



Sen. Don Harmon

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1 AMENDMENT TO SENATE BILL 3766

2 AMENDMENT NO. _____. Amend Senate Bill 3766 by replacing
3 everything after the enacting clause with the following:

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

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

1 (b) The tariff may be established outside the context of a
2 general rate case filing, and shall specify the terms of any
3 applicable audit. The Commission shall review and by order
4 approve, or approve as modified, the proposed tariff within 180
5 days after the date on which it is filed. Charges and credits
6 under the tariff shall be allocated to the appropriate customer
7 class or classes. In addition, customers who do not purchase
8 their gas supply from a gas utility and whose receivables are
9 not included in a purchase of receivable program under Section
10 19-150 shall not be charged by the utility for uncollectible
11 amounts associated with gas supply provided by the utility to
12 the utility's customers. Upon approval of the tariff, the
13 utility shall, based on the 2008 Form 21 ILCC, apply the
14 appropriate credit or charge based on the full year 2008
15 amounts for the remainder of the 2010 calendar year. Starting
16 with the 2009 Form 21 ILCC reporting period and each subsequent
17 period, the utility shall apply the appropriate credit or
18 charge over a 12-month period beginning with the June billing
19 period and ending with the May billing period, with the first
20 such billing period beginning June 2010.

21 (c) The approved tariff shall provide that the utility
22 shall file a petition with the Commission annually, no later
23 than August 31st, seeking initiation of an annual review to
24 reconcile all amounts collected with the actual uncollectible
25 amount in the prior period. As part of its review, the
26 Commission shall verify that the utility collects no more and

1 no less than its actual uncollectible amount in each applicable
2 Form 21 ILCC reporting period. The Commission shall review the
3 prudence and reasonableness of the utility's actions to pursue
4 minimization and collection of uncollectibles which shall
5 include, at a minimum, the 6 enumerated criteria set forth in
6 this Section. The Commission shall determine any required
7 adjustments and may include suggestions for prospective
8 changes in current practices. Nothing in this Section or the
9 implementing tariffs shall affect or alter the gas utility's
10 existing obligation to pursue collection of uncollectibles or
11 the gas utility's right to disconnect service. A utility that
12 has in effect a tariff authorized by this Section shall pursue
13 minimization of and collection of uncollectibles through the
14 following activities, including but not limited to:

15 (1) identifying customers with late payments;

16 (2) contacting the customers in an effort to obtain
17 payment;

18 (3) providing delinquent customers with information
19 about possible options, including payment plans and
20 assistance programs;

21 (4) serving disconnection notices;

22 (5) implementing disconnections based on the level of
23 uncollectibles; and

24 (6) pursuing collection activities based on the level
25 of uncollectibles.

26 (d) Nothing in this Section shall be construed to require a

1 utility to immediately disconnect service for nonpayment.

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

3 (220 ILCS 5/19-150 new)

4 Sec. 19-150. Purchase of receivables.

5 (a) For the purposes of this Section:

6 "Qualifying alternative gas supplier" means an alternative
7 gas supplier that (i) is certified under Section 19-110 of this
8 Act and (ii) includes its charges for gas sales made in a gas
9 utility's service area on that gas utility's bill pursuant to
10 Section 19-135 of this Act.

11 "Administrative costs" means all of the utility's costs
12 incurred in its administration of the purchase of receivables
13 program except for the deemed intangible costs.

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

24 (c) Receivables for gas sales of qualifying alternative gas
25 suppliers that are charged on the gas utility's bill shall be

1 purchased by the gas utility at a discount rate of 1%. The rate
2 shall include 0.5% to be retained by the gas utility for
3 recovery of deemed intangible costs, and neither this 0.5%
4 portion of the rate, nor the deemed intangible costs, are
5 subject to review by the Commission. The remaining 0.5% of the
6 1% discount rate shall be retained by the gas utility for
7 recovery of the gas utility's administrative costs and is
8 subject to periodic review by the Commission. Any portion of
9 the 0.5% intended for recovery of administrative costs that is
10 found by the Commission, after notice and hearing, to be in
11 excess of prudent and reasonable costs shall annually, no later
12 than August 1, be provided to the Department of Commerce and
13 Economic Opportunity for the purpose of paying late payment
14 charges and reconnection fees for households at or below 150%
15 of the poverty level that have entered into a payment plan
16 behind the individual utility service territory that is making
17 the payment. The Department of Commerce and Economic
18 Opportunity shall spend the entire amount provided before
19 August 1 of the following year. To the extent there is a
20 surplus, the Department shall have the ability to pay commodity
21 arrearage amounts for households at or below 150% of the
22 poverty level. Prior to August 1 of each year, the Department
23 of Commerce and Economic Opportunity shall provide a report to
24 the Commission on the number of households that received funds
25 from this payment and for what purpose the payment was made.

26 (d) In making a just and reasonable determination on the

1 administrative costs, the Commission shall consider:

2 (1) the gas utility's reasonable start-up costs and
3 administrative costs associated with the gas utility's
4 purchase of receivables;

5 (2) the impact, if used by the gas utility, of an
6 automatic adjustment clause tariff pursuant to Section
7 19-145 of this Act to recover uncollectible expense; and

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

11 (e) Reasonable start-up costs and administrative costs
12 associated with the gas utility's purchase of receivables shall
13 in the first instance be recovered from qualifying alternative
14 gas suppliers through the gas utility's discount rate assessed
15 by the gas utility on those qualifying alternative gas
16 suppliers who have the gas utility purchase their receivables.
17 In order to prevent barriers to suppliers' use of a purchase of
18 receivables program and ensure full cost recovery for the gas
19 utility in a timely manner, a portion of the gas utility's
20 reasonable start-up costs, subject to reasonable carrying
21 charges as determined by the Commission, may be deferred for
22 later recovery from qualifying alternative gas suppliers who
23 have the gas utility purchase their receivables through the
24 discount rate or a monthly per bill fee, if such deferral is
25 deemed to be necessary by the Commission. The gas utility
26 retains the rights to (1) impose the same terms on residential

1 customers supplied by qualifying alternative gas suppliers
2 with respect to credit and collection, including requests for
3 deposits, and (2) disconnect the customers, if it does not
4 receive payment for its tariffed services or purchased
5 receivables, in the same manner that it would be permitted to
6 if the customers had purchased gas supply service from the gas
7 utility.

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

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

1 remit payments to the alternative gas suppliers no more than 2
2 business days after the due date.

3 (220 ILCS 5/19-155 new)

4 Sec. 19-155. Aggregation of natural gas load by
5 municipalities and counties.

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

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

21 If the corporate authorities or the county board seek to
22 operate the aggregation program as an opt-out program for
23 residential customers and small commercial customers, then
24 prior to the adoption of an ordinance with respect to
25 aggregation of residential customers and small commercial

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

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

17 The election authority must submit the question in
18 substantially the following form:

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

24 The election authority must record the votes as "Yes" or
25 "No".

26 If a majority of the electors voting on the question vote

1 in the affirmative, then the corporate authorities or county
2 board may implement an opt-out aggregation program for
3 residential customers and small commercial customers.

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

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

22 (b) Upon the applicable requisite authority under this
23 Section, the corporate authorities or the county board shall
24 develop a plan of operation and governance for the aggregation
25 program so authorized. Before adopting a plan under this
26 Section, the corporate authorities or county board shall hold

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

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

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

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

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

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

23 (2) Then, notwithstanding Section 19-115 of this Act
24 and Section 2FFF of the Consumer Fraud and Deceptive
25 Business Practices Act, a natural gas utility that provides
26 residential customers and small commercial customers

1 natural gas service in the aggregate area must, upon
2 request of the corporate authorities or the county board in
3 the aggregate area, submit to the requesting party, in an
4 electronic format, those account numbers, names, and
5 addresses of residential customers and small commercial
6 customers in the aggregate area that are reflected in the
7 natural gas utility's records at the time of the request.
8 Any corporate authority or county board receiving customer
9 information from a natural gas utility shall be subject to
10 the limitations on the disclosure of the information
11 described in Section 19-115 of this Act and Section 2FFF of
12 the Consumer Fraud and Deceptive Business Practices Act,
13 and a natural gas utility shall not be held liable for any
14 claims arising out of the provision of information pursuant
15 to this item (2).

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

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

24 (2) if (A) the corporate authorities or county board
25 award proposed agreements for the purchase of natural gas
26 and other related services and (B) an agreement is reached

1 between the corporate authorities or county board for those
2 services, then residential customers and small commercial
3 customers committed to the terms and conditions according
4 to item (1) of this subsection (d) shall be committed to
5 the agreement.

6 (e) If the corporate authorities or county board operate as
7 an opt-out program for residential customers and small
8 commercial customers, then it shall be the duty of the
9 aggregated entity to fully inform residential customers and
10 small commercial customers in advance that they have the right
11 to opt out of the aggregation program. The disclosure shall
12 prominently state all charges to be made and shall include full
13 disclosure of the cost to obtain service pursuant to Section
14 19-115 of this Act, how to access it, and the fact that it is
15 available to them without penalty, if they are currently
16 receiving service under that Section.

17 (f) The Illinois Commerce Commission shall adopt rules to
18 implement this Section, including, but not limited to, the
19 protection of customers already under contract with an
20 alternative retail gas supplier, gas utility processes for
21 enrollment of opt-out customers, and minimum opt-out
22 disclosure requirements for opt-out aggregation.

23 Section 99. Effective date. This Act takes effect upon
24 becoming law."