

1 In addition to the foregoing, "reorganization" shall
2 include for purposes of this Section any transaction which,
3 regardless of the means by which it is accomplished, will
4 have the effect of terminating the affiliated interest status
5 of any entity as defined in paragraphs (a), (b), (c) or (d)
6 of subsection (2) of Section 7-101 of this Act where such
7 entity had transactions with the public utility, in the 12
8 calendar months immediately preceding the date of termination
9 of such affiliated interest status subject to subsection (3)
10 of Section 7-101 of this Act with a value greater than 15% of
11 the public utility's revenues for that same 12-month period.
12 If the proposed transaction would have the effect of
13 terminating the affiliated interest status of more than one
14 Illinois public utility, the utility with the greatest
15 revenues for the 12-month period shall be used to determine
16 whether such proposed transaction is a reorganization for the
17 purposes of this Section. The Commission shall have
18 jurisdiction over any reorganization as defined herein.

19 (b) No reorganization shall take place without prior
20 Commission approval. The Commission shall not approve any
21 proposed reorganization if the Commission finds, after notice
22 and hearing, that the reorganization will adversely affect
23 the utility's ability to perform its duties under this Act.
24 In reviewing any proposed reorganization, the Commission must
25 find that:

26 (1) the proposed reorganization will not diminish
27 the utility's ability to provide adequate, reliable,
28 efficient, safe and least-cost public utility service;

29 (2) the proposed reorganization will not result in
30 the unjustified subsidization of non-utility activities
31 by the utility or its customers;

32 (3) costs and facilities are fairly and reasonably
33 allocated between utility and non-utility activities in
34 such a manner that the Commission may identify those

1 costs and facilities which are properly included by the
2 utility for ratemaking purposes;

3 (4) the proposed reorganization will not
4 significantly impair the utility's ability to raise
5 necessary capital on reasonable terms or to maintain a
6 reasonable capital structure;

7 (5) the utility will remain subject to all
8 applicable laws, regulations, rules, decisions and
9 policies governing the regulation of Illinois public
10 utilities;

11 (6) the proposed reorganization is not likely to
12 have a significant adverse effect on competition in those
13 markets over which the Commission has jurisdiction;

14 (7) the proposed reorganization is not likely to
15 result in any adverse rate impacts on retail customers.

16 (c) The Commission shall not approve a reorganization
17 without ruling on: (i) the allocation of any savings
18 resulting from the proposed reorganization; and (ii) whether
19 the companies should be allowed to recover any costs incurred
20 in accomplishing the proposed reorganization and, if so, the
21 amount of costs eligible for recovery and how the costs will
22 be allocated.

23 (d) The Commission shall issue its Order approving or
24 denying the proposed reorganization within 11 months after
25 the application is filed. The Commission may extend the
26 deadline for a period equivalent to the length of any delay
27 which the Commission finds to have been caused by the
28 Applicant's failure to provide data or information requested
29 by the Commission or that the Commission ordered the
30 Applicant to provide to the parties. The Commission may also
31 extend the deadline by an additional period not to exceed 3
32 months to consider amendments to the Applicant's filing, or
33 to consider reasonably unforeseeable changes in circumstances
34 subsequent to the Applicant's initial filing.

1 (e) Subsections (c) and (d) and subparagraphs (6) and
2 (7) of subsection (b) of this Section shall apply only to
3 merger applications submitted to the Commission subsequent to
4 April 23, 1997. No other Commission approvals shall be
5 required for mergers that are subject to this Section.

6 (f) In approving any proposed reorganization pursuant to
7 this Section the Commission may impose such terms, conditions
8 or requirements as, in its judgment, are necessary to protect
9 the interests of the public utility and its customers.

10 (g) The Commission shall, within 9 months after an
11 application is filed, issue its Order approving or denying
12 any proposed reorganization involving the acquisition by a
13 public utility or its affiliate of all of the common stock or
14 substantially all of the operating assets, whether by merger,
15 creation and acquisition of a limited liability or other
16 company, or otherwise, of another public utility that has
17 secured debt which is, or was, within the year prior to the
18 filing of the application, rated below investment grade by at
19 least 3 nationally recognized rating agencies. The Commission
20 shall in such a proceeding review and approve, with or
21 without modification, the entries to be made as a result of
22 such reorganization on the books and records of the
23 reorganized public utility. The Commission shall also have
24 the authority in such a proceeding to approve a rate plan,
25 with or without modification, which if approved shall be in
26 effect for a 4-year term following the end of the mandatory
27 transition period defined in Section 16-102 of this Act, for
28 the retail bundled electric service rates of both the
29 reorganized public utility and of any public utility that is
30 affiliated, or becomes affiliated, with such public utility
31 as a result of the reorganization approved under this
32 subsection, provided that the proposed plan, along with
33 supporting testimony and data, is filed with the application.
34 The Commission may approve such a rate plan if it finds that

1 such plan (i) is likely to promote rate certainty and reduce
2 exposure to volatile energy prices for those customers with
3 maximum electric demands of less than 1 MW, (ii) is likely to
4 assist the utilities in managing risk, raising necessary
5 capital on reasonable terms, and providing reliable electric
6 service, (iii) is likely to generate sufficient revenues so
7 as to provide each utility an adequate opportunity to recover
8 its expected costs of providing service and earn a reasonable
9 return of and on its invested capital, and (iv) is just and
10 reasonable and consistent with the goals and objectives
11 stated in Section 16-101A of this Act. If it approves such a
12 plan, the Commission shall also have the authority to extend
13 the provisions of subsections (d) and (e) of Section 16-111
14 of this Act (as modified by Section 16-111.3) for the period
15 in which such rate plan is in effect, using information
16 applicable to such period. The Commission shall also have the
17 authority to review in such proceeding the prudence and
18 reasonableness of any purchased power agreement entered into
19 by the electric utilities, the costs of which are reflected
20 in the rate plan. The Commission's approval of the rate plan
21 shall also be conditioned on completion of the proposed
22 reorganization, and shall be subject to the Commission's
23 authority pursuant to subsection (f) above to impose such
24 terms, conditions, or requirements as, in its judgment, are
25 necessary to protect the interests of the public utilities
26 and their customers. The filing, approval, and implementation
27 of a rate plan pursuant to this subsection shall comply with
28 the provisions of 83 Illinois Administrative Code Parts 285,
29 286, and 287, provided that the Commission shall have the
30 authority to grant appropriate waivers from those parts based
31 on requests for waivers filed at least 14 days prior to the
32 filing of the application, and to require the filing of such
33 additional information as determined by the Commission to
34 support a just and reasonable plan for a 4-year term

1 following the end of the mandatory transition period. If the
2 reorganization involves the sale or transfer of operating
3 assets, then notwithstanding any other provision of law or
4 any rule or regulation, the Commission shall also in such
5 proceeding make such other determinations and approvals as
6 may be necessary to implement the reorganization and provide
7 for an orderly transition, including, but not limited to,
8 providing for the adoption by the reorganized public utility
9 of existing rates, terms, and conditions not addressed in a
10 rate plan (including those filed pursuant to Section 16-108
11 or Article XVIII of this Act), the abandonment, transfer or
12 granting of certificates, or the assignment of service area
13 agreements.

14 (Source: P.A. 90-561, eff. 12-16-97.)

15 (220 ILCS 5/8-402.2 new)

16 Sec. 8-402.2. Renewable energy portfolio standard.

17 (a) The objective of this Section is to ensure the
18 development and use of economical renewable energy resources
19 consistent with the goals stated in Section 5 of the Illinois
20 Resource Development and Energy Security Act and specifically
21 to assess whether the State's electric energy providers can
22 economically provide at least 8% of the energy used within
23 the State through renewable energy resources by the end of
24 the year 2010, and 10% by the end of the year 2012.

25 (b) An electric utility, as defined in Section 16-102 of
26 this Act, that serves over one million customers within this
27 State, and any electric utility that is affiliated with such
28 an electric utility, shall use its best efforts to procure by
29 the end of 2005 renewable energy resources equal to at least
30 2% of the electric energy to be sold by the electric utility
31 to retail customers within its service area during the
32 following calendar year, and procure by the end of 2006
33 renewable energy resources equal to at least 3% of the

1 electric energy to be sold by the electric utility to retail
2 customers within its service area during the following
3 calendar year. This provision is, however, contingent on the
4 continued existence of federal wind energy production tax
5 credits enacted as part of the Energy Policy Act of 1992.
6 Such electric utilities shall report to the Commission on
7 their efforts and on their compliance with these standards by
8 April 1 of 2006 and 2007, respectively. Violations of this
9 Section shall be subject to the penalties provided for in
10 Section 5-202 of this Act and assessed through the process
11 provided for in Section 4-203.

12 (c) During calendar year 2007, the Commission, together
13 with the Department of Commerce and Economic Opportunity,
14 shall evaluate the availability and use of renewable energy
15 resources within this State and shall also consider the
16 feasibility of adoption of an enforceable mandatory renewable
17 energy resource portfolio standard to be applicable to all
18 electric utilities and all alternative retail electric
19 suppliers as defined in Section 16-102 of this Act. The
20 Commission and the Department shall specifically evaluate the
21 feasibility and cost effectiveness of a mandatory renewable
22 energy resource portfolio standard of at least 10% by the end
23 of calendar year 2012, and may require electric utilities and
24 alternative retail electric suppliers to introduce evidence
25 as to their ability to meet such a standard. As part of such
26 investigation, the Commission and the Department shall
27 evaluate and consider the adequacy of existing generation
28 capacity and the availability of renewable energy resources
29 in the State and in the region, the effect of a mandatory
30 standard on the costs and reliability of electric service,
31 the continued availability of federal tax credits, the
32 development at both the State and federal levels of the
33 infrastructure and rules and regulations that promote the
34 development and utilization of renewable energy resources,

1 the effect of a mandatory standard on the development of
2 competition in the provision of such service, the impact on
3 the environment, quality of life, and employment in the
4 State, and any other factors affecting the State's economy.
5 The Commission and the Department shall report on their
6 findings to the General Assembly, and shall include in such
7 report recommendations for further legislative changes.

8 (d) The Commission and the Department shall work with
9 other state agencies in the Midwest to ensure reciprocal
10 acceptance of renewable energy credits and certificates from
11 resources located in Illinois for purposes of such other
12 state's renewable portfolio standards.

13 (e) Costs associated with the procurement of renewable
14 energy resources pursuant to this Section shall be fully
15 recoverable from retail customers to the extent allowed by
16 law and shall not be subject to any limitations stated in
17 subsection (i) of Section 16-111 of this Act relating to the
18 recovery of the power and energy cost component in tariffed
19 rates. Costs associated with contracts that were prudent when
20 entered into pursuant to this Section shall not subsequently
21 be denied recovery due to changes in State or federal law.

22 (f) For purposes of this Section, "renewable energy
23 resources" shall have the meaning as set forth in subsection
24 (f) of Section 6-3 of the Renewable Energy, Energy
25 Efficiency, and Coal Resources Development Law of 1997 and
26 shall include renewable energy credits or certificates
27 associated with such resources. Provided, however, that
28 energy from landfill gas shall not be counted as a renewable
29 energy resource to the extent that such energy exceeds 27.5%
30 of an electric utility's or alternative retail electric
31 supplier's renewable energy resources portfolio. Provided
32 further that renewable energy resources shall only be counted
33 for purposes of meeting the standards set forth above if they
34 are based on or relate to production or generation in this

1 State or in an adjacent ozone non-attainment area as
2 designated by the federal Environmental Protection Agency or
3 in a state that has entered into a reciprocity agreement with
4 Illinois as provided in subsection (d) above.

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