



Rep. Kevin A. McCarthy

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LRB097 03518 CEL 59067 a

1 AMENDMENT TO HOUSE BILL 690

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 690 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Findings. The General Assembly finds that:

5 (1) subsection (b-10) of Section 16-108.5 of this  
6 amendatory Act of the 97th General Assembly provides  
7 substantial customer assistance programs for low-income  
8 customers, senior citizens, active members of the armed  
9 services and reserved forces, and disabled veterans;

10 (2) subsection (b) of Section 16-108.5 of this  
11 amendatory Act of the 97th General Assembly provides for  
12 infrastructure improvements designed to reduce outages due  
13 to storms;

14 (3) subsections (f) and (f-5) of Section 16-108.5 of  
15 this amendatory Act of the 97th General Assembly require  
16 improvement in a variety of performance metrics and impose  
17 penalties on the electric utilities for failure to achieve

1 the statutorily set goals;

2 (4) Black & Veatch, a global engineering, consulting  
3 and construction company, performed an independent  
4 evaluation of Commonwealth Edison Company's Advanced  
5 Metering Infrastructure ("AMI") pilot program and  
6 concluded that the cost savings and benefits to ComEd  
7 customers of full AMI deployment are nearly 3 times greater  
8 than the cost to deploy AMI, and further that AMI  
9 deployment is estimated to result in a net savings to ComEd  
10 customers of \$2.8 billion over 20 years; and

11 (5) this amendatory Act of the 97th General Assembly  
12 confers substantial benefits upon the State's electric  
13 utility customers.

14 Section 5. If and only if Senate Bill 1652 of the 97th  
15 General Assembly becomes law, then the Public Utilities Act is  
16 amended by changing Section 16-107.5, 16-108.5, 16-108.6,  
17 16-108.7, and 16-128 as follows:

18 (220 ILCS 5/16-107.5)

19 Sec. 16-107.5. Net electricity metering.

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

1 mix, and protect the Illinois environment.

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

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

24 (1) For eligible customers whose electric service has  
25 not been declared competitive pursuant to Section 16-113 of  
26 this Act and whose electric delivery service is provided

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

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

22 (3) For all other eligible customers, the electricity  
23 provider may arrange for the local electric utility or a  
24 meter service provider to install and maintain metering  
25 equipment capable of measuring the flow of electricity both  
26 into and out of the customer's facility at the same rate

1 and ratio, typically through the use of a dual channel  
2 meter. If the eligible customer's existing electric  
3 revenue meter does not meet this requirement, then the  
4 costs of installing such equipment shall be paid for by the  
5 customer.

6 (d) An electricity provider shall measure and charge or  
7 credit for the net electricity supplied to eligible customers  
8 or provided by eligible customers whose electric service has  
9 not been declared competitive pursuant to Section 16-113 of the  
10 Act and whose electric delivery service is provided and  
11 measured on a kilowatt-hour basis and electric supply service  
12 is not provided based on hourly pricing in the following  
13 manner:

14 (1) If the amount of electricity used by the customer  
15 during the billing period exceeds the amount of electricity  
16 produced by the customer, the electricity provider shall  
17 charge the customer for the net electricity supplied to and  
18 used by the customer as provided in subsection (e-5) of  
19 this Section.

20 (2) If the amount of electricity produced by a customer  
21 during the billing period exceeds the amount of electricity  
22 used by the customer during that billing period, the  
23 electricity provider supplying that customer shall apply a  
24 1:1 kilowatt-hour credit to a subsequent bill for service  
25 to the customer for the net electricity supplied to the  
26 electricity provider. The electricity provider shall

1 continue to carry over any excess kilowatt-hour credits  
2 earned and apply those credits to subsequent billing  
3 periods to offset any customer-generator consumption in  
4 those billing periods until all credits are used or until  
5 the end of the annualized period.

6 (3) At the end of the year or annualized over the  
7 period that service is supplied by means of net metering,  
8 or in the event that the retail customer terminates service  
9 with the electricity provider prior to the end of the year  
10 or the annualized period, any remaining credits in the  
11 customer's account shall expire.

12 (d-5) An electricity provider shall measure and charge or  
13 credit for the net electricity supplied to eligible customers  
14 or provided by eligible customers whose electric service has  
15 not been declared competitive pursuant to Section 16-113 of  
16 this Act and whose electric delivery service is provided and  
17 measured on a kilowatt-hour basis and electric supply service  
18 is provided based on hourly pricing in the following manner:

19 (1) If the amount of electricity used by the customer  
20 during any hourly period exceeds the amount of electricity  
21 produced by the customer, the electricity provider shall  
22 charge the customer for the net electricity supplied to and  
23 used by the customer according to the terms of the contract  
24 or tariff to which the same customer would be assigned to  
25 or be eligible for if the customer was not a net metering  
26 customer.

1           (2) If the amount of electricity produced by a customer  
2           during any hourly period exceeds the amount of electricity  
3           used by the customer during that hourly period, the energy  
4           provider shall apply a credit for the net kilowatt-hours  
5           produced in such period. The credit shall consist of an  
6           energy credit and a delivery service credit. The energy  
7           credit shall be valued at the same price per kilowatt-hour  
8           as the electric service provider would charge for  
9           kilowatt-hour energy sales during that same hourly period.  
10          The delivery credit shall be equal to the net  
11          kilowatt-hours produced in such hourly period times a  
12          credit that reflects all kilowatt-hour based charges in the  
13          customer's electric service rate, excluding energy  
14          charges.

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

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

1 of this Section, provided that the electricity provider  
2 shall assess and the customer remains responsible for all  
3 taxes, fees, and utility delivery charges that would  
4 otherwise be applicable to the gross amount of  
5 kilowatt-hours supplied to the eligible customer by the  
6 electricity provider.

7 (2) If the amount of electricity produced by a customer  
8 during the billing period exceeds the amount of electricity  
9 used by the customer during that billing period, then the  
10 electricity provider supplying that customer shall apply a  
11 1:1 kilowatt-hour credit that reflects the kilowatt-hour  
12 based charges in the customer's electric service rate to a  
13 subsequent bill for service to the customer for the net  
14 electricity supplied to the electricity provider. The  
15 electricity provider shall continue to carry over any  
16 excess kilowatt-hour credits earned and apply those  
17 credits to subsequent billing periods to offset any  
18 customer-generator consumption in those billing periods  
19 until all credits are used or until the end of the  
20 annualized period.

21 (3) At the end of the year or annualized over the  
22 period that service is supplied by means of net metering,  
23 or in the event that the retail customer terminates service  
24 with the electricity provider prior to the end of the year  
25 or the annualized period, any remaining credits in the  
26 customer's account shall expire.



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

25           (f) Notwithstanding the requirements of subsections (c)  
26 through (e-5) of this Section, an electricity provider must

1 require dual-channel metering for customers operating eligible  
2 renewable electrical generating facilities with a nameplate  
3 rating up to 2,000 kilowatts and to whom the provisions of  
4 neither subsection (d), (d-5), nor (e) of this Section apply.  
5 In such cases, electricity charges and credits shall be  
6 determined as follows:

7 (1) The electricity provider shall assess and the  
8 customer remains responsible for all taxes, fees, and  
9 utility delivery charges that would otherwise be  
10 applicable to the gross amount of kilowatt-hours supplied  
11 to the eligible customer by the electricity provider.

12 (2) Each month that service is supplied by means of  
13 dual-channel metering, the electricity provider shall  
14 compensate the eligible customer for any excess  
15 kilowatt-hour credits at the electricity provider's  
16 avoided cost of electricity supply over the monthly period  
17 or as otherwise specified by the terms of a power-purchase  
18 agreement negotiated between the customer and electricity  
19 provider.

20 (3) For all eligible net metering customers taking  
21 service from an electricity provider under contracts or  
22 tariffs employing time of use rates, any monthly  
23 consumption of electricity shall be calculated according  
24 to the terms of the contract or tariff to which the same  
25 customer would be assigned to or be eligible for if the  
26 customer was not a net metering customer. When those same

1 customer-generators are net generators during any discrete  
2 time of use period, the net kilowatt-hours produced shall  
3 be valued at the same price per kilowatt-hour as the  
4 electric service provider would charge for retail  
5 kilowatt-hour sales during that same time of use period.

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

18 (h) Within 120 days after the effective date of this  
19 amendatory Act of the 95th General Assembly, the Commission  
20 shall establish standards for net metering and, if the  
21 Commission has not already acted on its own initiative,  
22 standards for the interconnection of eligible renewable  
23 generating equipment to the utility system. The  
24 interconnection standards shall address any procedural  
25 barriers, delays, and administrative costs associated with the  
26 interconnection of customer-generation while ensuring the

1 safety and reliability of the units and the electric utility  
2 system. The Commission shall consider the Institute of  
3 Electrical and Electronics Engineers (IEEE) Standard 1547 and  
4 the issues of (i) reasonable and fair fees and costs, (ii)  
5 clear timelines for major milestones in the interconnection  
6 process, (iii) nondiscriminatory terms of agreement, and (iv)  
7 any best practices for interconnection of distributed  
8 generation.

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

11 (j) An electricity provider shall provide net metering to  
12 eligible customers until the load of its net metering customers  
13 equals 5% of the total peak demand supplied by that electricity  
14 provider during the previous year. Electricity providers are  
15 authorized to offer net metering beyond the 5% level if they so  
16 choose.

17 (k) Each electricity provider shall maintain records and  
18 report annually to the Commission the total number of net  
19 metering customers served by the provider, as well as the type,  
20 capacity, and energy sources of the generating systems used by  
21 the net metering customers. Nothing in this Section shall limit  
22 the ability of an electricity provider to request the redaction  
23 of information deemed by the Commission to be confidential  
24 business information. Each electricity provider shall notify  
25 the Commission when the total generating capacity of its net  
26 metering customers is equal to or in excess of the 5% cap

1 specified in subsection (j) of this Section.

2 (1) Notwithstanding the definition of "eligible customer"  
3 in item (i) of subsection (b) of this Section, each electricity  
4 provider shall consider whether to allow meter aggregation for  
5 the purposes of net metering on:

6 (1) properties owned or leased by multiple customers  
7 that contribute to the operation of an eligible renewable  
8 electrical generating facility, such as a community-owned  
9 wind project, a community-owned biomass project, a  
10 community-owned solar project, or a community methane  
11 digester processing livestock waste from multiple sources;  
12 and

13 (2) individual units, apartments, or properties owned  
14 or leased by multiple customers and collectively served by  
15 a common eligible renewable electrical generating  
16 facility, such as an apartment building served by  
17 photovoltaic panels on the roof.

18 For the purposes of this subsection (1), "meter  
19 aggregation" means the combination of reading and billing on a  
20 pro rata basis for the types of eligible customers described in  
21 this Section.

22 (m) Nothing in this Section shall affect the right of an  
23 electricity provider to continue to provide, or the right of a  
24 retail customer to continue to receive service pursuant to a  
25 contract for electric service between the electricity provider  
26 and the retail customer in accordance with the prices, terms,

1 and conditions provided for in that contract. Either the  
2 electricity provider or the customer may require compliance  
3 with the prices, terms, and conditions of the contract.

4 (Source: P.A. 95-420, eff. 8-24-07; 09700SB1652enr.)

5 (220 ILCS 5/16-108.5)

6 Sec. 16-108.5. Infrastructure investment and  
7 modernization; regulatory reform.

8 (a) (Blank). ~~The General Assembly recognizes that for well~~  
9 ~~over a century Illinois residents and businesses have been~~  
10 ~~well served by and have benefitted from a comprehensive~~  
11 ~~electric utility system. The General Assembly finds that~~  
12 ~~electric utilities are now entering a new construction cycle~~  
13 ~~that is needed to refurbish, rebuild, modernize, and expand~~  
14 ~~systems to continue to provide safe, reliable, and affordable~~  
15 ~~service to the State's current and future utility customers in~~  
16 ~~this newly digitized age. In particular, the General Assembly~~  
17 ~~finds that it is the policy of this State that significant~~  
18 ~~investments must be made in the State's electric grid over the~~  
19 ~~next decade to modernize and upgrade transmission and~~  
20 ~~distribution facilities in the State. These investments will~~  
21 ~~ensure that the State's electric utility infrastructure will~~  
22 ~~promote future economic development in the State and that the~~  
23 ~~State's electric utilities will be able to continue to provide~~  
24 ~~quality electric service to their customers, including~~  
25 ~~innovative technological offerings that will enhance customer~~

1 ~~experience and choice such as smart meters that are dependent~~  
2 ~~on a modernized or Smart Grid. These investments, including~~  
3 ~~programs to reinforce the safety and security of high voltage~~  
4 ~~transmission lines, will also ensure that the State's electric~~  
5 ~~utility infrastructure continues to be safe and reliable. The~~  
6 ~~introduction of performance metrics will further ensure that~~  
7 ~~reliability and other indicators are not just maintained but~~  
8 ~~improved over the next decade.~~

9 ~~The General Assembly further recognizes that, in addition~~  
10 ~~to attracting capital and businesses to the State, these~~  
11 ~~investments will create training opportunities for the~~  
12 ~~citizens of this State, all of which will create new employment~~  
13 ~~opportunities for Illinoisans at a time when they are most~~  
14 ~~needed, especially for minority owned and female owned~~  
15 ~~business enterprises. The General Assembly further finds that~~  
16 ~~regulatory reform measures that increase predictability,~~  
17 ~~stability, and transparency in the ratemaking process are~~  
18 ~~needed to promote prudent, long term infrastructure investment~~  
19 ~~and to mutually benefit the State's electric utilities and~~  
20 ~~their customers, regulators, and investors.~~

21 (b) For purposes of this Section, "participating utility"  
22 means an electric utility or a combination utility serving more  
23 than 1,000,000 customers in Illinois that voluntarily elects  
24 and commits to undertake (i) the infrastructure investment  
25 program consisting of the commitments and obligations  
26 described in this subsection (b) and (ii) the customer

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

15 During the infrastructure investment program's peak  
16 program year, a participating utility other than a combination  
17 utility shall create 2,000 full-time equivalent jobs in  
18 Illinois, and a participating utility that is a combination  
19 utility shall create 450 full-time equivalent jobs in Illinois  
20 related to the provision of electric service. These jobs shall  
21 include, ~~including~~ direct jobs, contractor positions, and  
22 induced jobs, but shall not include any portion of a job  
23 commitment, not specifically contingent on an amendatory Act of  
24 the 97th General Assembly becoming law, between a participating  
25 utility and a labor union that existed on the effective date of  
26 this amendatory Act of the 97th General Assembly and that has



1 not yet been fulfilled. A portion of the full-time equivalent  
2 jobs created by each participating utility shall include  
3 incremental personnel hired subsequent to the effective date of  
4 this amendatory Act of the 97th General Assembly. For purposes  
5 of this Section, "peak program year" means the consecutive  
6 12-month period with the highest number of full-time equivalent  
7 jobs that occurs between the beginning of investment year 2 and  
8 the end of investment year 4.

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

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

20 (A) over a 5-year period, invest an estimated  
21 \$1,300,000,000 ~~\$1,100,000,000~~ in electric system  
22 upgrades, modernization projects, and training  
23 facilities, including, but not limited to:

24 (i) distribution infrastructure improvements  
25 totaling an estimated \$1,000,000,000, including  
26 underground residential distribution cable

1 injection and replacement and mainline cable  
2 system refurbishment and replacement projects;

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

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

20 (iv) an estimated \$200,000,000 for reducing  
21 the susceptibility of certain circuits to  
22 storm-related damage, including, but not limited  
23 to, high winds, thunderstorms, and ice storms;  
24 improvements may include, but are not limited to,  
25 overhead to underground conversion and other  
26 engineered outcomes for circuits; the

1           participating utility shall prioritize the  
2           selection of circuits based on each circuit's  
3           historical susceptibility to storm-related damage  
4           and the ability to provide the greatest customer  
5           benefit upon completion of the improvements; to be  
6           eligible for improvement, the participating  
7           utility's ability to maintain proper tree  
8           clearances surrounding the overhead circuit must  
9           not have been impeded by third parties; and

10           (B) over a 10-year period, invest an estimated  
11           \$1,300,000,000 ~~\$1,500,000,000~~ to upgrade and modernize  
12           its transmission and distribution infrastructure and  
13           in Smart Grid electric system upgrades, including, but  
14           not limited to:

- 15                   (i) additional smart meters;  
16                   (ii) distribution automation;  
17                   (iii) associated cyber secure data  
18                   communication network; and  
19                   (iv) substation micro-processor relay  
20                   upgrades.

21           (2) Beginning no later than 180 days after a  
22           participating utility that is a combination utility files a  
23           performance-based formula rate tariff pursuant to  
24           subsection (c) of this Section, or, beginning no later than  
25           January 1, 2012 if such utility files such  
26           performance-based formula rate tariff within 14 days of the

1 effective date of this amendatory Act of the 97th General  
2 Assembly, the participating utility shall, except as  
3 provided in subsection (b-5):

4 (A) over a 10-year period, invest an estimated  
5 \$265,000,000 in electric system upgrades,  
6 modernization projects, and training facilities,  
7 including, but not limited to:

8 (i) distribution infrastructure improvements  
9 totaling an estimated \$245,000,000, which may  
10 include bulk supply substations, transformers,  
11 reconductoring, and rebuilding overhead  
12 distribution and sub-transmission lines,  
13 underground residential distribution cable  
14 injection and replacement and mainline cable  
15 system refurbishment and replacement projects;

16 (ii) training facility construction or upgrade  
17 projects totaling an estimated \$1,000,000; any  
18 such new facility must be designed for the purpose  
19 of obtaining, and the owner of the facility shall  
20 apply for, certification under the United States  
21 Green Building Council's Leadership in Energy  
22 Efficiency Design Green Building Rating System;  
23 and

24 (iii) wood pole inspection, treatment, and  
25 replacement programs; and

26 (B) over a 10-year period, invest an estimated

1           \$360,000,000 to upgrade and modernize its transmission  
2           and distribution infrastructure and in Smart Grid  
3           electric system upgrades, including, but not limited  
4           to:

5                     (i) additional smart meters;

6                     (ii) distribution automation;

7                     (iii) associated cyber secure data  
8                     communication network; and

9                     (iv) substation micro-processor relay  
10            upgrades.

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

14           The investments in the infrastructure investment program  
15           described in this subsection (b) shall be incremental to the  
16           participating utility's annual capital investment program, as  
17           defined by, for purposes of this subsection (b), the  
18           participating utility's average capital spend for calendar  
19           years 2008, 2009, and 2010 as reported in the applicable  
20           Federal Energy Regulatory Commission (FERC) Form 1; provided  
21           that where one or more utilities have merged, the average  
22           capital spend shall be determined using the aggregate of the  
23           merged utilities' capital spend reported in FERC Form 1 for the  
24           years 2008, 2009, and 2010. A participating utility may add  
25           reasonable construction ramp-up and ramp-down time to the  
26           investment periods specified in this subsection (b). For each

1 such investment period, the ramp-up and ramp-down time shall  
2 not exceed a total of 6 months.

3       Within 60 days after filing a tariff under subsection (c)  
4 of this Section, a participating utility shall submit to the  
5 Commission its plan, including scope, schedule, and staffing,  
6 for satisfying its infrastructure investment program  
7 commitments pursuant to this subsection (b). The submitted plan  
8 shall include a schedule and staffing plan for the next  
9 calendar year. The plan shall also include a plan for the  
10 creation, operation, and administration of a Smart Grid test  
11 bed as described in subsection (c) of Section 16-108.8. The  
12 plan need not allocate the work equally over the respective  
13 periods, but should allocate material increments throughout  
14 such periods commensurate with the work to be undertaken. No  
15 later than April 1 of each subsequent year, the utility shall  
16 submit to the Commission a report that includes any updates to  
17 the plan, a schedule for the next calendar year, the  
18 expenditures made for the prior calendar year and cumulatively,  
19 and the number of full-time equivalent jobs created for the  
20 prior calendar year and cumulatively. If the utility is  
21 materially deficient in satisfying a schedule or staffing plan,  
22 then the report must also include a corrective action plan to  
23 address the deficiency. The fact that the plan, implementation  
24 of the plan, or a schedule changes shall not imply the  
25 imprudence or unreasonableness of the infrastructure  
26 investment program, plan, or schedule. Further, no later than

1 45 days following the last day of the first, second, and third  
2 quarters of each year of the plan, a participating utility  
3 shall submit to the Commission a verified quarterly report for  
4 the prior quarter that includes (i) the total number of  
5 full-time equivalent jobs created during the prior quarter,  
6 (ii) the total number of employees as of the last day of the  
7 prior quarter, (iii) the total number of full-time equivalent  
8 hours in each job classification or job title, (iv) the total  
9 number of incremental employees and contractors in support of  
10 the investments undertaken pursuant to this subsection (b) for  
11 the prior quarter, and (v) any other information that the  
12 Commission may require by rule.

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

1 program year that the Commission finds as set forth in this  
2 paragraph, the participating utility shall, within 30 days  
3 after the entry of the Commission's order, pay \$6,000 ~~\$3,000~~ to  
4 a fund for training grants administered under Section 605-800  
5 of The Department of Commerce and Economic Opportunity Law,  
6 which shall not be a recoverable expense.

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

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



1 already owed to the fund for training grants pursuant to a  
2 Commission order.

3 In meeting the obligations of this subsection (b), to the  
4 extent feasible and consistent with State and federal law, the  
5 investments under the infrastructure investment program should  
6 provide employment opportunities for all segments of the  
7 population and workforce, including minority-owned and  
8 female-owned business enterprises, and shall not, consistent  
9 with State and federal law, discriminate based on race or  
10 socioeconomic status.

11 (b-5) Nothing in this Section shall prohibit the Commission  
12 from investigating the prudence and reasonableness of the  
13 expenditures made under the infrastructure investment program  
14 during the annual review required by subsection (d) of this  
15 Section and shall, as part of such investigation, determine  
16 whether the utility's actual costs under the program are  
17 prudent and reasonable. The fact that a participating utility  
18 invests more than the minimum amounts specified in subsection  
19 (b) of this Section or its plan shall not imply imprudence or  
20 unreasonableness.

21 If the participating utility finds that it is implementing  
22 its plan for satisfying the infrastructure investment program  
23 commitments described in subsection (b) of this Section at a  
24 cost below the estimated amounts specified in subsection (b) of  
25 this Section, then the utility may file a petition with the  
26 Commission requesting that it be permitted to satisfy its

1 commitments by spending less than the estimated amounts  
2 specified in subsection (b) of this Section. The Commission  
3 shall, after notice and hearing, enter its order approving, or  
4 approving as modified, or denying each such petition within 150  
5 days after the filing of the petition.

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

1 established pursuant to subparagraphs (5) through (8) of  
2 subsection (f) of this Section, and the Commission may modify  
3 the metrics and incremental savings goals established pursuant  
4 to subsection (f) of this Section accordingly.

5 (b-10) All participating utilities shall make  
6 contributions for an energy low-income and support program in  
7 accordance with this subsection. Beginning no later than 180  
8 days after a participating utility files a performance-based  
9 formula rate tariff pursuant to subsection (c) of this Section,  
10 or beginning no later than January 1, 2012 if such utility  
11 files such performance-based formula rate tariff within 14 days  
12 of the effective date of this amendatory Act of the 97th  
13 General Assembly, and without obtaining any approvals from the  
14 Commission or any other agency other than as set forth in this  
15 Section, regardless of whether any such approval would  
16 otherwise be required, a participating utility other than a  
17 combination utility shall pay \$10,000,000 per year for 5 years  
18 and a participating utility that is a combination utility shall  
19 pay \$1,000,000 per year for 10 years to the energy low-income  
20 and support program, which is intended to fund customer  
21 assistance programs with the primary purpose being avoidance of  
22 imminent disconnection. Such programs may include:

23 (1) a residential hardship program that may partner  
24 with community-based organizations, including senior  
25 citizen organizations, and provides grants to low-income  
26 residential customers, including low-income senior

1 citizens, who demonstrate a hardship;

2 (2) a program that provides grants and other bill  
3 payment concessions to disabled veterans who demonstrate a  
4 hardship and members of the armed services or reserve  
5 forces of the United States or members of the Illinois  
6 National Guard who are on active duty pursuant to an  
7 executive order of the President of the United States, an  
8 act of the Congress of the United States, or an order of  
9 the Governor and who demonstrate a hardship;

10 (3) a budget assistance program that provides tools and  
11 education to low-income senior citizens to assist them with  
12 obtaining information regarding energy usage and effective  
13 means of managing energy costs;

14 (4) a non-residential special hardship program that  
15 provides grants to non-residential customers such as small  
16 businesses and non-profit organizations that demonstrate a  
17 hardship, including those providing services to senior  
18 citizen and low-income customers; and

19 (5) a performance-based assistance program that  
20 provides grants to encourage residential customers to make  
21 on-time payments by matching a portion of the customer's  
22 payments or providing credits towards arrearages.

23 The payments made by a participating utility pursuant to  
24 this subsection (b-10) shall not be a recoverable expense. A  
25 participating utility may elect to fund either new or existing  
26 customer assistance programs, including, but not limited to,

1 those that are administered by the utility.

2 Programs that use funds that are provided by a  
3 participating utility to reduce utility bills may be  
4 implemented through tariffs that are filed with and reviewed by  
5 the Commission. If a utility elects to file tariffs with the  
6 Commission to implement all or a portion of the programs, those  
7 tariffs shall, regardless of the date actually filed, be deemed  
8 accepted and approved, and shall become effective on the  
9 effective date of this amendatory Act of the 97th General  
10 Assembly. The participating utilities whose customers benefit  
11 from the funds that are disbursed as contemplated in this  
12 Section shall file annual reports documenting the disbursement  
13 of those funds with the Commission. The Commission has the  
14 authority to audit disbursement of the funds to ensure they  
15 were disbursed consistently with this Section.

16 If the Commission finds that a participating utility is no  
17 longer eligible to update the performance-based formula rate  
18 tariff pursuant to subsection (d) of this Section, or the  
19 performance-based formula rate is otherwise terminated, then  
20 the participating utility's voluntary commitments and  
21 obligations under this subsection (b-10) shall immediately  
22 terminate.

23 (c) A participating utility may elect to recover its  
24 delivery services costs through a performance-based formula  
25 rate approved by the Commission, which shall specify the cost  
26 components that form the basis of the rate charged to customers

1 with sufficient specificity to operate in a standardized manner  
2 and be updated annually with transparent information that  
3 reflects the utility's actual costs to be recovered during the  
4 applicable rate year, which is the period beginning with the  
5 first billing day of January and extending through the last  
6 billing day of the following December. In the event the utility  
7 recovers a portion of its costs through automatic adjustment  
8 clause tariffs on the effective date of this amendatory Act of  
9 the 97th General Assembly, the utility may elect to continue to  
10 recover these costs through such tariffs, but then these costs  
11 shall not be recovered through the performance-based formula  
12 rate. In the event the participating utility, prior to the  
13 effective date of this amendatory Act of the 97th General  
14 Assembly, filed electric delivery services tariffs with the  
15 Commission pursuant to Section 9-201 of this Act that are  
16 related to the recovery of its electric delivery services costs  
17 that are still pending on the effective date of this amendatory  
18 Act of the 97th General Assembly, the participating utility  
19 shall, at the time it files its performance-based formula rate  
20 tariff with the Commission, also file a notice of withdrawal  
21 with the Commission to withdraw the electric delivery services  
22 tariffs previously filed pursuant to Section 9-201 of this Act.  
23 Upon receipt of such notice, the Commission shall dismiss with  
24 prejudice any docket that had been initiated to investigate the  
25 electric delivery services tariffs filed pursuant to Section  
26 9-201 of this Act, and such tariffs and the record related

1 thereto shall not be the subject of any further hearing,  
2 investigation, or proceeding of any kind related to rates for  
3 electric delivery services.

4 The performance-based formula rate shall be implemented  
5 through a tariff filed with the Commission consistent with the  
6 provisions of this subsection (c) that shall be applicable to  
7 all delivery services customers. The Commission shall initiate  
8 and conduct an investigation of the tariff in a manner  
9 consistent with the provisions of this subsection (c) and the  
10 provisions of Article IX of this Act to the extent they do not  
11 conflict with this subsection (c). Except in the case where the  
12 Commission finds, after notice and hearing, that a  
13 participating utility is not satisfying its investment amount  
14 commitments under subsection (b) of this Section, the  
15 performance-based formula rate shall remain in effect at the  
16 discretion of the utility. The performance-based formula rate  
17 approved by the Commission shall do the following:

18 (1) Provide for the recovery of the utility's actual  
19 costs of delivery services that are prudently incurred and  
20 reasonable in amount consistent with Commission practice  
21 and law. The sole fact that a cost differs from that  
22 incurred in a prior calendar year or that an investment is  
23 different from that made in a prior calendar year shall not  
24 imply the imprudence or unreasonableness of that cost or  
25 investment.

26 (2) Reflect the utility's actual capital structure for

1 the applicable calendar year, excluding goodwill, subject  
2 to a determination of prudence and reasonableness  
3 consistent with Commission practice and law.

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

6 (A) the average for the applicable calendar year of  
7 the monthly average yields of 30-year U.S. Treasury  
8 bonds published by the Board of Governors of the  
9 Federal Reserve System in its weekly H.15 Statistical  
10 Release or successor publication; and

11 (B) 580 ~~600~~ basis points.

12 At such time as the Board of Governors of the Federal  
13 Reserve System ceases to include the monthly average yields  
14 of 30-year U.S. Treasury bonds in its weekly H.15  
15 Statistical Release or successor publication, the monthly  
16 average yields of the U.S. Treasury bonds then having the  
17 longest duration published by the Board of Governors in its  
18 weekly H.15 Statistical Release or successor publication  
19 shall instead be used for purposes of this paragraph (3).

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

23 (A) recovery of incentive compensation expense  
24 that is based on the achievement of operational  
25 metrics, including metrics related to budget controls,  
26 outage duration and frequency, safety, customer



1 service, efficiency and productivity, and  
2 environmental compliance. Incentive compensation  
3 expense that is based on net income or an affiliate's  
4 earnings per share shall not be recoverable under the  
5 performance-based formula rate;

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

9 (C) recovery of severance costs, provided that if  
10 the amount is over \$3,700,000 for a participating  
11 utility that is a combination utility or \$10,000,000  
12 for a participating utility that serves more than 3  
13 million retail customers, then the full amount shall be  
14 amortized consistent with subparagraph (F) of this  
15 paragraph (4);

16 (D) investment return on pension assets net of  
17 deferred tax benefits equal to the utility's long-term  
18 debt cost of capital as of the end of the applicable  
19 calendar year;

20 (E) recovery of the expenses related to the  
21 Commission proceeding under this subsection (c) to  
22 approve this performance-based formula rate and  
23 initial rates or to subsequent proceedings related to  
24 the formula, provided that the recovery shall be  
25 amortized over a 3-year period; recovery of expenses  
26 related to the annual Commission proceedings under

1 subsection (d) of this Section to review the inputs to  
2 the performance-based formula rate shall be expensed  
3 and recovered through the performance-based formula  
4 rate;

5 (F) amortization over a 5-year period of the full  
6 amount of each charge or credit that exceeds \$3,700,000  
7 for a participating utility that is a combination  
8 utility or \$10,000,000 for a participating utility  
9 that serves more than 3 million retail customers in the  
10 applicable calendar year and that relates to a  
11 workforce reduction program's severance costs, changes  
12 in accounting rules, changes in law, compliance with  
13 any Commission-initiated audit, or a single storm or  
14 other similar expense, provided that any unamortized  
15 balance shall be reflected in rate base. For purposes  
16 of this subparagraph (F), changes in law includes any  
17 enactment, repeal, or amendment in a law, ordinance,  
18 rule, regulation, interpretation, permit, license,  
19 consent, or order, including those relating to taxes,  
20 accounting, or to environmental matters, or in the  
21 interpretation or application thereof by any  
22 governmental authority occurring after the effective  
23 date of this amendatory Act of the 97th General  
24 Assembly;

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

1           (H) historical weather normalized billing  
2           determinants; and

3           (I) allocation methods for common costs.

4           (5) Provide that if the participating utility's earned  
5           rate of return on common equity related to the provision of  
6           delivery services for the prior rate year (calculated using  
7           costs and capital structure approved by the Commission as  
8           provided in subparagraph (2) of this subsection (c),  
9           consistent with this Section, in accordance with  
10          Commission rules and orders, including, but not limited to,  
11          adjustments for goodwill, and after any Commission-ordered  
12          disallowances and taxes) is more than 50 basis points  
13          higher than the rate of return on common equity calculated  
14          pursuant to paragraph (3) of this subsection (c) (after  
15          adjusting for any penalties to the rate of return on common  
16          equity applied pursuant to the performance metrics  
17          provision of subsection (f) of this Section), then the  
18          participating utility shall apply a credit through the  
19          performance-based formula rate that reflects an amount  
20          equal to the value of that portion of the earned rate of  
21          return on common equity that is more than 50 basis points  
22          higher than the rate of return on common equity calculated  
23          pursuant to paragraph (3) of this subsection (c) (after  
24          adjusting for any penalties to the rate of return on common  
25          equity applied pursuant to the performance metrics  
26          provision of subsection (f) of this Section) for the prior

1 rate year, adjusted for taxes. If the participating  
2 utility's earned rate of return on common equity related to  
3 the provision of delivery services for the prior rate year  
4 (calculated using costs and capital structure approved by  
5 the Commission as provided in subparagraph (2) of this  
6 subsection (c), consistent with this Section, in  
7 accordance with Commission rules and orders, including,  
8 but not limited to, adjustments for goodwill, and after any  
9 Commission-ordered disallowances and taxes) is more than  
10 50 basis points less than the return on common equity  
11 calculated pursuant to paragraph (3) of this subsection (c)  
12 (after adjusting for any penalties to the rate of return on  
13 common equity applied pursuant to the performance metrics  
14 provision of subsection (f) of this Section), then the  
15 participating utility shall apply a charge through the  
16 performance-based formula rate that reflects an amount  
17 equal to the value of that portion of the earned rate of  
18 return on common equity that is more than 50 basis points  
19 less than the rate of return on common equity calculated  
20 pursuant to paragraph (3) of this subsection (c) (after  
21 adjusting for any penalties to the rate of return on common  
22 equity applied pursuant to the performance metrics  
23 provision of subsection (f) of this Section) for the prior  
24 rate year, adjusted for taxes.

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

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

8 The utility shall file, together with its tariff, final  
9 data based on its most recently filed FERC Form 1, plus  
10 projected plant additions and correspondingly updated  
11 depreciation reserve and expense for the calendar year in which  
12 the tariff and data are filed, that shall populate the  
13 performance-based formula rate and set the initial delivery  
14 services rates under the formula. For purposes of this Section,  
15 "FERC Form 1" means the Annual Report of Major Electric  
16 Utilities, Licensees and Others that electric utilities are  
17 required to file with the Federal Energy Regulatory Commission  
18 under the Federal Power Act, Sections 3, 4(a), 304 and 209,  
19 modified as necessary to be consistent with 83 Ill. Admin. Code  
20 Part 415 as of May 1, 2011. Nothing in this Section is intended  
21 to allow costs that are not otherwise recoverable to be  
22 recoverable by virtue of inclusion in FERC Form 1.

23 After the utility files its proposed performance-based  
24 formula rate structure and protocols and initial rates, the  
25 Commission shall initiate a docket to review the filing. The  
26 Commission shall enter an order approving, or approving as

1 modified, the performance-based formula rate, including the  
2 initial rates, as just and reasonable within 270 days after the  
3 date on which the tariff was filed, or, if the tariff is filed  
4 within 14 days after the effective date of this amendatory Act  
5 of the 97th General Assembly, then by May 31, 2012. Such review  
6 shall be based on the same evidentiary standards, including,  
7 but not limited to, those concerning the prudence and  
8 reasonableness of the costs incurred by the utility, the  
9 Commission applies in a hearing to review a filing for a  
10 general increase in rates under Article IX of this Act. The  
11 initial rates shall take effect within 30 days after the  
12 Commission's order approving the performance-based formula  
13 rate tariff.

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

20       Subsequent changes to the performance-based formula rate  
21 structure or protocols shall be made as set forth in Section  
22 9-201 of this Act, but nothing in this subsection (c) is  
23 intended to limit the Commission's authority under Article IX  
24 and other provisions of this Act to initiate an investigation  
25 of a participating utility's performance-based formula rate  
26 tariff, provided that any such changes shall be consistent with

1 paragraphs (1) through (6) of this subsection (c). Any change  
2 ordered by the Commission shall be made at the same time new  
3 rates take effect following the Commission's next order  
4 pursuant to subsection (d) of this Section, provided that the  
5 new rates take effect no less than 30 days after the date on  
6 which the Commission issues an order adopting the change.

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

11 In the event the performance-based formula rate is  
12 terminated, the then current rates shall remain in effect until  
13 such time as new rates are set pursuant to Article IX of this  
14 Act, subject to retroactive rate adjustment, with interest, to  
15 reconcile rates charged with actual costs. At such time that  
16 the performance-based formula rate is terminated, the  
17 participating utility's voluntary commitments and obligations  
18 under subsection (b) of this Section shall immediately  
19 terminate, except for the utility's obligation to pay an amount  
20 already owed to the fund for training grants pursuant to a  
21 Commission order issued under subsection (b) of this Section.

22 (d) Subsequent to the Commission's issuance of an order  
23 approving the utility's performance-based formula rate  
24 structure and protocols, and initial rates under subsection (c)  
25 of this Section, the utility shall file, on or before May 1 of  
26 each year, with the Chief Clerk of the Commission its updated

1 cost inputs to the performance-based formula rate for the  
2 applicable rate year and the corresponding new charges. Each  
3 such filing shall conform to the following requirements and  
4 include the following information:

5 (1) The inputs to the performance-based formula rate  
6 for the applicable rate year shall be based on final  
7 historical data reflected in the utility's most recently  
8 filed annual FERC Form 1 plus projected plant additions and  
9 correspondingly updated depreciation reserve and expense  
10 for the calendar year in which the inputs are filed. The  
11 filing shall also include a reconciliation of the revenue  
12 requirement that was in effect for the prior rate year (as  
13 set by the cost inputs for the prior rate year) with the  
14 actual revenue requirement for the prior rate year (as  
15 reflected in the applicable FERC Form 1 that reports the  
16 actual costs for the prior rate year). Any over-collection  
17 or under-collection indicated by such reconciliation shall  
18 be reflected as a credit against, or recovered as an  
19 additional charge to, respectively, with interest, the  
20 charges for the applicable rate year. Provided, however,  
21 that the first such reconciliation shall be for the  
22 calendar year in which the utility files its  
23 performance-based formula rate tariff pursuant to  
24 subsection (c) of this Section and shall reconcile (i) the  
25 revenue requirement or requirements established by the  
26 rate order or orders in effect from time to time during



1 such calendar year (weighted, as applicable) with (ii) the  
2 revenue requirement for that calendar year calculated  
3 pursuant to the performance-based formula rate using (A)  
4 actual costs for that year as reflected in the applicable  
5 FERC Form 1, and (B) for the first such reconciliation  
6 only, the cost of equity, which shall be calculated as the  
7 sum of 590 basis points plus the average for the applicable  
8 calendar year of the monthly average yields of 30-year U.S.  
9 Treasury bonds published by the Board of Governors of the  
10 Federal Reserve System in its weekly H.15 Statistical  
11 Release or successor publication approved by the  
12 ~~Commission in such order or orders in effect during that~~  
13 ~~year (weighted, as applicable).~~ The first such  
14 reconciliation is not intended to provide for the recovery  
15 of costs previously excluded from rates based on a prior  
16 Commission order finding of imprudence or  
17 unreasonableness. Each reconciliation shall be certified  
18 by the participating utility in the same manner that FERC  
19 Form 1 is certified. The filing shall also include the  
20 charge or credit, if any, resulting from the calculation  
21 required by paragraph (6) of subsection (c) of this  
22 Section.

23 Notwithstanding anything that may be to the contrary,  
24 the intent of the reconciliation is to ultimately reconcile  
25 the revenue requirement reflected in rates for each  
26 calendar year, beginning with the calendar year in which

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

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

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

25 Within 45 days after the utility files its annual update of  
26 cost inputs to the performance-based formula rate, the

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

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

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

17    A participating utility's first filing of the updated cost  
18    inputs, and any Commission investigation of such inputs  
19    pursuant to this subsection (d) shall proceed notwithstanding  
20    the fact that the Commission's investigation under subsection  
21    (c) of this Section is still pending and notwithstanding any  
22    other law, order, rule, or Commission practice to the contrary.

23    (e) Nothing in subsections (c) or (d) of this Section shall  
24    prohibit the Commission from investigating, or a participating  
25    utility from filing, revenue-neutral tariff changes related to  
26    rate design of a performance-based formula rate that has been

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

20 (f) Within 30 days after the filing of a tariff pursuant to  
21 subsection (c) of this Section, each participating utility  
22 shall develop and file with the Commission multi-year metrics  
23 designed to achieve, ratably (i.e., in equal segments) over a  
24 10-year period, improvement over baseline performance values  
25 as follows:

26 (1) Twenty percent improvement in the System Average

1 Interruption Frequency Index, using a baseline of the  
2 average of the data from 2001 through 2010.

3 (2) Fifteen percent improvement in the system Customer  
4 Average Interruption Duration Index, using a baseline of  
5 the average of the data from 2001 through 2010.

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

14 (3.5) For a participating utility other than a  
15 combination utility, 20% improvement in the System Average  
16 Interruption Frequency Index for its Northeastern Region,  
17 using a baseline of the average of the data from 2001  
18 through 2010. For purposes of this paragraph (3.5),  
19 Northeastern Region shall have the meaning set forth in the  
20 participating utility's most recent report filed pursuant  
21 to Section 16-125 of this Act.

22 (4) Seventy-five percent improvement in the total  
23 number of customers who exceed the service reliability  
24 targets as set forth in subparagraphs (A) through (C) of  
25 paragraph (4) of subsection (b) of 83 Ill. Admin. Code Part  
26 411.140 as of May 1, 2011, using 2010 as the baseline year.

1           (5) Reduction in issuance of estimated electric bills:  
2           90% improvement for a participating utility other than a  
3           combination utility, and 56% improvement for a  
4           participating utility that is a combination utility, using  
5           a baseline of the average number of estimated bills for the  
6           years 2008 through 2010.

7           (6) Consumption on inactive meters: 90% improvement  
8           for a participating utility other than a combination  
9           utility, and 56% improvement for a participating utility  
10          that is a combination utility, using a baseline of the  
11          average unbilled kilowatthours for the years 2009 and 2010.

12          (7) Unaccounted for energy: 50% improvement for a  
13          participating utility other than a combination utility  
14          using a baseline of the non-technical line loss unaccounted  
15          for energy kilowatthours for the year 2009.

16          (8) Uncollectible expense: reduce uncollectible  
17          expense by at least \$30,000,000 for a participating utility  
18          other than a combination utility and by at least \$3,500,000  
19          for a participating utility that is a combination utility,  
20          using a baseline of the average uncollectible expense for  
21          the years 2008 through 2010.

22          (9) Opportunities for minority-owned and female-owned  
23          business enterprises: design a performance metric  
24          regarding the creation of opportunities for minority-owned  
25          and female-owned business enterprises consistent with  
26          State and federal law using a base performance value of the

1 percentage of the participating utility's capital  
2 expenditures that were paid to minority-owned and  
3 female-owned business enterprises in 2010.

4 The definitions set forth in 83 Ill. Admin. Code Part  
5 411.20 as of May 1, 2011 shall be used for purposes of  
6 calculating performance under paragraphs (1) through (3.5) ~~(3)~~  
7 of this subsection (f), provided, however, that the  
8 participating utility may exclude up to 9 extreme weather event  
9 days from such calculation for each year, and provided further  
10 that the participating utility shall exclude 9 extreme weather  
11 event days when calculating each year of the baseline period to  
12 the extent that there are 9 such days in a given year of the  
13 baseline period. For purposes of this Section, an extreme  
14 weather event day is a 24-hour calendar day (beginning at 12:00  
15 a.m. and ending at 11:59 p.m.) during which any weather event  
16 (e.g., storm, tornado) caused interruptions for 10,000 or more  
17 of the participating utility's customers for 3 hours or more.  
18 If there are more than 9 extreme weather event days in a year,  
19 then the utility may choose no more than 9 extreme weather  
20 event days to exclude, provided that the same extreme weather  
21 event days are excluded from each of the calculations performed  
22 under paragraphs (1) through (3.5) ~~(3)~~ of this subsection (f).

23 The metrics shall include incremental performance goals  
24 for each year of the 10-year period, which shall be designed to  
25 demonstrate that the utility is on track to achieve the  
26 performance goal in each category at the end of the 10-year



1 period. The utility shall elect when the 10-year period shall  
2 commence for the metrics set forth in subparagraphs (1) through  
3 (4) and (9) of this subsection (f), provided that it begins no  
4 later than 14 months following the date on which the utility  
5 begins investing pursuant to subsection (b) of this Section,  
6 and when the 10-year period shall commence for the metrics set  
7 forth in subparagraphs (5) through (8) of this subsection (f),  
8 provided that it begins no later than 14 months following the  
9 date on which the Commission enters its order approving the  
10 utility's Advanced Metering Infrastructure Deployment Plan  
11 pursuant to subsection (c) of Section 16-108.6 of this Act.

12 The metrics and performance goals set forth in  
13 subparagraphs (5) through (8) of this subsection (f) are based  
14 on the assumptions that the participating utility may fully  
15 implement the technology described in subsection (b) of this  
16 Section, including utilizing the full functionality of such  
17 technology and that there is no requirement for personal  
18 on-site notification. If the utility is unable to meet the  
19 metrics and performance goals set forth in subparagraphs (5)  
20 through (8) of this subsection (f) for such reasons, and the  
21 Commission so finds after notice and hearing, then the utility  
22 shall be excused from compliance, but only to the limited  
23 extent achievement of the affected metrics and performance  
24 goals was hindered by the less than full implementation.

25 (f-5) The financial penalties applicable to the metrics  
26 described in subparagraphs (1) through (8) of subsection (f) of

1 this Section, as applicable, shall be applied through an  
2 adjustment to the participating utility's return on equity of  
3 no more than a total of 30 basis points in each of the first 3  
4 years, of no more than a total of 34 basis points in each of the  
5 3 years thereafter, and of no more than a total of 38 basis  
6 points in each of the 4 years thereafter, as follows:

7 (1) With respect to each of the incremental annual  
8 performance goals established pursuant to paragraph (1) of  
9 subsection (f) of this Section,

10 (A) for each year that a participating utility  
11 other than a combination utility does not achieve the  
12 annual goal, the participating utility's return on  
13 equity shall be reduced as follows: during years 1  
14 through 3, by 5 basis points; during years 4 through 6,  
15 by 6 basis points; and during years 7 through 10, by 7  
16 basis points; ~~for such unachieved goal for the~~  
17 ~~following 12-month period,~~ and

18 (B) for each year that a participating utility that  
19 is a combination utility does not achieve the annual  
20 goal, the participating utility's return on equity  
21 shall be reduced as follows: during years 1 through 3,  
22 by 10 basis points; during years 4 through 6, by 12  
23 basis points; and during years 7 through 10, by 14  
24 basis points ~~for each such unachieved goal for the~~  
25 ~~following 12-month period.~~

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

1 performance goals established pursuant to paragraph  
2 ~~subparagraphs (2), (3), and (4)~~ of subsection (f) of this  
3 Section, ~~as applicable,~~ for each year that the  
4 participating utility does not achieve each such goal, the  
5 participating utility's return on equity shall be reduced  
6 as follows: during years 1 through 3, by 5 basis points;  
7 during years 4 through 6, by 6 basis points; and during  
8 years 7 through 10, by 7 basis points ~~for each such~~  
9 ~~unachieved goal for the following 12-month period.~~

10 (3) With respect to each of the incremental annual  
11 performance goals established pursuant to paragraphs (3)  
12 and (3.5) of subsection (f) of this Section, for each year  
13 that a participating utility other than a combination  
14 utility does not achieve both such goals, the participating  
15 utility's return on equity shall be reduced as follows:  
16 during years 1 through 3, by 5 basis points; during years 4  
17 through 6, by 6 basis points; and during years 7 through  
18 10, by 7 basis points.

19 (4) With respect to each of the incremental annual  
20 performance goals established pursuant to paragraph (4) of  
21 subsection (f) of this Section, for each year that the  
22 participating utility does not achieve each such goal, the  
23 participating utility's return on equity shall be reduced  
24 as follows: during years 1 through 3, by 5 basis points;  
25 during years 4 through 6, by 6 basis points; and during  
26 years 7 through 10, by 7 basis points.

1           (5) With respect to each of the incremental annual  
2 performance goals established pursuant to subparagraph (5)  
3 of subsection (f) of this Section, for each year that the  
4 participating utility does not achieve at least 95% of each  
5 such goal, the participating utility's return on equity  
6 shall be reduced by 5 basis points for each such unachieved  
7 goal ~~for the following 12-month period.~~

8           (6) ~~(3)~~ With respect to each of the incremental annual  
9 performance goals established pursuant to paragraphs (6),  
10 (7), and (8) of subsection (f) of this Section, as  
11 applicable, which together measure non-operational  
12 customer savings and benefits relating to the  
13 implementation of the Advanced Metering Infrastructure  
14 Deployment Plan, as defined in Section 16-108.6 of this  
15 Act, the performance under each such goal shall be  
16 calculated in terms of the percentage of the goal achieved.  
17 The percentage of goal achieved for each of the goals shall  
18 be aggregated, and an average percentage value calculated,  
19 for each year of the 10-year period. If the utility does  
20 not achieve an average percentage value in a given year of  
21 at least 95%, the participating utility's return on equity  
22 shall be reduced by 5 basis points ~~for the following~~  
23 ~~12-month period.~~

24           The financial penalties shall be applied as described in  
25 this subsection (f-5) for the 12-month period in which the  
26 deficiency occurred through a separate tariff mechanism, which

1 shall be filed by the utility together with its metrics. In the  
2 event the formula rate tariff established pursuant to  
3 subsection (c) of this Section terminates, the utility's  
4 obligations under subsection (f) of this Section and this  
5 subsection (f-5) shall also terminate, provided, however, that  
6 the tariff mechanism established pursuant to subsection (f) of  
7 this Section and this subsection (f-5) shall remain in effect  
8 until any penalties due and owing at the time of such  
9 termination are applied.

10 The Commission shall, after notice and hearing, enter an  
11 order within 120 days after the metrics are filed approving, or  
12 approving with modification, a participating utility's tariff  
13 or mechanism to satisfy the metrics set forth in subsection (f)  
14 of this Section. On June 1 of each subsequent year, each  
15 participating utility shall file a report with the Commission  
16 that includes, among other things, a description of how the  
17 participating utility performed under each metric and an  
18 identification of any extraordinary events that adversely  
19 impacted the utility's performance. Whenever a participating  
20 utility does not satisfy the metrics required pursuant to  
21 subsection (f) of this Section, the Commission shall, after  
22 notice and hearing, enter an order approving financial  
23 penalties in accordance with this subsection (f-5). The  
24 Commission-approved financial penalties shall be applied  
25 beginning with the next rate year. Nothing in this Section  
26 shall authorize the Commission to reduce or otherwise obviate

1 the imposition of financial penalties for failing to achieve  
2 one or more of the metrics established pursuant to subparagraph  
3 (1) through (4) of subsection (f) of this Section.

4 (g) On or before July 31, 2014, each participating utility  
5 shall file a report with the Commission that sets forth the  
6 average annual increase in the average amount paid per  
7 kilowatthour for residential eligible retail customers,  
8 exclusive of the effects of energy efficiency programs,  
9 comparing the 12-month period ending May 31, 2012; the 12-month  
10 period ending May 31, 2013; and the 12-month period ending May  
11 31, 2014. For a participating utility that is a combination  
12 utility with more than one rate zone, the weighted average  
13 aggregate increase shall be provided. The report shall be filed  
14 together with a statement from an independent auditor attesting  
15 to the accuracy of the report. The cost of the independent  
16 auditor shall be borne by the participating utility and shall  
17 not be a recoverable expense.

18 In the event that the average annual increase exceeds 2.5%  
19 as calculated pursuant to this subsection (g), then Sections  
20 16-108.5, 16-108.6, 16-108.7, and 16-108.8 of this Act, other  
21 than this subsection, shall be inoperative as they relate to  
22 the utility and its service area as of the date of the report  
23 due to be submitted pursuant to this subsection and the utility  
24 shall no longer be eligible to annually update the  
25 performance-based formula rate tariff pursuant to subsection  
26 (d) of this Section. In such event, the then current rates

1 shall remain in effect until such time as new rates are set  
2 pursuant to Article IX of this Act, subject to retroactive  
3 adjustment, with interest, to reconcile rates charged with  
4 actual costs, and the participating utility's voluntary  
5 commitments and obligations under subsection (b) of this  
6 Section shall immediately terminate, except for the utility's  
7 obligation to pay an amount already owed to the fund for  
8 training grants pursuant to a Commission order issued under  
9 subsection (b) of this Section.

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

14 For purposes of this Section, the amount per kilowatthour  
15 means the total amount paid for electric service expressed on a  
16 per kilowatthour basis, and the total amount paid for electric  
17 service includes without limitation amounts paid for supply,  
18 transmission, distribution, surcharges, and add-on taxes  
19 exclusive of any increases in taxes or new taxes imposed after  
20 the effective date of this amendatory Act of the 97th General  
21 Assembly. For purposes of this Section, "eligible retail  
22 customers" shall have the meaning set forth in Section 16-111.5  
23 of this Act.

24 The fact that this Section becomes inoperative as set forth  
25 in this subsection shall not be construed to mean that the  
26 Commission may reexamine or otherwise reopen prudence or

1 reasonableness determinations already made.

2 (h) Sections 16-108.5, 16-108.6, 16-108.7, and 16-108.8 of  
3 this Act, other than this subsection, are inoperative after  
4 December 31, 2017 for every participating utility, after which  
5 time a participating utility shall no longer be eligible to  
6 annually update the performance-based formula rate tariff  
7 pursuant to subsection (d) of this Section. At such time, the  
8 then current rates shall remain in effect until such time as  
9 new rates are set pursuant to Article IX of this Act, subject  
10 to retroactive adjustment, with interest, to reconcile rates  
11 charged with actual costs.

12 By December 31, 2017, the Commission shall prepare and file  
13 with the General Assembly a report on the infrastructure  
14 program and the performance-based formula rate. The report  
15 shall include the change in the average amount per kilowatthour  
16 paid by residential customers between June 1, 2011 and May 31,  
17 2017. If the change in the total average rate paid exceeds 2.5%  
18 compounded annually, the Commission shall include in the report  
19 an analysis that shows the portion of the change due to the  
20 delivery services component and the portion of the change due  
21 to the supply component of the rate. The report shall include  
22 separate sections for each participating utility.

23 In the event Sections 16-108.5, 16-108.6, 16-108.7, and  
24 16-108.8 of this Act do not become inoperative after December  
25 31, 2017, then these Sections are inoperative after December  
26 31, 2022 for every participating utility, after which time a



1 participating utility shall no longer be eligible to annually  
2 update the performance-based formula rate tariff pursuant to  
3 subsection (d) of this Section. At such time, the then current  
4 rates shall remain in effect until such time as new rates are  
5 set pursuant to Article IX of this Act, subject to retroactive  
6 adjustment, with interest, to reconcile rates charged with  
7 actual costs.

8 The fact that this Section becomes inoperative as set forth  
9 in this subsection shall not be construed to mean that the  
10 Commission may reexamine or otherwise reopen prudence or  
11 reasonableness determinations already made.

12 (i) While a participating utility may use, develop, and  
13 maintain broadband systems and the delivery of broadband  
14 services, voice-over-internet-protocol services,  
15 telecommunications services, and cable and video programming  
16 services for use in providing delivery services and Smart Grid  
17 functionality or application to its retail customers,  
18 including, but not limited to, the installation,  
19 implementation and maintenance of Smart Grid electric system  
20 upgrades as defined in Section 16-108.6 of this Act, a  
21 participating utility is prohibited from offering to its retail  
22 customers broadband services or the delivery of broadband  
23 services, voice-over-internet-protocol services,  
24 telecommunications services, or cable or video programming  
25 services, unless they are part of a service directly related to  
26 delivery services or Smart Grid functionality or applications

1 as defined in Section 16-108.6 of this Act, and from recovering  
2 the costs of such offerings from retail customers.

3 (j) Nothing in this Section is intended to legislatively  
4 overturn the opinion issued in Commonwealth Edison Co. v. Ill.  
5 Commerce Comm'n, Nos. 2-08-0959, 2-08-1037, 2-08-1137,  
6 1-08-3008, 1-08-3030, 1-08-3054, 1-08-3313 cons. (Ill. App.  
7 Ct. 2d Dist. Sept. 30, 2010). This amendatory Act of the 97th  
8 General Assembly shall not be construed as creating a contract  
9 between the General Assembly and the participating utility, and  
10 shall not establish a property right in the participating  
11 utility.

12 (Source: 09700SB1652enr.)

13 (220 ILCS 5/16-108.6)

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

16 (a) For purposes of this Section and Sections 16-108.7 and  
17 16-108.8 of this Act:

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

25 "Cost-beneficial" means a determination that the benefits

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

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

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

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

1           (2) Dynamic optimization of grid operations and  
2 resources, with full cyber security.

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

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

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

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

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

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

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

24           (10) Identification and lowering of unreasonable or  
25 unnecessary barriers to adoption of Smart Grid  
26 technologies, practices, services, and business models

1           that support energy efficiency, demand-response, and  
2           distributed generation.

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

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

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

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

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

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

22           (5) substation micro-processor relay upgrades;

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

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

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

10 "Smart Grid functions" means:

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

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

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

1 report that information by digital means;

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

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

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

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

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

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

25 (b) Within 30 days after the effective date of this  
26 amendatory Act of the 97th General Assembly, the Smart Grid

1 Advisory Council shall be established, which shall consist of 9  
2 7 total voting members with each member possessing either  
3 technical, business or consumer expertise in Smart Grid issues,  
4 5 of whom shall be appointed by ~~and each having been the single~~  
5 ~~appointment of one of the following:~~ the Governor, one of whom  
6 shall be appointed by the Speaker of the House, one of whom  
7 shall be appointed by the Minority Leader of the House, one of  
8 whom shall be appointed by the President of the Senate, and one  
9 of whom shall be appointed by the Minority Leader of the  
10 Senate. Of the Governor's 5 appointments: (i) at least one must  
11 represent a non-profit membership organization whose mission  
12 is to cultivate innovation and technology-based economic  
13 development in Illinois by fostering public-private  
14 partnerships to develop and execute research and development  
15 projects, advocating for funding for research and development  
16 initiatives, and collaborating with public and private  
17 partners to attract and retain research and development  
18 resources and talent in Illinois; (ii) at least one must  
19 represent a non-profit public body corporate and politic  
20 created by law that has a duty to represent and protect  
21 residential utility consumers in Illinois; (iii) at least one  
22 must represent a membership organization that represents the  
23 interests of individuals and companies that own, operate,  
24 manage, and service commercial buildings in a municipality with  
25 a population of 1,000,000 or more inhabitants; (iv) at least  
26 one must represent an alternative retail electric supplier that



1 has obtained a certificate of service authority pursuant to  
2 Section 16-115 of this Act and that is not an affiliate of a  
3 participating utility prior to one year after the effective  
4 date of this amendatory Act of the 97th General Assembly, ~~the~~  
5 ~~Illinois Science and Technology Coalition, and the Citizens~~  
6 ~~Utility Board.~~

7 The Governor shall designate one of the members of the  
8 Council to serve as chairman, and that person shall serve as  
9 the chairman at the pleasure of the Governor. The members shall  
10 not be compensated for serving on the Smart Grid Advisory  
11 Council. The Smart Grid Advisory Council shall have the  
12 following duties:

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

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

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

1 utility as defined in Section 16-108.5, by April 1, 2012,  
2 provided that a participating utility shall not file its plan  
3 until the evaluation report on the Pilot Program described in  
4 this subsection (c) is issued. The AMI Plan shall provide for  
5 investment over a 10-year period that is sufficient to  
6 implement the AMI Plan across its entire service territory in a  
7 manner that is consistent with subsection (b) of Section  
8 16-108.5 of this Act. The AMI Plan shall contain:

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

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

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

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

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

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

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

19          After notice and hearing, the Commission shall, within 60  
20          days of the filing of an AMI Plan, issue its order approving,  
21          or approving with modification, the AMI Plan if the Commission  
22          finds that the AMI Plan contains the information required in  
23          paragraphs (1) through (5) of this subsection (c) and further  
24          finds that the implementation of the AMI Plan will be  
25          cost-beneficial consistent with the principles established  
26          through the Illinois Smart Grid Collaborative, giving weight to

1 the results of any Commission-approved pilot designed to  
2 examine the benefits and costs of AMI deployment. A  
3 participating utility's decision to invest pursuant to an AMI  
4 Plan approved by the Commission shall not be subject to  
5 prudence reviews in subsequent Commission proceedings. Nothing  
6 in this subsection (c) is intended to limit the Commission's  
7 ability to review the reasonableness of the costs incurred  
8 under the AMI Plan. A participating utility shall be allowed to  
9 recover the reasonable costs it incurs in implementing a  
10 Commission-approved AMI Plan, including the costs of retired  
11 meters, and may recover such costs through its tariffs,  
12 including the performance-based formula rate tariff approved  
13 pursuant to subsection (c) of Section 16-108.5 of this Act.

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

1 utility receives revenues from the sale of information obtained  
2 through Smart Grid technology that is not personal information,  
3 the participating utility shall use such revenues to offset the  
4 revenue requirement.

5 (e) On April 1 of each year beginning in 2013 and after  
6 consultation with the Smart Grid Advisory Council, each  
7 participating utility shall submit a report regarding the  
8 progress it has made toward completing implementation of its  
9 AMI Plan. This report shall:

10 (1) describe the AMI investments made during the prior  
11 12 months and the AMI investments planned to be made in the  
12 following 12 months;

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

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

17 Within 21 days after the utility files its annual report,  
18 the Commission shall have authority, either upon complaint or  
19 its own initiative, but with reasonable notice, to enter upon  
20 an investigation regarding the utility's progress in  
21 implementing the AMI Plan as described in paragraph (1) of this  
22 subsection (e). If the Commission finds, after notice and  
23 hearing, that the participating utility's progress in  
24 implementing the AMI Plan is materially deficient for the given  
25 plan year, then the Commission shall issue an order requiring  
26 the participating utility to devise a corrective action plan,

1 subject to Commission approval and oversight, to bring  
2 implementation back on schedule consistent with the AMI Plan.  
3 The Commission's order must be entered within 90 days after the  
4 utility files its annual report. If the Commission does not  
5 initiate an investigation within 21 days after the utility  
6 files its annual report, then the filing shall be deemed  
7 accepted by the Commission. The utility shall not be required  
8 to suspend implementation of its AMI Plan during any Commission  
9 investigation.

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

24 (f) Each participating utility shall pay a pro rata share,  
25 based on number of customers, of \$5,000,000 per year to the  
26 trust or foundation established pursuant to Section 16-108.7 of

1 this Act for each plan year of the AMI Plan, which shall be  
2 used for purposes of providing customer education regarding  
3 smart meters and related consumer-facing technologies and  
4 services and 70% of which shall be a recoverable expense;  
5 provided that other reasonable amounts expended by the utility  
6 for such consumer education shall not be subject to the 70%  
7 limitation of this subsection.

8 (g) Within 60 days after the Commission approves a  
9 participating utility's AMI Plan pursuant to subsection (c) of  
10 this Section, the participating utility, after consultation  
11 with the Smart Grid Advisory Council, shall file a proposed  
12 tariff with the Commission that offers an opt-in market-based  
13 peak time rebate program to all residential retail customers  
14 with smart meters that is designed to provide, in a  
15 competitively neutral manner, rebates to those residential  
16 retail customers that curtail their use of electricity during  
17 specific periods that are identified as peak usage periods. The  
18 total amount of rebates shall be the amount of compensation the  
19 utility obtains through markets or programs at the applicable  
20 regional transmission organization. The utility shall make all  
21 reasonable attempts to secure funding for the peak time rebate  
22 program through markets or programs at the applicable regional  
23 transmission organization. The rules and procedures for  
24 consumers to opt-in to the peak time rebate program shall  
25 include electronic sign-up, be designed to maximize  
26 participation, and be included on the utility's website. The

1 Commission shall monitor the performance of programs  
2 established pursuant to this subsection (g) and shall order the  
3 termination or modification of a program if it determines that  
4 the program is not, after a reasonable period of time for  
5 development of at least 4 years, resulting in net benefits to  
6 the residential customers of the participating utility.

7 (h) If Section 16-108.5 of this Act becomes inoperative  
8 with respect to one or more participating utilities as set  
9 forth in subsection (g) or (h) of that Section, then Sections  
10 16-108.5, 16-108.6, 16-108.7, and 16-108.8 of this Act shall  
11 become inoperative as to each affected utility and its service  
12 area on the same date as Section 16-108.5 becomes inoperative.

13 (Source: 09700SB1652enr.)

14 (220 ILCS 5/16-108.7)

15 Sec. 16-108.7. Illinois Science and Energy Innovation  
16 Trust.

17 (a) Within 90 days of the effective date of this amendatory  
18 Act of the 97th General Assembly, the members of the Smart Grid  
19 Advisory Council established pursuant to Section 16-108.6 of  
20 this Act, or a majority of the members thereof, shall cause to  
21 be established an Illinois science and energy innovation trust  
22 or foundation for the purposes of providing financial and  
23 technical support and assistance to entities, public or  
24 private, within the State of Illinois including, but not  
25 limited to, units of State and local government, educational



1 and research institutions, corporations, and charitable,  
2 educational, environmental and community organizations, for  
3 programs and projects that support, encourage or utilize  
4 innovative technologies or other methods of modernizing the  
5 State's electric grid that will benefit the public by promoting  
6 economic development in Illinois. Such activities shall be  
7 supported through grants, loans, contracts, or other programs  
8 designed to assist and further benefit technological advances  
9 in the area of electric grid modernization and operation. The  
10 trust or foundation shall also be eligible for receipt of other  
11 energy and environmental grant opportunities, from public or  
12 private sources. The trust or foundation shall not be a  
13 governmental entity.

14 (b) Funds received by the trust or foundation pursuant to  
15 subsection (f) of Section 16-108.6 of this Act shall be used  
16 solely for the purpose of providing consumer education  
17 regarding smart meters and related consumer-facing  
18 technologies and services and the peak time rebate program  
19 described in subsection (g) of Section 16-108.6 of this Act.  
20 Thirty percent of such funds received from each participating  
21 utility shall be used by the trust or foundation for purposes  
22 of providing such education to each participating utility's  
23 low-income retail customers, including low-income senior  
24 citizens.

25 The trust or foundation shall use all funds received  
26 pursuant to subsection (f) of Section 16-108.6 of this Act in a

1 manner that reflects the unique needs and characteristics of  
2 each participating utility's service territory and in  
3 proportion to each participating utility's payment.

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

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

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

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

24 (4) A vacancy in the office of trustee shall be filled  
25 by the person holding the office responsible for appointing  
26 the trustee whose death or resignation creates the vacancy,

1 and a trustee appointed to fill a vacancy shall serve the  
2 remainder of the term of the trustee whose resignation or  
3 death created the vacancy.

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

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

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

26 (8) The trustees may create and appoint advisory boards

1 or committees to assist them with the administration of the  
2 trust or foundation, and to advise and make recommendations  
3 to them regarding the contribution and disbursement of the  
4 trust or foundation funds.

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

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

26 (11) One of the objectives of the trust or foundation

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

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

21 (e) If Section 16-108.5 of this Act becomes inoperative  
22 with respect to one or more participating utilities as set  
23 forth in subsection (g) or (h) of that Section, then Sections  
24 16-108.5, 16-108.6, 16-108.7, and 16-108.8 of this Act shall  
25 become inoperative as to each affected utility and its service  
26 area on the same date as Section 16-108.5 becomes inoperative.

1 (Source: 09700SB1652enr.)

2 (220 ILCS 5/16-128)

3 Sec. 16-128. Provisions related to utility employees  
4 ~~during the mandatory transition period.~~

5 (a) The General Assembly finds:

6 (1) The reliability and safety of the electric system  
7 has depended and depends on a workforce of skilled and  
8 dedicated employees, equipped with technical training and  
9 experience.

10 (2) The integrity and reliability of the system also  
11 requires the industry's commitment to invest in regular  
12 inspection and maintenance, to assure that it can withstand  
13 the demands of heavy service requirements and emergency  
14 situations.

15 (3) It is in the State's interest to protect the  
16 interests of utility employees who have and continue to  
17 dedicate themselves to assuring reliable service to the  
18 citizens of this State, and who might otherwise be  
19 economically displaced in a restructured industry.

20 The General Assembly further finds that it is necessary to  
21 assure that employees of electric utilities and employees of  
22 contractors or subcontractors performing work on behalf of an  
23 electric utility operating in the deregulated industry have the  
24 requisite skills, knowledge, training, experience, and  
25 competence to provide reliable and safe electrical service

1 under this Act .

2 The General Assembly also finds that it is necessary to  
3 assure that employees of alternative retail electric suppliers  
4 and employees of contractors or subcontractors performing work  
5 on behalf of an alternative retail electric supplier operating  
6 in the deregulated industry have the requisite skills,  
7 knowledge, training, experience, and competence to provide  
8 reliable and safe electrical service under this Act.

9 To ensure that these findings and prerequisites for  
10 reliable and safe electrical service continue to prevail, each  
11 alternative retail electric supplier, electric utility, and  
12 contractors and subcontractors performing work on behalf of an  
13 electric utility or alternative retail electric supplier must  
14 demonstrate the competence of their respective employees to  
15 work on the distribution system.

16 The knowledge, skill, training, experience, and competence  
17 levels to be demonstrated shall be consistent with those  
18 required of or by the electric utilities in this State as of  
19 January 1, 2007, with respect to their employees and employees  
20 of contractors or subcontractors performing work on their  
21 behalf. Nothing in this Section shall prohibit an electric  
22 utility from establishing knowledge, skill, training,  
23 experience, and competence levels greater than those required  
24 as of January 1, 2007.

25 An adequate demonstration of requisite knowledge, skill,  
26 training, experience, and competence shall include, at a

1 minimum, completion or current participation and ultimate  
2 completion by the employee of an accredited or otherwise  
3 recognized apprenticeship program for the particular craft,  
4 trade or skill, or specified and several years of employment  
5 performing a particular work function that is utilized by an  
6 electric utility.

7 Notwithstanding any law, tariff, Commission rule, order,  
8 or decision to the contrary, the Commission shall have an  
9 affirmative statutory obligation to ensure that an electric  
10 utility is employing employees, contractors, and  
11 subcontractors with employees who meet the requirements of  
12 subsection (a) of this Section when installing, constructing,  
13 operating, and maintaining generation, transmission, or  
14 distribution facilities and equipment within this State  
15 pursuant to any provision in this Act or any Commission order,  
16 rule, or decision.

17 For purposes of this Section, "distribution facilities and  
18 equipment" means any and all of the facilities and equipment,  
19 including, but not limited to, substations, distribution  
20 feeder circuits, switches, meters, protective equipment,  
21 primary circuits, distribution transformers, line extensions  
22 and service extensions both above or below ground, conduit,  
23 risers, elbows, transformer pads, junction boxes, manholes,  
24 pedestals, conductors, and all associated fittings that  
25 connect the transmission or distribution system to either the  
26 weatherhead on the retail customer's building or other



1 structure for above ground service or to the terminals on the  
2 meter base of the retail customer's building or other structure  
3 for below ground service.

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

19 (b) The General Assembly finds, based on experience in  
20 other industries that have undergone similar transitions, that  
21 the introduction of competition into the State's electric  
22 utility industry may result in workforce reductions by electric  
23 utilities which may adversely affect persons who have been  
24 employed by this State's electric utilities in functions  
25 important to the public convenience and welfare. The General  
26 Assembly further finds that the impacts on employees and their

1 communities of any necessary reductions in the utility  
2 workforce directly caused by this restructuring of the electric  
3 industry shall be mitigated to the extent practicable through  
4 such means as offers of voluntary severance, retraining, early  
5 retirement, outplacement and related benefits. Therefore,  
6 before any such reduction in the workforce during the  
7 transition period, an electric utility shall present to its  
8 employees or their representatives a workforce reduction plan  
9 outlining the means by which the electric utility intends to  
10 mitigate the impact of such workforce reduction on its  
11 employees.

12 (c) In the event of a sale, purchase, or any other transfer  
13 of ownership during the mandatory transition period of one or  
14 more Illinois divisions or business units, and/or generating  
15 stations or generating units, of an electric utility, the  
16 electric utility's contract and/or agreements with the  
17 acquiring entity or persons shall require that the entity or  
18 persons hire a sufficient number of non-supervisory employees  
19 to operate and maintain the station, division or unit by  
20 initially making offers of employment to the non-supervisory  
21 workforce of the electric utility's division, business unit,  
22 generating station and/or generating unit at no less than the  
23 wage rates, and substantially equivalent fringe benefits and  
24 terms and conditions of employment that are in effect at the  
25 time of transfer of ownership of said division, business unit,  
26 generating station, and/or generating units; and said wage

1 rates and substantially equivalent fringe benefits and terms  
2 and conditions of employment shall continue for at least 30  
3 months from the time of said transfer of ownership unless the  
4 parties mutually agree to different terms and conditions of  
5 employment within that 30-month period. The utility shall offer  
6 a transition plan to those employees who are not offered jobs  
7 by the acquiring entity because that entity has a need for  
8 fewer workers. If there is litigation concerning the sale, or  
9 other transfer of ownership of the electric utility's  
10 divisions, business units, generating station, or generating  
11 units, the 30-month period will begin on the date the acquiring  
12 entity or persons take control or management of the divisions,  
13 business units, generating station or generating units of the  
14 electric utility.

15 (d) If a utility transfers ownership during the mandatory  
16 transition period of one or more Illinois divisions, business  
17 units, generating stations or generating units of an electric  
18 utility to a majority-owned subsidiary, that subsidiary shall  
19 continue to employ the utility's employees who were employed by  
20 the utility at such division, business unit or generating  
21 station at the time of the transfer under the same terms and  
22 conditions of employment as those employees enjoyed at the time  
23 of the transfer. If ownership of the subsidiary is subsequently  
24 sold or transferred to a third party during the transition  
25 period, the transition provisions outlined in subsection (c)  
26 shall apply.

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

4           (Source: P.A. 90-561, eff. 12-16-97; 09700SB1652enr.)

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