

1 AN ACT concerning regulation.

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

4 Section 5. The Illinois Power Agency Act is amended by
5 changing Sections 1-10 and 1-20 and by adding Section 1-56 as
6 follows:

7 (20 ILCS 3855/1-10)

8 (Text of Section before amendment by P.A. 95-1027)

9 Sec. 1-10. Definitions.

10 "Agency" means the Illinois Power Agency.

11 "Agency loan agreement" means any agreement pursuant to
12 which the Illinois Finance Authority agrees to loan the
13 proceeds of revenue bonds issued with respect to a project to
14 the Agency upon terms providing for loan repayment installments
15 at least sufficient to pay when due all principal of, interest
16 and premium, if any, on those revenue bonds, and providing for
17 maintenance, insurance, and other matters in respect of the
18 project.

19 "Authority" means the Illinois Finance Authority.

20 "Clean coal SNG facility" means a facility that uses a
21 gasification process to produce substitute natural gas, that
22 sequesters at least 90% of the total carbon emissions that the
23 facility would otherwise emit and that uses petroleum coke or

1 coal as a feedstock, with all such coal having a high
2 bituminous rank and greater than 1.7 pounds of sulfur per
3 million btu content.

4 "Commission" means the Illinois Commerce Commission.

5 "Costs incurred in connection with the development and
6 construction of a facility" means:

7 (1) the cost of acquisition of all real property and
8 improvements in connection therewith and equipment and
9 other property, rights, and easements acquired that are
10 deemed necessary for the operation and maintenance of the
11 facility;

12 (2) financing costs with respect to bonds, notes, and
13 other evidences of indebtedness of the Agency;

14 (3) all origination, commitment, utilization,
15 facility, placement, underwriting, syndication, credit
16 enhancement, and rating agency fees;

17 (4) engineering, design, procurement, consulting,
18 legal, accounting, title insurance, survey, appraisal,
19 escrow, trustee, collateral agency, interest rate hedging,
20 interest rate swap, capitalized interest and other
21 financing costs, and other expenses for professional
22 services; and

23 (5) the costs of plans, specifications, site study and
24 investigation, installation, surveys, other Agency costs
25 and estimates of costs, and other expenses necessary or
26 incidental to determining the feasibility of any project,

1 together with such other expenses as may be necessary or
2 incidental to the financing, insuring, acquisition, and
3 construction of a specific project and placing that project
4 in operation.

5 "Department" means the Department of Commerce and Economic
6 Opportunity.

7 "Director" means the Director of the Illinois Power Agency.

8 "Demand-response" means measures that decrease peak
9 electricity demand or shift demand from peak to off-peak
10 periods.

11 "Energy efficiency" means measures that reduce the amount
12 of electricity required to achieve a given end use.

13 "Electric utility" has the same definition as found in
14 Section 16-102 of the Public Utilities Act.

15 "Facility" means an electric generating unit or a
16 co-generating unit that produces electricity along with
17 related equipment necessary to connect the facility to an
18 electric transmission or distribution system.

19 "Governmental aggregator" means one or more units of local
20 government that individually or collectively procure
21 electricity to serve residential retail electrical loads
22 located within its or their jurisdiction.

23 "Local government" means a unit of local government as
24 defined in Article VII of Section 1 of the Illinois
25 Constitution.

26 "Municipality" means a city, village, or incorporated

1 town.

2 "Person" means any natural person, firm, partnership,
3 corporation, either domestic or foreign, company, association,
4 limited liability company, joint stock company, or association
5 and includes any trustee, receiver, assignee, or personal
6 representative thereof.

7 "Project" means the planning, bidding, and construction of
8 a facility.

9 "Public utility" has the same definition as found in
10 Section 3-105 of the Public Utilities Act.

11 "Real property" means any interest in land together with
12 all structures, fixtures, and improvements thereon, including
13 lands under water and riparian rights, any easements,
14 covenants, licenses, leases, rights-of-way, uses, and other
15 interests, together with any liens, judgments, mortgages, or
16 other claims or security interests related to real property.

17 "Renewable energy credit" means a tradable credit that
18 represents the environmental attributes of a certain amount of
19 energy produced from a renewable energy resource.

20 "Renewable energy resources" includes energy and its
21 associated renewable energy credit or renewable energy credits
22 from wind, solar thermal energy, photovoltaic cells and panels,
23 biodiesel, crops and untreated and unadulterated organic waste
24 biomass, trees and tree trimmings, hydropower that does not
25 involve new construction or significant expansion of
26 hydropower dams, and other alternative sources of

1 environmentally preferable energy. For purposes of this Act,
2 landfill gas produced in the State is considered a renewable
3 energy resource. "Renewable energy resources" does not include
4 the incineration or burning of tires, garbage, general
5 household, institutional, and commercial waste, industrial
6 lunchroom or office waste, landscape waste other than trees and
7 tree trimmings, railroad crossties, utility poles, or
8 construction or demolition debris, other than untreated and
9 unadulterated waste wood.

10 "Revenue bond" means any bond, note, or other evidence of
11 indebtedness issued by the Authority, the principal and
12 interest of which is payable solely from revenues or income
13 derived from any project or activity of the Agency.

14 "Total resource cost test" or "TRC test" means a standard
15 that is met if, for an investment in energy efficiency or
16 demand-response measures, the benefit-cost ratio is greater
17 than one. The benefit-cost ratio is the ratio of the net
18 present value of the total benefits of the program to the net
19 present value of the total costs as calculated over the
20 lifetime of the measures. A total resource cost test compares
21 the sum of avoided electric utility costs, representing the
22 benefits that accrue to the system and the participant in the
23 delivery of those efficiency measures, to the sum of all
24 incremental costs of end-use measures that are implemented due
25 to the program (including both utility and participant
26 contributions), plus costs to administer, deliver, and

1 evaluate each demand-side program, to quantify the net savings
2 obtained by substituting the demand-side program for supply
3 resources. In calculating avoided costs of power and energy
4 that an electric utility would otherwise have had to acquire,
5 reasonable estimates shall be included of financial costs
6 likely to be imposed by future regulations and legislation on
7 emissions of greenhouse gases.

8 (Source: P.A. 95-481, eff. 8-28-07; 95-913, eff. 1-1-09.)

9 (Text of Section after amendment by P.A. 95-1027)

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17 and premium, if any, on those revenue bonds, and providing for
18 maintenance, insurance, and other matters in respect of the
19 project.

20 "Authority" means the Illinois Finance Authority.

21 "Clean coal facility" means an electric generating
22 facility that uses primarily coal as a feedstock and that
23 captures and sequesters carbon emissions at the following
24 levels: at least 50% of the total carbon emissions that the
25 facility would otherwise emit if, at the time construction

1 commences, the facility is scheduled to commence operation
2 before 2016, at least 70% of the total carbon emissions that
3 the facility would otherwise emit if, at the time construction
4 commences, the facility is scheduled to commence operation
5 during 2016 or 2017, and at least 90% of the total carbon
6 emissions that the facility would otherwise emit if, at the
7 time construction commences, the facility is scheduled to
8 commence operation after 2017. The power block of the clean
9 coal facility shall not exceed allowable emission rates for
10 sulfur dioxide, nitrogen oxides, carbon monoxide, particulates
11 and mercury for a natural gas-fired combined-cycle facility the
12 same size as and in the same location as the clean coal
13 facility at the time the clean coal facility obtains an
14 approved air permit. All coal used by a clean coal facility
15 shall have high volatile bituminous rank and greater than 1.7
16 pounds of sulfur per million btu content, unless the clean coal
17 facility does not use gasification technology and was operating
18 as a conventional coal-fired electric generating facility on
19 June 1, 2009 (the effective date of Public Act 95-1027) ~~this~~
20 ~~amendatory Act of the 95th General Assembly.~~

21 "Clean coal SNG facility" means a facility that uses a
22 gasification process to produce substitute natural gas, that
23 sequesters at least 90% of the total carbon emissions that the
24 facility would otherwise emit and that uses petroleum coke or
25 coal as a feedstock, with all such coal having a high
26 bituminous rank and greater than 1.7 pounds of sulfur per

1 million btu content.

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4 construction of a facility" means:

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9 facility;

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11 other evidences of indebtedness of the Agency;

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13 facility, placement, underwriting, syndication, credit
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16 legal, accounting, title insurance, survey, appraisal,
17 escrow, trustee, collateral agency, interest rate hedging,
18 interest rate swap, capitalized interest and other
19 financing costs, and other expenses for professional
20 services; and

21 (5) the costs of plans, specifications, site study and
22 investigation, installation, surveys, other Agency costs
23 and estimates of costs, and other expenses necessary or
24 incidental to determining the feasibility of any project,
25 together with such other expenses as may be necessary or
26 incidental to the financing, insuring, acquisition, and

1 construction of a specific project and placing that project
2 in operation.

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4 Opportunity.

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14 co-generating unit that produces electricity along with
15 related equipment necessary to connect the facility to an
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18 government that individually or collectively procure
19 electricity to serve residential retail electrical loads
20 located within its or their jurisdiction.

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23 Constitution.

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25 town.

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4 representative thereof.

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6 a facility.

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12 covenants, licenses, leases, rights-of-way, uses, and other
13 interests, together with any liens, judgments, mortgages, or
14 other claims or security interests related to real property.

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16 represents the environmental attributes of a certain amount of
17 energy produced from a renewable energy resource.

18 "Renewable energy resources" includes energy and its
19 associated renewable energy credit or renewable energy credits
20 from wind, solar thermal energy, photovoltaic cells and panels,
21 biodiesel, crops and untreated and unadulterated organic waste
22 biomass, trees and tree trimmings, hydropower that does not
23 involve new construction or significant expansion of
24 hydropower dams, and other alternative sources of
25 environmentally preferable energy. For purposes of this Act,
26 landfill gas produced in the State is considered a renewable

1 energy resource. "Renewable energy resources" does not include
2 the incineration or burning of tires, garbage, general
3 household, institutional, and commercial waste, industrial
4 lunchroom or office waste, landscape waste other than trees and
5 tree trimmings, railroad crossties, utility poles, or
6 construction or demolition debris, other than untreated and
7 unadulterated waste wood.

8 "Revenue bond" means any bond, note, or other evidence of
9 indebtedness issued by the Authority, the principal and
10 interest of which is payable solely from revenues or income
11 derived from any project or activity of the Agency.

12 "Sequester" means permanent storage of carbon dioxide by
13 injecting it into a saline aquifer, a depleted gas reservoir,
14 or an oil reservoir, directly or through an enhanced oil
15 recovery process that may involve intermediate storage in a
16 salt dome.

17 "Servicing agreement" means (i) in the case of an electric
18 utility, an agreement between the owner of a clean coal
19 facility and such electric utility, which agreement shall have
20 terms and conditions meeting the requirements of paragraph (3)
21 of subsection (d) of Section 1-75, and (ii) in the case of an
22 alternative retail electric supplier, an agreement between the
23 owner of a clean coal facility and such alternative retail
24 electric supplier, which agreement shall have terms and
25 conditions meeting the requirements of Section 16-115(d) (5) of
26 the Public Utilities Act.

1 "Substitute natural gas" or "SNG" means a gas manufactured
2 by gasification of hydrocarbon feedstock, which is
3 substantially interchangeable in use and distribution with
4 conventional natural gas.

5 "Total resource cost test" or "TRC test" means a standard
6 that is met if, for an investment in energy efficiency or
7 demand-response measures, the benefit-cost ratio is greater
8 than one. The benefit-cost ratio is the ratio of the net
9 present value of the total benefits of the program to the net
10 present value of the total costs as calculated over the
11 lifetime of the measures. A total resource cost test compares
12 the sum of avoided electric utility costs, representing the
13 benefits that accrue to the system and the participant in the
14 delivery of those efficiency measures, to the sum of all
15 incremental costs of end-use measures that are implemented due
16 to the program (including both utility and participant
17 contributions), plus costs to administer, deliver, and
18 evaluate each demand-side program, to quantify the net savings
19 obtained by substituting the demand-side program for supply
20 resources. In calculating avoided costs of power and energy
21 that an electric utility would otherwise have had to acquire,
22 reasonable estimates shall be included of financial costs
23 likely to be imposed by future regulations and legislation on
24 emissions of greenhouse gases.

25 (Source: P.A. 95-481, eff. 8-28-07; 95-913, eff. 1-1-09;
26 95-1027, eff. 6-1-09; revised 1-14-09.)

1 (20 ILCS 3855/1-20)

2 Sec. 1-20. General powers of the Agency.

3 (a) The Agency is authorized to do each of the following:

4 (1) Develop electricity procurement plans to ensure
5 adequate, reliable, affordable, efficient, and
6 environmentally sustainable electric service at the lowest
7 total cost over time, taking into account any benefits of
8 price stability, for electric utilities that on December
9 31, 2005 provided electric service to at least 100,000
10 customers in Illinois. The procurement plans shall be
11 updated on an annual basis and shall include electricity
12 generated from renewable resources sufficient to achieve
13 the standards specified in this Act.

14 (2) Conduct competitive procurement processes to
15 procure the supply resources identified in the procurement
16 plan, pursuant to Section 16-111.5 of the Public Utilities
17 Act.

18 (3) Develop electric generation and co-generation
19 facilities that use indigenous coal or renewable
20 resources, or both, financed with bonds issued by the
21 Illinois Finance Authority.

22 (4) Supply electricity from the Agency's facilities at
23 cost to one or more of the following: municipal electric
24 systems, governmental aggregators, or rural electric
25 cooperatives in Illinois.

1 (b) Except as otherwise limited by this Act, the Agency has
2 all of the powers necessary or convenient to carry out the
3 purposes and provisions of this Act, including without
4 limitation, each of the following:

5 (1) To have a corporate seal, and to alter that seal at
6 pleasure, and to use it by causing it or a facsimile to be
7 affixed or impressed or reproduced in any other manner.

8 (2) To use the services of the Illinois Finance
9 Authority necessary to carry out the Agency's purposes.

10 (3) To negotiate and enter into loan agreements and
11 other agreements with the Illinois Finance Authority.

12 (4) To obtain and employ personnel and hire consultants
13 that are necessary to fulfill the Agency's purposes, and to
14 make expenditures for that purpose within the
15 appropriations for that purpose.

16 (5) To purchase, receive, take by grant, gift, devise,
17 bequest, or otherwise, lease, or otherwise acquire, own,
18 hold, improve, employ, use, and otherwise deal in and with,
19 real or personal property whether tangible or intangible,
20 or any interest therein, within the State.

21 (6) To acquire real or personal property, whether
22 tangible or intangible, including without limitation
23 property rights, interests in property, franchises,
24 obligations, contracts, and debt and equity securities,
25 and to do so by the exercise of the power of eminent domain
26 in accordance with Section 1-21; except that any real

1 property acquired by the exercise of the power of eminent
2 domain must be located within the State.

3 (7) To sell, convey, lease, exchange, transfer,
4 abandon, or otherwise dispose of, or mortgage, pledge, or
5 create a security interest in, any of its assets,
6 properties, or any interest therein, wherever situated.

7 (8) To purchase, take, receive, subscribe for, or
8 otherwise acquire, hold, make a tender offer for, vote,
9 employ, sell, lend, lease, exchange, transfer, or
10 otherwise dispose of, mortgage, pledge, or grant a security
11 interest in, use, and otherwise deal in and with, bonds and
12 other obligations, shares, or other securities (or
13 interests therein) issued by others, whether engaged in a
14 similar or different business or activity.

15 (9) To make and execute agreements, contracts, and
16 other instruments necessary or convenient in the exercise
17 of the powers and functions of the Agency under this Act,
18 including contracts with any person, local government,
19 State agency, or other entity; and all State agencies and
20 all local governments are authorized to enter into and do
21 all things necessary to perform any such agreement,
22 contract, or other instrument with the Agency. No such
23 agreement, contract, or other instrument shall exceed 40
24 years.

25 (10) To lend money, invest and reinvest its funds in
26 accordance with the Public Funds Investment Act, and take

1 and hold real and personal property as security for the
2 payment of funds loaned or invested.

3 (11) To borrow money at such rate or rates of interest
4 as the Agency may determine, issue its notes, bonds, or
5 other obligations to evidence that indebtedness, and
6 secure any of its obligations by mortgage or pledge of its
7 real or personal property, machinery, equipment,
8 structures, fixtures, inventories, revenues, grants, and
9 other funds as provided or any interest therein, wherever
10 situated.

11 (12) To enter into agreements with the Illinois Finance
12 Authority to issue bonds whether or not the income
13 therefrom is exempt from federal taxation.

14 (13) To procure insurance against any loss in
15 connection with its properties or operations in such amount
16 or amounts and from such insurers, including the federal
17 government, as it may deem necessary or desirable, and to
18 pay any premiums therefor.

19 (14) To negotiate and enter into agreements with
20 trustees or receivers appointed by United States
21 bankruptcy courts or federal district courts or in other
22 proceedings involving adjustment of debts and authorize
23 proceedings involving adjustment of debts and authorize
24 legal counsel for the Agency to appear in any such
25 proceedings.

26 (15) To file a petition under Chapter 9 of Title 11 of

1 the United States Bankruptcy Code or take other similar
2 action for the adjustment of its debts.

3 (16) To enter into management agreements for the
4 operation of any of the property or facilities owned by the
5 Agency.

6 (17) To enter into an agreement to transfer and to
7 transfer any land, facilities, fixtures, or equipment of
8 the Agency to one or more municipal electric systems,
9 governmental aggregators, or rural electric agencies or
10 cooperatives, for such consideration and upon such terms as
11 the Agency may determine to be in the best interest of the
12 citizens of Illinois.

13 (18) To enter upon any lands and within any building
14 whenever in its judgment it may be necessary for the
15 purpose of making surveys and examinations to accomplish
16 any purpose authorized by this Act.

17 (19) To maintain an office or offices at such place or
18 places in the State as it may determine.

19 (20) To request information, and to make any inquiry,
20 investigation, survey, or study that the Agency may deem
21 necessary to enable it effectively to carry out the
22 provisions of this Act.

23 (21) To accept and expend appropriations.

24 (22) To engage in any activity or operation that is
25 incidental to and in furtherance of efficient operation to
26 accomplish the Agency's purposes.

1 (23) To adopt, revise, amend, and repeal rules with
2 respect to its operations, properties, and facilities as
3 may be necessary or convenient to carry out the purposes of
4 this Act, subject to the provisions of the Illinois
5 Administrative Procedure Act and Sections 1-22 and 1-35 of
6 this Act.

7 (24) To establish and collect charges and fees as
8 described in this Act.

9 (25) To manage procurement of substitute natural gas
10 from a facility that meets the criteria specified in
11 subsection (a) of Section 1-56 of this Act, on terms and
12 conditions that may be approved by the Agency pursuant to
13 subsection (d) of Section 1-56 of this Act, to support the
14 operations of State agencies and local governments that
15 agree to such terms and conditions. This procurement
16 process is not subject to the Procurement Code.

17 (Source: P.A. 95-481, eff. 8-28-07.)

18 (20 ILCS 3855/1-56 new)

19 Sec. 1-56. Clean coal SNG facility construction.

20 (a) It is the intention of the General Assembly to provide
21 additional long-term natural gas price stability to the State
22 and consumers by promoting the development of a clean coal SNG
23 facility that would produce a minimum annual output of 30 Bcf
24 of SNG and commence construction no later than June 1, 2013 on
25 a brownfield site in a municipality with at least one million

1 residents. The costs associated with preparing a facility cost
2 report for such a facility, which contains all of the
3 information required by subsection (b) of this Section, may be
4 paid or reimbursed pursuant to subsection (c) of this Section.

5 (b) The facility cost report for a facility that meets the
6 criteria set forth in subsection (a) of this Section shall be
7 prepared by a duly licensed engineering firm that details the
8 estimated capital costs payable to one or more contractors or
9 suppliers for the engineering, procurement, and construction
10 of the components comprising the facility and the estimated
11 costs of operation and maintenance of the facility. The report
12 must be provided to the General Assembly and the Agency on or
13 before April 30, 2010. The facility cost report shall include
14 all of the following:

15 (1) An estimate of the capital cost of the core plant
16 based on a front-end engineering and design study. The core
17 plant shall include all civil, structural, mechanical,
18 electrical, control, and safety systems. The quoted
19 construction costs shall be expressed in nominal dollars as
20 of the date that the quote is prepared and shall include:

21 (A) capitalized financing costs during
22 construction;

23 (B) taxes, insurance, and other owner's costs; and

24 (C) any assumed escalation in materials and labor
25 beyond the date as of which the construction cost quote
26 is expressed;

1 (2) An estimate of the capital cost of the balance of
2 the plant, including any capital costs associated with site
3 preparation and remediation, sequestration of carbon
4 dioxide emissions, and all interconnects and interfaces
5 required to operate the facility, such as construction or
6 backfeed power supply, pipelines to transport substitute
7 natural gas or carbon dioxide, potable water supply,
8 natural gas supply, water supply, water discharge,
9 landfill, access roads, and coal delivery. The front-end
10 engineering and design study and the cost study for the
11 balance of the plant shall include sufficient design work
12 to permit quantification of major categories of materials,
13 commodities and labor hours, and receipt of quotes from
14 vendors of major equipment required to construct and
15 operate the facility.

16 (3) An operating and maintenance cost quote that will
17 provide the estimated cost of delivered fuel, personnel,
18 maintenance contracts, chemicals, catalysts, consumables,
19 spares, and other fixed and variable operating and
20 maintenance costs. This quote is subject to the following
21 requirements:

22 (A) The delivered fuel cost estimate shall be
23 provided by a recognized third party expert or experts
24 in the fuel and transportation industries.

25 (B) The balance of the operating and maintenance
26 cost quote, excluding delivered fuel costs shall be

1 developed based on the inputs provided by a duly
2 licensed engineering firm performing the construction
3 cost quote, potential vendors under long-term service
4 agreements and plant operating agreements, or
5 recognized third-party plant operator or operators.

6 The operating and maintenance cost quote shall be
7 expressed in nominal dollars as of the date that the quote
8 is prepared and shall include (i) taxes, insurance, and
9 other owner's costs and (ii) any assumed escalation in
10 materials and labor beyond the date as of which the
11 operating and maintenance cost quote is expressed.

12 (c) Reasonable amounts paid or due to be paid by the owner
13 or owners of the clean coal SNG facility to third parties
14 unrelated to the owner or owners to prepare the facility cost
15 report may be reimbursed or paid up to \$10 million, through
16 funding authorized pursuant to 20 ILCS 3501/825-65.

17 (d) The Agency shall review the facility report and based
18 on that report, consider whether to enter into long-term
19 contracts to purchase SNG from the facility pursuant to Section
20 1-20 of this Act. To assist with its evaluation of the report,
21 the Agency may hire one or more experts or consultants, the
22 reasonable costs of which, not to exceed \$250,000, shall be
23 paid for by the owner or owners of the clean coal SNG facility
24 submitting the facility cost report. The Agency may begin the
25 process of selecting such experts or consultants prior to
26 receipt of the facility cost report.

1 Section 95. No acceleration or delay. Where this Act makes
2 changes in a statute that is represented in this Act by text
3 that is not yet or no longer in effect (for example, a Section
4 represented by multiple versions), the use of that text does
5 not accelerate or delay the taking effect of (i) the changes
6 made by this Act or (ii) provisions derived from any other
7 Public Act.

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.