



Sen. Sue Rezin

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09900SB1446sam001

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1 AMENDMENT TO SENATE BILL 1446

2 AMENDMENT NO. _____. Amend Senate Bill 1446 as follow:

3 on page 1, by replacing line 5 with "Sections 16-115 and 19-110
4 as follows:"; and

5 by replacing line 12 on page 11 through line 1 on page 12 with:

6 "to the Commission, it must (1) file with the Commission
7 contemporaneously with its report, filing, or document an
8 affidavit that sets forth both the reasons for the
9 confidentiality and a public synopsis of the information for
10 which confidential treatment is sought; and (2) file both a
11 "confidential" and a "public" version of the report, filing, or
12 document for which it seeks confidential treatment with all
13 confidential information marked "Confidential". Absent notice
14 from the Commission to the alternative retail electric supplier
15 to the contrary, and provided the alternative retail electric
16 supplier has followed the requirements outlined in this

1 subsection (g), information identified as confidential by the
2 alternative retail electric supplier shall be afforded
3 proprietary treatment for a 2-year period from the date of
4 submission to the Commission. The public version of the report,
5 filing, or document shall be made available to the public upon
6 request, subject to a case-by-case determination by the
7 Commission."; and

8 on page 12, immediately below line 13, by inserting:

9 "(220 ILCS 5/19-110)

10 Sec. 19-110. Certification of alternative gas suppliers.

11 (a) The provisions of this Section shall apply only to
12 alternative gas suppliers serving or seeking to serve
13 residential or small commercial customers and only to the
14 extent such alternative gas suppliers provide services to
15 residential or small commercial customers.

16 (b) An alternative gas supplier must obtain a certificate
17 of service authority from the Commission in accordance with
18 this Section before serving any customer or other user located
19 in this State. An alternative gas supplier may request, and the
20 Commission may grant, a certificate of service authority for
21 the entire State or for a specified geographic area of the
22 State. A person, corporation, or other entity acting as an
23 alternative gas supplier on the effective date of this
24 amendatory Act of the 92nd General Assembly shall have 180 days

1 from the effective date of this amendatory Act of the 92nd
2 General Assembly to comply with the requirements of this
3 Section in order to continue to operate as an alternative gas
4 supplier.

5 (c) An alternative gas supplier seeking a certificate of
6 service authority shall file with the Commission a verified
7 application containing information showing that the applicant
8 meets the requirements of this Section. The alternative gas
9 supplier shall publish notice of its application in the
10 official State newspaper within 10 days following the date of
11 its filing. No later than 45 days after the application is
12 properly filed with the Commission, and such notice is
13 published, the Commission shall issue its order granting or
14 denying the application.

15 (d) An application for a certificate of service authority
16 shall identify the area or areas in which the applicant intends
17 to offer service and the types of services it intends to offer.
18 Applicants that seek to serve residential or small commercial
19 customers within a geographic area that is smaller than a gas
20 utility's service area shall submit evidence demonstrating
21 that the designation of this smaller area does not violate
22 Section 19-115. An applicant may state in its application for
23 certification any limitations that will be imposed on the
24 number of customers or maximum load to be served. The applicant
25 shall submit as part of its application a statement indicating:

26 (1) Whether the applicant has been denied a natural gas

1 supplier license in any state in the United States.

2 (2) Whether the applicant has had a natural gas
3 supplier license suspended or revoked by any state in the
4 United States.

5 (3) Where, if any, other natural gas supplier license
6 applications are pending in the United States.

7 (4) Whether the applicant is the subject of any
8 lawsuits filed in a court of law or formal complaints filed
9 with a regulatory agency alleging fraud, deception or
10 unfair marketing practices, or other similar allegations,
11 identifying the name, case number, and jurisdiction of each
12 such lawsuit or complaint.

13 For the purposes of this subsection (d), formal complaints
14 include only those complaints that seek a binding determination
15 from a state or federal regulatory body.

16 (e) The Commission shall grant the application for a
17 certificate of service authority if it makes the findings set
18 forth in this subsection based on the verified application and
19 such other information as the applicant may submit.

20 (1) That the applicant possesses sufficient technical,
21 financial, and managerial resources and abilities to
22 provide the service for which it seeks a certificate of
23 service authority. In determining the level of technical,
24 financial, and managerial resources and abilities which
25 the applicant must demonstrate, the Commission shall
26 consider:

1 (A) the characteristics, including the size and
2 financial sophistication of the customers that the
3 applicant seeks to serve;

4 (B) whether the applicant seeks to provide gas
5 using property, plant, and equipment that it owns,
6 controls, or operates; and

7 (C) the applicant's commitment of resources to the
8 management of sales and marketing staff, through
9 affirmative managerial policies, independent audits,
10 technology, hands-on field monitoring and training,
11 and, in the case of applicants who will have sales
12 personnel or sales agents within the State of Illinois,
13 the applicant's managerial presence within the State.

14 (2) That the applicant will comply with all applicable
15 federal, State, regional, and industry rules, policies,
16 practices, and procedures for the use, operation, and
17 maintenance of the safety, integrity, and reliability of
18 the gas transmission system.

19 (3) That the applicant will comply with such
20 informational or reporting requirements as the Commission
21 may by rule establish.

22 (4) That the area to be served by the applicant and any
23 limitations it proposes on the number of customers or
24 maximum amount of load to be served meet the provisions of
25 Section 19-115, provided, that if the applicant seeks to
26 serve an area smaller than the service area of a gas

1 utility or proposes other limitations on the number of
2 customers or maximum amount of load to be served, the
3 Commission can extend the time for considering such a
4 certificate request by up to 90 days, and can schedule
5 hearings on such a request.

6 (5) That the applicant and the applicant's sales agents
7 will comply with all other applicable laws and rules.

8 (f) The Commission can extend the time for considering such
9 a certificate request by up to 90 days, and can schedule
10 hearings on such a request if:

11 (1) a party to the application proceeding has formally
12 requested that the Commission hold hearings in a pleading
13 that alleges that one or more of the allegations or
14 certifications in the application is false or misleading;
15 or

16 (2) other facts or circumstances exist that will
17 necessitate additional time or evidence in order to
18 determine whether a certificate should be issued.

19 (g) The Commission shall have the authority to promulgate
20 rules to carry out the provisions of this Section. Within 30
21 days after the effective date of this amendatory Act of the
22 92nd General Assembly, the Commission shall adopt an emergency
23 rule or rules applicable to the certification of those gas
24 suppliers that seek to serve residential customers. Within 180
25 days of the effective date of this amendatory Act of the 92nd
26 General Assembly, the Commission shall adopt rules that specify

1 criteria which, if met by any such alternative gas supplier,
2 shall constitute the demonstration of technical, financial,
3 and managerial resources and abilities to provide service
4 required by item (1) of subsection (e) of this Section, such as
5 a requirement to post a bond or letter of credit, from a
6 responsible surety or financial institution, of sufficient
7 size for the nature and scope of the services to be provided,
8 demonstration of adequate insurance for the scope and nature of
9 the services to be provided, and experience in providing
10 similar services in other jurisdictions.

11 (h) The Commission may deny with prejudice any application
12 that repeatedly fails to include the attachments,
13 documentation, and affidavits required by the application form
14 or that repeatedly fails to provide any other information
15 required by this Section.

16 (i) In order to make more efficient use of the Commission's
17 resources, as well as the resources of alternative gas
18 suppliers, with regard to annual continuing compliance reports
19 filed pursuant to 83 Ill. Adm. Code 551.120 and annual
20 dekatherm reports filed pursuant to 83 Ill. Adm. Code 551.170,
21 alternative gas suppliers may file commercially or financially
22 sensitive information or trade secrets contained in any such
23 report or filing with the Commission without also filing a
24 formal petition with the Chief Clerk of the Commission seeking
25 a Commission order granting confidential treatment. If an
26 alternative gas supplier elects not to file a formal petition

1 with the Chief Clerk of the Commission seeking a Commission
2 order, but still desires confidential treatment for the
3 commercially or financially sensitive information or trade
4 secrets submitted to the Commission, it must (1) file with the
5 Commission contemporaneously with its report, filing, or
6 document, an affidavit that sets forth both the reasons for the
7 confidentiality and a public synopsis of the information for
8 which confidential treatment is sought and (2) file both a
9 "confidential" and a "public" version of the report, filing, or
10 document for which it seeks confidential treatment with all
11 confidential information marked "Confidential". Absent notice
12 from the Commission to the alternative gas supplier to the
13 contrary, and provided the alternative gas supplier has
14 followed the requirements outlined in this subsection (i),
15 information identified as confidential by the alternative gas
16 supplier shall be afforded proprietary treatment for a 2-year
17 period from the date of submission to the Commission. The
18 public version of the report, filing, or document shall be made
19 available to the public upon request, subject to a case-by-case
20 determination by the Commission. Nothing in this subsection (i)
21 prevents the Commission (A) on its own motion, after reviewing
22 the submittal of an alternative gas supplier pursuant to this
23 subsection (i), from requiring the alternative gas supplier to
24 file a formal petition with the Chief Clerk seeking
25 confidential treatment; (B) from entering an order expanding
26 the list of recurring reports or filings eligible for

1 confidential treatment set forth in this subsection (i); or (C)
2 from entering an order adjusting the time period information
3 may be treated by the Commission as confidential.

4 (Source: P.A. 95-1051, eff. 4-10-09.)

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.".