

1 AN ACT concerning utilities.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 1. Short title. This Act may be cited as the
5 Illinois Transmission Authority Act.

6 Section 5. Purpose. The purpose of this Act is to
7 develop new electric transmission facilities within this
8 State so as to ensure the provision of adequate and
9 economical supplies of electricity to Illinois consumers, to
10 promote the development of new coal based electric generation
11 and to ensure that the electric transmission grid within this
12 State is capable of meeting existing and future electric
13 supply needs.

14 Section 10. Findings. The General Assembly finds the
15 following:

16 (1) The provision of a reliable and affordable
17 supply of electricity in Illinois is vital to the
18 well-being of Illinois' citizens and to the economy of
19 the State.

20 (2) Current and future shortages of electric
21 transmission capacity threaten the availability of
22 reliable and affordable electric supplies.

23 (3) Regulatory uncertainty, the high capital cost
24 of constructing high voltage electric transmission, and
25 other factors have discouraged private enterprise from
26 constructing necessary electric transmission
27 infrastructure.

28 (4) The creation of an Illinois Transmission
29 Authority is in the public interest for the purpose of
30 investigating needed transmission facilities, acquiring

1 the necessary rights-of-way and other property interests,
2 constructing such transmission facilities and entering
3 into contracts with third parties to operate and maintain
4 such facilities, and to provide for the utilization of
5 the transmission capacity on an open access,
6 non-discriminatory basis.

7 Section 15. Definitions. As used in this Act:

8 "Authority" means the Illinois Transmission Authority
9 created by this Act.

10 "Board" means the Board of Directors of the Authority.

11 "Costs incurred in connection with the development of a
12 Transmission project" includes the cost of purchase of all
13 lands and related improvements and other property, rights,
14 easements, and rights of way that are deemed necessary for a
15 transmission project; costs of construction and installation
16 of necessary equipment and facilities; financing charges;
17 interest costs with respect to revenue bonds, notes, and
18 other evidence of indebtedness of the Authority; engineering
19 and legal costs and expenses; the costs of plans,
20 specifications, surveys, and feasibility analyses; the cost
21 of permitting and licensing and the obtaining of any
22 necessary approvals; other costs and expenses necessary or
23 incident to determining the feasibility or practicability of
24 any transmission project; the costs of preparing and entering
25 into transmission agreements; and such other expenses as may
26 be necessary or incident to the financing, insuring,
27 acquisition, and construction of a specific transmission
28 project and the placing of the transmission project in
29 operation.

30 "Governmental agency" means any federal, State, or local
31 governmental body, and any agency or instrumentality thereof,
32 corporate or otherwise.

33 "Governor" means the Governor of the State of Illinois.

1 "Person" includes without limitation any individual,
2 corporation, partnership, unincorporated association, and any
3 other legal entity, including a trustee, receiver, assignee,
4 or personal representative of the entity.

5 "Revenue bond" means any bond issued by the Authority,
6 the principal and interest of which are payable solely from
7 revenues or income derived from any transmission project.

8 "Transmission agreement" means an agreement between the
9 Authority and a third party (including but not limited to an
10 independent system operator or a regional transmission
11 organization) under which:

12 (1) the Authority sells, leases, or assigns
13 operational control of or otherwise makes the
14 transmission project available to a third party; and

15 (2) the third party commits:

16 (A) to operate and maintain the transmission
17 project in compliance with all applicable federal,
18 State, and local requirements and consistent with
19 normal and customary industry safety, operational,
20 and other standards and with appropriate indemnity
21 therefore to the Authority;

22 (B) to make the transmission project
23 transmission facilities available for public use on
24 an open access, non-discriminatory basis consistent
25 with the principles set forth in Orders No. 888,
26 889, and 2000 of the Federal Energy Regulatory
27 Commission; and

28 (C) to compensate the Authority for the
29 Authority's costs incurred in connection with the
30 development of the transmission project.

31 "Transmission project" means the construction of electric
32 transmission lines within or at the border of the State of
33 Illinois and installation of appurtenant equipment to connect
34 such transmission lines to electric generating stations and

1 to other electric transmission and distribution systems,
2 including the necessary study, design, and engineering of
3 such transmission lines, the acquisition of necessary
4 property and rights of way, construction of such transmission
5 lines, and the entering into of transmission agreements with
6 third parties.

7 Section 20. Creation of authority; board members;
8 officers.

9 (a) The Illinois Transmission Authority is created as a
10 political subdivision, body politic, and municipal
11 corporation.

12 (b) The governing and administrative powers of the
13 Authority shall be vested in its Board of Directors. The
14 Board of Directors shall be comprised of 5 members, each of
15 whom shall be appointed by the Governor with the advice and
16 consent of the Senate. All persons appointed as members of
17 the Board shall have recognized ability and experience in one
18 or more of the following areas: electric utility operations
19 and management, engineering, public finance, or public
20 development.

21 (c) The terms of the 5 initial appointees to the Board
22 of the Authority shall commence 30 days after the effective
23 date of this Act. Of the Board members initially appointed,
24 one shall serve until the third Monday in January 2005, 2
25 shall serve until the third Monday in January 2006, and 2
26 shall serve until the third Monday in January 2007. All
27 successors shall be appointed by the Governor with the advice
28 and consent of the Senate and hold office for a term of 3
29 years commencing the third Monday in January of the year in
30 which their term commences, except in the case of an
31 appointment to fill a vacancy. Vacancies shall be filled for
32 the remainder of the term. In case of vacancy when the Senate
33 is not in session, the Governor may make a temporary

1 appointment until the next meeting of the Senate when a
2 person shall be nominated to fill such office, and any person
3 so nominated who is confirmed by the Senate shall hold office
4 during the remainder of the term and until a successor shall
5 be appointed and qualified.

6 (d) Members of the Board of the Authority shall not be
7 entitled to compensation for their services as members, but
8 may be reimbursed for all necessary expenses incurred in
9 connection with the performance of their duties as members.

10 (e) The Governor may remove any member of the Board of
11 the Authority in case of incompetency, neglect of duty, or
12 malfeasance in office.

13 (f) The Chairperson of the Board shall be appointed by
14 the Governor from among the Board's members.

15 (g) The Board may appoint an Executive Director, who
16 shall have a background in electric transmission development,
17 including regulatory and construction requirements;
18 familiarity with the legal and procedural requirements of
19 issuing bonds; and administration. The Executive Director
20 shall hold office at the discretion of the Board. The
21 Executive Director shall be the chief administrative and
22 operational officer of the Authority, shall direct and
23 supervise its administrative affairs and general management,
24 shall perform such other duties as may be prescribed by the
25 Board, and shall receive compensation fixed by the Board. The
26 Executive Director shall attend all meetings of the Board;
27 however, no action of the Board or of the Authority shall be
28 invalid on account of the absence of the Executive Director
29 from a meeting. The Board may delegate to the Executive
30 Director such responsibilities and authority as the Board
31 determines appropriate for the proper functioning of the
32 Authority, except that the Board may not delegate to the
33 Executive Director such responsibilities as are specifically
34 assigned to the Board or the Chairperson under this Act.

1 (h) The Board may appoint such other officers as the
2 Board determines appropriate for the conduct of the affairs
3 of the Authority.

4 (i) The Authority may engage the services of such other
5 agents and employees as the Authority determines necessary,
6 including attorneys, appraisers, engineers, accountants,
7 credit analysts, and other consultants and may prescribe
8 their duties and fix their compensation.

9 (j) The Board shall meet on the call of its Chairperson
10 or upon written notice of 3 members of the Board. The Board
11 may conduct meetings by telephonic or other electronic medium
12 so long as all Board members can hear and be heard by one
13 another.

14 Section 25. Actions and duties of the Authority. All
15 official acts of the Authority shall require the affirmative
16 vote of at least 3 members of the Board at which the members
17 casting those affirmative votes are present in person or
18 participating by electronic media. It is the duty of the
19 Authority to develop new electric transmission lines within
20 the State where needed and feasible and as otherwise in
21 compliance with the standards set forth in this Act.

22 Section 30. Powers. The Authority possesses all powers
23 of a body corporate necessary and convenient to accomplish
24 the purpose of this Act, including without limitation all of
25 the following:

26 (1) To enter into loans, contracts, agreements, and
27 mortgages in any matter connected with any of its
28 corporate purpose and to invest its funds.

29 (2) To sue and be sued.

30 (3) To employ agents and employees necessary to
31 carry out its purposes.

32 (4) To have and use a common seal and alter the

1 same at its discretion.

2 (5) To adopt all needful resolutions, ordinances,
3 by-laws, and rules for the conduct of its business and
4 affairs and for the development, management, and use of
5 transmission projects.

6 (6) To designate the fiscal year for the Authority.

7 (7) To accept and expend appropriations.

8 (8) To have and exercise all powers and be subject
9 to all duties usually incident to corporations.

10 (9) To acquire, own, lease, sell, or otherwise
11 dispose of interests in and to real property within and
12 without the State of Illinois and improvements situated
13 thereon and in personal property necessary to fulfill the
14 purposes of the Authority.

15 (10) To engage in any activity or operation that is
16 incidental to and in furtherance of efficient operation
17 to accomplish the Authority's primary purpose.

18 (11) To determine the locations of, develop,
19 design, establish, construct, erect, acquire, own,
20 repair, reconstruct, renovate, remodel, add to, extend,
21 improve, equip, operate, regulate, and maintain
22 transmission projects and to enter into transmission
23 agreements.

24 (12) To accept and expend appropriations.

25 (13) To borrow money from any source for any
26 corporate purpose, including working capital for its
27 operations, reserve funds, or interest, and to mortgage,
28 pledge or otherwise encumber property or funds of the
29 Authority, and to contract with or engage the services of
30 any person in connection with any financing, including
31 financial institutions, issuers of letters of credit, or
32 insurers, and to issue revenue bonds, notes, or other
33 evidence of indebtedness as provided in Section 35 of
34 this Act to evidence the obligation of the Authority to

1 repay the borrowings.

2 Section 35. Revenue bonds.

3 (a) The Authority shall have the continuing power to
4 issue revenue bonds, notes, or other evidence of indebtedness
5 in an aggregate amount not to exceed \$500,000,000 for the
6 purpose of developing, constructing, acquiring, improving, or
7 maintaining transmission projects, for acquiring, improving,
8 and maintaining any property in connection therewith, and
9 otherwise for the purposes for which the Authority was
10 created. For the purpose of evidencing the obligations of the
11 Authority to repay any money borrowed, the Authority may,
12 pursuant to ordinance adopted by the Board, from time to time
13 issue and dispose of its interest bearing revenue bonds,
14 notes, or other evidences of indebtedness and may also from
15 time to time issue and dispose of such bonds, notes, or other
16 evidences of indebtedness to refund, at maturity, at a
17 redemption date, or in advance of either, any revenue bonds,
18 notes, or other evidences of indebtedness pursuant to
19 redemption provisions or at any time before maturity. All
20 such revenue bonds, notes, or other evidences of indebtedness
21 shall be payable solely from the revenues or income to be
22 derived from the lease or sale of rights by the Authority to
23 third persons to maintain, operate, and use the electric
24 transmission provided by the transmission projects pursuant
25 to transmission agreements or from any lease, sale, or other
26 disposition of the transmission projects. The revenue bonds,
27 notes, or other evidences of indebtedness may bear such date,
28 may mature at such time not exceeding 40 years from their
29 respective dates, may bear interest at such rate or rates not
30 exceeding the maximum rate permitted by the Bond
31 Authorization Act, may be in such form, may carry such
32 registration privileges, may be executed in such manner, may
33 be payable at such place or places, may be made subject to

1 redemption in such manner and upon such terms, with or
2 without premium as is stated on the face thereof, may be
3 authenticated in such manner, and may contain such terms and
4 covenants as may be provided by an applicable ordinance.

5 (b) The holder of any revenue bonds, notes, or other
6 evidences of indebtedness issued by the Authority may bring
7 suits at law or proceedings in equity to compel the
8 performance and observance by any corporation or person or by
9 the Authority or any of its agents or employees of any
10 contract or covenant made with the holders of such revenue
11 bonds, notes, or other evidences of indebtedness, to compel
12 such corporation, person, the Authority, and any agents or
13 employees thereof to perform any duties required to be
14 performed for the benefit of the holders of any such revenue
15 bonds, notes, or other evidences of indebtedness by the
16 provision of the ordinance authorizing their issuance or by
17 such contract or covenant, and to enjoin such corporation,
18 person, the Authority, and any of its agents or employees
19 from taking any action in conflict with any such ordinance,
20 contract, or covenant.

21 (c) If the Authority fails to pay the principal of or
22 interest on any of the revenue bonds or premium, if any, as
23 the same becomes due, a civil action to compel payment may be
24 instituted in the appropriate circuit court by the holder or
25 holders of the revenue bonds on which such default or payment
26 exists or by an indenture trustee acting on behalf of such
27 holders. Delivery of a summons and a copy of the complaint to
28 the Chairperson of the Board shall constitute sufficient
29 service to give the circuit court jurisdiction over the
30 Authority and its officers named as defendants for the
31 purpose of compelling such payment. Any case, controversy, or
32 cause of action concerning the validity of this Act relates
33 to the revenue of the State of Illinois.

34 (d) Notwithstanding the form and tenor of any such

1 revenue bonds, notes, or other evidences of indebtedness and
2 in the absence of any express recital on the face of any such
3 revenue bond, note, or other evidences of indebtedness that
4 it is non-negotiable, all such revenue bonds, notes, and
5 other evidences of indebtedness shall be negotiable
6 instruments. Pending the preparation and execution of any
7 such revenue bonds, notes, or other evidences of
8 indebtedness, temporary revenue bonds, notes, or other
9 evidences of indebtedness may be issued as provided by
10 ordinance adopted by the Board.

11 (e) To secure the payment of any or all of such revenue
12 bonds, notes, or other evidences of indebtedness, the
13 revenues to be received by the Authority from any lease,
14 sale, or other disposition of the transmission projects or
15 rights to use transmission in the transmission projects shall
16 be pledged, and for the purpose of setting forth the
17 covenants and undertakings of the Authority in connection
18 with the issuance thereof and the issuance of any additional
19 revenue bonds, notes or other evidences of indebtedness
20 payable from the revenues, income, or other funds to be
21 derived from the transmission projects, the Authority may,
22 pursuant to resolution of the Board, execute and deliver a
23 mortgage or trust agreement. A remedy for any breach or
24 default of the terms of any such mortgage or trust agreement
25 by the Authority may be by mandamus proceedings in the
26 appropriate circuit court to compel the performance and
27 compliance therewith, but the trust agreement may prescribe
28 by whom or on whose behalf the action may be instituted.

29 (f) The revenue bonds or notes shall be secured as
30 provided in the authorizing ordinance which may,
31 notwithstanding any other provision of this Act, include, in
32 addition to any other security, a specific pledge or
33 assignment of and lien on or security interest in any or all
34 revenues or money of the Authority from whatever source that

1 may by law be used for debt service purposes and a specific
2 pledge or assignment of and lien on or security interest in
3 any funds or accounts established or provided for by the
4 ordinance authorizing the issuance of such revenue bonds or
5 notes.

6 (g) The State of Illinois pledges to and agrees with the
7 holders of the revenues bonds and notes of the Authority
8 issued pursuant to this Section that the State will not limit
9 or alter the rights and powers vested in the Authority by
10 this Act so as to impair the terms of any contract made by
11 the Authority with such holders or in any way impair the
12 rights and remedies of such holders until such revenue bonds
13 and notes, together with the interest thereon, with interest
14 on any unpaid installments of interest, and all costs and
15 expenses in connection with any action or proceedings by or
16 on behalf of such holders, are fully met and discharged. The
17 Authority is authorized to include these pledges and
18 agreements of the State in any contract with the holders of
19 revenue bonds or notes issued pursuant to this Section.

20 (h) The revenue bonds, notes, and other evidences of
21 indebtedness authorized by this Act are not, and shall not be
22 construed to be, State debt within the meaning of Section 9
23 of Article IX of the Illinois Constitution, are not secured
24 by the full faith and credit of the State, and are not
25 required to be repaid, directly or indirectly, from tax
26 revenue.

27 Section 40. Acquisition of property. The Authority may
28 acquire in its own name, by gift, purchase, eminent domain
29 (by complaint filed pursuant to Article VII of the Code of
30 Civil Procedure), immediate vesting of title (commonly
31 referred to as "quick take," pursuant to Sections 7-103
32 through 7-112 of the Code of Civil Procedure), or otherwise
33 real or personal property that is necessary or convenient to

1 carry out its corporate purposes.

2 Section 45. Transmission projects.

3 (a) The Authority shall, within one year of the
4 enactment of this Act, conduct a comprehensive study of
5 electric transmission needs within the State of Illinois.

6 (b) If the Authority determines that additional
7 transmission projects are needed in order to ensure an
8 adequate and reliable supply of electricity in Illinois, the
9 Authority may undertake the following activities to ensure
10 that it is able to develop such transmission projects in an
11 expeditious and economical fashion:

12 (1) Identify suitable sites for the transmission
13 projects, taking into account engineering, economic,
14 environmental, and community factors.

15 (2) Secure rights to the sites identified,
16 including transmission rights-of-way or acquisition of
17 options for such rights-of-way.

18 (3) Conduct any studies that may be necessary to
19 construct and operate the transmission projects,
20 including but not limited to engineering and economic
21 studies.

22 (4) Apply for permits, licenses, or other local,
23 State, or federal approvals.

24 (c) The Authority may not commit funds for construction
25 of a transmission project until the Authority has entered
26 into a transmission agreement related to the transmission
27 project.

28 Section 50. Designation of depository. The Authority
29 shall biennially designate a national or State bank or banks
30 located within the State of Illinois as depositories of its
31 money. Those depositories shall be designated upon condition
32 that bonds approved as to form and surety by the Authority

1 and at least equal in amount to the maximum sum expected to
2 be on deposit at any one time shall be first given by the
3 depositories to the Authority, those bonds to be conditioned
4 for the safekeeping and prompt repayment of the deposits.
5 When any of the funds of the Authority shall be deposited by
6 the treasurer in any such depository, the treasurer and the
7 sureties on his official bond shall, to that extent, be
8 exempt from liability for the loss of any of the deposited
9 funds by reason of the failure, bankruptcy, or any other act
10 or default of the depository. However, the Authority may
11 accept assignments of collateral by and conditioned in the
12 same manner as assignments of collateral are permitted by law
13 to secure deposits of the funds of any city.

14 Section 55. Reports. The Authority shall annually submit
15 a report of its finances to the Auditor General. The
16 Authority shall annually submit a report of its activities to
17 the Governor and General Assembly.

18 Section 60. Public utility. The Authority is not and
19 shall not be deemed to be a public utility or electric
20 supplier for purposes of the laws of this State or otherwise.

21 Section 65. Exemption from taxation. All property, real,
22 personal, or mixed, owned by the Authority that is located in
23 the State of Illinois is exempt from taxation under the laws
24 of the State of Illinois to the extent such property is used
25 for the public purpose of developing transmission projects.