

SB0861



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB0861

Introduced 2/11/2015, by Sen. Chris Nybo

SYNOPSIS AS INTRODUCED:

220 ILCS 5/16-102
220 ILCS 5/16-108.8

Amends the Public Utilities Act. Defines "distributed generation facility" to mean the equipment used by an interconnection customer to generate or store electricity that operates in parallel with the electric distribution system. A distributed generation facility typically includes an electric generator, a prime mover or energy storage, and the interconnection equipment required to safely interconnect with the electric distribution system or local electric power system. Provides that utilities may charge fees to users to recover the costs associated with the incremental direct costs only (previously any incremental costs) to the utility associated with administration of the smart grid test bed.

LRB099 04349 MLM 24376 b

A BILL FOR

1 AN ACT concerning regulation.

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

4 Section 5. The Public Utilities Act is amended by changing
5 Sections 16-102 and 16-108.8 as follows:

6 (220 ILCS 5/16-102)

7 Sec. 16-102. Definitions. For the purposes of this Article
8 the following terms shall be defined as set forth in this
9 Section.

10 "Alternative retail electric supplier" means every person,
11 cooperative, corporation, municipal corporation, company,
12 association, joint stock company or association, firm,
13 partnership, individual, or other entity, their lessees,
14 trustees, or receivers appointed by any court whatsoever, that
15 offers electric power or energy for sale, lease or in exchange
16 for other value received to one or more retail customers, or
17 that engages in the delivery or furnishing of electric power or
18 energy to such retail customers, and shall include, without
19 limitation, resellers, aggregators and power marketers, but
20 shall not include (i) electric utilities (or any agent of the
21 electric utility to the extent the electric utility provides
22 tariffed services to retail customers through that agent), (ii)
23 any electric cooperative or municipal system as defined in

1 Section 17-100 to the extent that the electric cooperative or
2 municipal system is serving retail customers within any area in
3 which it is or would be entitled to provide service under the
4 law in effect immediately prior to the effective date of this
5 amendatory Act of 1997, (iii) a public utility that is owned
6 and operated by any public institution of higher education of
7 this State, or a public utility that is owned by such public
8 institution of higher education and operated by any of its
9 lessees or operating agents, within any area in which it is or
10 would be entitled to provide service under the law in effect
11 immediately prior to the effective date of this amendatory Act
12 of 1997, (iv) a retail customer to the extent that customer
13 obtains its electric power and energy from that customer's own
14 cogeneration or self-generation facilities, (v) an entity that
15 owns, operates, sells, or arranges for the installation of a
16 customer's own cogeneration or self-generation facilities, but
17 only to the extent the entity is engaged in owning, selling or
18 arranging for the installation of such facility, or operating
19 the facility on behalf of such customer, provided however that
20 any such third party owner or operator of a facility built
21 after January 1, 1999, complies with the labor provisions of
22 Section 16-128(a) as though such third party were an
23 alternative retail electric supplier, or (vi) an industrial or
24 manufacturing customer that owns its own distribution
25 facilities, to the extent that the customer provides service
26 from that distribution system to a third-party contractor

1 located on the customer's premises that is integrally and
2 predominantly engaged in the customer's industrial or
3 manufacturing process; provided, that if the industrial or
4 manufacturing customer has elected delivery services, the
5 customer shall pay transition charges applicable to the
6 electric power and energy consumed by the third-party
7 contractor unless such charges are otherwise paid by the third
8 party contractor, which shall be calculated based on the usage
9 of, and the base rates or the contract rates applicable to, the
10 third-party contractor in accordance with Section 16-102.

11 An entity that furnishes the service of charging electric
12 vehicles does not and shall not be deemed to sell electricity
13 and is not and shall not be deemed an alternative retail
14 electric supplier, and is not subject to regulation as such
15 under this Act notwithstanding the basis on which the service
16 is provided or billed. If, however, the entity is otherwise
17 deemed an alternative retail electric supplier under this Act,
18 or is otherwise subject to regulation under this Act, then that
19 entity is not exempt from and remains subject to the otherwise
20 applicable provisions of this Act. The installation,
21 maintenance, and repair of an electric vehicle charging station
22 shall comply with the requirements of subsection (a) of Section
23 16-128 and Section 16-128A of this Act.

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

1 "Base rates" means the rates for those tariffed services
2 that the electric utility is required to offer pursuant to
3 subsection (a) of Section 16-103 and that were identified in a
4 rate order for collection of the electric utility's base rate
5 revenue requirement, excluding (i) separate automatic rate
6 adjustment riders then in effect, (ii) special or negotiated
7 contract rates, (iii) delivery services tariffs filed pursuant
8 to Section 16-108, (iv) real-time pricing, or (v) tariffs that
9 were in effect prior to October 1, 1996 and that based charges
10 for services on an index or average of other utilities'
11 charges, but including (vi) any subsequent redesign of such
12 rates for tariffed services that is authorized by the
13 Commission after notice and hearing.

14 "Competitive service" includes (i) any service that has
15 been declared to be competitive pursuant to Section 16-113 of
16 this Act, (ii) contract service, and (iii) services, other than
17 tariffed services, that are related to, but not necessary for,
18 the provision of electric power and energy or delivery
19 services.

20 "Contract service" means (1) services, including the
21 provision of electric power and energy or other services, that
22 are provided by mutual agreement between an electric utility
23 and a retail customer that is located in the electric utility's
24 service area, provided that, delivery services shall not be a
25 contract service until such services are declared competitive
26 pursuant to Section 16-113; and also means (2) the provision of

1 electric power and energy by an electric utility to retail
2 customers outside the electric utility's service area pursuant
3 to Section 16-116. Provided, however, contract service does not
4 include electric utility services provided pursuant to (i)
5 contracts that retail customers are required to execute as a
6 condition of receiving tariffed services, or (ii) special or
7 negotiated rate contracts for electric utility services that
8 were entered into between an electric utility and a retail
9 customer prior to the effective date of this amendatory Act of
10 1997 and filed with the Commission.

11 "Delivery services" means those services provided by the
12 electric utility that are necessary in order for the
13 transmission and distribution systems to function so that
14 retail customers located in the electric utility's service area
15 can receive electric power and energy from suppliers other than
16 the electric utility, and shall include, without limitation,
17 standard metering and billing services.

18 "Distributed generation facility" means the equipment used
19 by an interconnection customer to generate or store electricity
20 that operates in parallel with the electric distribution
21 system. A distributed generation facility typically includes
22 an electric generator, a prime mover or energy storage, and the
23 interconnection equipment required to safely interconnect with
24 the electric distribution system or local electric power
25 system.

26 "Electric utility" means a public utility, as defined in

1 Section 3-105 of this Act, that has a franchise, license,
2 permit or right to furnish or sell electricity to retail
3 customers within a service area.

4 "Mandatory transition period" means the period from the
5 effective date of this amendatory Act of 1997 through January
6 1, 2007.

7 "Municipal system" shall have the meaning set forth in
8 Section 17-100.

9 "Real-time pricing" means tariffed retail charges for
10 delivered electric power and energy that vary hour-to-hour and
11 are determined from wholesale market prices using a methodology
12 approved by the Illinois Commerce Commission.

13 "Retail customer" means a single entity using electric
14 power or energy at a single premises and that (A) either (i) is
15 receiving or is eligible to receive tariffed services from an
16 electric utility, or (ii) that is served by a municipal system
17 or electric cooperative within any area in which the municipal
18 system or electric cooperative is or would be entitled to
19 provide service under the law in effect immediately prior to
20 the effective date of this amendatory Act of 1997, or (B) an
21 entity which on the effective date of this Act was receiving
22 electric service from a public utility and (i) was engaged in
23 the practice of resale and redistribution of such electricity
24 within a building prior to January 2, 1957, or (ii) was
25 providing lighting services to tenants in a multi-occupancy
26 building, but only to the extent such resale, redistribution or

1 lighting service is authorized by the electric utility's
2 tariffs that were on file with the Commission on the effective
3 date of this Act.

4 "Service area" means (i) the geographic area within which
5 an electric utility was lawfully entitled to provide electric
6 power and energy to retail customers as of the effective date
7 of this amendatory Act of 1997, and includes (ii) the location
8 of any retail customer to which the electric utility was
9 lawfully providing electric utility services on such effective
10 date.

11 "Small commercial retail customer" means those
12 nonresidential retail customers of an electric utility
13 consuming 15,000 kilowatt-hours or less of electricity
14 annually in its service area.

15 "Tariffed service" means services provided to retail
16 customers by an electric utility as defined by its rates on
17 file with the Commission pursuant to the provisions of Article
18 IX of this Act, but shall not include competitive services.

19 "Transition charge" means a charge expressed in cents per
20 kilowatt-hour that is calculated for a customer or class of
21 customers as follows for each year in which an electric utility
22 is entitled to recover transition charges as provided in
23 Section 16-108:

24 (1) the amount of revenue that an electric utility
25 would receive from the retail customer or customers if it
26 were serving such customers' electric power and energy

1 requirements as a tariffed service based on (A) all of the
2 customers' actual usage during the 3 years ending 90 days
3 prior to the date on which such customers were first
4 eligible for delivery services pursuant to Section 16-104,
5 and (B) on (i) the base rates in effect on October 1, 1996
6 (adjusted for the reductions required by subsection (b) of
7 Section 16-111, for any reduction resulting from a rate
8 decrease under Section 16-101(b), for any restatement of
9 base rates made in conjunction with an elimination of the
10 fuel adjustment clause pursuant to subsection (b), (d), or
11 (f) of Section 9-220 and for any removal of decommissioning
12 costs from base rates pursuant to Section 16-114) and any
13 separate automatic rate adjustment riders (other than a
14 decommissioning rate as defined in Section 16-114) under
15 which the customers were receiving or, had they been
16 customers, would have received electric power and energy
17 from the electric utility during the year immediately
18 preceding the date on which such customers were first
19 eligible for delivery service pursuant to Section 16-104,
20 or (ii) to the extent applicable, any contract rates,
21 including contracts or rates for consolidated or
22 aggregated billing, under which such customers were
23 receiving electric power and energy from the electric
24 utility during such year;

25 (2) less the amount of revenue, other than revenue from
26 transition charges and decommissioning rates, that the

1 electric utility would receive from such retail customers
2 for delivery services provided by the electric utility,
3 assuming such customers were taking delivery services for
4 all of their usage, based on the delivery services tariffs
5 in effect during the year for which the transition charge
6 is being calculated and on the usage identified in
7 paragraph (1);

8 (3) less the market value for the electric power and
9 energy that the electric utility would have used to supply
10 all of such customers' electric power and energy
11 requirements, as a tariffed service, based on the usage
12 identified in paragraph (1), with such market value
13 determined in accordance with Section 16-112 of this Act;

14 (4) less the following amount which represents the
15 amount to be attributed to new revenue sources and cost
16 reductions by the electric utility through the end of the
17 period for which transition costs are recovered pursuant to
18 Section 16-108, referred to in this Article XVI as a
19 "mitigation factor":

20 (A) for nonresidential retail customers, an amount
21 equal to the greater of (i) 0.5 cents per kilowatt-hour
22 during the period October 1, 1999 through December 31,
23 2004, 0.6 cents per kilowatt-hour in calendar year
24 2005, and 0.9 cents per kilowatt-hour in calendar year
25 2006, multiplied in each year by the usage identified
26 in paragraph (1), or (ii) an amount equal to the

1 following percentages of the amount produced by
2 applying the applicable base rates (adjusted as
3 described in subparagraph (1)(B)) or contract rate to
4 the usage identified in paragraph (1): 8% for the
5 period October 1, 1999 through December 31, 2002, 10%
6 in calendar years 2003 and 2004, 11% in calendar year
7 2005 and 12% in calendar year 2006; and

8 (B) for residential retail customers, an amount
9 equal to the following percentages of the amount
10 produced by applying the base rates in effect on
11 October 1, 1996 (adjusted as described in subparagraph
12 (1)(B)) to the usage identified in paragraph (1): (i)
13 6% from May 1, 2002 through December 31, 2002, (ii) 7%
14 in calendar years 2003 and 2004, (iii) 8% in calendar
15 year 2005, and (iv) 10% in calendar year 2006;

16 (5) divided by the usage of such customers identified
17 in paragraph (1),
18 provided that the transition charge shall never be less than
19 zero.

20 "Unbundled service" means a component or constituent part
21 of a tariffed service which the electric utility subsequently
22 offers separately to its customers.

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

24 (220 ILCS 5/16-108.8)

25 Sec. 16-108.8. Illinois Smart Grid test bed.

1 (a) Within 180 days after the effective date of this
2 amendatory Act of the 97th General Assembly, each participating
3 utility, as defined by Section 16-108.5 of this Act, shall
4 create or otherwise designate a Smart Grid test bed, which may
5 be located at one or more places within the utility's system,
6 for the purposes of allowing for the testing of Smart Grid
7 technologies. The objectives of this test bed shall be to:

8 (1) provide an open, unbiased opportunity for testing
9 programs, technologies, business models, and other Smart
10 Grid-related activities;

11 (2) provide on-grid locations for the testing of
12 potentially innovative Smart Grid-related technologies and
13 services, including but not limited to those funded by the
14 trust or foundation established pursuant to Section
15 16-108.7 of this Act;

16 (3) facilitate testing of business models or services
17 that help integrate Smart Grid-related technologies into
18 the electric grid, especially those business models that
19 may help promote new products and services for retail
20 customers;

21 (4) offer opportunities to test and showcase Smart Grid
22 technologies and services, especially those likely to
23 support the economic development goals of the State of
24 Illinois.

25 (b) The test bed shall reside in one or more locations on
26 the participating utility's network. Such locations shall be

1 chosen by the utility to maximize the opportunity for real-time
2 and real-world testing of Smart Grid technologies and services
3 taking into account the safety and security of the
4 participating utility's grid and grid operations.

5 (c) The participating utility, with input from the Smart
6 Grid Advisory Council established pursuant to Section 16-108.6
7 of this Act, shall, as part of its filing under subsection (b)
8 of Section 16-108.5, include a plan for the creation,
9 operation, and administration of the test bed. This plan shall
10 address the following:

11 (1) how the utility proposes to comply with each of the
12 objectives set forth in subsection (a) of this Section;

13 (2) the proposed location or locations of the test bed;

14 (3) the process by which the utility will receive,
15 review, and qualify proposals to use the test bed;

16 (4) the criteria by which the utility proposes to
17 qualify proposals to use the test bed, including, but not
18 limited to, safety, reliability, security, customer data
19 security, privacy, and economic development
20 considerations;

21 (5) the engineering and operations support that the
22 utility will provide to test bed users, including provision
23 of customer data; and

24 (6) the estimated costs to establish, administer and
25 promote the availability of the test bed.

26 (d) The test bed should be open to all qualified entities

1 wishing to test programs, technologies, business models, and
2 other Smart Grid-related activities, provided that the utility
3 retains control of its grid and operations and may reject any
4 programs, technologies, business models, and other Smart
5 Grid-related activities that threaten the reliability, safety,
6 security, or operations of its network, or that would threaten
7 the security of customer-identifiable data in the judgment of
8 the utility. The number of technologies and entities
9 participating in the test bed at any time may be limited by the
10 utility based on its determination of its ability to maintain a
11 secure, safe, and reliable grid.

12 (e) At a minimum, the test bed shall have the ability to
13 receive live signals from PJM Interconnection LLC or other
14 applicable regional transmission organization, the ability to
15 test new applications in a utility scale environment (to
16 include ramp rate regulations for distributed wind and solar
17 resources), critical peak price response, and market-based
18 power dispatch.

19 (f) At the end of the fourth year of operation the test bed
20 shall be subject to an independent evaluation to determine if
21 the test bed is meeting the objectives of this Section or is
22 likely to meet the objectives in the future. The evaluation
23 shall include the performance of the utility as test bed
24 operator. Subject to the findings, the utility and the trust or
25 foundation established pursuant to Section 16-108.7 of this Act
26 may choose to continue operating the test bed.

1 (g) The utility shall be entitled to recover all prudently
2 incurred and reasonable costs associated with evaluation of
3 proposals, engineering, construction, operation, and
4 administration of the test bed through the performance-based
5 formula rate tariff established pursuant to Section 16-108.5 of
6 this Act.

7 (h) The utility is authorized to charge fees to users of
8 the test bed that shall recover the costs associated with the
9 incremental direct costs to the utility associated with
10 administration of the test bed, provided, however, that any
11 such fees collected by the utility shall be used to offset the
12 costs to be recovered pursuant to subsection (g) of this
13 Section.

14 (i) On a quarterly basis, the utility shall provide the
15 trust or foundation established pursuant to Section 16-108.7 of
16 this Act with a report summarizing test bed activities,
17 customers, discoveries, and other information as shall be
18 mutually deemed relevant.

19 (j) To the extent practicable, the utility and trust or
20 foundation established pursuant to Section 16-108.7 of this Act
21 shall jointly pursue resources that enhance the capabilities
22 and capacity of the test bed.

23 (k) If Section 16-108.5 of this Act becomes inoperative
24 with respect to one or more participating utilities as set
25 forth in subsection (g) or (h) of that Section, then Sections
26 16-108.5, 16-108.6, 16-108.7, and 16-108.8 of this Act shall

1 become inoperative as to each affected utility and its service
2 area on the same date as Section 16-108.5 become inoperative.

3 (Source: P.A. 97-616, eff. 10-26-11.)