

# SB0623



## 98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB0623

Introduced 1/24/2013, by Sen. John J. Cullerton

### SYNOPSIS AS INTRODUCED:

220 ILCS 5/16-108

Amends the Public Utilities Act. Makes a technical change in a Section concerning recovery of costs associated with the provision of delivery services.

LRB098 04427 JWD 34455 b

A BILL FOR

1 AN ACT concerning regulation.

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 16-108 as follows:

6 (220 ILCS 5/16-108)

7 Sec. 16-108. Recovery of costs associated with the ~~the~~  
8 provision of delivery services.

9 (a) An electric utility shall file a delivery services  
10 tariff with the Commission at least 210 days prior to the date  
11 that it is required to begin offering such services pursuant to  
12 this Act. An electric utility shall provide the components of  
13 delivery services that are subject to the jurisdiction of the  
14 Federal Energy Regulatory Commission at the same prices, terms  
15 and conditions set forth in its applicable tariff as approved  
16 or allowed into effect by that Commission. The Commission shall  
17 otherwise have the authority pursuant to Article IX to review,  
18 approve, and modify the prices, terms and conditions of those  
19 components of delivery services not subject to the jurisdiction  
20 of the Federal Energy Regulatory Commission, including the  
21 authority to determine the extent to which such delivery  
22 services should be offered on an unbundled basis. In making any  
23 such determination the Commission shall consider, at a minimum,

1 the effect of additional unbundling on (i) the objective of  
2 just and reasonable rates, (ii) electric utility employees, and  
3 (iii) the development of competitive markets for electric  
4 energy services in Illinois.

5 (b) The Commission shall enter an order approving, or  
6 approving as modified, the delivery services tariff no later  
7 than 30 days prior to the date on which the electric utility  
8 must commence offering such services. The Commission may  
9 subsequently modify such tariff pursuant to this Act.

10 (c) The electric utility's tariffs shall define the classes  
11 of its customers for purposes of delivery services charges.  
12 Delivery services shall be priced and made available to all  
13 retail customers electing delivery services in each such class  
14 on a nondiscriminatory basis regardless of whether the retail  
15 customer chooses the electric utility, an affiliate of the  
16 electric utility, or another entity as its supplier of electric  
17 power and energy. Charges for delivery services shall be cost  
18 based, and shall allow the electric utility to recover the  
19 costs of providing delivery services through its charges to its  
20 delivery service customers that use the facilities and services  
21 associated with such costs. Such costs shall include the costs  
22 of owning, operating and maintaining transmission and  
23 distribution facilities. The Commission shall also be  
24 authorized to consider whether, and if so to what extent, the  
25 following costs are appropriately included in the electric  
26 utility's delivery services rates: (i) the costs of that

1 portion of generation facilities used for the production and  
2 absorption of reactive power in order that retail customers  
3 located in the electric utility's service area can receive  
4 electric power and energy from suppliers other than the  
5 electric utility, and (ii) the costs associated with the use  
6 and redispatch of generation facilities to mitigate  
7 constraints on the transmission or distribution system in order  
8 that retail customers located in the electric utility's service  
9 area can receive electric power and energy from suppliers other  
10 than the electric utility. Nothing in this subsection shall be  
11 construed as directing the Commission to allocate any of the  
12 costs described in (i) or (ii) that are found to be  
13 appropriately included in the electric utility's delivery  
14 services rates to any particular customer group or geographic  
15 area in setting delivery services rates.

16 (d) The Commission shall establish charges, terms and  
17 conditions for delivery services that are just and reasonable  
18 and shall take into account customer impacts when establishing  
19 such charges. In establishing charges, terms and conditions for  
20 delivery services, the Commission shall take into account  
21 voltage level differences. A retail customer shall have the  
22 option to request to purchase electric service at any delivery  
23 service voltage reasonably and technically feasible from the  
24 electric facilities serving that customer's premises provided  
25 that there are no significant adverse impacts upon system  
26 reliability or system efficiency. A retail customer shall also

1 have the option to request to purchase electric service at any  
2 point of delivery that is reasonably and technically feasible  
3 provided that there are no significant adverse impacts on  
4 system reliability or efficiency. Such requests shall not be  
5 unreasonably denied.

6 (e) Electric utilities shall recover the costs of  
7 installing, operating or maintaining facilities for the  
8 particular benefit of one or more delivery services customers,  
9 including without limitation any costs incurred in complying  
10 with a customer's request to be served at a different voltage  
11 level, directly from the retail customer or customers for whose  
12 benefit the costs were incurred, to the extent such costs are  
13 not recovered through the charges referred to in subsections  
14 (c) and (d) of this Section.

15 (f) An electric utility shall be entitled but not required  
16 to implement transition charges in conjunction with the  
17 offering of delivery services pursuant to Section 16-104. If an  
18 electric utility implements transition charges, it shall  
19 implement such charges for all delivery services customers and  
20 for all customers described in subsection (h), but shall not  
21 implement transition charges for power and energy that a retail  
22 customer takes from cogeneration or self-generation facilities  
23 located on that retail customer's premises, if such facilities  
24 meet the following criteria:

25 (i) the cogeneration or self-generation facilities  
26 serve a single retail customer and are located on that

1 retail customer's premises (for purposes of this  
2 subparagraph and subparagraph (ii), an industrial or  
3 manufacturing retail customer and a third party contractor  
4 that is served by such industrial or manufacturing customer  
5 through such retail customer's own electrical distribution  
6 facilities under the circumstances described in subsection  
7 (vi) of the definition of "alternative retail electric  
8 supplier" set forth in Section 16-102, shall be considered  
9 a single retail customer);

10 (ii) the cogeneration or self-generation facilities  
11 either (A) are sized pursuant to generally accepted  
12 engineering standards for the retail customer's electrical  
13 load at that premises (taking into account standby or other  
14 reliability considerations related to that retail  
15 customer's operations at that site) or (B) if the facility  
16 is a cogeneration facility located on the retail customer's  
17 premises, the retail customer is the thermal host for that  
18 facility and the facility has been designed to meet that  
19 retail customer's thermal energy requirements resulting in  
20 electrical output beyond that retail customer's electrical  
21 demand at that premises, comply with the operating and  
22 efficiency standards applicable to "qualifying facilities"  
23 specified in title 18 Code of Federal Regulations Section  
24 292.205 as in effect on the effective date of this  
25 amendatory Act of 1999;

26 (iii) the retail customer on whose premises the

1 facilities are located either has an exclusive right to  
2 receive, and corresponding obligation to pay for, all of  
3 the electrical capacity of the facility, or in the case of  
4 a cogeneration facility that has been designed to meet the  
5 retail customer's thermal energy requirements at that  
6 premises, an identified amount of the electrical capacity  
7 of the facility, over a minimum 5-year period; and

8 (iv) if the cogeneration facility is sized for the  
9 retail customer's thermal load at that premises but exceeds  
10 the electrical load, any sales of excess power or energy  
11 are made only at wholesale, are subject to the jurisdiction  
12 of the Federal Energy Regulatory Commission, and are not  
13 for the purpose of circumventing the provisions of this  
14 subsection (f).

15 If a generation facility located at a retail customer's  
16 premises does not meet the above criteria, an electric utility  
17 implementing transition charges shall implement a transition  
18 charge until December 31, 2006 for any power and energy taken  
19 by such retail customer from such facility as if such power and  
20 energy had been delivered by the electric utility. Provided,  
21 however, that an industrial retail customer that is taking  
22 power from a generation facility that does not meet the above  
23 criteria but that is located on such customer's premises will  
24 not be subject to a transition charge for the power and energy  
25 taken by such retail customer from such generation facility if  
26 the facility does not serve any other retail customer and

1 either was installed on behalf of the customer and for its own  
2 use prior to January 1, 1997, or is both predominantly fueled  
3 by byproducts of such customer's manufacturing process at such  
4 premises and sells or offers an average of 300 megawatts or  
5 more of electricity produced from such generation facility into  
6 the wholesale market. Such charges shall be calculated as  
7 provided in Section 16-102, and shall be collected on each  
8 kilowatt-hour delivered under a delivery services tariff to a  
9 retail customer from the date the customer first takes delivery  
10 services until December 31, 2006 except as provided in  
11 subsection (h) of this Section. Provided, however, that an  
12 electric utility, other than an electric utility providing  
13 service to at least 1,000,000 customers in this State on  
14 January 1, 1999, shall be entitled to petition for entry of an  
15 order by the Commission authorizing the electric utility to  
16 implement transition charges for an additional period ending no  
17 later than December 31, 2008. The electric utility shall file  
18 its petition with supporting evidence no earlier than 16  
19 months, and no later than 12 months, prior to December 31,  
20 2006. The Commission shall hold a hearing on the electric  
21 utility's petition and shall enter its order no later than 8  
22 months after the petition is filed. The Commission shall  
23 determine whether and to what extent the electric utility shall  
24 be authorized to implement transition charges for an additional  
25 period. The Commission may authorize the electric utility to  
26 implement transition charges for some or all of the additional



1 period, and shall determine the mitigation factors to be used  
2 in implementing such transition charges; provided, that the  
3 Commission shall not authorize mitigation factors less than  
4 110% of those in effect during the 12 months ended December 31,  
5 2006. In making its determination, the Commission shall  
6 consider the following factors: the necessity to implement  
7 transition charges for an additional period in order to  
8 maintain the financial integrity of the electric utility; the  
9 prudence of the electric utility's actions in reducing its  
10 costs since the effective date of this amendatory Act of 1997;  
11 the ability of the electric utility to provide safe, adequate  
12 and reliable service to retail customers in its service area;  
13 and the impact on competition of allowing the electric utility  
14 to implement transition charges for the additional period.

15 (g) The electric utility shall file tariffs that establish  
16 the transition charges to be paid by each class of customers to  
17 the electric utility in conjunction with the provision of  
18 delivery services. The electric utility's tariffs shall define  
19 the classes of its customers for purposes of calculating  
20 transition charges. The electric utility's tariffs shall  
21 provide for the calculation of transition charges on a  
22 customer-specific basis for any retail customer whose average  
23 monthly maximum electrical demand on the electric utility's  
24 system during the 6 months with the customer's highest monthly  
25 maximum electrical demands equals or exceeds 3.0 megawatts for  
26 electric utilities having more than 1,000,000 customers, and

1 for other electric utilities for any customer that has an  
2 average monthly maximum electrical demand on the electric  
3 utility's system of one megawatt or more, and (A) for which  
4 there exists data on the customer's usage during the 3 years  
5 preceding the date that the customer became eligible to take  
6 delivery services, or (B) for which there does not exist data  
7 on the customer's usage during the 3 years preceding the date  
8 that the customer became eligible to take delivery services, if  
9 in the electric utility's reasonable judgment there exists  
10 comparable usage information or a sufficient basis to develop  
11 such information, and further provided that the electric  
12 utility can require customers for which an individual  
13 calculation is made to sign contracts that set forth the  
14 transition charges to be paid by the customer to the electric  
15 utility pursuant to the tariff.

16 (h) An electric utility shall also be entitled to file  
17 tariffs that allow it to collect transition charges from retail  
18 customers in the electric utility's service area that do not  
19 take delivery services but that take electric power or energy  
20 from an alternative retail electric supplier or from an  
21 electric utility other than the electric utility in whose  
22 service area the customer is located. Such charges shall be  
23 calculated, in accordance with the definition of transition  
24 charges in Section 16-102, for the period of time that the  
25 customer would be obligated to pay transition charges if it  
26 were taking delivery services, except that no deduction for

1 delivery services revenues shall be made in such calculation,  
2 and usage data from the customer's class shall be used where  
3 historical usage data is not available for the individual  
4 customer. The customer shall be obligated to pay such charges  
5 on a lump sum basis on or before the date on which the customer  
6 commences to take service from the alternative retail electric  
7 supplier or other electric utility, provided, that the electric  
8 utility in whose service area the customer is located shall  
9 offer the customer the option of signing a contract pursuant to  
10 which the customer pays such charges ratably over the period in  
11 which the charges would otherwise have applied.

12 (i) An electric utility shall be entitled to add to the  
13 bills of delivery services customers charges pursuant to  
14 Sections 9-221, 9-222 (except as provided in Section 9-222.1),  
15 and Section 16-114 of this Act, Section 5-5 of the Electricity  
16 Infrastructure Maintenance Fee Law, Section 6-5 of the  
17 Renewable Energy, Energy Efficiency, and Coal Resources  
18 Development Law of 1997, and Section 13 of the Energy  
19 Assistance Act.

20 (j) If a retail customer that obtains electric power and  
21 energy from cogeneration or self-generation facilities  
22 installed for its own use on or before January 1, 1997,  
23 subsequently takes service from an alternative retail electric  
24 supplier or an electric utility other than the electric utility  
25 in whose service area the customer is located for any portion  
26 of the customer's electric power and energy requirements

1 formerly obtained from those facilities (including that amount  
2 purchased from the utility in lieu of such generation and not  
3 as standby power purchases, under a cogeneration displacement  
4 tariff in effect as of the effective date of this amendatory  
5 Act of 1997), the transition charges otherwise applicable  
6 pursuant to subsections (f), (g), or (h) of this Section shall  
7 not be applicable in any year to that portion of the customer's  
8 electric power and energy requirements formerly obtained from  
9 those facilities, provided, that for purposes of this  
10 subsection (j), such portion shall not exceed the average  
11 number of kilowatt-hours per year obtained from the  
12 cogeneration or self-generation facilities during the 3 years  
13 prior to the date on which the customer became eligible for  
14 delivery services, except as provided in subsection (f) of  
15 Section 16-110.

16 (Source: P.A. 91-50, eff. 6-30-99; 92-690, eff. 7-18-02.)