

1 AN ACT in relation to 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 adding  
5 Article XIX as follows:

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

7 ARTICLE XIX. ALTERNATIVE GAS SUPPLIER LAW

8 (220 ILCS 5/19-100 new)

9 Sec. 19-100. Short title. This Article may be cited as  
10 the Alternative Gas Supplier Law.

11 (220 ILCS 5/19-105 new)

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

15 "Alternative gas supplier" means every person,  
16 cooperative, corporation, municipal corporation, company,  
17 association, joint stock company or association, firm,  
18 partnership, individual, or other entity, their lessees,  
19 trustees, or receivers appointed by any court whatsoever,  
20 that offers gas for sale, lease, or in exchange for other  
21 value received to one or more customers, or that engages in  
22 the furnishing of gas to one or more customers, and shall  
23 include affiliated interests of a gas utility, resellers,  
24 aggregators and marketers, but shall not include (i) gas  
25 utilities (or any agent of the gas utility to the extent the  
26 gas utility provides tariffed services to customers through  
27 an agent); (ii) public utilities that are owned and operated  
28 by any political subdivision, public institution of higher  
29 education or municipal corporation of this State, or public

1 utilities that are owned by a political subdivision, public  
 2 institution of higher education, or municipal corporation and  
 3 operated by any of its lessees or operating agents; (iii)  
 4 residential natural gas cooperatives that are not-for-profit  
 5 corporations established for the purpose of administering and  
 6 operating, on a cooperative basis, the furnishing of natural  
 7 gas to residences for the benefit of their members who are  
 8 residential consumers of natural gas; and (iv) the ownership  
 9 or operation of a facility that sells compressed natural gas  
 10 at retail to the public for use only as a motor vehicle fuel  
 11 and the selling of compressed natural gas at retail to the  
 12 public for use only as a motor vehicle fuel.

13 "Gas utility" means a public utility, as defined in  
 14 Section 3-105 of this Act, that has a franchise, license,  
 15 permit, or right to furnish or sell gas or transportation  
 16 services to customers within a service area.

17 "Residential customer" means a customer who receives gas  
 18 utility service for household purposes distributed to a  
 19 dwelling of 2 or fewer units which is billed under a  
 20 residential rate or gas utility service for household  
 21 purposes distributed to a dwelling unit or units which is  
 22 billed under a residential rate and is registered by a  
 23 separate meter for each dwelling unit.

24 "Service area" means (i) the geographic area within which  
 25 a gas utility was lawfully entitled to provide gas to  
 26 customers as of the effective date of this amendatory Act of  
 27 the 92nd General Assembly and includes (ii) the location of  
 28 any customer to which the gas utility was lawfully providing  
 29 gas utility services on such effective date.

30 "Tariffed service" means a service provided to customers  
 31 by a gas utility as defined by its rates on file with the  
 32 Commission pursuant to the provisions of Article IX of this  
 33 Act.

34 "Transportation services" means those services provided

1 by the gas utility that are necessary in order for the  
2 storage, transmission and distribution systems to function so  
3 that customers located in the gas utility's service area can  
4 receive gas from suppliers other than the gas utility and  
5 shall include, without limitation, standard metering and  
6 billing services.

7 (220 ILCS 5/19-110 new)

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

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

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

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

1 published, the Commission shall issue its order granting or  
2 denying the application.

3 (d) An application for a certificate of service  
4 authority shall identify the area or areas in which the  
5 applicant intends to offer service and the types of services  
6 it intends to offer. Applicants that seek to serve  
7 residential customers within a geographic area that is  
8 smaller than a gas utility's service area shall submit  
9 evidence demonstrating that the designation of this smaller  
10 area does not violate Section 19-115. An applicant may state  
11 in its application for certification any limitations that  
12 will be imposed on the number of customers or maximum load to  
13 be served.

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

18 (1) That the applicant possess sufficient  
19 technical, financial, and managerial resources and  
20 abilities to provide the service for which it seeks a  
21 certificate of service authority. In determining the  
22 level of technical, financial, and managerial resources  
23 and abilities which the applicant must demonstrate, the  
24 Commission shall consider the characteristics, including  
25 the size and financial sophistication of the customers  
26 that the applicant seeks to serve, and shall consider  
27 whether the applicant seeks to provide gas using  
28 property, plant, and equipment that it owns, controls, or  
29 operates.

30 (2) That the applicant will comply with all  
31 applicable federal, State, regional, and industry rules,  
32 policies, practices, and procedures for the use,  
33 operation, and maintenance of the safety, integrity, and  
34 reliability of the gas transmission system.

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

4           (4) That the area to be served by the applicant and  
5           any limitations it proposes on the number of customers or  
6           maximum amount of load to be served meet the provisions  
7           of Section 19-115, provided, that if the applicant seeks  
8           to serve an area smaller than the service area of a gas  
9           utility or proposes other limitations on the number of  
10           customers or maximum amount of load to be served, the  
11           Commission can extend the time for considering such a  
12           certificate request by up to 90 days, and can schedule  
13           hearings on such a request.

14           (5) That the applicant will comply with all other  
15           applicable laws and rules.

16           (f) The Commission shall have the authority to  
17           promulgate rules to carry out the provisions of this Section.  
18           Within 30 days after the effective date of this amendatory  
19           Act of the 92nd General Assembly, the Commission shall adopt  
20           an emergency rule or rules applicable to the certification of  
21           those gas suppliers that seek to serve residential customers.  
22           Within 180 days of the effective date of this amendatory Act  
23           of the 92nd General Assembly, the Commission shall adopt  
24           rules that specify criteria which, if met by any such  
25           alternative gas supplier, shall constitute the demonstration  
26           of technical, financial, and managerial resources and  
27           abilities to provide service required by item (1) of  
28           subsection (e) of this Section, such as a requirement to post  
29           a bond or letter of credit, from a responsible surety or  
30           financial institution, of sufficient size for the nature and  
31           scope of the services to be provided, demonstration of  
32           adequate insurance for the scope and nature of the services  
33           to be provided, and experience in providing similar services  
34           in other jurisdictions.

1 (220 ILCS 5/19-115 new)

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

3 (a) The provisions of this Section shall apply only to  
4 alternative gas suppliers serving or seeking to serve  
5 residential customers and only to the extent such alternative  
6 gas suppliers provide services to residential customers.

7 (b) An alternative gas supplier shall:

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

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

15 (c) An alternative gas supplier shall obtain verifiable  
16 authorization from a customer, in a form or manner approved  
17 by the Commission, before the customer is switched from  
18 another supplier.

19 (d) No alternative gas supplier shall:

20 (1) enter into or employ any arrangements which  
21 have the effect of preventing any customer from having  
22 access to the services of the gas utility in whose  
23 service area the customer is located; or

24 (2) charge customers for such access.

25 (e) An alternative gas supplier that is certified to  
26 serve residential customers shall not:

27 (1) deny service to a customer or group of  
28 customers nor establish any differences as to prices,  
29 terms, conditions, services, products, facilities, or in  
30 any other respect, whereby such denial or differences are  
31 based upon race, gender, or income; or

32 (2) deny service based on locality, nor establish  
33 any unreasonable difference as to prices, terms,  
34 conditions, services, products, or facilities as between

1 localities.

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

5 (1) Any marketing materials which make statements  
6 concerning prices, terms, and conditions of service shall  
7 contain information that adequately discloses the prices,  
8 terms and conditions of the products or services.

9 (2) Before any customer is switched from another  
10 supplier, the alternative gas supplier shall give the  
11 customer written information that adequately discloses,  
12 in plain language, the prices, terms, and conditions of  
13 the products and services being offered and sold to the  
14 customer.

15 (3) The alternative gas supplier shall provide to  
16 the customer:

17 (A) itemized billing statements that describe  
18 the products and services provided to the customer  
19 and their prices; and

20 (B) an additional statement, at least  
21 annually, that adequately discloses the average  
22 monthly prices, and the terms and conditions, of the  
23 products and services sold to the customer.

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

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

29 (2) time period during which the offering will be  
30 available; or

31 (3) other comparable limitation, but not including  
32 the geographic locations of customers within the area  
33 which the alternative gas supplier is certificated to  
34 serve.

1       The alternative gas supplier shall file the terms and  
2       conditions of such service offering including the applicable  
3       limitations with the Commission prior to making the service  
4       offering available to customers.

5       (h) Nothing in this Section shall be construed as  
6       preventing an alternative gas supplier that is an affiliate  
7       of, or which contracts with, (i) an industry or trade  
8       organization or association, (ii) a membership organization  
9       or association that exists for a purpose other than the  
10       purchase of gas, or (iii) another organization that meets  
11       criteria established in a rule adopted by the Commission from  
12       offering through the organization or association services at  
13       prices, terms and conditions that are available solely to the  
14       members of the organization or association.

15       (220 ILCS 5/19-120 new)

16       Sec. 19-120. Commission oversight of services provided  
17       by gas suppliers.

18       (a) The provisions of this Section shall apply only to  
19       alternative gas suppliers serving or seeking to serve  
20       residential customers and only to the extent such alternative  
21       gas suppliers provide services to residential customers.

22       (b) The Commission shall have jurisdiction in accordance  
23       with the provisions of Article X of this Act to entertain and  
24       dispose of any complaint against any alternative gas supplier  
25       alleging that:

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

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

32               (3) the alternative gas supplier has violated or is  
33               in nonconformance with the transportation services tariff



1 of, or any of its agreements relating to transportation  
2 services with, the gas utility or municipal system  
3 providing transportation services; or

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

8 (c) The Commission shall have authority after notice and  
9 hearing held on complaint or on the Commission's own motion  
10 to:

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

14 (2) impose financial penalties for violations of or  
15 nonconformances with the provisions of Section 19-110 or  
16 19-115, not to exceed (i) \$10,000 per occurrence or (ii)  
17 \$30,000 per day for those violations or nonconformances  
18 which continue after the Commission issues a  
19 cease-and-desist order; and

20 (3) alter, modify, revoke, or suspend the  
21 certificate of service authority of an alternative gas  
22 supplier for substantial or repeated violations of or  
23 nonconformances with the provisions of Section 19-110 or  
24 19-115.

25 Section 99. Effective date. This Act takes effect upon  
26 becoming law.