

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Public Utilities Act is amended by changing Sections 16-115, 16-115B, 16-115C, 19-110, and 19-120 as follows:

(220 ILCS 5/16-115)

Sec. 16-115. Certification of alternative retail electric suppliers.

(a) Any alternative retail electric supplier must obtain a certificate of service authority from the Commission in accordance with this Section before serving any retail customer or other user located in this State. An alternative retail electric supplier may request, and the Commission may grant, a certificate of service authority for the entire State or for a specified geographic area of the State. A certificate granted pursuant to this Section is not property, and the grant of a certificate to an entity does not create a property interest in the certificate. This Section does not diminish the existing rights of a certificate holder to notice and hearing as proscribed by the Illinois Administrative Procedure Act and in rules adopted by the Commission.

(b) An alternative retail electric supplier seeking a

certificate of service authority shall file with the Commission a verified application containing information showing that the applicant meets the requirements of this Section. The alternative retail electric supplier shall publish notice of its application in the official State newspaper within 10 days following the date of its filing. No later than 45 days after a complete ~~the~~ application is properly filed with the Commission, and such notice is published, the Commission shall issue its order granting or denying the application.

(c) An application for a certificate of service authority shall identify the area or areas in which the applicant intends to offer service and the types of services it intends to offer. Applicants that seek to serve residential or small commercial retail customers within a geographic area that is smaller than an electric utility's service area shall submit evidence demonstrating that the designation of this smaller area does not violate Section 16-115A. An applicant that seeks to serve residential or small commercial retail customers may state in its application for certification any limitations that will be imposed on the number of customers or maximum load to be served.

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

(1) That the applicant possesses sufficient technical, financial, and managerial resources and abilities to provide the service for which it seeks a certificate of service authority. In determining the level of technical, financial, and managerial resources and abilities which the applicant must demonstrate, the Commission shall consider (i) the characteristics, including the size and financial sophistication, of the customers that the applicant seeks to serve, and (ii) whether the applicant seeks to provide electric power and energy using property, plant, and equipment which it owns, controls, or operates;

(2) That the applicant will comply with all applicable federal, State, regional, and industry rules, policies, practices, and procedures for the use, operation, and maintenance of the safety, integrity, and reliability, of the interconnected electric transmission system;

(3) That the applicant will only provide service to retail customers in an electric utility's service area that are eligible to take delivery services under this Act;

(4) That the applicant will comply with such informational or reporting requirements as the Commission may by rule establish and provide the information required by Section 16-112. Any data related to contracts for the purchase and sale of electric power and energy shall be made available for review by the Staff of the Commission

on a confidential and proprietary basis and only to the extent and for the purposes which the Commission determines are reasonably necessary in order to carry out the purposes of this Act;

(5) That the applicant will procure renewable energy resources in accordance with Section 16-115D of this Act, and will source electricity from clean coal facilities, as defined in Section 1-10 of the Illinois Power Agency Act, in amounts at least equal to the percentages set forth in subsections (c) and (d) of Section 1-75 of the Illinois Power Agency Act. For purposes of this Section:

(i) (blank);

(ii) (blank);

(iii) the required sourcing of electricity generated by clean coal facilities, other than the initial clean coal facility, shall be limited to the amount of electricity that can be procured or sourced at a price at or below the benchmarks approved by the Commission each year in accordance with item (1) of subsection (c) and items (1) and (5) of subsection (d) of Section 1-75 of the Illinois Power Agency Act;

(iv) all alternative retail electric suppliers shall execute a sourcing agreement to source electricity from the initial clean coal facility, on the terms set forth in paragraphs (3) and (4) of subsection (d) of Section 1-75 of the Illinois Power

Agency Act, except that in lieu of the requirements in subparagraphs (A) (v), (B) (i), (C) (v), and (C) (vi) of paragraph (3) of that subsection (d), the applicant shall execute one or more of the following:

(1) if the sourcing agreement is a power purchase agreement, a contract with the initial clean coal facility to purchase in each hour an amount of electricity equal to all clean coal energy made available from the initial clean coal facility during such hour, which the utilities are not required to procure under the terms of subsection (d) of Section 1-75 of the Illinois Power Agency Act, multiplied by a fraction, the numerator of which is the alternative retail electric supplier's retail market sales of electricity (expressed in kilowatthours sold) in the State during the prior calendar month and the denominator of which is the total sales of electricity (expressed in kilowatthours sold) in the State by alternative retail electric suppliers during such prior month that are subject to the requirements of this paragraph (5) of subsection (d) of this Section and subsection (d) of Section 1-75 of the Illinois Power Agency Act plus the total sales of electricity (expressed in kilowatthours sold) by utilities outside of their

service areas during such prior month, pursuant to subsection (c) of Section 16-116 of this Act; or

(2) if the sourcing agreement is a contract for differences, a contract with the initial clean coal facility in each hour with respect to an amount of electricity equal to all clean coal energy made available from the initial clean coal facility during such hour, which the utilities are not required to procure under the terms of subsection (d) of Section 1-75 of the Illinois Power Agency Act, multiplied by a fraction, the numerator of which is the alternative retail electric supplier's retail market sales of electricity (expressed in kilowatthours sold) in the State during the prior calendar month and the denominator of which is the total sales of electricity (expressed in kilowatthours sold) in the State by alternative retail electric suppliers during such prior month that are subject to the requirements of this paragraph (5) of subsection (d) of this Section and subsection (d) of Section 1-75 of the Illinois Power Agency Act plus the total sales of electricity (expressed in kilowatthours sold) by utilities outside of their service areas during such prior month, pursuant to subsection (c) of Section 16-116 of this Act;

(v) if, in any year after the first year of commercial operation, the owner of the clean coal facility fails to demonstrate to the Commission that the initial clean coal facility captured and sequestered at least 50% of the total carbon emissions that the facility would otherwise emit or that sequestration of emissions from prior years has failed, resulting in the release of carbon into the atmosphere, the owner of the facility must offset excess emissions. Any such carbon offsets must be permanent, additional, verifiable, real, located within the State of Illinois, and legally and practicably enforceable. The costs of any such offsets that are not recoverable shall not exceed \$15,000,000 ~~\$15 million~~ in any given year. No costs of any such purchases of carbon offsets may be recovered from an alternative retail electric supplier or its customers. All carbon offsets purchased for this purpose and any carbon emission credits associated with sequestration of carbon from the facility must be permanently retired. The initial clean coal facility shall not forfeit its designation as a clean coal facility if the facility fails to fully comply with the applicable carbon sequestration requirements in any given year, provided the requisite offsets are purchased. However, the Attorney General, on behalf of the People of the

State of Illinois, may specifically enforce the facility's sequestration requirement and the other terms of this contract provision. Compliance with the sequestration requirements and offset purchase requirements that apply to the initial clean coal facility shall be reviewed annually by an independent expert retained by the owner of the initial clean coal facility, with the advance written approval of the Attorney General;

(vi) The Commission shall, after notice and hearing, revoke the certification of any alternative retail electric supplier that fails to execute a sourcing agreement with the initial clean coal facility as required by item (5) of subsection (d) of this Section. The sourcing agreements with this initial clean coal facility shall be subject to both approval of the initial clean coal facility by the General Assembly and satisfaction of the requirements of item (4) of subsection (d) of Section 1-75 of the Illinois Power Agency Act, and shall be executed within 90 days after any such approval by the General Assembly. The Commission shall not accept an application for certification from an alternative retail electric supplier that has lost certification under this subsection (d), or any corporate affiliate thereof, for at least one year from the date of

revocation;

(6) With respect to an applicant that seeks to serve residential or small commercial retail customers, that the area to be served by the applicant and any limitations it proposes on the number of customers or maximum amount of load to be served meet the provisions of Section 16-115A, provided, that the Commission can extend the time for considering such a certificate request by up to 90 days, and can schedule hearings on such a request;

(7) That the applicant meets the requirements of subsection (a) of Section 16-128;

(8) That the applicant discloses whether the applicant is the subject of any lawsuit filed in a court of law or formal complaint filed with a regulatory agency alleging fraud, deception, or unfair marketing practices or other similar allegations and, if the applicant is the subject of such lawsuit or formal complaint, the applicant shall identify the name, case number, and jurisdiction of each lawsuit or complaint, and that the applicant is capable of fulfilling its obligations as an alternative retail electric supplier in Illinois notwithstanding any lawsuit or complaint. For the purpose of this item (8), "formal complaint" includes only those complaints that seek a binding determination from a State or federal regulatory body;

(9) That the applicant shall at all times remain in

compliance ~~continue to comply~~ with requirements for certification stated in this Section and as the Commission may establish by rule;

(10) That the applicant shall execute and maintain a license or permit bond issued by a qualifying surety or insurance company authorized to transact business in the State of Illinois in favor of the People of the State of Illinois. The amount of the bond shall equal \$30,000 if the applicant seeks to serve only nonresidential retail customers with maximum electrical demands of one megawatt or more, \$150,000 if the applicant seeks to serve only nonresidential ~~non-residential~~ retail customers with annual electrical consumption greater than 15,000 kilowatt-hours kWh, or \$500,000 if the applicant seeks to serve all eligible customers. Applicants shall be required to submit an additional \$500,000 bond if the applicant intends to market to residential customers using in-person solicitations. The bonds ~~bond~~ shall be conditioned upon the full and faithful performance of all duties and obligations of the applicant as an alternative retail electric supplier, ~~and~~ and shall be valid for a period of not less than one year, and may be drawn upon in whole or in part to satisfy any penalties imposed, and finally adjudicated, by the Commission pursuant to Section 16-115B for a violation of the applicant's duties or obligations, except that the total amount of claims and penalties

against the bond shall not exceed the penal sum of the bond and shall not include any consequential or punitive damage. The cost of the bond shall be paid by the applicant. The applicant shall file a copy of this bond, with a notarized verification page from the issuer, as part of its application for certification under 83 Ill. Adm. Code 451; and

(11) That the applicant will comply with all other applicable laws and regulations.

(d-3) The Commission may deny with prejudice an application in which the applicant fails to provide the Commission with information sufficient for the Commission to grant the application.

(d-5) (Blank).

(e) A retail customer that owns a cogeneration or self-generation facility and that seeks certification only to provide electric power and energy from such facility to retail customers at separate locations which customers are both (i) owned by, or a subsidiary or other corporate affiliate of, such applicant and (ii) eligible for delivery services, shall be granted a certificate of service authority upon filing an application and notifying the Commission that it has entered into an agreement with the relevant electric utilities pursuant to Section 16-118. Provided, however, that if the retail customer owning such cogeneration or self-generation facility would not be charged a transition charge due to the

exemption provided under subsection (f) of Section 16-108 prior to the certification, and the retail customers at separate locations are taking delivery services in conjunction with purchasing power and energy from the facility, the retail customer on whose premises the facility is located shall not thereafter be required to pay transition charges on the power and energy that such retail customer takes from the facility.

(f) The Commission shall have the authority to promulgate rules and regulations to carry out the provisions of this Section. On or before May 1, 1999, the Commission shall adopt a rule or rules applicable to the certification of those alternative retail electric suppliers that seek to serve only nonresidential retail customers with maximum electrical demands of one megawatt or more which shall provide for (i) expedited and streamlined procedures for certification of such alternative retail electric suppliers and (ii) specific criteria which, if met by any such alternative retail electric supplier, shall constitute the demonstration of technical, financial and managerial resources and abilities to provide service required by paragraph (1) of subsection (d) ~~(1)~~ of this Section, such as a requirement to post a bond or letter of credit, from a responsible surety or financial institution, of sufficient size for the nature and scope of the services to be provided; demonstration of adequate insurance for the scope and nature of the services to be provided; and experience in providing similar services in other jurisdictions.

(g) An alternative retail electric supplier may seek confidential treatment for the following information by filing an affidavit with the Commission so long as the affidavit meets the requirements in this subsection (g):

(1) the total annual kilowatt-hours delivered and sold by an alternative retail electric supplier to retail customers within each utility service territory and the total annual kilowatt-hours delivered and sold by an alternative retail electric supplier to retail customers in all utility service territories in the preceding calendar year as required by 83 Ill. Adm. Code 451.770;

(2) the total peak demand supplied by an alternative retail electric supplier during the previous year in each utility service territory as required by 83 Ill. Adm. Code 465.40;

(3) a good faith estimate of the amount an alternative retail electric supplier expects to be obliged to pay the utility under single billing tariffs during the next 12 months and the amount of any bond or letter of credit used to demonstrate an alternative retail electric supplier's credit worthiness to provide single billing services pursuant to 83 Ill. Adm. Code 451.510(a) and (b).

The affidavit must be filed contemporaneously with the information for which confidential treatment is sought and must clearly state that the affiant seeks confidential treatment pursuant to this subsection (g) and the information

for which confidential treatment is sought must be clearly identified on the confidential version of the document filed with the Commission. The affidavit must be accompanied by a "confidential" and a "public" version of the document or documents containing the information for which confidential treatment is sought.

If the alternative retail electric supplier has met the affidavit requirements of this subsection (g), then the Commission shall afford confidential treatment to the information identified in the affidavit for a period of 2 years after the date the affidavit is received by the Commission.

Nothing in this subsection (g) prevents an alternative retail electric supplier from filing a petition with the Commission seeking confidential treatment for information beyond that identified in this subsection (g) or for information contained in other reports or documents filed with the Commission other than annual rate reports.

Nothing in this subsection (g) prevents the Commission, on its own motion, or any party from filing a formal petition with the Commission seeking to reconsider the conferring of confidential status on an item of information afforded confidential treatment pursuant to this subsection (g).

The Commission, on its own motion, may at any time initiate a docketed proceeding to investigate the continued applicability of this subsection (g) to the information

contained in items (i), (ii), and (iii) of this subsection (g). If, at the end of such investigation, the Commission determines that a particular item of information should no longer be eligible for the affidavit-based process outlined in this subsection (g), the Commission may enter an order to remove that item from the list of items eligible for the process set forth in this subsection (g). Notwithstanding any such order, in the event the Commission makes such a determination, nothing in this subsection (g) prevents an alternative retail electric supplier desiring confidential treatment for such information from filing a formal petition with the Commission seeking confidential treatment for such information.

(Source: P.A. 101-590, eff. 1-1-20.)

(220 ILCS 5/16-115B)

Sec. 16-115B. Commission oversight of services provided by alternative retail electric suppliers.

(a) The Commission shall have jurisdiction in accordance with the provisions of Article X of this Act to entertain and dispose of any complaint made by the Commission, on its own motion, or by any person or corporation, chamber of commerce, board of trade, or any industrial, commercial, mercantile, agricultural or manufacturing society, or any body politic or municipal corporation against any alternative retail electric supplier alleging (i) that the alternative retail electric

supplier has violated or is in nonconformance with any applicable provisions of Section 16-115 through Section 16-115A; (ii) that the alternative retail electric supplier violated rules adopted by the Commission to govern the sales, marketing, or operations of retail electric suppliers; (iii) that an alternative retail electric supplier serving any residential and small commercial customers ~~retail customers~~ ~~having maximum demands of less than one megawatt~~ has failed to provide service in accordance with the terms of its contract or contracts with such customer or customers; (iv) ~~(iii)~~ that the alternative retail electric supplier has violated or is in nonconformance ~~non-conformance~~ with the delivery services tariff of, or any of its agreements relating to delivery services with, the electric utility, municipal system, or electric cooperative providing delivery services; or (v) ~~(iv)~~ that the alternative retail electric supplier has violated or failed to comply with the requirements of Sections 8-201 through 8-207, 8-301, 8-505, or 8-507 of this Act as made applicable to alternative retail electric suppliers.

(b) The Commission shall have authority, after such administrative notice as is required by the Illinois Administrative Procedure Act and after an administrative hearing held on complaint or on the Commission's own motion:

(1) To order an alternative retail electric supplier to cease and desist, or correct, any violation of or nonconformance ~~non-conformance~~ with the provisions of

Section 16-115 or 16-115A or any violation or nonconformance over which the Commission has jurisdiction under subsection (a) of Section 16-115B;

(2) To impose financial penalties for violations of or nonconformances ~~non-conformances~~ with the provisions of Section 16-115 or 16-115A, not to exceed ~~(i)~~ \$10,000 per occurrence, and for any violations or nonconformances that continue after the Commission issues a cease and desist order, up to an additional ~~or (ii)~~ \$30,000 for each day the violations or nonconformances continue ~~per day for those violations or non-conformances which continue after the Commission issues a cease and desist order;~~ and

(3) To alter, modify, revoke, or suspend the certificate of service authority of an alternative retail electric supplier for substantial or repeated violations of or nonconformances ~~non-conformances~~ with the provisions of Section 16-115 or 16-115A.

(c) In addition to other powers and authority granted to it under this Act, the Commission may require an alternative retail electric supplier to enter into a compliance plan. If the Commission comes into possession of information causing it to conclude that an alternative retail electric supplier is violating this Act or the Commission's rules, the Commission may, after notice and hearing, enter an order directing the alternative retail electric supplier to implement practices, procedures, oversight, or other measures or refrain from

practices, conduct, or activities that the Commission finds is necessary or reasonable to ensure the alternative retail electric supplier's compliance with this Act and the Commission's rules. Failure by an alternative retail electric supplier to implement or comply with a Commission-ordered compliance plan is a violation of this Section. The Commission, in its discretion, may order a compliance plan under such circumstances as it considers warranted and is not required to order a compliance plan prior to taking other enforcement action against an alternative retail electric supplier. Nothing in this subsection (c) shall be interpreted to limit the authority or right of the Attorney General.

(Source: P.A. 101-590, eff. 1-1-20.)

(220 ILCS 5/16-115C)

Sec. 16-115C. Licensure of agents, brokers, and consultants engaged in the procurement or sale of retail electricity supply for third parties.

(a) The purpose of this Section is to adopt licensing and code of conduct rules in a competitive retail electricity market to protect Illinois consumers from unfair or deceptive acts or practices and to provide persons acting as agents, brokers, and consultants engaged in the procurement or sale of retail electricity supply for third parties with notice of the illegality of those acts or practices.

(a-5) All third-party sales representatives engaged in the

marketing of retail electricity supply must, prior to the customer signing a contract, disclose that they are not employed by the electric utility operating in the applicable service territory.

(b) For purposes of this Section, "agents, brokers, and consultants engaged in the procurement or sale of retail electricity supply for third parties" means any person or entity that attempts to procure on behalf of or sell retail electric service to an electric customer in the State. "Agents, brokers, and consultants engaged in the procurement or sale of retail electricity supply for third parties" does not include the Illinois Power Agency or any of its employees, any entity licensed as an alternative retail electric supplier pursuant to 83 Ill. Adm. Code 451 offering retail electric service on its own behalf, any person acting exclusively on behalf of a single alternative retail electric supplier on condition that exclusivity is disclosed to any third party contracted in such agent capacity, any person acting exclusively on behalf of a retail electric supplier on condition that exclusivity is disclosed to any third party contracted in such agent capacity, any person or entity representing a municipal power agency, as defined in Section 11-119.1-3 of the Illinois Municipal Code, or any person or entity that is attempting to procure on behalf of or sell retail electric service to a third party that has aggregate billing demand of all of its affiliated electric service

accounts in Illinois of greater than 1,500 kilowatts ~~kW~~.

(c) No person or entity shall act as an agent, broker, or consultant engaged in the procurement or sale of retail electricity supply for third parties unless that person or entity is licensed by the Commission under this Section or is offering services on their own behalf under 83 Ill. Adm. Code 451. A license granted pursuant to this Section is not property, and the grant of a license to an entity does not create a property interest in the license.

(d) The Commission shall create requirements for licensure as an agent, broker, or consultant engaged in the procurement or sale of retail electricity supply for third parties, which shall include all of the following criteria:

- (1) Technical competence.
- (2) Managerial competence.
- (3) Financial responsibility, including the posting of an appropriate performance bond.
- (4) Annual reporting requirements.

(e) Any person or entity required to be licensed under this Section must:

- (1) disclose in plain language in writing to all persons it solicits (i) before July 1, 2011, the total anticipated remuneration to be paid to it by any third party over the period of the proposed underlying customer contract and (ii) on or after July 1, 2011, the total price per kilowatt-hour, and the total anticipated cost,

inclusive of all fees or commissions received by the licensee, to be paid by the customer over the period of the proposed underlying customer contract;

(2) disclose, if applicable, to all customers, prior to the customer signing a contract, the fact that they will be receiving compensation from the supplier;

(3) not hold itself out as independent or unaffiliated with any supplier, or both, or use words reasonably calculated to give that impression, unless the person offering service under this Section has no contractual relationship with any retail electricity supplier or its affiliates regarding retail electric service in Illinois;

(4) not utilize false, misleading, materially inaccurate, defamatory, or otherwise deceptive language or materials in the soliciting or providing of its services;

(5) maintain copies of all marketing materials disseminated to third parties for a period of not less than 3 years;

(6) not present electricity pricing information in a manner that favors one supplier over another, unless a valid pricing comparison is made utilizing all relevant costs and terms; and

(7) comply with the requirements of Sections 2EE, 2FF, 2GG, and 2HH of the Consumer Fraud and Deceptive Business Practices Act.

(f) Any person or entity licensed under this Section shall

file with the Commission all of the following information no later than March of each year:

(1) A verified report detailing any and all contractual relationships that it has with certified electricity suppliers in the State regarding retail electric service in Illinois.

(2) A verified report detailing the distribution of its customers with the various certified electricity suppliers in Illinois during the prior calendar year. A report under this Section shall not be required to contain customer-identifying information.

A public redacted version of the verified report may be submitted to the Commission along with a proprietary version. The public redacted version may redact from the verified report the name or names of every certified electricity supplier contained in the report to protect against disclosure of competitively sensitive market share information. The information shall be afforded proprietary treatment for 2 years after the date of the filing of the verified report.

(3) A verified statement of any changes to the original licensure qualifications and notice of continuing compliance with all requirements.

(g) The Commission shall have jurisdiction over ~~disciplinary proceedings and complaints,~~ including on the Commission's own motion, for violations of this Section. The

findings of a violation of this Section by the Commission shall result in discipline on a progressive ~~a progressive disciplinary~~ scale. For a first violation, the Commission may, in its discretion, suspend the license of the person or entity ~~so disciplined~~ for a period of no less than one month. For a second violation within a 5-year period, the Commission shall suspend the license of ~~for~~ the person or entity ~~so disciplined~~ for a period of not less than 6 months. For a third or subsequent violation within a 5-year period, the Commission shall suspend the license of the disciplined person for a period of not less than 2 years. Notwithstanding the minimum progressive suspensions, the Commission shall have authority, in its discretion, to impose whatever reasonable disciplinary measures it deems appropriate for any violation, including, but not limited to, terminating the license of the person or entity.

(h) This Section shall not apply to a retail customer that operates or manages either directly or indirectly any facilities, equipment, or property used or contemplated to be used to distribute electric power or energy if that retail customer is a political subdivision or public institution of higher education of this State, or any corporation, company, limited liability company, association, joint-stock company or association, firm, partnership, or individual, or their lessees, trusts, or receivers appointed by any court whatsoever that are owned or controlled by the political

subdivision, public institution of higher education, or operated by any of its lessees or operating agents.

(Source: P.A. 95-679, eff. 10-11-07; 96-1385, eff. 7-29-10.)

(220 ILCS 5/19-110)

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

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

(b) An alternative gas supplier must obtain a certificate of service authority from the Commission in accordance with this Section before serving any customer or other user located in this State. An alternative gas supplier may request, and the Commission may grant, a certificate of service authority for the entire State or for a specified geographic area of the State. A certificate granted pursuant to this Section is not property, and the grant of a certificate to an entity does not create a property interest in the certificate. This Section does not diminish the existing rights of a certificate holder to notice and hearing as proscribed by the Illinois Administrative Procedure Act and in rules adopted by the Commission. A person, corporation, or other entity acting as an alternative gas supplier on the effective date of this amendatory Act of the 92nd General Assembly shall have 180

days from the effective date of this amendatory Act of the 92nd General Assembly to comply with the requirements of this Section in order to continue to operate as an alternative gas supplier.

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

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

(1) Whether the applicant has been denied a natural gas supplier license in any state in the United States.

(2) Whether the applicant has had a natural gas supplier license suspended or revoked by any state in the United States.

(3) Where, if any, other natural gas supplier license applications are pending in the United States.

(4) Whether the applicant is the subject of any lawsuits filed in a court of law or formal complaints filed with a regulatory agency alleging fraud, deception, or unfair marketing practices, or other similar allegations, identifying the name, case number, and jurisdiction of each such lawsuit or complaint.

For the purposes of this subsection (d), formal complaints include only those complaints that seek a binding determination from a state or federal regulatory body.

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

(1) That the applicant possesses sufficient technical, financial, and managerial resources and abilities to provide the service for which it seeks a certificate of service authority. In determining the level of technical, financial, and managerial resources and abilities which the applicant must demonstrate, the Commission shall

consider:

(A) the characteristics, including the size and financial sophistication of the customers that the applicant seeks to serve;

(B) whether the applicant seeks to provide gas using property, plant, and equipment that it owns, controls, or operates; and

(C) the applicant's commitment of resources to the management of sales and marketing staff, through affirmative managerial policies, independent audits, technology, hands-on field monitoring and training, and, in the case of applicants who will have sales personnel or sales agents within the State of Illinois, the applicant's managerial presence within the State.

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

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

(4) That the area to be served by the applicant and any limitations it proposes on the number of customers or maximum amount of load to be served meet the provisions of

Section 19-115, provided, that if the applicant seeks to serve an area smaller than the service area of a gas utility or proposes other limitations on the number of customers or maximum amount of load to be served, the Commission can extend the time for considering such a certificate request by up to 90 days, and can schedule hearings on such a request.

(5) That the applicant shall continue to comply with requirements for certification stated in this Section.

(6) That the applicant shall execute and maintain a license or permit bond issued by a qualifying surety or insurance company authorized to transact business in the State of Illinois in favor of the People of the State of Illinois. The amount of the bond shall equal \$150,000 if the applicant seeks to serve only nonresidential retail customers or \$500,000 if the applicant seeks to serve all eligible customers. Applicants shall be required to submit an additional \$500,000 bond if the applicant intends to market to residential customers using in-person solicitations. The bonds ~~bond~~ shall be conditioned upon the full and faithful performance of all duties and obligations of the applicant as an alternative retail gas supplier, ~~and~~ shall be valid for a period of not less than one year, and may be drawn up to satisfy any penalties imposed and finally adjudicated, by the Commission pursuant to Section 19-120 for a violation of the

applicant's duties or obligations, except that the total amount of claims and penalties against the bond shall not exceed the penal sum of the bond and shall not include any consequential or punitive damage. The cost of the bond shall be paid by the applicant. The applicant shall file a copy of this bond, with a notarized verification page from the issuer, as part of its application for certification under 83 Ill. Adm. Code 551.

(7) That the applicant will comply with all other applicable laws and rules.

(e-5) The Commission may deny with prejudice an application in which the applicant fails to provide the Commission with information sufficient for the Commission to grant the application.

(f) The Commission can extend the time for considering such a certificate request by up to 90 days, and can schedule hearings on such a request if:

(1) a party to the application proceeding has formally requested that the Commission hold hearings in a pleading that alleges that one or more of the allegations or certifications in the application is false or misleading; or

(2) other facts or circumstances exist that will necessitate additional time or evidence in order to determine whether a certificate should be issued.

(g) The Commission shall have the authority to promulgate

rules to carry out the provisions of this Section. Within 30 days after the effective date of this amendatory Act of the 92nd General Assembly, the Commission shall adopt an emergency rule or rules applicable to the certification of those gas suppliers that seek to serve residential customers. Within 180 days of the effective date of this amendatory Act of the 92nd General Assembly, the Commission shall adopt rules that specify criteria which, if met by any such alternative gas supplier, shall constitute the demonstration of technical, financial, and managerial resources and abilities to provide service required by paragraph ~~item~~ (1) of subsection (e) of this Section, such as a requirement to post a bond or letter of credit, from a responsible surety or financial institution, of sufficient size for the nature and scope of the services to be provided, demonstration of adequate insurance for the scope and nature of the services to be provided, and experience in providing similar services in other jurisdictions.

(h) The Commission may deny with prejudice any application that repeatedly fails to include the attachments, documentation, and affidavits required by the application form or that ~~repeatedly~~ fails to provide any other information required by this Section.

(i) An alternative gas supplier may seek confidential treatment for the reporting to the Commission of its total annual dekatherms delivered and sold by it to residential and small commercial customers by utility service territory during

the preceding year via the filing of an affidavit with the Commission so long as the affidavit meets the requirements of this subsection (i). The affidavit must be filed contemporaneously with the information for which confidential treatment is sought and must clearly state that the affiant seeks confidential treatment pursuant to this subsection (i) and the information for which confidential treatment is sought must be clearly identified on the confidential version of the document filed with the Commission. The affidavit must be accompanied by both a "confidential" and a "public" version of the document or documents containing the information for which confidential treatment is sought.

If the alternative gas supplier has met the affidavit requirements of this subsection (i), then the Commission shall afford confidential treatment to the information identified in the affidavit for a period of 2 years after the date the affidavit is received by the Commission.

Nothing in this subsection (i) prevents an alternative gas supplier from filing a petition with the Commission seeking confidential treatment for information beyond that identified in this subsection (i) or for information contained in other reports or documents filed with the Commission other than annual rate reports.

Nothing in this subsection (i) prevents the Commission, on its own motion, or any party from filing a formal petition with the Commission seeking to reconsider the conferring of

confidential status pursuant to this subsection (i).

The Commission, on its own motion, may at any time initiate a docketed proceeding to investigate the continued applicability of this affidavit-based process for seeking confidential treatment. If, at the end of such investigation, the Commission determines that this affidavit-based process for seeking confidential treatment for the information is no longer necessary, the Commission may enter an order to that effect. Notwithstanding any such order, in the event the Commission makes such a determination, nothing in this subsection (i) prevents an alternative gas supplier desiring confidential treatment for such information from filing a formal petition with the Commission seeking confidential treatment for such information.

(Source: P.A. 101-590, eff. 1-1-20.)

(220 ILCS 5/19-120)

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

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

(b) The Commission shall have jurisdiction in accordance with the provisions of Article X of this Act either to

investigate on its own motion in order to determine whether or to entertain and dispose of any complaint by any person or corporation, chamber of commerce, board of trade, or any industrial, commercial, mercantile, agricultural or manufacturing society, or any body politic or municipal corporation against any alternative gas supplier alleging that:

(1) the alternative gas supplier has violated or is in nonconformance with any applicable provisions of Section 19-110, 19-111, 19-112, or Section 19-115;

(1.5) that the alternative retail gas supplier violated any rule adopted by the Commission to govern the sales, marketing, or operations of retail gas suppliers;

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

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

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

(c) The Commission shall have authority after such

administrative notice as is required by the Illinois Administrative Procedure Act and after an administrative hearing held on complaint or on the Commission's own motion to order any or all of the following remedies, penalties, or forms of relief:

(1) order an alternative gas supplier to cease and desist, or correct, any violation of or nonconformance with the provisions of Section 19-110, 19-111, 19-112, or 19-115, or any violation or nonconformance over which the Commission has jurisdiction under subsection (a) of Section 19-120;

(2) impose financial penalties for violations of or nonconformances with the provisions of Section 19-110, 19-111, 19-112, or 19-115, not to exceed ~~(i)~~ \$10,000 per occurrence, and for any violations or nonconformances that continue after the Commission issues a cease and desist order, up to an additional ~~or (ii)~~ \$30,000 for each day the violations or nonconformances continue ~~per day for those violations or nonconformances which continue after the Commission issues a cease and desist order;~~ and

(3) alter, modify, revoke, or suspend the certificate of service authority of an alternative gas supplier for substantial or repeated violations of or nonconformances with the provisions of Section 19-110, 19-111, 19-112, or 19-115.

(d) Nothing in this Act shall be construed to limit,

restrict, or mitigate in any way the power and authority of the State's Attorneys or the Attorney General under the Consumer Fraud and Deceptive Business Practices Act.

(e) In addition to other powers and authority granted to it under this Act, the Commission may require an alternative gas supplier to enter into a compliance plan. If the Commission comes into possession of information causing it to conclude that an alternative gas supplier is violating this Act or the Commission's rules, the Commission may, after notice and hearing, enter an order directing the alternative gas supplier to implement practices, procedures, oversight, or other measures or refrain from practices, conduct, or activities as the Commission finds is necessary or reasonable to ensure the alternative gas supplier's compliance with this Act and the Commission's rules. Failure by an alternative gas supplier to implement or comply with a Commission-ordered compliance plan is a violation of this Section. The Commission, in its discretion, may order a compliance plan under such circumstances as it considers warranted and is not required to order a compliance plan prior to taking other enforcement action against an alternative retail gas supplier. Nothing in this subsection (e) shall be interpreted to limit the authority or right of the Attorney General.

(Source: P.A. 101-590, eff. 1-1-20.)

Section 10. The Consumer Fraud and Deceptive Business

Practices Act is amended by changing Sections 2EE and 2DDD as follows:

(815 ILCS 505/2EE)

Sec. 2EE. Alternative retail electric supplier selection.

(a) An alternative retail electric supplier shall not submit or execute a change in a consumer's selection of a provider of electric service unless and until:

(i) the alternative retail electric supplier first discloses all material terms and conditions of the offer to the consumer;

(ii) if the consumer is a small commercial retail customer as that term is defined in subsection (c) of this Section or a residential consumer, the alternative retail electric supplier discloses the utility electric supply price to compare, which shall be the sum of the electric supply charge and the transmission services charge, and shall not include the purchased electricity adjustment, applicable at the time the offer is made to the consumer;

(iii) if the consumer is a small commercial retail customer as that term is defined in subsection (c) of this Section or a residential consumer, the alternative retail electric provider discloses the following statement:

"(Name of the alternative retail electric supplier) is not the same entity as your electric delivery company. You are not required to enroll with

(name of alternative retail electric supplier). As of (effective date), the electric supply price to compare is currently (price in cents per kilowatt hour). The electric utility electric supply price will expire on (expiration date). The utility electric supply price to compare does not include the purchased electricity adjustment factor. For more information go to the Illinois Commerce Commission's free website at www.pluginillinois.org."

If applicable, the statement shall include the following statement:

"The purchased electricity adjustment factor may range between +.5 cents and -.5 cents per kilowatt hour.";

(iv) the alternative retail electric supplier has obtained the consumer's express agreement to accept the offer after the disclosure of all material terms and conditions of the offer; and

(v) the alternative retail electric supplier has confirmed the request for a change in accordance with one of the following procedures:

(A) The new alternative retail electric supplier has obtained the consumer's written or electronically signed authorization in a form that meets the following requirements:

(1) An alternative retail electric supplier

shall obtain any necessary written or electronically signed authorization from a consumer for a change in electric service by using a letter of agency as specified in this Section. Any letter of agency that does not conform with this Section is invalid.

(2) The letter of agency shall be a separate document (an easily separable document containing only the authorization language described in subparagraph (5)) whose sole purpose is to authorize an electric service provider change. The letter of agency must be signed and dated by the consumer requesting the electric service provider change.

(3) The letter of agency shall not be combined with inducements of any kind on the same document.

(4) Notwithstanding subparagraphs (1) and (2), the letter of agency may be combined with checks that contain only the required letter of agency language prescribed in subparagraph (5) and the necessary information to make the check a negotiable instrument. The letter of agency check shall not contain any promotional language or material. The letter of agency check shall contain in easily readable, bold-face type on the face of the check, a notice that the consumer is

authorizing an electric service provider change by signing the check. The letter of agency language also shall be placed near the signature line on the back of the check.

(5) At a minimum, the letter of agency must be printed with a print of sufficient size to be clearly legible, and must contain clear and unambiguous language that confirms:

(i) The consumer's billing name and address;

(ii) The decision to change the electric service provider from the current provider to the prospective provider;

(iii) The terms, conditions, and nature of the service to be provided to the consumer must be clearly and conspicuously disclosed, in writing, and an alternative retail electric supplier must directly establish the rates for the service contracted for by the consumer; and

(iv) That the consumer understand that any alternative retail electric supplier selection the consumer chooses may involve a charge to the consumer for changing the consumer's electric service provider.

(6) Letters of agency shall not suggest or

require that a consumer take some action in order to retain the consumer's current electric service provider.

(7) If any portion of a letter of agency is translated into another language, then all portions of the letter of agency must be translated into that language.

(B) An appropriately qualified independent third party has obtained, in accordance with the procedures set forth in this subsection (b), the consumer's oral authorization to change electric suppliers that confirms and includes appropriate verification data. The independent third party (i) must not be owned, managed, controlled, or directed by the supplier or the supplier's marketing agent; (ii) must not have any financial incentive to confirm supplier change requests for the supplier or the supplier's marketing agent; and (iii) must operate in a location physically separate from the supplier or the supplier's marketing agent.

Automated third-party verification systems and 3-way conference calls may be used for verification purposes so long as the other requirements of this subsection (b) are satisfied.

A supplier or supplier's sales representative initiating a 3-way conference call or a call through

an automated verification system must drop off the call once the 3-way connection has been established.

All third-party verification methods shall elicit, at a minimum, the following information: (i) the identity of the consumer; (ii) confirmation that the person on the call is the account holder, has been specifically and explicitly authorized by the account holder, or possesses lawful authority to make the supplier change; (iii) confirmation that the person on the call wants to make the supplier change; (iv) the names of the suppliers affected by the change; (v) the service address of the supply to be switched; and (vi) the price of the service to be supplied and the material terms and conditions of the service being offered, including whether any early termination fees apply. Third-party verifiers may not market the supplier's services by providing additional information, including information regarding procedures to block or otherwise freeze an account against further changes.

All third-party verifications shall be conducted in the same language that was used in the underlying sales transaction and shall be recorded in their entirety. Submitting suppliers shall maintain and preserve audio records of verification of subscriber authorization for a minimum period of 2 years after

obtaining the verification. Automated systems must provide consumers with an option to speak with a live person at any time during the call. Each disclosure made during the third-party verification must be made individually to obtain clear acknowledgment of each disclosure. The alternative retail electric supplier must be in a location where he or she cannot hear the customer while the third-party verification is conducted. The alternative retail electric supplier shall not contact the customer after the third-party verification for a period of 24 hours unless the customer initiates the contact.

(C) When a consumer initiates the call to the prospective alternative retail electric supplier, in order to enroll the consumer as a customer, the prospective alternative retail electric supplier must, with the consent of the customer, make a date-stamped, time-stamped audio recording that elicits, at a minimum, the following information:

- (1) the identity of the customer;
- (2) confirmation that the person on the call is authorized to make the supplier change;
- (3) confirmation that the person on the call wants to make the supplier change;
- (4) the names of the suppliers affected by the change;

(5) the service address of the supply to be switched; and

(6) the price of the service to be supplied and the material terms and conditions of the service being offered, including whether any early termination fees apply.

Submitting suppliers shall maintain and preserve the audio records containing the information set forth above for a minimum period of 2 years.

(b)(1) An alternative retail electric supplier shall not utilize the name of a public utility in any manner that is deceptive or misleading, including, but not limited to, l implying or otherwise leading a consumer to believe that an alternative retail electric supplier is soliciting on behalf of or is an agent of a utility. An alternative retail electric supplier shall not utilize the name, or any other identifying insignia, graphics, or wording that has been used at any time to represent a public utility company or its services, to identify, label, or define any of its electric power and energy service offers. An alternative retail electric supplier may state the name of a public electric utility in order to accurately describe the electric utility service territories in which the supplier is currently offering an electric power and energy service. An alternative retail electric supplier that is the affiliate of an Illinois public utility and that was doing business in Illinois providing alternative retail

electric service on January 1, 2016 may continue to use that public utility's name, logo, identifying insignia, graphics, or wording in its business operations occurring outside the service territory of the public utility with which it is affiliated.

(2) An alternative retail electric supplier shall not state or otherwise imply that the alternative retail electric supplier is employed by, representing, endorsed by, or acting on behalf of a utility or utility program, a consumer group or consumer group program, or a governmental body, unless the alternative retail electric supplier has entered into a contractual arrangement with the governmental body and has been authorized by the governmental body to make the statements.

(c) An alternative retail electric supplier shall not submit or execute a change in a consumer's selection of a provider of electric service unless the alternative retail electric supplier complies with the following requirements of this subsection (c). It is a violation of this Section for an alternative retail electric supplier to fail to comply with this subsection (c). The requirements of this subsection (c) shall only apply to residential and small commercial retail customers. For purposes of this subsection (c) only, "small commercial retail customer" has the meaning given to that term in Section 16-102 of the Public Utilities Act.

(1) During a solicitation an alternative retail

electric supplier shall state that he or she represents an independent seller of electric power and energy service certified by the Illinois Commerce Commission and that he or she is not employed by, representing, endorsed by, or acting on behalf of, a utility, or a utility program, a consumer group or consumer group program, or a governmental body, unless the alternative retail electric supplier has entered into a contractual arrangement with the governmental body and has been authorized with the governmental body to make the statements.

(2) Alternative retail electric suppliers who engage in in-person solicitation for the purpose of selling electric power and energy service offered by the alternative retail electric supplier shall display identification on an outer garment. This identification shall be visible at all times and prominently display the following: (i) the alternative retail electric supplier agent's full name in reasonable size font; (ii) an agent identification number; (iii) a photograph of the alternative retail electric supplier agent; and (iv) the trade name and logo of the alternative retail electric supplier the agent is representing. If the agent is selling electric power and energy services from multiple alternative retail electric suppliers to the consumer, the identification shall display the trade name and logo of the agent, broker, or consultant entity as that entity is

defined in Section 16-115C of the Public Utilities Act. An alternative retail electric supplier shall leave the premises at the consumer's, owner's, or occupant's request. A copy of the Uniform Disclosure Statement described in 83 Ill. Adm. Code 412.115 and 412.Appendix A is to be left with the consumer, at the conclusion of the visit unless the consumer refuses to accept a copy. An alternative retail electric supplier may provide the Uniform Disclosure Statement electronically instead of in paper form to a consumer upon that customer's request. The alternative retail electric supplier shall also offer to the consumer, at the time of the initiation of the solicitation, a business card or other material that lists the agent's name, identification number and title, and the alternative retail electric supplier's name and contact information, including phone number. The alternative retail electric supplier shall not conduct any in-person solicitations of consumers at any building or premises where any sign, notice, or declaration of any description whatsoever is posted that prohibits sales, marketing, or solicitations. The alternative retail electric supplier shall obtain consent to enter multi-unit residential dwellings. Consent obtained to enter a multi-unit dwelling from one prospective customer or occupant of the dwelling shall not constitute consent to market to any other prospective consumers without separate consent.

(3) An alternative retail electric supplier who contacts consumers by telephone for the purpose of selling electric power and energy service shall provide the agent's name and identification number. Any telemarketing solicitations that lead to a telephone enrollment of a consumer must be recorded and retained for a minimum of 2 years. All telemarketing calls of consumers that do not lead to a telephone enrollment, but last at least 2 minutes, shall be recorded and retained for a minimum of 6 months.

(4) During an inbound enrollment call, an alternative retail electric supplier shall state that he or she represents an independent seller of electric power and energy service certified by the Illinois Commerce Commission. All inbound enrollment calls that lead to an enrollment shall be recorded, and the recordings shall be retained for a minimum of 2 years. An inbound enrollment call that does not lead to an enrollment, but lasts at least 2 minutes, shall be retained for a minimum of 6 months. The alternative retail electric supplier shall send the Uniform Disclosure Statement and contract to the customer within 3 business days after the electric utility's confirmation to the alternative retail electric supplier of an accepted enrollment.

(5) If a direct mail solicitation to a consumer includes a written letter of agency, it shall include the

Uniform Disclosure Statement described in 83 Ill. Adm. Code 412.115 and 412.Appendix A. The Uniform Disclosure Statement shall be provided on a separate page from the other marketing materials included in the direct mail solicitation. If a written letter of agency is being used to authorize a consumer's enrollment, the written letter of agency shall comply with this Section. A copy of the contract must be sent to consumer within 3 business days after the electric utility's confirmation to the alternative retail electric supplier of an accepted enrollment.

(6) Online Solicitation.

(A) Each alternative retail electric supplier offering electric power and energy service to consumers online shall clearly and conspicuously make all disclosures for any services offered through online enrollment before requiring the consumer to enter any personal information other than zip code, electric utility service territory, or type of service sought.

(B) Notwithstanding any requirements in this Section to the contrary, an alternative retail electric supplier may secure consent from the consumer to obtain customer-specific billing and usage information for the sole purpose of determining and pricing a product through a letter of agency or method

approved through an Illinois Commerce Commission docket before making all disclosure for services offered through online enrollment. It is a violation of this Act for an alternative retail electric supplier to use a consumer's utility account number to execute or change a consumer's enrollment unless the consumer expressly consents to that enrollment as required by law.

(C) The enrollment website of the alternative retail electric supplier shall, at a minimum, include: (i) disclosure of all material terms and conditions of the offer; (ii) a statement that electronic acceptance of the terms and conditions is an agreement to initiate service and begin enrollment; (iii) a statement that the consumer shall review the contract or contact the current supplier to learn if any early termination fees are applicable; and (iv) an email address and toll-free phone number of the alternative retail electric supplier where the customer can express a decision to rescind the contract.

(7) (A) Beginning January 1, 2020, an alternative retail electric supplier shall not sell or offer to sell any products or services to a consumer pursuant to a contract in which the contract automatically renews, unless an alternative retail electric supplier provides to the consumer at the outset of the offer, in addition to

other disclosures required by law, a separate written statement titled "Automatic Contract Renewal" that clearly and conspicuously discloses in bold lettering in at least 12-point font the terms and conditions of the automatic contract renewal provision, including: (i) the estimated bill cycle on which the initial contract term expires and a statement that it could be later based on when the utility accepts the initial enrollment; (ii) the estimated bill cycle on which the new contract term begins and a statement that it will immediately follow the last billing cycle of the current term; (iii) the procedure to terminate the contract before the new contract term applies; and (iv) the cancellation procedure. If the alternative retail electric supplier sells or offers to sell the products or services to a consumer during an in-person solicitation or telemarketing solicitation, the disclosures described in this subparagraph (A) shall also be made to the consumer verbally during the solicitation. Nothing in this subparagraph (A) shall be construed to apply to contracts entered into before January 1, 2020.

(B) At least 30 days before, but not more than 60 days prior, to the end of the initial contract term, in any and all contracts that automatically renew after the initial term, the alternative retail electric supplier shall send, in addition to other disclosures required by law, a separate written notice of the

contract renewal to the consumer that clearly and conspicuously discloses the following:

(i) a statement printed or visible from the outside of the envelope or in the subject line of the email, if the customer has agreed to receive official documents by email, that states "Contract Renewal Notice";

(ii) a statement in bold lettering, in at least 12-point font, that the contract will automatically renew unless the customer cancels it;

(iii) the billing cycle in which service under the current term will expire;

(iv) the billing cycle in which service under the new term will begin;

(v) the process and options available to the consumer to reject the new contract terms;

(vi) the cancellation process if the consumer's contract automatically renews before the consumer rejects the new contract terms;

(vii) the terms and conditions of the new contract term;

(viii) for a fixed rate contract, a side-by-side comparison of the current price and the new price; for a variable rate contract or time-of-use product in which the first month's

renewal price can be determined, a side-by-side comparison of the current price and the price for the first month of the new variable or time-of-use price; or for a variable or time-of-use contract based on a publicly available index, a side-by-side comparison of the current formula and the new formula; and

(ix) the phone number and Internet ~~email~~ address to submit a consumer inquiry or complaint to the Illinois Commerce Commission and the Office of the Attorney General.

(C) An alternative retail electric supplier shall not automatically renew a consumer's enrollment after the current term of the contract expires when the current term of the contract provides that the consumer will be charged a fixed rate and the renewed contract provides that the consumer will be charged a variable rate, unless: (i) the alternative retail electric supplier complies with subparagraphs (A) and (B); and (ii) the customer expressly consents to the contract renewal in writing or by electronic signature at least 30 days, but no more than 60 days, before the contract expires.

(D) This paragraph (7) does not apply to customers enrolled in a municipal aggregation program pursuant to Section 1-92 of the Illinois Power Agency Act.

(8) All in-person and telephone solicitations shall be conducted in, translated into, and provided in a language in which the consumer subject to the marketing or solicitation is able to understand and communicate. An alternative retail electric supplier shall terminate a solicitation if the consumer subject to the marketing or communication is unable to understand and communicate in the language in which the marketing or solicitation is being conducted. An alternative retail electric supplier shall comply with Section 2N of this Act.

(9) Beginning January 1, 2020, consumers shall have the right to terminate their contract with the alternative retail electric supplier at any time without any termination fees or penalties.

(10) An alternative retail electric supplier shall not submit a change to a customer's electric service provider in violation of Section 16-115E of the Public Utilities Act.

(d) ~~(e)~~ Complaints may be filed with the Illinois Commerce Commission under this Section by a consumer whose electric service has been provided by an alternative retail electric supplier in a manner not in compliance with this Section or by the Illinois Commerce Commission on its own motion when it appears to the Commission that an alternative retail electric supplier has provided service in a manner not in compliance with this Section. If, after notice and hearing, the

Commission finds that an alternative retail electric supplier has violated this Section, the Commission may in its discretion do any one or more of the following:

(1) Require the violating alternative retail electric supplier to refund to the consumer charges collected in excess of those that would have been charged by the consumer's authorized electric service provider.

(2) Require the violating alternative retail electric supplier to pay to the consumer's authorized electric service provider the amount the authorized electric service provider would have collected for the electric service. The Commission is authorized to reduce this payment by any amount already paid by the violating alternative retail electric supplier to the consumer's authorized provider for electric service.

(3) Require the violating alternative retail electric supplier to pay a fine of up to \$10,000 ~~\$1,000~~ into the Public Utility Fund for each ~~repeated and intentional~~ violation of this Section.

(4) Issue a cease and desist order.

(5) For a pattern of violation of this Section or for violations that continue after ~~intentionally violating~~ a cease and desist order, revoke the violating alternative retail electric supplier's certificate of service authority.

(e) ~~(d)~~ For purposes of this Section:

"Electric service provider" shall have the meaning given that phrase in Section 6.5 of the Attorney General Act.

"Alternative retail electric supplier" has the meaning given to that term in Section 16-102 of the Public Utilities Act.

(Source: P.A. 101-590, eff. 1-1-20.)

(815 ILCS 505/2DDD)

Sec. 2DDD. Alternative gas suppliers.

(a) Definitions.

(1) "Alternative gas supplier" has the same meaning as in Section 19-105 of the Public Utilities Act.

(2) "Gas utility" has the same meaning as in Section 19-105 of the Public Utilities Act.

(b) It is an unfair or deceptive act or practice within the meaning of Section 2 of this Act for any person to violate any provision of this Section.

(c) Solicitation.

(1) An alternative gas supplier shall not utilize the name of a public utility in any manner that is deceptive or misleading, including, but not limited to, implying or otherwise leading a customer to believe that an alternative gas supplier is soliciting on behalf of or is an agent of a utility. An alternative gas supplier shall not utilize the name, or any other identifying insignia, graphics, or wording, that has been used at any time to

represent a public utility company or its services or to identify, label, or define any of its natural gas supply offers and shall not misrepresent the affiliation of any alternative supplier with the gas utility, governmental bodies, or consumer groups.

(2) If any sales solicitation, agreement, contract, or verification is translated into another language and provided to a customer, all of the documents must be provided to the customer in that other language.

(2.3) An alternative gas supplier shall state that it represents an independent seller of gas certified by the Illinois Commerce Commission and that he or she is not employed by, representing, endorsed by, or acting on behalf of a utility, or a utility program.

(2.5) All in-person and telephone solicitations shall be conducted in, translated into, and provided in a language in which the consumer subject to the marketing or solicitation is able to understand and communicate. An alternative gas supplier shall terminate a solicitation if the consumer subject to the marketing or communication is unable to understand and communicate in the language in which the marketing or solicitation is being conducted. An alternative gas supplier shall comply with Section 2N of this Act.

(3) An alternative gas supplier shall clearly and conspicuously disclose the following information to all

customers:

(A) the prices, terms, and conditions of the products and services being sold to the customer;

(B) where the solicitation occurs in person, including through door-to-door solicitation, the salesperson's name;

(C) the alternative gas supplier's contact information, including the address, phone number, and website;

(D) contact information for the Illinois Commerce Commission, including the toll-free number for consumer complaints and website;

(E) a statement of the customer's right to rescind the offer within 10 business days of the date on the utility's notice confirming the customer's decision to switch suppliers, as well as phone numbers for the supplier and utility that the consumer may use to rescind the contract;

(F) the amount of the early termination fee, if any; and

(G) the utility gas supply cost rates per therm price available from the Illinois Commerce Commission website applicable at the time the alternative gas supplier is offering or selling the products or services to the customer and shall disclose the following statement:

"(Name of the alternative gas supplier) is not the same entity as your gas delivery company. You are not required to enroll with (name of alternative retail gas supplier). Beginning on (effective date), the utility gas supply cost rate per therm is (cost). The utility gas supply cost will expire on (expiration date). For more information go to the Illinois Commerce Commission's free website at www.icc.illinois.gov/ags/consumereducation.aspx."

(4) Except as provided in paragraph (5) of this subsection (c), an alternative gas supplier shall send the information described in paragraph (3) of this subsection (c) to all customers within one business day of the authorization of a switch.

(5) An alternative gas supplier engaging in door-to-door solicitation of consumers shall provide the information described in paragraph (3) of this subsection (c) during all door-to-door solicitations that result in a customer deciding to switch his or her supplier.

(d) Customer Authorization. An alternative gas supplier shall not submit or execute a change in a customer's selection of a natural gas provider unless and until: (i) the alternative gas supplier first discloses all material terms and conditions of the offer to the customer; (ii) the alternative gas supplier has obtained the customer's express agreement to accept the offer after the disclosure of all

material terms and conditions of the offer; and (iii) the alternative gas supplier has confirmed the request for a change in accordance with one of the following procedures:

(1) The alternative gas supplier has obtained the customer's written or electronically signed authorization in a form that meets the following requirements:

(A) An alternative gas supplier shall obtain any necessary written or electronically signed authorization from a customer for a change in natural gas service by using a letter of agency as specified in this Section. Any letter of agency that does not conform with this Section is invalid.

(B) The letter of agency shall be a separate document (or an easily separable document containing only the authorization language described in item (E) of this paragraph (1)) whose sole purpose is to authorize a natural gas provider change. The letter of agency must be signed and dated by the customer requesting the natural gas provider change.

(C) The letter of agency shall not be combined with inducements of any kind on the same document.

(D) Notwithstanding items (A) and (B) of this paragraph (1), the letter of agency may be combined with checks that contain only the required letter of agency language prescribed in item (E) of this paragraph (1) and the necessary information to make

the check a negotiable instrument. The letter of agency check shall not contain any promotional language or material. The letter of agency check shall contain in easily readable, bold face type on the face of the check, a notice that the consumer is authorizing a natural gas provider change by signing the check. The letter of agency language also shall be placed near the signature line on the back of the check.

(E) At a minimum, the letter of agency must be printed with a print of sufficient size to be clearly legible, and must contain clear and unambiguous language that confirms:

(i) the customer's billing name and address;

(ii) the decision to change the natural gas provider from the current provider to the prospective alternative gas supplier;

(iii) the terms, conditions, and nature of the service to be provided to the customer, including, but not limited to, the rates for the service contracted for by the customer; and

(iv) that the customer understands that any natural gas provider selection the customer chooses may involve a charge to the customer for changing the customer's natural gas provider.

(F) Letters of agency shall not suggest or require

that a customer take some action in order to retain the customer's current natural gas provider.

(G) If any portion of a letter of agency is translated into another language, then all portions of the letter of agency must be translated into that language.

(2) An appropriately qualified independent third party has obtained, in accordance with the procedures set forth in this paragraph (2), the customer's oral authorization to change natural gas providers that confirms and includes appropriate verification data. The independent third party must: (i) not be owned, managed, controlled, or directed by the alternative gas supplier or the alternative gas supplier's marketing agent; (ii) not have any financial incentive to confirm provider change requests for the alternative gas supplier or the alternative gas supplier's marketing agent; and (iii) operate in a location physically separate from the alternative gas supplier or the alternative gas supplier's marketing agent. Automated third-party verification systems and 3-way conference calls may be used for verification purposes so long as the other requirements of this paragraph (2) are satisfied. An alternative gas supplier or alternative gas supplier's sales representative initiating a 3-way conference call or a call through an automated verification system must drop off the call once the 3-way connection has been

established. All third-party verification methods shall elicit, at a minimum, the following information:

(A) the identity of the customer;

(B) confirmation that the person on the call is authorized to make the provider change;

(C) confirmation that the person on the call wants to make the provider change;

(D) the names of the providers affected by the change;

(E) the service address of the service to be switched; and

(F) the price of the service to be provided and the material terms and conditions of the service being offered, including whether any early termination fees apply.

Third-party verifiers may not market the alternative gas supplier's services. All third-party verifications shall be conducted in the same language that was used in the underlying sales transaction and shall be recorded in their entirety. Submitting alternative gas suppliers shall maintain and preserve audio records of verification of customer authorization for a minimum period of 2 years after obtaining the verification. Automated systems must provide customers with an option to speak with a live person at any time during the call. Each disclosure made during the third-party verification must be made

individually to obtain clear acknowledgment of each disclosure. The alternative gas supplier must be in a location where he or she cannot hear the customer while the third-party verification is conducted. The alternative gas supplier shall not contact the customer after the third-party verification for a period of 24 hours unless the customer initiates the contact.

(3) The alternative gas supplier has obtained the customer's electronic authorization to change natural gas service via telephone. Such authorization must elicit the information in subparagraphs (A) through (F) of paragraph (2) of this subsection (d). Alternative gas suppliers electing to confirm sales electronically shall establish one or more toll-free telephone numbers exclusively for that purpose. Calls to the number or numbers shall connect a customer to a voice response unit, or similar mechanism, that makes a date-stamped, time-stamped recording of the required information regarding the alternative gas supplier change.

The alternative gas supplier shall not use such electronic authorization systems to market its services.

(4) When a consumer initiates the call to the prospective alternative gas supplier, in order to enroll the consumer as a customer, the prospective alternative gas supplier must, with the consent of the customer, make a date-stamped, time-stamped audio recording that elicits,

at a minimum, the following information:

(A) the identity of the customer;

(B) confirmation that the person on the call is authorized to make the provider change;

(C) confirmation that the person on the call wants to make the provider change;

(D) the names of the providers affected by the change;

(E) the service address of the service to be switched; and

(F) the price of the service to be supplied and the material terms and conditions of the service being offered, including whether any early termination fees apply.

Submitting alternative gas suppliers shall maintain and preserve the audio records containing the information set forth above for a minimum period of 2 years.

(5) In the event that a customer enrolls for service from an alternative gas supplier via an Internet website, the alternative gas supplier shall obtain an electronically signed letter of agency in accordance with paragraph (1) of this subsection (d) and any customer information shall be protected in accordance with all applicable statutes and rules. In addition, an alternative gas supplier shall provide the following when marketing via an Internet website:

(A) The Internet enrollment website shall, at a minimum, include:

(i) a copy of the alternative gas supplier's customer contract, which clearly and conspicuously discloses all terms and conditions; and

(ii) a conspicuous prompt for the customer to print or save a copy of the contract.

(B) Any electronic version of the contract shall be identified by version number, in order to ensure the ability to verify the particular contract to which the customer assents.

(C) Throughout the duration of the alternative gas supplier's contract with a customer, the alternative gas supplier shall retain and, within 3 business days of the customer's request, provide to the customer an email ~~e-mail~~, paper, or facsimile of the terms and conditions of the numbered contract version to which the customer assents.

(D) The alternative gas supplier shall provide a mechanism by which both the submission and receipt of the electronic letter of agency are recorded by time and date.

(E) After the customer completes the electronic letter of agency, the alternative gas supplier shall disclose conspicuously through its website that the customer has been enrolled and the alternative gas

supplier shall provide the customer an enrollment confirmation number.

(6) When a customer is solicited in person by the alternative gas supplier's sales agent, the alternative gas supplier may only obtain the customer's authorization to change natural gas service through the method provided for in paragraph (2) of this subsection (d).

Alternative gas suppliers must be in compliance with the provisions of this subsection (d) within 90 days after April 10, 2009 (the effective date of Public Act 95-1051).

(e) Early Termination.

(1) Beginning January 1, 2020, consumers shall have the right to terminate their contract with an alternative gas supplier at any time without any termination fees or penalties.

(2) In any agreement that contains an early termination clause, an alternative gas supplier shall provide the customer the opportunity to terminate the agreement without any termination fee or penalty within 10 business days after the date of the first bill issued to the customer for products or services provided by the alternative gas supplier. The agreement shall disclose the opportunity and provide a toll-free phone number that the customer may call in order to terminate the agreement.

(f) The alternative gas supplier shall provide each customer the opportunity to rescind its agreement without

penalty within 10 business days after the date on the gas utility notice to the customer. The alternative gas supplier shall disclose to the customer all of the following:

(1) that the gas utility shall send a notice confirming the switch;

(2) that from the date the utility issues the notice confirming the switch, the customer shall have 10 business days before the switch will become effective;

(3) that the customer may contact the gas utility or the alternative gas supplier to rescind the switch within 10 business days; and

(4) the contact information for the gas utility and the alternative gas supplier.

The alternative gas supplier disclosure shall be included in its sales solicitations, contracts, and all applicable sales verification scripts.

(f-5)(1) Beginning January 1, 2020, an alternative gas supplier shall not sell or offer to sell any products or services to a consumer pursuant to a contract in which the contract automatically renews, unless an alternative gas supplier provides to the consumer at the outset of the offer, in addition to other disclosures required by law, a separate written statement titled "Automatic Contract Renewal" that clearly and conspicuously discloses in bold lettering in at least 12-point font the terms and conditions of the automatic contract renewal provision, including: (i) the estimated bill

cycle on which the initial contract term expires and a statement that it could be later based on when the utility accepts the initial enrollment; (ii) the estimated bill cycle on which the new contract term begins and a statement that it will immediately follow the last billing cycle of the current term; (iii) the procedure to terminate the contract before the new contract term applies; and (iv) the cancellation procedure. If the alternative gas supplier sells or offers to sell the products or services to a consumer during an in-person solicitation or telemarketing solicitation, the disclosures described in this paragraph (1) shall also be made to the consumer verbally during the solicitation. Nothing in this paragraph (1) shall be construed to apply to contracts entered into before January 1, 2020.

(2) At least 30 days before, but not more than 60 days prior, to the end of the initial contract term, in any and all contracts that automatically renew after the initial term, the alternative gas supplier shall send, in addition to other disclosures required by law, a separate written notice of the contract renewal to the consumer that clearly and conspicuously discloses the following:

(A) a statement printed or visible from the outside of the envelope or in the subject line of the email, if the customer has agreed to receive official documents by email, that states "Contract Renewal Notice";

(B) a statement in bold lettering, in at least

12-point font, that the contract will automatically renew unless the customer cancels it;

(C) the billing cycle in which service under the current term will expire;

(D) the billing cycle in which service under the new term will begin;

(E) the process and options available to the consumer to reject the new contract terms;

(F) the cancellation process if the consumer's contract automatically renews before the consumer rejects the new contract terms;

(G) the terms and conditions of the new contract term;

(H) for a fixed rate or flat bill contract, a side-by-side comparison of the current fixed rate or flat bill to the new fixed rate or flat bill; for a variable rate contract or time-of-use product in which the first month's renewal price can be determined, a side-by-side comparison of the current price and the price for the first month of the new variable or time-of-use price; or for a variable or time-of-use contract based on a publicly available index, a side-by-side comparison of the current formula and the new formula; and

(I) the phone number and Internet ~~email~~ address to submit a consumer inquiry or complaint to the Illinois Commerce Commission and the Office of the Attorney General.

(3) An alternative gas supplier shall not automatically renew a consumer's enrollment after the current term of the contract expires when the current term of the contract provides that the consumer will be charged a fixed rate and the renewed contract provides that the consumer will be charged a variable rate, unless: (i) the alternative gas supplier complies with paragraphs (1) and (2); and (ii) the customer expressly consents to the contract renewal in writing or by electronic signature at least 30 days, but no more than 60 days, before the contract expires.

(4) An alternative gas supplier shall not submit a change to a customer's gas service provider in violation of Section 19-116 of the Public Utilities Act.

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

(h) Complaints may be filed with the Commission under this Section by a consumer whose gas service has been provided by an alternative retail gas supplier in a manner not in compliance with this Section or by the Commission on its own motion when it appears to the Commission that an alternative retail gas supplier has provided service in a manner not in compliance with this Section. If, after notice and hearing, the Commission finds that an alternative retail gas supplier has

violated this Section, the Commission may in its discretion do any one or more of the following:

(1) require the alternative retail gas supplier to refund to the consumer charges collected in excess of those that would have been charged by the consumer's authorized gas service provider;

(2) require the alternative retail gas supplier to pay to the consumer's authorized gas service provider the amount the authorized gas service provider would have collected for the gas service. The Commission is authorized to reduce this payment by any amount already paid by the alternative retail gas to the consumer's authorized provider for gas service;

(3) require the alternative retail electric supplier to pay a fine of up to \$10,000 per occurrence into the Public Utility Fund for each violation of this Section;

(4) issue a cease and desist order; and

(5) for a pattern of violation of this Section or for violations that continue after a cease and desist order, revoke the alternative retail gas supplier's certificate of service authority.

(Source: P.A. 101-590, eff. 1-1-20; 102-558, eff. 8-20-21.)