

AN ACT concerning public utilities.

**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 adding Section 7-210 as follows:

(220 ILCS 5/7-210 new)

Sec. 7-210. Commission oversight of nonpublic, unregulated sales at retail of natural gas by public utilities.

(a) This Section shall apply to any gas utility that served more than 60,000 gas customers but less than 75,000 gas customers in this State on January 1, 2000 and that provides competitive electric power and energy to electric delivery service customers through a business division of its electric utility pursuant to Section 16-116. For the purposes of this Section, terms shall have the same meaning as defined in Section 7-108, Article XVI, and Article XIX.

(b) After the effective date of this amendatory Act of the 93rd General Assembly, unregulated sales of natural gas by a gas utility within or outside its service area shall be subject to the provisions of this Section. This Section shall not be interpreted to invalidate any contract for unregulated sales of natural gas executed by a gas utility prior to the effective date of this amendatory Act of the 93rd General Assembly, but unregulated sales of natural gas pursuant to such contract after the effective date of this amendatory Act of the 93rd General Assembly shall be subject to the provisions of this Section.

(c) A gas utility offering unregulated sales of natural gas to an end-use customer within or outside its service area shall be subject to Sections 7-102(g), 7-205, 7-206, and 9-230 with respect to such sales.

(d) Notwithstanding any language of Article XIX to the

contrary, a gas utility offering unregulated sales of natural gas to a residential customer or a small commercial customer within or outside its service area shall be subject to Sections 19-110(e) (2), 19-110(e) (3), 19-110(e) (5), 19-115, and 19-120.

(e) A gas utility offering unregulated sales of natural gas to an end-use customer within or outside its service area shall not subsidize such sales through the utility's regulated business. Costs and revenues from the gas utility's unregulated sales of gas to an end-use customer within or outside its service area shall not be included in the calculation of the utility's regulated gas rates and charges.

(f) A gas utility offering unregulated sales of natural gas to an end-use customer within or outside its service area shall not discriminate in the provision of regulated gas service based upon the existence or terms of an unregulated sale of natural gas.

(g) The Commission shall require a gas utility to file reports regarding its unregulated sales of natural gas in the State. The reports shall be treated as confidential documents. To the extent the Commission determines it to be necessary and in the public interest, the Commission may order an audit of a gas utility regarding its unregulated sales of natural gas in the State.

(h) The Commission shall have the authority to require the gas utility to file its contracts for unregulated sales of natural gas in the State. The contracts shall be treated as confidential documents.

(i) Within 120 days after the effective date of this amendatory Act of the 93rd General Assembly, the Commission shall adopt provisions requiring functional separation between a gas utility's unregulated retail sales of natural gas in the State and its regulated retail gas services in the State. In establishing or considering the functional separations provisions, the Commission shall take into account the effects on the cost and reliability of service and the obligation of the gas utility under the Act. The Commission shall adopt

separations provisions that are a cost effective means to ensure compliance with this Section. The provisions adopted by the Commission shall permit a gas utility to offer unregulated retail sales of natural gas in the State through the same business division of the utility that offers competitive electric power and energy to electric delivery service customers. Until provisions are adopted by the Commission, the gas utility shall comply with the functional separations rules for electric utilities adopted pursuant to Section 16-119A, to the extent determined applicable by the Commission through emergency rules established within 60 days of the passage of this Act.

(j) A gas utility shall not release or assign gas storage capacity procured for its regulated Illinois retail customers to its business division offering unregulated retail sales of natural gas or allow such storage capacity to be managed by that business division.

(k) Except as approved by the Commission, a gas utility shall not use gas commodity or interstate pipeline services for unregulated retail sales of natural gas in the State if such commodity or service was procured for its regulated Illinois retail customers.

(l) In addition to any other remedy provided in the Act, the Commission may order a gas utility to cease offering unregulated retail sales of natural gas in the State if it finds, after notice and hearing, that the gas utility willfully violated this Section.

(m) This Section shall not be applicable to unregulated sales of natural gas by an affiliate of a gas utility. Nothing herein shall be construed as impacting the applicability of other Sections of the Act to the unregulated sale of natural gas by an affiliate.