

1 AN ACT concerning public utilities.

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
5 changing Section 16-102 as follows:

6 (220 ILCS 5/16-102)

7 Sec. 16-102. Definitions. For the purposes of this
8 Article the following terms shall be defined as set forth in
9 this Section.

10 "Alternative retail electric supplier" means every
11 person, cooperative, corporation, municipal corporation,
12 company, association, joint stock company or association,
13 firm, partnership, individual, or other entity, their
14 lessees, trustees, or receivers appointed by any court
15 whatsoever, that offers electric power or energy for sale,
16 lease or in exchange for other value received to one or more
17 retail customers, or that engages in the delivery or
18 furnishing of electric power or energy to such retail
19 customers, and shall include, without limitation, resellers,
20 aggregators and power marketers, but shall not include (i)
21 electric utilities (or any agent of the electric utility to
22 the extent the electric utility provides tariffed services to
23 retail customers through that agent), (ii) any electric
24 cooperative or municipal system as defined in Section 17-100
25 to the extent that the electric cooperative or municipal
26 system is serving retail customers within any area in which
27 it is or would be entitled to provide service under the law
28 in effect immediately prior to December 16, the--effective
29 ~~date--of--this-amendatory-Act-of~~ 1997, (iii) a public utility
30 that is owned and operated by any public institution of
31 higher education of this State, or a public utility that is

1 owned by such public institution of higher education and
2 operated by any of its lessees or operating agents, within
3 any area in which it is or would be entitled to provide
4 service under the law in effect immediately prior to the
5 effective date of this amendatory Act of 1997, (iv) a retail
6 customer to the extent that customer obtains its electric
7 power and energy from that customer's own cogeneration or
8 self-generation facilities, (v) an entity that owns,
9 operates, sells, or arranges for the installation of a
10 customer's own cogeneration or self-generation facilities,
11 but only to the extent the entity is engaged in owning,
12 selling or arranging for the installation of such facility,
13 or operating the facility on behalf of such customer,
14 provided however that any such third party owner or operator
15 of a facility built after January 1, 1999, complies with the
16 labor provisions of Section 16-128(a) as though such third
17 party were an alternative retail electric supplier, or (vi)
18 an industrial or manufacturing customer that owns its own
19 distribution facilities, to the extent that the customer
20 provides service from that distribution system to a
21 third-party contractor located on the customer's premises
22 that is integrally and predominantly engaged in the
23 customer's industrial or manufacturing process; provided,
24 that if the industrial or manufacturing customer has elected
25 delivery services, the customer shall pay transition charges
26 applicable to the electric power and energy consumed by the
27 third-party contractor unless such charges are otherwise paid
28 by the third party contractor, which shall be calculated
29 based on the usage of, and the base rates or the contract
30 rates applicable to, the third-party contractor in accordance
31 with Section 16-102.

32 "Base rates" means the rates for those tariffed services
33 that the electric utility is required to offer pursuant to
34 subsection (a) of Section 16-103 and that were identified in

1 a rate order for collection of the electric utility's base
2 rate revenue requirement, excluding (i) separate automatic
3 rate adjustment riders then in effect, (ii) special or
4 negotiated contract rates, (iii) delivery services tariffs
5 filed pursuant to Section 16-108, (iv) real-time pricing, or
6 (v) tariffs that were in effect prior to October 1, 1996 and
7 that based charges for services on an index or average of
8 other utilities' charges, but including (vi) any subsequent
9 redesign of such rates for tariffed services that is
10 authorized by the Commission after notice and hearing.

11 "Competitive service" includes (i) any service that has
12 been declared to be competitive pursuant to Section 16-113 of
13 this Act, (ii) contract service, and (iii) services, other
14 than tariffed services, that are related to, but not
15 necessary for, the provision of electric power and energy or
16 delivery services.

17 "Contract service" means (1) services, including the
18 provision of electric power and energy or other services,
19 that are provided by mutual agreement between an electric
20 utility and a retail customer that is located in the electric
21 utility's service area, provided that, delivery services
22 shall not be a contract service until such services are
23 declared competitive pursuant to Section 16-113; and also
24 means (2) the provision of electric power and energy by an
25 electric utility to retail customers outside the electric
26 utility's service area pursuant to Section 16-116. Provided,
27 however, contract service does not include electric utility
28 services provided pursuant to (i) contracts that retail
29 customers are required to execute as a condition of receiving
30 tariffed services, or (ii) special or negotiated rate
31 contracts for electric utility services that were entered
32 into between an electric utility and a retail customer prior
33 to the effective date of this amendatory Act of 1997 and
34 filed with the Commission.

1 "Delivery services" means those services provided by the
2 electric utility that are necessary in order for the
3 transmission and distribution systems to function so that
4 retail customers located in the electric utility's service
5 area can receive electric power and energy from suppliers
6 other than the electric utility, and shall include, without
7 limitation, standard metering and billing services.

8 "Electric utility" means a public utility, as defined in
9 Section 3-105 of this Act, that has a franchise, license,
10 permit or right to furnish or sell electricity to retail
11 customers within a service area.

12 "Mandatory transition period" means the period from the
13 effective date of this amendatory Act of 1997 through January
14 1, 2005.

15 "Municipal system" shall have the meaning set forth in
16 Section 17-100.

17 "Real-time pricing" means charges for delivered electric
18 power and energy that vary on an hour-to-hour basis for
19 nonresidential retail customers and that vary on a periodic
20 basis during the day for residential retail customers.

21 "Retail customer" means a single entity using electric
22 power or energy at a single premises and that (A) either (i)
23 is receiving or is eligible to receive tariffed services from
24 an electric utility, or (ii) that is served by a municipal
25 system or electric cooperative within any area in which the
26 municipal system or electric cooperative is or would be
27 entitled to provide service under the law in effect
28 immediately prior to the effective date of this amendatory
29 Act of 1997, or (B) an entity which on the effective date of
30 this Act was receiving electric service from a public utility
31 and (i) was engaged in the practice of resale and
32 redistribution of such electricity within a building prior to
33 January 2, 1957, or (ii) was providing lighting services to
34 tenants in a multi-occupancy building, but only to the extent

1 such resale, redistribution or lighting service is authorized
2 by the electric utility's tariffs that were on file with the
3 Commission on the effective date of this Act.

4 "Service area" means (i) the geographic area within which
5 an electric utility was lawfully entitled to provide electric
6 power and energy to retail customers as of the effective date
7 of this amendatory Act of 1997, and includes (ii) the
8 location of any retail customer to which the electric utility
9 was lawfully providing electric utility services on such
10 effective date.

11 "Small commercial retail customer" means those
12 nonresidential retail customers of an electric utility
13 consuming 15,000 kilowatt-hours or less of electricity
14 annually in its service area.

15 "Tariffed service" means services provided to retail
16 customers by an electric utility as defined by its rates on
17 file with the Commission pursuant to the provisions of
18 Article IX of this Act, but shall not include competitive
19 services.

20 "Transition charge" means a charge expressed in cents per
21 kilowatt-hour that is calculated for a customer or class of
22 customers as follows for each year in which an electric
23 utility is entitled to recover transition charges as provided
24 in Section 16-108:

25 (1) the amount of revenue that an electric utility
26 would receive from the retail customer or customers if it
27 were serving such customers' electric power and energy
28 requirements as a tariffed service based on (A) all of
29 the customers' actual usage during the 3 years ending 90
30 days prior to the date on which such customers were first
31 eligible for delivery services pursuant to Section
32 16-104, and (B) on (i) the base rates in effect on
33 October 1, 1996 (adjusted for the reductions required by
34 subsection (b) of Section 16-111, for any reduction

1 resulting from a rate decrease under Section 16-101(b),
2 for any restatement of base rates made in conjunction
3 with an elimination of the fuel adjustment clause
4 pursuant to subsection (b), (d), or (f) of Section 9-220
5 and for any removal of decommissioning costs from base
6 rates pursuant to Section 16-114) and any separate
7 automatic rate adjustment riders (other than a
8 decommissioning rate as defined in Section 16-114) under
9 which the customers were receiving or, had they been
10 customers, would have received electric power and energy
11 from the electric utility during the year immediately
12 preceding the date on which such customers were first
13 eligible for delivery service pursuant to Section 16-104,
14 or (ii) to the extent applicable, any contract rates,
15 including contracts or rates for consolidated or
16 aggregated billing, under which such customers were
17 receiving electric power and energy from the electric
18 utility during such year;

19 (2) less the amount of revenue, other than revenue
20 from transition charges and decommissioning rates, that
21 the electric utility would receive from such retail
22 customers for delivery services provided by the electric
23 utility, assuming such customers were taking delivery
24 services for all of their usage, based on the delivery
25 services tariffs in effect during the year for which the
26 transition charge is being calculated and on the usage
27 identified in paragraph (1);

28 (3) less the market value for the electric power
29 and energy that the electric utility would have used to
30 supply all of such customers' electric power and energy
31 requirements, as a tariffed service, based on the usage
32 identified in paragraph (1), with such market value
33 determined in accordance with Section 16-112 of this Act;

34 (4) less the following amount which represents the

1 amount to be attributed to new revenue sources and cost
2 reductions by the electric utility through the end of the
3 period for which transition costs are recovered pursuant
4 to Section 16-108, referred to in this Article XVI as a
5 "mitigation factor":

6 (A) for nonresidential retail customers, an
7 amount equal to the greater of (i) 0.5 cents per
8 kilowatt-hour during the period October 1, 1999
9 through December 31, 2004, 0.6 cents per
10 kilowatt-hour in calendar year 2005, and 0.9 cents
11 per kilowatt-hour in calendar year 2006, multiplied
12 in each year by the usage identified in paragraph
13 (1), or (ii) an amount equal to the following
14 percentages of the amount produced by applying the
15 applicable base rates (adjusted as described in
16 subparagraph (1)(B)) or contract rate to the usage
17 identified in paragraph (1): 8% for the period
18 October 1, 1999 through December 31, 2002, 10% in
19 calendar years 2003 and 2004, 11% in calendar year
20 2005 and 12% in calendar year 2006; and

21 (B) for residential retail customers, an
22 amount equal to the following percentages of the
23 amount produced by applying the base rates in effect
24 on October 1, 1996 (adjusted as described in
25 subparagraph (1)(B)) to the usage identified in
26 paragraph (1): (i) 6% from May 1, 2002 through
27 December 31, 2002, (ii) 7% in calendar years 2003
28 and 2004, (iii) 8% in calendar year 2005, and (iv)
29 10% in calendar year 2006;

30 (5) divided by the usage of such customers
31 identified in paragraph (1),
32 provided that the transition charge shall never be less than
33 zero.

34 "Unbundled service" means a component or constituent part

1 of a tariffed service which the electric utility subsequently
2 offers separately to its customers.

3 (Source: P.A. 90-561, eff. 12-16-97; 91-50, eff. 6-30-99.)