



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB4876

by Rep. Lawrence "Larry" Walsh, Jr.

SYNOPSIS AS INTRODUCED:

220 ILCS 5/16-115

Amends the Public Utilities Act. In provisions concerning the certification of alternative retail electric suppliers, provides that the alternative retail electric supplier shall publish notice of its application in the official State newspaper within 14 days (rather than 10 days) following the date of its filing. Provides that, no later than 60 days (rather than 45 days) after a complete application is properly filed with the Illinois Commerce Commission, and such notice is published, the Commission shall issue its order granting or denying the application. Provides that, in determining the level of technical, financial, and managerial resources and abilities which an applicant must demonstrate, the Commission shall consider the applicant's commitment of resources to the management of its sales and marketing staff through affirmative managerial policies, independent audits, technology, hands-on field monitoring, and training and, for applicants who have sales personnel or sales agents within the State, the applicant's managerial presence within the State. Provides that the Commission shall grant the application for a certificate of service authority if it finds, among other things, that the applicant will comply with all applicable federal, State, regional, and industry rules, policies, practices, procedures, and tariffs for the use, operation, and maintenance of the safety, integrity, and reliability, of the interconnected electric transmission system.

LRB104 19124 AAS 32569 b

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 Section 16-115 as follows:

6 (220 ILCS 5/16-115)

7 Sec. 16-115. Certification of alternative retail electric
8 suppliers.

9 (a) Any alternative retail electric supplier must obtain a
10 certificate of service authority from the Commission in
11 accordance with this Section before serving any retail
12 customer or other user located in this State. An alternative
13 retail electric supplier may request, and the Commission may
14 grant, a certificate of service authority for the entire State
15 or for a specified geographic area of the State. A certificate
16 granted pursuant to this Section is not property, and the
17 grant of a certificate to an entity does not create a property
18 interest in the certificate. This Section does not diminish
19 the existing rights of a certificate holder to notice and
20 hearing as proscribed by the Illinois Administrative Procedure
21 Act and in rules adopted by the Commission.

22 (b) An alternative retail electric supplier seeking a
23 certificate of service authority shall file with the

1 Commission a verified application containing information
2 showing that the applicant meets the requirements of this
3 Section. The alternative retail electric supplier shall
4 publish notice of its application in the official State
5 newspaper within 14 ~~10~~ days following the date of its filing.
6 No later than 60 ~~45~~ days after a complete application is
7 properly filed with the Commission, and such notice is
8 published, the Commission shall issue its order granting or
9 denying the application.

10 (c) An application for a certificate of service authority
11 shall identify the area or areas in which the applicant
12 intends to offer service and the types of services it intends
13 to offer. Applicants that seek to serve residential or small
14 commercial retail customers within a geographic area that is
15 smaller than an electric utility's service area shall submit
16 evidence demonstrating that the designation of this smaller
17 area does not violate Section 16-115A. An applicant that seeks
18 to serve residential or small commercial retail customers may
19 state in its application for certification any limitations
20 that will be imposed on the number of customers or maximum load
21 to be served.

22 (d) The Commission shall grant the application for a
23 certificate of service authority if it makes the findings set
24 forth in this subsection based on the verified application and
25 such other information as the applicant may submit:

26 (1) That the applicant possesses sufficient technical,

1 financial, and managerial resources and abilities to
2 provide the service for which it seeks a certificate of
3 service authority. In determining the level of technical,
4 financial, and managerial resources and abilities which
5 the applicant must demonstrate, the Commission shall
6 consider (i) the characteristics, including the size and
7 financial sophistication, of the customers that the
8 applicant seeks to serve, ~~and~~ (ii) whether the applicant
9 seeks to provide electric power and energy using property,
10 plant, and equipment which it owns, controls, or operates,
11 and (iii) the applicant's commitment of resources to the
12 management of its sales and marketing staff through
13 affirmative managerial policies, independent audits,
14 technology, hands-on field monitoring, and training and,
15 for applicants who have sales personnel or sales agents
16 within this State, the applicant's managerial presence
17 within this State;

18 (2) That the applicant will comply with all applicable
19 federal, State, regional, and industry rules, policies,
20 practices, ~~and~~ procedures, and tariffs for the use,
21 operation, and maintenance of the safety, integrity, and
22 reliability, of the interconnected electric transmission
23 system;

24 (3) That the applicant will only provide service to
25 retail customers in an electric utility's service area
26 that are eligible to take delivery services under this

1 Act;

2 (4) That the applicant will comply with such
3 informational or reporting requirements as the Commission
4 may by rule establish and provide the information required
5 by Section 16-112. Any data related to contracts for the
6 purchase and sale of electric power and energy shall be
7 made available for review by the Staff of the Commission
8 on a confidential and proprietary basis and only to the
9 extent and for the purposes which the Commission
10 determines are reasonably necessary in order to carry out
11 the purposes of this Act;

12 (5) That the applicant will procure renewable energy
13 resources in accordance with Section 16-115D of this Act,
14 and will source electricity from clean coal facilities, as
15 defined in Section 1-10 of the Illinois Power Agency Act,
16 in amounts at least equal to the percentages set forth in
17 subsections (c) and (d) of Section 1-75 of the Illinois
18 Power Agency Act. For purposes of this Section:

19 (i) (blank);

20 (ii) (blank);

21 (iii) the required sourcing of electricity
22 generated by clean coal facilities, other than the
23 initial clean coal facility, shall be limited to the
24 amount of electricity that can be procured or sourced
25 at a price at or below the benchmarks approved by the
26 Commission each year in accordance with item (1) of

1 subsection (c) and items (1) and (5) of subsection (d)
2 of Section 1-75 of the Illinois Power Agency Act;

3 (iv) all alternative retail electric suppliers
4 shall execute a sourcing agreement to source
5 electricity from the initial clean coal facility, on
6 the terms set forth in paragraphs (3) and (4) of
7 subsection (d) of Section 1-75 of the Illinois Power
8 Agency Act, except that in lieu of the requirements in
9 subparagraphs (A) (v), (B) (i), (C) (v), and (C) (vi) of
10 paragraph (3) of that subsection (d), the applicant
11 shall execute one or more of the following:

12 (1) if the sourcing agreement is a power
13 purchase agreement, a contract with the initial
14 clean coal facility to purchase in each hour an
15 amount of electricity equal to all clean coal
16 energy made available from the initial clean coal
17 facility during such hour, which the utilities are
18 not required to procure under the terms of
19 subsection (d) of Section 1-75 of the Illinois
20 Power Agency Act, multiplied by a fraction, the
21 numerator of which is the alternative retail
22 electric supplier's retail market sales of
23 electricity (expressed in kilowatthours sold) in
24 the State during the prior calendar month and the
25 denominator of which is the total sales of
26 electricity (expressed in kilowatthours sold) in

1 the State by alternative retail electric suppliers
2 during such prior month that are subject to the
3 requirements of this paragraph (5) of subsection
4 (d) of this Section and subsection (d) of Section
5 1-75 of the Illinois Power Agency Act plus the
6 total sales of electricity (expressed in
7 kilowatthours sold) by utilities outside of their
8 service areas during such prior month, pursuant to
9 subsection (c) of Section 16-116 of this Act; or

10 (2) if the sourcing agreement is a contract
11 for differences, a contract with the initial clean
12 coal facility in each hour with respect to an
13 amount of electricity equal to all clean coal
14 energy made available from the initial clean coal
15 facility during such hour, which the utilities are
16 not required to procure under the terms of
17 subsection (d) of Section 1-75 of the Illinois
18 Power Agency Act, multiplied by a fraction, the
19 numerator of which is the alternative retail
20 electric supplier's retail market sales of
21 electricity (expressed in kilowatthours sold) in
22 the State during the prior calendar month and the
23 denominator of which is the total sales of
24 electricity (expressed in kilowatthours sold) in
25 the State by alternative retail electric suppliers
26 during such prior month that are subject to the

1 requirements of this paragraph (5) of subsection
2 (d) of this Section and subsection (d) of Section
3 1-75 of the Illinois Power Agency Act plus the
4 total sales of electricity (expressed in
5 kilowatthours sold) by utilities outside of their
6 service areas during such prior month, pursuant to
7 subsection (c) of Section 16-116 of this Act;

8 (v) if, in any year after the first year of
9 commercial operation, the owner of the clean coal
10 facility fails to demonstrate to the Commission that
11 the initial clean coal facility captured and
12 sequestered at least 50% of the total carbon emissions
13 that the facility would otherwise emit or that
14 sequestration of emissions from prior years has
15 failed, resulting in the release of carbon into the
16 atmosphere, the owner of the facility must offset
17 excess emissions. Any such carbon offsets must be
18 permanent, additional, verifiable, real, located
19 within the State of Illinois, and legally and
20 practicably enforceable. The costs of any such offsets
21 that are not recoverable shall not exceed \$15,000,000
22 in any given year. No costs of any such purchases of
23 carbon offsets may be recovered from an alternative
24 retail electric supplier or its customers. All carbon
25 offsets purchased for this purpose and any carbon
26 emission credits associated with sequestration of

1 carbon from the facility must be permanently retired.
2 The initial clean coal facility shall not forfeit its
3 designation as a clean coal facility if the facility
4 fails to fully comply with the applicable carbon
5 sequestration requirements in any given year, provided
6 the requisite offsets are purchased. However, the
7 Attorney General, on behalf of the People of the State
8 of Illinois, may specifically enforce the facility's
9 sequestration requirement and the other terms of this
10 contract provision. Compliance with the sequestration
11 requirements and offset purchase requirements that
12 apply to the initial clean coal facility shall be
13 reviewed annually by an independent expert retained by
14 the owner of the initial clean coal facility, with the
15 advance written approval of the Attorney General;

16 (vi) The Commission shall, after notice and
17 hearing, revoke the certification of any alternative
18 retail electric supplier that fails to execute a
19 sourcing agreement with the initial clean coal
20 facility as required by item (5) of subsection (d) of
21 this Section. The sourcing agreements with this
22 initial clean coal facility shall be subject to both
23 approval of the initial clean coal facility by the
24 General Assembly and satisfaction of the requirements
25 of item (4) of subsection (d) of Section 1-75 of the
26 Illinois Power Agency Act, and shall be executed

1 within 90 days after any such approval by the General
2 Assembly. The Commission shall not accept an
3 application for certification from an alternative
4 retail electric supplier that has lost certification
5 under this subsection (d), or any corporate affiliate
6 thereof, for at least one year from the date of
7 revocation;

8 (6) With respect to an applicant that seeks to serve
9 residential or small commercial retail customers, that the
10 area to be served by the applicant and any limitations it
11 proposes on the number of customers or maximum amount of
12 load to be served meet the provisions of Section 16-115A,
13 provided, that the Commission can extend the time for
14 considering such a certificate request by up to 90 days,
15 and can schedule hearings on such a request;

16 (7) That the applicant meets the requirements of
17 subsection (a) of Section 16-128;

18 (8) That the applicant discloses whether the applicant
19 is the subject of any lawsuit filed in a court of law or
20 formal complaint filed with a regulatory agency alleging
21 fraud, deception, or unfair marketing practices or other
22 similar allegations and, if the applicant is the subject
23 of such lawsuit or formal complaint, the applicant shall
24 identify the name, case number, and jurisdiction of each
25 lawsuit or complaint, and that the applicant is capable of
26 fulfilling its obligations as an alternative retail

1 electric supplier in Illinois notwithstanding any lawsuit
2 or complaint. For the purpose of this item (8), "formal
3 complaint" includes only those complaints that seek a
4 binding determination from a State or federal regulatory
5 body;

6 (9) That the applicant shall at all times remain in
7 compliance with requirements for certification stated in
8 this Section and as the Commission may establish by rule;

9 (10) That the applicant shall execute and maintain a
10 license or permit bond issued by a qualifying surety or
11 insurance company authorized to transact business in the
12 State of Illinois in favor of the People of the State of
13 Illinois. The amount of the bond shall equal \$30,000 if
14 the applicant seeks to serve only nonresidential retail
15 customers with maximum electrical demands of one megawatt
16 or more, \$150,000 if the applicant seeks to serve only
17 nonresidential retail customers with annual electrical
18 consumption greater than 15,000 kilowatt-hours, or
19 \$500,000 if the applicant seeks to serve all eligible
20 customers. Applicants shall be required to submit an
21 additional \$500,000 bond if the applicant intends to
22 market to residential customers using in-person
23 solicitations. The bonds shall be conditioned upon the
24 full and faithful performance of all duties and
25 obligations of the applicant as an alternative retail
26 electric supplier, shall be valid for a period of not less

1 than one year, and may be drawn upon in whole or in part to
2 satisfy any penalties imposed, and finally adjudicated, by
3 the Commission pursuant to Section 16-115B for a violation
4 of the applicant's duties or obligations, except that the
5 total amount of claims and penalties against the bond
6 shall not exceed the penal sum of the bond and shall not
7 include any consequential or punitive damage. The cost of
8 the bond shall be paid by the applicant. The applicant
9 shall file a copy of this bond, with a notarized
10 verification page from the issuer, as part of its
11 application for certification under 83 Ill. Adm. Code 451;
12 and

13 (11) That the applicant will comply with all other
14 applicable laws and regulations.

15 (d-3) The Commission may deny with prejudice an
16 application in which the applicant fails to provide the
17 Commission with information sufficient for the Commission to
18 grant the application.

19 (d-5) (Blank).

20 (e) A retail customer that owns a cogeneration or
21 self-generation facility and that seeks certification only to
22 provide electric power and energy from such facility to retail
23 customers at separate locations which customers are both (i)
24 owned by, or a subsidiary or other corporate affiliate of,
25 such applicant and (ii) eligible for delivery services, shall
26 be granted a certificate of service authority upon filing an

1 application and notifying the Commission that it has entered
2 into an agreement with the relevant electric utilities
3 pursuant to Section 16-118. Provided, however, that if the
4 retail customer owning such cogeneration or self-generation
5 facility would not be charged a transition charge due to the
6 exemption provided under subsection (f) of Section 16-108
7 prior to the certification, and the retail customers at
8 separate locations are taking delivery services in conjunction
9 with purchasing power and energy from the facility, the retail
10 customer on whose premises the facility is located shall not
11 thereafter be required to pay transition charges on the power
12 and energy that such retail customer takes from the facility.

13 (f) The Commission shall have the authority to promulgate
14 rules and regulations to carry out the provisions of this
15 Section. On or before May 1, 1999, the Commission shall adopt a
16 rule or rules applicable to the certification of those
17 alternative retail electric suppliers that seek to serve only
18 nonresidential retail customers with maximum electrical
19 demands of one megawatt or more which shall provide for (i)
20 expedited and streamlined procedures for certification of such
21 alternative retail electric suppliers and (ii) specific
22 criteria which, if met by any such alternative retail electric
23 supplier, shall constitute the demonstration of technical,
24 financial and managerial resources and abilities to provide
25 service required by paragraph (1) of subsection (d) of this
26 Section, such as a requirement to post a bond or letter of

1 credit, from a responsible surety or financial institution, of
2 sufficient size for the nature and scope of the services to be
3 provided; demonstration of adequate insurance for the scope
4 and nature of the services to be provided; and experience in
5 providing similar services in other jurisdictions.

6 (g) An alternative retail electric supplier may seek
7 confidential treatment for the following information by filing
8 an affidavit with the Commission so long as the affidavit
9 meets the requirements in this subsection (g):

10 (1) the total annual kilowatt-hours delivered and sold
11 by an alternative retail electric supplier to retail
12 customers within each utility service territory and the
13 total annual kilowatt-hours delivered and sold by an
14 alternative retail electric supplier to retail customers
15 in all utility service territories in the preceding
16 calendar year as required by 83 Ill. Adm. Code 451.770;

17 (2) the total peak demand supplied by an alternative
18 retail electric supplier during the previous year in each
19 utility service territory as required by 83 Ill. Adm. Code
20 465.40;

21 (3) a good faith estimate of the amount an alternative
22 retail electric supplier expects to be obliged to pay the
23 utility under single billing tariffs during the next 12
24 months and the amount of any bond or letter of credit used
25 to demonstrate an alternative retail electric supplier's
26 credit worthiness to provide single billing services

1 pursuant to 83 Ill. Adm. Code 451.510(a) and (b).

2 The affidavit must be filed contemporaneously with the
3 information for which confidential treatment is sought and
4 must clearly state that the affiant seeks confidential
5 treatment pursuant to this subsection (g) and the information
6 for which confidential treatment is sought must be clearly
7 identified on the confidential version of the document filed
8 with the Commission. The affidavit must be accompanied by a
9 "confidential" and a "public" version of the document or
10 documents containing the information for which confidential
11 treatment is sought.

12 If the alternative retail electric supplier has met the
13 affidavit requirements of this subsection (g), then the
14 Commission shall afford confidential treatment to the
15 information identified in the affidavit for a period of 2
16 years after the date the affidavit is received by the
17 Commission.

18 Nothing in this subsection (g) prevents an alternative
19 retail electric supplier from filing a petition with the
20 Commission seeking confidential treatment for information
21 beyond that identified in this subsection (g) or for
22 information contained in other reports or documents filed with
23 the Commission other than annual rate reports.

24 Nothing in this subsection (g) prevents the Commission, on
25 its own motion, or any party from filing a formal petition with
26 the Commission seeking to reconsider the conferring of

1 confidential status on an item of information afforded
2 confidential treatment pursuant to this subsection (g).

3 The Commission, on its own motion, may at any time
4 initiate a docketed proceeding to investigate the continued
5 applicability of this subsection (g) to the information
6 contained in items (i), (ii), and (iii) of this subsection
7 (g). If, at the end of such investigation, the Commission
8 determines that a particular item of information should no
9 longer be eligible for the affidavit-based process outlined in
10 this subsection (g), the Commission may enter an order to
11 remove that item from the list of items eligible for the
12 process set forth in this subsection (g). Notwithstanding any
13 such order, in the event the Commission makes such a
14 determination, nothing in this subsection (g) prevents an
15 alternative retail electric supplier desiring confidential
16 treatment for such information from filing a formal petition
17 with the Commission seeking confidential treatment for such
18 information.

19 (Source: P.A. 101-590, eff. 1-1-20; 102-958, eff. 1-1-23.)