreements to facilitate
15 for those loads the sale and purchase of natural gas and
16 related services and equipment.

17 The corporate authorities or county board may also exercise
18 such authority jointly with any other municipality or county.
19 Two or more municipalities or counties, or a combination of
20 both, may initiate a process jointly to authorize aggregation
21 by a majority vote of each particular municipality or county as
22 required by this Section.

23 If the corporate authorities or the county board seek to
24 operate the aggregation program as an opt-out program for
25 residential customers and small commercial customers, then

1 prior to the adoption of an ordinance with respect to
2 aggregation of residential customers and small commercial
3 customer natural gas loads, the corporate authorities of a
4 municipality or the county board of a county shall submit a
5 referendum to its residents to determine whether or not the
6 aggregation program shall operate as an opt-out program for
7 residential customers and small commercial customers.

8 In addition to the notice and conduct requirements of the
9 general election law, notice of the referendum shall state
10 briefly the purpose of the referendum. The question of whether
11 the corporate authorities or the county board shall adopt an
12 opt-out aggregation program for residential customers and
13 small commercial customers shall be submitted to the electors
14 of the municipality or county board at a regular election and
15 approved by a majority of the electors voting on the question.
16 The corporate authorities or county board must certify to the
17 proper election authority, which must submit the question at an
18 election in accordance with the Election Code.

19 The election authority must submit the question in
20 substantially the following form:

21 "Shall the (municipality or county in which the
22 question is being voted upon) have the authority to arrange
23 for the supply of natural gas for its residential customers
24 and small commercial customers who have not opted out of
25 such program?"

26 The election authority must record the votes as "Yes" or

1 "No".

2 If a majority of the electors voting on the question vote
3 in the affirmative, then the corporate authorities or county
4 board may implement an opt-out aggregation program for
5 residential customers and small commercial customers.

6 A referendum must pass in each particular municipality or
7 county that is engaged in the aggregation program. If the
8 referendum fails, then the corporate authorities or county
9 board shall operate the aggregation program as an opt-in
10 program for residential customers and small commercial
11 customers.

12 An ordinance under this Section shall specify whether the
13 aggregation shall occur only with the prior consent of each
14 person owning, occupying, controlling, or using a natural gas
15 load center proposed to be aggregated. Nothing in this Section,
16 however, authorizes the aggregation of natural gas loads that
17 are served or authorized to be served by a municipality that
18 owns and operates its own gas distribution system. No
19 aggregation shall take effect unless approved by a majority of
20 the members of the corporate authority or county board voting
21 upon the ordinance. A governmental aggregator under this
22 Section is not a public utility, agent, broker, consultant or
23 an alternative retail gas supplier.

24 (b) Upon the applicable requisite authority under this
25 Section, the corporate authorities or the county board shall
26 develop a plan of operation and governance for the aggregation

1 program so authorized. Before adopting a plan under this
2 Section, the corporate authorities or county board shall hold
3 at least 2 public hearings on the plan. Before the first
4 hearing, the corporate authorities or county board shall
5 publish notice of the hearings once a week for 2 consecutive
6 weeks in a newspaper of general circulation in the
7 jurisdiction. The notice shall summarize the plan and state the
8 date, time, and location of each hearing. Any load aggregation
9 plan established pursuant to this Section shall:

10 (1) provide for universal access to all applicable
11 residential customers and equitable treatment of
12 applicable residential customers;

13 (2) describe demand management and energy efficiency
14 services to be provided to each class of customers; and

15 (3) meet any requirements established by law
16 concerning aggregated service offered pursuant to this
17 Section.

18 (c) The process for selecting a natural gas supplier and
19 awarding proposed agreements for the purchase of natural gas
20 and other related services shall be conducted in the following
21 order:

22 (1) First, the corporate authorities or county board
23 may solicit bids for natural gas and other related
24 services.

25 (2) Then, notwithstanding Section 19-115 of this Act
26 and Section 2FFF of the Consumer Fraud and Deceptive

1 Business Practices Act, a natural gas utility that provides
2 residential customers and small commercial customers
3 natural gas service in the aggregate area must, upon
4 request of the corporate authorities or the county board in
5 the aggregate area, submit to the requesting party, in an
6 electronic format, those account numbers, names, and
7 addresses of residential customers and small commercial
8 customers in the aggregate area that are reflected in the
9 natural gas utility's records at the time of the request.

10 Any corporate authority or county board receiving customer
11 information from a natural gas utility shall be subject to
12 the limitations on the disclosure of the information
13 described in Section 19-115 of this Act and Section 2FFF of
14 the Consumer Fraud and Deceptive Business Practices Act,
15 and a natural gas utility shall not be held liable for any
16 claims arising out of the provision of information pursuant
17 to this item (2).

18 (d) If the corporate authorities or county board operate
19 under an opt-in program for residential customers and small
20 commercial customers, then:

21 (1) within 60 days after receiving the bids, the
22 corporate authorities or county board shall allow
23 residential customers and small commercial customers to
24 commit to the terms and conditions of a bid that has been
25 selected by the corporate authorities or county board; and

26 (2) if (A) the corporate authorities or county board

1 award proposed agreements for the purchase of natural gas
2 and other related services and (B) an agreement is reached
3 between the corporate authorities or county board for those
4 services, then residential customers and small commercial
5 customers committed to the terms and conditions according
6 to item (1) of this subsection (d) shall be committed to
7 the agreement.

8 (e) If the corporate authorities or county board operate as
9 an opt-out program for residential customers and small
10 commercial customers, then it shall be the duty of the
11 aggregated entity to fully inform residential customers and
12 small commercial customers in advance that they have the right
13 to opt out of the aggregation program. The disclosure shall
14 prominently state all charges to be made and shall include full
15 disclosure of the cost to obtain service pursuant to Section
16 19-115 of this Act, how to access it, and the fact that it is
17 available to them without penalty, if they are currently
18 receiving service under that Section. Early termination fees,
19 subject to paragraph (5) of subsection (g) of Section 19-115 of
20 this Act, for consumers currently under contract with an
21 alternative retail gas supplier or an entity that provides
22 services in competition with and similar to an alternative
23 retail gas supplier, are not considered penalties under this
24 subsection.

25 (f) The Illinois Commerce Commission shall adopt rules to
26 implement this Section, including, but not limited to, the

1 protection of customers already under contract with an
2 alternative retail gas supplier, gas utility processes for
3 enrollment of opt-out customers, and minimum opt-out
4 disclosure requirements for opt-out aggregation. The rules
5 adopted under this subsection (f) shall specifically state that
6 if a customer is currently under contract with an alternative
7 retail gas supplier or an entity that provides services in
8 competition with and similar to an alternative retail gas
9 supplier, the customer shall not be automatically enrolled in
10 the relevant municipal or county opt-out program and that the
11 opt-out program shall not interfere with the existing agreement
12 between the customer and alternative retail gas supplier or an
13 entity that provides services in competition with and similar
14 to an alternative retail gas supplier. Nothing shall prohibit a
15 customer under contract with an alternative retail gas supplier
16 or an entity that provides services in competition with and
17 similar to an alternative retail gas supplier from explicitly,
18 in writing, affirmatively choosing to enter into the local
19 municipality's or county's opt-out program. The opt-out
20 disclosure rules adopted under this subsection shall, at a
21 minimum, disclose the possibility of a contract termination
22 fee, subject to the terms of paragraph (5) of subsection (g) of
23 Section 19-115 of this Act, for those customers under contract
24 with alternative retail gas suppliers or an entity that
25 provides services in competition with and similar to an
26 alternative retail gas supplier.

1 (g) No municipality or county shall implement, in its plan
2 of operation and governance, an opt-out program that
3 automatically enrolls a customer that is currently under
4 contract with an alternative retail gas supplier or an entity
5 that provides services in competition with and similar to an
6 alternative retail gas supplier into its municipal or county
7 opt-out program. A customer that is currently under contract
8 with an alternative retail gas supplier or an entity that
9 provides services in competition with and similar to an
10 alternative retail gas supplier that seeks to enroll in an
11 opt-out program shall be required by the municipality or
12 county, as applicable, to explicitly, in writing, affirm the
13 choice to enter into said opt-out program.

14 (h) Nothing in this Section shall require a natural gas
15 public utility without a Commission-approved small volume
16 transportation program to accommodate aggregated load
17 switching for any natural gas customers.

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