



Sen. Don Harmon

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09700SB3766sam002

LRB097 19347 CEL 67944 a

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 just 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. Any combination gas and electric utility serving more  
8 than 1,000,000 total customers shall be exempt from the  
9 requirements of this Section unless and until the Commission  
10 approves a proposed small volume transportation tariff that  
11 includes consolidated billing and any associated cost recovery  
12 provisions for an exempt utility. With regard to exempt  
13 utilities, the Commission may approve a small volume  
14 transportation tariff including consolidated billing and  
15 associated cost recovery as part of a general rate increase or  
16 other tariff filing.

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



1       (g) Amounts collected by the gas utility attributable to  
2 the 0.5% portion of the discount rate under this Section for  
3 deemed intangible costs shall not be used by the Commission to  
4 lower the base rate revenue requirement of the gas utility in  
5 any subsequent rate case. In order to limit the implications on  
6 short-term debt of the gas utility, a gas utility may choose to  
7 delay purchase of unpaid receivables until the bill due date.  
8 Other than for initial implementation of the purchase of  
9 receivables program, when so choosing, a gas utility shall  
10 remit payments to the alternative gas suppliers no more than 2  
11 business days after the due date.

12           (220 ILCS 5/19-155 new)

13       Sec. 19-155. Aggregation of natural gas load by  
14 municipalities and counties.

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

24       The corporate authorities or county board may also exercise  
25 such authority jointly with any other municipality or county.

1 Two or more municipalities or counties, or a combination of  
2 both, may initiate a process jointly to authorize aggregation  
3 by a majority vote of each particular municipality or county as  
4 required by this Section.

5 If the corporate authorities or the county board seek to  
6 operate the aggregation program as an opt-out program for  
7 residential customers and small commercial customers, then  
8 prior to the adoption of an ordinance with respect to  
9 aggregation of residential customers and small commercial  
10 customer natural gas loads, the corporate authorities of a  
11 municipality or the county board of a county shall submit a  
12 referendum to its residents to determine whether or not the  
13 aggregation program shall operate as an opt-out program for  
14 residential customers and small commercial customers.

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

26 The election authority must submit the question in

1 substantially the following form:

2 "Shall the (municipality or county in which the  
3 question is being voted upon) have the authority to arrange  
4 for the supply of natural gas for its residential customers  
5 and small commercial customers who have not opted out of  
6 such program?"

7 The election authority must record the votes as "Yes" or  
8 "No".

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

13 A referendum must pass in each particular municipality or  
14 county that is engaged in the aggregation program. If the  
15 referendum fails, then the corporate authorities or county  
16 board shall operate the aggregation program as an opt-in  
17 program for residential customers and small commercial  
18 customers.

19 An ordinance under this Section shall specify whether the  
20 aggregation shall occur only with the prior consent of each  
21 person owning, occupying, controlling, or using a natural gas  
22 load center proposed to be aggregated. Nothing in this Section,  
23 however, authorizes the aggregation of natural gas loads that  
24 are served or authorized to be served by a municipality that  
25 owns and operates its own gas distribution system. No  
26 aggregation shall take effect unless approved by a majority of

1 the members of the corporate authority or county board voting  
2 upon the ordinance. A governmental aggregator under this  
3 Section is not a public utility, agent, broker, consultant or  
4 an alternative retail gas supplier.

5 (b) Upon the applicable requisite authority under this  
6 Section, the corporate authorities or the county board shall  
7 develop a plan of operation and governance for the aggregation  
8 program so authorized. Before adopting a plan under this  
9 Section, the corporate authorities or county board shall hold  
10 at least 2 public hearings on the plan. Before the first  
11 hearing, the corporate authorities or county board shall  
12 publish notice of the hearings once a week for 2 consecutive  
13 weeks in a newspaper of general circulation in the  
14 jurisdiction. The notice shall summarize the plan and state the  
15 date, time, and location of each hearing. Any load aggregation  
16 plan established pursuant to this Section shall:

17 (1) provide for universal access to all applicable  
18 residential customers and equitable treatment of  
19 applicable residential customers;

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

22 (3) meet any requirements established by law  
23 concerning aggregated service offered pursuant to this  
24 Section.

25 (c) The process for selecting a natural gas supplier and  
26 awarding proposed agreements for the purchase of natural gas

1 and other related services shall be conducted in the following  
2 order:

3 (1) First, the corporate authorities or county board  
4 may solicit bids for natural gas and other related  
5 services.

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

25 (d) If the corporate authorities or county board operate  
26 under an opt-in program for residential customers and small

1 commercial customers, then:

2 (1) within 60 days after receiving the bids, the  
3 corporate authorities or county board shall allow  
4 residential customers and small commercial customers to  
5 commit to the terms and conditions of a bid that has been  
6 selected by the corporate authorities or county board; and

7 (2) if (A) the corporate authorities or county board  
8 award proposed agreements for the purchase of natural gas  
9 and other related services and (B) an agreement is reached  
10 between the corporate authorities or county board for those  
11 services, then residential customers and small commercial  
12 customers committed to the terms and conditions according  
13 to item (1) of this subsection (d) shall be committed to  
14 the agreement.

15 (e) If the corporate authorities or county board operate as  
16 an opt-out program for residential customers and small  
17 commercial customers, then it shall be the duty of the  
18 aggregated entity to fully inform residential customers and  
19 small commercial customers in advance that they have the right  
20 to opt out of the aggregation program. The disclosure shall  
21 prominently state all charges to be made and shall include full  
22 disclosure of the cost to obtain service pursuant to Section  
23 19-115 of this Act, how to access it, and the fact that it is  
24 available to them without penalty, if they are currently  
25 receiving service under that Section. Early termination fees,  
26 subject to paragraph (5) of subsection (g) of Section 19-115 of

1 this Act, for consumers currently under contract with an  
2 alternative retail gas supplier or an entity that provides  
3 services in competition with and similar to an alternative  
4 retail gas supplier, are not considered penalties under this  
5 subsection.

6 (f) The Illinois Commerce Commission shall adopt rules to  
7 implement this Section, including, but not limited to, the  
8 protection of customers already under contract with an  
9 alternative retail gas supplier, gas utility processes for  
10 enrollment of opt-out customers, and minimum opt-out  
11 disclosure requirements for opt-out aggregation. The rules  
12 adopted under this subsection (f) shall specifically state that  
13 if a customer is currently under contract with an alternative  
14 retail gas supplier or an entity that provides services in  
15 competition with and similar to an alternative retail gas  
16 supplier, the customer shall not be automatically enrolled in  
17 the relevant municipal or county opt-out program and that the  
18 opt-out program shall not interfere with the existing agreement  
19 between the customer and alternative retail gas supplier or an  
20 entity that provides services in competition with and similar  
21 to an alternative retail gas supplier. Nothing shall prohibit a  
22 customer under contract with an alternative retail gas supplier  
23 or an entity that provides services in competition with and  
24 similar to an alternative retail gas supplier from explicitly,  
25 in writing, affirmatively choosing to enter into the local  
26 municipality's or county's opt-out program. The opt-out

1 disclosure rules adopted under this subsection shall, at a  
2 minimum, disclose the possibility of a contract termination  
3 fee, subject to the terms of paragraph (5) of subsection (g) of  
4 Section 19-115 of this Act, for those customers under contract  
5 with alternative retail gas suppliers or an entity that  
6 provides services in competition with and similar to an  
7 alternative retail gas supplier.

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

21 (h) Nothing in this Section shall require a natural gas  
22 public utility without a Commission-approved small volume  
23 transportation program to accommodate aggregated load  
24 switching for any natural gas customers.

25 Section 99. Effective date. This Act takes effect upon



1 becoming law.".