

AN ACT concerning 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 changing Section 16-115C as follows:

(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 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.

(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) ~~(2)~~ 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) ~~(3)~~ not utilize false, misleading, materially inaccurate, defamatory, or otherwise deceptive language or materials in the soliciting or providing of its services;

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

(6) ~~(5)~~ 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) ~~(6)~~ 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 copy of its verified financial statement.~~

(3) ~~(4)~~ 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 for violations of this Section. The findings of a violation of this Section by the Commission shall result in a progressive disciplinary scale. For a first violation, the Commission may, in its discretion, ~~shall~~ suspend the license of the person 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 for the person 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.

(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.)

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