

1 AN ACT in relation to 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 adding
5 Article XIX as follows:

6 (220 ILCS 5/Art. XIX heading new)

7 ARTICLE XIX. ALTERNATIVE GAS SUPPLIER LAW

8 (220 ILCS 5/19-100 new)

9 Sec. 19-100. Short title. This Article may be cited as
10 the Alternative Gas Supplier Law.

11 (220 ILCS 5/19-105 new)

12 Sec. 19-105. Definitions. For the purposes of this
13 Article, the following terms shall be defined as set forth
14 in this Section.

15 "Alternative gas supplier" means every person,
16 cooperative, corporation, municipal corporation, company,
17 association, joint stock company or association, firm,
18 partnership, individual, or other entity, their lessees,
19 trustees, or receivers appointed by any court whatsoever,
20 that offers gas for sale, lease, or in exchange for other
21 value received to one or more customers, or that engages in
22 the furnishing of gas to one or more customers, and shall
23 include affiliated interests of a gas utility, resellers,
24 aggregators and marketers, but shall not include (i) gas
25 utilities (or any agent of the gas utility to the extent the
26 gas utility provides tariffed services to customers through
27 an agent); (ii) public utilities that are owned and operated
28 by any political subdivision, public institution of higher
29 education or municipal corporation of this State, or public

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

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

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

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

30 "Tariffed service" means a service provided to customers
31 by a gas utility as defined by its rates on file with the
32 Commission pursuant to the provisions of Article IX of this
33 Act.

34 "Transportation services" means those services provided

1 by the gas utility that are necessary in order for the
2 storage, transmission and distribution systems to function so
3 that customers located in the gas utility's service area can
4 receive gas from suppliers other than the gas utility and
5 shall include, without limitation, standard metering and
6 billing services.

7 (220 ILCS 5/19-110 new)

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

9 (a) The provisions of this Section shall apply only to
10 alternative gas suppliers serving or seeking to serve
11 residential customers and only to the extent such alternative
12 gas suppliers provide services to residential customers.

13 (b) An alternative gas supplier must obtain a
14 certificate of service authority from the Commission in
15 accordance with this Section before serving any customer or
16 other user located in this State. An alternative gas
17 supplier may request, and the Commission may grant, a
18 certificate of service authority for the entire State or for
19 a specified geographic area of the State. A person,
20 corporation, or other entity acting as an alternative gas
21 supplier on the effective date of this amendatory Act of the
22 92nd General Assembly shall have 180 days from the effective
23 date of this amendatory Act of the 92nd General Assembly to
24 comply with the requirements of this Section in order to
25 continue to operate as an alternative gas supplier.

26 (c) An alternative gas supplier seeking a certificate of
27 service authority shall file with the Commission a verified
28 application containing information showing that the applicant
29 meets the requirements of this Section. The alternative gas
30 supplier shall publish notice of its application in the
31 official State newspaper within 10 days following the date of
32 its filing. No later than 45 days after the application is
33 properly filed with the Commission, and such notice is

1 published, the Commission shall issue its order granting or
2 denying the application.

3 (d) An application for a certificate of service
4 authority shall identify the area or areas in which the
5 applicant intends to offer service and the types of services
6 it intends to offer. Applicants that seek to serve
7 residential customers within a geographic area that is
8 smaller than a gas utility's service area shall submit
9 evidence demonstrating that the designation of this smaller
10 area does not violate Section 19-115. An applicant may state
11 in its application for certification any limitations that
12 will be imposed on the number of customers or maximum load to
13 be served.

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

18 (1) That the applicant possess sufficient
19 technical, financial, and managerial resources and
20 abilities to provide the service for which it seeks a
21 certificate of service authority. In determining the
22 level of technical, financial, and managerial resources
23 and abilities which the applicant must demonstrate, the
24 Commission shall consider the characteristics, including
25 the size and financial sophistication of the customers
26 that the applicant seeks to serve, and shall consider
27 whether the applicant seeks to provide gas using
28 property, plant, and equipment that it owns, controls, or
29 operates.

30 (2) That the applicant will comply with all
31 applicable federal, State, regional, and industry rules,
32 policies, practices, and procedures for the use,
33 operation, and maintenance of the safety, integrity, and
34 reliability of the gas transmission system.

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

4 (4) That the area to be served by the applicant and
5 any limitations it proposes on the number of customers or
6 maximum amount of load to be served meet the provisions
7 of Section 19-115, provided, that if the applicant seeks
8 to serve an area smaller than the service area of a gas
9 utility or proposes other limitations on the number of
10 customers or maximum amount of load to be served, the
11 Commission can extend the time for considering such a
12 certificate request by up to 90 days, and can schedule
13 hearings on such a request.

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

16 (f) The Commission shall have the authority to
17 promulgate rules to carry out the provisions of this Section.
18 Within 30 days after the effective date of this amendatory
19 Act of the 92nd General Assembly, the Commission shall adopt
20 an emergency rule or rules applicable to the certification of
21 those gas suppliers that seek to serve residential customers.
22 Within 180 days of the effective date of this amendatory Act
23 of the 92nd General Assembly, the Commission shall adopt
24 rules that specify criteria which, if met by any such
25 alternative gas supplier, shall constitute the demonstration
26 of technical, financial, and managerial resources and
27 abilities to provide service required by item (1) of
28 subsection (e) of this Section, such as a requirement to post
29 a bond or letter of credit, from a responsible surety or
30 financial institution, of sufficient size for the nature and
31 scope of the services to be provided, demonstration of
32 adequate insurance for the scope and nature of the services
33 to be provided, and experience in providing similar services
34 in other jurisdictions.

1 (220 ILCS 5/19-115 new)

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

3 (a) The provisions of this Section shall apply only to
4 alternative gas suppliers serving or seeking to serve
5 residential customers and only to the extent such alternative
6 gas suppliers provide services to residential customers.

7 (b) An alternative gas supplier shall:

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

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

15 (c) An alternative gas supplier shall obtain verifiable
16 authorization from a customer, in a form or manner approved
17 by the Commission, before the customer is switched from
18 another supplier.

19 (d) No alternative gas supplier shall:

20 (1) enter into or employ any arrangements which
21 have the effect of preventing any customer from having
22 access to the services of the gas utility in whose
23 service area the customer is located; or

24 (2) charge customers for such access.

25 (e) An alternative gas supplier that is certified to
26 serve residential customers shall not:

27 (1) deny service to a customer or group of
28 customers nor establish any differences as to prices,
29 terms, conditions, services, products, facilities, or in
30 any other respect, whereby such denial or differences are
31 based upon race, gender, or income; or

32 (2) deny service based on locality, nor establish
33 any unreasonable difference as to prices, terms,
34 conditions, services, products, or facilities as between

1 localities.

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

5 (1) Any marketing materials which make statements
6 concerning prices, terms, and conditions of service shall
7 contain information that adequately discloses the prices,
8 terms and conditions of the products or services.

9 (2) Before any customer is switched from another
10 supplier, the alternative gas supplier shall give the
11 customer written information that adequately discloses,
12 in plain language, the prices, terms, and conditions of
13 the products and services being offered and sold to the
14 customer.

15 (3) The alternative gas supplier shall provide to
16 the customer:

17 (A) itemized billing statements that describe
18 the products and services provided to the customer
19 and their prices; and

20 (B) an additional statement, at least
21 annually, that adequately discloses the average
22 monthly prices, and the terms and conditions, of the
23 products and services sold to 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 (220 ILCS 5/19-120 new)

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

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

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

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

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

32 (3) the alternative gas supplier has violated or is
33 in nonconformance with the transportation services tariff

1 of, or any of its agreements relating to transportation
2 services with, the gas utility or municipal system
3 providing transportation services; or

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

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

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

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

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

25 Section 99. Effective date. This Act takes effect upon
26 becoming law.