

1 AMENDMENT TO SENATE BILL 694

2 AMENDMENT NO. _____. Amend Senate Bill 694 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Public Utilities Act is amended by
5 adding Article XIX as follows:

6 (220 ILCS 5/Art. XIX heading new)

7 ARTICLE XIX. GAS
8 CUSTOMER CHOICE LAW

9 (220 ILCS 5/19-100 new)

10 Sec. 19-100. Short title. This Article may be cited as
11 the Gas Customer Choice Law.

12 (220 ILCS 5/19-105 new)

13 Sec. 19-105. Definitions. For the purposes of this
14 Article, the following terms shall be defined as set forth
15 in this Section.

16 "Alternative gas supplier" means every person,
17 cooperative, corporation, municipal corporation, company,
18 association, joint stock company or association, firm,
19 partnership, individual, or other entity, their lessees,
20 trustees, or receivers appointed by any court whatsoever,

1 that offers gas for sale, lease, or in exchange for other
2 value received to one or more customers, or that engages in
3 the furnishing of gas to one or more customers, and shall
4 include affiliated interests of a gas utility, resellers,
5 aggregators and marketers, but shall not include (i) gas
6 utilities (or any agent of the gas utility to the extent the
7 gas utility provides tariffed services to customers through
8 an agent); (ii) public utilities that are owned and operated
9 by any political subdivision, public institution of higher
10 education or municipal corporation of this State, or public
11 utilities that are owned by a political subdivision, public
12 institution of higher education, or municipal corporation and
13 operated by any of its lessees or operating agents; (iii)
14 residential natural gas cooperatives that are not-for-profit
15 corporations established for the purpose of administering and
16 operating, on a cooperative basis, the furnishing of natural
17 gas to residences for the benefit of their members who are
18 residential consumers of natural gas; and (iv) the ownership
19 or operation of a facility that sells compressed natural gas
20 at retail to the public for use only as a motor vehicle fuel
21 and the selling of compressed natural gas at retail to the
22 public for use only as a motor vehicle fuel.

23 "Gas utility" means a public utility, as defined in
24 Section 3-105 of this Act, that has a franchise, license,
25 permit, or right to furnish or sell gas to retail customers
26 within a service area.

27 "Residential customer" means a customer who receives gas
28 utility service for household purposes distributed to a
29 dwelling of 2 or fewer units which is billed under a
30 residential rate or gas utility service for household
31 purposes distributed to a dwelling unit or units which is
32 billed under a residential rate and is registered by a
33 separate meter for each dwelling unit.

34 "Service area" means (i) the geographic area within which

1 a gas utility was lawfully entitled to provide gas to retail
2 customers as of the effective date of this amendatory Act of
3 the 92nd General Assembly and includes (ii) the location of
4 any retail customer to which the gas utility was lawfully
5 providing gas utility services on such effective date.

6 "Tariffed service" means a service provided to retail
7 customers by a gas utility as defined by its rates on file
8 with the Commission pursuant to the provisions of Article IX
9 of this Act.

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

17 (220 ILCS 5/19-110 new)

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

19 (a) The provisions of this Section shall apply only to
20 alternative gas suppliers serving or seeking to serve
21 residential customers.

22 (b) An alternative gas supplier seeking a certificate of
23 service authority shall file with the Commission a verified
24 application containing information showing that the applicant
25 meets the requirements of this Section. The alternative gas
26 supplier shall publish notice of its application in the
27 official State newspaper within 10 days following the date of
28 its filing. No later than 45 days after the application is
29 properly filed with the Commission, and such notice is
30 published, the Commission shall issue its order granting or
31 denying the application.

32 (c) An application for a certificate of service
33 authority shall identify the area or areas in which the

1 applicant intends to offer service and the types of services
2 it intends to offer. An applicant may state in its
3 application for certification any limitations that will be
4 imposed on the number of customers or maximum load to be
5 served.

6 (d) The Commission shall grant the application for a
7 certificate of service authority if it makes the findings set
8 forth in this subsection based on the verified application
9 and such other information as the applicant may submit.

10 (1) That the applicant possess sufficient
11 technical, financial, and managerial resources and
12 abilities to provide the service for which it seeks a
13 certificate of service authority. In determining the
14 level of technical, financial, and managerial resources
15 and abilities which the applicant must demonstrate, the
16 Commission shall consider the characteristics, including
17 the size and financial sophistication of the customers
18 that the applicant seeks to serve.

19 (2) That the applicant will comply with all
20 applicable federal, State, regional, and industry rules,
21 policies, practices, and procedures related to gas
22 procurement and delivery.

23 (3) That the applicant will comply with such
24 informational or reporting requirements as the Commission
25 may be rule establish.

26 (4) With respect to an applicant that seeks to
27 serve residential customers, that the area to be served
28 by the applicant and any limitations it proposes on the
29 number of customers or maximum amount of load to be
30 served meet the provisions of Section 19-115, provided,
31 that the Commission can extend the time for considering
32 such a certificate request by up to 90 days, and can
33 schedule hearings on such a request.

34 (5) That the applicant will comply with all other

1 applicable laws and rules.

2 (e) The Commission shall have the authority to
3 promulgate rules to carry out the provisions of this Section.
4 Within 30 days after the effective date of this amendatory
5 Act of the 92nd General Assembly, the Commission shall adopt
6 an emergency rule or rules applicable to the certification of
7 those gas suppliers that seek to serve residential customers.
8 Within 180 days of the effective date of this amendatory Act
9 of the 92nd General Assembly, the Commission shall adopt
10 rules that specify criteria which, if met by any such
11 alternative gas supplier, shall constitute the demonstration
12 of technical, financial, and managerial resources and
13 abilities to provide service required by item (1) of
14 subsection (d) of this Section, such as a requirement to post
15 a bond or letter of credit, from a responsible surety or
16 financial institution, of sufficient size for the nature and
17 scope of the services to be provided, demonstration of
18 adequate insurance for the scope and nature of the services
19 to be provided, and experience in providing similar services
20 in other jurisdictions.

21 (220 ILCS 5/19-115 new)

22 Sec. 19-115. Obligations of alternative gas suppliers.

23 (a) The provisions of this Section shall apply only to
24 alternative gas suppliers serving or seeking to serve
25 residential customers.

26 (b) An alternative gas supplier shall:

27 (1) comply with the requirements imposed on public
28 utilities by Sections 8-201 through 8-207, 8-301, 8-505
29 and 8-507 of this Act, to the extent that these Sections
30 have application to the services being offered by the
31 alternative gas supplier; and

32 (2) continue to comply with the requirements for
33 certification stated in Section 19-110.

1 (c) An alternative gas supplier shall obtain verifiable
2 authorization from a customer, in a form or manner approved
3 by the Commission, before the customer is switched from
4 another supplier.

5 (d) No alternative gas supplier shall:

6 (1) enter into or employ any arrangements which
7 have the effect of preventing any customer from having
8 access to the services of the gas utility in whose
9 service area the customer is located; or

10 (2) charge retail customers for such access.

11 (e) An alternative gas supplier that is certified to
12 serve residential customers shall not deny service to a
13 customer or group of customers nor establish any differences
14 as to prices, terms, conditions, services, products,
15 facilities, or in any other respect, whereby such denial or
16 differences are based upon race, gender, or income.

17 (f) An alternative gas supplier shall comply with the
18 following requirements with respect to the marketing,
19 offering, and provision of products or services:

20 (1) Any marketing materials which make statements
21 concerning prices, terms, and conditions of service shall
22 contain information that adequately discloses the prices,
23 terms and conditions of the products or services.

24 (2) Before any customer is switched from another
25 supplier, the alternative gas supplier shall give the
26 customer written information that adequately discloses,
27 in plain language, the prices, terms, and conditions of
28 the products and services being offered and sold to the
29 customer.

30 (3) The alternative gas supplier shall provide to
31 the customer:

32 (A) itemized billing statements that describe
33 the products and services provided to the customer
34 and their prices; and

1 (B) an additional statement, at least
2 annually, that adequately discloses the average
3 monthly prices, and the terms and conditions of the
4 products and services sold to the customer.

5 (g) An alternative gas supplier may limit the overall
6 size or availability of a service offering by specifying one
7 or more of the following:

8 (1) a maximum number of customers and maximum
9 amount of gas load to be served;

10 (2) time period during which the offering will be
11 available; or

12 (3) other comparable limitation, but not including
13 the geographic locations of customers within the area
14 which the alternative gas supplier is certificated to
15 serve.

16 The alternative gas supplier shall file the terms and
17 conditions of such service offering including the applicable
18 limitations with the Commission prior to making the service
19 offering available to customers.

20 (h) Nothing in this Section shall be construed as
21 preventing an alternative gas supplier that is an affiliate
22 of, or which contracts with, (i) an industry or trade
23 organization or association, (ii) a membership organization
24 or association that exists for a purpose other than the
25 purchase of gas, or (iii) another organization that meets
26 criteria established in a rule adopted by the Commission from
27 offering through the organization or association services at
28 prices, terms and conditions that are available solely to the
29 members of the organization or association.

30 (220 ILCS 5/19-120 new)

31 Sec. 19-120. Commission oversight of services provided
32 by gas suppliers.

33 (a) The provisions of this Section shall apply only to

1 alternative gas suppliers serving or seeking to serve
2 residential customers.

3 (b) The Commission shall have jurisdiction in accordance
4 with the provisions of Article X of this Act to entertain and
5 dispose of any complaint against any alternative gas supplier
6 alleging that:

7 (1) the alternative gas supplier has violated or is
8 in nonconformance with any applicable provisions of
9 Section 19-110 or Section 19-115;

10 (2) an alternative gas supplier has failed to
11 provide service in accordance with the terms of its
12 contract or contracts with a customer or customers;

13 (3) the alternative gas supplier has violated or is
14 in nonconformance with the transportation services tariff
15 or any of its agreements relating to transportation
16 services with the gas utility or municipal system
17 providing transportation services; or

18 (4) the alternative gas supplier has violated or
19 failed to comply with the requirements of Sections 8-201
20 through 8-207, 8-301, 8-505, or 8-507 of this Act as made
21 applicable to alternative gas suppliers.

22 (c) The Commission shall have authority after notice and
23 hearing held on complaint or on the Commission's own motion
24 to:

25 (1) order an alternative gas supplier to cease and
26 desist, or correct, any violation of or nonconformance
27 with the provisions of Section 19-110 or 19-115;

28 (2) impose financial penalties for violations of or
29 nonconformances with the provisions of Section 19-110 or
30 19-115, not to exceed (i) \$10,000 per occurrence or (ii)
31 \$30,000 per day for those violations or nonconformances
32 which continue after the Commission issues a
33 cease-and-desist order; and

34 (3) alter, modify, revoke, or suspend the

1 certificate of service authority of an alternative gas
2 supplier for substantial or repeated violations of or
3 nonconformances with the provisions of Section 19-110 or
4 19-115."