

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 19-105, 19-110, 19-115, 19-120, and 19-125 and by adding Sections 19-111 and 19-112 as follows:

(220 ILCS 5/19-105)

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

"Alternative gas supplier" means every person, cooperative, corporation, municipal corporation, company, association, joint stock company or association, firm, partnership, individual, or other entity, their lessees, trustees, or receivers appointed by any court whatsoever, that offers gas for sale, lease, or in exchange for other value received to one or more customers, or that engages in the furnishing of gas to one or more customers, and shall include affiliated interests of a gas utility, resellers, aggregators and marketers, but shall not include (i) gas utilities (or any agent of the gas utility to the extent the gas utility provides tariffed services to customers through an agent); (ii) public utilities that are owned and operated by any political

subdivision, public institution of higher education or municipal corporation of this State, or public utilities that are owned by a political subdivision, public institution of higher education, or municipal corporation and operated by any of its lessees or operating agents; (iii) natural gas cooperatives that are not-for-profit corporations operated for the purpose of administering, on a cooperative basis, the furnishing of natural gas for the benefit of their members who are consumers of natural gas; and (iv) the ownership or operation of a facility that sells compressed natural gas at retail to the public for use only as a motor vehicle fuel and the selling of compressed natural gas at retail to the public for use only as a motor vehicle fuel.

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

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

"Sales agent" means any employee, agent, independent contractor, consultant, or other person that is engaged by the

alternative gas supplier to solicit customers to purchase, enroll in, or contract for alternative gas service on behalf of an alternative gas supplier.

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

"Small commercial customer" means a nonresidential retail customer of a natural gas utility who consumed ~~is identified by the alternative gas supplier, prior to becoming a customer of the alternative gas supplier, as consuming~~ 5,000 or fewer therms of natural gas during the previous year; provided that any alternative gas supplier may remove the customer from designation as a "small commercial customer" if the customer consumes more than 5,000 therms of natural gas in any calendar year after becoming a customer of the alternative gas supplier. In determining whether a customer has consumed 5,000 or fewer therms of natural gas during the previous year, usage by the same commercial customer shall be aggregated to include usage at the same premises even if measured by more than one meter, and to include usage at multiple premises. Nothing in this Section creates an affirmative obligation on a gas utility to monitor or inform customers or alternative gas suppliers as to a customer's status as a small commercial customer as that term

is defined herein. Nothing in this Section relieves a gas utility from any obligation to provide information upon request to a customer, alternative gas supplier, the Commission, or others necessary to determine whether a customer meets the classification of small commercial customers as that term is defined herein.

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

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

(Source: P.A. 94-738, eff. 5-4-06.)

(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 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 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 ~~possess~~ 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; ~~and shall consider~~

(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 and the applicant's sales agents will comply with all other applicable laws and rules.

(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) ~~(f)~~ 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 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.

(Source: P.A. 92-529, eff. 2-8-02; 92-852, eff. 8-26-02.)

(220 ILCS 5/19-111 new)

Sec. 19-111. Material changes in business.

(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) Alternative gas suppliers shall file with the Commission a notification of any material change to the information supplied in a certification application within 30 days of such material change.

(1) An alternative gas supplier shall file such notice under the docket number assigned to the alternative gas supplier's certification application, whichever is the most recent. The supplier shall also serve such notice upon the gas utility company serving customers in the service area where the alternative gas supplier is certified to provide service.

(2) After notice and an opportunity for a hearing, the Commission may (i) suspend, rescind, or conditionally rescind an alternative gas supplier's certificate if it determines that the material change will adversely affect the alternative gas supplier's fitness or ability to provide the services for which it is certified or (ii) require the alternative gas supplier to provide reasonable financial assurances sufficient to protect their customers

and gas utilities from default.

(c) Material changes to the information contained in or supplied with a certification application include, but are not limited to, the following:

(1) Any significant change in ownership (an ownership interest of 5% or more) of the applicant or alternative gas supplier.

(2) An affiliation with any gas utility or change of an affiliation with a gas utility in this State.

(3) Retirement or other long-term changes to the operational status of supply resources relied upon by the alternative gas supplier to provide alternative gas service. Changes in the volume of supply from any given supply resource replaced by a comparable supply resource do not need to be reported.

(4) Revocation, restriction, or termination of any interconnection or service agreement with a pipeline company or natural gas company relied upon by an alternative gas supplier to provide alternative retail natural gas service, but only if such revocation, restriction, or termination creates a situation in which the alternative gas supplier does not meet the tariffed capacity requirements of the relevant Illinois natural gas utility or utilities.

(5) If the alternative gas supplier has a long-term bond rating from Standard & Poor's or its successor, or

Fitch Ratings or its successor, or Moody's Investor Service or its successor, and the alternative gas supplier's long-term bond rating falls below BBB as reported by Standard & Poor's or its successor or Fitch Ratings or its successor or below Baa3 as reported by Moody's Investors Service or its successor.

(6) The applicant or alternative gas supplier has or intends to file for reorganization, protection from creditors, or any other form of bankruptcy with any court.

(7) Any judgment, finding, or ruling by a court or regulatory agency that could affect an alternative gas supplier's fitness or ability to provide service in this State.

(8) Any change in the alternative gas supplier's name or logo, including without limitation any change in the alternative gas supplier's legal name, fictitious names, or assumed business names, except for logos and names the alternative gas supplier provided as part of its original certification process or that the alternative gas supplier previously provided to the Commission under this Section.

(220 ILCS 5/19-112 new)

Sec. 19-112. Managerial resources.

(a) An alternative gas supplier must maintain sufficient managerial resources and abilities to provide the service for which it has a certificate of service authority. In determining

the level of managerial resources and abilities that the alternative gas supplier must demonstrate, the Commission shall consider, in addition to the requirements in 19-110(e)(1), the following:

(1) complaints to the Commission by consumers regarding the alternative gas supplier, including those that reflect on the alternative gas supplier's ability to properly manage solicitation and authorization; and

(2) the alternative gas supplier's involvement in the Commission's consumer complaint process, including the resources the alternative gas supplier dedicates to the process and the alternative gas supplier's ability to manage the issues raised by complaints, and the resolutions of the complaints.

(b) 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, unless otherwise noted.

(220 ILCS 5/19-115)

Sec. 19-115. Obligations 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 shall:

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

(2) continue to comply with the requirements for certification stated in Section 19-110; ~~and~~

(3) comply with complaint procedures established by the Commission;

(4) except as provided in subsection (h) of this Section, file with the Chief Clerk of the Commission, within 20 business days after the effective date of this amendatory Act of the 95th General Assembly, a copy of bill formats, standard customer contract and customer complaint and resolution procedures, and the name and telephone number of the company representative whom Commission employees may contact to resolve customer complaints and other matters. In the case of a gas supplier that engages in door-to-door solicitation, the company shall file with the Commission the consumer information disclosure required by item (3) of subsection (c) of Section 2DDD of the Consumer Fraud and Deceptive Business Practices Act and shall file updated information within 10 business days

after changes in any of the documents or information required to be filed by this item (4); and

(5) maintain a customer call center where customers can reach a representative and receive current information. At least once every 6 months, each alternative gas supplier shall provide written information to customers explaining how to contact the call center. The average answer time for calls placed to the call center shall not exceed 60 seconds where a representative or automated system is ready to render assistance and/or accept information to process calls. The abandon rate for calls placed to the call center shall not exceed 10%. Each alternative gas supplier shall maintain records of the call center's telephone answer time performance and abandon call rate. These records shall be kept for a minimum of 2 years and shall be made available to Commission personnel upon request. In the event that answer times and/or abandon rates exceed the limits established above, the reporting alternative gas supplier may provide the Commission or its personnel with explanatory details. At a minimum, these records shall contain the following information in monthly increments:

(A) total number of calls received;

(B) number of calls answered;

(C) average answer time;

(D) number of abandoned calls; and

(E) abandon call rate.

Alternative gas suppliers that do not have electronic answering capability that meets these requirements shall notify the Manager of the Commission's Consumer Services Division or its successor within 30 days following the effective date of this amendatory Act of the 95th General Assembly and work with Staff to develop individualized reporting requirements as to the call volume and responsiveness of the call center.

On or before March 1 of every year, each entity shall file a report with the Chief Clerk of the Commission for the preceding calendar year on its answer time and abandon call rate for its call center. A copy of the report shall be sent to the Manager of the Consumer Services Division or its successor.

(c) 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 by providing additional information. 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.

(3) The alternative gas supplier has obtained the customer's authorization via an automated verification system to change natural gas service via telephone. An automated verification system is an electronic system that, through pre-recorded prompts, elicits voice responses, touchtone responses, or both, from the customer and records both the prompts and the customer's responses.

Such authorization must elicit the information in paragraph (2)(A) through (F) of this subsection (c). Alternative gas suppliers electing to confirm sales electronically through an automated verification system 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 (c) and any customer information shall be protected in accordance with all applicable statutes and regulations. 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 that 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 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 (c).

Alternative gas suppliers must be in compliance with this subsection (c) within 90 days after the effective date of this

amendatory Act of the 95th General Assembly.

(d) Complaints may be filed with the Commission under this Section by a customer whose natural gas service has been provided by an alternative gas supplier in a manner not in compliance with subsection (c) of this Section. If, after notice and hearing, the Commission finds that an alternative gas supplier has violated subsection (c), then the Commission may in its discretion do any one or more of the following:

(1) Require the violating alternative gas supplier to refund the customer charges collected in excess of those that would have been charged by the customer's authorized natural gas provider.

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

(3) Require the violating alternative gas supplier to pay a fine of up to \$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 intentionally violating a cease and desist order, revoke the violating alternative gas supplier's certificate of

service authority.

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

(e) ~~(d)~~ No alternative gas supplier shall:

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

(2) charge customers for such access; ~~or~~

(3) bill for goods or services not authorized by the customer; or

(4) bill for a disputed amount where the alternative gas supplier has been provided notice of such dispute. The supplier shall attempt to resolve a dispute with the customer. When the dispute is not resolved to the customer's satisfaction, the supplier shall inform the customer of the right to file an informal complaint with the Commission and provide contact information. While the pending dispute is active at the Commission, an alternative gas supplier may bill only for the undisputed amount until the Commission has taken final action on the complaint.

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

(1) deny service to a customer or group of customers

nor establish any differences as to prices, terms, conditions, services, products, facilities, or in any other respect, whereby such denial or differences are based upon race, gender, or income; ~~or~~

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

(3) include in any agreement a provision that obligates a customer to the terms of the agreement if the customer (i) moves outside the State of Illinois; (ii) moves to a location without a transportation service program; or (iii) moves to a location where the customer will not require natural gas service, provided that nothing in this subsection precludes an alternative gas supplier from taking any action otherwise available to it to collect a debt that arises out of service provided to the customer before the customer moved; or

(4) assign the agreement to any alternative natural gas supplier, unless:

(A) the supplier is an alternative gas supplier certified by the Commission;

(B) the rates, terms, and conditions of the agreement being assigned do not change during the remainder of the time covered by the agreement;

(C) the customer is given no less than 30 days prior written notice of the assignment and contact

information for the new supplier; and

(D) the supplier assigning the contract provides contact information that a customer can use to resolve a dispute.

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

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

(2) Before any customer is switched from another supplier, the alternative gas supplier shall give the customer written information that clearly and conspicuously ~~adequately~~ discloses, in plain language, the prices, terms, and conditions of the products and services being offered and sold to the customer. Nothing in this paragraph (2) may be read to relieve an alternative gas supplier from the duties imposed on it by item (3) of subsection (c) of Section 2DDD of the Consumer Fraud and Deceptive Business Practices Act.

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

(A) accurate, timely, and itemized billing statements that describe the products and services provided to the customer and their prices and that

specify the gas consumption amount and any service charges and taxes; provided that this item (g) (3) (A) ~~(f) (3) (A)~~ does not apply to small commercial customers;

(B) billing statements that clearly and conspicuously discloses the name and contact information for the alternative gas supplier;

(C) an additional statement, at least annually, that adequately discloses the average monthly prices, and the terms and conditions, of the products and services sold to the customer; provided that this item (g) (3) (C) ~~(f) (3) (B)~~ does not apply to small commercial customers;

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

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

(4) An alternative gas supplier and its sales agents shall refrain from any direct marketing or soliciting to consumers on the gas utility's "Do Not Contact List", which

the alternative gas supplier shall obtain on the 15th calendar day of the month from the gas utility in whose service area the consumer is provided with gas service. If the 15th calendar day is a non-business day, then the alternative gas supplier shall obtain the list on the next business day following the 15th calendar day of that month.

(5) Early Termination.

(A) Any agreement that contains an early termination clause shall disclose the amount of the early termination fee, provided that any early termination fee or penalty shall not exceed \$50 total, regardless of whether or not the agreement is a multiyear agreement.

(B) 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.

(6) Within 2 business days after electronic receipt of a customer switch from the alternative gas supplier and confirmation of eligibility, the gas utility shall provide

the customer written notice confirming the switch. The gas utility shall not switch the service until 10 business days after the date on the notice to the customer.

(7) 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 all of the following:

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

(B) that from the date the utility issues the notice confirming the switch, the customer shall have 10 business days to rescind the switch without penalty;

(C) that the customer shall contact the gas utility or the alternative gas supplier to rescind the switch;

and

(D) the contact information for the gas utility.

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

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

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

(2) time period during which the offering will be

available; or

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

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

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

(Source: P.A. 92-529, eff. 2-8-02; 92-852, eff. 8-26-02.)

(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 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;

(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 notice and 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;

(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 or (ii) \$30,000 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.

(Source: P.A. 92-529, eff. 2-8-02; 92-852, eff. 8-26-02.)

(220 ILCS 5/19-125)

Sec. 19-125. Consumer education.

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

(1) a list of all certified alternative gas suppliers serving residential and small commercial customers within the service area of each gas utility including, in the case of the Internet, computer links to available web sites of the certified alternative gas suppliers;

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

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

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

(a-5) The Commission shall develop no later than 6 months after the effective date of this amendatory Act of the 95th General Assembly and maintain consumer education information to help residential and small commercial consumers understand their gas supply options and their rights and responsibilities. The Commission shall publish the consumer education information on its World Wide Web site.

(a-10) To assist the Commission in developing consumer education information, the Commission shall form a working

group that shall consist of representatives of gas utilities with residential and small commercial gas transportation service programs, alternative gas suppliers, the Attorney General, the Citizens Utility Board, and the Commission.

(a-15) At a minimum, the consumer education information developed by the Commission shall include explanations or descriptions of the following:

(1) The choices available to consumers to take gas service from an alternative retail gas supplier or remain as a retail customer of the gas utility.

(2) A consumer's rights and responsibilities in receiving service from an alternative retail gas supplier or remaining as a retail customer of the gas utility.

(3) The gas utility's role in delivering gas, including, but not limited to, utility response to calls for service and gas leaks.

(4) The legal obligations of alternative retail gas suppliers.

(5) The components of a bill that could be received by a customer taking delivery services.

(6) The procedures available to customers to address complaints against a gas utility or an alternative retail gas supplier and a list of phone numbers and other contact information for the Commission, the Attorney General, or the Citizens Utility Board.

(7) Guidance to assist consumers in making educated

decisions when choosing their natural gas provider, including:

(A) how to compare prices;

(B) questions to ask when considering natural gas providers; and

(C) current and historical utility gas rates.

(8) The availability of the "Do Not Contact List" for those who do not wish to be solicited by natural gas providers.

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

(c) The Commission shall adopt a uniform disclosure that alternative gas suppliers shall be required to complete for each product offering. The uniform disclosure shall contain, at a minimum:

(1) for products with a fixed price per therm, the price per therm;

(2) the length of the initial term of the product, or, if applicable, the expiration date of the initial term of the product;

(3) the amount of the termination fees, if any;

(4) the amount of the administrative fees, other fees, or recurring charges, if any, to be listed separately for

each and every fee or charge;

(5) for products with a variable price per therm, the terms of such variability, including, but not limited to, any index that is used to calculate the price and any additional charges, costs and fees; and

(6) for products where a customer's charges are a fixed amount per billing period regardless of the market price for natural gas or the customer's natural gas consumption during the billing period, the billing period covered.

If the alternative gas supplier will not offer a different product for new customers as of the first of the month, then the alternative gas supplier does not have to provide new information until the first day of the month in which a different product or products are being offered.

The Commission shall post this information on its World Wide Web site in a manner that shall enable customers to compare prices, terms, and conditions offered by the alternative gas suppliers. The website shall be updated at least monthly and the Commission shall maintain this information on its website for at least 12 months to allow customers to compare the historical plans and prices for all alternative gas suppliers.

(d) The Commission shall make available in print, upon request and at no charge and on its World Wide Web site, information on which customers of alternative gas suppliers serving residential and small commercial customers may address

any complaint with regard to an alternative gas supplier's obligations under Section 19-115 of this Article, including the provision of service in accordance with the terms of its contract, sales tactics, and rates. The Commission shall maintain a summary by category and provider of all formal and informal complaints it receives pursuant to this Section, and it shall publish the summary on a quarterly basis on its World Wide Web site. Individual customer information shall not be included in the summary.

(e) 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.

(Source: P.A. 92-852, eff. 8-26-02.)

Section 10. The Consumer Fraud and Deceptive Business Practices Act is amended by adding Sections 2DDD, 2EEE, 2FFF, and 2GGG as follows:

(815 ILCS 505/2DDD new)

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 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.

(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; and

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

(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 their 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. A 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.

(3) The alternative gas supplier has obtained the customer's electronic authorization to change in natural gas service via telephone. Such authorization must elicit

the information in paragraph (2)(A) through (F) 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 will 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 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 the effective date of this amendatory Act of the 95th General

Assembly.

(e) Early Termination.

(1) Any agreement that contains an early termination clause shall disclose the amount of the early termination fee, provided that any early termination fee or penalty shall not exceed \$50 total, regardless of whether or not the agreement is a multiyear agreement.

(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.

(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.

(815 ILCS 505/2EEE new)

Sec. 2EEE. Natural gas service advertising. Any advertisement for natural gas service that lists rates shall clearly and conspicuously disclose all associated costs for such service including, but not limited to, access fees and service fees. It is an unfair or deceptive act or practice within the meaning of Section 2 of this Act for any person to violate this Section.

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.

(815 ILCS 505/2FFF new)

Sec. 2FFF. All personal information relating to the customer of transmission, distribution, metering, or billing of natural gas service, or the customer purchasing the commodity of natural gas to be delivered through the distribution system of a natural gas provider, shall be maintained by the natural gas providers solely for the purpose of generating the bill for such sales and services, and shall not be divulged to any other persons with the exception of credit bureaus, collection agencies, and persons licensed to market natural gas service in the State of Illinois, without the written consent of the customer. It is an unfair or deceptive act or practice within the meaning of Section 2 of this Act for any person to violate this Section.

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.

(815 ILCS 505/2GGG new)

Sec. 2GGG. Prohibition of prize promotions to solicit authority to provide alternative natural gas service.

(a) It is an unfair or deceptive act or practice within the

meaning of Section 2 of this Act for any person to solicit authority to execute a change of gas suppliers or to solicit authority to provide any alternative gas service through the use of any sweepstakes, contests, or drawings.

(b) Forms or documents used or intended to be used by consumers to enter sweepstakes, contests, or drawings of any description may not be used by any person as written authority to execute a change of any person's gas supplier or to render any gas supply service.

(c) 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.

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