

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 Sections 1-77 and
6 1-78 as follows:

7 (20 ILCS 3855/1-10)

8 Sec. 1-10. Definitions.

9 "Agency" means the Illinois Power Agency.

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

18 "Authority" means the Illinois Finance Authority.

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

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

21 "Clean coal SNG brownfield facility" means a facility that
22 (1) has commenced construction by July 1, 2014 on an urban
23 brownfield site in a municipality with at least 1,000,000
24 residents; (2) uses a gasification process to produce
25 substitute natural gas; (3) uses coal as at least 50% of the
26 total feedstock over the term of any sourcing agreement with a

1 utility and the remainder of the feedstock may be either
2 petroleum coke or coal, with all such coal having a high
3 bituminous rank and greater than 1.7 pounds of sulfur per
4 million Btu content; and (4) captures and sequesters at least
5 85% of the total carbon dioxide emissions that the facility
6 would otherwise emit.

7 "Clean coal SNG facility" means a facility that uses a
8 gasification process to produce substitute natural gas, that
9 sequesters at least 90% of the total carbon dioxide emissions
10 that the facility would otherwise emit and that uses petroleum
11 coke or coal as a feedstock, with all such coal having a high
12 bituminous rank and greater than 1.7 pounds of sulfur per
13 million btu content; provided, however, a clean coal SNG
14 brownfield facility shall not be a clean coal SNG facility.

15 "Commission" means the Illinois Commerce Commission.

16 "Costs incurred in connection with the development and
17 construction of a facility" means:

18 (1) the cost of acquisition of all real property, l
19 fixtures, and improvements in connection therewith and
20 equipment, personal property, and other property, rights,
21 and easements acquired that are deemed necessary for the
22 operation and maintenance of the facility;

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

25 (3) all origination, commitment, utilization,
26 facility, placement, underwriting, syndication, credit

1 enhancement, and rating agency fees;

2 (4) engineering, design, procurement, consulting,
3 legal, accounting, title insurance, survey, appraisal,
4 escrow, trustee, collateral agency, interest rate hedging,
5 interest rate swap, capitalized interest, contingency, as
6 required by lenders, and other financing costs, and other
7 expenses for professional services; and

8 (5) the costs of plans, specifications, site study and
9 investigation, installation, surveys, other Agency costs
10 and estimates of costs, and other expenses necessary or
11 incidental to determining the feasibility of any project,
12 together with such other expenses as may be necessary or
13 incidental to the financing, insuring, acquisition, and
14 construction of a specific project and starting up,
15 commissioning, and placing that project in operation.

16 "Department" means the Department of Commerce and Economic
17 Opportunity.

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

19 "Demand-response" means measures that decrease peak
20 electricity demand or shift demand from peak to off-peak
21 periods.

22 "Energy efficiency" means measures that reduce the amount
23 of electricity or natural gas required to achieve a given end
24 use.

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

1 "Facility" means an electric generating unit or a
2 co-generating unit that produces electricity along with
3 related equipment necessary to connect the facility to an
4 electric transmission or distribution system.

5 "Governmental aggregator" means one or more units of local
6 government that individually or collectively procure
7 electricity to serve residential retail electrical loads
8 located within its or their jurisdiction.

9 "Local government" means a unit of local government as
10 defined in Article VII of Section 1 of the Illinois
11 Constitution.

12 "Municipality" means a city, village, or incorporated
13 town.

14 "Person" means any natural person, firm, partnership,
15 corporation, either domestic or foreign, company, association,
16 limited liability company, joint stock company, or association
17 and includes any trustee, receiver, assignee, or personal
18 representative thereof.

19 "Project" means the planning, bidding, and construction of
20 a facility.

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

23 "Real property" means any interest in land together with
24 all structures, fixtures, and improvements thereon, including
25 lands under water and riparian rights, any easements,
26 covenants, licenses, leases, rights-of-way, uses, and other

1 interests, together with any liens, judgments, mortgages, or
2 other claims or security interests related to real property.

3 "Renewable energy credit" means a tradable credit that
4 represents the environmental attributes of a certain amount of
5 energy produced from a renewable energy resource.

6 "Renewable energy resources" includes energy and its
7 associated renewable energy credit or renewable energy credits
8 from wind, solar thermal energy, photovoltaic cells and panels,
9 biodiesel, crops and untreated and unadulterated organic waste
10 biomass, tree waste, hydropower that does not involve new
11 construction or significant expansion of hydropower dams, and
12 other alternative sources of environmentally preferable
13 energy. For purposes of this Act, landfill gas produced in the
14 State is considered a renewable energy resource. "Renewable
15 energy resources" does not include the incineration or burning
16 of tires, garbage, general household, institutional, and
17 commercial waste, industrial lunchroom or office waste,
18 landscape waste other than tree waste, railroad crossties,
19 utility poles, or construction or demolition debris, other than
20 untreated and unadulterated waste wood.

21 "Revenue bond" means any bond, note, or other evidence of
22 indebtedness issued by the Authority, the principal and
23 interest of which is payable solely from revenues or income
24 derived from any project or activity of the Agency.

25 "Sequester" means permanent storage of carbon dioxide by
26 injecting it into a saline aquifer, a depleted gas reservoir,

1 or an oil reservoir, directly or through an enhanced oil
2 recovery process that may involve intermediate storage,
3 regardless of whether these activities are conducted by a clean
4 coal facility, clean coal SNG facility, clean coal SNG
5 brownfield facility, or a party with which a clean coal
6 facility, clean coal SNG facility, or clean coal SNG brownfield
7 facility has contracted for such purposes in a salt dome.

8 "Sourcing ~~servicing~~ agreement" means (i) in the case of an
9 electric utility, an agreement between the owner of a clean
10 coal facility and such electric utility, which agreement shall
11 have terms and conditions meeting the requirements of paragraph
12 (3) of subsection (d) of Section 1-75, ~~and~~ (ii) in the case of
13 an alternative retail electric supplier, an agreement between
14 the owner of a clean coal facility and such alternative retail
15 electric supplier, which agreement shall have terms and
16 conditions meeting the requirements of Section 16-115(d)(5) of
17 the Public Utilities Act, and (iii) in case of a gas utility,
18 an agreement between the owner of a clean coal SNG brownfield
19 facility and the gas utility, which agreement shall have the
20 terms and conditions meeting the requirements of subsection
21 (h-1) of Section 9-220 of the Public Utilities Act.

22 "Substitute natural gas" or "SNG" means a gas manufactured
23 by gasification of hydrocarbon feedstock, which is
24 substantially interchangeable in use and distribution with
25 conventional natural gas.

26 "Total resource cost test" or "TRC test" means a standard

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

21 (Source: P.A. 95-481, eff. 8-28-07; 95-913, eff. 1-1-09;
22 95-1027, eff. 6-1-09; 96-33, eff. 7-10-09; 96-159, eff.
23 8-10-09; 96-784, eff. 8-28-09; 96-1000, eff. 7-2-10.)

24 (20 ILCS 3855/1-20)

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

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

2 (1) Develop electricity procurement plans to 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, for electric utilities that on December
7 31, 2005 provided electric service to at least 100,000
8 customers in Illinois. The procurement plans shall be
9 updated on an annual basis and shall include electricity
10 generated from renewable resources sufficient to achieve
11 the standards specified in this Act.

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

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

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

24 (b) Except as otherwise limited by this Act, the Agency has
25 all of the powers necessary or convenient to carry out the
26 purposes and provisions of this Act, including without

1 limitation, each of the following:

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

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

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

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

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

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

26 (7) To sell, convey, lease, exchange, transfer,

1 abandon, or otherwise dispose of, or mortgage, pledge, or
2 create a security interest in, any of its assets,
3 properties, or any interest therein, wherever situated.

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

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

22 (10) To lend money, invest and reinvest its funds in
23 accordance with the Public Funds Investment Act, and take
24 and hold real and personal property as security for the
25 payment of funds loaned or invested.

26 (11) To borrow money at such rate or rates of interest

1 as the Agency may determine, issue its notes, bonds, or
2 other obligations to evidence that indebtedness, and
3 secure any of its obligations by mortgage or pledge of its
4 real or personal property, machinery, equipment,
5 structures, fixtures, inventories, revenues, grants, and
6 other funds as provided or any interest therein, wherever
7 situated.

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

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

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

23 (15) To file a petition under Chapter 9 of Title 11 of
24 the United States Bankruptcy Code or take other similar
25 action for the adjustment of its debts.

26 (16) To enter into management agreements for the

1 operation of any of the property or facilities owned by the
2 Agency.

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

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

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

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

20 (21) To accept and expend appropriations.

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

24 (23) To adopt, revise, amend, and repeal rules with
25 respect to its operations, properties, and facilities as
26 may be necessary or convenient to carry out the purposes of

1 this Act, subject to the provisions of the Illinois
2 Administrative Procedure Act and Sections 1-22 and 1-35 of
3 this Act.

4 (24) To establish and collect charges and fees as
5 described in this Act.

6 (25) To conduct competitive gasification feedstock
7 procurement processes to procure the feedstocks for the
8 clean coal SNG brownfield facility in accordance with the
9 requirements of Section 1-78 of this Act ~~To manage~~
10 ~~procurement of substitute natural gas from a facility that~~
11 ~~meets the criteria specified in subsection (a) of Section~~
12 ~~1-58 of this Act, on terms and conditions that may be~~
13 ~~approved by the Agency pursuant to subsection (d) of~~
14 ~~Section 1-58 of this Act, to support the operations of~~
15 ~~State agencies and local governments that agree to such~~
16 ~~terms and conditions. This procurement process is not~~
17 ~~subject to the Procurement Code.~~

18 (26) To review, revise, and approve sourcing
19 agreements and mediate and resolve disputes between gas
20 utilities and the clean coal SNG brownfield facility
21 pursuant to subsection (h-1) of Section 9-220 of the Public
22 Utilities Act.

23 (Source: P.A. 95-481, eff. 8-28-07; 96-784, eff. 8-28-09;
24 96-1000, eff. 7-2-10.)

25 (20 ILCS 3855/1-77 new)

1 Sec. 1-77. The Planning and Procurement Bureau; feedstock
2 procurement administrator; qualified expert or expert
3 consulting firm.

4 (a) The Planning and Procurement Bureau shall at least
5 every 5 years beginning in 2015 develop feedstock procurement
6 plans and conduct competitive feedstock procurement processes
7 in accordance with the requirements of Section 1-78 of this
8 Act.

9 (1) The Agency shall at least every 5 years beginning
10 in 2015 issue a request for qualifications for experts or
11 expert consulting firms to develop the feedstock
12 procurement plans in accordance with Section 1-78 of this
13 Act. In order to qualify, an expert or expert consulting
14 firm must have:

15 (A) direct previous experience assembling large
16 scale feedstock supply plans or portfolios for
17 industrial customers;

18 (B) an advanced degree in economics, mathematics,
19 engineering, risk management, or a related area of
20 study;

21 (C) ten years of experience in the energy sector,
22 including managing supply risk;

23 (D) expertise in wholesale feedstock markets,
24 which may be particularized to the specific type of
25 feedstock to be purchased in that procurement event;

26 (E) expertise in credit protocols and familiarity

1 with contract protocols;

2 (F) adequate resources to perform and fulfill the
3 required functions and responsibilities; and

4 (G) the absence of a conflict of interest and
5 inappropriate bias for or against potential bidders or
6 the affected clean coal SNG brownfield facility.

7 (2) The Agency shall at least every 5 years beginning
8 in 2015 issue a request for qualifications for a feedstock
9 procurement administrator to conduct the competitive
10 feedstock procurement processes in accordance with Section
11 1-78 of this Act. In order to qualify, an expert or expert
12 consulting firm must have:

13 (A) direct previous experience administering a
14 large scale competitive feedstock procurement process;

15 (B) an advanced degree in economics, mathematics,
16 engineering, or a related area of study;

17 (C) ten years of experience in the energy sector,
18 including risk management experience;

19 (D) expertise in wholesale feedstock market rules,
20 which may be particularized to the specific type of
21 feedstock to be purchased in that procurement event;

22 (E) expertise in credit and contract protocols;

23 (F) adequate resources to perform and fulfill the
24 required functions and responsibilities; and

25 (G) the absence of a conflict of interest and
26 inappropriate bias for or against potential bidders or

1 the affected clean coal SNG brownfield facility.

2 (3) The Agency shall provide the clean coal SNG
3 brownfield facility and other interested parties with the
4 lists of qualified experts or expert consulting firms
5 identified through the request for qualifications
6 processes that are under consideration to develop the
7 feedstock procurement plans and to serve as the feedstock
8 procurement administrator. The Agency shall also provide
9 the clean coal SNG brownfield facility and other interested
10 parties with each qualified expert's or expert consulting
11 firm's response to the request for qualifications. All
12 information provided under this subparagraph (3) shall
13 also be provided to the Commission. The Agency may provide
14 by rule for fees associated with supplying the information
15 to the clean coal SNG brownfield facility and other
16 interested parties. The clean coal SNG brownfield facility
17 and other interested parties must, within 5 business days
18 after receiving the lists and information, notify the
19 Agency in writing if they object to any experts or expert
20 consulting firms on the lists. Objections shall be based
21 on:

22 (A) failure to satisfy qualification criteria;

23 (B) identification of a conflict of interest; or

24 (C) evidence of inappropriate bias for or against
25 potential bidders or the clean coal SNG brownfield
26 facility.

1 The Agency shall remove an expert or expert consulting
2 firm from the list within 10 days if there is a reasonable
3 basis for an objection and provide the updated list to the
4 clean coal SNG brownfield facility and other interested
5 parties. If the Agency fails to remove an expert or expert
6 consulting firm from a list, then an objecting party may
7 seek review by the Commission within 5 days thereafter by
8 filing a petition, and the Commission shall render a ruling
9 on the petition within 10 days after the filing. There is
10 no right of appeal of the Commission's ruling.

11 (4) The Agency shall, as needed, issue requests for
12 proposals to the qualified experts or expert consulting
13 firms to develop a feedstock procurement plan for the clean
14 coal SNG brownfield facility and to serve as feedstock
15 procurement administrator.

16 (5) The Agency shall select an expert or expert
17 consulting firm to develop feedstock procurement plans
18 based on the proposals submitted and shall award one-year
19 contracts to those selected with an option for the Agency
20 for a one-year renewal.

21 (6) The Agency shall select, with the approval of the
22 Commission, an expert or expert consulting firm to serve as
23 feedstock procurement administrator based on the proposals
24 submitted. If the Commission rejects the Agency's
25 selection within 5 days after being notified of the
26 Agency's selection, then the Agency shall submit another

1 recommendation within 3 days after the Commission's
2 rejection based on the proposals submitted. The Agency
3 shall award at least a one-year contract to the expert or
4 expert consulting firm selected with the Commission's
5 approval with an option for the Agency for renewal for a
6 term equal to the term of the contract.

7 (b) The experts or expert consulting firms retained by the
8 Agency shall, as appropriate, prepare feedstock procurement
9 plans and conduct a competitive feedstock procurement process
10 as prescribed in Section 1-78 of this Act to ensure adequate,
11 reliable, affordable feedstocks, taking into account any
12 benefits of price stability, for the clean coal SNG brownfield
13 facility.

14 (c) The draft procurement plans are subject to public
15 comment pursuant to Section 1-78 of this Act.

16 (d) The Agency shall assess fees to each bidder to recover
17 the costs incurred in connection with the competitive
18 procurement process.

19 (20 ILCS 3855/1-78 new)

20 Sec. 1-78. Feedstock procurement plan; feedstock
21 procurement process.

22 (a) A feedstock procurement plan shall at least every 5
23 years beginning in 2015 be prepared for the clean coal SNG
24 brownfield facility based on the clean coal SNG brownfield
25 facility's projection of feedstock usage and ratios, and

1 consistent with the applicable requirements of the Public
2 Utilities Act and this Act. The plan shall specifically
3 identify the wholesale feedstock products to be procured
4 following plan approval and shall follow all the requirements
5 set forth in this Act, the Public Utilities Act, and all
6 applicable State and federal laws, statutes, rules, or
7 regulations, as well as Commission orders. Nothing in this
8 Section precludes consideration of contracts longer than 5
9 years and related forecast data. Any feedstock procurement
10 occurring in accordance with this plan shall be competitively
11 bid through a request for proposals process. Approval and
12 implementation of the feedstock procurement plan shall be
13 subject to review and approval by the Commission according to
14 the provisions set forth in this Section. A feedstock
15 procurement plan shall include each of the following
16 components:

17 (1) Daily load analysis. This analysis shall include:

18 (A) multi-year historical analysis of hourly
19 loads; and

20 (B) known or projected changes to future loads.

21 (2) Determination of the fuel specifications required
22 for the clean coal SNG brownfield facility, including:

23 (A) coal and petroleum coke mix, as set by the
24 clean coal SNG brownfield facility with coal
25 comprising at least 50% of the total feedstock over the
26 term of any sourcing agreement;

1 (B) volume of each feedstock required;

2 (C) quality standards of each feedstock;

3 (D) delivery requirements, including cost
4 implications; and

5 (E) technical specifications of the clean coal SNG
6 brownfield facility for its feedstocks.

7 (b) The feedstock procurement process shall be
8 administered by a feedstock procurement administrator and
9 monitored by a feedstock procurement monitor.

10 (1) The feedstock procurement administrator shall:

11 (A) design the final feedstock procurement process
12 in accordance with subsection (d) of this Section
13 following Commission approval of the feedstock
14 procurement plan;

15 (B) develop feedstock benchmarks in accordance
16 with subsection (d)(3) to be used to evaluate bids;
17 these benchmarks shall be submitted to the Commission
18 for review and approval on a confidential basis prior
19 to the feedstock procurement event;

20 (C) serve as the interface between the clean coal
21 SNG brownfield facility and coal and petroleum coke
22 suppliers;

23 (D) manage the bidder prequalification and
24 registration process;

25 (E) obtain the facility's agreement to the final
26 form of all supply contracts and credit collateral

1 agreements;

2 (F) administer the request for feedstock proposals
3 process;

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

15 (H) maintain confidentiality of supplier and
16 bidding information in a manner consistent with all
17 applicable laws, rules, regulations, and tariffs;

18 (I) submit a confidential report to the Commission
19 recommending acceptance or rejection of bids;

20 (J) notify the facility of contract counterparties
21 and contract specifics; and

22 (K) administer related contingency feedstock
23 procurement events.

24 (2) The feedstock procurement monitor, who shall be
25 retained by the Commission, shall:

26 (A) monitor interactions among the feedstock

1 procurement administrator, suppliers, and the
2 facility;

3 (B) monitor and report to the Commission on the
4 progress of the feedstock procurement process;

5 (C) provide an independent, confidential report to
6 the Commission regarding the results of the feedstock
7 procurement event;

8 (D) preserve the confidentiality of supplier and
9 bidding information in a manner consistent with all
10 applicable laws, rules, regulations, and tariffs;

11 (E) provide expert advice to the Commission and
12 consult with the feedstock procurement administrator
13 regarding issues related to feedstock procurement
14 process design, rules, protocols, and policy-related
15 matters;

16 (F) consult with the feedstock procurement
17 administrator regarding the development and use of
18 benchmark criteria, standard form contracts, credit
19 policies, and bid documents; and

20 (G) assess compliance with the procurement plans
21 approved by the Commission.

22 (c) The feedstock planning process shall be conducted as
23 follows:

24 (1) Beginning in 2015, the clean coal SNG brownfield
25 facility shall annually provide a range of feedstock
26 requirement forecasts to the Agency by May 15 of each year,

1 or such other date as may be required by the Commission or
2 Agency. The feedstock requirement forecasts shall cover
3 the 5-year feedstock procurement planning period for the
4 next feedstock procurement plan, or such other longer
5 period that the Agency or the Commission may require and
6 shall include daily data representing a high-load,
7 low-load, and expected-load scenario for the load of the
8 utilities required to enter into sourcing agreements with
9 the clean coal SNG brownfield facility. The utility shall
10 provide supporting data and assumptions for each of the
11 scenarios.

12 (2) Beginning in 2015, the Agency shall at least every
13 5 years prepare a feedstock procurement plan by June 15, or
14 such other date as may be required by the Commission. The
15 feedstock procurement plan shall identify the portfolio of
16 feedstocks to be procured. Copies of the feedstock
17 procurement plan shall be posted and made publicly
18 available on the Agency's and Commission's websites, and
19 copies shall also be provided to the clean coal SNG
20 brownfield facility. The clean coal SNG brownfield
21 facility shall have 30 days following the date of posting
22 to provide comment to the Agency on the feedstock
23 procurement plan. Other interested entities also may
24 comment on the feedstock procurement plan. All comments
25 submitted to the Agency shall be specific, supported by
26 data or other detailed analyses, and, if objecting to all

1 or a portion of the feedstock procurement plan, accompanied
2 by specific alternative wording or proposals. All comments
3 shall be posted on the Agency's and Commission's websites.
4 During this 30-day comment period, the Agency shall hold at
5 least one public hearing for the purpose of receiving
6 public comment on the procurement plan. Within 14 days
7 following the end of the 30-day comment period, the Agency
8 shall revise the feedstock procurement plan as necessary
9 based on the comments received, file the feedstock
10 procurement plan with the Commission, and post the
11 feedstock procurement plan on the websites.

12 (3) Within 5 days after the filing of the feedstock
13 procurement plan, any person objecting to the feedstock
14 procurement plan shall file an objection with the
15 Commission. Within 10 days after the filing, the Commission
16 shall determine whether a hearing is necessary. The
17 Commission shall enter its order confirming or modifying
18 the feedstock procurement plan within 90 days after the
19 filing of the feedstock procurement plan by the Agency.

20 (4) The Commission shall approve the feedstock
21 procurement plan, including expressly the forecast used in
22 the feedstock procurement plan, if the Commission
23 determines that it will ensure adequate, reliable, and
24 affordable feedstocks to the clean coal SNG brownfield
25 facility at the lowest total cost over time, taking into
26 account any benefits of price stability.

1 (d) The feedstock procurement process shall include each of
2 the following components:

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

23 (2) Standard contract forms and credit terms and
24 instruments. The feedstock procurement administrator, in
25 consultation with the clean coal SNG brownfield facility,
26 gas utilities, the Commission, and other interested

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

19 (3) Establishment of a market-based price benchmark.
20 As part of the development of the feedstock procurement
21 process, the feedstock procurement administrator, in
22 consultation with the Commission staff, Agency staff, and
23 the feedstock procurement monitor, shall establish
24 benchmarks for evaluating the final prices in the contracts
25 for each of the feedstocks that will be procured through
26 the feedstock procurement process. The benchmarks shall be

1 based on price data for similar feedstocks for the same
2 delivery period and same delivery hub or other delivery
3 hubs after adjusting for that difference. The price
4 benchmarks may also be adjusted to take into account
5 differences between the information reflected in the
6 underlying data sources and the specific feedstocks and
7 gasification feedstock procurement process being used to
8 procure for the clean coal SNG brownfield facility. The
9 benchmarks shall be confidential but shall be provided to,
10 and shall be subject to, the Commission's review and
11 approval prior to a feedstock procurement event.

12 (4) Request for proposals. The feedstock procurement
13 administrator shall design and issue a request for
14 proposals to supply coal or petroleum coke in accordance
15 with the clean coal SNG brownfield facility's usage plan,
16 as approved by the Commission. The request for proposals
17 shall set forth a procedure for sealed, binding commitment
18 bidding with pay-as-bid settlement, and provision for
19 selection of bids on the basis of price.

20 (5) A plan for implementing contingencies in the event
21 of supplier default or failure of the feedstock procurement
22 process to fully meet the expected feedstock requirement
23 due to insufficient supplier participation, Commission
24 rejection of results, or any other cause. The plan must be
25 specific to the clean coal SNG brownfield facility's
26 feedstock specifications and requirements.

1 The feedstock procurement process described in this
2 subsection (d) is exempt from the requirements of the Illinois
3 Procurement Code, pursuant to Section 20-10 of that Code.

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

23 (f) Within 3 business days after the Commission decision
24 approving the results of a feedstock procurement event, the
25 clean coal SNG brownfield facility shall enter into binding
26 contractual arrangements with the winning suppliers using

1 standard form contracts.

2 (g) The names of the successful bidders and the amount of
3 feedstock to be delivered for each contract type and for each
4 contract term shall be made available to the public at the time
5 of Commission approval of a feedstock procurement event. The
6 Commission, the procurement monitor, the feedstock procurement
7 administrator, the Agency, and all participants in the
8 feedstock procurement process shall maintain the
9 confidentiality of all other supplier and bidding information
10 in a manner consistent with all applicable laws, rules,
11 regulations, and tariffs. Confidential information, including
12 the confidential reports submitted by the feedstock
13 procurement administrator and feedstock procurement monitor
14 pursuant to subsection (e) of this Section, shall not be
15 publicly available or discoverable by any party in any
16 proceeding absent a compelling demonstration of need. The
17 reports shall not be admissible in any proceeding other than
18 one for law enforcement purposes.

19 (h) Within 2 business days after a Commission decision
20 approving the results of a feedstock procurement event or such
21 other date as may be required by the Commission from time to
22 time, the clean coal SNG brownfield facility shall file for
23 informational purposes with the Commission its actual or
24 estimated feedstock costs by utility customer reflecting the
25 costs associated with the feedstock procurement.

26 (i) The clean coal SNG brownfield facility shall pay for

1 reasonable costs incurred by the Agency in administering the
2 feedstock procurement events, which costs shall be included in
3 the actual delivered fuel costs of the clean coal SNG
4 brownfield facility. The Agency shall determine the amount owed
5 for each feedstock procurement event, and the clean coal SNG
6 brownfield facility shall pay that amount to the Agency within
7 30 days after being informed by the Agency of the amount owed.
8 Those funds shall be deposited into the Illinois Power Agency
9 Operations Fund, pursuant to Section 1-55 of this Act, to be
10 used to reimburse expenses related to the feedstock
11 procurement.

12 (j) The Commission has the authority to adopt rules to
13 carry out the provisions of this Section. For the public
14 interest, safety, and welfare, the Commission also has the
15 authority to adopt rules to carry out the provisions of this
16 Section on an emergency basis.

17 (k) On or before April 1 of each year, the Commission may
18 hold an informal hearing for the purpose of receiving comments
19 on the prior year's feedstock procurement process and any
20 recommendations for change.

21 Section 7. The Illinois Procurement Code is amended by
22 changing Sections 1-10 and 20-10 as follows:

23 (30 ILCS 500/1-10)

24 Sec. 1-10. Application.

1 (a) This Code applies only to procurements for which
2 contractors were first solicited on or after July 1, 1998. This
3 Code shall not be construed to affect or impair any contract,
4 or any provision of a contract, entered into based on a
5 solicitation prior to the implementation date of this Code as
6 described in Article 99, including but not limited to any
7 covenant entered into with respect to any revenue bonds or
8 similar instruments. All procurements for which contracts are
9 solicited between the effective date of Articles 50 and 99 and
10 July 1, 1998 shall be substantially in accordance with this
11 Code and its intent.

12 (b) This Code shall apply regardless of the source of the
13 funds with which the contracts are paid, including federal
14 assistance moneys. This Code shall not apply to:

15 (1) Contracts between the State and its political
16 subdivisions or other governments, or between State
17 governmental bodies except as specifically provided in
18 this Code.

19 (2) Grants, except for the filing requirements of
20 Section 20-80.

21 (3) Purchase of care.

22 (4) Hiring of an individual as employee and not as an
23 independent contractor, whether pursuant to an employment
24 code or policy or by contract directly with that
25 individual.

26 (5) Collective bargaining contracts.

1 (6) Purchase of real estate, except that notice of this
2 type of contract with a value of more than \$25,000 must be
3 published in the Procurement Bulletin within 7 days after
4 the deed is recorded in the county of jurisdiction. The
5 notice shall identify the real estate purchased, the names
6 of all parties to the contract, the value of the contract,
7 and the effective date of the contract.

8 (7) Contracts necessary to prepare for anticipated
9 litigation, enforcement actions, or investigations,
10 provided that the chief legal counsel to the Governor shall
11 give his or her prior approval when the procuring agency is
12 one subject to the jurisdiction of the Governor, and
13 provided that the chief legal counsel of any other
14 procuring entity subject to this Code shall give his or her
15 prior approval when the procuring entity is not one subject
16 to the jurisdiction of the Governor.

17 (8) Contracts for services to Northern Illinois
18 University by a person, acting as an independent
19 contractor, who is qualified by education, experience, and
20 technical ability and is selected by negotiation for the
21 purpose of providing non-credit educational service
22 activities or products by means of specialized programs
23 offered by the university.

24 (9) Procurement expenditures by the Illinois
25 Conservation Foundation when only private funds are used.

26 (10) Procurement expenditures by the Illinois Health

1 Information Exchange Authority involving private funds
2 from the Health Information Exchange Fund. "Private funds"
3 means gifts, donations, and private grants.

4 (c) This Code does not apply to the electric power
5 procurement process provided for under Section 1-75 of the
6 Illinois Power Agency Act and Section 16-111.5 of the Public
7 Utilities Act.

8 (d) Except for Section 20-160 and Article 50 of this Code,
9 and as expressly required by Section 9.1 of the Illinois
10 Lottery Law, the provisions of this Code do not apply to the
11 procurement process provided for under Section 9.1 of the
12 Illinois Lottery Law.

13 (e) This Code does not apply to the process used by the
14 Capital Development Board to retain a person or entity to
15 assist the Capital Development Board with its duties related to
16 the determination of costs of a clean coal SNG brownfield
17 facility, as defined by Section 1-10 of the Illinois Power
18 Agency Act, as required in subsection (h-3) of Section 9-220 of
19 the Public Utilities Act, including calculating the range of
20 capital costs, the range of operating and maintenance costs, or
21 the sequestration costs or monitoring the construction of clean
22 coal SNG brownfield facility for the full duration of
23 construction.

24 (f) This Code does not apply to the process used by the
25 Illinois Power Agency to retain a mediator to mediate sourcing
26 agreement disputes between gas utilities and the clean coal SNG

1 brownfield facility, as defined in Section 1-10 of the Illinois
2 Power Agency Act, as required under subsection (h-1) of Section
3 9-220 of the Public Utilities Act.

4 (Source: P.A. 95-481, eff. 8-28-07; 95-615, eff. 9-11-07;
5 95-876, eff. 8-21-08; 96-840, eff. 12-23-09; 96-1331, eff.
6 7-27-10.)

7 (30 ILCS 500/20-10)

8 (Text of Section from P.A. 96-159 and 96-588)

9 Sec. 20-10. Competitive sealed bidding; reverse auction.

10 (a) Conditions for use. All contracts shall be awarded by
11 competitive sealed bidding except as otherwise provided in
12 Section 20-5.

13 (b) Invitation for bids. An invitation for bids shall be
14 issued and shall include a purchase description and the
15 material contractual terms and conditions applicable to the
16 procurement.

17 (c) Public notice. Public notice of the invitation for bids
18 shall be published in the Illinois Procurement Bulletin at
19 least 14 days before the date set in the invitation for the
20 opening of bids.

21 (d) Bid opening. Bids shall be opened publicly in the
22 presence of one or more witnesses at the time and place
23 designated in the invitation for bids. The name of each bidder,
24 the amount of each bid, and other relevant information as may
25 be specified by rule shall be recorded. After the award of the

1 contract, the winning bid and the record of each unsuccessful
2 bid shall be open to public inspection.

3 (e) Bid acceptance and bid evaluation. Bids shall be
4 unconditionally accepted without alteration or correction,
5 except as authorized in this Code. Bids shall be evaluated
6 based on the requirements set forth in the invitation for bids,
7 which may include criteria to determine acceptability such as
8 inspection, testing, quality, workmanship, delivery, and
9 suitability for a particular purpose. Those criteria that will
10 affect the bid price and be considered in evaluation for award,
11 such as discounts, transportation costs, and total or life
12 cycle costs, shall be objectively measurable. The invitation
13 for bids shall set forth the evaluation criteria to be used.

14 (f) Correction or withdrawal of bids. Correction or
15 withdrawal of inadvertently erroneous bids before or after
16 award, or cancellation of awards of contracts based on bid
17 mistakes, shall be permitted in accordance with rules. After
18 bid opening, no changes in bid prices or other provisions of
19 bids prejudicial to the interest of the State or fair
20 competition shall be permitted. All decisions to permit the
21 correction or withdrawal of bids based on bid mistakes shall be
22 supported by written determination made by a State purchasing
23 officer.

24 (g) Award. The contract shall be awarded with reasonable
25 promptness by written notice to the lowest responsible and
26 responsive bidder whose bid meets the requirements and criteria

1 set forth in the invitation for bids, except when a State
2 purchasing officer determines it is not in the best interest of
3 the State and by written explanation determines another bidder
4 shall receive the award. The explanation shall appear in the
5 appropriate volume of the Illinois Procurement Bulletin.

6 (h) Multi-step sealed bidding. When it is considered
7 impracticable to initially prepare a purchase description to
8 support an award based on price, an invitation for bids may be
9 issued requesting the submission of unpriced offers to be
10 followed by an invitation for bids limited to those bidders
11 whose offers have been qualified under the criteria set forth
12 in the first solicitation.

13 (i) Alternative procedures. Notwithstanding any other
14 provision of this Act to the contrary, the Director of the
15 Illinois Power Agency may create alternative bidding
16 procedures to be used in procuring professional services under
17 subsection (a) of Section 1-75 and subsection (d) of Section
18 1-78 ~~1-75(a)~~ of the Illinois Power Agency Act and Section
19 16-111.5(c) of the Public Utilities Act and to procure
20 renewable energy resources under Section 1-56 of the Illinois
21 Power Agency Act. These alternative procedures shall be set
22 forth together with the other criteria contained in the
23 invitation for bids, and shall appear in the appropriate volume
24 of the Illinois Procurement Bulletin.

25 (j) Reverse auction. Notwithstanding any other provision
26 of this Section and in accordance with rules adopted by the

1 Director of Central Management Services as chief procurement
2 officer, a State purchasing officer under that chief
3 procurement officer's jurisdiction may procure supplies or
4 services through a competitive electronic auction bidding
5 process after the purchasing officer explains in writing to the
6 chief procurement officer his or her determination that the use
7 of such a process will be in the best interest of the State.
8 The chief procurement officer shall publish that determination
9 in his or her next volume of the Illinois Procurement Bulletin.

10 An invitation for bids shall be issued and shall include
11 (i) a procurement description, (ii) all contractual terms,
12 whenever practical, and (iii) conditions applicable to the
13 procurement, including a notice that bids will be received in
14 an electronic auction manner.

15 Public notice of the invitation for bids shall be given in
16 the same manner as provided in subsection (c).

17 Bids shall be accepted electronically at the time and in
18 the manner designated in the invitation for bids. During the
19 auction, a bidder's price shall be disclosed to other bidders.
20 Bidders shall have the opportunity to reduce their bid prices
21 during the auction. At the conclusion of the auction, the
22 record of the bid prices received and the name of each bidder
23 shall be open to public inspection.

24 After the auction period has terminated, withdrawal of bids
25 shall be permitted as provided in subsection (f).

26 The contract shall be awarded within 60 days after the

1 auction by written notice to the lowest responsible bidder, or
2 all bids shall be rejected except as otherwise provided in this
3 Code. Extensions of the date for the award may be made by
4 mutual written consent of the State purchasing officer and the
5 lowest responsible bidder.

6 This subsection does not apply to (i) procurements of
7 professional and artistic services, including but not limited
8 to telecommunications services, communications services,
9 Internet services, and information services, and (ii)
10 contracts for construction projects.

11 (Source: P.A. 95-481, eff. 8-28-07; 96-159, eff. 8-10-09;
12 96-588, eff. 8-18-09; revised 10-5-10.)

13 (Text of Section from P.A. 96-159 and 96-795)

14 Sec. 20-10. Competitive sealed bidding; reverse auction.

15 (a) Conditions for use. All contracts shall be awarded by
16 competitive sealed bidding except as otherwise provided in
17 Section 20-5.

18 (b) Invitation for bids. An invitation for bids shall be
19 issued and shall include a purchase description and the
20 material contractual terms and conditions applicable to the
21 procurement.

22 (c) Public notice. Public notice of the invitation for bids
23 shall be published in the Illinois Procurement Bulletin at
24 least 14 days before the date set in the invitation for the
25 opening of bids.

1 (d) Bid opening. Bids shall be opened publicly in the
2 presence of one or more witnesses at the time and place
3 designated in the invitation for bids. The name of each bidder,
4 the amount of each bid, and other relevant information as may
5 be specified by rule shall be recorded. After the award of the
6 contract, the winning bid and the record of each unsuccessful
7 bid shall be open to public inspection.

8 (e) Bid acceptance and bid evaluation. Bids shall be
9 unconditionally accepted without alteration or correction,
10 except as authorized in this Code. Bids shall be evaluated
11 based on the requirements set forth in the invitation for bids,
12 which may include criteria to determine acceptability such as
13 inspection, testing, quality, workmanship, delivery, and
14 suitability for a particular purpose. Those criteria that will
15 affect the bid price and be considered in evaluation for award,
16 such as discounts, transportation costs, and total or life
17 cycle costs, shall be objectively measurable. The invitation
18 for bids shall set forth the evaluation criteria to be used.

19 (f) Correction or withdrawal of bids. Correction or
20 withdrawal of inadvertently erroneous bids before or after
21 award, or cancellation of awards of contracts based on bid
22 mistakes, shall be permitted in accordance with rules. After
23 bid opening, no changes in bid prices or other provisions of
24 bids prejudicial to the interest of the State or fair
25 competition shall be permitted. All decisions to permit the
26 correction or withdrawal of bids based on bid mistakes shall be

1 supported by written determination made by a State purchasing
2 officer.

3 (g) Award. The contract shall be awarded with reasonable
4 promptness by written notice to the lowest responsible and
5 responsive bidder whose bid meets the requirements and criteria
6 set forth in the invitation for bids, except when a State
7 purchasing officer determines it is not in the best interest of
8 the State and by written explanation determines another bidder
9 shall receive the award. The explanation shall appear in the
10 appropriate volume of the Illinois Procurement Bulletin. The
11 written explanation must include:

12 (1) a description of the agency's needs;

13 (2) a determination that the anticipated cost will be
14 fair and reasonable;

15 (3) a listing of all responsible and responsive
16 bidders; and

17 (4) the name of the bidder selected, pricing, and the
18 reasons for selecting that bidder.

19 Each chief procurement officer may adopt guidelines to
20 implement the requirements of this subsection (g).

21 The written explanation shall be filed with the Legislative
22 Audit Commission and the Procurement Policy Board and be made
23 available for inspection by the public within 30 days after the
24 agency's decision to award the contract.

25 (h) Multi-step sealed bidding. When it is considered
26 impracticable to initially prepare a purchase description to

1 support an award based on price, an invitation for bids may be
2 issued requesting the submission of unpriced offers to be
3 followed by an invitation for bids limited to those bidders
4 whose offers have been qualified under the criteria set forth
5 in the first solicitation.

6 (i) Alternative procedures. Notwithstanding any other
7 provision of this Act to the contrary, the Director of the
8 Illinois Power Agency may create alternative bidding
9 procedures to be used in procuring professional services under
10 subsection (a) of Section 1-75 and subsection (d) of Section
11 1-78 ~~1-75(a)~~ of the Illinois Power Agency Act and Section
12 16-111.5(c) of the Public Utilities Act and to procure
13 renewable energy resources under Section 1-56 of the Illinois
14 Power Agency Act. These alternative procedures shall be set
15 forth together with the other criteria contained in the
16 invitation for bids, and shall appear in the appropriate volume
17 of the Illinois Procurement Bulletin.

18 (j) Reverse auction. Notwithstanding any other provision
19 of this Section and in accordance with rules adopted by the
20 chief procurement officer, that chief procurement officer may
21 procure supplies or services through a competitive electronic
22 auction bidding process after the chief procurement officer
23 determines that the use of such a process will be in the best
24 interest of the State. The chief procurement officer shall
25 publish that determination in his or her next volume of the
26 Illinois Procurement Bulletin.

1 An invitation for bids shall be issued and shall include
2 (i) a procurement description, (ii) all contractual terms,
3 whenever practical, and (iii) conditions applicable to the
4 procurement, including a notice that bids will be received in
5 an electronic auction manner.

6 Public notice of the invitation for bids shall be given in
7 the same manner as provided in subsection (c).

8 Bids shall be accepted electronically at the time and in
9 the manner designated in the invitation for bids. During the
10 auction, a bidder's price shall be disclosed to other bidders.
11 Bidders shall have the opportunity to reduce their bid prices
12 during the auction. At the conclusion of the auction, the
13 record of the bid prices received and the name of each bidder
14 shall be open to public inspection.

15 After the auction period has terminated, withdrawal of bids
16 shall be permitted as provided in subsection (f).

17 The contract shall be awarded within 60 days after the
18 auction by written notice to the lowest responsible bidder, or
19 all bids shall be rejected except as otherwise provided in this
20 Code. Extensions of the date for the award may be made by
21 mutual written consent of the State purchasing officer and the
22 lowest responsible bidder.

23 This subsection does not apply to (i) procurements of
24 professional and artistic services, (ii) telecommunications
25 services, communication services, and information services,
26 and (iii) contracts for construction projects.

1 (Source: P.A. 95-481, eff. 8-28-07; 96-159, eff. 8-10-09;
2 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the
3 effective date of changes made by P.A. 96-795); revised
4 10-5-10.)

5 Section 10. The Public Utilities Act is amended by changing
6 Sections 3-101 and 9-220 and by adding Section 3-123 as
7 follows:

8 (220 ILCS 5/3-101) (from Ch. 111 2/3, par. 3-101)

9 Sec. 3-101. Definitions. Unless otherwise specified, the
10 terms set forth in Sections 3-102 through 3-123 ~~3-121~~ are used
11 in this Act as therein defined.

12 (Source: P.A. 84-617; 84-1118.)

13 (220 ILCS 5/3-123 new)

14 Sec. 3-123. Clean coal SNG brownfield facility; sequester;
15 SNG facility; sourcing agreement; substitute natural gas or
16 SNG. As used in this Act:

17 "Clean coal SNG brownfield facility" shall have the same
18 meaning as provided in Section 1-10 of the Illinois Power
19 Agency Act.

20 "Sequester" shall have the same meaning as provided in
21 Section 1-10 of the Illinois Power Agency Act.

22 "SNG facility" means a facility that produces substitute
23 natural gas from feedstock that includes coal through a

1 gasification process, including a clean coal facility, the
2 clean coal SNG brownfield facility, and the facility described
3 in subsection (h) of Section 9-220 of this Act.

4 "Sourcing agreement" means an agreement between the owner
5 of a clean coal SNG brownfield facility and the gas utility
6 that has the terms and conditions meeting the requirements of
7 subsection (h-1) of Section 9-220 of this Act.

8 "Substitute natural gas" or "SNG" shall have the same
9 meaning as provided in Section 1-10 of the Illinois Power
10 Agency Act.

11 (220 ILCS 5/9-220) (from Ch. 111 2/3, par. 9-220)

12 Sec. 9-220. Rate changes based on changes in fuel costs.

13 (a) Notwithstanding the provisions of Section 9-201, the
14 Commission may authorize the increase or decrease of rates and
15 charges based upon changes in the cost of fuel used in the
16 generation or production of electric power, changes in the cost
17 of purchased power, or changes in the cost of purchased gas
18 through the application of fuel adjustment clauses or purchased
19 gas adjustment clauses. The Commission may also authorize the
20 increase or decrease of rates and charges based upon
21 expenditures or revenues resulting from the purchase or sale of
22 emission allowances created under the federal Clean Air Act
23 Amendments of 1990, through such fuel adjustment clauses, as a
24 cost of fuel. For the purposes of this paragraph, cost of fuel
25 used in the generation or production of electric power shall

1 include the amount of any fees paid by the utility for the
2 implementation and operation of a process for the
3 desulfurization of the flue gas when burning high sulfur coal
4 at any location within the State of Illinois irrespective of
5 the attainment status designation of such location; but shall
6 not include transportation costs of coal (i) except to the
7 extent that for contracts entered into on and after the
8 effective date of this amendatory Act of 1997, the cost of the
9 coal, including transportation costs, constitutes the lowest
10 cost for adequate and reliable fuel supply reasonably available
11 to the public utility in comparison to the cost, including
12 transportation costs, of other adequate and reliable sources of
13 fuel supply reasonably available to the public utility, or (ii)
14 except as otherwise provided in the next 3 sentences of this
15 paragraph. Such costs of fuel shall, when requested by a
16 utility or at the conclusion of the utility's next general
17 electric rate proceeding, whichever shall first occur, include
18 transportation costs of coal purchased under existing coal
19 purchase contracts. For purposes of this paragraph "existing
20 coal purchase contracts" means contracts for the purchase of
21 coal in effect on the effective date of this amendatory Act of
22 1991, as such contracts may thereafter be amended, but only to
23 the extent that any such amendment does not increase the
24 aggregate quantity of coal to be purchased under such contract.
25 Nothing herein shall authorize an electric utility to recover
26 through its fuel adjustment clause any amounts of

1 transportation costs of coal that were included in the revenue
2 requirement used to set base rates in its most recent general
3 rate proceeding. Cost shall be based upon uniformly applied
4 accounting principles. Annually, the Commission shall initiate
5 public hearings to determine whether the clauses reflect actual
6 costs of fuel, gas, power, or coal transportation purchased to
7 determine whether such purchases were prudent, and to reconcile
8 any amounts collected with the actual costs of fuel, power,
9 gas, or coal transportation prudently purchased. In each such
10 proceeding, the burden of proof shall be upon the utility to
11 establish the prudence of its cost of fuel, power, gas, or coal
12 transportation purchases and costs. The Commission shall issue
13 its final order in each such annual proceeding for an electric
14 utility by December 31 of the year immediately following the
15 year to which the proceeding pertains, provided, that the
16 Commission shall issue its final order with respect to such
17 annual proceeding for the years 1996 and earlier by December
18 31, 1998.

19 (b) A public utility providing electric service, other than
20 a public utility described in subsections (e) or (f) of this
21 Section, may at any time during the mandatory transition period
22 file with the Commission proposed tariff sheets that eliminate
23 the public utility's fuel adjustment clause and adjust the
24 public utility's base rate tariffs by the amount necessary for
25 the base fuel component of the base rates to recover the public
26 utility's average fuel and power supply costs per kilowatt-hour

1 for the 2 most recent years for which the Commission has issued
2 final orders in annual proceedings pursuant to subsection (a),
3 where the average fuel and power supply costs per kilowatt-hour
4 shall be calculated as the sum of the public utility's prudent
5 and allowable fuel and power supply costs as found by the
6 Commission in the 2 proceedings divided by the public utility's
7 actual jurisdictional kilowatt-hour sales for those 2 years.
8 Notwithstanding any contrary or inconsistent provisions in
9 Section 9-201 of this Act, in subsection (a) of this Section or
10 in any rules or regulations promulgated by the Commission
11 pursuant to subsection (g) of this Section, the Commission
12 shall review and shall by order approve, or approve as
13 modified, the proposed tariff sheets within 60 days after the
14 date of the public utility's filing. The Commission may modify
15 the public utility's proposed tariff sheets only to the extent
16 the Commission finds necessary to achieve conformance to the
17 requirements of this subsection (b). During the 5 years
18 following the date of the Commission's order, but in any event
19 no earlier than January 1, 2007, a public utility whose fuel
20 adjustment clause has been eliminated pursuant to this
21 subsection shall not file proposed tariff sheets seeking, or
22 otherwise petition the Commission for, reinstatement of a fuel
23 adjustment clause.

24 (c) Notwithstanding any contrary or inconsistent
25 provisions in Section 9-201 of this Act, in subsection (a) of
26 this Section or in any rules or regulations promulgated by the

1 Commission pursuant to subsection (g) of this Section, a public
2 utility providing electric service, other than a public utility
3 described in subsection (e) or (f) of this Section, may at any
4 time during the mandatory transition period file with the
5 Commission proposed tariff sheets that establish the rate per
6 kilowatt-hour to be applied pursuant to the public utility's
7 fuel adjustment clause at the average value for such rate
8 during the preceding 24 months, provided that such average rate
9 results in a credit to customers' bills, without making any
10 revisions to the public utility's base rate tariffs. The
11 proposed tariff sheets shall establish the fuel adjustment rate
12 for a specific time period of at least 3 years but not more
13 than 5 years, provided that the terms and conditions for any
14 reinstatement earlier than 5 years shall be set forth in the
15 proposed tariff sheets and subject to modification or approval
16 by the Commission. The Commission shall review and shall by
17 order approve the proposed tariff sheets if it finds that the
18 requirements of this subsection are met. The Commission shall
19 not conduct the annual hearings specified in the last 3
20 sentences of subsection (a) of this Section for the utility for
21 the period that the factor established pursuant to this
22 subsection is in effect.

23 (d) A public utility providing electric service, or a
24 public utility providing gas service may file with the
25 Commission proposed tariff sheets that eliminate the public
26 utility's fuel or purchased gas adjustment clause and adjust

1 the public utility's base rate tariffs to provide for recovery
2 of power supply costs or gas supply costs that would have been
3 recovered through such clause; provided, that the provisions of
4 this subsection (d) shall not be available to a public utility
5 described in subsections (e) or (f) of this Section to
6 eliminate its fuel adjustment clause. Notwithstanding any
7 contrary or inconsistent provisions in Section 9-201 of this
8 Act, in subsection (a) of this Section, or in any rules or
9 regulations promulgated by the Commission pursuant to
10 subsection (g) of this Section, the Commission shall review and
11 shall by order approve, or approve as modified in the
12 Commission's order, the proposed tariff sheets within 240 days
13 after the date of the public utility's filing. The Commission's
14 order shall approve rates and charges that the Commission,
15 based on information in the public utility's filing or on the
16 record if a hearing is held by the Commission, finds will
17 recover the reasonable, prudent and necessary jurisdictional
18 power supply costs or gas supply costs incurred or to be
19 incurred by the public utility during a 12 month period found
20 by the Commission to be appropriate for these purposes,
21 provided, that such period shall be either (i) a 12 month
22 historical period occurring during the 15 months ending on the
23 date of the public utility's filing, or (ii) a 12 month future
24 period ending no later than 15 months following the date of the
25 public utility's filing. The public utility shall include with
26 its tariff filing information showing both (1) its actual

1 jurisdictional power supply costs or gas supply costs for a 12
2 month historical period conforming to (i) above and (2) its
3 projected jurisdictional power supply costs or gas supply costs
4 for a future 12 month period conforming to (ii) above. If the
5 Commission's order requires modifications in the tariff sheets
6 filed by the public utility, the public utility shall have 7
7 days following the date of the order to notify the Commission
8 whether the public utility will implement the modified tariffs
9 or elect to continue its fuel or purchased gas adjustment
10 clause in force as though no order had been entered. The
11 Commission's order shall provide for any reconciliation of
12 power supply costs or gas supply costs, as the case may be, and
13 associated revenues through the date that the public utility's
14 fuel or purchased gas adjustment clause is eliminated. During
15 the 5 years following the date of the Commission's order, a
16 public utility whose fuel or purchased gas adjustment clause
17 has been eliminated pursuant to this subsection shall not file
18 proposed tariff sheets seeking, or otherwise petition the
19 Commission for, reinstatement or adoption of a fuel or
20 purchased gas adjustment clause. Nothing in this subsection (d)
21 shall be construed as limiting the Commission's authority to
22 eliminate a public utility's fuel adjustment clause or
23 purchased gas adjustment clause in accordance with any other
24 applicable provisions of this Act.

25 (e) Notwithstanding any contrary or inconsistent
26 provisions in Section 9-201 of this Act, in subsection (a) of

1 this Section, or in any rules promulgated by the Commission
2 pursuant to subsection (g) of this Section, a public utility
3 providing electric service to more than 1,000,000 customers in
4 this State may, within the first 6 months after the effective
5 date of this amendatory Act of 1997, file with the Commission
6 proposed tariff sheets that eliminate, effective January 1,
7 1997, the public utility's fuel adjustment clause without
8 adjusting its base rates, and such tariff sheets shall be
9 effective upon filing. To the extent the application of the
10 fuel adjustment clause had resulted in net charges to customers
11 after January 1, 1997, the utility shall also file a tariff
12 sheet that provides for a refund stated on a per kilowatt-hour
13 basis of such charges over a period not to exceed 6 months;
14 provided however, that such refund shall not include the
15 proportional amounts of taxes paid under the Use Tax Act,
16 Service Use Tax Act, Service Occupation Tax Act, and Retailers'
17 Occupation Tax Act on fuel used in generation. The Commission
18 shall issue an order within 45 days after the date of the
19 public utility's filing approving or approving as modified such
20 tariff sheet. If the fuel adjustment clause is eliminated
21 pursuant to this subsection, the Commission shall not conduct
22 the annual hearings specified in the last 3 sentences of
23 subsection (a) of this Section for the utility for any period
24 after December 31, 1996 and prior to any reinstatement of such
25 clause. A public utility whose fuel adjustment clause has been
26 eliminated pursuant to this subsection shall not file a

1 proposed tariff sheet seeking, or otherwise petition the
2 Commission for, reinstatement of the fuel adjustment clause
3 prior to January 1, 2007.

4 (f) Notwithstanding any contrary or inconsistent
5 provisions in Section 9-201 of this Act, in subsection (a) of
6 this Section, or in any rules or regulations promulgated by the
7 Commission pursuant to subsection (g) of this Section, a public
8 utility providing electric service to more than 500,000
9 customers but fewer than 1,000,000 customers in this State may,
10 within the first 6 months after the effective date of this
11 amendatory Act of 1997, file with the Commission proposed
12 tariff sheets that eliminate, effective January 1, 1997, the
13 public utility's fuel adjustment clause and adjust its base
14 rates by the amount necessary for the base fuel component of
15 the base rates to recover 91% of the public utility's average
16 fuel and power supply costs for the 2 most recent years for
17 which the Commission, as of January 1, 1997, has issued final
18 orders in annual proceedings pursuant to subsection (a), where
19 the average fuel and power supply costs per kilowatt-hour shall
20 be calculated as the sum of the public utility's prudent and
21 allowable fuel and power supply costs as found by the
22 Commission in the 2 proceedings divided by the public utility's
23 actual jurisdictional kilowatt-hour sales for those 2 years,
24 provided, that such tariff sheets shall be effective upon
25 filing. To the extent the application of the fuel adjustment
26 clause had resulted in net charges to customers after January

1 1, 1997, the utility shall also file a tariff sheet that
2 provides for a refund stated on a per kilowatt-hour basis of
3 such charges over a period not to exceed 6 months. Provided
4 however, that such refund shall not include the proportional
5 amounts of taxes paid under the Use Tax Act, Service Use Tax
6 Act, Service Occupation Tax Act, and Retailers' Occupation Tax
7 Act on fuel used in generation. The Commission shall issue an
8 order within 45 days after the date of the public utility's
9 filing approving or approving as modified such tariff sheet. If
10 the fuel adjustment clause is eliminated pursuant to this
11 subsection, the Commission shall not conduct the annual
12 hearings specified in the last 3 sentences of subsection (a) of
13 this Section for the utility for any period after December 31,
14 1996 and prior to any reinstatement of such clause. A public
15 utility whose fuel adjustment clause has been eliminated
16 pursuant to this subsection shall not file a proposed tariff
17 sheet seeking, or otherwise petition the Commission for,
18 reinstatement of the fuel adjustment clause prior to January 1,
19 2007.

20 (g) The Commission shall have authority to promulgate rules
21 and regulations to carry out the provisions of this Section.

22 (h) Any Illinois gas utility may enter into a contract on
23 or before March 31, 2011 for up to 10 years of supply with any
24 company for the purchase of substitute natural gas (SNG)
25 produced from coal through the gasification process if the
26 company has commenced construction of a coal gasification

1 facility by July 1, 2012 in Jefferson County and commencement
2 of construction shall mean that material physical site work has
3 occurred, such as site clearing and excavation, water runoff
4 prevention, water retention reservoir preparation, or
5 foundation development. The contract shall contain the
6 following provisions: (i) the only coal to be used in the
7 gasification process has high volatile bituminous rank and
8 greater than 1.7 pounds of sulfur per million Btu content; (ii)
9 at the time the contract term commences, the price per million
10 Btu may not exceed \$7.95 in 2008 dollars, adjusted annually
11 based on the change in the Annual Consumer Price Index for All
12 Urban Consumers for the Midwest Region as published in April by
13 the United States Department of Labor, Bureau of Labor
14 Statistics (or a suitable Consumer Price Index calculation if
15 this Consumer Price Index is not available) for the previous
16 calendar year; provided that the price per million Btu shall
17 not exceed \$9.95 at any time during the contract; (iii) the
18 utility's aggregate long-term supply contracts for the
19 purchase of SNG does not exceed 25% of the annual system supply
20 requirements of the utility as of 2008 and the quantity of SNG
21 supplied to a utility may not exceed 16 million MMBtus; and
22 (iv) contract costs pursuant to subsection (h-10) of this
23 Section shall not include any lobbying expenses, charitable
24 contributions, advertising, organizational memberships, or
25 marketing expenses per year.

26 (h-1) Any Illinois gas utility may enter into a sourcing

1 agreement for up to 30 years of supply with the clean coal SNG
2 brownfield facility if the clean coal SNG brownfield facility
3 has commenced construction. Any gas utility that is providing
4 service to more than 150,000 customers on the effective date of
5 this amendatory Act of the 96th General Assembly shall either
6 elect to file biennial rate proceedings before the Commission
7 in the years 2011, 2013, and 2015 or enter into a sourcing
8 agreement or sourcing agreements with a clean coal SNG
9 brownfield facility for 30 years for either (i) 43,500,000,000
10 cubic feet per year times a percentage calculated by dividing
11 100 by the number of utilities entering into sourcing
12 agreements with the clean coal SNG brownfield facility or (ii)
13 such lesser amount as may be available from the clean coal SNG
14 brownfield facility.

15 Provided, however, that the Illinois Power Agency may
16 allocate the purchase obligations more proportionately based
17 upon total therms sold to ultimate customers, if it is
18 demonstrated with certainty that such alternative allocation
19 will not result in adverse consolidation, derivative, or lease
20 impacts to the balance sheet or income statement of any
21 purchasing utility. In any event, no utility shall be required
22 to purchase more than 42% of the projected annual output of the
23 clean coal SNG brownfield facility, with the remainder of such
24 utility's obligation to be divided proportionately between the
25 other utilities.

26 A gas utility electing to file biennial rate proceedings

1 before the Commission must file a notice of its election with
2 the Commission within 60 days after the effective date of this
3 amendatory Act of the 96th General Assembly or its right to
4 make the election is irrevocably waived. A gas utility electing
5 to file biennial rate proceedings shall make such filings no
6 later than August 1 of the years 2011, 2013, and 2015,
7 consistent with all requirements of 83 Ill. Adm. Code 255 and
8 285 as though the gas utility were filing for an increase in
9 its rates, without regard to whether such filing would produce
10 an increase, a decrease, or no change in the gas utility's
11 rates, and the Commission shall review the gas utility's filing
12 and shall issue its order in accordance with the provisions of
13 Section 9-201 of this Act.

14 Within 15 days after the effective date of this amendatory
15 Act of the 96th General Assembly, the owner of the clean coal
16 SNG brownfield facility shall submit to the Illinois Power
17 Agency and each gas utility that is providing service to more
18 than 150,000 customers on the effective date of this amendatory
19 Act of the 96th General Assembly a copy of a draft sourcing
20 agreement. Within 45 days after receipt of the draft sourcing
21 agreement, each such gas utility shall provide the Illinois
22 Power Agency and the owner of a clean coal SNG brownfield
23 facility with its comments and recommended revisions to the
24 draft sourcing agreement. Within 15 days after the receipt of
25 the gas utility's comments and recommended revisions, the owner
26 of the clean coal SNG brownfield facility shall submit its

1 responsive comments and a further revised draft of the sourcing
2 agreement to the Illinois Power Agency. The Illinois Power
3 Agency shall review the draft sourcing agreement and comments.

4 If the parties to the sourcing agreement do not agree on
5 the terms therein, then the Illinois Power Agency shall retain
6 an independent mediator to mediate the dispute between the
7 parties. If the parties are in agreement on the terms of the
8 sourcing agreement, the Illinois Power Agency shall approve the
9 final draft sourcing agreement. If after mediation the parties
10 have failed to come to agreement, then the Illinois Power
11 Agency shall revise the draft sourcing agreement as necessary
12 to confirm that the final draft sourcing agreement contains
13 only terms that are reasonable and equitable. The Illinois
14 Power Agency shall adopt and make public a policy detailing the
15 process for retaining a mediator under this subsection (h-1).
16 Any mediator retained to assist with mediating disputes between
17 the parties regarding the sourcing agreement shall be retained
18 no later than 60 days after the effective date of this
19 amendatory Act of the 96th General Assembly.

20 Upon approval of a final draft agreement, the Illinois
21 Power Agency shall submit the final draft agreement to the
22 Capital Development Board and the Commission no later than 90
23 days after the effective date of this amendatory Act of the
24 96th General Assembly. The gas utility and the clean coal SNG
25 brownfield facility shall pay a reasonable fee as required by
26 the Illinois Power Agency for its services under this

1 subsection (h-1) and shall pay the mediator's reasonable fees,
2 if any. The Illinois Power Agency shall adopt and make public a
3 policy detailing the process for retaining a mediator under
4 this Section.

5 The sourcing agreement between a gas utility and the clean
6 coal SNG brownfield facility shall contain the following
7 provisions:

8 (1) Any and all coal used in the gasification process
9 must be coal that has high volatile bituminous rank and
10 greater than 1.7 pounds of sulfur per million Btu content.

11 (2) Coal and petroleum coke are feedstocks for the
12 gasification process, with coal comprising at least 50% of
13 the total feedstock over the term of the sourcing agreement
14 and with the feedstocks to be procured in accordance with
15 requirements of Section 1-78 of the Illinois Power Agency
16 Act.

17 (3) The sourcing agreement once entered into
18 terminates no more than 30 years after the commencement of
19 the commercial production of SNG at the clean coal SNG
20 brownfield facility.

21 (4) The clean coal SNG brownfield facility guarantees a
22 minimum of \$100,000,000 in consumer savings, calculated in
23 real 2010 dollars at the conclusion of the term of the
24 sourcing agreement by comparing the delivered SNG price to
25 the Chicago City-gate price on a weighted daily basis for
26 each day over the entire term of the sourcing agreement, to

1 be provided in accordance with subsection (h-2) of this
2 Section.

3 (5) Prior to the clean coal SNG brownfield facility
4 issuing a notice to proceed to construction, the clean coal
5 SNG brownfield facility shall establish a consumer
6 protection reserve account for the benefit of the customers
7 of the utilities that have entered into sourcing agreements
8 with the clean coal SNG brownfield facility pursuant to
9 this subsection (h-1), with cash principal in the amount of
10 \$150,000,000. This cash principal shall only be
11 recoverable through the consumer protection reserve
12 account and not as a cost to be recovered in the delivered
13 SNG price pursuant to subsection (h-3) of this Section. The
14 consumer protection reserve account shall be maintained
15 and administered by an independent trustee that is mutually
16 agreed upon by the clean coal SNG brownfield facility, the
17 utilities, and the Commission in an interest-bearing
18 account in accordance with subsection (h-2) of this
19 Section.

20 (6) The clean coal SNG brownfield facility shall
21 identify and sell economically viable by-products produced
22 by the facility.

23 (7) 50% of all additional net revenue, defined as
24 miscellaneous net revenue after cost allowance for costs
25 associated with additional net revenue that are not
26 otherwise recoverable pursuant to subsection (h-3) of this

1 Section, including net revenue from sales of substitute
2 natural gas derived from the facility above the nameplate
3 capacity of the facility and other by-products produced by
4 the facility, shall be credited to the consumer protection
5 reserve account pursuant to subsection (h-2) of this
6 Section.

7 (8) The delivered SNG price per million btu to be paid
8 monthly by the utility to the clean coal SNG brownfield
9 facility, which shall be based only upon the following: (A)
10 a capital recovery charge, operations and maintenance
11 costs, and sequestration costs, only to the extent approved
12 by the Commission pursuant to paragraphs (1), (2), and (3)
13 of subsection (h-3) of this Section; (B) the actual
14 delivered and processed fuel costs pursuant to paragraph
15 (4) of subsection (h-3) of this Section; (C) actual costs
16 of SNG transportation pursuant to paragraph (6) of
17 subsection (h-3) of this Section; (D) certain taxes and
18 fees imposed by the federal government, the State, or any
19 unit of local government as provided in paragraph (6) of
20 subsection (h-3) of this Section; and (E) the credit, if
21 any, from the consumer protection reserve account pursuant
22 to subsection (h-2) of this Section. The delivered SNG
23 price per million Btu shall proportionately reflect these
24 elements over the term of the sourcing agreement.

25 (9) A formula to translate the recoverable costs and
26 charges under subsection (h-3) of this Section into the

1 delivered SNG price per million btu.

2 (10) Title to the SNG shall pass at a mutually
3 agreeable point in Illinois, and may provide that, rather
4 than the utility taking title to the SNG, a mutually agreed
5 upon third-party gas marketer pursuant to a contract
6 approved by the Illinois Power Agency or its designee, may
7 take title to the SNG pursuant to an agreement between the
8 utility, the owner of the clean coal SNG brownfield
9 facility, and the third-party gas marketer.

10 (11) A utility may exit the sourcing agreement without
11 penalty if the clean coal SNG brownfield facility does not
12 commence construction by July 1, 2014.

13 (12) A utility is responsible to pay only the
14 Commission determined unit price cost of SNG that is
15 purchased by the utility. Nothing in the sourcing agreement
16 will obligate a utility to invest capital in a clean coal
17 SNG brownfield facility.

18 (13) The quality of SNG must, at a minimum, be
19 equivalent to the equality required for an interstate
20 pipeline gas before a utility is required to accept and pay
21 for SNG gas.

22 (14) Nothing in the sourcing agreement will require a
23 utility to construct any facilities to accept delivery of
24 SNG. Provided, however, if a utility is required by law or
25 otherwise elects to connect the clean coal SNG brownfield
26 facility to an interstate pipeline, then the utility shall

1 be entitled to recover pursuant to its tariffs all just and
2 reasonable costs that are prudently incurred. Any costs
3 incurred by the utility to receive, deliver, manage, or
4 otherwise accommodate purchases under the SNG sourcing
5 agreement will be fully recoverable through a utility's
6 purchased gas adjustment clause rider mechanism.

7 (15) Remedies for the clean coal SNG brownfield
8 facility's failure to deliver a designated amount for a
9 designated period.

10 (h-2) Consumer protection reserve account. The clean coal
11 SNG brownfield facility shall guarantee a minimum of
12 \$100,000,000 in consumer savings, calculated in real 2010
13 dollars at the conclusion of the term of the sourcing agreement
14 by comparing the delivered SNG price to the Chicago City-gate
15 price on a weighted daily basis for each day over the entire
16 term of the sourcing agreement. Prior to the clean coal SNG
17 brownfield facility issuing a notice to proceed to
18 construction, the clean coal SNG brownfield facility shall
19 establish a consumer protection reserve account for the benefit
20 of the retail customers of the utilities that have entered into
21 sourcing agreements with the clean coal SNG brownfield facility
22 pursuant to subsection (h-1), with cash principal in the amount
23 of \$150,000,000. Such cash principal shall only be recovered
24 through the consumer protection reserve account and not as a
25 cost to be recovered in the delivered SNG price pursuant to
26 subsection (h-3) of this Section. The consumer protection

1 reserve account shall be maintained and administered by an
2 independent trustee that is mutually agreed upon by the clean
3 coal SNG brownfield facility, the utilities, and the Commission
4 in an interest-bearing account in accordance with the
5 following:

6 (1) The clean coal SNG brownfield facility monthly
7 shall calculate the difference between the monthly
8 delivered SNG price and the Chicago City-gate price, by
9 comparing the delivered SNG price, which shall include the
10 cost of transportation to the delivery point, if any, to
11 the Chicago City-gate price on a weighted daily basis for
12 each day of the prior month based upon a mutually agreed
13 upon published index.

14 (2) During the first 2 years of operation of the
15 facility:

16 (A) to the extent the monthly delivered SNG price,
17 is greater than the Chicago City-gate price, the
18 consumer protection reserve account shall be used to
19 provide a credit to reduce the SNG price by an amount
20 equal to the difference between the monthly delivered
21 SNG price and the Chicago City-gate price; and

22 (B) to the extent the monthly delivered SNG price
23 is less than or equal to the Chicago City-gate price,
24 the utility shall credit the difference between the
25 monthly delivered SNG price and the monthly Chicago
26 City-gate price, if any, to the consumer protection

1 reserve account. Such credit issued pursuant to this
2 paragraph (B) shall be deemed prudent and reasonable
3 and not subject to a Commission prudence review;
4 (3) After 2 years of operation of the facility, and
5 monthly, on an on-going basis, thereafter:

6 (A) to the extent that the monthly delivered SNG
7 price is less than or equal to the Chicago City-gate
8 price, calculated using the weighted average of the
9 daily Chicago City-gate price on a daily basis over the
10 entire month, the utility shall credit the difference,
11 if any, to the consumer protection reserve account.
12 Such credit issued pursuant to this subparagraph (A)
13 shall be deemed prudent and reasonable and not subject
14 to a Commission prudence review;

15 (B) any amounts in the consumer protection reserve
16 account in excess of \$100,000,000 shall be distributed
17 to the clean coal SNG brownfield facility; provided,
18 however, that under no circumstances shall the total
19 cumulative amount distributed to the clean coal SNG
20 brownfield facility under this subparagraph (B) exceed
21 \$150,000,000;

22 (C) to the extent the monthly delivered SNG price
23 is greater than the Chicago City-gate price, after
24 distributing the amounts pursuant to subparagraph (B)
25 of this paragraph (3), if any, the consumer protection
26 reserve account shall be used to provide a credit to

1 reduce the SNG price by an amount equal to the
2 difference between the monthly delivered SNG price and
3 the Chicago City-gate price;

4 (D) if retail customers have realized net consumer
5 savings, calculated by comparing the delivered SNG
6 price to the weighted average of the daily Chicago
7 City-gate price on a daily basis over the entire term
8 of the sourcing agreement to date, then after
9 distributing the amounts pursuant to subparagraphs (B)
10 and (C) of this paragraph (3), 50% of any additional
11 amounts in the consumer protection reserve account in
12 excess of \$100,000,000 shall be distributed to the
13 clean coal SNG brownfield facility, with the remaining
14 50% of any such additional amounts being credited to
15 retail customers; provided, however, that if retail
16 customers have not realized such net consumer savings,
17 no such distribution shall be made to the clean coal
18 SNG brownfield facility, and 100% of such additional
19 amounts shall be credited to the retail customers to
20 the extent the consumer protection reserve account
21 exceeds \$100,000,000.

22 (4) 50% of all additional net revenue, defined as
23 miscellaneous net revenue after cost allowance for costs
24 associated with additional net revenue that are not
25 otherwise recoverable pursuant to subsection (h-3) of this
26 Section, including net revenue from sales of substitute

1 natural gas derived from the facility above the nameplate
2 capacity of the facility and other by-products produced by
3 the facility, shall be credited to the consumer protection
4 reserve account.

5 (5) At the conclusion of the term of the sourcing
6 agreement, to the extent retail customers have not saved
7 the minimum of \$100,000,000 in consumer savings as
8 guaranteed in this subsection (h-2), amounts in the
9 consumer protection reserve account shall be credited to
10 retail customers to the extent the retail customers have
11 saved the minimum of \$100,000,000; 50% of any additional
12 amounts in the consumer protection reserve account shall be
13 distributed to the company, and the remaining 50% shall be
14 distributed to retail customers.

15 (6) If, at the conclusion of the term of the sourcing
16 agreement, the customers have not saved the minimum
17 \$100,000,000 in savings as guaranteed in this subsection
18 (h-2) and the consumer protection reserve account has been
19 depleted, then the clean coal SNG brownfield facility shall
20 be liable for any remaining amount owed to the retail
21 customers to the extent that the customers are provided
22 with the \$100,000,000 in savings as guaranteed in this
23 subsection (h-2). The retail customers shall have first
24 priority in recovering that debt above any creditors,
25 except the original senior secured lender to the extent
26 that the original senior secured lender has any senior

1 secured debt outstanding, including any clean coal SNG
2 brownfield facility parent companies or affiliates.

3 (7) The clean coal SNG brownfield facility, the
4 utilities, and the trustee shall work together to take
5 commercially reasonable steps to minimize the tax impact of
6 these transactions, while preserving the consumer
7 benefits.

8 (8) The clean coal SNG brownfield facility shall each
9 month, starting in the facility's first year of commercial
10 operation, file with the Commission, in such form as the
11 Commission shall require, a report as to the consumer
12 protection reserve account. The monthly report must
13 contain the following information:

14 (A) the extent the monthly delivered SNG price is
15 greater than, less than, or equal to the Chicago
16 City-gate price;

17 (B) the amount credited or debited to the consumer
18 protection reserve account during the month;

19 (C) the amounts credited to consumers and
20 distributed to the clean coal SNG brownfield facility
21 during the month;

22 (D) the total amount of the consumer protection
23 reserve account at the beginning and end of the month;

24 (E) the total amount of consumer savings to date;
25 and

26 (F) any other additional information the

1 Commission shall require.

2 When any report is erroneous or defective or appears to
3 the Commission to be erroneous or defective, the Commission
4 may notify the clean coal SNG brownfield facility to amend
5 the report within 30 days, and, before or after the
6 termination of the 30-day period, the Commission may
7 examine the trustee of the consumer protection reserve
8 account or the officers, agents, employees, books,
9 records, or accounts of the clean coal SNG brownfield
10 facility and correct such items in the report as upon such
11 examination the Commission may find defective or
12 erroneous. All reports shall be under oath.

13 All reports made to the Commission by the clean coal
14 SNG brownfield and the contents of the reports shall be
15 open to public inspection and shall be deemed a public
16 record under the Freedom of Information Act. Such reports
17 shall be preserved in the office of the Commission. The
18 Commission shall publish an annual summary of the reports
19 prior to February 1 of the following year. The annual
20 summary shall be made available to the public on the
21 Commission's website and shall be submitted to the General
22 Assembly.

23 Any facility that fails to file a report required under
24 this paragraph (8) to the Commission within the time
25 specified or to make specific answer to any question
26 propounded by the Commission within 30 days from the time

1 it is lawfully required to do so, or within such further
2 time not to exceed 90 days as may in its discretion be
3 allowed by the Commission, shall pay a penalty of \$500 to
4 the Commission for each day it is in default.

5 Any person who willfully makes any false report to the
6 Commission or to any member, officer, or employee thereof,
7 any person who willfully in a report withholds or fails to
8 provide material information to which the Commission is
9 entitled under this paragraph (8) and which information is
10 either required to be filed by statute, rule, regulation,
11 order, or decision of the Commission or has been requested
12 by the Commission, and any person who willfully aids or
13 abets such person shall be guilty of a Class A misdemeanor.

14 (h-3) Recoverable costs and revenue by the clean coal SNG
15 brownfield facility.

16 (1) A capital recovery charge approved by the
17 Commission shall be recoverable by the clean coal SNG
18 brownfield facility under a sourcing agreement. The
19 capital recovery charge shall be comprised of capital costs
20 and a reasonable rate of return. "Capital costs" means
21 costs to be incurred in connection with the construction
22 and development of a facility, as defined in Section 1-10
23 of the Illinois Power Agency Act, and such other costs as
24 the Capital Development Board deems appropriate to be
25 recovered in the capital recovery charge.

26 (A) Capital costs. The Capital Development Board

1 shall calculate a range of capital costs that it
2 believes would be reasonable for the clean coal SNG
3 brownfield facility to recover under the sourcing
4 agreement. In making this determination, the Capital
5 Development Board shall review the final draft of the
6 sourcing agreement and the rate of return approved by
7 the Commission. In addition, the Capital Development
8 Board may: (i) review the facility cost report, if any,
9 of the clean coal SNG brownfield facility; (ii) consult
10 as much as it deems necessary with the clean coal SNG
11 brownfield facility; and (iii) conduct whatever
12 research and investigation it deems necessary.

13 The Capital Development Board shall retain an
14 engineering expert to assist in determining both the
15 range of capital costs and the range of operations and
16 maintenance costs that it believes would be reasonable
17 for the clean coal SNG brownfield facility to recover
18 under the sourcing agreement. Provided, however, that
19 such expert shall: (i) not have been involved in the
20 clean coal SNG brownfield facility's facility cost
21 report, if any, (ii) not own or control any direct or
22 indirect interest in the initial clean coal facility;
23 and (iii) have no contractual relationship with the
24 clean coal SNG brownfield facility. In order to qualify
25 as an independent expert, a person or company must
26 have:

1 (i) direct previous experience conducting
2 front-end engineering and design studies for
3 large-scale energy facilities and administering
4 large-scale energy operations and maintenance
5 contracts, which may be particularized to the
6 specific type of financing associated with the
7 clean coal SNG brownfield facility;

8 (ii) an advanced degree in economics,
9 mathematics, engineering, or a related area of
10 study;

11 (iii) ten years of experience in the energy
12 sector, including construction and risk management
13 experience;

14 (iv) expertise in assisting companies with
15 obtaining financing for large-scale energy
16 projects, which may be particularized to the
17 specific type of financing associated with the
18 clean coal SNG brownfield facility;

19 (v) expertise in operations and maintenance
20 which may be particularized to the specific type of
21 operations and maintenance associated with the
22 clean coal SNG brownfield facility;

23 (vi) expertise in credit and contract
24 protocols;

25 (vii) adequate resources to perform and
26 fulfill the required functions and

1 responsibilities; and

2 (viii) the absence of a conflict of interest
3 and inappropriate bias for or against an affected
4 gas utility or the clean coal SNG brownfield
5 facility.

6 The clean coal SNG brownfield facility and the
7 Illinois Power Agency shall cooperate with the Capital
8 Development Board in any investigation it deems
9 necessary. The Capital Development Board shall make
10 its final determination of the range of capital costs
11 confidentially and shall submit that range to the
12 Commission in a confidential filing within 120 days
13 after the effective date of this amendatory Act of the
14 96th General Assembly. The clean coal SNG brownfield
15 facility shall submit to the Commission its estimate of
16 the capital costs to be recovered under the sourcing
17 agreement. Only after the clean coal SNG brownfield
18 facility has submitted this estimate shall the
19 Commission publicly announce the range of capital
20 costs submitted by the Capital Development Board.

21 In the event that the estimate submitted by the
22 clean coal SNG brownfield facility is within or below
23 the range submitted by the Capital Development Board,
24 the clean coal SNG brownfield facility's estimate
25 shall be approved by the Commission as the amount of
26 capital costs to be recovered under the sourcing

1 agreement. In the event that the estimate submitted by
2 the clean coal SNG brownfield facility is above the
3 range submitted by the Capital Development Board, the
4 amount of capital costs at the lowest end of the range
5 submitted by the Capital Development Board shall be
6 approved by the Commission as the amount of capital
7 costs to be recovered under the sourcing agreement.
8 Within 15 days after the Capital Development Board has
9 submitted its range and the clean coal SNG brownfield
10 facility has submitted its estimate, the Commission
11 shall approve the capital costs for the clean coal SNG
12 brownfield facility.

13 The Capital Development Board shall monitor the
14 construction of the clean coal SNG brownfield facility
15 for the full duration of construction to assess
16 potential cost overruns. The Capital Development
17 Board, in its discretion, may retain an expert to
18 facilitate such monitoring. The clean coal SNG
19 brownfield facility shall pay a reasonable fee as
20 required by the Capital Development Board for the
21 Capital Development Board's services under this
22 subsection (h-3) to be deposited into the Capital
23 Development Board Revolving Fund, and such fee shall
24 not be passed through to a utility or its customers. If
25 an expert is retained by the Capital Development Board
26 for monitoring of construction, then the clean coal SNG

1 brownfield facility must pay for the expert's
2 reasonable fees and such costs shall not be passed
3 through to a utility or its customers.

4 (B) Rate of Return. No later than 30 days after the
5 date on which the Illinois Power Agency submits a final
6 draft sourcing agreement, the Commission shall hold a
7 public hearing to determine the rate of return to be
8 recovered under the sourcing agreement. Rate of return
9 shall be comprised of the clean coal SNG brownfield
10 facility's actual cost of debt, including
11 mortgage-style amortization, and a reasonable return
12 on equity. The Commission shall post notice of the
13 hearing on its website no later than 10 days prior to
14 the date of the hearing. The Commission shall provide
15 the public and all interested parties, including the
16 gas utilities, the Attorney General, and the Illinois
17 Power Agency, an opportunity to be heard.

18 In determining the return on equity, the
19 Commission shall select a commercially reasonable
20 return on equity taking into account the return on
21 equity being received by developers of similar
22 facilities in or outside of Illinois, the need to
23 balance an incentive for clean-coal technology with
24 the need to protect ratepayers from high gas prices,
25 the risks being borne by the clean coal SNG brownfield
26 facility in the final draft sourcing agreement, and any

1 other information that the Commission may deem
2 relevant. The Commission may establish a return on
3 equity that varies with the amount of savings, if any,
4 to customers during the term of the sourcing agreement,
5 comparing the delivered SNG price to a daily weighted
6 average price of natural gas, based upon an index. The
7 Illinois Power Agency shall recommend a return on
8 equity to the Commission using the same criteria.
9 Within 60 days after receiving the final draft sourcing
10 agreement from the Illinois Power Agency, the
11 Commission shall approve the rate of return for the
12 clean coal brownfield facility. Within 30 days after
13 obtaining debt financing for the clean coal SNG
14 brownfield facility, the clean coal SNG brownfield
15 facility shall file a notice with the Commission
16 identifying the actual cost of debt.

17 (2) Operations and maintenance costs approved by the
18 Commission shall be recoverable by the clean coal SNG
19 brownfield facility under the sourcing agreement. The
20 operations and maintenance costs mean costs that have been
21 incurred for the administration, supervision, operation,
22 maintenance, preservation, and protection of the clean
23 coal SNG brownfield facility's physical plant.

24 The Capital Development Board shall calculate a range
25 of operations and maintenance costs that it believes would
26 be reasonable for the clean coal SNG brownfield facility to

1 recover under the sourcing agreement. In making this
2 determination, the Capital Development Board shall review
3 the final draft of the sourcing agreement and the rate of
4 return approved by the Commission. In addition, the Capital
5 Development Board may: (i) review the facility cost report,
6 if any, of the clean coal SNG brownfield facility; (ii)
7 consult as much as it deems necessary with the clean coal
8 SNG brownfield facility; and (iii) conduct whatever
9 research and investigation it deems necessary. As set forth
10 in subparagraph (A) of paragraph (1) of this subsection
11 (h-3), the Capital Development Board shall retain an
12 independent engineering expert to assist in determining
13 both the range of operations and maintenance costs that it
14 believes would be reasonable for the clean coal SNG
15 brownfield to recover under the sourcing agreement. The
16 clean coal SNG brownfield facility and the Illinois Power
17 Agency shall cooperate with the Capital Development Board
18 in any investigation it deems necessary. The Capital
19 Development Board shall make its final determination of the
20 range of operations and maintenance costs confidentially
21 and shall submit that range to the Commission in a
22 confidential filing within 120 days after the effective
23 date of this amendatory Act of the 96th General Assembly.

24 The clean coal SNG brownfield facility shall submit to
25 the Commission its estimate of the operations and
26 maintenance costs to be recovered under the sourcing

1 agreement. Only after the clean coal SNG brownfield
2 facility has submitted this estimate shall the Commission
3 publicly announce the range of operations and maintenance
4 costs submitted by the Capital Development Board. In the
5 event that the estimate submitted by the clean coal SNG
6 brownfield facility is within or below the range submitted
7 by the Capital Development Board, the clean coal SNG
8 brownfield facility's estimate shall be approved by the
9 Commission as the amount of operations and maintenance
10 costs to be recovered under the sourcing agreement. In the
11 event that the estimate submitted by the clean coal SNG
12 brownfield facility is above the range submitted by the
13 Capital Development Board, the amount of operations and
14 maintenance costs at the lowest end of the range submitted
15 by the Capital Development Board shall be approved by the
16 Commission as the amount of operations and maintenance
17 costs to be recovered under the sourcing agreement. Within
18 15 days after the Capital Development Board has submitted
19 its range and the clean coal SNG brownfield facility has
20 submitted its estimate, the Commission shall approve the
21 operations and maintenance costs for the clean coal SNG
22 brownfield facility.

23 The clean coal SNG brownfield facility shall pay for
24 the independent engineering expert's reasonable fees and
25 such costs shall not be passed through to a utility or its
26 customers. The clean coal SNG brownfield facility shall pay

1 a reasonable fee as required by the Capital Development
2 Board for the Capital Development Board's services under
3 this subsection (h-3) to be deposited into the Capital
4 Development Board Revolving Fund, and such fee shall not be
5 passed through to a utility or its customers.

6 (3) Sequestration costs approved by the Commission
7 shall be recoverable by the clean coal SNG brownfield
8 facility. "Sequestration costs" means costs to be incurred
9 by the clean coal SNG brownfield facility in accordance
10 with its Commission-approved carbon capture and
11 sequestration plan to:

12 (A) capture carbon dioxide;

13 (B) build, operate, and maintain a sequestration
14 site in which carbon dioxide may be injected;

15 (C) build, operate, and maintain a carbon dioxide
16 pipeline; and

17 (D) transport the carbon dioxide to the
18 sequestration site or a pipeline.

19 The Commission shall assess the prudence of the
20 sequestration costs for the clean coal SNG brownfield
21 facility before construction commences at the
22 sequestration site or pipeline. Any revenues the clean coal
23 SNG brownfield facility receives as a result of the
24 capture, transportation, or sequestration of carbon
25 dioxide shall be first credited against all sequestration
26 costs, with the positive balance, if any, treated as

1 additional net revenue.

2 The Commission may, in its discretion, retain an expert
3 to assist in its review of sequestration costs. The clean
4 coal SNG brownfield facility shall pay for the expert's
5 reasonable fees if an expert is retained by the Commission,
6 and such costs shall not be passed through to a utility or
7 its customers. Once made, the Commission's determination
8 of the amount of recoverable sequestration costs shall not
9 be increased unless the clean coal SNG brownfield facility
10 can show by clear and convincing evidence that (i) the
11 costs were not reasonably foreseeable; (ii) the costs were
12 due to circumstances beyond the clean coal SNG brownfield
13 facility's control; and (iii) the clean coal SNG brownfield
14 facility took all reasonable steps to mitigate the costs.
15 If the Commission determines that sequestration costs may
16 be increased, the Commission shall provide for notice and a
17 public hearing for approval of the increased sequestration
18 costs.

19 (4) Actual delivered and processed fuel costs shall be
20 set by the Illinois Power Agency through a SNG feedstock
21 procurement, pursuant to Sections 1-20, 1-77, and 1-78 of
22 the Illinois Power Agency Act, to be performed at least
23 every 5 years and purchased by the clean coal SNG
24 brownfield facility pursuant to feedstock procurement
25 contracts developed by the Illinois Power Agency, with coal
26 comprising at least 50% of the total feedstock over the

1 term of the sourcing agreement and petroleum coke
2 comprising the remainder of the SNG feedstock. If the
3 Commission fails to approve a feedstock procurement plan or
4 fails to approve the results of a feedstock procurement
5 event, then the fuel shall be purchased by the company
6 month-by-month on the spot market and those actual
7 delivered and processed fuel costs shall be recoverable
8 under the sourcing agreement. If a supplier defaults under
9 the terms of a procurement contract, then the Illinois
10 Power Agency shall immediately initiate a feedstock
11 procurement process to obtain a replacement supply, and,
12 prior to the conclusion of that process, fuel shall be
13 purchased by the company month-by-month on the spot market
14 and those actual delivered and processed fuel costs shall
15 be recoverable under the sourcing agreement.

16 (5) Taxes and fees imposed by the federal government,
17 the State, or any unit of local government applicable to
18 the clean coal SNG brownfield facility, excluding income
19 tax, shall be recoverable by the clean coal SNG brownfield
20 facility under the sourcing agreement to the extent such
21 taxes and fees were not applicable to the facility on the
22 date of this amendatory Act of the 96th General Assembly.

23 (6) The actual transportation costs, in accordance
24 with the applicable utility's tariffs, and third-party
25 marketer costs incurred by the company, if any, associated
26 with transporting the SNG from the clean coal SNG

1 brownfield facility to the Chicago City-gate to sell such
2 SNG into the natural gas markets shall be recoverable under
3 the sourcing agreement.

4 (7) Unless otherwise provided, within 30 days after a
5 decision of the Commission on recoverable costs under this
6 Section, any interested party to the Commission's decision
7 may apply for a rehearing with respect to the decision. The
8 Commission shall receive and consider the application for
9 rehearing and shall grant or deny the application in whole
10 or in part within 20 days after the date of the receipt of
11 the application by the Commission. If no rehearing is
12 applied for within the required 30 days or an application
13 for rehearing is denied, then the Commission decision shall
14 be final. If an application for rehearing is granted, then
15 the Commission shall hold a rehearing within 30 days after
16 granting the application. The decision of the Commission
17 upon rehearing shall be final.

18 Any person affected by a decision of the Commission
19 under this subsection (h-3) may have the decision reviewed
20 only under and in accordance with the Administrative Review
21 Law. Unless otherwise provided, the provisions of the
22 Administrative Review Law, all amendments and
23 modifications to that Law, and the rules adopted pursuant
24 to that Law shall apply to and govern all proceedings for
25 the judicial review of final administrative decisions of
26 the Commission under this subsection (h-3). The term

1 "administrative decision" is defined as in Section 3-101 of
2 the Code of Civil Procedure.

3 (8) The Capital Development Board shall adopt and make
4 public a policy detailing the process for retaining experts
5 under this Section. Any experts retained to assist with
6 calculating the range of capital costs or operations and
7 maintenance costs shall be retained no later than 45 days
8 after the effective date of this amendatory Act of the 96th
9 General Assembly.

10 (h-4) No later than 60 days after the Illinois Power Agency
11 submits the final draft sourcing agreement pursuant to
12 subsection (h-1), the Commission shall approve a sourcing
13 agreement containing the capital costs, rate of return, and
14 operations and maintenance costs. Once the sourcing agreement
15 is approved, then the gas utility subject to that sourcing
16 agreement shall have 45 days after the date of the Commission's
17 approval to enter into the sourcing agreement.

18 (h-5) The Attorney General, on behalf of the people of the
19 State of Illinois, may specifically enforce the requirements of
20 this subsection (h-5). All contracts under subsection (h) of
21 this Act and all sourcing agreements under subsection (h-1) of
22 this Act, regardless of duration, shall require the owner of
23 any facility supplying SNG under the contract or sourcing
24 agreement to provide documentation to the Commission each year,
25 starting in the facility's first year of commercial operation,
26 accurately reporting the quantity of carbon dioxide emissions

1 from the facility that have been captured and sequestered and
2 reporting any quantities of carbon dioxide released from the
3 site or sites at which carbon dioxide emissions were
4 sequestered in prior years, based on continuous monitoring of
5 those sites. If, in any year, the owner of the facility
6 described in subsection (h) of this Act fails to demonstrate
7 that the ~~SNG~~ facility captured and sequestered at least 90% of
8 the total carbon dioxide emissions that the facility would
9 otherwise emit or that sequestration of emissions from prior
10 years has failed, resulting in the release of carbon dioxide
11 into the atmosphere, then the owner of the facility must offset
12 excess emissions. Any such carbon dioxide offsets must be
13 permanent, additional, verifiable, real, located within the
14 State of Illinois, and legally and practicably enforceable;
15 provided that the owner of the facility described in subsection
16 (h) of this Act shall not be obligated to acquire carbon
17 dioxide emission offsets to the extent that the cost of
18 acquiring such offsets would exceed \$40 million in any given
19 year. No costs of any purchases of carbon offsets may be
20 recovered from a utility or its customers. All carbon offsets
21 purchased for this purpose must be permanently retired.

22 If, in any year, the owner of a clean coal SNG brownfield
23 facility fails to demonstrate that the clean coal SNG
24 brownfield facility captured and sequestered at least 85% of
25 the total carbon dioxide emissions that the facility would
26 otherwise emit, then the owner of the clean coal SNG brownfield

1 facility must pay a penalty of \$20 per ton of excess carbon
2 emissions up to \$20,000,000, which shall be deposited into the
3 Energy Efficiency Trust Fund and distributed pursuant to
4 subsection (b) of Section 6-6 of the Renewable Energy, Energy
5 Efficiency, and Coal Resources Development Law of 1997.
6 Provided, however, to the extent that the owner of the clean
7 coal SNG brownfield facility can demonstrate that the failure
8 was as a result of acts of God (including fire, flood,
9 earthquake, tornado, lightning, hurricane, or other natural
10 disaster); any amendment, modification, or abrogation of any
11 applicable law or regulation that would prevent performance;
12 war; invasion; act of foreign enemies; hostilities (regardless
13 of whether war is declared); civil war; rebellion; revolution;
14 insurrection; military or usurped power or confiscation;
15 terrorist activities; civil disturbances; riots;
16 nationalization; sabotage; blockage; or embargo, the owner of
17 the clean coal SNG brownfield facility shall not be subject to
18 a penalty if and only if (i) it promptly provides notice of its
19 failure to the Commission; (ii) as soon as practicable and
20 consistent with any order or direction from the Commission, it
21 submits to the Commission proposed modifications to its carbon
22 capture and sequestration plan; and (iii) it carries out its
23 proposed modifications in the manner and time directed by the
24 Commission. If the Commission finds that the facility has not
25 satisfied each of these requirements, then the facility shall
26 be subject to the penalty. If the owner of a clean coal SNG

1 brownfield facility demonstrates that the clean coal SNG
2 brownfield facility captured and sequestered more than 85% of
3 the total carbon emissions that the facility would otherwise
4 emit, the owner of the clean coal SNG brownfield facility may
5 credit such additional amounts to reduce the amount of any
6 future penalty to be paid. The penalty resulting from the
7 failure to capture and sequester at least the minimum amount of
8 carbon dioxide shall not be passed on to a utility or its
9 customers.

10 In addition to any penalty for the clean coal SNG
11 brownfield facility's failure to capture and sequester at least
12 its minimum sequestration requirement, the Attorney General,
13 on behalf of the People of the State of Illinois, shall bring
14 an action for specific performance of this subsection (h-5).
15 Such action may be filed in any circuit court in Illinois. By
16 entering into a sourcing agreement pursuant to subsection (h-1)
17 of this Section, the clean coal SNG brownfield facility agrees
18 to waive any objections to venue or to the jurisdiction of the
19 court with regard to the Attorney General's action for specific
20 performance under this subsection (h-5).

21 In addition, carbon dioxide emission credits equivalent to
22 50% of the amount of credits associated with the required
23 sequestration of carbon dioxide from the facility must be
24 permanently retired. Compliance with the sequestration
25 requirements and the offset purchase requirements specified in
26 this subsection (h-5) for the facility described in subsection

1 (h) of this Act shall be assessed annually by an independent
2 expert retained by the owner of the ~~SNG~~ facility described in
3 subsection (h) of this Act, with the advance written approval
4 of the Attorney General. Compliance with the sequestration
5 requirements and penalty requirements specified in this
6 subsection (h-5) for the clean coal SNG brownfield facility
7 shall be assessed annually by the Commission, which may in its
8 discretion retain an expert to facilitate its assessment. If an
9 expert is retained by the Commission, then the clean coal SNG
10 brownfield facility shall pay for the expert's reasonable fees,
11 and such costs shall not be passed through to a utility or its
12 customers. A SNG facility operating pursuant to this subsection
13 (h-5) shall not forfeit its designation as a clean coal SNG
14 facility or a clean coal SNG brownfield facility if the
15 facility fails to fully comply with the applicable carbon
16 sequestration requirements in any given year, provided the
17 requisite offsets are purchased or requisite penalties are
18 paid.

19 Responsibility for compliance with the sequestration
20 requirements specified in this subsection (h-5) for the clean
21 coal SNG brownfield facility shall reside solely with the clean
22 coal SNG brownfield facility regardless of whether the facility
23 has contracted with another party to capture, transport, or
24 sequester carbon dioxide.

25 (h-7) Sequestration permitting, oversight, and
26 investigations.

1 (1) No clean coal facility or clean coal SNG brownfield
2 facility may transport or sequester carbon dioxide unless
3 the Commission approves the method of carbon dioxide
4 transportation or sequestration. Such approval shall be
5 required regardless of whether the facility has contracted
6 with another to transport or sequester the carbon dioxide.
7 Nothing in this subsection (h-7) shall release the owner or
8 operator of a carbon dioxide sequestration site or carbon
9 dioxide pipeline from any other permitting requirements
10 under applicable State and federal laws, statutes, rules,
11 or regulations.

12 (2) The Commission shall review carbon dioxide
13 transportation and sequestration methods proposed by a
14 clean coal facility or a clean coal SNG brownfield facility
15 and shall approve those methods it deems reasonable and
16 cost-effective. For purposes of this review,
17 "cost-effective" means a commercially reasonable price for
18 similar carbon dioxide transportation or sequestration
19 techniques. In determining whether sequestration is
20 reasonable and cost-effective, the Commission may consult
21 with the Illinois State Geological Survey and retain third
22 parties to assist in its determination, provided that such
23 third parties shall not own or control any direct or
24 indirect interest in the facility that is proposing the
25 carbon dioxide transportation or the carbon dioxide
26 sequestration method and shall have no contractual

1 relationship with that facility. If a third party is
2 retained by the Commission, then the facility proposing the
3 carbon dioxide transportation or sequestration method
4 shall pay for the expert's reasonable fees, and these costs
5 shall not be passed through to a utility or its customers.

6 No later than 6 months prior to the date upon which the
7 owner intends to commence construction of a clean coal
8 facility or the clean coal SNG brownfield facility, the
9 owner of the facility shall file with the Commission a
10 carbon dioxide transportation or sequestration plan. The
11 Commission shall hold a public hearing within 30 days after
12 receipt of the facility's carbon dioxide transportation or
13 sequestration plan. The Commission shall post notice of the
14 review on its website upon submission of a carbon dioxide
15 transportation or sequestration method and shall accept
16 written public comments. The Commission shall take the
17 comments into account when making its decision.

18 The Commission may not approve a carbon dioxide
19 sequestration method if the owner or operator of the
20 sequestration site has not received (i) an Underground
21 Injection Control permit from the Illinois Environmental
22 Protection Agency pursuant to the Environmental Protection
23 Act; (ii) an Underground Injection Control permit from the
24 Illinois Department of Natural Resources pursuant to the
25 Illinois Oil and Gas Act; or (iii) a permit similar to
26 items (i) or (ii) from the state in which the sequestration

1 site is located if the sequestration will take place
2 outside of Illinois. The Commission shall approve or deny
3 the carbon dioxide transportation or sequestration method
4 within 90 days after the receipt of all required
5 information.

6 (3) At least annually, the Illinois Environmental
7 Protection Agency shall inspect all carbon dioxide
8 sequestration sites in Illinois. The Illinois
9 Environmental Protection Agency may, as often as deemed
10 necessary, monitor and conduct investigations of those
11 sites. The owner or operator of the sequestration site must
12 cooperate with the Illinois Environmental Protection
13 Agency investigations of carbon dioxide sequestration
14 sites.

15 If the Illinois Environmental Protection Agency
16 determines at any time a site creates conditions that
17 warrant the issuance of a seal order under Section 34 of
18 the Environmental Protection Act, then the Illinois
19 Environmental Protection Agency shall seal the site
20 pursuant to the Environmental Protection Act. If the
21 Illinois Environmental Protection Agency determines at any
22 time a carbon dioxide sequestration site creates
23 conditions that warrant the institution of a civil action
24 for an injunction under Section 43 of the Environmental
25 Protection Act, then the Illinois Environmental Protection
26 Agency shall request the State's Attorney or the Attorney

1 General institute such action. The Illinois Environmental
2 Protection Agency shall provide notice of any such actions
3 as soon as possible on its website. The SNG facility shall
4 incur all reasonable costs associated with any such
5 inspection or monitoring of the sequestration sites, and
6 these costs shall not be recoverable from utilities or
7 their customers.

8 (4) At least annually, the Commission shall inspect all
9 carbon dioxide pipelines in Illinois that transport carbon
10 dioxide to ensure the safety and feasibility of those
11 pipelines. The Commission may, as often as deemed
12 necessary, monitor and conduct investigations of those
13 pipelines. The owner or operator of the pipeline must
14 cooperate with the Commission investigations of the carbon
15 dioxide pipelines.

16 In circumstances whereby a carbon dioxide pipeline
17 creates a substantial danger to the environment or to the
18 public health of persons or to the welfare of persons where
19 such danger is to the livelihood of such persons, the
20 State's Attorney or Attorney General, upon the request of
21 the Commission or on his or her own motion, may institute a
22 civil action for an immediate injunction to halt any
23 discharge or other activity causing or contributing to the
24 danger or to require such other action as may be necessary.
25 The court may issue an ex parte order and shall schedule a
26 hearing on the matter not later than 3 working days after

1 the date of injunction. The Commission shall provide notice
2 of any such actions as soon as possible on its website. The
3 SNG facility shall incur all reasonable costs associated
4 with any such inspection or monitoring of the sequestration
5 sites, and these costs shall not be recoverable from a
6 utility or its customers.

7 (h-9) The clean coal SNG brownfield facility shall have the
8 right to recover prudently incurred increased costs or reduced
9 revenue resulting from any new or amendatory legislation or
10 other action. The State of Illinois pledges that the State will
11 not enact any law or take any action to:

12 (1) break, or repeal the authority for, sourcing
13 agreements approved by the Commission and entered into
14 between public utilities and the clean coal SNG brownfield
15 facility;

16 (2) deny public utilities full cost recovery for their
17 costs incurred under those sourcing agreements; or

18 (3) deny the clean coal SNG brownfield facility full
19 cost and revenue recovery as provided under those sourcing
20 agreements that are recoverable pursuant to subsection
21 (h-3) of this Section.

22 These pledges are for the benefit of the parties to those
23 sourcing agreements and the issuers and holders of bonds or
24 other obligations issued or incurred to finance or refinance
25 the clean coal SNG brownfield facility. The clean coal SNG
26 brownfield facility is authorized to include and refer to these

1 pledges in any financing agreement into which it may enter in
2 regard to those sourcing agreements.

3 The State of Illinois retains and reserves all other rights
4 to enact new or amendatory legislation or take any other
5 action, without impairment of the right of the clean coal SNG
6 brownfield facility to recover prudently incurred increased
7 costs or reduced revenue resulting from the new or amendatory
8 legislation or other action, including, but not limited to,
9 such legislation or other action that would (i) directly or
10 indirectly raise the costs the clean coal SNG brownfield
11 facility must incur; (ii) directly or indirectly place
12 additional restrictions, regulations, or requirements on the
13 clean coal SNG brownfield facility; (iii) prohibit
14 sequestration in general or prohibit a specific sequestration
15 method or project; or (iv) increase minimum sequestration
16 requirements for the clean coal SNG brownfield facility to the
17 extent technically feasible. The clean coal SNG brownfield
18 facility shall have the right to recover prudently incurred
19 increased costs or reduced revenue resulting from the new or
20 amendatory legislation or other action as described in this
21 subsection (h-9).

22 (h-10) Contract costs for SNG incurred by an Illinois gas
23 utility are reasonable and prudent and recoverable through the
24 purchased gas adjustment clause and are not subject to review
25 or disallowance by the Commission. Contract costs are costs
26 incurred by the utility under the terms of a contract that

1 incorporates the terms stated in subsection (h) of this Section
2 as confirmed in writing by the Illinois Power Agency as set
3 forth in subsection (h-20) of this Section, which confirmation
4 shall be deemed conclusive, or as a consequence of or condition
5 to its performance under the contract, including (i) amounts
6 paid for SNG under the SNG contract and (ii) costs of
7 transportation and storage services of SNG purchased from
8 interstate pipelines under federally approved tariffs. Any
9 contract, the terms of which have been confirmed in writing by
10 the Illinois Power Agency as set forth in subsection (h-20) of
11 this Section and the performance of the parties under such
12 contract cannot be grounds for challenging prudence or cost
13 recovery by the utility through the purchased gas adjustment
14 clause, and in such cases, the Commission is directed not to
15 consider, and has no authority to consider, any attempted
16 challenges.

17 The contracts entered into by Illinois gas utilities
18 pursuant to subsection (h) of this Section shall provide that
19 the utility retains the right to terminate the contract without
20 further obligation or liability to any party if the contract
21 has been impaired as a result of any legislative,
22 administrative, judicial, or other governmental action that is
23 taken that eliminates all or part of the prudence protection of
24 this subsection (h-10) or denies the recoverability of all or
25 part of the contract costs through the purchased gas adjustment
26 clause. Should any Illinois gas utility exercise its right

1 under this subsection (h-10) to terminate the contract, all
2 contract costs incurred prior to termination are and will be
3 deemed reasonable, prudent, and recoverable as and when
4 incurred and not subject to review or disallowance by the
5 Commission. Any order, issued by the State requiring or
6 authorizing the discontinuation of the merchant function,
7 defined as the purchase and sale of natural gas by an Illinois
8 gas utility for the ultimate consumer in its service territory
9 shall include provisions necessary to prevent the impairment of
10 the value of any contract hereunder over its full term.

11 (h-11) All costs incurred by an Illinois gas utility in
12 procuring SNG, including procuring SNG from a clean coal SNG
13 brownfield facility or a third-party marketer pursuant to
14 subsection (h-1), are reasonable and prudent and recoverable
15 through the purchased gas adjustment clause and are not subject
16 to review or disallowance by the Commission. Sourcing agreement
17 costs are costs incurred by the utility under the terms of a
18 sourcing agreement that incorporates the terms stated in
19 subsection (h-1) of this Section as approved by the Commission
20 as set forth in subsection (h-4) of this Section, which
21 approval shall be deemed conclusive, or as a consequence of or
22 condition to its performance under the contract, including (i)
23 amounts paid for SNG under the SNG contract and (ii) costs of
24 transportation and storage services of SNG purchased from
25 interstate pipelines under federally approved tariffs. Any
26 sourcing agreement, the terms of which have been approved by

1 the Commission as set forth in subsection (h-4) of this
2 Section, and the performance of the parties under the sourcing
3 agreement cannot be grounds for challenging prudence or cost
4 recovery by the utility through the purchased gas adjustment
5 clause, and in these cases, the Commission is directed not to
6 consider, and has no authority to consider, any attempted
7 challenges.

8 (h-15) With respect to each contract entered into by the
9 company with an Illinois utility in accordance with the terms
10 stated in subsection (h) of this Section, within 60 days
11 following the completion of purchases of SNG, the Illinois
12 Power Agency shall conduct an analysis to determine (i) the
13 average contract SNG cost, which shall be calculated as the
14 total amount paid to a company for SNG over the contract term,
15 plus the cost to the utility of the required transportation and
16 storage services of SNG, divided by the total number of MMBtus
17 of SNG actually purchased under the utility contract; (ii) the
18 average natural gas purchase cost, which shall be calculated as
19 the total annual supply costs paid for natural gas (excluding
20 SNG) purchased by such utility over the contract term, plus the
21 costs of transportation and storage services of such natural
22 gas (excluding such costs for SNG), divided by the total number
23 of MMBtus of natural gas (excluding SNG) actually purchased by
24 the utility during the contract term; (iii) the cost
25 differential, which shall be the difference between the average
26 contract SNG cost and the average natural gas purchase cost;

1 and (iv) the revenue share target, which shall be the cost
2 differential multiplied by the total amount of SNG purchased
3 under such utility contract. If the average contract SNG cost
4 is equal to or less than the average natural gas purchase cost,
5 then the company shall have no further obligation to the
6 utility. If the average contract SNG cost for such SNG contract
7 is greater than the average natural gas purchase cost for such
8 utility, then the company shall market the daily production of
9 SNG and distribute on a monthly basis 5% of amounts collected
10 with respect to such future sales to the utilities in
11 proportion to each utility's SNG purchases from the company
12 during the term of the SNG contract to be used to reduce the
13 utility's natural gas costs through the purchased gas
14 adjustment clause; such payments to the utility shall continue
15 until such time as the sum of such payments equals the revenue
16 share target of that utility. The company or utilities shall
17 have no obligation to repay the revenue share target except as
18 provided for in this subsection (h-15).

19 (h-20) The General Assembly authorizes the Illinois
20 Finance Authority to issue bonds to the maximum extent
21 permitted to finance coal gasification facilities described in
22 this Section, which constitute both "industrial projects"
23 under Article 801 of the Illinois Finance Authority Act and
24 "clean coal and energy projects" under Sections 825-65 through
25 825-75 of the Illinois Finance Authority Act. The General
26 Assembly further authorizes the Illinois Power Agency to become

1 party to agreements and take such actions as necessary to
2 enable the Illinois Power Agency or its designate to (i) review
3 and confirm in writing that the terms stated in subsection (h)
4 of this Section are incorporated in the SNG contract, and (ii)
5 conduct an analysis pursuant to subsection (h-15) of this
6 Section. Administrative costs incurred by the Illinois Finance
7 Authority and Illinois Power Agency in performance of this
8 subsection (h-20) shall be subject to reimbursement by the
9 company on terms as the Illinois Finance Authority, the
10 Illinois Power Agency, and the company may agree. The utility
11 and its customers shall have no obligation to reimburse the
12 company, the Illinois Finance Authority, or the Illinois Power
13 Agency for any such costs.

14 (i) If a gas utility or an affiliate of a gas utility has
15 an ownership interest in any entity that produces or sells
16 synthetic natural gas, Article VII of this Act shall apply.

17 (Source: P.A. 95-1027, eff. 6-1-09; 96-1364, eff. 7-28-10.)

18 Section 15. The Illinois Gas Pipeline Safety Act is amended
19 by changing Sections 2.02, 2.03, 2.04, and 3 as follows:

20 (220 ILCS 20/2.02) (from Ch. 111 2/3, par. 552.2)

21 Sec. 2.02. "Gas" means natural gas, flammable gas or gas
22 which is toxic or corrosive. "Gas" also means carbon dioxide in
23 any physical form, whenever transported by pipeline for the
24 purpose of sequestration.

1 (Source: P.A. 76-1588.)

2 (220 ILCS 20/2.03) (from Ch. 111 2/3, par. 552.3)

3 Sec. 2.03. "Transportation of gas" means the gathering,
4 transmission, or distribution of gas by pipeline or its
5 storage, within this State and not subject to the jurisdiction
6 of the Federal Energy Regulatory Commission under the Natural
7 Gas Act, except that it includes the transmission of gas
8 through pipeline facilities within this State that transport
9 gas from an interstate gas pipeline to a direct sales customer
10 within this State purchasing gas for its own consumption.
11 "Transportation of gas" also includes the conveyance of gas
12 from a gas main through the primary fuel line to the outside
13 wall of residential premises. If the gas meter is placed within
14 3 feet of the structure, the utility's responsibility shall end
15 at the outlet side of the meter. "Transportation of gas" also
16 includes the conveyance of carbon dioxide in any physical form
17 for the purpose of sequestration.

18 (Source: P.A. 87-1092; 88-314.)

19 (220 ILCS 20/2.04) (from Ch. 111 2/3, par. 552.4)

20 Sec. 2.04. "Pipeline facilities" includes new and existing
21 pipe rights-of-way and any equipment, facility, or building
22 used in the transportation of gas or the treatment of gas
23 during the course of transportation and includes facilities
24 within this State that transport gas from an interstate gas

1 pipeline to a direct sales customer within this State
2 purchasing gas for its own consumption, but "rights-of-way" as
3 used in this Act does not authorize the Commission to
4 prescribe, under this Act, the location or routing of any
5 pipeline facility. "Pipeline facilities" also includes new and
6 existing pipes and lines and any other equipment, facility, or
7 structure, except customer-owned branch lines connected to the
8 primary fuel lines, used to convey gas from a gas main to the
9 outside wall of residential premises, and any person who
10 provides gas service directly to its residential customer
11 through these facilities shall be deemed to operate such
12 pipeline facilities for purposes of this Act irrespective of
13 the ownership of the facilities or the location of the
14 facilities with respect to the meter, except that a person who
15 provides gas service to a "master meter system", as that term
16 is defined at 49 C.F.R. Section 191.3, shall not be deemed to
17 operate any facilities downstream of the master meter.
18 "Pipeline facilities" also includes new and existing pipe
19 rights-of-way and any equipment, facility, or building used in
20 the transportation of carbon dioxide in any physical form for
21 the purpose of sequestration.

22 (Source: P.A. 87-1092; 88-314.)

23 (220 ILCS 20/3) (from Ch. 111 2/3, par. 553)

24 Sec. 3. (a) As soon as practicable, but not later than 3
25 months after the effective date of this Act, the Commission

1 shall adopt rules establishing minimum safety standards for the
2 transportation of gas and for pipeline facilities. Such rules
3 shall be at least as inclusive, as stringent, and compatible
4 with, the minimum safety standards adopted by the Secretary of
5 Transportation under the Federal Act. Thereafter, the
6 Commission shall maintain such rules so that the rules are at
7 least as inclusive, as stringent, and compatible with, the
8 minimum standards from time to time in effect under the Federal
9 Act. The Commission shall also adopt rules establishing minimum
10 safety standards for the transportation of carbon dioxide in
11 any physical form for the purpose of sequestration and for
12 pipeline facilities used for that function.

13 (b) Standards established under this Act may apply to the
14 design, installation, inspection, testing, construction,
15 extension, operation, replacement, and maintenance of pipeline
16 facilities. Standards affecting the design, installation,
17 construction, initial inspection and initial testing are not
18 applicable to pipeline facilities in existence on the date such
19 standards are adopted. Whenever the Commission finds a
20 particular facility to be hazardous to life or property, it may
21 require the person operating such facility to take the steps
22 necessary to remove the hazard.

23 (c) Standards established by the Commission under this Act
24 shall, subject to paragraphs (a) and (b) of this Section 3, be
25 practicable and designed to meet the need for pipeline safety.
26 In prescribing such standards, the Commission shall consider:

1 similar standards established in other states; relevant
2 available pipeline safety data; whether such standards are
3 appropriate for the particular type of pipeline
4 transportation; the reasonableness of any proposed standards;
5 and the extent to which such standards will contribute to
6 public safety.

7 Rules adopted under this Act are subject to "The Illinois
8 Administrative Procedure Act", approved September 22, 1975, as
9 amended.

10 (Source: P.A. 83-333.)

11 Section 20. The Illinois Environmental Protection Act is
12 amended by adding Section 13.7 as follows:

13 (415 ILCS 5/13.7 new)

14 Sec. 13.7. Carbon dioxide sequestration sites.

15 (a) For purposes of this Section, the term "carbon dioxide
16 sequestration site" means a site or facility for which the
17 Agency has issued a permit for the underground injection of
18 carbon dioxide.

19 (b) The Agency shall inspect carbon dioxide sequestration
20 sites for compliance with this Act, rules adopted under this
21 Act, and permits issued by the Agency.

22 (c) If the Agency issues a seal order under Section 34 of
23 this Act in relation to a carbon dioxide sequestration site, or
24 if a civil action for an injunction to halt activity at a

1 carbon dioxide sequestration site is initiated under Section 43
2 of this Act at the request of the Agency, then the Agency shall
3 post notice of such action on its website.

4 (d) Persons seeking a permit or permit modification for the
5 underground injection of carbon dioxide shall be liable to the
6 Agency for all reasonable and documented costs incurred by the
7 Agency that are associated with review and issuance of the
8 permit, including, but not limited to, costs associated with
9 public hearings and the review of permit applications. Once a
10 permit is issued, the permittee shall be liable to the Agency
11 for all reasonable and documented costs incurred by the Agency
12 that are associated with inspections and other oversight of the
13 carbon dioxide sequestration site. Persons liable for costs
14 under this subsection (d) must pay the costs upon invoicing, or
15 other request or demand for payment, by the Agency. Costs for
16 which a person is liable under this subsection (d) are in
17 addition to any other fees, penalties, or other relief provided
18 under this Act or any other law.

19 Moneys collected under this subsection (d) shall be
20 deposited into the Environmental Protection Permit and
21 Inspection Fund established under Section 22.8 of this Act. The
22 Agency may adopt rules relating to the collection of costs due
23 under this subsection (d).

24 (e) The Agency shall not issue a permit or permit
25 modification for the underground injection of carbon dioxide
26 unless all costs for which the permittee is liable under

1 subsection (d) of this Section have been paid.

2 (f) No person shall fail or refuse to pay costs for which
3 the person is liable under subsection (d) of this Section.

4 Section 85. Rulemaking. The Illinois Environmental
5 Protection Agency, the Illinois Commerce Commission, the
6 Capital Development Board, and the Illinois Department of
7 Natural Resources shall have rulemaking authority to implement
8 the provisions of this amendatory Act of the 96th General
9 Assembly.

10 Section 90. Inseverability. The provisions of this Act are
11 mutually dependent and inseverable. If any provision is held
12 invalid, then this entire Act, including all new and amendatory
13 provisions, is invalid.

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.