Sen. Robert Peters

Filed: 3/2/2023

AMENDMENT TO SENATE BILL 1666

AMENDMENT NO. _____. Amend Senate Bill 1666 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be referred to as the Thermal Energy Network and Jobs Act.

Section 5. Legislative findings and intent.

(a) The General Assembly finds and declares that:

(1) This State has a strong interest in ensuring that emissions of greenhouse gases from buildings are reduced because buildings are one of this State's largest sources of greenhouse gases due to the combustion of fossil fuels for heating, domestic hot water production, cooking, and other end uses.

(2) The decarbonization of buildings must be pursued in a manner that is affordable and accessible, preserves and creates living-wage jobs, and retains the knowledge

and experience of the existing utility union workforce.

(3) Thermal energy networks have the potential to decarbonize buildings at the community and utility scale and help achieve the goals of Public Act 102-662 (also known as the Climate and Equitable Jobs Act).

(4) Thermal energy networks consist of pipe loops between multiple buildings and energy sources, which carry water and can be connected to by building owners to support heating and cooling and hot water services. Building owners can connect to the loops to support water heating and cooling and hot water services.

(5) Many utilities in this State have been seeking to develop thermal energy networks but have encountered legal and regulatory barriers.

(6) This State has a strong interest in ensuring an adequate supply of reliable electrical power and, therefore, needs to promote the development of alternative power sources and take steps to assure reliable deliverability. Thermal energy networks are highly efficient because they use and exchange thermal energy from many underground sources and buildings, including recycled thermal energy, which minimizes impacts on the electricity grid.

(7) Access to thermal energy networks has the potential to reduce the upfront and operating costs of building electrification for customers.

(8) A utility's access to capital, the utility's experience with networked infrastructure in public rights-of-way, and the requirement that the utility serve all customers positions the utility well to develop and scale thermal energy networks that are accessible to all customers and to coordinate the development of thermal energy networks with any orderly rightsizing of the utility gas system.

(9) This State also has an interest in the efficient and reliable delivery of energy and the energy infrastructure of the State, which interest is acknowledged throughout the Public Utilities Act. Utility corporations and other power suppliers share these interests and, moreover, have a duty to protect proprietary interests in the projects they fund. Such investments of ratepayer resources can be protected by establishing effective contractor qualification and performance standards, including requirements for prevailing wage rates, bona fide apprenticeship criteria, and project labor agreements.

(10) The construction industry is highly skilled and labor intensive, and the installation of modern thermal energy networks involves particularly complex work. Therefore, effective qualification standards for craft labor personnel employed on these projects are critically needed to promote successful project delivery.

(11) Finally, these findings are especially vital now because the construction industry is experiencing widespread skill shortages across the country, which are crippling existing capital projects and threatening projects planned for the future. The construction of thermal energy networks will utilize many of the same skills that the current utility and building trades workforces already possess.

(b) It is the intent of the General Assembly that passage of this Act is for the following purposes:

(1) to remove the legal barriers to utility development of thermal energy networks and require the Illinois Commerce Commission, within 90 days after the effective date of this amendatory Act of the 103rd General Assembly, to begin to authorize and direct utilities to immediately commence piloting thermal energy networks in each and every utility territory;

(2) to direct and authorize the Illinois Commerce Commission to develop a regulatory structure for utility thermal energy networks that scales affordable and accessible building electrification, protects customers, and balances the role of incumbent monopoly utilities with other market and public actors;

(3) to promote the successful planning and delivery of thermal energy networks and protect critical investments in such projects by requiring the use of appropriate

quality craft labor policies that ensure the development of and access to an adequate supply of well trained, highly skilled craft persons needed to support timely, reliable, high-quality projects;

(4) to promote strong economic development and good jobs for local residents in the expanding decarbonized sector by requiring application of progressive State labor and employment policies that ensure public utility investments and related State subsidies create unparalleled skill training and employment opportunities for residents in project areas through the use of local prevailing wage standards and successful, bona fide apprenticeship programs or project labor agreements that incorporate prevailing wage and training standards and provide additional benefits for project owners and workers; and

(5) to promote the use of preapprenticeship programs that will fortify and expand existing apprenticeship programs through systematic outreach efforts to recruit and assist persons from underrepresented and low income communities by providing such persons with remedial education, social services, and unique opportunities for direct access into high-quality apprenticeship programs and gainful employment in the growing building decarbonization workforce.

Section 10. The Illinois Power Agency Act is amended by adding Section 1-83 as follows:

(20 ILCS 3855/1-83 new)

Sec. 1-83. Pilot thermal energy network projects. No later than 3 months after the effective date of this amendatory Act of the 103rd General Assembly, the Department of Commerce and Economic Opportunity, the Agency, and a public utility shall submit for review to the Commission at least one and as many as 5 proposed pilot thermal energy network projects as described in Section 8-513 of the Public Utilities Act. Designs for the projects should coordinate and maximize the value of existing State energy efficiency and weatherization programs and take full advantage of federal funding opportunities. No later than 6 months after the effective date of this amendatory Act of the 103rd General Assembly, and upon recommendation by the Agency, the Commission shall determine whether it is in the public interest to approve or modify such pilot thermal energy network projects and shall direct the service provider to implement such proposed or modified pilot thermal energy network projects. The Commission shall adopt rules consistent with the standards set forth in subsections (b) and (c) of Section 8-513 of the Public Utilities Act.

Section 905. The Public Utilities Act is amended by changing Sections 3-101 and 3-105 and by adding Sections

3-127, 3-128, and 8-513 as follows:

(220 ILCS 5/3-101) (from Ch. 111 2/3, par. 3-101)

Sec. 3-101. Definitions. Unless otherwise specified, the terms set forth in Sections 3-102 through 3-128 ~~3-126~~ are used in this Act as therein defined.

(Source: P.A. 97-96, eff. 7-13-11; 97-239, eff. 8-2-11; 97-813, eff. 7-13-12.)

(220 ILCS 5/3-105) (from Ch. 111 2/3, par. 3-105)

Sec. 3-105. Public utility.

(a) "Public utility" means and includes, except where otherwise expressly provided in this Section, every corporation, company, limited liability company, association, joint stock company or association, firm, partnership or individual, their lessees, trustees, or receivers appointed by any court whatsoever that owns, controls, operates or manages, within this State, directly or indirectly, for public use, any plant, equipment or property used or to be used for or in connection with, or owns or controls any franchise, license, permit, or right to engage in:

(1) the production, storage, transmission, sale, delivery, or furnishing of heat, cold, power, electricity, water, or light, except when used solely for communications purposes;

(2) the disposal of sewerage; ~~or~~

(3) the conveyance of oil or gas by pipe line; or.

(4) a thermal energy network.

(b) "Public utility" does not include, however:

(1) 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 such political subdivision, public institution of higher education, or municipal corporation and operated by any of its lessees or operating agents;

(2) water companies which are purely mutual concerns, having no rates or charges for services, but paying the operating expenses by assessment upon the members of such a company and no other person;

(3) electric cooperatives as defined in Section 3-119 except to the extent that the cooperative is developing a thermal energy network under Section 8-513;

(4) the following natural gas cooperatives:

(A) residential natural gas cooperatives that are not-for-profit corporations established for the purpose of administering and operating, on a cooperative basis, the furnishing of natural gas to residences for the benefit of their members who are residential consumers of natural gas. For entities qualifying as residential natural gas cooperatives and recognized by the Illinois Commerce Commission as

such, the State shall guarantee legally binding contracts entered into by residential natural gas cooperatives for the express purpose of acquiring natural gas supplies for their members. The Illinois Commerce Commission shall establish rules and regulations providing for such guarantees. The total liability of the State in providing all such guarantees shall not at any time exceed $1,000,000, nor shall the State provide such a guarantee to a residential natural gas cooperative for more than 3 consecutive years; and

(B) 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 and that, prior to 90 days after the effective date of this amendatory Act of the 94th General Assembly, either had acquired or had entered into an asset purchase agreement to acquire all or substantially all of the operating assets of a public utility or natural gas cooperative with the intention of operating those assets as a natural gas cooperative;

(5) sewage disposal companies which provide sewage disposal services on a mutual basis without establishing rates or charges for services, but paying the operating

expenses by assessment upon the members of the company and no others;

(6) (blank);

(7) cogeneration facilities, small power production facilities, and other qualifying facilities, as defined in the Public Utility Regulatory Policies Act and regulations promulgated thereunder, except to the extent State regulatory jurisdiction and action is required or authorized by federal law, regulations, regulatory decisions or the decisions of federal or State courts of competent jurisdiction;

(8) 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;

(9) alternative retail electric suppliers as defined in Article XVI; and

(10) the Illinois Power Agency.

(c) An entity that furnishes the service of charging electric vehicles does not and shall not be deemed to sell electricity and is not and shall not be deemed a public utility notwithstanding the basis on which the service is provided or billed. If, however, the entity is otherwise deemed a public utility under this Act, or is otherwise subject to regulation under this Act, then that entity is not exempt from and remains

subject to the otherwise applicable provisions of this Act. The installation, maintenance, and repair of an electric vehicle charging station shall comply with the requirements of subsection (a) of Section 16-128 and Section 16-128A of this Act.

For purposes of this subsection, the term "electric vehicles" has the meaning ascribed to that term in Section 10 of the Electric Vehicle Act.

(Source: P.A. 97-1128, eff. 8-28-12.)

(220 ILCS 5/3-127 new)

Sec. 3-127. Thermal energy. "Thermal energy" means piped noncombustible fluids used for transferring heat into and out of buildings for the purpose of eliminating any resultant onsite greenhouse gas emissions of all types of heating and cooling processes, including, but not limited to, comfort heating and cooling, domestic hot water, and refrigeration.

(220 ILCS 5/3-128 new)

Sec. 3-128. Thermal energy network. "Thermal energy network" means all real estate, fixtures, and personal property operated, owned, used, or to be used for, in connection with, or to facilitate a utility-scale distribution infrastructure project that supplies thermal energy.

(220 ILCS 5/8-513 new)

Sec. 8-513. Thermal energy network development.

(a) The Illinois Commerce Commission shall initiate a proceeding within 3 months after the effective date of this amendatory Act of the 103rd General Assembly to support the development of thermal energy networks. The matters the Commission shall consider in such proceeding shall include, but are not limited to, the appropriate ownership, market, and rate structures for thermal energy networks and whether the provision of thermal energy services by gas or electric utilities is in the public interest.

(b) The Commission shall adopt rules within 2 years after the effective date of this amendatory Act of the 103rd General Assembly to:

(1) create fair market access rules for utility-owned thermal energy networks to accept thermal energy that aligns with the Illinois Power Agency Act and that does not increase greenhouse gas emissions or copollutants;

(2) exempt small-scale thermal energy networks not owned by utilities from regulation by the Commission;

(3) promote the training and transition of utility workers impacted by this amendatory Act of the 103rd General Assembly; and

(4) encourage third-party participation and competition where it will maximize benefits to customers.

(c) Within 6 months after the effective date of this amendatory Act of the 103rd General Assembly, each of the

largest gas, electric, or combination gas and electric corporations shall submit to the Commission for review and approval at least one and as many as 5 proposed pilot thermal energy network projects. In developing the pilot project proposals, at least one pilot project in each utility territory shall be proposed in a disadvantaged community, as described in the Illinois Power Agency Act, and if an electric cooperative, nonutility organization, or utility proposes 4 or more pilot projects, at least 2 shall be proposed in disadvantaged communities. At least one electric cooperative, nonutility organization, or electric utility pilot thermal energy network project shall focus on existing electric heat customers, and if a utility proposes 4 or more pilot projects, at least 2 shall be focused on existing electric heat customers. Each electric cooperative, nonutility organization, or utility shall coordinate with other electric cooperative, nonutility organization, and utility participants, the Illinois Power Agency, and consultants with expertise on successful pilot projects to ensure that the pilot projects are diverse and designed to inform the Commission's decisions in the proceeding on the various ownership, market, and rate structures for thermal energy networks. The pilot project proposals shall include specific customer protection plans, shall be made publicly available on the Commission's website, and shall be subject to a public comment period of no less than 30 days. Within 6 months after the effective date of this

amendatory Act of the 103rd General Assembly, the Commission shall determine whether it is in the public interest to approve or modify such pilot thermal energy network projects and shall issue an order directing each gas, electric, or combination gas and electric corporation to implement such proposed or modified pilot thermal energy network projects. In considering whether pilot thermal energy network projects are in the public interest, the Commission shall consider whether the pilot project will develop information useful for the Commission's adoption of rules governing thermal energy networks, whether the pilot project furthers the climate justice and emissions reduction, whether the pilot project advances financial and technical approaches to equitable and affordable building electrification, and whether the pilot project creates benefits to customers and society at large, including, but not limited to, public health benefits in areas with disproportionate environmental or public health burdens, job retention and creation, reliability, and increased affordability of renewable thermal energy options.

(d) If an electric cooperative, nonutility organization, or gas, electric, or combination gas and electric corporation begins to develop a pilot thermal energy network project, the electric cooperative, nonutility organization, or corporation shall report to the Commission, on a quarterly basis and until completion of the pilot thermal energy network project, as determined by the Commission, the status of each pilot thermal

energy network project. The Commission shall post and make publicly available such reports on its website. The report shall include, but not be limited to:

(1) the stage of development of each pilot project;

(2) the barriers to development;

(3) the number of customers served;

(4) the costs of the pilot project;

(5) the number of jobs retained or created by the pilot project; and

(6) any other such information the Commission deems to be in the public interest.

(e) An electric cooperative, nonutility organization, or gas, electric, or combination gas or electric corporation that begins to develop a pilot thermal energy network project under this Section shall demonstrate that it has entered into a labor peace agreement with a bona fide labor organization that is actively engaged in representing its employees.

(f) Any contractor or subcontractor that performs work on a thermal energy network under this Section shall be a responsible bidder as described in Section 30-22 of the Illinois Procurement Code. The contractor or subcontractor shall submit evidence of meeting the requirements to be a responsible bidder as described in Section 30-22 to the thermal energy network utility.

(g) For any pending application for a thermal energy network, the contractor or subcontractor shall submit within

30 days after the effective date of this amendatory Act of the 103rd General Assembly evidence that the contractor or subcontractor has entered into a fully executed project labor agreement with the applicable local building trades council. The Commission shall not approve any pending applications until the contractor or subcontractor has submitted the information required under this subsection.

Section 999. Effective date. This Act takes effect upon becoming law.".