



Rep. Kevin A. McCarthy

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1 AMENDMENT TO SENATE BILL 1652

2 AMENDMENT NO. _____. Amend Senate Bill 1652 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Power Agency Act is amended by
5 adding Sections 1-56A and 1-76 as follows:

6 (20 ILCS 3855/1-56A new)

7 Sec. 1-56A. Distributed renewable energy generation
8 devices.

9 (a) Of the renewable energy resources procured pursuant to
10 Section 1-56 of this Act, at least the following percentages
11 shall come from distributed renewable energy generation
12 devices: 0.5% by June 1, 2013, 0.75% by June 1, 2014, and 1% by
13 June 1, 2015 and thereafter. To the extent available, half of
14 the renewable energy resources procured from distributed
15 renewable energy generation shall come from devices of less
16 than 25 kilowatts in nameplate capacity. Renewable energy

1 resources procured from distributed renewable energy
2 generation devices may also count towards the required
3 percentages for wind and solar photovoltaics. Procurement of
4 renewable energy resources from distributed renewable energy
5 generation devices shall be done on an annual basis through
6 multi-year contracts of no less than 5 years and shall consist
7 solely of renewable energy credits.

8 The Agency shall create credit requirements for suppliers
9 of distributed renewable energy. In order to minimize the
10 administrative burden on contracting entities, the Agency
11 shall solicit the use of third-party organizations to aggregate
12 distributed renewable energy into groups of no less than one
13 megawatt in installed capacity. These third-party
14 organizations shall administer contracts with individual
15 distributed renewable energy generation device owners. An
16 individual distributed renewable energy generation device
17 owner shall have the ability to measure the output of his or
18 her distributed renewable energy generation device.

19 For purposes of this subsection (a), "distributed
20 renewable energy generation device" means a device that is: (1)
21 powered by wind, solar thermal energy, photovoltaic cells and
22 panels, biodiesel, crops and untreated and unadulterated
23 organic waste biomass, tree waste, and hydropower that does not
24 involve new construction or significant expansion of
25 hydropower dams; (2) interconnected at the distribution system
26 level of an electric utility as defined in Section 1-10 of this

1 Act, an alternative retail electric supplier as defined in
2 Section 16-102 of the Public Utilities Act, a municipal utility
3 as defined in Section 3-105 of the Public Utilities Act, or a
4 rural electric cooperative as defined in Section 3-119 of the
5 Public Utilities Act; (3) located on the customer side of the
6 customer's electric meter and is primarily used to offset that
7 customer's electricity load; and (4) limited in nameplate
8 capacity to no more than 2,000 kilowatts.

9 (b) The Agency's procurement of renewable energy resources
10 pursuant to subsection (c) of Section 1-56 of this Act shall,
11 whenever possible, include entering into long-term contracts
12 on an annual basis for a portion of the incremental requirement
13 for the given procurement year.

14 (c) If Section 16-108.5 of the Public Utilities Act becomes
15 inoperative with respect to one or more participating utilities
16 as set forth in subsection (g) or (h) of that Section, then
17 Sections 1-56A and 1-76 of this Act and Sections 8-103A,
18 16-108.5, 16-108.6, 16-108.7, 16-108.8, and 16-111.5B of the
19 Public Utilities Act shall become inoperative as to each
20 affected utility and its service area on the same date as
21 Section 16-108.5 becomes inoperative.

22 (20 ILCS 3855/1-76 new)

23 Sec. 1-76. Distributed renewable energy generation
24 devices.

25 (a) Of the renewable energy resources procured pursuant to

1 Section 1-75 of this Act, at least the following percentages
2 shall come from distributed renewable energy generation
3 devices: 0.5% by June 1, 2013, 0.75% by June 1, 2014, and 1% by
4 June 1, 2015 and thereafter. To the extent available, half of
5 the renewable energy resources procured from distributed
6 renewable energy generation shall come from devices of less
7 than 25 kilowatts in nameplate capacity. Renewable energy
8 resources procured from distributed renewable energy
9 generation devices may also count towards the required
10 percentages for wind and solar photovoltaics. Procurement of
11 renewable energy resources from distributed renewable energy
12 generation devices shall be done on an annual basis through
13 multi-year contracts of no less than 5 years and shall consist
14 solely of renewable energy credits.

15 The Agency shall create credit requirements for suppliers
16 of distributed renewable energy. In order to minimize the
17 administrative burden on contracting entities, the Agency
18 shall solicit the use of third-party organizations to aggregate
19 distributed renewable energy into groups of no less than one
20 megawatt in installed capacity. These third-party
21 organizations shall administer contracts with individual
22 distributed renewable energy generation device owners. An
23 individual distributed renewable energy generation device
24 owner shall have the ability to measure the output of his or
25 her distributed renewable energy generation device.

26 For purposes of this subsection (a), "distributed

1 renewable energy generation device" has the same meaning as set
2 forth in Section 1-56A of this Act.

3 (b) If Section 16-108.5 of the Public Utilities Act becomes
4 inoperative with respect to one or more participating utilities
5 as set forth in subsection (g) or (h) of that Section, then
6 Sections 1-56A and 1-76 of this Act and Sections 8-103A,
7 16-108.5, 16-108.6, 16-108.7, 16-108.8, and 16-111.5B of the
8 Public Utilities Act shall become inoperative as to each
9 affected utility and its service area on the same date as
10 Section 16-108.5 becomes inoperative.

11 Section 10. The Public Utilities Act is amended by changing
12 Sections 8-103, 16-107.5, 16-111.5, 16-111.7, and 16-128 and by
13 adding Sections 8-103A, 16-108.5, 16-108.6, 16-108.7,
14 16-108.8, 16-111.5B, and 16-128A as follows:

15 (220 ILCS 5/8-103)

16 Sec. 8-103. Energy efficiency and demand-response
17 measures.

18 (a) It is the policy of the State that electric utilities
19 are required to use cost-effective energy efficiency and
20 demand-response measures to reduce delivery load. Requiring
21 investment in cost-effective energy efficiency and
22 demand-response measures will reduce direct and indirect costs
23 to consumers by decreasing environmental impacts and by
24 avoiding or delaying the need for new generation, transmission,

1 and distribution infrastructure. It serves the public interest
2 to allow electric utilities to recover costs for reasonably and
3 prudently incurred expenses for energy efficiency and
4 demand-response measures. As used in this Section,
5 "cost-effective" means that the measures satisfy the total
6 resource cost test. The low-income measures described in
7 subsection (f) (4) of this Section shall not be required to meet
8 the total resource cost test. For purposes of this Section, the
9 terms "energy-efficiency", "demand-response", "electric
10 utility", and "total resource cost test" shall have the
11 meanings set forth in the Illinois Power Agency Act. For
12 purposes of this Section, the amount per kilowatthour means the
13 total amount paid for electric service expressed on a per
14 kilowatthour basis. For purposes of this Section, the total
15 amount paid for electric service includes without limitation
16 estimated amounts paid for supply, transmission, distribution,
17 surcharges, and add-on-taxes.

18 (b) Electric utilities shall implement cost-effective
19 energy efficiency measures to meet the following incremental
20 annual energy savings goals:

21 (1) 0.2% of energy delivered in the year commencing
22 June 1, 2008;

23 (2) 0.4% of energy delivered in the year commencing
24 June 1, 2009;

25 (3) 0.6% of energy delivered in the year commencing
26 June 1, 2010;

1 (4) 0.8% of energy delivered in the year commencing
2 June 1, 2011;

3 (5) 1% of energy delivered in the year commencing June
4 1, 2012;

5 (6) 1.4% of energy delivered in the year commencing
6 June 1, 2013;

7 (7) 1.8% of energy delivered in the year commencing
8 June 1, 2014; and

9 (8) 2% of energy delivered in the year commencing June
10 1, 2015 and each year thereafter.

11 (c) Electric utilities shall implement cost-effective
12 demand-response measures to reduce peak demand by 0.1% over the
13 prior year for eligible retail customers, as defined in Section
14 16-111.5 of this Act, and for customers that elect hourly
15 service from the utility pursuant to Section 16-107 of this
16 Act, provided those customers have not been declared
17 competitive. This requirement commences June 1, 2008 and
18 continues for 10 years.

19 (d) Notwithstanding the requirements of subsections (b)
20 and (c) of this Section, an electric utility shall reduce the
21 amount of energy efficiency and demand-response measures
22 implemented in any single year by an amount necessary to limit
23 the estimated average increase in the amounts paid by retail
24 customers in connection with electric service due to the cost
25 of those measures to:

26 (1) in 2008, no more than 0.5% of the amount paid per

1 kilowatthour by those customers during the year ending May
2 31, 2007;

3 (2) in 2009, the greater of an additional 0.5% of the
4 amount paid per kilowatthour by those customers during the
5 year ending May 31, 2008 or 1% of the amount paid per
6 kilowatthour by those customers during the year ending May
7 31, 2007;

8 (3) in 2010, the greater of an additional 0.5% of the
9 amount paid per kilowatthour by those customers during the
10 year ending May 31, 2009 or 1.5% of the amount paid per
11 kilowatthour by those customers during the year ending May
12 31, 2007;

13 (4) in 2011, the greater of an additional 0.5% of the
14 amount paid per kilowatthour by those customers during the
15 year ending May 31, 2010 or 2% of the amount paid per
16 kilowatthour by those customers during the year ending May
17 31, 2007; and

18 (5) thereafter, the amount of energy efficiency and
19 demand-response measures implemented for any single year
20 shall be reduced by an amount necessary to limit the
21 estimated average net increase due to the cost of these
22 measures included in the amounts paid by eligible retail
23 customers in connection with electric service to no more
24 than the greater of 2.015% of the amount paid per
25 kilowatthour by those customers during the year ending May
26 31, 2007 or the incremental amount per kilowatthour paid

1 for these measures in 2011.

2 No later than June 30, 2011, the Commission shall review
3 the limitation on the amount of energy efficiency and
4 demand-response measures implemented pursuant to this Section
5 and report to the General Assembly its findings as to whether
6 that limitation unduly constrains the procurement of energy
7 efficiency and demand-response measures.

8 (e) Electric utilities shall be responsible for overseeing
9 the design, development, and filing of energy efficiency and
10 demand-response plans with the Commission. Electric utilities
11 shall implement 100% of the demand-response measures in the
12 plans. Electric utilities shall implement 75% of the energy
13 efficiency measures approved by the Commission, and may, as
14 part of that implementation, outsource various aspects of
15 program development and implementation. The remaining 25% of
16 those energy efficiency measures approved by the Commission
17 shall be implemented by the Department of Commerce and Economic
18 Opportunity, and must be designed in conjunction with the
19 utility and the filing process. The Department may outsource
20 development and implementation of energy efficiency measures.
21 A minimum of 10% of the entire portfolio of cost-effective
22 energy efficiency measures shall be procured from units of
23 local government, municipal corporations, school districts,
24 and community college districts. The Department shall
25 coordinate the implementation of these measures.

26 The apportionment of the dollars to cover the costs to

1 implement the Department's share of the portfolio of energy
2 efficiency measures shall be made to the Department once the
3 Department has executed grants or contracts for energy
4 efficiency measures and provided supporting documentation for
5 those grants and the contracts to the utility.

6 The details of the measures implemented by the Department
7 shall be submitted by the Department to the Commission in
8 connection with the utility's filing regarding the energy
9 efficiency and demand-response measures that the utility
10 implements.

11 A utility providing approved energy efficiency and
12 demand-response measures in the State shall be permitted to
13 recover costs of those measures through an automatic adjustment
14 clause tariff filed with and approved by the Commission. The
15 tariff shall be established outside the context of a general
16 rate case. Each year the Commission shall initiate a review to
17 reconcile any amounts collected with the actual costs and to
18 determine the required adjustment to the annual tariff factor
19 to match annual expenditures.

20 Each utility shall include, in its recovery of costs, the
21 costs estimated for both the utility's and the Department's
22 implementation of energy efficiency and demand-response
23 measures. Costs collected by the utility for measures
24 implemented by the Department shall be submitted to the
25 Department pursuant to Section 605-323 of the Civil
26 Administrative Code of Illinois and shall be used by the

1 Department solely for the purpose of implementing these
2 measures. A utility shall not be required to advance any moneys
3 to the Department but only to forward such funds as it has
4 collected. The Department shall report to the Commission on an
5 annual basis regarding the costs actually incurred by the
6 Department in the implementation of the measures. Any changes
7 to the costs of energy efficiency measures as a result of plan
8 modifications shall be appropriately reflected in amounts
9 recovered by the utility and turned over to the Department.

10 The portfolio of measures, administered by both the
11 utilities and the Department, shall, in combination, be
12 designed to achieve the annual savings targets described in
13 subsections (b) and (c) of this Section, as modified by
14 subsection (d) of this Section.

15 The utility and the Department shall agree upon a
16 reasonable portfolio of measures and determine the measurable
17 corresponding percentage of the savings goals associated with
18 measures implemented by the utility or Department.

19 No utility shall be assessed a penalty under subsection (f)
20 of this Section for failure to make a timely filing if that
21 failure is the result of a lack of agreement with the
22 Department with respect to the allocation of responsibilities
23 or related costs or target assignments. In that case, the
24 Department and the utility shall file their respective plans
25 with the Commission and the Commission shall determine an
26 appropriate division of measures and programs that meets the

1 requirements of this Section.

2 If the Department is unable to meet incremental annual
3 performance goals for the portion of the portfolio implemented
4 by the Department, then the utility and the Department shall
5 jointly submit a modified filing to the Commission explaining
6 the performance shortfall and recommending an appropriate
7 course going forward, including any program modifications that
8 may be appropriate in light of the evaluations conducted under
9 item (7) of subsection (f) of this Section. In this case, the
10 utility obligation to collect the Department's costs and turn
11 over those funds to the Department under this subsection (e)
12 shall continue only if the Commission approves the
13 modifications to the plan proposed by the Department.

14 (f) No later than November 15, 2007, each electric utility
15 shall file an energy efficiency and demand-response plan with
16 the Commission to meet the energy efficiency and
17 demand-response standards for 2008 through 2010. No later than
18 October 1, 2010, each electric utility shall file an energy
19 efficiency and demand-response plan with the Commission to meet
20 the energy efficiency and demand-response standards for 2011
21 through 2013. Every 3 years thereafter, each electric utility
22 shall file, no later than September ~~October~~ 1, an energy
23 efficiency and demand-response plan with the Commission. If a
24 utility does not file such a plan by September ~~October~~ 1 of an
25 applicable year, it shall face a penalty of \$100,000 per day
26 until the plan is filed. Each utility's plan shall set forth

1 the utility's proposals to meet the utility's portion of the
2 energy efficiency standards identified in subsection (b) and
3 the demand-response standards identified in subsection (c) of
4 this Section as modified by subsections (d) and (e), taking
5 into account the unique circumstances of the utility's service
6 territory. The Commission shall seek public comment on the
7 utility's plan and shall issue an order approving or
8 disapproving each plan within 5 ~~3~~ months after its submission.
9 If the Commission disapproves a plan, the Commission shall,
10 within 30 days, describe in detail the reasons for the
11 disapproval and describe a path by which the utility may file a
12 revised draft of the plan to address the Commission's concerns
13 satisfactorily. If the utility does not refile with the
14 Commission within 60 days, the utility shall be subject to
15 penalties at a rate of \$100,000 per day until the plan is
16 filed. This process shall continue, and penalties shall accrue,
17 until the utility has successfully filed a portfolio of energy
18 efficiency and demand-response measures. Penalties shall be
19 deposited into the Energy Efficiency Trust Fund. In submitting
20 proposed energy efficiency and demand-response plans and
21 funding levels to meet the savings goals adopted by this Act
22 the utility shall:

- 23 (1) Demonstrate that its proposed energy efficiency
24 and demand-response measures will achieve the requirements
25 that are identified in subsections (b) and (c) of this
26 Section, as modified by subsections (d) and (e).

1 (2) Present specific proposals to implement new
2 building and appliance standards that have been placed into
3 effect.

4 (3) Present estimates of the total amount paid for
5 electric service expressed on a per kilowatthour basis
6 associated with the proposed portfolio of measures
7 designed to meet the requirements that are identified in
8 subsections (b) and (c) of this Section, as modified by
9 subsections (d) and (e).

10 (4) Coordinate with the Department to present a
11 portfolio of energy efficiency measures proportionate to
12 the share of total annual utility revenues in Illinois from
13 households at or below 150% of the poverty level. The
14 energy efficiency programs shall be targeted to households
15 with incomes at or below 80% of area median income.

16 (5) Demonstrate that its overall portfolio of energy
17 efficiency and demand-response measures, not including
18 programs covered by item (4) of this subsection (f), are
19 cost-effective using the total resource cost test and
20 represent a diverse cross-section of opportunities for
21 customers of all rate classes to participate in the
22 programs.

23 (6) Include a proposed cost-recovery tariff mechanism
24 to fund the proposed energy efficiency and demand-response
25 measures and to ensure the recovery of the prudently and
26 reasonably incurred costs of Commission-approved programs.

1 (7) Provide for an annual independent evaluation of the
2 performance of the cost-effectiveness of the utility's
3 portfolio of measures and the Department's portfolio of
4 measures, as well as a full review of the 3-year results of
5 the broader net program impacts and, to the extent
6 practical, for adjustment of the measures on a
7 going-forward basis as a result of the evaluations. The
8 resources dedicated to evaluation shall not exceed 3% of
9 portfolio resources in any given year.

10 (g) No more than 3% of energy efficiency and
11 demand-response program revenue may be allocated for
12 demonstration of breakthrough equipment and devices.

13 (h) This Section does not apply to an electric utility that
14 on December 31, 2005 provided electric service to fewer than
15 100,000 customers in Illinois.

16 (i) If, after 2 years, an electric utility fails to meet
17 the efficiency standard specified in subsection (b) of this
18 Section, as modified by subsections (d) and (e), it shall make
19 a contribution to the Low-Income Home Energy Assistance
20 Program. The combined total liability for failure to meet the
21 goal shall be \$1,000,000, which shall be assessed as follows: a
22 large electric utility shall pay \$665,000, and a medium
23 electric utility shall pay \$335,000. If, after 3 years, an
24 electric utility fails to meet the efficiency standard
25 specified in subsection (b) of this Section, as modified by
26 subsections (d) and (e), it shall make a contribution to the

1 Low-Income Home Energy Assistance Program. The combined total
2 liability for failure to meet the goal shall be \$1,000,000,
3 which shall be assessed as follows: a large electric utility
4 shall pay \$665,000, and a medium electric utility shall pay
5 \$335,000. In addition, the responsibility for implementing the
6 energy efficiency measures of the utility making the payment
7 shall be transferred to the Illinois Power Agency if, after 3
8 years, or in any subsequent 3-year period, the utility fails to
9 meet the efficiency standard specified in subsection (b) of
10 this Section, as modified by subsections (d) and (e). The
11 Agency shall implement a competitive procurement program to
12 procure resources necessary to meet the standards specified in
13 this Section as modified by subsections (d) and (e), with costs
14 for those resources to be recovered in the same manner as
15 products purchased through the procurement plan as provided in
16 Section 16-111.5. The Director shall implement this
17 requirement in connection with the procurement plan as provided
18 in Section 16-111.5.

19 For purposes of this Section, (i) a "large electric
20 utility" is an electric utility that, on December 31, 2005,
21 served more than 2,000,000 electric customers in Illinois; (ii)
22 a "medium electric utility" is an electric utility that, on
23 December 31, 2005, served 2,000,000 or fewer but more than
24 100,000 electric customers in Illinois; and (iii) Illinois
25 electric utilities that are affiliated by virtue of a common
26 parent company are considered a single electric utility.

1 (j) If, after 3 years, or any subsequent 3-year period, the
2 Department fails to implement the Department's share of energy
3 efficiency measures required by the standards in subsection
4 (b), then the Illinois Power Agency may assume responsibility
5 for and control of the Department's share of the required
6 energy efficiency measures. The Agency shall implement a
7 competitive procurement program to procure resources necessary
8 to meet the standards specified in this Section, with the costs
9 of these resources to be recovered in the same manner as
10 provided for the Department in this Section.

11 (k) No electric utility shall be deemed to have failed to
12 meet the energy efficiency standards to the extent any such
13 failure is due to a failure of the Department or the Agency.

14 (Source: P.A. 95-481, eff. 8-28-07; 95-876, eff. 8-21-08;
15 96-33, eff. 7-10-09; 96-159, eff. 8-10-09; 96-1000, eff.
16 7-2-10.)

17 (220 ILCS 5/8-103A new)

18 Sec. 8-103A. Energy efficiency analysis.

19 (a) Beginning in 2013, an electric utility subject to the
20 requirements of Section 8-103 of this Act shall include in its
21 energy efficiency and demand-response plan submitted pursuant
22 to subsection (f) of Section 8-103 an analysis of additional
23 cost-effective energy efficiency measures that could be
24 implemented, by customer class, absent the limitations set
25 forth in subsection (d) of Section 8-103. In seeking public

1 comment on the electric utility's plan pursuant to subsection
2 (f) of Section 8-103, the Commission shall include, beginning
3 in 2013, the assessment of additional cost-effective energy
4 efficiency measures submitted pursuant to this Section. For
5 purposes of this Section, the term "energy efficiency" shall
6 have the meaning set forth in Section 1-10 of the Illinois
7 Power Agency Act, and the term "cost-effective" shall have the
8 meaning set forth in subsection (a) of Section 8-103 of this
9 Act.

10 (b) If Section 16-108.5 of this Act becomes inoperative
11 with respect to one or more participating utilities as set
12 forth in subsection (g) or (h) of that Section, then Sections
13 1-56A and 1-76 of the Illinois Power Agency Act and Sections
14 8-103A, 16-108.5, 16-108.6, 16-108.7, 16-108.8, and 16-111.5B
15 of this Act shall become inoperative as to each affected
16 utility and its service area on the same date as Section
17 16-108.5 becomes inoperative.

18 (220 ILCS 5/16-107.5)

19 Sec. 16-107.5. Net electricity metering.

20 (a) The Legislature finds and declares that a program to
21 provide net electricity metering, as defined in this Section,
22 for eligible customers can encourage private investment in
23 renewable energy resources, stimulate economic growth, enhance
24 the continued diversification of Illinois' energy resource
25 mix, and protect the Illinois environment.

1 (b) As used in this Section, (i) "eligible customer" means
2 a retail customer that owns or operates a solar, wind, or other
3 eligible renewable electrical generating facility with a rated
4 capacity of not more than 2,000 kilowatts that is located on
5 the customer's premises and is intended primarily to offset the
6 customer's own electrical requirements; (ii) "electricity
7 provider" means an electric utility or alternative retail
8 electric supplier; (iii) "eligible renewable electrical
9 generating facility" means a generator powered by solar
10 electric energy, wind, dedicated crops grown for electricity
11 generation, agricultural residues, untreated and unadulterated
12 wood waste, landscape trimmings, livestock manure, anaerobic
13 digestion of livestock or food processing waste, fuel cells or
14 microturbines powered by renewable fuels, or hydroelectric
15 energy; and (iv) "net electricity metering" (or "net metering")
16 means the measurement, during the billing period applicable to
17 an eligible customer, of the net amount of electricity supplied
18 by an electricity provider to the customer's premises or
19 provided to the electricity provider by the customer.

20 (c) A net metering facility shall be equipped with metering
21 equipment that can measure the flow of electricity in both
22 directions at the same rate.

23 (1) For eligible ~~residential~~ customers whose electric
24 service has not been declared competitive pursuant to
25 Section 16-113 of this Act and whose electric delivery
26 service is provided and measured on a kilowatt-hour basis

1 and electric supply service is not provided based on hourly
2 pricing, this shall typically be accomplished through use
3 of a single, bi-directional meter. If the eligible
4 customer's existing electric revenue meter does not meet
5 this requirement, the electricity provider shall arrange
6 for the local electric utility or a meter service provider
7 to install and maintain a new revenue meter at the
8 electricity provider's expense.

9 (2) For eligible customers whose electric service has
10 not been declared competitive pursuant to Section 16-113 of
11 this Act and whose electric delivery service is provided
12 and measured on a kilowatt demand basis and electric supply
13 service is not provided based on hourly pricing, this shall
14 typically be accomplished through use of a dual channel
15 meter capable of measuring the flow of electricity both
16 into and out of the customer's facility at the same rate
17 and ratio. If such customer's existing electric revenue
18 meter does not meet this requirement, then the electricity
19 provider shall arrange for the local electric utility or a
20 meter service provider to install and maintain a new
21 revenue meter at the electricity provider's expense.

22 (3) For all other eligible customers, ~~For~~
23 ~~non-residential customers,~~ the electricity provider may
24 arrange for the local electric utility or a meter service
25 provider to install and maintain metering equipment
26 capable of measuring the flow of electricity both into and

1 out of the customer's facility at the same rate and ratio,
2 typically through the use of a dual channel meter. If the
3 eligible customer's existing electric revenue meter does
4 not meet this requirement, then the costs of installing
5 such equipment shall be paid for by the customer. ~~For~~
6 ~~generators with a nameplate rating of 40 kilowatts and~~
7 ~~below, the costs of installing such equipment shall be paid~~
8 ~~for by the electricity provider. For generators with a~~
9 ~~nameplate rating over 40 kilowatts and up to 2,000~~
10 ~~kilowatts capacity, the costs of installing such equipment~~
11 ~~shall be paid for by the customer. Any subsequent revenue~~
12 ~~meter change necessitated by any eligible customer shall be~~
13 ~~paid for by the customer.~~

14 (d) An electricity provider shall measure and charge or
15 credit for the net electricity supplied to eligible customers
16 or provided by eligible customers whose electric service has
17 not been declared competitive pursuant to Section 16-113 of the
18 Act and whose electric delivery service is provided and
19 measured on a kilowatt-hour basis and electric supply service
20 is not provided based on hourly pricing in the following
21 manner:

22 (1) If the amount of electricity used by the customer
23 during the billing period exceeds the amount of electricity
24 produced by the customer, the electricity provider shall
25 charge the customer for the net electricity supplied to and
26 used by the customer as provided in subsection (e-5) ~~(e)~~ of

1 this Section.

2 (2) If the amount of electricity produced by a customer
3 during the billing period exceeds the amount of electricity
4 used by the customer during that billing period, the
5 electricity provider supplying that customer shall apply a
6 1:1 kilowatt-hour credit to a subsequent bill for service
7 to the customer for the net electricity supplied to the
8 electricity provider. The electricity provider shall
9 continue to carry over any excess kilowatt-hour credits
10 earned and apply those credits to subsequent billing
11 periods to offset any customer-generator consumption in
12 those billing periods until all credits are used or until
13 the end of the annualized period.

14 (3) At the end of the year or annualized over the
15 period that service is supplied by means of net metering,
16 or in the event that the retail customer terminates service
17 with the electricity provider prior to the end of the year
18 or the annualized period, any remaining credits in the
19 customer's account shall expire.

20 (e) An electricity provider shall measure and charge or
21 credit for the net electricity supplied to eligible customers
22 whose electric service has not been declared competitive
23 pursuant to Section 16-113 of this Act and whose electric
24 delivery service is provided and measured on a kilowatt demand
25 basis and electric supply service is not provided based on
26 hourly pricing in the following manner:

1 (1) If the amount of electricity used by the customer
2 during the billing period exceeds the amount of electricity
3 produced by the customer, then the electricity provider
4 shall charge the customer for the net electricity supplied
5 to and used by the customer as provided in subsection (e-5)
6 of this Section, provided that the electricity provider
7 shall assess and the customer remains responsible for all
8 taxes, fees, and utility delivery charges that would
9 otherwise be applicable to the gross amount of
10 kilowatt-hours supplied to the eligible customer by the
11 electricity provider.

12 (2) If the amount of electricity produced by a customer
13 during the billing period exceeds the amount of electricity
14 used by the customer during that billing period, then the
15 electricity provider supplying that customer shall apply a
16 1:1 kilowatt-hour credit that reflects the kilowatt-hour
17 based charges in the customer's electric service rate to a
18 subsequent bill for service to the customer for the net
19 electricity supplied to the electricity provider. The
20 electricity provider shall continue to carry over any
21 excess kilowatt-hour credits earned and apply those
22 credits to subsequent billing periods to offset any
23 customer-generator consumption in those billing periods
24 until all credits are used or until the end of the
25 annualized period.

26 (3) At the end of the year or annualized over the

1 period that service is supplied by means of net metering,
2 or in the event that the retail customer terminates service
3 with the electricity provider prior to the end of the year
4 or the annualized period, any remaining credits in the
5 customer's account shall expire.

6 (e-5) An electricity provider shall provide electric
7 service to eligible ~~net metering~~ customers whose electric
8 service has not been declared competitive pursuant to Section
9 16-113 of this Act and whose electric supply service is not
10 provided based on hourly pricing who utilize net metering
11 ~~electric service~~ at non-discriminatory rates that are
12 identical, with respect to rate structure, retail rate
13 components, and any monthly charges, to the rates that the
14 customer would be charged if not a net metering customer. An
15 electricity provider shall not charge net metering customers
16 any fee or charge or require additional equipment, insurance,
17 or any other requirements not specifically authorized by
18 interconnection standards authorized by the Commission, unless
19 the fee, charge, or other requirement would apply to other
20 similarly situated customers who are not net metering
21 customers. The customer will remain responsible for all taxes,
22 fees, and utility delivery charges that would otherwise be
23 applicable to the net amount of electricity used by the
24 customer. Subsections (c) through (e) of this Section shall not
25 be construed to prevent an arms-length agreement between an
26 electricity provider and an eligible customer that sets forth

1 different prices, terms, and conditions for the provision of
2 net metering service, including, but not limited to, the
3 provision of the appropriate metering equipment for
4 non-residential customers.

5 (f) Notwithstanding the requirements of subsections (c)
6 through (e-5) ~~(e)~~ of this Section, an electricity provider must
7 require dual-channel metering for customers operating eligible
8 renewable electrical generating facilities with a nameplate
9 rating up to 2,000 kilowatts and to whom the provisions of
10 neither subsection (d) nor (e) of this Section apply
11 ~~non-residential customers operating eligible renewable~~
12 ~~electrical generating facilities with a nameplate rating over~~
13 ~~40 kilowatts and up to 2,000 kilowatts.~~ In such cases,
14 electricity charges and credits shall be determined as follows:

15 (1) The electricity provider shall assess and the
16 customer remains responsible for all taxes, fees, and
17 utility delivery charges that would otherwise be
18 applicable to the gross amount of kilowatt-hours supplied
19 to the eligible customer by the electricity provider.

20 (2) Each month that service is supplied by means of
21 dual-channel metering, the electricity provider shall
22 compensate the eligible customer for any excess
23 kilowatt-hour credits at the electricity provider's
24 avoided cost of electricity supply over the monthly period
25 or as otherwise specified by the terms of a power-purchase
26 agreement negotiated between the customer and electricity

1 provider.

2 (3) For all eligible net metering customers taking
3 service from an electricity provider under contracts or
4 tariffs employing time of use rates, any monthly
5 consumption of electricity shall be calculated according
6 to the terms of the contract or tariff to which the same
7 customer would be assigned to or be eligible for if the
8 customer was not a net metering customer. When those same
9 customer-generators are net generators during any discrete
10 time of use period, the net kilowatt-hours produced shall
11 be valued at the same price per kilowatt-hour as the
12 electric service provider would charge for retail
13 kilowatt-hour sales during that same time of use period.

14 (g) For purposes of federal and State laws providing
15 renewable energy credits or greenhouse gas credits, the
16 eligible customer shall be treated as owning and having title
17 to the renewable energy attributes, renewable energy credits,
18 and greenhouse gas emission credits related to any electricity
19 produced by the qualified generating unit. The electricity
20 provider may not condition participation in a net metering
21 program on the signing over of a customer's renewable energy
22 credits; provided, however, this subsection (g) shall not be
23 construed to prevent an arms-length agreement between an
24 electricity provider and an eligible customer that sets forth
25 the ownership or title of the credits.

26 (h) Within 120 days after the effective date of this

1 amendatory Act of the 95th General Assembly, the Commission
2 shall establish standards for net metering and, if the
3 Commission has not already acted on its own initiative,
4 standards for the interconnection of eligible renewable
5 generating equipment to the utility system. The
6 interconnection standards shall address any procedural
7 barriers, delays, and administrative costs associated with the
8 interconnection of customer-generation while ensuring the
9 safety and reliability of the units and the electric utility
10 system. The Commission shall consider the Institute of
11 Electrical and Electronics Engineers (IEEE) Standard 1547 and
12 the issues of (i) reasonable and fair fees and costs, (ii)
13 clear timelines for major milestones in the interconnection
14 process, (iii) nondiscriminatory terms of agreement, and (iv)
15 any best practices for interconnection of distributed
16 generation.

17 (i) All electricity providers shall begin to offer net
18 metering no later than April 1, 2008.

19 (j) An electricity provider shall provide net metering to
20 eligible customers until the load of its net metering customers
21 equals 1% of the total peak demand supplied by that electricity
22 provider during the previous year. Electricity providers are
23 authorized to offer net metering beyond the 1% level if they so
24 choose. ~~The number of new eligible customers with generators~~
25 ~~that have a nameplate rating of 40 kilowatts and below will be~~
26 ~~limited to 200 total new billing accounts for the utilities~~

1 ~~(Ameren Companies, ComEd, and MidAmerican) for the period of~~
2 ~~April 1, 2008 through March 31, 2009.~~

3 (k) Each electricity provider shall maintain records and
4 report annually to the Commission the total number of net
5 metering customers served by the provider, as well as the type,
6 capacity, and energy sources of the generating systems used by
7 the net metering customers. Nothing in this Section shall limit
8 the ability of an electricity provider to request the redaction
9 of information deemed by the Commission to be confidential
10 business information. Each electricity provider shall notify
11 the Commission when the total generating capacity of its net
12 metering customers is equal to or in excess of the 1% cap
13 specified in subsection (j) of this Section.

14 (l) Notwithstanding the definition of "eligible customer"
15 in item (i) of subsection (b) of this Section, each electricity
16 provider shall consider whether to allow meter aggregation for
17 the purposes of net metering on:

18 (1) properties owned or leased by multiple customers
19 that contribute to the operation of an eligible renewable
20 electrical generating facility, such as a community-owned
21 wind project, a community-owned biomass project, a
22 community-owned solar project, or a community methane
23 digester processing livestock waste from multiple sources;
24 and

25 (2) individual units, apartments, or properties owned
26 or leased by multiple customers and collectively served by

1 a common eligible renewable electrical generating
2 facility, such as an apartment building served by
3 photovoltaic panels on the roof.

4 For the purposes of this subsection (l), "meter
5 aggregation" means the combination of reading and billing on a
6 pro rata basis for the types of eligible customers described in
7 this Section.

8 (m) Nothing in this Section shall affect the right of an
9 electricity provider to continue to provide, or the right of a
10 retail customer to continue to receive service pursuant to a
11 contract for electric service between the electricity provider
12 and the retail customer in accordance with the prices, terms,
13 and conditions provided for in that contract. Either the
14 electricity provider or the customer may require compliance
15 with the prices, terms, and conditions of the contract.

16 (Source: P.A. 95-420, eff. 8-24-07.)

17 (220 ILCS 5/16-108.5 new)

18 Sec. 16-108.5. Infrastructure investment and
19 modernization; regulatory reform.

20 (a) The General Assembly recognizes that for well over a
21 century Illinois residents and businesses have been
22 well-served by and have benefitted from a comprehensive
23 electric utility system. The General Assembly finds that
24 electric utilities are now entering a new construction cycle
25 that is needed to refurbish, rebuild, modernize, and expand

1 systems to continue to provide safe, reliable, and affordable
2 service to the State's current and future utility customers in
3 this newly digitized age. In particular, the General Assembly
4 finds that it is the policy of this State that significant
5 investments must be made in the State's electric grid over the
6 next decade to modernize and upgrade transmission and
7 distribution facilities in the State. These investments will
8 ensure that the State's electric utility infrastructure will
9 promote future economic development in the State and that the
10 State's electric utilities will be able to continue to provide
11 quality electric service to their customers, including
12 innovative technological offerings that will enhance customer
13 experience and choice such as smart meters that are dependent
14 on a modernized or Smart Grid. These investments, including
15 programs to reinforce the safety and security of high voltage
16 transmission lines, will also ensure that the State's electric
17 utility infrastructure continues to be safe and reliable. The
18 introduction of performance metrics will further ensure that
19 reliability and other indicators are not just maintained but
20 improved over the next decade.

21 The General Assembly further recognizes that, in addition
22 to attracting capital and businesses to the State, these
23 investments will create training opportunities for the
24 citizens of this State, all of which will create new employment
25 opportunities for Illinoisans at a time when they are most
26 needed, especially for minority-owned and female-owned

1 business enterprises. The General Assembly further finds that
2 regulatory reform measures that increase predictability,
3 stability, and transparency in the ratemaking process are
4 needed to promote prudent, long-term infrastructure investment
5 and to mutually benefit the State's electric utilities and
6 their customers, regulators, and investors.

7 (b) For purposes of this Section, "participating utility"
8 means an electric utility or a combination utility that
9 voluntarily elects and commits to undertake the infrastructure
10 investment program consisting of the commitments and
11 obligations described in this subsection (b), notwithstanding
12 any other provisions of this Act and without obtaining any
13 approvals from the Commission or any other agency other than as
14 set forth in this Section, regardless of whether any such
15 approval would otherwise be required. "Combination utility"
16 means a utility that, as of January 1, 2011, provided electric
17 service to at least one million retail customers in Illinois
18 and gas service to at least 500,000 retail customers in
19 Illinois. A participating utility shall recover the
20 expenditures made under the infrastructure investment program
21 through the ratemaking process, including, but not limited to,
22 the performance-based formula rate and process set forth in
23 this Section.

24 During the infrastructure investment program's peak
25 program year, a participating utility other than a combination
26 utility shall create 2,000 full-time equivalent jobs, and a

1 participating utility that is a combination utility shall
2 create 450 full-time equivalent jobs, including direct jobs,
3 contractor positions, and induced jobs. For purposes of this
4 Section, "peak program year" means the consecutive 12-month
5 period with the highest number of full-time equivalent jobs
6 that occurs between the beginning of investment year 2 and the
7 end of investment year 4.

8 A participating utility shall meet one of the following
9 commitments, as applicable:

10 (1) Beginning no later than 180 days after a
11 participating utility other than a combination utility
12 files a performance-based formula rate tariff pursuant to
13 subsection (c) of this Section, or, beginning no later than
14 January 1, 2012 if such utility files such
15 performance-based formula rate tariff within 14 days of the
16 effective date of this amendatory Act of the 97th General
17 Assembly, the participating utility shall, except as
18 provided in subsection (b-5):

19 (A) over a 5-year period, invest at least
20 \$1,100,000,000 in electric system upgrades,
21 modernization projects, and training facilities,
22 including, but not limited to:

23 (i) distribution infrastructure improvements
24 totaling at least \$1,000,000,000, including
25 underground residential distribution cable
26 injection and replacement and mainline cable

1 system refurbishment and replacement projects;

2 (ii) training facility construction or upgrade
3 projects totaling at least \$10,000,000, provided
4 that, at a minimum, one such facility shall be
5 located in a municipality having a population of
6 more than 2 million residents and one such facility
7 shall be located in a municipality having a
8 population of more than 150,000 residents but
9 fewer than 170,000 residents; any such new
10 facility located in a municipality having a
11 population of more than 2 million residents must be
12 designed for the purpose of obtaining, and the
13 owner of the facility shall apply for,
14 certification under the United States Green
15 Building Council's Leadership in Energy Efficiency
16 Design Green Building Rating System; and

17 (iii) wood pole inspection, treatment, and
18 replacement programs; and

19 (B) over a 10-year period, invest at least
20 \$1,500,000,000 to upgrade and modernize its
21 transmission and distribution infrastructure and in
22 Smart Grid electric system upgrades, including, but
23 not limited to:

24 (i) additional smart meters;

25 (ii) distribution automation;

26 (iii) associated cyber secure data

1 communication network; and

2 (iv) substation micro-processor relay
3 upgrades.

4 (2) Beginning no later than 180 days after a
5 participating utility that is a combination utility files a
6 performance-based formula rate tariff pursuant to
7 subsection (c) of this Section, or, beginning no later than
8 January 1, 2012 if such utility files such
9 performance-based formula rate tariff within 14 days of the
10 effective date of this amendatory Act of the 97th General
11 Assembly, the participating utility shall, except as
12 provided in subsection (b-5):

13 (A) over a 10-year period, invest at least
14 \$265,000,000 in electric system upgrades,
15 modernization projects, and training facilities,
16 including, but not limited to:

17 (i) distribution infrastructure improvements
18 totaling at least \$245,000,000, which may include
19 bulk supply substations, transformers,
20 reconductoring, and rebuilding overhead
21 distribution and sub-transmission lines,
22 underground residential distribution cable
23 injection and replacement and mainline cable
24 system refurbishment and replacement projects;

25 (ii) training facility construction or upgrade
26 projects totaling at least \$1,000,000; any such

1 new facility must be designed for the purpose of
2 obtaining, and the owner of the facility shall
3 apply for, certification under the United States
4 Green Building Council's Leadership in Energy
5 Efficiency Design Green Building Rating System;
6 and

7 (iii) wood pole inspection, treatment, and
8 replacement programs; and

9 (B) over a 10-year period, invest at least
10 \$360,000,000 to upgrade and modernize its transmission
11 and distribution infrastructure and in Smart Grid
12 electric system upgrades, including, but not limited
13 to:

14 (i) additional smart meters;

15 (ii) distribution automation;

16 (iii) associated cyber secure data
17 communication network; and

18 (iv) substation micro-processor relay
19 upgrades.

20 For purposes of this Section, "Smart Grid electric system
21 upgrades" shall have the meaning set forth in subsection (a) of
22 Section 16-108.6 of this Act.

23 If a participating utility other than a combination utility
24 serves less than 3 million electric distribution customers in
25 Illinois, then the infrastructure investment program
26 commitments and obligations described in this subsection (b)

1 shall be reduced proportionately, based on the number of
2 customers, for the utility.

3 The investments in the infrastructure investment program
4 described in this subsection (b) shall be incremental to the
5 participating utility's annual capital investment program, as
6 defined by, for purposes of this subsection (b), the
7 participating utility's average capital spend for calendar
8 years 2008, 2009, and 2010 as reported in the applicable
9 Federal Energy Regulatory Commission (FERC) Form 1; provided
10 that where one or more utilities have merged, the average
11 capital spend shall be determined using the aggregate of the
12 merged utilities' capital spend reported in FERC Form 1 for the
13 years 2008, 2009, and 2010.

14 Within 60 days after filing a tariff under subsection (c)
15 of this Section, a participating utility shall submit to the
16 Commission its plan, including scope, schedule, and staffing,
17 for satisfying its infrastructure investment program
18 commitments pursuant to this subsection (b). The submitted plan
19 shall include a schedule and staffing plan for the next
20 calendar year. The plan shall also include a plan for the
21 creation, operation, and administration of a Smart Grid test
22 bed as described in subsection (c) of Section 16-108.8. The
23 plan need not allocate the work equally over the respective
24 periods, but should allocate material increments throughout
25 such periods commensurate with the work to be undertaken. No
26 later than April 1 of each subsequent year, the utility shall

1 submit to the Commission a report that includes any update to
2 the plan, a schedule for the next calendar year, the
3 expenditures made for the prior calendar year and cumulatively,
4 and the number of full-time equivalent jobs created for the
5 prior calendar year and cumulatively. If the utility is
6 materially deficient in satisfying a schedule or staffing plan,
7 then the report must also include a corrective action plan to
8 address the deficiency. The fact that the plan, implementation
9 of the plan, or a schedule changes shall not imply the
10 imprudence or unreasonableness of the infrastructure
11 investment program, plan, or schedule.

12 With respect to the participating utility's peak job
13 commitment, if, after considering the utility's corrective
14 action plan and compliance thereunder, the Commission enters an
15 order finding, after notice and hearing, that a participating
16 utility did not satisfy its peak job commitment described in
17 this subsection (b) for reasons that are reasonably within its
18 control, then the Commission shall also determine, after
19 consideration of the evidence, including, but not limited to,
20 evidence submitted by the Department of Commerce and Economic
21 Opportunity and the utility, the deficiency in the number of
22 full-time equivalent jobs during the peak program year due to
23 such failure. The Commission shall notify the Department of any
24 proceeding that is initiated pursuant to this paragraph. For
25 each full-time equivalent job deficiency during the peak
26 program year that the Commission finds as set forth in this

1 paragraph, the participating utility shall, within 30 days
2 after the entry of the Commission's order, pay \$1,500 to a fund
3 for training grants administered under Section 605-800 of The
4 Department of Commerce and Economic Opportunity Law.

5 With respect to the participating utility's investment
6 amount commitments, if, after considering the utility's
7 corrective action plan and compliance thereunder, the
8 Commission enters an order finding after notice and hearing,
9 that a participating utility is not satisfying its investment
10 amount commitments described in this subsection (b), then the
11 utility shall no longer be eligible to annually update the
12 performance-based formula rate tariff pursuant to subsection
13 (d) of this Section. In such event, the then current rates
14 shall remain in effect until such time as new rates are set
15 pursuant to Article IX of this Act, subject to retroactive
16 adjustment, with interest, to reconcile rates charged with
17 actual costs.

18 If the Commission finds that a participating utility is no
19 longer eligible to update the performance-based formula rate
20 tariff pursuant to subsection (d) of this Section, or the
21 performance-based formula rate is otherwise terminated, then
22 the participating utility's voluntary commitments and
23 obligations under this subsection (b) shall immediately
24 terminate, except for the utility's obligation to pay an amount
25 already owed to the fund for training grants pursuant to a
26 Commission order.

1 In meeting the obligations of this subsection (b), to the
2 extent feasible and consistent with State and federal law, the
3 investments under the infrastructure investment program should
4 provide employment opportunities for all segments of the
5 population and workforce, including minority-owned and
6 female-owned business enterprises.

7 (b-5) Nothing in subsection (b) of this Section shall
8 prohibit the Commission from investigating the prudence and
9 reasonableness of the expenditures made under the
10 infrastructure investment program. The fact that a
11 participating utility invests more than the minimum amounts
12 specified in subsection (b) of this Section or its plan shall
13 not imply imprudence or unreasonableness.

14 If the participating utility finds that it is implementing
15 its plan for satisfying the infrastructure investment program
16 commitments described in subsection (b) of this Section at a
17 cost below the minimum amounts specified in subsection (b) of
18 this Section, then the utility may file a petition with the
19 Commission requesting that it be permitted to satisfy its
20 commitments by spending less than the minimum amounts specified
21 in subsection (b) of this Section. For the infrastructure
22 investment program commitments described in subparagraph (A)
23 of paragraph (1) of subsection (b) of this Section, the
24 participating utility may file such a petition no earlier than
25 in year 4 of the 5-year period. For the infrastructure
26 investment program commitments described in subparagraph (B)

1 of paragraph (1) and subparagraphs (A) and (B) of paragraph (2)
2 of subsection (b) of this Section, the participating utility
3 may file such a petition no earlier than in year 8 of the
4 10-year period. The Commission shall, after notice and hearing,
5 enter its order approving or denying each such petition within
6 150 days after the filing of the petition.

7 In no event, absent General Assembly approval, shall the
8 capital investment costs incurred by a participating utility
9 other than a combination utility in satisfying its
10 infrastructure investment program commitments described in
11 subsection (b) of this Section exceed \$3,000,000,000 or, for a
12 participating utility that is a combination utility,
13 \$720,000,000. If the participating utility's updated cost
14 estimates for satisfying its infrastructure investment program
15 commitments described in subsection (b) of this Section exceed
16 the limitation imposed by this subsection (b-5), then it shall
17 submit a report to the Commission that identifies the increased
18 costs and explains the reason or reasons for the increased
19 costs no later than the year in which the utility estimates it
20 will exceed the limitation. The Commission shall review the
21 report and shall, within 90 days after the participating
22 utility files the report, report to the General Assembly its
23 findings regarding the participating utility's report. If the
24 General Assembly does not amend the limitation imposed by this
25 subsection (b-5), then the utility may modify its plan so as
26 not to exceed the limitation imposed by this subsection (b-5),

1 and the metrics and incremental savings goals established
2 pursuant to subsection (f) of this Section shall be modified
3 accordingly.

4 (c) A participating utility may elect to recover its
5 delivery services costs through a performance-based formula
6 rate approved by the Commission, which shall specify the cost
7 components that form the basis of the rate charged to customers
8 with sufficient specificity to operate in a standardized manner
9 and be updated annually with transparent information that
10 reflects the utility's actual costs to be recovered during the
11 applicable rate year, which is the period beginning with the
12 first billing day of January and extending through the last
13 billing day of the following December. In the event the utility
14 recovers a portion of its costs through automatic adjustment
15 clause tariffs on the effective date of this amendatory Act of
16 the 97th General Assembly, the utility may elect to continue to
17 recover these costs through such tariffs, but then these costs
18 shall not be recovered through the performance-based formula
19 rate.

20 The performance-based formula rate shall be implemented
21 through a tariff filed with the Commission consistent with the
22 provisions of this subsection (c) that shall be applicable to
23 all delivery services customers. The Commission shall initiate
24 and conduct an investigation of the tariff in a manner
25 consistent with the provisions of this subsection (c) and the
26 provisions of Article IX of this Act to the extent they do not

1 conflict with this subsection (c). Except in the case where the
2 Commission finds, after notice and hearing, that a
3 participating utility is not satisfying its investment amount
4 commitments under subsection (b) of this Section, the
5 performance-based formula rate shall remain in effect at the
6 discretion of the utility. The performance-based formula rate
7 approved by the Commission shall do the following:

8 (1) Provide for the recovery of the utility's actual
9 costs of delivery services that are prudently incurred and
10 reasonable in amount consistent with Commission practice
11 and law. The fact that a cost differs from that incurred in
12 a prior calendar year or that an investment is different
13 from that made in a prior calendar year shall not imply the
14 imprudence or unreasonableness of that cost or investment.

15 (2) Reflect the utility's actual capital structure for
16 the applicable calendar year, excluding goodwill, subject
17 to a determination of prudence and reasonableness
18 consistent with Commission practice and law.

19 (3) Include a cost of equity, which shall be calculated
20 as the sum of the following:

21 (A) the average for the applicable calendar year of
22 the monthly average yields of 30-year U.S. Treasury
23 bonds published by the Board of Governors of the
24 Federal Reserve System in its weekly H.15 Statistical
25 Release or successor publication; and

26 (B) 600 basis points.

1 At such time as the Board of Governors of the Federal
2 Reserve System ceases to include the monthly average yields
3 of 30-year U.S. Treasury bonds in its weekly H.15
4 Statistical Release or successor publication, the monthly
5 average yields of the U.S. Treasury bonds then having the
6 longest duration published by the Board of Governors in its
7 weekly H.15 Statistical Release or successor publication
8 shall instead be used for purposes of this paragraph (3).

9 (4) Permit and set forth protocols, subject to a
10 determination of prudence and reasonableness consistent
11 with Commission practice and law, for the following:

12 (A) recovery of incentive compensation expense
13 that is based on the achievement of operational
14 metrics, including metrics related to budget controls,
15 outage duration and frequency, safety, customer
16 service, efficiency and productivity, and
17 environmental compliance. Incentive compensation
18 expense that is based on net income or an affiliate's
19 earnings per share shall not be recoverable under the
20 performance-based formula rate;

21 (B) recovery of pension and other post-employment
22 benefits expense, provided that such costs are
23 supported by an actuarial study;

24 (C) recovery of severance costs, provided that if
25 the amount is over \$3,700,000 for a participating
26 utility that is a combination utility or \$10,000,000

1 for a participating utility that serves more than 3
2 million retail customers, then the full amount shall be
3 amortized consistent with subparagraph (F) of this
4 paragraph (4);

5 (D) investment return on pension assets net of
6 deferred tax benefits equal to the utility's long-term
7 debt cost of capital as of the end of the applicable
8 calendar year;

9 (E) recovery of the expenses related to the
10 Commission proceeding under this subsection (c) to
11 approve this performance-based formula rate and
12 initial rates or to subsequent proceedings related to
13 the formula, provided that the recovery shall be
14 amortized over a 3-year period; recovery of expenses
15 related to the annual Commission proceedings under
16 subsection (d) of this Section to review the inputs to
17 the performance-based formula rate shall be expensed
18 and recovered through the performance-based formula
19 rate;

20 (F) amortization over a 5-year period of the full
21 amount of each charge or credit that exceeds \$3,700,000
22 for a participating utility that is a combination
23 utility or \$10,000,000 for a participating utility
24 that serves more than 3 million retail customers in the
25 applicable calendar year and that relates to a
26 workforce reduction program's severance costs, changes

1 in accounting rules, changes in law, compliance with
2 any Commission-initiated audit, or a single storm or
3 other similar expense, provided that any unamortized
4 balance shall be reflected in rate base. For purposes
5 of this subparagraph (F), changes in law includes any
6 enactment, repeal, or amendment in a law, ordinance,
7 rule, regulation, interpretation, permit, license,
8 consent, or order, including those relating to taxes,
9 accounting, or to environmental matters, or in the
10 interpretation or application thereof by any
11 governmental authority occurring after the effective
12 date of this amendatory Act of the 97th General
13 Assembly;

14 (G) recovery of existing regulatory assets over
15 the periods previously authorized by the Commission;

16 (H) historical weather normalized billing
17 determinants; and

18 (I) allocation methods for common costs.

19 (5) Provide that if the participating utility's earned
20 return on common equity related to the provision of
21 delivery services for the prior rate year (calculated on a
22 ratemaking basis after adjusting for any disallowances
23 ordered by the Commission and adjusting for taxes) is more
24 than 50 basis points higher than the return on equity
25 calculated pursuant to paragraph (3) of this subsection (c)
26 (after adjusting for any adjustments to the return on

1 equity applied pursuant to the performance metrics
2 provision of subsection (f) of this Section), then the
3 participating utility shall apply a credit through the
4 performance-based formula rate that reflects an amount
5 equal to the value of that portion of the earned return on
6 equity that is more than 50 basis points higher than the
7 return on equity calculated pursuant to paragraph (3) of
8 this subsection (c) for the prior rate year, adjusted for
9 taxes. If the participating utility's earned return on
10 common equity related to the provision of delivery services
11 for the prior rate year (calculated on a ratemaking basis
12 after adjusting for any disallowances ordered by the
13 Commission and adjusting for taxes) is more than 50 basis
14 points less than the return on equity calculated pursuant
15 to paragraph (3) of this subsection (c) (after adjusting
16 for any adjustments to the return on equity applied
17 pursuant to the performance metrics provision of
18 subsection (f) of this Section), then the participating
19 utility shall apply a charge through the performance-based
20 formula rate that reflects an amount equal to the value of
21 that portion of the earned return on equity that is more
22 than 50 basis points less than the return on equity
23 calculated pursuant to paragraph (3) of this subsection (c)
24 for the prior rate year, adjusted for taxes.

25 (6) Provide for an annual reconciliation, with
26 interest as described in subsection (d) of this Section, of

1 the revenue requirement reflected in rates for each
2 calendar year, beginning with the calendar year in which
3 the utility files its performance-based formula rate
4 tariff pursuant to subsection (c) of this Section, with
5 what the revenue requirement would have been had the actual
6 cost information for the applicable calendar year been
7 available at the filing date.

8 The utility shall file, together with its tariff, final
9 data based on its most recently filed FERC Form 1, plus
10 projected plant additions and correspondingly updated
11 depreciation reserve and expense for the calendar year in which
12 the tariff and data are filed, that shall populate the
13 performance-based formula rate and set the initial delivery
14 services rates under the formula.

15 After the utility files its proposed performance-based
16 formula rate structure and protocols and initial rates, the
17 Commission shall initiate a docket to review the filing. The
18 Commission shall enter an order approving, or approving as
19 modified, the performance-based formula rate, including the
20 initial rates, as just and reasonable within 270 days after the
21 date on which the tariff was filed, or, if the tariff is filed
22 within 14 days after the effective date of this amendatory Act
23 of the 97th General Assembly, then by March 31, 2012. Such
24 review shall be based on the same evidentiary standards,
25 including, but not limited to, those concerning the prudence
26 and reasonableness of the costs incurred by the utility, the

1 Commission applies in a hearing to review a filing for a
2 general increase in rates under Article IX of this Act. The
3 initial rates shall take effect within 30 days after the
4 Commission's order approving the performance-based formula
5 rate tariff.

6 Until such time as the Commission approves a different rate
7 design and cost allocation pursuant to subsection (e) of this
8 Section, rate design and cost allocation across customer
9 classes shall be consistent with the Commission's most recent
10 order regarding the participating utility's request for a
11 general increase in its delivery services rates.

12 Subsequent changes to the performance-based formula rate
13 structure or protocols shall be made as set forth in Section
14 9-201 of this Act, but nothing in this subsection (c) is
15 intended to limit the Commission's authority under Article IX
16 and other provisions of this Act to initiate an investigation
17 of a participating utility's performance-based formula rate
18 tariff, provided that any such changes shall be consistent with
19 paragraphs (1) through (6) of this subsection (c). Any change
20 ordered by the Commission shall be made at the same time new
21 rates take effect following the Commission's next order
22 pursuant to subsection (d) of this Section, provided that the
23 new rates take effect no less than 30 days after the date on
24 which the Commission issues an order adopting the change.

25 Beginning 11 years after the effective date of this
26 amendatory Act of the 97th General Assembly, the Commission may

1 upon petition or its own initiative, but with reasonable
2 notice, enter upon a hearing concerning proposed changes to the
3 performance-based formula rate, including those protocols
4 established under paragraph (4) of this subsection (c),
5 provided that there shall be a rebuttable presumption that the
6 protocols are just and reasonable. These proposed changes shall
7 be stated with particularity and accompanied by clear and
8 convincing evidence that the changes are just and reasonable.
9 No such change adopted by the Commission shall be applied to
10 the calculation of the utility's rates until the next calendar
11 year, with the rates to become effective on January 1 of the
12 year following that calendar year, provided that the next
13 calendar year begins no less than 90 days after the date on
14 which the Commission issues an order adopting the change.

15 A participating utility that files a tariff pursuant to
16 this subsection (c) must submit a one-time \$200,000 filing fee
17 at the time the Chief Clerk of the Commission accepts the
18 filing, which shall be a recoverable expense.

19 In the event the performance-based formula rate is
20 terminated, the then current rates shall remain in effect until
21 such time as new rates are set pursuant to Article IX of this
22 Act, subject to retroactive rate adjustment, with interest, to
23 reconcile rates charged with actual costs. At such time that
24 the performance-based formula rate is terminated, the
25 participating utility's voluntary commitments and obligations
26 under subsection (b) of this Section shall immediately

1 terminate, except for the utility's obligation to pay an amount
2 already owed to the fund for training grants pursuant to a
3 Commission order issued under subsection (b) of this Section.

4 (d) Subsequent to the Commission's issuance of an order
5 approving the utility's performance-based formula rate
6 structure and protocols, and initial rates under subsection (c)
7 of this Section, the utility shall file, on or before May 1 of
8 each year, with the Chief Clerk of the Commission its updated
9 cost inputs to the performance-based formula rate for the
10 applicable rate year and the corresponding new charges. Each
11 such filing shall conform to the following requirements and
12 include the following information:

13 (1) The inputs to the performance-based formula rate
14 for the applicable rate year shall be based on final
15 historical data reflected in the utility's most recently
16 filed annual FERC Form 1 plus projected plant additions and
17 correspondingly updated depreciation reserve and expense
18 for the calendar year in which the inputs are filed. The
19 filing shall also include a reconciliation of the revenue
20 requirement that was in effect for the prior rate year (as
21 set by the cost inputs for the prior rate year) with the
22 actual revenue requirement for the prior rate year (as
23 reflected in the applicable FERC Form 1 that reports the
24 actual costs for the prior rate year). Any over-collection
25 or under-collection indicated by such reconciliation shall
26 be reflected as a credit against, or recovered as an

1 additional charge to, respectively, with interest, the
2 charges for the applicable rate year. Provided, however,
3 that the first such reconciliation shall be for the
4 calendar year in which the utility files its
5 performance-based formula rate tariff pursuant to
6 subsection (c) of this Section and shall reconcile (i) the
7 revenue requirement or requirements established by the
8 rate order or orders in effect from time to time during
9 such calendar year (weighted, as applicable) with (ii) the
10 revenue requirement for that calendar year calculated
11 pursuant to the performance-based formula rate using (A)
12 actual costs for that year as reflected in the applicable
13 FERC Form 1, and (B) for the first such reconciliation
14 only, the cost of equity approved by the Commission in such
15 order or orders in effect during that year (weighted, as
16 applicable). The first such reconciliation is not intended
17 to provide for the recovery of costs previously excluded
18 from rates based on a prior Commission order finding of
19 imprudence or unreasonableness. Each reconciliation shall
20 be certified by the participating utility in the same
21 manner that FERC Form 1 is certified. The filing shall also
22 include the charge or credit, if any, resulting from the
23 calculation required by paragraph (6) of subsection (c) of
24 this Section.

25 Notwithstanding anything that may be to the contrary,
26 the intent of the reconciliation is to ultimately reconcile

1 the revenue requirement reflected in rates for each
2 calendar year, beginning with the calendar year in which
3 the utility files its performance-based formula rate
4 tariff pursuant to subsection (c) of this Section, with
5 what the revenue requirement would have been had the actual
6 cost information for the applicable calendar year been
7 available at the filing date.

8 (2) The new charges shall take effect beginning on the
9 first billing day of the following January billing period
10 and remain in effect through the last billing day of the
11 next December billing period regardless of whether the
12 Commission enters upon a hearing pursuant to this
13 subsection (d).

14 (3) The filing shall include relevant and necessary
15 data and documentation for the applicable rate year that is
16 consistent with the Commission's rules applicable to a
17 filing for a general increase in rates or any rules adopted
18 by the Commission to implement this Section. Normalization
19 adjustments shall not be required. Notwithstanding any
20 other provision of this Section or Act or any rule or other
21 requirement adopted by the Commission, a participating
22 utility that is a combination utility with more than one
23 rate zone shall not be required to file a separate set of
24 such data and documentation for each rate zone and may
25 combine such data and documentation into a single set of
26 schedules.

1 Within 45 days after the utility files its annual update of
2 cost inputs to the performance-based formula rate, the
3 Commission shall have the authority, either upon complaint or
4 its own initiative, but with reasonable notice, to enter upon a
5 hearing concerning the prudence and reasonableness of the costs
6 incurred by the utility to be recovered during the applicable
7 rate year that are reflected in the inputs to the
8 performance-based formula rate derived from the utility's FERC
9 Form 1. During the course of the hearing, each objection shall
10 be stated with particularity and substantial evidence provided
11 in support thereof, after which the utility shall have the
12 opportunity to rebut the evidence. Discovery shall be allowed
13 consistent with the Commission's Rules of Practice, which Rules
14 shall be enforced by the Commission or the assigned hearing
15 examiner. The Commission shall apply the same evidentiary
16 standards, including, but not limited to, those concerning the
17 prudence and reasonableness of the costs incurred by the
18 utility, in the hearing as it would apply in a hearing to
19 review a filing for a general increase in rates under Article
20 IX of this Act. The Commission shall not, however, have the
21 authority in a proceeding under this subsection (d) to consider
22 or order any changes to the structure or protocols of the
23 performance-based formula rate approved pursuant to subsection
24 (c) of this Section. In a proceeding under this subsection (d),
25 the Commission shall enter its order no later than the earlier
26 of 240 days after the utility's filing of its annual update of

1 cost inputs to the performance-based formula rate or December
2 31. The Commission's determinations of the prudence and
3 reasonableness of the costs incurred for the applicable
4 calendar year shall be final upon entry of the Commission's
5 order and shall not be subject to reopening, reexamination, or
6 collateral attack in any other proceeding, case, docket, order,
7 rule or regulation, provided, however, that nothing in this
8 subsection (d) shall prohibit a party from petitioning the
9 Commission to rehear or appeal to the courts the order pursuant
10 to the provisions of this Act.

11 In the event the Commission does not, either upon complaint
12 or its own initiative, enter upon a hearing within 45 days
13 after the utility files the annual update of cost inputs to its
14 performance-based formula rate, then the costs incurred for the
15 applicable calendar year shall be deemed prudent and
16 reasonable, and the filed charges shall not be subject to
17 reopening, reexamination, or collateral attack in any other
18 proceeding, case, docket, order, rule, or regulation.

19 (e) Nothing in subsections (c) or (d) of this Section shall
20 prohibit the Commission from investigating, or a participating
21 utility from filing, revenue-neutral tariff changes related to
22 rate design of a performance-based formula rate that has been
23 placed into effect for the utility. Following approval of a
24 participating utility's performance-based formula rate tariff
25 pursuant to subsection (c) of this Section, the utility shall
26 make a filing with the Commission within one year after the

1 effective date of the performance-based formula rate tariff
2 that proposes changes to the tariff to incorporate the findings
3 of any final rate design orders of the Commission applicable to
4 the participating utility and entered subsequent to the
5 Commission's approval of the tariff. The Commission shall,
6 after notice and hearing, enter its order approving, or
7 approving with modification, the proposed changes to the
8 performance-based formula rate tariff within 240 days after the
9 utility's filing. Following such approval, the utility shall
10 make a filing with the Commission during each subsequent 3-year
11 period that either proposes revenue-neutral tariff changes or
12 re-files the existing tariffs without change, which shall
13 present the Commission with an opportunity to suspend the
14 tariffs and consider revenue-neutral tariff changes related to
15 rate design.

16 (f) Within 30 days after the filing of a tariff pursuant to
17 subsection (c) of this Section, each participating utility
18 shall develop and file with the Commission multi-year metrics
19 designed to achieve, ratably over a 10-year period, improvement
20 over baseline performance values as follows:

21 (1) Twenty percent improvement in the System Average
22 Interruption Frequency Index, using a baseline of the
23 average of the data from 2001 through 2010.

24 (2) Fifteen percent improvement in the system Customer
25 Average Interruption Duration Index, using 2010 as the
26 baseline year.

1 (3) For a participating utility other than a
2 combination utility, 20% improvement in the System Average
3 Interruption Frequency Index for its Southern Region,
4 using a baseline of the average of the data from 2001
5 through 2010. For purposes of this paragraph (C), Southern
6 Region shall have the meaning set forth in the
7 participating utility's most recent report filed pursuant
8 to Section 16-125 of this Act.

9 (4) Seventy-five percent improvement in the total
10 number of customers who exceed the service reliability
11 targets as set forth in subparagraphs (A) through (C) of
12 paragraph (4) of subsection (b) of 83 Ill. Admin. Code Part
13 411.140 as of May 1, 2011, using 2010 as the baseline year.

14 (5) Reduction in issuance of estimated electric bills:
15 90% improvement for a participating utility other than a
16 combination utility, and 56% improvement for a
17 participating utility that is a combination utility, using
18 a baseline of the average number of estimated bills for the
19 years 2008 through 2010.

20 (6) Consumption on inactive meters: 90% improvement
21 for a participating utility other than a combination
22 utility, and 56% improvement for a participating utility
23 that is a combination utility, using a baseline of the
24 average unbilled kilowatthours for the years 2009 and 2010.

25 (7) Unaccounted for energy: 50% improvement for a
26 participating utility other than a combination utility

1 using a baseline of the non-technical line loss unaccounted
2 for energy kilowatthours for the year 2009.

3 (8) Uncollectible expense: reduce uncollectible
4 expense by at least \$30,000,000 for a participating utility
5 other than a combination utility and by at least \$3,500,000
6 for a participating utility that is a combination utility,
7 using a baseline of the average uncollectible expense for
8 the years 2008 through 2010.

9 (9) Opportunities for minority-owned and female-owned
10 business enterprises: design a performance metric
11 regarding the creation of opportunities for minority-owned
12 and female-owned business enterprises consistent with
13 State and federal law using a base performance value of the
14 percentage of the participating utility's capital
15 expenditures that were paid to minority-owned and
16 female-owned business enterprises in 2010.

17 The definitions set forth in 83 Ill. Admin. Code Part
18 411.20 as of May 1, 2011 shall be used for purposes of
19 calculating performance under paragraphs (1) through (3) of
20 this subsection (f), provided, however, that the participating
21 utility may exclude up to 9 extreme weather event days from
22 such calculation for each year. For purposes of this Section,
23 an extreme weather event day is a 24-hour calendar day
24 (beginning at 12:00 am and ending at 11:59 pm) during which any
25 weather event (e.g., storm, tornado) caused interruptions for
26 10,000 or more of the participating utility's customers for 3

1 hours or more. If there are more than 9 extreme weather event
2 days in a year, then the utility may choose no more than 9
3 extreme weather event days to exclude, provided that the same
4 extreme weather event days are excluded from each of the
5 calculations performed under paragraphs (1) through (3) of this
6 subsection (f).

7 The metrics shall include incremental performance goals
8 for each year of the 10-year period, which shall be designed to
9 demonstrate that the utility is on track to achieve the
10 performance goal in each category at the end of the 10-year
11 period. The utility shall elect when the 10-year period shall
12 commence, provided that it begins no later than 14 months
13 following the date on which the utility begins investing
14 pursuant to subsection (b) of this Section.

15 The metrics and performance goals set forth in this
16 subsection (f) are based on the assumptions that the
17 participating utility may fully implement the technology
18 described in subsection (b) of this Section, including
19 utilizing the full functionality of such technology and that
20 there is no requirement for personal on-site notification.

21 (f-5) The financial penalties applicable to the metrics
22 described in subparagraphs (1) through (8) of subsection (f) of
23 this Section, as applicable, shall be applied through an
24 adjustment to the participating utility's return on equity as
25 follows:

26 (1) With respect to each of the incremental annual

1 performance goals established pursuant to paragraph (1) of
2 subsection (f) of this Section, for each year that a
3 participating utility other than a combination utility
4 does not achieve at least 95% of the annual goal, the
5 participating utility's return on equity shall be reduced
6 by no more than 5 basis points for such unachieved goal for
7 the following 12-month period, and for each year that a
8 participating utility that is a combination utility does
9 not achieve at least 95% of the annual goal, the
10 participating utility's return on equity shall be reduced
11 by no more than 10 basis points for each such unachieved
12 goal for the following 12-month period.

13 (2) With respect to each of the incremental annual
14 performance goals established pursuant to subparagraphs
15 (2), (3), (4), and (5) of subsection (f) of this Section,
16 as applicable, for each year that the participating utility
17 does not achieve at least 95% of each such goal, the
18 participating utility's return on equity shall be reduced
19 by no more than 5 basis points for each such unachieved
20 goal for the following 12-month period.

21 (3) With respect to each of the incremental annual
22 performance goals established pursuant to paragraphs (6),
23 (7), and (8) of subsection (f) of this Section, as
24 applicable, the performance under each such goal shall be
25 calculated in terms of the percentage of the goal achieved.
26 The percentage of goal achieved for each of the goals shall

1 be aggregated, and an average percentage value calculated,
2 for each year of the 10-year period. If the utility does
3 not achieve an average percentage value in a given year of
4 at least 95%, the participating utility's return on equity
5 shall be reduced by no more than 5 basis points for the
6 following 12-month period.

7 The financial penalties shall be applied as described in
8 this subsection (f-5) through a separate tariff mechanism,
9 which shall be filed by the utility together with its metrics.
10 In the event the formula rate tariff established pursuant to
11 subsection (c) of this Section terminates, the utility's
12 obligations under subsection (f) of this Section and this
13 subsection (f-5) shall also terminate, provided, however, that
14 the tariff mechanism established pursuant to subsection (f) of
15 this Section and this subsection (f-5) shall remain in effect
16 until any penalties due and owing at the time of such
17 termination are applied.

18 The Commission shall, after notice and hearing, enter an
19 order within 120 days after the metrics are filed approving, or
20 approving with modification, the metrics and tariff mechanism.
21 On June 1 of each subsequent year, each participating utility
22 shall file a report with the Commission that includes
23 performance under each metric, identification of any
24 extraordinary events that adversely impacted the utility's
25 performance, and any proposed financial penalties to be applied
26 through the approved tariff mechanism or any revised future

1 incremental annual performance goals to address a shortfall.
2 Each such filing shall include documentation and data
3 supporting any proposed financial penalties to be applied, and
4 the Commission shall, after notice and hearing, enter an order
5 approving, or approving with modification, any proposed
6 financial penalties within 180 days after the filing. The
7 Commission-approved financial penalties shall be applied
8 beginning with the next rate year.

9 (g) On or before July 31, 2014, a participating utility
10 shall file a report with the Commission demonstrating whether
11 the average increase in the amounts paid per kilowatthour by
12 residential eligible retail customers, or the weighted average
13 aggregate increase in the amounts paid by all residential
14 eligible retail customers for a participating utility that is a
15 combination utility with more than one rate zone, in connection
16 with electric service was limited to, during the period June 1,
17 2013 through May 31, 2014, no more than 2.5%, compounded
18 annually, of the amount paid per kilowatthour by those
19 customers during the period June 1, 2010 through May 31, 2011,
20 and exclusive of the effects of energy efficiency programs. The
21 report shall be filed together with a statement from an
22 independent auditor attesting to the accuracy of the report.

23 In the event that the average annual increase exceeds 2.5%
24 as calculated pursuant to this subsection (g), then Sections
25 1-56A and 1-76 of the Illinois Power Agency Act and Sections
26 8-103A, 16-108.5, 16-108.6, 16-108.7, 16-108.8, and 16-111.5B

1 of this Act, other than this subsection, shall be inoperative
2 as they relate to the utility and its service area as of the
3 date of the report due to be submitted pursuant to this
4 subsection and the utility shall no longer be eligible to
5 annually update the performance-based formula rate tariff
6 pursuant to subsection (d) of this Section. In such event, the
7 then current rates shall remain in effect until such time as
8 new rates are set pursuant to Article IX of this Act, subject
9 to retroactive adjustment, with interest, to reconcile rates
10 charged with actual costs, and the participating utility's
11 voluntary commitments and obligations under subsection (b) of
12 this Section shall immediately terminate, except for the
13 utility's obligation to pay an amount already owed to the fund
14 for training grants pursuant to a Commission order issued under
15 subsection (b) of this Section.

16 In the event that the average annual increase is 2.5% or
17 less as calculated pursuant to this subsection (g), then the
18 performance-based formula rate shall remain in effect as set
19 forth in this Section.

20 For purposes of this Section, the amount per kilowatthour
21 means the total amount paid for electric service expressed on a
22 per kilowatthour basis, and the total amount paid for electric
23 service includes without limitation amounts paid for supply,
24 transmission, distribution, surcharges, and add-on-taxes
25 exclusive of any increases in taxes or new taxes imposed after
26 the effective date of this amendatory Act of the 97th General

1 Assembly. For purposes of this Section, "eligible retail
2 customers" shall have the meaning set forth in Section 16-111.5
3 of this Act.

4 The fact that this Section becomes inoperative as set forth
5 in this subsection shall not be construed to mean that the
6 Commission may reexamine or otherwise reopen prudence or
7 reasonableness determinations already made.

8 (h) Sections 1-56A and 1-76 of the Illinois Power Agency
9 Act and Sections 8-103A, 16-108.5, 16-108.6, 16-108.7,
10 16-108.8, and 16-111.5B of this Act, other than this
11 subsection, are inoperative after December 31, 2017 for every
12 participating utility, after which time a participating
13 utility shall no longer be eligible to annually update the
14 performance-based formula rate tariff pursuant to subsection
15 (d) of this Section. At such time, the then current rates shall
16 remain in effect until such time as new rates are set pursuant
17 to Article IX of this Act, subject to retroactive adjustment,
18 with interest, to reconcile rates charged with actual costs.

19 By December 31, 2017, the Commission shall prepare and file
20 with the General Assembly a report on the change in the average
21 amount per kilowatthour paid by residential customers between
22 June 1, 2011 and May 31, 2017. If the change in the total
23 average rate paid exceeds 2.5% compounded annually, the
24 Commission shall include in the report an analysis that shows
25 the portion of the change due to the delivery services
26 component and the portion of the change due to the supply

1 component of the rate. The report shall include separate
2 sections for each participating utility.

3 The fact that this Section becomes inoperative as set forth
4 in this subsection shall not be construed to mean that the
5 Commission may reexamine or otherwise reopen prudence or
6 reasonableness determinations already made.

7 (i) Notwithstanding anything to the contrary in this
8 Section, an electric utility that serves less than 100,000
9 retail customers in Illinois may be considered a participating
10 utility if it undertakes the voluntary commitments and
11 obligations described in subsection (b) of this Section,
12 provided, however, that such commitments and obligations, as
13 well as amounts set forth in subsection (c) of this Section,
14 shall be reduced proportionately, based on the number of
15 customers, for the utility. Such participating utility shall be
16 permitted to file a performance-based formula rate tariff that
17 recovers its total actual Illinois jurisdictional costs to
18 provide electric service to its retail customers.

19 (j) While a participating utility may use, develop, and
20 maintain broadband systems and the delivery of broadband
21 services, voice-over-internet-protocol services,
22 telecommunications services, and cable and video programming
23 services in conjunction with providing delivery services to its
24 retail customers, including, but not limited to, the
25 installation, implementation and maintenance of Smart Grid
26 electric system upgrades as defined in Section 16-108.6 of the

1 Act, a participating utility is not authorized under this
2 Section to separately offer to its retail customers broadband
3 services or the delivery of broadband services,
4 voice-over-internet-protocol services, telecommunications
5 services, or cable or video programming services or to recover
6 the costs of such separate offerings from retail customers.

7 (k) Nothing in this Section is intended to legislatively
8 overturn the opinion issued in Commonwealth Edison Co. v. Ill.
9 Commerce Comm'n, Nos. 2-08-0959, 2-08-1037, 2-08-1137,
10 1-08-3008, 1-08-3030, 1-08-3054, 1-08-3313 cons. (Ill. App.
11 Ct. 2d Dist. Sept. 30, 2010).

12 (220 ILCS 5/16-108.6 new)

13 Sec. 16-108.6. Provisions relating to Smart Grid Advanced
14 Metering Infrastructure Deployment Plan.

15 (a) For purposes of this Section and Sections 16-108.7 and
16 16-108.8 of this Act:

17 "Advanced Metering Infrastructure" or "AMI" means the
18 communications hardware and software and associated system
19 software that enables Smart Grid functions by creating a
20 network between advanced meters and utility business systems
21 and allowing collection and distribution of information to
22 customers and other parties in addition to providing
23 information to the utility itself.

24 "Cost-beneficial" means a determination that the benefits
25 of a participating utility's Smart Grid AMI Deployment Plan

1 exceed the costs of the Plan as initially filed with the
2 Commission or as subsequently modified by the Commission. This
3 standard is met if the net present value of the total benefits
4 of the Smart Grid AMI Deployment Plan exceeds the net present
5 value of the total costs of the Smart Grid AMI Deployment Plan.
6 The total cost shall include all utility costs reasonably
7 associated with the Smart Grid AMI Deployment Plan. The total
8 benefits shall include the sum of avoided electricity costs,
9 including avoided utility operational costs, avoided consumer
10 power, capacity, and energy costs, and avoided societal costs
11 associated with the production and consumption of electricity,
12 as well as other societal benefits, including the greater
13 integration of renewable and distributed power resources,
14 reductions in the emissions of harmful pollutants and
15 associated avoided health-related costs, other benefits
16 associated with energy efficiency measures, demand-response
17 activities, and the enabling of greater penetration of
18 alternative fuel vehicles.

19 "Participating utility" has the meaning set forth in
20 Section 16-108.5 of this Act.

21 "Smart Grid" means investments and policies that together
22 promote one or more of the following goals:

23 (1) Increased use of digital information and controls
24 technology to improve reliability, security, and
25 efficiency of the electric grid.

26 (2) Dynamic optimization of grid operations and

1 resources, with full cyber-security.

2 (3) Deployment and integration of distributed
3 resources and generation, including renewable resources.

4 (4) Development and incorporation of demand-response,
5 demand-side resources, and energy efficiency resources.

6 (5) Deployment of "smart" technologies (real-time,
7 automated, interactive technologies that optimize the
8 physical operation of appliances and consumer devices) for
9 metering, communications concerning grid operations and
10 status, and distribution automation.

11 (6) Integration of "smart" appliances and consumer
12 devices.

13 (7) Deployment and integration of advanced electricity
14 storage and peak-shaving technologies, including plug-in
15 electric and hybrid electric vehicles, thermal-storage air
16 conditioning and renewable energy generation.

17 (8) Provision to consumers of timely information and
18 control options.

19 (9) Development of open access standards for
20 communication and interoperability of appliances and
21 equipment connected to the electric grid, including the
22 infrastructure serving the grid.

23 (10) Identification and lowering of unreasonable or
24 unnecessary barriers to adoption of smart grid
25 technologies, practices, services, and business models
26 that support energy efficiency, demand-response, and

1 distributed generation.

2 "Smart Grid Advisory Council" means the group of
3 stakeholders formed pursuant to subsection (b) of this Section
4 for the purposes of advising and working with participating
5 utilities on the development and implementation of a Smart Grid
6 Advanced Metering Infrastructure Deployment Plan.

7 "Smart Grid electric system upgrades" means any of the
8 following:

9 (1) metering devices, sensors, control devices, and
10 other devices integrated with and attached to an electric
11 utility system that are capable of engaging in Smart Grid
12 functions;

13 (2) other monitoring and communications devices that
14 enable Smart Grid functions, including, but not limited to,
15 distribution automation;

16 (3) software that enables devices or computers to
17 engage in Smart Grid functions;

18 (4) associated cyber secure data communication
19 network, including enhancements to cyber security
20 technologies and measures;

21 (5) substation micro-processor relay upgrades;

22 (6) devices that allow electric or hybrid-electric
23 vehicles to engage in Smart Grid functions; or

24 (7) devices that enable individual consumers to
25 incorporate distributed and micro-generation.

26 "Smart Grid electric system upgrades" does not include

1 expenditures for: (1) electricity generation, transmission, or
2 distribution infrastructure or equipment that does not
3 directly relate to or support installing, implementing or
4 enabling Smart Grid functions; (2) physical interconnection of
5 generators or other devices to the grid except those that are
6 directly related to enabling Smart Grid functions; or (3)
7 ongoing or routine operation, billing, customer relations,
8 security, and maintenance.

9 "Smart Grid functions" means:

10 (1) the ability to develop, store, send, and receive
11 digital information concerning or enabling grid
12 operations, electricity use, costs, prices, time of use,
13 nature of use, storage, or other information relevant to
14 device, grid, or utility operations, to or from or by means
15 of the electric utility system through one or a combination
16 of devices and technologies;

17 (2) the ability to develop, store, send, and receive
18 digital information concerning electricity use, costs,
19 prices, time of use, nature of use, storage, or other
20 information relevant to device, grid, or utility
21 operations to or from a computer or other control device;

22 (3) the ability to measure or monitor electricity use
23 as a function of time of day, power quality characteristics
24 such as voltage level, current, cycles per second, or
25 source or type of generation and to store, synthesize, or
26 report that information by digital means;

1 (4) the ability to sense and localize disruptions or
2 changes in power flows on the grid and communicate such
3 information instantaneously and automatically for purposes
4 of enabling automatic protective responses to sustain
5 reliability and security of grid operations;

6 (5) the ability to detect, prevent, communicate with
7 regard to, respond to, or recover from system security
8 threats, including cyber-security threats and terrorism,
9 using digital information, media, and devices;

10 (6) the ability of any device or machine to respond to
11 signals, measurements, or communications automatically or
12 in a manner programmed by its owner or operator without
13 independent human intervention;

14 (7) the ability to use digital information to operate
15 functionalities on the electric utility grid that were
16 previously electro-mechanical or manual;

17 (8) the ability to use digital controls to manage and
18 modify electricity demand, enable congestion management,
19 assist in voltage control, provide operating reserves, and
20 provide frequency regulation; or

21 (9) the ability to integrate electric plug-in
22 vehicles, distributed generation, and storage in a safe and
23 cost effective manner on the electric grid.

24 (b) Within 30 days after the effective date of this
25 amendatory Act of the 97th General Assembly, the Smart Grid
26 Advisory Council shall be established, which shall consist of 7

1 total voting members with each member possessing either
2 technical, business or consumer expertise in Smart Grid issues
3 and each having been the single appointment of one of the
4 following: the Governor, the Speaker of the House, the Minority
5 Leader of the House, the President of the Senate, the Minority
6 Leader of the Senate, the Illinois Science and Technology
7 Coalition, and the Citizens Utility Board. The Governor shall
8 designate one of the members of the Council to serve as
9 chairman, and that person shall serve as the chairman at the
10 pleasure of the Governor. The Smart Grid Advisory Council shall
11 have the following duties:

12 (1) Serve as an advisor to participating utilities
13 subject to this Section and in the manner described in this
14 Section, and the recommendations provided by the Council,
15 although non-binding, shall be considered by the
16 utilities.

17 (2) Serve as trustees of the trust or foundation
18 established pursuant to Section 16-108.7 of this Act with
19 the duties enumerated thereunder.

20 (c) After consultation with the Smart Grid Advisory
21 Council, each participating utility shall file a Smart Grid
22 Advanced Metering Infrastructure Deployment Plan ("AMI Plan")
23 with the Commission within 180 days after the effective date of
24 this amendatory Act of the 97th General Assembly or by November
25 1, 2011, whichever is later, or in the case of a combination
26 utility as defined in Section 16-108.5, by April 1, 2012. The

1 AMI Plan shall provide for investment over a 10-year period
2 that is sufficient to implement the AMI Plan across its entire
3 service territory in a manner that is consistent with
4 subsection (b) of Section 16-108.5 of this Act. The AMI Plan
5 shall contain:

6 (1) the participating utility's Smart Grid AMI vision
7 statement that is consistent with the goal of developing a
8 cost-beneficial Smart Grid;

9 (2) a statement of Smart Grid AMI strategy that
10 includes a description of how the utility evaluates and
11 prioritizes technology choices to create customer value,
12 including a plan to enhance and enable customers' ability
13 to take advantage of Smart Grid functions beginning at the
14 time an account has billed successfully on the AMI network;

15 (3) a deployment schedule and plan that includes
16 deployment of AMI to all customers for a participating
17 utility other than a combination utility, and to 62% of all
18 customers for a participating utility that is a combination
19 utility;

20 (4) annual milestones and metrics for the purposes of
21 measuring the success of the AMI Plan in enabling Smart
22 Grid functions; and enhancing consumer benefits from Smart
23 Grid AMI; and

24 (5) a plan for the consumer education to be implemented
25 by the participating utility.

26 The AMI Plan shall be fully consistent with the standards

1 of the National Institute of Standard and Technology (NIST) for
2 Smart Grid interoperability that are in effect at the time the
3 participating utility files its AMI Plan, shall include open
4 standards and internet protocol to the maximum extent possible
5 consistent with cyber-security, and shall maximize, to the
6 extent possible, a flexible smart meter platform that can
7 accept remote device upgrades and contain sufficient internal
8 memory capacity for additional storage capabilities, functions
9 and services without the need for physical access to the meter.

10 The AMI Plan shall secure the privacy of personal
11 information and establish the right of consumers to consent to
12 the disclosure of personal energy information to third parties
13 through electronic, web-based, and other means in accordance
14 with State and federal law and regulations regarding consumer
15 privacy and protection of consumer data.

16 After notice and hearing, the Commission shall, within 60
17 days of the filing of an AMI Plan, issue its order approving,
18 or approving with modification, the AMI Plan if the Commission
19 finds that the AMI Plan contains the information required in
20 paragraphs (1) through (5) of this subsection (c) and further
21 finds that the implementation of the AMI Plan is likely to be
22 cost-beneficial, giving weight to the results of any
23 Commission-approved pilot designed to examine the benefits and
24 costs of AMI deployment. A participating utility's decision to
25 invest pursuant to an AMI Plan approved by the Commission shall
26 not be subject to prudence reviews in subsequent Commission

1 proceedings. Nothing in this subsection (c) is intended to
2 limit the Commission's ability to review the reasonableness of
3 the costs incurred under the AMI Plan. A participating utility
4 shall be allowed to recover the reasonable costs it incurs in
5 implementing a Commission-approved AMI Plan, including the
6 costs of retired meters, and may recover such costs through its
7 tariffs, including the performance-based formula rate tariff
8 approved pursuant to subsection (c) of Section 16-108.5 of this
9 Act.

10 (d) The AMI Plan shall secure the privacy of the customer's
11 personal information. "Personal information" for this purpose
12 consists of the customer's name, address, telephone number, and
13 other personally identifying information, as well as
14 information about the customer's electric usage. Electric
15 utilities, their contractors or agents, and any third party who
16 comes into possession of such personal information by virtue of
17 working on Smart Grid technology shall not disclose such
18 personal information to be used in mailing lists or to be used
19 for other commercial purposes not reasonably related to the
20 conduct of the utility's business. Electric utilities shall
21 comply with the consumer privacy requirements of the Personal
22 Information Protection Act.

23 (e) On April 1 of each year beginning in 2013 and after
24 consultation with the Smart Grid Advisory Council, each
25 participating utility shall submit a report regarding the
26 progress it has made toward completing implementation of its

1 AMI Plan. This report shall:

2 (1) describe the AMI investments made during the prior
3 12 months and the AMI investments planned to be made in the
4 following 12 months;

5 (2) provide sufficient detail to determine the
6 utility's progress in meeting the metrics and milestones
7 identified by the utility in its AMI Plan; and

8 (3) identify any updates to the AMI Plan.

9 Within 21 days after the utility files its annual report,
10 the Commission shall have authority, either upon complaint or
11 its own initiative, but with reasonable notice, to enter upon
12 an investigation regarding the utility's progress in
13 implementing the AMI Plan as described in paragraph (1) of this
14 subsection (e). If the Commission finds, after notice and
15 hearing, that the participating utility's progress in
16 implementing the AMI Plan is materially deficient for the given
17 Plan year, then the Commission shall issue an order requiring
18 the participating utility to devise a corrective action plan,
19 subject to Commission approval and oversight, to bring
20 implementation back on schedule consistent with the AMI Plan.
21 The Commission's order must be entered within 90 days after the
22 utility files its annual report. If the Commission does not
23 initiate an investigation within 21 days after the utility
24 files its annual report, then the filing shall be deemed
25 accepted by the Commission. The utility shall not be required
26 to suspend implementation of its AMI Plan during any Commission

1 investigation.

2 The participating utility's annual report regarding AMI
3 Plan year 10 shall contain a statement verifying that the
4 implementation of its AMI Plan is complete, provided, however,
5 that if the utility is subject to a corrective action plan that
6 extends the implementation period beyond 10 years, the utility
7 shall include the verification statement in its final annual
8 report. Following the date of a Commission order approving the
9 final annual report or the date on which the final report is
10 deemed accepted by the Commission, the utility's annual
11 reporting obligations under this subsection (d) shall
12 terminate, provided, however, that the utility shall have a
13 continuing obligation to provide information, upon request, to
14 the Commission and Smart Grid Advisory Council regarding the
15 AMI Plan.

16 (f) Each participating utility shall pay \$2,500,000 per
17 year to the trust or foundation established pursuant to Section
18 16-108.7 of this Act for each plan year of the AMI Plan, which
19 shall be used for purposes of providing customer education
20 regarding smart meters and related consumer-facing
21 technologies and services and which shall be a recoverable
22 expense.

23 (g) Within 60 days after the Commission approves a
24 participating utility's AMI Plan pursuant to subsection (c) of
25 this Section, the participating utility, after consultation
26 with the Smart Grid Advisory Council, shall file a proposed

1 tariff with the Commission that offers an opt-in market-based
2 peak time rebate program that is designed to provide rebates to
3 those residential retail customers that curtail their use of
4 electricity during specific periods that are identified as peak
5 usage periods. The total amount of rebates shall be the amount
6 of compensation the utility obtains through markets or programs
7 at the applicable regional transmission organization. The
8 utility shall make all reasonable attempts to secure funding
9 for the peak time rebate program through markets or programs at
10 the applicable regional transmission organization. The rules
11 and procedures for consumers to opt-in to the peak time rebate
12 program shall include electronic sign-up and be designed to
13 maximize participation. The Commission shall monitor the
14 performance of programs established pursuant to this
15 subsection (g) and shall order the termination or modification
16 of a program if it determines that the program is not, after a
17 reasonable period of time for development of at least 4 years,
18 resulting in net benefits to the residential customers of the
19 participating utility.

20 (h) If Section 16-108.5 of this Act becomes inoperative
21 with respect to one or more participating utilities as set
22 forth in subsection (g) or (h) of that Section, then Sections
23 1-56A and 1-76 of the Illinois Power Agency Act and Sections
24 8-103A, 16-108.5, 16-108.6, 16-108.7, 16-108.8, and 16-111.5B
25 of this Act shall become inoperative as to each affected
26 utility and its service area on the same date as Section

1 16-108.5 becomes inoperative.

2 (220 ILCS 5/16-108.7 new)

3 Sec. 16-108.7. Illinois Science and Energy Innovation
4 Trust.

5 (a) Within 90 days of the effective date of this amendatory
6 Act of the 97th General Assembly, the members of the Smart Grid
7 Advisory Council established pursuant to Section 16-108.6 of
8 this Act, or a majority of the members thereof, shall cause to
9 be established an Illinois science and energy innovation trust
10 or foundation for the purposes of providing financial and
11 technical support and assistance to entities, public or
12 private, within the State of Illinois including, but not
13 limited to, units of State and local government, educational
14 and research institutions, corporations, and charitable,
15 educational, environmental and community organizations, for
16 programs and projects that support, encourage or utilize
17 innovative technologies or other methods of modernizing the
18 State's electric grid that will benefit the public by promoting
19 economic development in Illinois. Such activities shall be
20 supported through grants, loans, contracts, or other programs
21 designed to assist and further benefit technological advances
22 in the area of electric grid modernization and operation. The
23 trust or foundation shall also be eligible for receipt of other
24 energy and environmental grant opportunities, from public or
25 private sources.

1 (b) Funds received by the trust or foundation pursuant to
2 subsection (f) of Section 16-108.6 of this Act shall be used
3 solely for the purpose of providing consumer education
4 regarding smart meters and related consumer-facing
5 technologies and services.

6 (c) Such trust or foundation shall be governed by a
7 declaration of trust or articles of incorporation and bylaws
8 which shall, at a minimum, provide the following:

9 (1) There shall initially be 7 trustees of the trust or
10 foundation, which shall consist of the members of the Smart
11 Grid Advisory Council established pursuant to Section
12 16-108.6 of this Act. Subsequently, the participating
13 utilities shall appoint one trustee and the Clean Energy
14 Trust shall appoint one non-voting trustee who shall
15 provide expertise regarding early stage investment in
16 Smart Grid projects.

17 (2) All trustees shall be entitled to reimbursement for
18 reasonable expenses incurred on behalf of the trust in the
19 performance of their duties as trustees. All such
20 compensation and reimbursements shall be paid out of the
21 trust.

22 (3) Trustees shall be appointed within 60 days after
23 the creation of the trust or foundation and shall serve for
24 a term of 5 years commencing upon the date of their
25 respective appointments, until their respective successors
26 are appointed and qualified.

1 (4) A vacancy in the office of trustee shall be filled
2 by the person holding the office responsible for appointing
3 the trustee whose death or resignation creates the vacancy,
4 and a trustee appointed to fill a vacancy shall serve the
5 remainder of the term of the trustee whose resignation or
6 death created the vacancy.

7 (5) The trust or foundation shall have an indefinite
8 term and shall terminate at such time as no trust assets
9 remain.

10 (6) The allocation and disbursement of funds for the
11 various purposes for which the trust or foundation is
12 established shall be determined by the trustees in
13 accordance with the declaration of trust or the articles of
14 incorporation and bylaws.

15 (7) The trust or foundation shall be authorized to
16 employ an executive director and other employees, or
17 contract management of the trust or foundation in its
18 entirety to an outside organization found suitable by the
19 trustees, to enter into leases, contracts and other
20 obligations on behalf of the trust or foundation, and to
21 incur expenses that the trustees deem necessary or
22 appropriate for the fulfillment of the purposes for which
23 the trust or foundation is established, provided, however,
24 that salaries and administrative expenses incurred on
25 behalf of the trust or foundation shall not exceed 3% of
26 the trust's principal value, or \$750,000, whichever is

1 greater, in any given year.

2 (8) The trustees may create and appoint advisory boards
3 or committees to assist them with the administration of the
4 trust or foundation, and to advise and make recommendations
5 to them regarding the contribution and disbursement of the
6 trust or foundation funds.

7 (9) All funds dispersed by the trust or foundation for
8 programs and projects to meet the objectives of the trust
9 or foundation as enumerated in this Section shall be
10 subject to a peer-review process as determined by the
11 trustees. This process shall be designed to determine, in
12 an objective and unbiased manner, those programs and
13 projects that best fit the objectives of the trust or
14 foundation. In each fiscal year the trustees shall
15 determine, based solely on the information provided
16 through the peer-review process, a budget for programs and
17 projects for that fiscal year.

18 (10) The trustees shall administer a Smart Grid
19 education fund from which it shall make grants to qualified
20 not-for-profit organizations for the purpose of educating
21 customers with regard to smart meters and related
22 consumer-facing technologies and services. In making such
23 grants the trust or foundation shall strongly encourage
24 grantees to coordinate to the extent practicable and
25 consider recommendations from the participating utilities
26 regarding the development and implementation of customer

1 education plans.

2 (11) One of the objectives of the trust or foundation
3 is to remain self-funding. In order to meet this objective,
4 the trustees may sign agreements with those entities
5 receiving funding that provide for license fees,
6 royalties, or other payments to the trust or foundation
7 from such entities that receive support for their product
8 development from the trust or foundation. Such payments,
9 however, shall be contingent on the commercialization of
10 such products, services, or technologies enabled by the
11 funding provided by the trust or foundation.

12 (d) The trustees shall notify each participating utility as
13 defined in Section 16-108.5 of this Act of the formation of the
14 trust or foundation. Within 90 days after receipt of the
15 notification, each participating utility that is not a
16 combination utility as defined in Section 16-108.5 of this Act
17 shall contribute \$15,000,000 to the trust or foundation, and
18 each participating utility that is a combination utility, as
19 defined in Section 16-108.5 of this Act, shall contribute
20 \$7,500,000 to the trust or foundation established pursuant to
21 this Section.

22 (e) If Section 16-108.5 of this Act becomes inoperative
23 with respect to one or more participating utilities as set
24 forth in subsection (g) or (h) of that Section, then Sections
25 1-56A and 1-76 of the Illinois Power Agency Act and Sections
26 8-103A, 16-108.5, 16-108.6, 16-108.7, 16-108.8, and 16-111.5B

1 of this Act shall become inoperative as to each affected
2 utility and its service area on the same date as Section
3 16-108.5 becomes inoperative.

4 (220 ILCS 5/16-108.8 new)

5 Sec. 16-108.8. Illinois Smart Grid test bed.

6 (a) Within 180 days after the effective date of this
7 amendatory Act of the 97th General Assembly, each participating
8 utility, as defined by Section 16-108.5 of this Act, shall
9 create or otherwise designate a Smart Grid test bed, which may
10 be located at one or more places within the utility's system,
11 for the purposes of allowing for the testing of Smart Grid
12 technologies. The objectives of this test bed shall be to:

13 (1) provide an open, unbiased opportunity for testing
14 programs, technologies, business models, and other Smart
15 Grid-related activities;

16 (2) provide on-grid locations for the testing of
17 potentially innovative Smart Grid-related technologies and
18 services, including but not limited to those funded by the
19 trust or foundation established pursuant to Section
20 16-108.7 of this Act;

21 (3) facilitate testing of business models or services
22 that help integrate Smart Grid-related technologies into
23 the electric grid, especially those business models that
24 may help promote new products and services for retail
25 customers;

1 (4) offer opportunities to test and showcase Smart Grid
2 technologies and services, especially those likely to
3 support the economic development goals of the State of
4 Illinois.

5 (b) The test bed shall reside in one or more locations on
6 the participating utility's network. Such locations shall be
7 chosen by the utility to maximize the opportunity for real-time
8 and real-world testing of Smart Grid technologies and services
9 taking into account the safety and security of the
10 participating utility's grid and grid operations.

11 (c) The participating utility, with input from the Smart
12 Grid Advisory Council established pursuant to Section 16-108.6
13 of this Act, shall, as part of its filing under subsection (b)
14 of Section 16-108.5, include a plan for the creation,
15 operation, and administration of the test bed. This plan shall
16 address the following:

17 (1) how the utility proposes to comply with each of the
18 objectives set forth in subsection (a) of this Section;

19 (2) the proposed location or locations of the test bed;

20 (3) the process by which the utility will receive,
21 review, and qualify proposals to use the test bed;

22 (4) the criteria by which the utility proposes to
23 qualify proposals to use the test bed, including, but not
24 limited to safety, reliability, security, customer data
25 security, privacy, and economic development
26 considerations;

1 (5) the engineering and operations support that the
2 utility will provide to test bed users, including provision
3 of customer data; and

4 (6) the estimated costs to establish, administer and
5 promote the availability of the test bed.

6 (d) The test bed should be open to all qualified entities
7 wishing to test programs, technologies, business models, and
8 other Smart Grid-related activities, provided that the utility
9 retains control of its grid and operations and may reject any
10 programs, technologies, business models, and other Smart
11 Grid-related activities that threaten the reliability, safety,
12 security, or operations of its network, or that would threaten
13 the security of customer-identifiable data in the judgment of
14 the utility. The number of technologies and entities
15 participating in the test bed at any time may be limited by the
16 utility based on its determination of its ability to maintain a
17 secure, safe, and reliable grid.

18 (e) At a minimum, the test bed shall have the ability to
19 receive live signals from PJM Interconnection LLC or other
20 applicable regional transmission organization, the ability to
21 test new applications in a utility scale environment (to
22 include ramp rate regulations for distributed wind and solar
23 resources), critical peak price response, and market based
24 power dispatch.

25 (f) At the end of the fourth year of operation the test bed
26 shall be subject to an independent evaluation to determine if

1 the test bed is meeting the objectives of this Section or is
2 likely to meet the objectives in the future. The evaluation
3 shall include the performance of the utility as test bed
4 operator. Subject to the findings, the utility and the trust or
5 foundation established pursuant to Section 16-108.7 of this Act
6 may choose to continue operating the test bed.

7 (g) The utility shall be entitled to recover all prudently
8 incurred and reasonable costs associated with evaluation of
9 proposals, engineering, construction, operation, and
10 administration of the test bed through the performance-based
11 formula rate tariff established pursuant to Section 16-108.5 of
12 this Act.

13 (h) The utility is authorized to charge fees to users of
14 the test bed that shall recover the costs associated with the
15 incremental costs to the utility associated with
16 administration of the test bed, provided, however, that any
17 such fees collected by the utility shall be used to offset the
18 costs to be recovered pursuant to subsection (g) of this
19 Section.

20 (i) On a quarterly basis, the utility shall provide the
21 trust or foundation established pursuant to Section 16-108.7 of
22 this Act with a report summarizing test bed activities,
23 customers, discoveries, and other information as shall be
24 mutually deemed relevant.

25 (j) To the extent practicable, the utility and trust or
26 foundation established pursuant to Section 16-108.7 of this Act

1 shall jointly pursue resources that enhance the capabilities
2 and capacity of the test bed.

3 (k) If Section 16-108.5 of this Act becomes inoperative
4 with respect to one or more participating utilities as set
5 forth in subsection (g) or (h) of that Section, then Sections
6 1-56A and 1-76 of the Illinois Power Agency Act and Sections
7 8-103A, 16-108.5, 16-108.6, 16-108.7, 16-108.8, and 16-111.5B
8 of this Act shall become inoperative as to each affected
9 utility and its service area on the same date as Section
10 16-108.5 become inoperative.

11 (220 ILCS 5/16-111.5)

12 Sec. 16-111.5. Provisions relating to procurement.

13 (a) An electric utility that on December 31, 2005 served at
14 least 100,000 customers in Illinois shall procure power and
15 energy for its eligible retail customers in accordance with the
16 applicable provisions set forth in Section 1-75 of the Illinois
17 Power Agency Act and this Section. "Eligible retail customers"
18 for the purposes of this Section means those retail customers
19 that purchase power and energy from the electric utility under
20 fixed-price bundled service tariffs, other than those retail
21 customers whose service is declared or deemed competitive under
22 Section 16-113 and those other customer groups specified in
23 this Section, including self-generating customers, customers
24 electing hourly pricing, or those customers who are otherwise
25 ineligible for fixed-price bundled tariff service. Those

1 customers that are excluded from the definition of "eligible
2 retail customers" shall not be included in the procurement plan
3 load requirements, and the utility shall procure any supply
4 requirements, including capacity, ancillary services, and
5 hourly priced energy, in the applicable markets as needed to
6 serve those customers, provided that the utility may include in
7 its procurement plan load requirements for the load that is
8 associated with those retail customers whose service has been
9 declared or deemed competitive pursuant to Section 16-113 of
10 this Act to the extent that those customers are purchasing
11 power and energy during one of the transition periods
12 identified in subsection (b) of Section 16-113 of this Act.

13 (b) A procurement plan shall be prepared for each electric
14 utility consistent with the applicable requirements of the
15 Illinois Power Agency Act and this Section. For purposes of
16 this Section, Illinois electric utilities that are affiliated
17 by virtue of a common parent company are considered to be a
18 single electric utility. Each procurement plan shall analyze
19 the projected balance of supply and demand for eligible retail
20 customers over a 5-year period with the first planning year
21 beginning on June 1 of the year following the year in which the
22 plan is filed. The plan shall specifically identify the
23 wholesale products to be procured following plan approval, and
24 shall follow all the requirements set forth in the Public
25 Utilities Act and all applicable State and federal laws,
26 statutes, rules, or regulations, as well as Commission orders.

1 Nothing in this Section precludes consideration of contracts
2 longer than 5 years and related forecast data. Unless specified
3 otherwise in this Section, in the procurement plan or in the
4 implementing tariff, any procurement occurring in accordance
5 with this plan shall be competitively bid through a request for
6 proposals process. Approval and implementation of the
7 procurement plan shall be subject to review and approval by the
8 Commission according to the provisions set forth in this
9 Section. A procurement plan shall include each of the following
10 components:

11 (1) Hourly load analysis. This analysis shall include:

12 (i) multi-year historical analysis of hourly
13 loads;

14 (ii) switching trends and competitive retail
15 market analysis;

16 (iii) known or projected changes to future loads;

17 and

18 (iv) growth forecasts by customer class.

19 (2) Analysis of the impact of any demand side and
20 renewable energy initiatives. This analysis shall include:

21 (i) the impact of demand response programs, both
22 current and projected;

23 (ii) supply side needs that are projected to be
24 offset by purchases of renewable energy resources, if
25 any; and

26 (iii) the impact of energy efficiency programs,

1 both current and projected.

2 (3) A plan for meeting the expected load requirements
3 that will not be met through preexisting contracts. This
4 plan shall include:

5 (i) definitions of the different retail customer
6 classes for which supply is being purchased;

7 (ii) the proposed mix of demand-response products
8 for which contracts will be executed during the next
9 year. The cost-effective demand-response measures
10 shall be procured whenever the cost is lower than
11 procuring comparable capacity products, provided that
12 such products shall:

13 (A) be procured by a demand-response provider
14 from eligible retail customers;

15 (B) at least satisfy the demand-response
16 requirements of the regional transmission
17 organization market in which the utility's service
18 territory is located, including, but not limited
19 to, any applicable capacity or dispatch
20 requirements;

21 (C) provide for customers' participation in
22 the stream of benefits produced by the
23 demand-response products;

24 (D) provide for reimbursement by the
25 demand-response provider of the utility for any
26 costs incurred as a result of the failure of the

1 supplier of such products to perform its
2 obligations thereunder; and

3 (E) meet the same credit requirements as apply
4 to suppliers of capacity, in the applicable
5 regional transmission organization market;

6 (iii) monthly forecasted system supply
7 requirements, including expected minimum, maximum, and
8 average values for the planning period;

9 (iv) the proposed mix and selection of standard
10 wholesale products for which contracts will be
11 executed during the next year, separately or in
12 combination, to meet that portion of its load
13 requirements not met through pre-existing contracts,
14 including but not limited to monthly 5 x 16 peak period
15 block energy, monthly off-peak wrap energy, monthly 7 x
16 24 energy, annual 5 x 16 energy, annual off-peak wrap
17 energy, annual 7 x 24 energy, monthly capacity, annual
18 capacity, peak load capacity obligations, capacity
19 purchase plan, and ancillary services;

20 (v) proposed term structures for each wholesale
21 product type included in the proposed procurement plan
22 portfolio of products; and

23 (vi) an assessment of the price risk, load
24 uncertainty, and other factors that are associated
25 with the proposed procurement plan; this assessment,
26 to the extent possible, shall include an analysis of

1 the following factors: contract terms, time frames for
2 securing products or services, fuel costs, weather
3 patterns, transmission costs, market conditions, and
4 the governmental regulatory environment; the proposed
5 procurement plan shall also identify alternatives for
6 those portfolio measures that are identified as having
7 significant price risk.

8 (4) Proposed procedures for balancing loads. The
9 procurement plan shall include, for load requirements
10 included in the procurement plan, the process for (i)
11 hourly balancing of supply and demand and (ii) the criteria
12 for portfolio re-balancing in the event of significant
13 shifts in load.

14 (c) The procurement process set forth in Section 1-75 of
15 the Illinois Power Agency Act and subsection (e) of this
16 Section shall be administered by a procurement administrator
17 and monitored by a procurement monitor.

18 (1) The procurement administrator shall:

19 (i) design the final procurement process in
20 accordance with Section 1-75 of the Illinois Power
21 Agency Act and subsection (e) of this Section following
22 Commission approval of the procurement plan;

23 (ii) develop benchmarks in accordance with
24 subsection (e)(3) to be used to evaluate bids; these
25 benchmarks shall be submitted to the Commission for
26 review and approval on a confidential basis prior to

1 the procurement event;

2 (iii) serve as the interface between the electric
3 utility and suppliers;

4 (iv) manage the bidder pre-qualification and
5 registration process;

6 (v) obtain the electric utilities' agreement to
7 the final form of all supply contracts and credit
8 collateral agreements;

9 (vi) administer the request for proposals process;

10 (vii) have the discretion to negotiate to
11 determine whether bidders are willing to lower the
12 price of bids that meet the benchmarks approved by the
13 Commission; any post-bid negotiations with bidders
14 shall be limited to price only and shall be completed
15 within 24 hours after opening the sealed bids and shall
16 be conducted in a fair and unbiased manner; in
17 conducting the negotiations, there shall be no
18 disclosure of any information derived from proposals
19 submitted by competing bidders; if information is
20 disclosed to any bidder, it shall be provided to all
21 competing bidders;

22 (viii) maintain confidentiality of supplier and
23 bidding information in a manner consistent with all
24 applicable laws, rules, regulations, and tariffs;

25 (ix) submit a confidential report to the
26 Commission recommending acceptance or rejection of

1 bids;

2 (x) notify the utility of contract counterparties
3 and contract specifics; and

4 (xi) administer related contingency procurement
5 events.

6 (2) The procurement monitor, who shall be retained by
7 the Commission, shall:

8 (i) monitor interactions among the procurement
9 administrator, suppliers, and utility;

10 (ii) monitor and report to the Commission on the
11 progress of the procurement process;

12 (iii) provide an independent confidential report
13 to the Commission regarding the results of the
14 procurement event;

15 (iv) assess compliance with the procurement plans
16 approved by the Commission for each utility that on
17 December 31, 2005 provided electric service to a least
18 100,000 customers in Illinois;

19 (v) preserve the confidentiality of supplier and
20 bidding information in a manner consistent with all
21 applicable laws, rules, regulations, and tariffs;

22 (vi) provide expert advice to the Commission and
23 consult with the procurement administrator regarding
24 issues related to procurement process design, rules,
25 protocols, and policy-related matters; and

26 (vii) consult with the procurement administrator

1 regarding the development and use of benchmark
2 criteria, standard form contracts, credit policies,
3 and bid documents.

4 (d) Except as provided in subsection (j), the planning
5 process shall be conducted as follows:

6 (1) Beginning in 2008, each Illinois utility procuring
7 power pursuant to this Section shall annually provide a
8 range of load forecasts to the Illinois Power Agency by
9 July 15 of each year, or such other date as may be required
10 by the Commission or Agency. The load forecasts shall cover
11 the 5-year procurement planning period for the next
12 procurement plan and shall include hourly data
13 representing a high-load, low-load and expected-load
14 scenario for the load of the eligible retail customers. The
15 utility shall provide supporting data and assumptions for
16 each of the scenarios.

17 (2) Beginning in 2008, the Illinois Power Agency shall
18 prepare a procurement plan by August 15th of each year, or
19 such other date as may be required by the Commission. The
20 procurement plan shall identify the portfolio of
21 demand-response and power and energy products to be
22 procured. Cost-effective demand-response measures shall be
23 procured as set forth in item (iii) of subsection (b) of
24 this Section. Copies of the procurement plan shall be
25 posted and made publicly available on the Agency's and
26 Commission's websites, and copies shall also be provided to

1 each affected electric utility. An affected utility shall
2 have 30 days following the date of posting to provide
3 comment to the Agency on the procurement plan. Other
4 interested entities also may comment on the procurement
5 plan. All comments submitted to the Agency shall be
6 specific, supported by data or other detailed analyses,
7 and, if objecting to all or a portion of the procurement
8 plan, accompanied by specific alternative wording or
9 proposals. All comments shall be posted on the Agency's and
10 Commission's websites. During this 30-day comment period,
11 the Agency shall hold at least one public hearing within
12 each utility's service area for the purpose of receiving
13 public comment on the procurement plan. Within 14 days
14 following the end of the 30-day review period, the Agency
15 shall revise the procurement plan as necessary based on the
16 comments received and file the procurement plan with the
17 Commission and post the procurement plan on the websites.

18 (3) Within 5 days after the filing of the procurement
19 plan, any person objecting to the procurement plan shall
20 file an objection with the Commission. Within 10 days after
21 the filing, the Commission shall determine whether a
22 hearing is necessary. The Commission shall enter its order
23 confirming or modifying the procurement plan within 90 days
24 after the filing of the procurement plan by the Illinois
25 Power Agency.

26 (4) The Commission shall approve the procurement plan,

1 including expressly the forecast used in the procurement
2 plan, if the Commission determines that it will ensure
3 adequate, reliable, affordable, efficient, and
4 environmentally sustainable electric service at the lowest
5 total cost over time, taking into account any benefits of
6 price stability.

7 (e) The procurement process shall include each of the
8 following components:

9 (1) Solicitation, pre-qualification, and registration
10 of bidders. The procurement administrator shall
11 disseminate information to potential bidders to promote a
12 procurement event, notify potential bidders that the
13 procurement administrator may enter into a post-bid price
14 negotiation with bidders that meet the applicable
15 benchmarks, provide supply requirements, and otherwise
16 explain the competitive procurement process. In addition
17 to such other publication as the procurement administrator
18 determines is appropriate, this information shall be
19 posted on the Illinois Power Agency's and the Commission's
20 websites. The procurement administrator shall also
21 administer the prequalification process, including
22 evaluation of credit worthiness, compliance with
23 procurement rules, and agreement to the standard form
24 contract developed pursuant to paragraph (2) of this
25 subsection (e). The procurement administrator shall then
26 identify and register bidders to participate in the

1 procurement event.

2 (2) Standard contract forms and credit terms and
3 instruments. The procurement administrator, in
4 consultation with the utilities, the Commission, and other
5 interested parties and subject to Commission oversight,
6 shall develop and provide standard contract forms for the
7 supplier contracts that meet generally accepted industry
8 practices. Standard credit terms and instruments that meet
9 generally accepted industry practices shall be similarly
10 developed. The procurement administrator shall make
11 available to the Commission all written comments it
12 receives on the contract forms, credit terms, or
13 instruments. If the procurement administrator cannot reach
14 agreement with the applicable electric utility as to the
15 contract terms and conditions, the procurement
16 administrator must notify the Commission of any disputed
17 terms and the Commission shall resolve the dispute. The
18 terms of the contracts shall not be subject to negotiation
19 by winning bidders, and the bidders must agree to the terms
20 of the contract in advance so that winning bids are
21 selected solely on the basis of price.

22 (3) Establishment of a market-based price benchmark.
23 As part of the development of the procurement process, the
24 procurement administrator, in consultation with the
25 Commission staff, Agency staff, and the procurement
26 monitor, shall establish benchmarks for evaluating the

1 final prices in the contracts for each of the products that
2 will be procured through the procurement process. The
3 benchmarks shall be based on price data for similar
4 products for the same delivery period and same delivery
5 hub, or other delivery hubs after adjusting for that
6 difference. The price benchmarks may also be adjusted to
7 take into account differences between the information
8 reflected in the underlying data sources and the specific
9 products and procurement process being used to procure
10 power for the Illinois utilities. The benchmarks shall be
11 confidential but shall be provided to, and will be subject
12 to Commission review and approval, prior to a procurement
13 event.

14 (4) Request for proposals competitive procurement
15 process. The procurement administrator shall design and
16 issue a request for proposals to supply electricity in
17 accordance with each utility's procurement plan, as
18 approved by the Commission. The request for proposals shall
19 set forth a procedure for sealed, binding commitment
20 bidding with pay-as-bid settlement, and provision for
21 selection of bids on the basis of price.

22 (5) A plan for implementing contingencies in the event
23 of supplier default or failure of the procurement process
24 to fully meet the expected load requirement due to
25 insufficient supplier participation, Commission rejection
26 of results, or any other cause.

1 (i) Event of supplier default: In the event of
2 supplier default, the utility shall review the
3 contract of the defaulting supplier to determine if the
4 amount of supply is 200 megawatts or greater, and if
5 there are more than 60 days remaining of the contract
6 term. If both of these conditions are met, and the
7 default results in termination of the contract, the
8 utility shall immediately notify the Illinois Power
9 Agency that a request for proposals must be issued to
10 procure replacement power, and the procurement
11 administrator shall run an additional procurement
12 event. If the contracted supply of the defaulting
13 supplier is less than 200 megawatts or there are less
14 than 60 days remaining of the contract term, the
15 utility shall procure power and energy from the
16 applicable regional transmission organization market,
17 including ancillary services, capacity, and day-ahead
18 or real time energy, or both, for the duration of the
19 contract term to replace the contracted supply;
20 provided, however, that if a needed product is not
21 available through the regional transmission
22 organization market it shall be purchased from the
23 wholesale market.

24 (ii) Failure of the procurement process to fully
25 meet the expected load requirement: If the procurement
26 process fails to fully meet the expected load

1 requirement due to insufficient supplier participation
2 or due to a Commission rejection of the procurement
3 results, the procurement administrator, the
4 procurement monitor, and the Commission staff shall
5 meet within 10 days to analyze potential causes of low
6 supplier interest or causes for the Commission
7 decision. If changes are identified that would likely
8 result in increased supplier participation, or that
9 would address concerns causing the Commission to
10 reject the results of the prior procurement event, the
11 procurement administrator may implement those changes
12 and rerun the request for proposals process according
13 to a schedule determined by those parties and
14 consistent with Section 1-75 of the Illinois Power
15 Agency Act and this subsection. In any event, a new
16 request for proposals process shall be implemented by
17 the procurement administrator within 90 days after the
18 determination that the procurement process has failed
19 to fully meet the expected load requirement.

20 (iii) In all cases where there is insufficient
21 supply provided under contracts awarded through the
22 procurement process to fully meet the electric
23 utility's load requirement, the utility shall meet the
24 load requirement by procuring power and energy from the
25 applicable regional transmission organization market,
26 including ancillary services, capacity, and day-ahead

1 or real time energy or both; provided, however, that if
2 a needed product is not available through the regional
3 transmission organization market it shall be purchased
4 from the wholesale market.

5 (6) The procurement process described in this
6 subsection is exempt from the requirements of the Illinois
7 Procurement Code, pursuant to Section 20-10 of that Code.

8 (f) Within 2 business days after opening the sealed bids,
9 the procurement administrator shall submit a confidential
10 report to the Commission. The report shall contain the results
11 of the bidding for each of the products along with the
12 procurement administrator's recommendation for the acceptance
13 and rejection of bids based on the price benchmark criteria and
14 other factors observed in the process. The procurement monitor
15 also shall submit a confidential report to the Commission
16 within 2 business days after opening the sealed bids. The
17 report shall contain the procurement monitor's assessment of
18 bidder behavior in the process as well as an assessment of the
19 procurement administrator's compliance with the procurement
20 process and rules. The Commission shall review the confidential
21 reports submitted by the procurement administrator and
22 procurement monitor, and shall accept or reject the
23 recommendations of the procurement administrator within 2
24 business days after receipt of the reports.

25 (g) Within 3 business days after the Commission decision
26 approving the results of a procurement event, the utility shall

1 enter into binding contractual arrangements with the winning
2 suppliers using the standard form contracts; except that the
3 utility shall not be required either directly or indirectly to
4 execute the contracts if a tariff that is consistent with
5 subsection (l) of this Section has not been approved and placed
6 into effect for that utility.

7 (h) The names of the successful bidders and the load
8 weighted average of the winning bid prices for each contract
9 type and for each contract term shall be made available to the
10 public at the time of Commission approval of a procurement
11 event. The Commission, the procurement monitor, the
12 procurement administrator, the Illinois Power Agency, and all
13 participants in the procurement process shall maintain the
14 confidentiality of all other supplier and bidding information
15 in a manner consistent with all applicable laws, rules,
16 regulations, and tariffs. Confidential information, including
17 the confidential reports submitted by the procurement
18 administrator and procurement monitor pursuant to subsection
19 (f) of this Section, shall not be made publicly available and
20 shall not be discoverable by any party in any proceeding,
21 absent a compelling demonstration of need, nor shall those
22 reports be admissible in any proceeding other than one for law
23 enforcement purposes.

24 (i) Within 2 business days after a Commission decision
25 approving the results of a procurement event or such other date
26 as may be required by the Commission from time to time, the

1 utility shall file for informational purposes with the
2 Commission its actual or estimated retail supply charges, as
3 applicable, by customer supply group reflecting the costs
4 associated with the procurement and computed in accordance with
5 the tariffs filed pursuant to subsection (l) of this Section
6 and approved by the Commission.

7 (j) Within 60 days following the effective date of this
8 amendatory Act, each electric utility that on December 31, 2005
9 provided electric service to at least 100,000 customers in
10 Illinois shall prepare and file with the Commission an initial
11 procurement plan, which shall conform in all material respects
12 to the requirements of the procurement plan set forth in
13 subsection (b); provided, however, that the Illinois Power
14 Agency Act shall not apply to the initial procurement plan
15 prepared pursuant to this subsection. The initial procurement
16 plan shall identify the portfolio of power and energy products
17 to be procured and delivered for the period June 2008 through
18 May 2009, and shall identify the proposed procurement
19 administrator, who shall have the same experience and expertise
20 as is required of a procurement administrator hired pursuant to
21 Section 1-75 of the Illinois Power Agency Act. Copies of the
22 procurement plan shall be posted and made publicly available on
23 the Commission's website. The initial procurement plan may
24 include contracts for renewable resources that extend beyond
25 May 2009.

26 (i) Within 14 days following filing of the initial

1 procurement plan, any person may file a detailed objection
2 with the Commission contesting the procurement plan
3 submitted by the electric utility. All objections to the
4 electric utility's plan shall be specific, supported by
5 data or other detailed analyses. The electric utility may
6 file a response to any objections to its procurement plan
7 within 7 days after the date objections are due to be
8 filed. Within 7 days after the date the utility's response
9 is due, the Commission shall determine whether a hearing is
10 necessary. If it determines that a hearing is necessary, it
11 shall require the hearing to be completed and issue an
12 order on the procurement plan within 60 days after the
13 filing of the procurement plan by the electric utility.

14 (ii) The order shall approve or modify the procurement
15 plan, approve an independent procurement administrator,
16 and approve or modify the electric utility's tariffs that
17 are proposed with the initial procurement plan. The
18 Commission shall approve the procurement plan if the
19 Commission determines that it will ensure adequate,
20 reliable, affordable, efficient, and environmentally
21 sustainable electric service at the lowest total cost over
22 time, taking into account any benefits of price stability.

23 (k) In order to promote price stability for residential and
24 small commercial customers during the transition to
25 competition in Illinois, and notwithstanding any other
26 provision of this Act, each electric utility subject to this

1 Section shall enter into one or more multi-year financial swap
2 contracts that become effective on the effective date of this
3 amendatory Act. These contracts may be executed with generators
4 and power marketers, including affiliated interests of the
5 electric utility. These contracts shall be for a term of no
6 more than 5 years and shall, for each respective utility or for
7 any Illinois electric utilities that are affiliated by virtue
8 of a common parent company and that are thereby considered a
9 single electric utility for purposes of this subsection (k),
10 not exceed in the aggregate 3,000 megawatts for any hour of the
11 year. The contracts shall be financial contracts and not energy
12 sales contracts. The contracts shall be executed as
13 transactions under a negotiated master agreement based on the
14 form of master agreement for financial swap contracts sponsored
15 by the International Swaps and Derivatives Association, Inc.
16 and shall be considered pre-existing contracts in the
17 utilities' procurement plans for residential and small
18 commercial customers. Costs incurred pursuant to a contract
19 authorized by this subsection (k) shall be deemed prudently
20 incurred and reasonable in amount and the electric utility
21 shall be entitled to full cost recovery pursuant to the tariffs
22 filed with the Commission.

23 (k-5) In order to promote price stability for residential
24 and small commercial customers during the infrastructure
25 investment program described in subsection (b) of Section
26 16-108.5 of this Act, and notwithstanding any other provision

1 of this Act or the Illinois Power Agency Act, for each electric
2 utility that serves more than one million retail customers in
3 Illinois the Illinois Power Agency shall procure within 120
4 days after the effective date of this amendatory Act of the
5 97th General Assembly contracts for energy and renewable energy
6 credits for the period June 1, 2013 through December 31, 2017.
7 These contracts shall be entered into as the result of a
8 competitive procurement event, and, to the extent that any
9 provisions of this Section or the Illinois Power Agency Act do
10 not conflict with this subsection (k-5), such provisions shall
11 apply to the procurement event. The energy contracts shall be
12 for 24 hour by 7 day supply over a term that runs from the first
13 delivery year through December 31, 2017. For a utility that
14 serves over 2 million customers, the energy contracts shall be
15 multi-year with pricing escalating at 2.5% per annum. The
16 energy contracts may be constructed as financial swaps or
17 required physical delivery.

18 Within 30 days of the effective date of this amendatory Act
19 of the 97th General Assembly, each such utility shall submit to
20 the Agency updated load forecasts for the period June 1, 2013
21 through May 31, 2017. The megawatt volume of the contracts or
22 physical delivery of energy included in the updated load
23 forecasts shall be based on the minimum monthly peak and
24 off-peak average load requirements shown in the forecasts,
25 taking into account any existing energy contracts in effect as
26 well as the expected migration of the utility's customers to

1 alternative retail electric suppliers. The renewable energy
2 credit volume shall be based on the number of credits that
3 would satisfy the requirements of subsection (c) of Section
4 1-75 of the Illinois Power Agency Act, subject to the rate
5 impact caps and other provisions of subsection (c) of Section
6 1-75 of the Illinois Power Agency Act. The evaluation of
7 contract bids in the competitive procurement event shall
8 incorporate price benchmarks set collaboratively by the
9 Agency, the procurement administrator, the staff of the
10 Commission, and the procurement monitor. If the contracts are
11 swap contracts, then they shall be executed as transactions
12 under a negotiated master agreement based on the form of master
13 agreement for financial swap contracts sponsored by the
14 International Swaps and Derivatives Association, Inc. Costs
15 incurred pursuant to a contract authorized by this subsection
16 (k-5) shall be deemed prudently incurred and reasonable in
17 amount and the electric utility shall be entitled to full cost
18 recovery pursuant to the tariffs filed with the Commission

19 (1) An electric utility shall recover its costs incurred
20 under this Section, including, but not limited to, the costs of
21 procuring power and energy demand-response resources under
22 this Section. The utility shall file with the initial
23 procurement plan its proposed tariffs through which its costs
24 of procuring power that are incurred pursuant to a
25 Commission-approved procurement plan and those other costs
26 identified in this subsection (1), will be recovered. The

1 tariffs shall include a formula rate or charge designed to pass
2 through both the costs incurred by the utility in procuring a
3 supply of electric power and energy for the applicable customer
4 classes with no mark-up or return on the price paid by the
5 utility for that supply, plus any just and reasonable costs
6 that the utility incurs in arranging and providing for the
7 supply of electric power and energy. The formula rate or charge
8 shall also contain provisions that ensure that its application
9 does not result in over or under recovery due to changes in
10 customer usage and demand patterns, and that provide for the
11 correction, on at least an annual basis, of any accounting
12 errors that may occur. A utility shall recover through the
13 tariff all reasonable costs incurred to implement or comply
14 with any procurement plan that is developed and put into effect
15 pursuant to Section 1-75 of the Illinois Power Agency Act and
16 this Section, including any fees assessed by the Illinois Power
17 Agency, costs associated with load balancing, and contingency
18 plan costs. The electric utility shall also recover its full
19 costs of procuring electric supply for which it contracted
20 before the effective date of this Section in conjunction with
21 the provision of full requirements service under fixed-price
22 bundled service tariffs subsequent to December 31, 2006. All
23 such costs shall be deemed to have been prudently incurred. The
24 pass-through tariffs that are filed and approved pursuant to
25 this Section shall not be subject to review under, or in any
26 way limited by, Section 16-111(i) of this Act.

1 (m) The Commission has the authority to adopt rules to
2 carry out the provisions of this Section. For the public
3 interest, safety, and welfare, the Commission also has
4 authority to adopt rules to carry out the provisions of this
5 Section on an emergency basis immediately following the
6 effective date of this amendatory Act.

7 (n) Notwithstanding any other provision of this Act, any
8 affiliated electric utilities that submit a single procurement
9 plan covering their combined needs may procure for those
10 combined needs in conjunction with that plan, and may enter
11 jointly into power supply contracts, purchases, and other
12 procurement arrangements, and allocate capacity and energy and
13 cost responsibility therefor among themselves in proportion to
14 their requirements.

15 (o) On or before June 1 of each year, the Commission shall
16 hold an informal hearing for the purpose of receiving comments
17 on the prior year's procurement process and any recommendations
18 for change.

19 (p) An electric utility subject to this Section may propose
20 to invest, lease, own, or operate an electric generation
21 facility as part of its procurement plan, provided the utility
22 demonstrates that such facility is the least-cost option to
23 provide electric service to eligible retail customers. If the
24 facility is shown to be the least-cost option and is included
25 in a procurement plan prepared in accordance with Section 1-75
26 of the Illinois Power Agency Act and this Section, then the

1 electric utility shall make a filing pursuant to Section 8-406
2 of this ~~the~~ Act, and may request of the Commission any
3 statutory relief required thereunder. If the Commission grants
4 all of the necessary approvals for the proposed facility, such
5 supply shall thereafter be considered as a pre-existing
6 contract under subsection (b) of this Section. The Commission
7 shall in any order approving a proposal under this subsection
8 specify how the utility will recover the prudently incurred
9 costs of investing in, leasing, owning, or operating such
10 generation facility through just and reasonable rates charged
11 to eligible retail customers. Cost recovery for facilities
12 included in the utility's procurement plan pursuant to this
13 subsection shall not be subject to review under or in any way
14 limited by the provisions of Section 16-111(i) of this Act.
15 Nothing in this Section is intended to prohibit a utility from
16 filing for a fuel adjustment clause as is otherwise permitted
17 under Section 9-220 of this Act.

18 (Source: P.A. 95-481, eff. 8-28-07; 95-1027, eff. 6-1-09.)

19 (220 ILCS 5/16-111.5B new)

20 Sec. 16-111.5B. Provisions relating to energy efficiency
21 procurement.

22 (a) Beginning in 2012, procurement plans prepared pursuant
23 to Section 16-111.5 of this Act shall be subject to the
24 following additional requirements:

25 (1) The analysis included pursuant to paragraph (2) of

1 subsection (b) of Section 16-111.5 shall also include the
2 impact of energy efficiency building codes or appliance
3 standards, both current and projected.

4 (2) The procurement plan components described in
5 subsection (b) of Section 16-111.5 shall also include an
6 assessment of opportunities to expand the programs
7 promoting energy efficiency measures that have been
8 offered under plans approved pursuant to Section 8-103 of
9 this Act or to implement additional cost-effective energy
10 efficiency programs or measures.

11 (3) In addition to the information provided pursuant to
12 paragraph (1) of subsection (d) of Section 16-111.5 of this
13 Act, each Illinois utility procuring power pursuant to that
14 Section shall annually provide to the Illinois Power Agency
15 by July 15 of each year, or such other date as may be
16 required by the Commission or Agency, an assessment of
17 cost-effective energy efficiency programs or measures that
18 could be included in the procurement plan. The assessment
19 shall include the following:

20 (A) A comprehensive energy efficiency potential
21 study for the utility's service territory that was
22 completed within the past 3 years.

23 (B) Beginning in 2014, the most recent analysis
24 submitted pursuant to Section 8-103A of this Act and
25 approved by the Commission under subsection (f) of
26 Section 8-103 of this Act.

1 (C) Identification of new or expanded
2 cost-effective energy efficiency programs or measures
3 that are incremental to those included in energy
4 efficiency and demand-response plans approved by the
5 Commission pursuant to Section 8-103 of this Act and
6 that would be offered to eligible retail customers.

7 (D) Analysis showing that the new or expanded
8 cost-effective energy efficiency programs or measures
9 would lead to a reduction in the overall cost of
10 electric service.

11 (E) Analysis of how the cost of procuring
12 additional cost-effective energy efficiency measures
13 compares over the life of the measures to the
14 prevailing cost of comparable supply.

15 (F) An energy savings goal, expressed in
16 megawatt-hours, for the year in which the measures will
17 be implemented.

18 In preparing such assessments, a utility shall conduct
19 an annual solicitation process for purposes of requesting
20 proposals from third party vendors, the results of which
21 shall be provided to the Agency as part of the assessment,
22 including documentation of all bids received. The utility
23 shall develop requests for proposals consistent with the
24 manner in which it develops requests for proposals under
25 plans approved pursuant to Section 8-103 of this Act, which
26 considers input from the Agency and interested

1 stakeholders.

2 (4) The Illinois Power Agency shall include in the
3 procurement plan prepared pursuant to paragraph (2) of
4 subsection (d) of Section 16-111.5 of this Act energy
5 efficiency programs and measures it determines are
6 cost-effective and the associated annual energy savings
7 goal included in the annual solicitation process and
8 assessment submitted pursuant to paragraph (3) of this
9 subsection (a).

10 (5) Pursuant to paragraph (4) of subsection (d) of
11 Section 16-111.5 of this Act, the Commission shall also
12 approve the energy efficiency programs and measures
13 included in the procurement plan, including the annual
14 energy savings goal, if the Commission determines they
15 fully capture the potential for all achievable
16 cost-effective savings, to the extent practicable, and
17 otherwise satisfy the requirements of Section 8-103 of this
18 Act.

19 In the event the Commission approves the procurement of
20 additional energy efficiency, it shall reduce the amount of
21 power to be procured under the procurement plan to reflect
22 the additional energy efficiency and shall direct the
23 utility to undertake the procurement of such energy
24 efficiency, which shall not be subject to the requirements
25 of subsection (e) of Section 16-111.5 of this Act. The
26 utility shall consider input from the Agency and interested

1 stakeholders on the procurement and administration
2 process.

3 (6) An electric utility shall recover its costs
4 incurred under this Section related to the implementation
5 of energy efficiency programs and measures approved by the
6 Commission in its order approving the procurement plan
7 under Section 16-111.5 of this Act, including, but not
8 limited to, all costs associated with complying with this
9 Section and all start-up and administrative costs and the
10 costs for any evaluation, measurement, and verification of
11 the measures, from eligible retail customers through the
12 automatic adjustment clause tariff established pursuant to
13 Section 8-103 of this Act, provided, however, that the
14 limitations described in subsection (d) of that Section
15 shall not apply to the costs incurred pursuant to this
16 Section or Section 16-111.7 of this Act.

17 (b) For purposes of this Section, the term "energy
18 efficiency" shall have the meaning set forth in Section 1-10 of
19 the Illinois Power Agency Act, and the term "cost-effective"
20 shall have the meaning set forth in subsection (a) of Section
21 8-103 of this Act. In addition, the estimated costs to acquire
22 an additional energy efficiency measure, when divided by the
23 number of kilowatt-hours expected to be saved over the life of
24 the measure, shall be less than or equal to the electricity
25 costs that would be avoided as a result of the energy
26 efficiency measure.

1 (c) If Section 16-108.5 of this Act becomes inoperative
2 with respect to one or more participating utilities as set
3 forth in subsection (g) or (h) of that Section, then Sections
4 1-56A and 1-76 of the Illinois Power Agency Act and Sections
5 8-103A, 16-108.5, 16-108.6, 16-108.7, 16-108.8, and 16-111.5B
6 of this Act shall become inoperative as to each affected
7 utility and its service area on the same date as Section
8 16-108.5 becomes inoperative.

9 (220 ILCS 5/16-111.7)

10 Sec. 16-111.7. On-bill financing program; electric
11 utilities.

12 (a) The Illinois General Assembly finds that Illinois homes
13 and businesses have the potential to save energy through
14 conservation and cost-effective energy efficiency measures.
15 Programs created pursuant to this Section will allow utility
16 customers to purchase cost-effective energy efficiency
17 measures, including measures set forth in a
18 Commission-approved energy efficiency and demand-response plan
19 under Section 8-103 of this Act and that are cost-effective as
20 that term is defined by that Section, with no required initial
21 upfront payment, and to pay the cost of those products and
22 services over time on their utility bill.

23 (b) Notwithstanding any other provision of this Act, an
24 electric utility serving more than 100,000 customers on January
25 1, 2009 shall offer a Commission-approved on-bill financing

1 program ("program") that allows its eligible retail customers,
2 as that term is defined in Section 16-111.5 of this Act, who
3 own a residential single family home, duplex, or other
4 residential building with 4 or less units, or condominium at
5 which the electric service is being provided (i) to borrow
6 funds from a third party lender in order to purchase electric
7 energy efficiency measures approved under the program for
8 installation in such home or condominium without any required
9 upfront payment and (ii) to pay back such funds over time
10 through the electric utility's bill. Based upon the process
11 described in subsection (b-5) of this Section, small commercial
12 retail customers, as that term is defined in Section 16-102 of
13 this Act, who own the premises at which electric service is
14 being provided may be included in such program. After receiving
15 a request from an electric utility for approval of a proposed
16 program and tariffs pursuant to this Section, the Commission
17 shall render its decision within 120 days. If no decision is
18 rendered within 120 days, then the request shall be deemed to
19 be approved.

20 (b-5) Within 30 days after the effective date of this
21 amendatory Act of the 96th General Assembly, the Commission
22 shall convene a workshop process during which interested
23 participants may discuss issues related to the program,
24 including program design, eligible electric energy efficiency
25 measures, vendor qualifications, and a methodology for
26 ensuring ongoing compliance with such qualifications,

1 financing, sample documents such as request for proposals,
2 contracts and agreements, dispute resolution, pre-installment
3 and post-installment verification, and evaluation. The
4 workshop process shall be completed within 150 days after the
5 effective date of this amendatory Act of the 96th General
6 Assembly.

7 (c) Not later than 60 days following completion of the
8 workshop process described in subsection (b-5) of this Section,
9 each electric utility subject to subsection (b) of this Section
10 shall submit a proposed program to the Commission that contains
11 the following components:

12 (1) A list of recommended electric energy efficiency
13 measures that will be eligible for on-bill financing. An
14 eligible electric energy efficiency measure ("measure")
15 shall be defined by the following:

16 (A) the measure would be applied to or replace
17 electric energy-using equipment; and either

18 (B) application of the measure to equipment and
19 systems will have estimated electricity savings
20 (determined by rates in effect at the time of
21 purchase), that are sufficient to cover the costs of
22 implementing the measures, including finance charges
23 and any program fees not recovered pursuant to
24 subsection (f) of this Section; to ~~to~~ assist the
25 electric utility in identifying or approving measures,
26 the utility may consult with the Department of Commerce

1 and Economic Opportunity, as well as with retailers,
2 technicians, and installers of electric energy
3 efficiency measures and energy auditors (collectively
4 "vendors"); ~~or.~~

5 (C) the measure is included in a
6 Commission-approved energy efficiency and
7 demand-response plan under Section 8-103 of this Act
8 and is cost-effective as that term is defined by that
9 Section.

10 (2) The electric utility shall issue a request for
11 proposals ("RFP") to lenders for purposes of providing
12 financing to participants to pay for approved measures. The
13 RFP criteria shall include, but not be limited to, the
14 interest rate, origination fees, and credit terms. The
15 utility shall select the winning bidders based on its
16 evaluation of these criteria, with a preference for those
17 bids containing the rates, fees, and terms most favorable
18 to participants;

19 (3) The utility shall work with the lenders selected
20 pursuant to the RFP process, and with vendors, to establish
21 the terms and processes pursuant to which a participant can
22 purchase eligible electric energy efficiency measures
23 using the financing obtained from the lender. The vendor
24 shall explain and offer the approved financing packaging to
25 those customers identified in subsection (b) of this
26 Section and shall assist customers in applying for

1 financing. As part of the process, vendors shall also
2 provide to participants information about any other
3 incentives that may be available for the measures.

4 (4) The lender shall conduct credit checks or undertake
5 other appropriate measures to limit credit risk, and shall
6 review and approve or deny financing applications
7 submitted by customers identified in subsection (b) of this
8 Section. Following the lender's approval of financing and
9 the participant's purchase of the measure or measures, the
10 lender shall forward payment information to the electric
11 utility, and the utility shall add as a separate line item
12 on the participant's utility bill a charge showing the
13 amount due under the program each month.

14 (5) A loan issued to a participant pursuant to the
15 program shall be the sole responsibility of the
16 participant, and any dispute that may arise concerning the
17 loan's terms, conditions, or charges shall be resolved
18 between the participant and lender. Upon transfer of the
19 property title for the premises at which the participant
20 receives electric service from the utility or the
21 participant's request to terminate service at such
22 premises, the participant shall pay in full its electric
23 utility bill, including all amounts due under the program,
24 provided that this obligation may be modified as provided
25 in subsection (g) of this Section. Amounts due under the
26 program shall be deemed amounts owed for residential and,

1 as appropriate, small commercial electric service.

2 (6) The electric utility shall remit payment in full to
3 the lender each month on behalf of the participant. In the
4 event a participant defaults on payment of its electric
5 utility bill, the electric utility shall continue to remit
6 all payments due under the program to the lender, and the
7 utility shall be entitled to recover all costs related to a
8 participant's nonpayment through the automatic adjustment
9 clause tariff established pursuant to Section 16-111.8 of
10 this Act. In addition, the electric utility shall retain a
11 security interest in the measure or measures purchased
12 under the program, and the utility retains its right to
13 disconnect a participant that defaults on the payment of
14 its utility bill.

15 (7) The total outstanding amount financed under the
16 program shall not exceed \$2.5 million for an electric
17 utility or electric utilities under a single holding
18 company, provided that the electric utility or electric
19 utilities may petition the Commission for an increase in
20 such amount.

21 (d) A program approved by the Commission shall also include
22 the following criteria and guidelines for such program:

23 (1) guidelines for financing of measures installed
24 under a program, including, but not limited to, RFP
25 criteria and limits on both individual loan amounts and the
26 duration of the loans;

1 (2) criteria and standards for identifying and
2 approving measures;

3 (3) qualifications of vendors that will market or
4 install measures, as well as a methodology for ensuring
5 ongoing compliance with such qualifications;

6 (4) sample contracts and agreements necessary to
7 implement the measures and program; and

8 (5) the types of data and information that utilities
9 and vendors participating in the program shall collect for
10 purposes of preparing the reports required under
11 subsection (g) of this Section.

12 (e) The proposed program submitted by each electric utility
13 shall be consistent with the provisions of this Section that
14 define operational, financial and billing arrangements between
15 and among program participants, vendors, lenders, and the
16 electric utility.

17 (f) An electric utility shall recover all of the prudently
18 incurred costs of offering a program approved by the Commission
19 pursuant to this Section, including, but not limited to, all
20 start-up and administrative costs and the costs for program
21 evaluation. All prudently incurred costs under this Section
22 shall be recovered from the residential and small commercial
23 retail customer classes eligible to participate in the program
24 through the automatic adjustment clause tariff established
25 pursuant to Section 8-103 of this Act.

26 (g) An independent evaluation of a program shall be

1 conducted after 3 years of the program's operation. The
2 electric utility shall retain an independent evaluator who
3 shall evaluate the effects of the measures installed under the
4 program and the overall operation of the program, including but
5 not limited to customer eligibility criteria and whether the
6 payment obligation for permanent electric energy efficiency
7 measures that will continue to provide benefits of energy
8 savings should attach to the meter location. As part of the
9 evaluation process, the evaluator shall also solicit feedback
10 from participants and interested stakeholders. The evaluator
11 shall issue a report to the Commission on its findings no later
12 than 4 years after the date on which the program commenced, and
13 the Commission shall issue a report to the Governor and General
14 Assembly including a summary of the information described in
15 this Section as well as its recommendations as to whether the
16 program should be discontinued, continued with modification or
17 modifications or continued without modification, provided that
18 any recommended modifications shall only apply prospectively
19 and to measures not yet installed or financed.

20 (h) An electric utility offering a Commission-approved
21 program pursuant to this Section shall not be required to
22 comply with any other statute, order, rule, or regulation of
23 this State that may relate to the offering of such program,
24 provided that nothing in this Section is intended to limit the
25 electric utility's obligation to comply with this Act and the
26 Commission's orders, rules, and regulations, including Part

1 280 of Title 83 of the Illinois Administrative Code.

2 (i) The source of a utility customer's electric supply
3 shall not disqualify a customer from participation in the
4 utility's on-bill financing program. Customers of alternative
5 retail electric suppliers may participate in the program under
6 the same terms and conditions applicable to the utility's
7 supply customers.

8 (Source: P.A. 96-33, eff. 7-10-09.)

9 (220 ILCS 5/16-128)

10 Sec. 16-128. Provisions related to utility employees
11 during the mandatory transition period.

12 (a) The General Assembly finds:

13 (1) The reliability and safety of the electric system
14 has depended and depends on a workforce of skilled and
15 dedicated employees, equipped with technical training and
16 experience.

17 (2) The integrity and reliability of the system ~~has~~
18 also requires ~~depended on~~ the industry's commitment to
19 invest in regular inspection and maintenance, to assure
20 that it can withstand the demands of heavy service
21 requirements and emergency situations.

22 (3) It is in the State's interest to protect the
23 interests of utility employees who have and continue to
24 dedicate ~~dedicated~~ themselves to assuring reliable service
25 to the citizens of this State, and who might otherwise be

1 economically displaced in a restructured industry.

2 The General Assembly further finds that it is necessary to
3 assure that employees of electric utilities and employees of
4 contractors or subcontractors performing work on behalf of an
5 electric utility operating in the deregulated industry have the
6 requisite skills, knowledge, training, experience, and
7 competence to provide reliable and safe electrical service
8 under this Act ~~and therefore that alternative retail electric~~
9 ~~suppliers shall be required to demonstrate the competence of~~
10 ~~their employees to work in the industry.~~

11 The General Assembly also finds that it is necessary to
12 assure that employees of alternative retail electric suppliers
13 and employees of contractors or subcontractors performing work
14 on behalf of an alternative retail electric supplier operating
15 in the deregulated industry have the requisite skills,
16 knowledge, training, experience, and competence to provide
17 reliable and safe electrical service under this Act.

18 To ensure that these findings and prerequisites for
19 reliable and safe electrical service continue to prevail, each
20 alternative retail electric supplier, electric utility, and
21 contractors and subcontractors performing work on behalf of an
22 electric utility or alternative retail electric supplier must
23 demonstrate the competence of their respective employees to
24 work on the distribution system.

25 The knowledge, skill, training, experience, and competence
26 levels to be demonstrated shall be consistent with those

1 ~~generally~~ required of or by the electric utilities in this
2 State as of January 1, 2007, with respect to their employees
3 and employees of contractors or subcontractors performing work
4 on their behalf. Nothing in this Section shall prohibit an
5 electric utility from establishing knowledge, skill, training,
6 experience, and competence levels greater than those required
7 as of January 1, 2007.

8 An adequate ~~Adequate~~ demonstration of requisite knowledge,
9 skill, training, experience, and competence shall include, at a
10 minimum, such factors as completion or current participation
11 and ultimate completion by the employee of an accredited or
12 otherwise recognized apprenticeship program for the particular
13 craft, trade or skill, or specified and several years of
14 employment ~~with an electric utility~~ performing a particular
15 work function that is utilized by an electric utility.

16 Notwithstanding any law, tariff, Commission rule, order,
17 or decision to the contrary, the Commission shall have an
18 affirmative statutory obligation to ensure that an electric
19 utility is employing employees, contractors, and
20 subcontractors with employees who meet the requirements of
21 subsection (a) of this Section when installing, operating, and
22 maintaining generation, transmission, or distribution
23 facilities and equipment within this State pursuant to any
24 provision in this Act or any Commission order, rule, or
25 decision.

26 For purposes of this Section, "distribution facilities and

1 equipment" means any and all of the facilities and equipment,
2 including, but not limited to, substations, distribution
3 feeder circuits, switches, meters, protective equipment,
4 primary circuits, distribution transformers, line extensions
5 and service extensions both above or below ground, conduit,
6 risers, elbows, transformer pads, junction boxes, manholes,
7 pedestals, conductors, and all associated fittings that
8 connect the transmission- or distribution system to either the
9 weatherhead on the retail customer's building or other
10 structure for above ground service or to the terminals on the
11 meter base of the retail customer's building or other structure
12 for below ground service.

13 To implement this requirement for alternative retail
14 electric suppliers, the Commission, in determining that an
15 applicant meets the standards for certification as an
16 alternative retail electric supplier, shall require the
17 applicant to demonstrate (i) that the applicant is licensed to
18 do business, and bonded, in the State of Illinois; and (ii)
19 that the employees of the applicant that will be installing,
20 operating, and maintaining generation, transmission, or
21 distribution facilities within this State, or any entity with
22 which the applicant has contracted to perform those functions
23 within this State, have the requisite knowledge, skills,
24 training, experience, and competence to perform those
25 functions in a safe and responsible manner in order to provide
26 safe and reliable service, in accordance with the criteria

1 stated above.

2 (b) The General Assembly finds, based on experience in
3 other industries that have undergone similar transitions, that
4 the introduction of competition into the State's electric
5 utility industry may result in workforce reductions by electric
6 utilities which may adversely affect persons who have been
7 employed by this State's electric utilities in functions
8 important to the public convenience and welfare. The General
9 Assembly further finds that the impacts on employees and their
10 communities of any necessary reductions in the utility
11 workforce directly caused by this restructuring of the electric
12 industry shall be mitigated to the extent practicable through
13 such means as offers of voluntary severance, retraining, early
14 retirement, outplacement and related benefits. Therefore,
15 before any such reduction in the workforce during the
16 transition period, an electric utility shall present to its
17 employees or their representatives a workforce reduction plan
18 outlining the means by which the electric utility intends to
19 mitigate the impact of such workforce reduction on its
20 employees.

21 (c) In the event of a sale, purchase, or any other transfer
22 of ownership during the mandatory transition period of one or
23 more Illinois divisions or business units, and/or generating
24 stations or generating units, of an electric utility, the
25 electric utility's contract and/or agreements with the
26 acquiring entity or persons shall require that the entity or

1 persons hire a sufficient number of non-supervisory employees
2 to operate and maintain the station, division or unit by
3 initially making offers of employment to the non-supervisory
4 workforce of the electric utility's division, business unit,
5 generating station and/or generating unit at no less than the
6 wage rates, and substantially equivalent fringe benefits and
7 terms and conditions of employment that are in effect at the
8 time of transfer of ownership of said division, business unit,
9 generating station, and/or generating units; and said wage
10 rates and substantially equivalent fringe benefits and terms
11 and conditions of employment shall continue for at least 30
12 months from the time of said transfer of ownership unless the
13 parties mutually agree to different terms and conditions of
14 employment within that 30-month period. The utility shall offer
15 a transition plan to those employees who are not offered jobs
16 by the acquiring entity because that entity has a need for
17 fewer workers. If there is litigation concerning the sale, or
18 other transfer of ownership of the electric utility's
19 divisions, business units, generating station, or generating
20 units, the 30-month period will begin on the date the acquiring
21 entity or persons take control or management of the divisions,
22 business units, generating station or generating units of the
23 electric utility.

24 (d) If a utility transfers ownership during the mandatory
25 transition period of one or more Illinois divisions, business
26 units, generating stations or generating units of an electric

1 utility to a majority-owned subsidiary, that subsidiary shall
2 continue to employ the utility's employees who were employed by
3 the utility at such division, business unit or generating
4 station at the time of the transfer under the same terms and
5 conditions of employment as those employees enjoyed at the time
6 of the transfer. If ownership of the subsidiary is subsequently
7 sold or transferred to a third party during the transition
8 period, the transition provisions outlined in subsection (c)
9 shall apply.

10 (e) The plant transfer provisions set forth above shall not
11 apply to any generating station which was the subject of a
12 sales agreement entered into before January 1, 1997.

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

14 (220 ILCS 5/16-128A new)

15 Sec. 16-128A. Certification of Distributed Generation
16 Facility Installers.

17 (a) Within 18 months of the effective date of this
18 amendatory Act of the 97th General Assembly, the Commission
19 shall adopt rules, including emergency rules, establishing
20 certification requirements ensuring that entities installing
21 distributed generation facilities are in compliance with the
22 requirements of subsection (a) of Section 16-128 of this Act.

23 For purposes of this Section, the phrase "entities
24 installing distributed generation facilities" shall include,
25 but not be limited to, all entities that are exempt from the

1 definition of "alternative retail electric supplier" under
2 item (v) of Section 16-102 of the Act. For purposes of this
3 Section, the phrase "self-installer" means an individual who
4 (i) leases or purchases a cogeneration facility for his or her
5 own personal use and (ii) installs such cogeneration or
6 self-generation facility on his or her own premises without the
7 assistance of any other person.

8 (b) In addition to any authority granted to the Commission
9 under the Act, the Commission is also authorized to: (1)
10 determine which entities are subject to certification under
11 this Section; (2) impose reasonable certification fees and
12 penalties; (3) adopt disciplinary procedures; (4) investigate
13 any and all activities subject to this Section, including
14 violations thereof; (5) adopt procedures to issue or renew, or
15 to refuse to issue or renew, a certification or to revoke,
16 suspend, place on probation, reprimand, or otherwise
17 discipline a certified entity under this Act or take other
18 enforcement action against an entity subject to this Section;
19 and (6) prescribe forms to be issued for the administration and
20 enforcement of this Section.

21 (c) No electric utility shall provide a retail customer
22 with net metering service related to interconnection of that
23 customer's distributed generation facility unless the customer
24 provides the electric utility with (i) a certification that the
25 customer installing the distributed generation facility was a
26 self-installer or (ii) evidence that the distributed

1 generation facility was installed by an entity certified under
2 this Section that is also in good standing with the Commission.
3 For purposes of this subsection, a retail customer includes
4 that customer's employees, officers, and agents. An electric
5 utility shall file a tariff or tariffs with the Commission
6 setting forth the documentation that a retail customer must
7 provide to an electric utility. The provisions of this
8 subsection (c) shall apply on or after the effective date of
9 the Commission's rules prescribed pursuant to subsection (a) of
10 this Section.

11 Section 99. Effective date. This Act takes effect upon
12 becoming law.".