

1 AMENDMENT TO HOUSE BILL 4667

2 AMENDMENT NO. _____. Amend House Bill 4667 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Public Utilities Act is amended by
5 changing Sections 19-105, 19-110, 19-115, and 19-120 and
6 adding Sections 19-125, 19-130, and 19-135 as follows:

7 (220 ILCS 5/19-105)

8 Sec. 19-105. Definitions. For the purposes of this
9 Article, the following terms shall be defined as set forth in
10 this Section.

11 "Alternative gas supplier" means every person,
12 cooperative, corporation, municipal corporation, company,
13 association, joint stock company or association, firm,
14 partnership, individual, or other entity, their lessees,
15 trustees, or receivers appointed by any court whatsoever,
16 that offers gas for sale, lease, or in exchange for other
17 value received to one or more customers, or that engages in
18 the furnishing of gas to one or more customers, and shall
19 include affiliated interests of a gas utility, resellers,
20 aggregators and marketers, but shall not include (i) gas
21 utilities (or any agent of the gas utility to the extent the
22 gas utility provides tariffed services to customers through

1 an agent); (ii) public utilities that are owned and operated
2 by any political subdivision, public institution of higher
3 education or municipal corporation of this State, or public
4 utilities that are owned by a political subdivision, public
5 institution of higher education, or municipal corporation and
6 operated by any of its lessees or operating agents; (iii)
7 residential natural gas cooperatives that are not-for-profit
8 corporations established for the purpose of administering and
9 operating, on a cooperative basis, the furnishing of natural
10 gas to residences for the benefit of their members who are
11 residential consumers of natural gas; and (iv) the ownership
12 or operation of a facility that sells compressed natural gas
13 at retail to the public for use only as a motor vehicle fuel
14 and the selling of compressed natural gas at retail to the
15 public for use only as a motor vehicle fuel.

16 "Gas utility" means a public utility, as defined in
17 Section 3-105 of this Act, that has a franchise, license,
18 permit, or right to furnish or sell gas or transportation
19 services to customers within a service area.

20 "Residential customer" means a customer who receives gas
21 utility service for household purposes distributed to a
22 dwelling of 2 or fewer units which is billed under a
23 residential rate or gas utility service for household
24 purposes distributed to a dwelling unit or units which is
25 billed under a residential rate and is registered by a
26 separate meter for each dwelling unit.

27 "Service area" means (i) the geographic area within which
28 a gas utility was lawfully entitled to provide gas to
29 customers as of the effective date of this amendatory Act of
30 the 92nd General Assembly and includes (ii) the location of
31 any customer to which the gas utility was lawfully providing
32 gas utility services on such effective date.

33 "Small commercial customer" means a nonresidential retail
34 customer of a natural gas utility who is identified by the

1 alternative gas supplier, prior to becoming a customer of the
2 alternative gas supplier, as consuming 5,000 or fewer therms
3 of natural gas during the previous year; provided that any
4 alternative gas supplier may remove the customer from
5 designation as a "small commercial customer" if the customer
6 consumes more than 5,000 therms of natural gas in any
7 calendar year after becoming a customer of the alternative
8 gas supplier.

9 "Tariffed service" means a service provided to customers
10 by a gas utility as defined by its rates on file with the
11 Commission pursuant to the provisions of Article IX of this
12 Act.

13 "Transportation services" means those services provided
14 by the gas utility that are necessary in order for the
15 storage, transmission and distribution systems to function so
16 that customers located in the gas utility's service area can
17 receive gas from suppliers other than the gas utility and
18 shall include, without limitation, standard metering and
19 billing services.

20 (Source: P.A. 92-529, eff. 2-8-02.)

21 (220 ILCS 5/19-110)

22 Sec. 19-110. Certification of alternative gas suppliers.

23 (a) The provisions of this Section shall apply only to
24 alternative gas suppliers serving or seeking to serve
25 residential or small commercial customers and only to the
26 extent such alternative gas suppliers provide services to
27 residential or small commercial customers.

28 (b) An alternative gas supplier must obtain a
29 certificate of service authority from the Commission in
30 accordance with this Section before serving any customer or
31 other user located in this State. An alternative gas
32 supplier may request, and the Commission may grant, a
33 certificate of service authority for the entire State or for

1 a specified geographic area of the State. A person,
2 corporation, or other entity acting as an alternative gas
3 supplier on the effective date of this amendatory Act of the
4 92nd General Assembly shall have 180 days from the effective
5 date of this amendatory Act of the 92nd General Assembly to
6 comply with the requirements of this Section in order to
7 continue to operate as an alternative gas supplier.

8 (c) An alternative gas supplier seeking a certificate of
9 service authority shall file with the Commission a verified
10 application containing information showing that the applicant
11 meets the requirements of this Section. The alternative gas
12 supplier shall publish notice of its application in the
13 official State newspaper within 10 days following the date of
14 its filing. No later than 45 days after the application is
15 properly filed with the Commission, and such notice is
16 published, the Commission shall issue its order granting or
17 denying the application.

18 (d) An application for a certificate of service
19 authority shall identify the area or areas in which the
20 applicant intends to offer service and the types of services
21 it intends to offer. Applicants that seek to serve
22 residential or small commercial customers within a geographic
23 area that is smaller than a gas utility's service area shall
24 submit evidence demonstrating that the designation of this
25 smaller area does not violate Section 19-115. An applicant
26 may state in its application for certification any
27 limitations that will be imposed on the number of customers
28 or maximum load to be served.

29 (e) The Commission shall grant the application for a
30 certificate of service authority if it makes the findings set
31 forth in this subsection based on the verified application
32 and such other information as the applicant may submit.

33 (1) That the applicant possess sufficient
34 technical, financial, and managerial resources and

1 abilities to provide the service for which it seeks a
2 certificate of service authority. In determining the
3 level of technical, financial, and managerial resources
4 and abilities which the applicant must demonstrate, the
5 Commission shall consider the characteristics, including
6 the size and financial sophistication of the customers
7 that the applicant seeks to serve, and shall consider
8 whether the applicant seeks to provide gas using
9 property, plant, and equipment that it owns, controls, or
10 operates.

11 (2) That the applicant will comply with all
12 applicable federal, State, regional, and industry rules,
13 policies, practices, and procedures for the use,
14 operation, and maintenance of the safety, integrity, and
15 reliability of the gas transmission system.

16 (3) That the applicant will comply with such
17 informational or reporting requirements as the Commission
18 may by rule establish.

19 (4) That the area to be served by the applicant and
20 any limitations it proposes on the number of customers or
21 maximum amount of load to be served meet the provisions
22 of Section 19-115, provided, that if the applicant seeks
23 to serve an area smaller than the service area of a gas
24 utility or proposes other limitations on the number of
25 customers or maximum amount of load to be served, the
26 Commission can extend the time for considering such a
27 certificate request by up to 90 days, and can schedule
28 hearings on such a request.

29 (5) That the applicant will comply with all other
30 applicable laws and rules.

31 (f) The Commission shall have the authority to
32 promulgate rules to carry out the provisions of this Section.
33 Within 30 days after the effective date of this amendatory
34 Act of the 92nd General Assembly, the Commission shall adopt

1 an emergency rule or rules applicable to the certification of
2 those gas suppliers that seek to serve residential customers.
3 Within 180 days of the effective date of this amendatory Act
4 of the 92nd General Assembly, the Commission shall adopt
5 rules that specify criteria which, if met by any such
6 alternative gas supplier, shall constitute the demonstration
7 of technical, financial, and managerial resources and
8 abilities to provide service required by item (1) of
9 subsection (e) of this Section, such as a requirement to post
10 a bond or letter of credit, from a responsible surety or
11 financial institution, of sufficient size for the nature and
12 scope of the services to be provided, demonstration of
13 adequate insurance for the scope and nature of the services
14 to be provided, and experience in providing similar services
15 in other jurisdictions.

16 (Source: P.A. 92-529, eff. 2-8-02.)

17 (220 ILCS 5/19-115)

18 Sec. 19-115. Obligations of alternative gas suppliers.

19 (a) The provisions of this Section shall apply only to
20 alternative gas suppliers serving or seeking to serve
21 residential or small commercial customers and only to the
22 extent such alternative gas suppliers provide services to
23 residential or small commercial customers.

24 (b) An alternative gas supplier shall:

25 (1) comply with the requirements imposed on public
26 utilities by Sections 8-201 through 8-207, 8-301, 8-505
27 and 8-507 of this Act, to the extent that these Sections
28 have application to the services being offered by the
29 alternative gas supplier; and

30 (2) continue to comply with the requirements for
31 certification stated in Section 19-110.

32 (c) An alternative gas supplier shall obtain verifiable
33 authorization from a customer, in a form or manner approved

1 by the Commission, before the customer is switched from
2 another supplier.

3 (d) No alternative gas supplier shall:

4 (1) enter into or employ any arrangements which
5 have the effect of preventing any customer from having
6 access to the services of the gas utility in whose
7 service area the customer is located; or

8 (2) charge customers for such access.

9 (e) An alternative gas supplier that is certified to
10 serve residential or small commercial customers shall not:

11 (1) deny service to a customer or group of
12 customers nor establish any differences as to prices,
13 terms, conditions, services, products, facilities, or in
14 any other respect, whereby such denial or differences are
15 based upon race, gender, or income; or

16 (2) deny service based on locality, nor establish
17 any unreasonable difference as to prices, terms,
18 conditions, services, products, or facilities as between
19 localities.

20 (f) An alternative gas supplier shall comply with the
21 following requirements with respect to the marketing,
22 offering, and provision of products or services:

23 (1) Any marketing materials which make statements
24 concerning prices, terms, and conditions of service shall
25 contain information that adequately discloses the prices,
26 terms and conditions of the products or services.

27 (2) Before any customer is switched from another
28 supplier, the alternative gas supplier shall give the
29 customer written information that adequately discloses,
30 in plain language, the prices, terms, and conditions of
31 the products and services being offered and sold to the
32 customer.

33 (3) The alternative gas supplier shall provide to
34 the customer:

1 (A) accurate, timely, and itemized billing
2 statements that describe the products and services
3 provided to the customer and their prices and that
4 specify the gas consumption amount and any service
5 charges and taxes; provided that this item (f)(3)(A)
6 does not apply to small commercial customers; and

7 (B) an additional statement, at least
8 annually, that adequately discloses the average
9 monthly prices, and the terms and conditions, of the
10 products and services sold to the customer; provided
11 that this item (f)(3)(B) does not apply to small
12 commercial customers;-

13 (C) refunds of any deposits with interest
14 within 30 days after the date that the customer
15 changes gas suppliers or discontinues service if the
16 customer has satisfied all of his or her outstanding
17 financial obligations to the alternative gas
18 supplier at an interest rate set by the Commission
19 which shall be the same as that required of gas
20 utilities; and

21 (D) refunds, in a timely fashion, of all
22 undisputed overpayments upon the oral or written
23 request of the customer.

24 (g) An alternative gas supplier may limit the overall
25 size or availability of a service offering by specifying one
26 or more of the following:

27 (1) a maximum number of customers and maximum
28 amount of gas load to be served;

29 (2) time period during which the offering will be
30 available; or

31 (3) other comparable limitation, but not including
32 the geographic locations of customers within the area
33 which the alternative gas supplier is certificated to
34 serve.

1 The alternative gas supplier shall file the terms and
2 conditions of such service offering including the applicable
3 limitations with the Commission prior to making the service
4 offering available to customers.

5 (h) Nothing in this Section shall be construed as
6 preventing an alternative gas supplier that is an affiliate
7 of, or which contracts with, (i) an industry or trade
8 organization or association, (ii) a membership organization
9 or association that exists for a purpose other than the
10 purchase of gas, or (iii) another organization that meets
11 criteria established in a rule adopted by the Commission from
12 offering through the organization or association services at
13 prices, terms and conditions that are available solely to the
14 members of the organization or association.

15 (Source: P.A. 92-529, eff. 2-8-02.)

16 (220 ILCS 5/19-120)

17 Sec. 19-120. Commission oversight of services provided
18 by gas suppliers.

19 (a) The provisions of this Section shall apply only to
20 alternative gas suppliers serving or seeking to serve
21 residential or small commercial customers and only to the
22 extent such alternative gas suppliers provide services to
23 residential or small commercial customers.

24 (b) The Commission shall have jurisdiction in accordance
25 with the provisions of Article X of this Act to entertain and
26 dispose of any complaint against any alternative gas supplier
27 alleging that:

28 (1) the alternative gas supplier has violated or is
29 in nonconformance with any applicable provisions of
30 Section 19-110 or Section 19-115;

31 (2) an alternative gas supplier has failed to
32 provide service in accordance with the terms of its
33 contract or contracts with a customer or customers;

1 (3) the alternative gas supplier has violated or is
2 in nonconformance with the transportation services tariff
3 of, or any of its agreements relating to transportation
4 services with, the gas utility or municipal system
5 providing transportation services; or

6 (4) the alternative gas supplier has violated or
7 failed to comply with the requirements of Sections 8-201
8 through 8-207, 8-301, 8-505, or 8-507 of this Act as made
9 applicable to alternative gas suppliers.

10 (c) The Commission shall have authority after notice and
11 hearing held on complaint or on the Commission's own motion
12 to:

13 (1) order an alternative gas supplier to cease and
14 desist, or correct, any violation of or nonconformance
15 with the provisions of Section 19-110 or 19-115;

16 (2) impose financial penalties for violations of or
17 nonconformances with the provisions of Section 19-110 or
18 19-115, not to exceed (i) \$10,000 per occurrence or (ii)
19 \$30,000 per day for those violations or nonconformances
20 which continue after the Commission issues a
21 cease-and-desist order; and

22 (3) alter, modify, revoke, or suspend the
23 certificate of service authority of an alternative gas
24 supplier for substantial or repeated violations of or
25 nonconformances with the provisions of Section 19-110 or
26 19-115.

27 (Source: P.A. 92-529, eff. 2-8-02.)

28 (220 ILCS 5/19-125 new)

29 Sec. 19-125. Consumer education.

30 (a) The Commission shall make available upon request and
31 at no charge, and shall make available to the public on the
32 Internet through the State of Illinois World Wide Web site:

33 (1) a list of all certified alternative gas

1 suppliers serving residential and small commercial
2 customers within the service area of each gas utility
3 including, in the case of the Internet, computer links to
4 available web sites of the certified alternative gas
5 suppliers;

6 (2) a list of all certified alternative gas
7 suppliers serving residential or small commercial
8 customers that have been found in the last 3 years by the
9 Commission pursuant to Section 10-108 to have failed to
10 provide service in accordance with this Act;

11 (3) guidelines to assist customers in determining
12 which gas supplier is most appropriate for each customer;
13 and

14 (4) Internet links to providers of information that
15 enables customers to compare prices and services of gas
16 utilities and alternative gas suppliers, if and when that
17 information is available.

18 (b) In any service area where customers are able to
19 choose their natural gas supplier, the Commission shall
20 require gas utilities and alternative gas suppliers to inform
21 customers of how they may contact the Commission in order to
22 obtain information about the customer choice program.

23 (220 ILCS 5/19-130 new)

24 Sec. 19-130. Commission study and report. Beginning in
25 2003, and ending in 2007, the Commission shall prepare an
26 annual report regarding the development of natural gas
27 markets in Illinois. The report shall be filed by July 1 of
28 each year with the Joint Committee on Legislative Support
29 Services of the General Assembly and the Governor and shall
30 be publicly available. The report shall include, at a
31 minimum, the following information:

32 (1) the aggregate annual demand of retail natural
33 gas customers in the State of Illinois in the preceding

1 calendar year;

2 (2) the total annual therms delivered and sold to
3 retail customers in the State of Illinois by each gas
4 utility and each alternative gas supplier in the
5 preceding calendar year;

6 (3) the percentage of therms delivered and sold to
7 customers in the State of Illinois in the preceding
8 calendar year by each gas utility and each alternative
9 gas supplier;

10 (4) the total number of customers in the State of
11 Illinois served in the preceding calendar year by each
12 gas utility and each alternative gas supplier;

13 (5) an analysis of the status and development of
14 the retail natural gas market in the State of Illinois;
15 and

16 (6) any other information the Commission considers
17 significant in assessing the development of gas markets
18 in the State of Illinois.

19 (220 ILCS 5/19-135 new)

20 Sec. 19-135. Single billing. It is the intent of the
21 General Assembly that in any service area where customers are
22 able to choose their natural gas supplier, a single billing
23 option shall be offered to customers for both the services
24 provided by the alternative gas supplier and the delivery
25 services provided by the gas utility. A gas utility shall
26 file a tariff pursuant to Article IX of this Act that allows
27 alternative gas suppliers to issue single bills to
28 residential and small commercial customers for both the
29 services provided by the alternative gas supplier and the
30 delivery services provided by the gas utility to customers;
31 provided that if a form of single billing is being offered in
32 a gas utility's service area on the effective date of this
33 amendatory Act of the 92nd General Assembly, that form of

1 single billing shall remain in effect unless and until
2 otherwise ordered by the Commission.

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.".