



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5626

by Rep. Gregory Harris

SYNOPSIS AS INTRODUCED:

220 ILCS 5/16-115A
220 ILCS 5/20-110
815 ILCS 505/2EE

Amends the Public Utilities Act. Requires an alternative retail electric supplier to annually submit certain rate information from the prior 12-month period to the Illinois Commerce Commission and the Attorney General. Requires an alternative retail electric supplier's marketing materials to contain the current utility price. Provides that an alternative retail electric supplier that is certified to serve residential retail customers shall not charge customers who receive financial assistance from the Illinois Low Income Home Energy Assistance Program an amount that exceeds the public utility supply price. Provides that existing agreements between an alternative retail electric supplier and an Illinois Low Income Home Energy Assistance Program recipient that charge the customer an amount that exceeds the public utility price shall not be renewed upon the expiration of the existing agreement. Provides that the annual report the Director of Retail Market Development submits shall include the information alternative retail electric suppliers submitted concerning rates from the prior 12-month period. Amends the Consumer Fraud and Deceptive Business Practices Act. Provides that a violation of the provisions concerning obligations of alternative retail electric suppliers in the Public Utilities Act and its administrative rules constitutes a violation under the Consumer Fraud and Deceptive Business Practices Act. Effective immediately.

LRB100 20870 SMS 36368 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 Sections 16-115A and 20-110 as follows:

6 (220 ILCS 5/16-115A)

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

9 (a) An alternative retail electric supplier shall:

10 (i) comply with the requirements imposed on public
11 utilities by Sections 8-201 through 8-207, 8-301, 8-505 and
12 8-507 of this Act, to the extent that these Sections have
13 application to the services being offered by the
14 alternative retail electric supplier; ~~and~~

15 (ii) continue to comply with the requirements for
16 certification stated in subsection (d) of Section 16-115;
17 ~~and-~~

18 (iii) on or before June 1, 2019 and every year
19 thereafter, submit to the Commission and the Office of the
20 Attorney General information about the rates the retail
21 electric supplier charged to residential customers in the
22 prior 12-month period, including each distinct rate
23 charged and whether the rate was a fixed or variable rate,

1 and any fees charged in addition to the supply rate,
2 including monthly fees, flat fees, or similar service
3 charges.

4 (b) An alternative retail electric supplier shall obtain
5 verifiable authorization from a customer, in a form or manner
6 approved by the Commission consistent with Section 2EE of the
7 Consumer Fraud and Deceptive Business Practices Act, before the
8 customer is switched from another supplier.

9 (c) No alternative retail electric supplier, or electric
10 utility other than the electric utility in whose service area a
11 customer is located, shall (i) enter into or employ any
12 arrangements which have the effect of preventing a retail
13 customer with a maximum electrical demand of less than one
14 megawatt from having access to the services of the electric
15 utility in whose service area the customer is located or (ii)
16 charge retail customers for such access. This subsection shall
17 not be construed to prevent an arms-length agreement between a
18 supplier and a retail customer that sets a term of service,
19 notice period for terminating service and provisions governing
20 early termination through a tariff or contract as allowed by
21 Section 16-119.

22 (d) An alternative retail electric supplier that is
23 certified to serve residential or small commercial retail
24 customers shall not:

25 (1) deny service to a customer or group of customers
26 nor establish any differences as to prices, terms,

1 conditions, services, products, facilities, or in any
2 other respect, whereby such denial or differences are based
3 upon race, gender or income.

4 (2) deny service to a customer or group of customers
5 based on locality nor establish any unreasonable
6 difference as to prices, terms, conditions, services,
7 products, or facilities as between localities.

8 (e) An alternative retail electric supplier shall comply
9 with the following requirements with respect to the marketing,
10 offering and provision of products or services to residential
11 and small commercial retail customers:

12 (i) Any marketing materials which make statements
13 concerning prices, terms and conditions of service shall
14 contain information that adequately discloses the prices,
15 terms and conditions of the products or services that the
16 alternative retail electric supplier is offering or
17 selling to the customer and shall contain the current
18 utility price.

19 (ii) Before any customer is switched from another
20 supplier, the alternative retail electric supplier shall
21 give the customer written information that adequately
22 discloses, in plain language, the prices, terms and
23 conditions of the products and services being offered and
24 sold to the customer.

25 (iii) An alternative retail electric supplier shall
26 provide documentation to the Commission and to customers

1 that substantiates any claims made by the alternative
2 retail electric supplier regarding the technologies and
3 fuel types used to generate the electricity offered or sold
4 to customers.

5 (iv) The alternative retail electric supplier shall
6 provide to the customer (1) itemized billing statements
7 that describe the products and services provided to the
8 customer and their prices, and (2) an additional statement,
9 at least annually, that adequately discloses the average
10 monthly prices, and the terms and conditions, of the
11 products and services sold to the customer.

12 (f) An alternative retail electric supplier may limit the
13 overall size or availability of a service offering by
14 specifying one or more of the following: a maximum number of
15 customers, maximum amount of electric load to be served, time
16 period during which the offering will be available, or other
17 comparable limitation, but not including the geographic
18 locations of customers within the area which the alternative
19 retail electric supplier is certificated to serve. The
20 alternative retail electric supplier shall file the terms and
21 conditions of such service offering including the applicable
22 limitations with the Commission prior to making the service
23 offering available to customers.

24 (g) Nothing in this Section shall be construed as
25 preventing an alternative retail electric supplier, which is an
26 affiliate of, or which contracts with, (i) an industry or trade

1 organization or association, (ii) a membership organization or
2 association that exists for a purpose other than the purchase
3 of electricity, or (iii) another organization that meets
4 criteria established in a rule adopted by the Commission, from
5 offering through the organization or association services at
6 prices, terms and conditions that are available solely to the
7 members of the organization or association.

8 (h) Beginning September 1, 2018, an alternative retail
9 electric supplier that is certified to serve residential retail
10 customers shall not charge customers who receive financial
11 assistance from the Illinois Low Income Home Energy Assistance
12 Program an amount that exceeds the public utility supply price.
13 This amount includes the supply price and any fees or other
14 charges charged by the alternative retail electric supplier.
15 Existing agreements between an alternative retail electric
16 supplier and an Illinois Low Income Home Energy Assistance
17 Program recipient that charge the customer an amount that
18 exceeds the public utility price shall not be renewed upon the
19 expiration of the existing agreement.

20 (Source: P.A. 90-561, eff. 12-16-97.)

21 (220 ILCS 5/20-110)

22 Sec. 20-110. Office of Retail Market Development. Within 90
23 days after the effective date of this amendatory Act of the
24 94th General Assembly, subject to appropriation, the
25 Commission shall establish an Office of Retail Market

1 Development and employ on its staff a Director of Retail Market
2 Development to oversee the Office. The Director shall have
3 authority to employ or otherwise retain at least 2
4 professionals dedicated to the task of actively seeking out
5 ways to promote retail competition in Illinois to benefit all
6 Illinois consumers.

7 The Office shall actively seek input from all interested
8 parties and shall develop a thorough understanding and critical
9 analyses of the tools and techniques used to promote retail
10 competition in other states.

11 The Office shall monitor existing competitive conditions
12 in Illinois, identify barriers to retail competition for all
13 customer classes, and actively explore and propose to the
14 Commission and to the General Assembly solutions to overcome
15 identified barriers. The Director may include municipal
16 aggregation of customers and creating and designing customer
17 choice programs as tools for retail market development.
18 Solutions proposed by the Office to promote retail competition
19 must also promote safe, reliable, and affordable electric
20 service.

21 On or before June 30 of each year, the Director shall
22 submit a report to the Commission, the General Assembly, and
23 the Governor, that details specific accomplishments achieved
24 by the Office in the prior 12 months in promoting retail
25 electric competition and that suggests administrative and
26 legislative action necessary to promote further improvements

1 in retail electric competition. On or before June 30, 2020 and
2 every year thereafter, the report shall include the information
3 submitted to the Commission pursuant to paragraph (iii) of
4 subsection (a) of Section 16-115A.

5 (Source: P.A. 94-1095, eff. 2-2-07.)

6 Section 10. The Consumer Fraud and Deceptive Business
7 Practices Act is amended by changing Section 2EE as follows:

8 (815 ILCS 505/2EE)

9 Sec. 2EE. Electric service provider selection. An electric
10 service provider shall not submit or execute a change in a
11 subscriber's selection of a provider of electric service unless
12 and until (i) the provider first discloses all material terms
13 and conditions of the offer to the subscriber; (ii) the
14 provider has obtained the subscriber's express agreement to
15 accept the offer after the disclosure of all material terms and
16 conditions of the offer; and (iii) the provider has confirmed
17 the request for a change in accordance with one of the
18 following procedures:

19 (a) The new electric service provider has obtained the
20 subscriber's written or electronically signed authorization in
21 a form that meets the following requirements:

22 (1) An electric service provider shall obtain any
23 necessary written or electronically signed authorization
24 from a subscriber for a change in electric service by using

1 a letter of agency as specified in this Section. Any letter
2 of agency that does not conform with this Section is
3 invalid.

4 (2) The letter of agency shall be a separate document
5 (an easily separable document containing only the
6 authorization language described in subparagraph (a) (5) of
7 this Section) whose sole purpose is to authorize an
8 electric service provider change. The letter of agency must
9 be signed and dated by the subscriber requesting the
10 electric service provider change.

11 (3) The letter of agency shall not be combined with
12 inducements of any kind on the same document.

13 (4) Notwithstanding subparagraphs (a) (1) and (a) (2) of
14 this Section, the letter of agency may be combined with
15 checks that contain only the required letter of agency
16 language prescribed in subparagraph (a) (5) of this Section
17 and the necessary information to make the check a
18 negotiable instrument. The letter of agency check shall not
19 contain any promotional language or material. The letter of
20 agency check shall contain in easily readable, bold-face
21 type on the face of the check, a notice that the consumer
22 is authorizing an electric service provider change by
23 signing the check. The letter of agency language also shall
24 be placed near the signature line on the back of the check.

25 (5) At a minimum, the letter of agency must be printed
26 with a print of sufficient size to be clearly legible, and

1 must contain clear and unambiguous language that confirms:

2 (i) The subscriber's billing name and address;

3 (ii) The decision to change the electric service
4 provider from the current provider to the prospective
5 provider;

6 (iii) The terms, conditions, and nature of the
7 service to be provided to the subscriber must be
8 clearly and conspicuously disclosed, in writing, and
9 an electric service provider must directly establish
10 the rates for the service contracted for by the
11 subscriber; and

12 (iv) That the subscriber understand that any
13 electric service provider selection the subscriber
14 chooses may involve a charge to the subscriber for
15 changing the subscriber's electric service provider.

16 (6) Letters of agency shall not suggest or require that
17 a subscriber take some action in order to retain the
18 subscriber's current electric service provider.

19 (7) If any portion of a letter of agency is translated
20 into another language, then all portions of the letter of
21 agency must be translated into that language.

22 (b) An appropriately qualified independent third party has
23 obtained, in accordance with the procedures set forth in this
24 subsection (b), the subscriber's oral authorization to change
25 electric suppliers that confirms and includes appropriate
26 verification data. The independent third party (i) must not be

1 owned, managed, controlled, or directed by the supplier or the
2 supplier's marketing agent; (ii) must not have any financial
3 incentive to confirm supplier change requests for the supplier
4 or the supplier's marketing agent; and (iii) must operate in a
5 location physically separate from the supplier or the
6 supplier's marketing agent.

7 Automated third-party verification systems and 3-way
8 conference calls may be used for verification purposes so long
9 as the other requirements of this subsection (b) are satisfied.

10 A supplier or supplier's sales representative initiating a
11 3-way conference call or a call through an automated
12 verification system must drop off the call once the 3-way
13 connection has been established.

14 All third-party verification methods shall elicit, at a
15 minimum, the following information: (i) the identity of the
16 subscriber; (ii) confirmation that the person on the call is
17 authorized to make the supplier change; (iii) confirmation that
18 the person on the call wants to make the supplier change; (iv)
19 the names of the suppliers affected by the change; (v) the
20 service address of the supply to be switched; and (vi) the
21 price of the service to be supplied and the material terms and
22 conditions of the service being offered, including whether any
23 early termination fees apply. Third-party verifiers may not
24 market the supplier's services by providing additional
25 information, including information regarding procedures to
26 block or otherwise freeze an account against further changes.

1 All third-party verifications shall be conducted in the
2 same language that was used in the underlying sales transaction
3 and shall be recorded in their entirety. Submitting suppliers
4 shall maintain and preserve audio records of verification of
5 subscriber authorization for a minimum period of 2 years after
6 obtaining the verification. Automated systems must provide
7 consumers with an option to speak with a live person at any
8 time during the call.

9 (c) When a subscriber initiates the call to the prospective
10 electric supplier, in order to enroll the subscriber as a
11 customer, the prospective electric supplier must, with the
12 consent of the customer, make a date-stamped, time-stamped
13 audio recording that elicits, at a minimum, the following
14 information:

15 (1) the identity of the subscriber;

16 (2) confirmation that the person on the call is
17 authorized to make the supplier change;

18 (3) confirmation that the person on the call wants to
19 make the supplier change;

20 (4) the names of the suppliers affected by the change;

21 (5) the service address of the supply to be switched;

22 and

23 (6) the price of the service to be supplied and the
24 material terms and conditions of the service being offered,
25 including whether any early termination fees apply.

26 Submitting suppliers shall maintain and preserve the audio

1 records containing the information set forth above for a
2 minimum period of 2 years.

3 (d) Complaints may be filed with the Illinois Commerce
4 Commission under this Section by a subscriber whose electric
5 service has been provided by an electric service supplier in a
6 manner not in compliance with this Section. If, after notice
7 and hearing, the Commission finds that an electric service
8 provider has violated this Section, the Commission may in its
9 discretion do any one or more of the following:

10 (1) Require the violating electric service provider to
11 refund to the subscriber charges collected in excess of
12 those that would have been charged by the subscriber's
13 authorized electric service provider.

14 (2) Require the violating electric service provider to
15 pay to the subscriber's authorized electric supplier the
16 amount the authorized electric supplier would have
17 collected for the electric service. The Commission is
18 authorized to reduce this payment by any amount already
19 paid by the violating electric supplier to the subscriber's
20 authorized provider for electric service.

21 (3) Require the violating electric subscriber to pay a
22 fine of up to \$1,000 into the Public Utility Fund for each
23 repeated and intentional violation of this Section.

24 (4) Issue a cease and desist order.

25 (5) For a pattern of violation of this Section or for
26 intentionally violating a cease and desist order, revoke

1 the violating provider's certificate of service authority.

2 (e) For purposes of this Section, "electric service
3 provider" shall have the meaning given that phrase in Section
4 6.5 of the Attorney General Act.

5 (f) A violation of Section 16-115A of the Public Utilities
6 Act and the administrative rules adopted thereunder at 83 Ill.
7 Adm. Code Part 412 also constitutes a violation of this
8 Section.

9 (Source: P.A. 95-700, eff. 11-9-07.)

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