



Rep. Fred Crespo

**Filed: 3/28/2008**

09500HB5378ham003

LRB095 19468 MJR 48637 a

1 AMENDMENT TO HOUSE BILL 5378

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 5378, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Public Utilities Act is amended by changing  
6 Section 9-201 as follows:

7 (220 ILCS 5/9-201) (from Ch. 111 2/3, par. 9-201)

8 Sec. 9-201. (a) Unless the Commission otherwise orders, and  
9 except as otherwise provided in this Section, no change shall  
10 be made by any public utility in any rate or other charge or  
11 classification, or in any rule, regulation, practice or  
12 contract relating to or affecting any rate or other charge,  
13 classification or service, or in any privilege or facility,  
14 except after 45 days' notice to the Commission and to the  
15 public as herein provided. Such notice shall be given by filing  
16 with the Commission and keeping open for public inspection new

1 schedules or supplements stating plainly the change or changes  
2 to be made in the schedule or schedules then in force, and the  
3 time when the change or changes will go into effect, and by  
4 publication in a newspaper of general circulation or such other  
5 notice to persons affected by such change as may be prescribed  
6 by rule of the Commission. The Commission, for good cause  
7 shown, may allow changes without requiring the 45 days' notice  
8 herein provided for, by an order specifying the changes so to  
9 be made and the time when they shall take effect and the manner  
10 in which they shall be filed and published.

11 When any change is proposed in any rate or other charge, or  
12 classification, or in any rule, regulation, practice, or  
13 contract relating to or affecting any rate or other charge,  
14 classification or service, or in any privilege or facility,  
15 such proposed change shall be plainly indicated on the new  
16 schedule filed with the Commission, by some character to be  
17 designated by the Commission, immediately preceding or  
18 following the item.

19 When any public utility providing water or sewer service  
20 proposes any change in any rate or other charge, or  
21 classification, or in any rule, regulation, practice, or  
22 contract relating to or affecting any rate or other charge,  
23 classification or service, or in any privilege or facility,  
24 such utility shall, in addition to the other notice  
25 requirements of this Act, provide notice of such change to all  
26 customers potentially affected by including a notice and

1 description of such change, and of Commission procedures for  
2 intervention, in the first bill sent to each such customer  
3 after the filing of the proposed change.

4 (b) Whenever there shall be filed with the Commission any  
5 schedule stating an individual or joint rate or other charge,  
6 classification, contract, practice, rule or regulation, the  
7 Commission shall have power, and it is hereby given authority,  
8 either upon complaint or upon its own initiative without  
9 complaint, at once, and if it so orders, without answer or  
10 other formal pleadings by the interested public utility or  
11 utilities, but upon reasonable notice, to enter upon a hearing  
12 concerning the propriety of such rate or other charge,  
13 classification, contract, practice, rule or regulation, and  
14 pending the hearing and decision thereon, such rate or other  
15 charge, classification, contract, practice, rule or regulation  
16 shall not go into effect. The period of suspension of such rate  
17 or other charge, classification, contract, practice, rule or  
18 regulation shall not extend more than 105 days beyond the time  
19 when such rate or other charge, classification, contract,  
20 practice, rule or regulation would otherwise go into effect  
21 unless the Commission, in its discretion, extends the period of  
22 suspension for a further period not exceeding 6 months.

23 All rates or other charges, classifications, contracts,  
24 practices, rules or regulations not so suspended shall, on the  
25 expiration of 45 days from the time of filing the same with the  
26 Commission, or of such lesser time as the Commission may grant,

1 go into effect and be the established and effective rates or  
2 other charges, classifications, contracts, practices, rules  
3 and regulations, subject to the power of the Commission, after  
4 a hearing had on its own motion or upon complaint, as herein  
5 provided, to alter or modify the same.

6 Within 30 days after such changes have been authorized by  
7 the Commission, copies of the new or revised schedules shall be  
8 posted or filed in accordance with the terms of Section 9-103  
9 of this Act, in such a manner that all changes shall be plainly  
10 indicated.

11 (c) If the Commission enters upon a hearing concerning the  
12 propriety of any proposed rate or other charge, classification,  
13 contract, practice, rule or regulation, the Commission shall  
14 establish the rates or other charges, classifications,  
15 contracts, practices, rules or regulations proposed, in whole  
16 or in part, or others in lieu thereof, which it shall find to  
17 be just and reasonable. In such hearing, the burden of proof to  
18 establish the justness and reasonableness of the proposed rates  
19 or other charges, classifications, contracts, practices, rules  
20 or regulations, in whole and in part, shall be upon the  
21 utility. No rate or other charge, classification, contract,  
22 practice, rule or regulation shall be found just and reasonable  
23 unless it is consistent with Sections of this Article.

24 (d) Gas utility tariffs that adjust rates and charges  
25 between rate proceedings to offset usage per customer declines  
26 and guarantee recovery of margin revenues associated with

1 specific usage per customer levels shall not be permitted.  
2 Existing gas utility tariffs that adjust rates and charges  
3 between rate proceedings to offset per customer usage declines  
4 and guarantee recovery of margin revenues associated with  
5 specific per customer usage levels shall be deemed invalid and  
6 cancelled upon the effective date of this amendatory Act of the  
7 95th General Assembly. For purposes of this Section, "margin"  
8 means the dollar amount of delivery charge revenues, excluding  
9 customer charge revenues, approved by the Commission in the  
10 utility's most recent rate proceeding for each applicable  
11 service classification. Notwithstanding any other rulemaking  
12 authority that may exist, neither the Governor nor any agency  
13 or agency head under the jurisdiction of the Governor has any  
14 authority to make or promulgate rules to implement or enforce  
15 the provisions of this amendatory Act of the 95th General  
16 Assembly. If, however, the Governor believes that rules are  
17 necessary to implement or enforce the provisions of this  
18 amendatory Act of the 95th General Assembly, the Governor may  
19 suggest rules to the General Assembly by filing them with the  
20 Clerk of the House and the Secretary of the Senate and by  
21 requesting that the General Assembly authorize such rulemaking  
22 by law, enact those suggested rules into law, or take any other  
23 appropriate action in the General Assembly's discretion.  
24 Nothing contained in this amendatory Act of the 95th General  
25 Assembly shall be interpreted to grant rulemaking authority  
26 under any other Illinois statute where such authority is not

1 otherwise explicitly given. For the purposes of this amendatory  
2 Act of the 95th General Assembly, "rules" is given the meaning  
3 contained in Section 1-70 of the Illinois Administrative  
4 Procedure Act, and "agency" and "agency head" are given the  
5 meanings contained in Sections 1-20 and 1-25 of the Illinois  
6 Administrative Procedure Act to the extent that such  
7 definitions apply to agencies or agency heads under the  
8 jurisdiction of the Governor.

9 (Source: P.A. 84-617.)

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