

1 AN ACT concerning energy.

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

4 Section 5. The Energy Assistance Act of 1989 is amended  
5 by changing Sections 1, 2, 4, 5, 6, 7, 8, and 13 as follows:

6 (305 ILCS 20/1) (from Ch. 111 2/3, par. 1401)

7 Sec. 1. Short Title. This Act shall be known and may be  
8 cited as the "Energy Assistance Act of ~~1989~~".

9 (Source: P.A. 86-127.)

10 (305 ILCS 20/2) (from Ch. 111 2/3, par. 1402)

11 Sec. 2. Findings and Intent.

12 (a) The General Assembly finds that:

13 (1) the health, welfare, and prosperity of the  
14 people of the State of Illinois require that all citizens  
15 have access to receive essential levels of heat and  
16 electric service regardless of economic circumstance;

17 (2) public utilities and other entities providing  
18 such services are entitled to receive proper payment for  
19 services actually rendered;

20 (3) declining Federal low income energy assistance  
21 funding necessitates a State response to ensure the  
22 continuity and the further development of energy  
23 assistance and related policies and programs within  
24 Illinois; and

25 (4) energy assistance policies and programs in  
26 effect in Illinois during the past 3 years have benefited  
27 all Illinois citizens, and should therefore be continued  
28 with the modifications provided herein.

29 (b) Consistent with its findings, the General Assembly  
30 declares that it is the policy of the State that:

1           (1) a comprehensive low income energy assistance  
 2 policy and program should be established which  
 3 incorporates income assistance, home weatherization, and  
 4 other measures to assist ~~ensure-that~~ citizens to obtain  
 5 have access to affordable energy services;

6           (2) the ability of public utilities and other  
 7 entities to receive just compensation for providing  
 8 services should not be jeopardized by this policy;

9           (3) resources applied in achieving this policy  
 10 should be coordinated and efficiently utilized through  
 11 the integration of public programs and through the  
 12 targeting of assistance; and

13           (4) the State should utilize all appropriate and  
 14 available means to fund this program and, to the extent  
 15 possible, should identify and utilize sources of funding  
 16 which complement State tax revenues.

17 (Source: P.A. 86-127.)

18 (305 ILCS 20/4) (from Ch. 111 2/3, par. 1404)

19 Sec. 4. Energy Assistance Program.

20 (a) The Department of Commerce and Community Affairs is  
 21 hereby authorized to institute a program to promote ~~ensure~~  
 22 the availability and affordability of heating and electric  
 23 service to low income citizens. The Department shall  
 24 implement the program by rule promulgated pursuant to The  
 25 Illinois Administrative Procedure Act. The program shall be  
 26 consistent with the purposes and objectives of this Act and  
 27 with all other specific requirements provided herein. The  
 28 Department ~~shall-ensure-that-the-program-is-in--operation--by~~  
 29 ~~November-17--19897-~~and may enter into such contracts and other  
 30 agreements with local agencies as may be necessary for the  
 31 purpose of administering the energy assistance program.

32 (b) Nothing in this Act shall be construed as altering  
 33 or limiting the authority conferred on the Illinois Commerce

1 Commission by the Public Utilities Act to regulate all  
2 aspects of the provision of public utility service, including  
3 but not limited to the authority to make rules and adjudicate  
4 disputes between utilities and customers related to  
5 eligibility for utility service, deposits, payment practices,  
6 discontinuance of service, and the treatment of arrearages  
7 owing for previously rendered utility service.

8 (Source: P.A. 86-127.)

9 (305 ILCS 20/5) (from Ch. 111 2/3, par. 1405)

10 Sec. 5. Policy Advisory Council.

11 (a) Within the Department of Commerce and Community  
12 Affairs is created a Low Income Energy Assistance Policy  
13 Advisory Council.

14 (b) The Council shall be chaired by the Director of  
15 Commerce and Community Affairs or his or her designee. There  
16 shall be 17 members of the Low Income Energy Assistance  
17 Policy Advisory Council, including the chairperson and the  
18 following members:

19 (1) one member designated by the Illinois Commerce  
20 Commission;

21 (2) one member designated by the Illinois  
22 Department of Natural Resources;

23 (3) one member designated by the Illinois Energy  
24 Association to represent electric public utilities  
25 servicing in excess of 1 million customers in this State;

26 (4) one member agreed upon by gas public utilities  
27 that serve more than 500,000 and fewer than 1,500,000  
28 customers in this State;

29 (5) one member agreed upon by gas public utilities  
30 that serve 1,500,000 or more customers in this State;

31 (6) one member designated by the Illinois Energy  
32 Association to represent combination gas and electric  
33 public utilities;

1           (7) one member agreed upon by the Illinois  
2           Municipal Electric Agency and the Association of Illinois  
3           Electric Cooperatives;

4           (8) one member agreed upon by the Illinois  
5           Industrial Energy Consumers;

6           (9) three members designated by the Department to  
7           represent low income energy consumers;

8           (10) two members designated by the Illinois  
9           Community Action Association to represent local agencies  
10           that assist in the administration of this Act;

11           (11) one member designated by the Citizens Utility  
12           Board to represent residential energy consumers;

13           (12) one member designated by the Illinois Retail  
14           Merchants Association to represent commercial energy  
15           customers; and

16           (13) one member designated by the Department to  
17           represent independent energy providers.

18           (c) Designated and appointed members shall serve 2 year  
19           terms and until their successors are appointed and qualified.  
20           The designating organization shall notify the chairperson of  
21           any changes or substitutions of a designee within 10 business  
22           days of a change or substitution. Members shall serve without  
23           compensation, but may receive reimbursement for actual costs  
24           incurred in fulfilling their duties as members of the  
25           Council.

26           (d) The Council shall have the following duties:

27           (1) to monitor the administration of this Act to  
28           ensure effective, efficient, and coordinated program  
29           development and implementation;

30           (2) to assist the Department in developing and  
31           administering rules and regulations required to be  
32           promulgated pursuant to this Act in a manner consistent  
33           with the purpose and objectives of this Act;

34           (3) to facilitate and coordinate the collection and

1 exchange of all program data and other information needed  
2 by the Department and others in fulfilling their duties  
3 pursuant to this Act;

4 (4) to advise the Department on the proper level of  
5 support required for effective administration of the Act;

6 (5) to provide a written opinion concerning any  
7 regulation proposed pursuant to this Act, and to review  
8 and comment on any energy assistance or related plan  
9 required to be prepared by the Department;

10 (6) to advise the Department on the use of funds  
11 collected pursuant to Section 11 of this Act, and on any  
12 changes to existing low income energy assistance programs  
13 to make effective use of such funds, so long as such uses  
14 and changes are consistent with the requirements of the  
15 Act. Policy-Advisory-Council-to-be-comprised-of:

16 (1) the following ex-officio members or their  
17 designees: the Director of Commerce and Community  
18 Affairs who shall serve as Chair of the Committee, the  
19 Director of Natural Resources, the Secretary of Human  
20 Services, and the Chairman of the Illinois Commerce  
21 Commission; and

22 (2) 9 persons who shall be appointed by the  
23 Governor to serve 2-year terms and until their successors  
24 are appointed and qualified, 3 of whom shall be persons  
25 who represent low-income households or organizations  
26 which represent such households, 3 of whom shall be  
27 representatives of public utilities or other entities  
28 which provide winter energy services, and 3 of whom shall  
29 be representatives of local agencies engaged by the  
30 Department to assist in the administration of this Act.

31 (3) 6 persons who shall be appointed by the  
32 Director of the Department of Commerce and Community  
33 Affairs to serve 2-year terms and until their successors  
34 are appointed and qualified, who shall be persons meeting

1 such-qualifications-as-may-be--required--by--the--federal  
 2 government--for--the-administration-of-the-Weatherization  
 3 Assistance-Program--funded--by--the--U.S.--Department--of  
 4 Energy-and-any-such-related-energy-assistance-programs.

5 (4)--Members--shall--serve-without-compensation, but  
 6 may-receive-reimbursement-for-actual--costs--incurred--in  
 7 fulfilling-their-duties-as-members-of-the-Council.

8 (b)--The-Policy-Advisory-Council-shall-have-the-following  
 9 duties:

10 (1)--to--monitor--the--administration-of-this-Act-to  
 11 ensure--effective, efficient, and--coordinated--program  
 12 development-and-implementation;

13 (2)--to--assist--the--Department--in--developing--and  
 14 administering--rules--and--regulations--required--to--be  
 15 promulgated-pursuant-to-this-Act-in-a--manner--consistent  
 16 with-the-purpose-and-objectives-of-this-Act;

17 (3)--to--facilitate-and-coordinate-the-collection-and  
 18 exchange-of-all-program-data-and-other-information-needed  
 19 by--the--Department-and-others-in-fulfilling-their-duties  
 20 pursuant-to-this-Act;

21 (4)--to--advise-the-Department-on-the-proper-level-of  
 22 support-required-for-effective-administration-of-the-Act;

23 (5)--to--provide-a--written--opinion--concerning--any  
 24 regulation--proposed--pursuant-to-this-Act, and-to-review  
 25 and-comment-on-any--energy--assistance--or--related--plan  
 26 required-to-be-prepared-by-the-Department;

27 (6)--on--or-before-March-1-of-each-year-beginning-in  
 28 1990, to-prepare-and-submit-a-report-to-the-Governor--and  
 29 General--Assembly--which--describes-the-activities-of-the  
 30 Department--in--the--development--and--implementation--of  
 31 energy-assistance--and--related--policies--and--programs,  
 32 which--characterizes--progress--towards--meeting--the  
 33 objectives--and--requirements--of--this--Act, and--which  
 34 recommends-any-statutory-changes-which-might-be-needed-to

1 further such progress. The report submitted in 1991  
 2 shall include an analysis of and recommendations  
 3 regarding this Act's provisions concerning State payment  
 4 of pre-program arrearages; and

5 (7) to advise the Department on the use of funds  
 6 collected pursuant to Section 13 of this Act, and on any  
 7 changes to existing low income energy assistance programs  
 8 to make effective use of such funds, so long as such uses  
 9 and changes are consistent with the requirements of  
 10 subsection (a) of Section 13 of this Act.

11 (Source: P.A. 89-445, eff. 2-7-96; 89-507, eff. 7-1-97;  
 12 90-561, eff. 12-16-97.)

13 (305 ILCS 20/6) (from Ch. 111 2/3, par. 1406)

14 Sec. 6. Eligibility, Conditions of Participation, and  
 15 Energy Assistance.

16 (a) Any person who is a resident of the State of  
 17 Illinois and whose household income is not greater than an  
 18 amount determined annually by the Department, in consultation  
 19 with the Policy Advisory Council, may apply for assistance  
 20 pursuant to this Act in accordance with regulations  
 21 promulgated by the Department. In setting the annual  
 22 eligibility level, the Department shall consider the amount  
 23 of available funding and may not set a limit higher than 150%  
 24 of the federal nonfarm poverty level as established by the  
 25 federal Office of Management and Budget.

26 (b) Applicants who qualify for assistance pursuant to  
 27 subsection (a) of this Section shall, subject to  
 28 appropriation from the General Assembly and subject to  
 29 availability of funds to the Department, receive energy  
 30 assistance as provided by this Act. The Department, upon  
 31 receipt of monies authorized pursuant to this Act for energy  
 32 assistance, shall commit funds for each qualified applicant  
 33 in an amount determined by the Department. In determining

1 the amounts of assistance to be provided to or on behalf of a  
2 qualified applicant, the Department shall ensure that the  
3 highest amounts of assistance go to households with the  
4 greatest energy costs in relation to household income. The  
5 Department shall include factors such as energy costs,  
6 household size, household income, and region of the State  
7 when determining individual household benefits. In setting  
8 assistance levels, the Department shall attempt to provide  
9 assistance to approximately the same number of households who  
10 participated in the 1991 Residential Energy Assistance  
11 Partnership Program. Such assistance levels shall be  
12 adjusted annually on the basis of funding availability and  
13 energy costs. In promulgating rules for the administration  
14 of this Section the Department shall assure that a minimum of  
15 1/3 of funds available for benefits to eligible households  
16 with the lowest incomes ~~are-made-available-to-households-who~~  
17 ~~are-eligible-for--public--assistance~~ and that elderly and  
18 disabled households are offered a priority one-month  
19 application period.

20 (c) If the applicant is not a customer of an energy  
21 provider for winter energy services or an applicant for such  
22 service, such applicant shall receive a direct energy  
23 assistance payment in an amount established by the Department  
24 for all such applicants under this Act; provided, however,  
25 that such an applicant must have rental expenses for housing  
26 greater than 30% of household income.

27 (d) If the applicant is a customer of an energy  
28 provider, such applicant shall receive energy assistance in  
29 an amount established by the Department for all such  
30 applicants under this Act, such amount to be paid by the  
31 Department to the energy provider supplying winter energy  
32 service to such applicant. Such applicant shall:

33 (i) make all reasonable efforts to apply to any  
34 other appropriate source of public energy assistance; and



1           (ii) sign a waiver permitting the Department to  
 2 receive income information from any public or private  
 3 agency providing income or energy assistance and from any  
 4 employer, whether public or private.

5           (e) Any qualified applicant pursuant to this Section may  
 6 receive or have paid on such applicant's behalf an emergency  
 7 assistance payment to enable such applicant to obtain access  
 8 to winter energy services. Any such payments shall be made  
 9 in accordance with regulations of the Department.

10           (f) The Department may, if sufficient funds are  
 11 available, provide additional benefits to certain qualified  
 12 applicants:

13           (i) for the reduction of past due amounts owed to  
 14 energy providers; and

15           (ii) to assist the household in responding to  
 16 excessively high summer temperatures or energy costs.  
 17 Households containing elderly members, children, a person  
 18 with a disability, or a person with a medical need for  
 19 conditioned air shall receive priority for receipt of  
 20 such benefits.

21 (Source: P.A. 91-936, eff. 1-10-01.)

22 (305 ILCS 20/7) (from Ch. 111 2/3, par. 1407)

23 Sec. 7. State Weatherization Plan and Program.

24 (a) The Department shall, after consultation with the  
 25 Policy Advisory Council, prepare and promulgate an annual  
 26 State Weatherization Plan beginning in the year this Act  
 27 becomes effective. To the extent practicable, such Plan  
 28 shall provide for targeting use of both State and federal  
 29 weatherization funds to the households of eligible applicants  
 30 pursuant to this Act whose ratios of energy costs to income  
 31 are the highest. The State Weatherization Plan shall include  
 32 but need not be limited to the following:

33           (1) a description of the demographic

1 characteristics and energy use patterns of people  
2 eligible for assistance pursuant to this Act;

3 (2) the methodology used by the Department in  
4 targeting weatherization funds;

5 (3) a description of anticipated activity and  
6 results for the year covered by the Plan, including an  
7 estimate of energy cost savings expected to be realized  
8 by the weatherization program; and

9 (4) every third year, beginning in 2002, an  
10 evaluation of results from the weatherization program in  
11 the year preceding the plan year, including the effect of  
12 State Weatherization Program investments on energy  
13 consumption and cost in the population eligible for  
14 assistance pursuant to this Act, and the effect of  
15 targeted weatherization investments on the costs of the  
16 energy assistance program authorized by this Act.

17 (b) The Department shall implement the State  
18 Weatherization Plan by rule through a program which provides  
19 targeted weatherization assistance to eligible applicants for  
20 energy assistance pursuant to this Act. The Department may  
21 enter into such contracts and other arrangements with local  
22 agencies as may be necessary for the purpose of administering  
23 the weatherization program.

24 (Source: P.A. 86-127; 87-14.)

25 (305 ILCS 20/8) (from Ch. 111 2/3, par. 1408)

26 Sec. 8. Program Evaluation Reports.

27 (a) The Department of Natural Resources shall prepare  
28 and submit to the Governor and the General Assembly reports  
29 on September 30 biennially ~~March 15 of each year,~~ beginning  
30 in 2003 ~~1991~~, evaluating the effectiveness of the energy  
31 assistance and weatherization policies authorized by this  
32 Act. The first report shall cover such effects during the  
33 first winter during which the program authorized by this Act,

1 is in operation, and successive reports shall cover effects  
2 since the issuance of the preceding report.

3 (1) (b) Reports issued pursuant to this Section  
4 shall be limited to, information concerning the effects  
5 of the policies authorized by this Act on (1) the ability  
6 of eligible applicants to obtain and maintain adequate  
7 and affordable winter energy services and (2) changes in  
8 the costs and prices of winter energy services for people  
9 who do not receive energy assistance pursuant to this  
10 Act.

11 (2) (e) The Department of Natural Resources shall  
12 by September 30, 2002, in consultation with the Policy  
13 Advisory Council, determine the kinds of numerical and  
14 other information needed to conduct the evaluations  
15 required by this Section, and shall advise the Policy  
16 Advisory Council of such information needs in a timely  
17 manner. The Department of Commerce and Community  
18 Affairs, the Department of Human Services, and the  
19 Illinois Commerce Commission shall each provide such  
20 information as the Department of Natural Resources may  
21 require to ensure that the evaluation reporting  
22 requirement established by this Section can be met.

23 (b) On or before December 31, 2002, 2004, 2006, and  
24 2007, the Department shall prepare a report for the General  
25 Assembly on the expenditure of funds appropriated for the  
26 programs authorized under this Act.

27 (c) On or before December 31 of each year in 2004, 2006,  
28 and 2007, the Department shall, in consultation with the  
29 Council, prepare and submit evaluation reports to the  
30 Governor and the General Assembly outlining the effects of  
31 the program designed under this Act on the following as it  
32 relates to the propriety of continuing the program:

33 (1) the definition of an eligible low income  
34 residential customer;

1           (2) access of low income residential customers to  
2           essential energy services;

3           (3) past due amounts owed to utilities by low  
4           income persons in Illinois;

5           (4) appropriate measures to encourage energy  
6           conservation, efficiency, and responsibility among low  
7           income residential customers;

8           (5) the activities of the Department in the  
9           development and implementation of energy assistance and  
10           related policies and programs, which characterizes  
11           progress toward meeting the objectives and requirements  
12           of this Act, and which recommends any statutory changes  
13           which might be needed to further such progress.

14           (d) The Department shall by September 30, 2002 in  
15           consultation with the Council determine the kinds of  
16           numerical and other information needed to conduct the  
17           evaluations required by this Section.

18           (e) (d) The Illinois Commerce Commission shall require  
19 each public utility providing heating or electric service to  
20 compile and submit any numerical and other information needed  
21 by the Department of Natural Resources to meet its reporting  
22 obligations.

23 (Source: P.A. 89-445, eff. 2-7-96; 89-507, eff. 7-1-97.)

24 (305 ILCS 20/13)

25 Sec. 13. Supplemental Low-Income Energy Assistance Fund.

26 (a) The Supplemental Low-Income Energy Assistance Fund  
27 is hereby created as a special fund in the State Treasury.  
28 The Supplemental Low-Income Energy Assistance Fund is  
29 authorized to receive, by statutory deposit, the moneys  
30 collected pursuant to this Section. Subject to  
31 appropriation, the Department shall use moneys from the  
32 Supplemental Low-Income Energy Assistance Fund for payments  
33 to electric or gas public utilities, municipal electric or

1 gas utilities, and electric cooperatives on behalf of their  
 2 customers who are participants in the program authorized by  
 3 Section 4 of this Act, for the provision of weatherization  
 4 services and for administration of the Supplemental  
 5 Low-Income Energy Assistance Fund. The yearly expenditures  
 6 for weatherization may not exceed 10% of the amount collected  
 7 during the year pursuant to this Section. ~~In--determining~~  
 8 ~~which---customers--will--participate--in--the--weatherization~~  
 9 ~~component, the Department--shall--target--weatherization--for~~  
 10 ~~these--customers--with--the--greatest--energy--burden, that is the~~  
 11 ~~lowest--income--and--greatest--utility--bills.~~ The yearly  
 12 administrative expenses of the Supplemental Low-Income Energy  
 13 Assistance Fund may not exceed 10% of the amount collected  
 14 during that year pursuant to this Section.

15 (b) Notwithstanding the provisions of Section 16-111 of  
 16 the Public Utilities Act but subject to subsection (k) of  
 17 this Section, each public utility, electric cooperative, as  
 18 defined in Section 3.4 of the Electric Supplier Act, and  
 19 municipal utility, as referenced in Section 3-105 of the  
 20 Public Utilities Act, that is engaged in the delivery of  
 21 electricity or the distribution of natural gas within the  
 22 State of Illinois shall, effective January 1, 1998, assess  
 23 each of its customer accounts a monthly Energy Assistance  
 24 Charge for the Supplemental Low-Income Energy Assistance  
 25 Fund. The delivering public utility, municipal electric or  
 26 gas utility, or electric or gas cooperative for a  
 27 self-assessing purchaser remains subject to the collection of  
 28 the fee imposed by this Section. The monthly charge shall be  
 29 as follows:

- 30 (1) \$0.40 per month on each account for residential  
 31 electric service;
- 32 (2) \$0.40 per month on each account for residential  
 33 gas service;
- 34 (3) \$4 per month on each account for

1 non-residential electric service which had less than 10  
2 megawatts of peak demand during the previous calendar  
3 year;

4 (4) \$4 per month on each account for  
5 non-residential gas service which had distributed to it  
6 less than 4,000,000 therms of gas during the previous  
7 calendar year;

8 (5) \$300 per month on each account for  
9 non-residential electric service which had 10 megawatts  
10 or greater of peak demand during the previous calendar  
11 year; and

12 (6) \$300 per month on each account for  
13 non-residential gas service which had 4,000,000 or more  
14 therms of gas distributed to it during the previous  
15 calendar year.

16 (c) For purposes of this Section:

17 (1) "residential electric service" means electric  
18 utility service for household purposes delivered to a  
19 dwelling of 2 or fewer units which is billed under a  
20 residential rate, or electric utility service for  
21 household purposes delivered to a dwelling unit or units  
22 which is billed under a residential rate and is  
23 registered by a separate meter for each dwelling unit;

24 (2) "residential gas service" means gas utility  
25 service for household purposes distributed to a dwelling  
26 of 2 or fewer units which is billed under a residential  
27 rate, or gas utility service for household purposes  
28 distributed to a dwelling unit or units which is billed  
29 under a residential rate and is registered by a separate  
30 meter for each dwelling unit;

31 (3) "non-residential electric service" means  
32 electric utility service which is not residential  
33 electric service; and

34 (4) "non-residential gas service" means gas utility

1 service which is not residential gas service.

2 (d) At least 45 days prior to the date on which it must  
3 begin assessing Energy Assistance Charges, each public  
4 utility engaged in the delivery of electricity or the  
5 distribution of natural gas shall file with the Illinois  
6 Commerce Commission tariffs incorporating the Energy  
7 Assistance Charge in other charges stated in such tariffs.

8 (e) The Energy Assistance Charge assessed by electric  
9 and gas public utilities shall be considered a charge for  
10 public utility service.

11 (f) By the 20th day of the month following the month in  
12 which the charges imposed by the Section were collected, each  
13 public utility, municipal utility, and electric cooperative  
14 shall remit to the Department of Revenue all moneys received  
15 as payment of the Energy Assistance Charge on a return  
16 prescribed and furnished by the Department of Revenue showing  
17 such information as the Department of Revenue may reasonably  
18 require. If a customer makes a partial payment, a public  
19 utility, municipal utility, or electric cooperative may elect  
20 either: (i) to apply such partial payments first to amounts  
21 owed to the utility or cooperative for its services and then  
22 to payment for the Energy Assistance Charge or (ii) to apply  
23 such partial payments on a pro-rata basis between amounts  
24 owed to the utility or cooperative for its services and to  
25 payment for the Energy Assistance Charge.

26 (g) The Department of Revenue shall deposit into the  
27 Supplemental Low-Income Energy Assistance Fund all moneys  
28 remitted to it in accordance with subsection (f) of this  
29 Section.

30 (h) (Blank). If--as--of--June--30<sub>7</sub>--2002--the--program  
31 authorized--by--Section--4--of--this--Act--has--not--been--replaced--by  
32 a--new--energy--assistance--program--which--is--in--operation<sub>7</sub>--then  
33 the--General--Assembly--shall--review--the--program;--provided  
34 however<sub>7</sub>--that--after--that--date<sub>7</sub>--any--public--utility<sub>7</sub>--municipal

1 utility,--or-electric-cooperative-shall-continue-to-assess-an  
2 Energy-Assistance-Charge-which-was-originally-assessed-on--or  
3 before-June-30,2002-and-which-remains-unpaid-

4 On or before December 31, 2002, the Department shall  
5 prepare a report for the General Assembly on the expenditure  
6 of funds appropriated from the Low-Income Energy Assistance  
7 Block Grant Fund for the program authorized under Section 4  
8 of this Act.

9 (i) The Department of Revenue may establish such rules  
10 as it deems necessary to implement this Section.

11 (j) The Department of Commerce and Community Affairs may  
12 establish such rules as it deems necessary to implement this  
13 Section.

14 (k) The charges imposed by this Section shall only apply  
15 to customers of municipal electric or gas utilities and  
16 electric or gas cooperatives if the municipal electric or gas  
17 utility or electric or gas cooperative makes an affirmative  
18 decision to impose the charge. If a municipal electric or  
19 gas utility or an electric cooperative makes an affirmative  
20 decision to impose the charge provided by this Section, the  
21 municipal electric or gas utility or electric cooperative  
22 shall inform the Department of Revenue in writing of such  
23 decision when it begins to impose the charge. If a municipal  
24 electric or gas utility or electric or gas cooperative does  
25 not assess this charge, the Department may not use funds from  
26 the Supplemental Low-Income Energy Assistance Fund to provide  
27 benefits to its customers under the program authorized by  
28 Section 4 of this Act.

29 In its use of federal funds under this Act, the  
30 Department may not cause a disproportionate share of those  
31 federal funds to benefit customers of systems which do not  
32 assess the charge provided by this Section.

33 This Section is repealed effective December 31, 2007  
34 unless renewed by action of the General Assembly. The



1 General Assembly shall consider the results of the  
2 evaluations described in Section 8 in its deliberations.

3 (Source: P.A. 90-561, eff. 12-16-97; 90-624, eff. 7-10-98.)

4 (305 ILCS 20/7.1 rep.)

5 (305 ILCS 20/9 rep.)

6 (305 ILCS 20/12 rep.)

7 (305 ILCS 20/14 rep.)

8 Section 10. The Energy Assistance Act of 1989 is amended  
9 by repealing Sections 7.1, 9, 12, and 14.

10 Section 15. The Renewable Energy, Energy Efficiency, and  
11 Coal Resources Development Law of 1997 is amended by changing  
12 Section 6-5 as follows:

13 (20 ILCS 687/6-5)

14 (Section scheduled to be repealed on December 16, 2007)

15 Sec. 6-5. Renewable Energy Resources and Coal Technology  
16 Development Assistance Charge.

17 (a) Notwithstanding the provisions of Section 16-111 of  
18 the Public Utilities Act but subject to subsection (e) of  
19 this Section, each public utility, electric cooperative, as  
20 defined in Section 3.4 of the Electric Supplier Act, and  
21 municipal utility, as referenced in Section 3-105 of the  
22 Public Utilities Act, that is engaged in the delivery of  
23 electricity or the distribution of natural gas within the  
24 State of Illinois shall, effective January 1, 1998, assess  
25 each of its customer accounts a monthly Renewable Energy  
26 Resources and Coal Technology Development Assistance Charge.  
27 The delivering public utility, municipal electric or gas  
28 utility, or electric or gas cooperative for a self-assessing  
29 purchaser remains subject to the collection of the fee  
30 imposed by this Section. The monthly charge shall be as  
31 follows:

1 (1) \$0.05 per month on each account for residential  
2 electric service as defined in Section 13 of the Energy  
3 Assistance Act of 1989;

4 (2) \$0.05 per month on each account for residential  
5 gas service as defined in Section 13 of the Energy  
6 Assistance Act of 1989;

7 (3) \$0.50 per month on each account for  
8 nonresidential electric service, as defined in Section 13  
9 of the Energy Assistance Act of 1989, which had less than  
10 megawatts of peak demand during the previous calendar  
11 year;

12 (4) \$0.50 per month on each account for  
13 nonresidential gas service, as defined in Section 13 of  
14 the Energy Assistance Act of 1989, which had distributed  
15 to it less than 4,000,000 therms of gas during the  
16 previous calendar year;

17 (5) \$37.50 per month on each account for  
18 nonresidential electric service, as defined in Section 13  
19 of the Energy Assistance Act of 1989, which had 10  
20 megawatts or greater of peak demand during the previous  
21 calendar year; and

22 (6) \$37.50 per month on each account for  
23 nonresidential gas service, as defined in Section 13 of  
24 the Energy Assistance Act of 1989, which had 4,000,000 or  
25 more therms of gas distributed to it during the previous  
26 calendar year.

27 (b) The Renewable Energy Resources and Coal Technology  
28 Development Assistance Charge assessed by electric and gas  
29 public utilities shall be considered a charge for public  
30 utility service.

31 (c) Fifty percent of the moneys collected pursuant to  
32 this Section shall be deposited in the Renewable Energy  
33 Resources Trust Fund by the Department of Revenue. The  
34 remaining 50 percent of the moneys collected pursuant to this

1 Section shall be deposited in the Coal Technology Development  
2 Assistance Fund by the Department of Revenue for use under  
3 the Illinois Coal Technology Development Assistance Act.

4 (d) By the 20th day of the month following the month in  
5 which the charges imposed by this Section were collected,  
6 each utility and alternative retail electric supplier  
7 collecting charges pursuant to this Section shall remit to  
8 the Department of Revenue for deposit in the Renewable Energy  
9 Resources Trust Fund and the Coal Technology Development  
10 Assistance Fund all moneys received as payment of the charge  
11 provided for in this Section on a return prescribed and  
12 furnished by the Department of Revenue showing such  
13 information as the Department of Revenue may reasonably  
14 require.

15 (e) The charges imposed by this Section shall only apply  
16 to customers of municipal electric or gas utilities and  
17 electric or gas cooperatives if the municipal electric or gas  
18 utility or electric or gas cooperative makes an affirmative  
19 decision to impose the charge. If a municipal electric or gas  
20 utility or an electric or gas cooperative makes an  
21 affirmative decision to impose the charge provided by this  
22 Section, the municipal electric or gas utility or electric or  
23 gas cooperative shall inform the Department of Revenue in  
24 writing of such decision when it begins to impose the charge.  
25 If a municipal electric or gas utility or electric or gas  
26 cooperative does not assess this charge, its customers shall  
27 not be eligible for the Renewable Energy Resources Program.

28 (f) The Department of Revenue may establish such rules  
29 as it deems necessary to implement this Section.

30 (Source: P.A. 90-561, eff. 12-16-97; 90-624, eff. 7-10-98.)

31 Section 20. The Public Utilities Act is amended by  
32 changing Sections 8-207, 16-108, and 16-111 as follows:

1 (220 ILCS 5/8-207) (from Ch. 111 2/3, par. 8-207)  
2 Sec. 8-207. Any former residential customer whose gas or  
3 electric service was used to provide or control the primary  
4 source of space heating in the dwelling and whose service is  
5 disconnected for nonpayment of a bill or a deposit from  
6 December 1 of the prior winter's heating season through April  
7 1 of the current heating season shall be eligible for  
8 reconnection and a deferred payment arrangement under the  
9 provisions of this Section, subject to the following  
10 limitations:

11 A utility shall not be required to reconnect service to,  
12 and enter into a deferred payment arrangement with, a former  
13 customer under the provisions of this Section (1) except  
14 between November 1 and April 1 of the current heating season  
15 for former customers who do not have applications pending for  
16 the program described in Section 6 of the Energy Assistance  
17 Act of 1989, and except between October 1 and April 1 of the  
18 current heating season for all former customers who do have  
19 applications pending for the program described in Section 6  
20 of the Energy Assistance Act of 1989 and who provide proof of  
21 application to the utility, (2) in 2 consecutive years, (3)  
22 unless that former customer has paid at least 33 1/3% of the  
23 amount billed for utility service rendered by that utility  
24 subsequent to December 1 of the prior year, or (4) in any  
25 instance where the utility can show there has been tampering  
26 with the utility's wires, pipes, meters (including locking  
27 devices), or other service equipment and further shows that  
28 the former customer enjoyed the benefit of utility service  
29 obtained in the aforesaid manner.

30 The terms and conditions of any deferred payment  
31 arrangements established by the utility and a former customer  
32 shall take into consideration the following factors, based  
33 upon information available from current utility records or  
34 provided by the former customer:

- 1 (1) the amount past due;
- 2 (2) the former customer's ability to pay;
- 3 (3) the former customer's payment history;
- 4 (4) the reasons for the accumulation of the past  
5 due amounts; and
- 6 (5) any other relevant factors relating to the  
7 former customer's circumstances.

8 After the former customer's eligibility has been  
9 established in accordance with the first paragraph of this  
10 Section and, upon the establishment of a deferred payment  
11 agreement, the former customer shall pay 1/3 of the amount  
12 past due (including reconnecting charge, if any) and 1/3 of  
13 any deposit required by the utility.

14 Upon the payment of 1/3 of the amount past due and 1/3 of  
15 any deposit required by the utility, the former customer's  
16 service shall be reconnected as soon as possible. The  
17 company and the former customer shall agree to a payment  
18 schedule for the remaining balances which will reasonably  
19 allow the former customer to make the payments on the  
20 remainder of the deposit and the past due balance while  
21 paying current bills during the winter heating season.  
22 However, the utility is not obliged to make payment  
23 arrangements extending beyond the following November. The  
24 utility shall allow the former customer a minimum of 4 months  
25 in which to retire the past due balance and 3 months in which  
26 to pay the remainder of the deposit. The former customer  
27 shall also be informed that payment on the amounts past due  
28 and the deposit, if any, plus the current bills must be paid  
29 by the due date or the customer may face termination of  
30 service pursuant to this Section and Section 8-206.

31 The Commission shall develop rules to govern the  
32 reconnection of a former customer who demonstrates a  
33 financial inability to meet the requirement of 1/3 of the  
34 amount past due and 1/3 of any deposit requested by the

1 utility. The Commission's rules shall establish a means by  
2 which the former customer's utility service may be  
3 reconnected through the payment of a reasonable amount and  
4 upon entering into a deferred payment agreement.

5 Any payment agreement made shall be in writing, with a  
6 copy provided to the former customer. The renegotiation and  
7 reinstatement of a customer and the establishment of a budget  
8 payment plan shall be pursuant to rules established by the  
9 Commission.

10 Not later than September 15 of each year, every gas and  
11 electric utility shall conduct a survey of all former  
12 residential customers whose gas or electric service was used  
13 to provide or control the primary source of space heating in  
14 the dwelling and whose gas or electric service was terminated  
15 for nonpayment of a bill or deposit from December 1 of the  
16 previous year to September 15 of that year and where service  
17 at that premises has not been restored. Not later than  
18 October 1 of each year the utility shall notify each of these  
19 former customers that the gas or electric service will be  
20 restored by the company for the coming heating season if the  
21 former customer contacts the utility and makes arrangements  
22 with the utility for reconnection of service under the  
23 conditions set forth in this Section. A utility shall notify  
24 the former customer or an adult member of the household by  
25 personal visit, telephone contact or mailing of a letter by  
26 first class mail to the last known address of that former  
27 customer. The utility shall keep records which would  
28 indicate the date, form and the results of such contact.

29 Each gas and electric utility which has former customers  
30 affected by this Section shall file reports with the  
31 Commission providing such information as the Commission may  
32 deem appropriate. The Commission shall notify each gas and  
33 electric utility prior to August 1 of each year concerning  
34 the information which is to be included in the report for

1 that year.

2 In no event shall any actions taken by a utility in  
3 compliance with this Section be deemed to abrogate or in any  
4 way interfere with the utility's rights to pursue the normal  
5 collection processes otherwise available to it.

6 The Commission shall promulgate rules to implement this  
7 Section.

8 (Source: P.A. 86-782; 87-469.)

9 (220 ILCS 5/16-108)

10 Sec. 16-108. Recovery of costs associated with the  
11 provision of delivery services.

12 (a) An electric utility shall file a delivery services  
13 tariff with the Commission at least 210 days prior to the  
14 date that it is required to begin offering such services  
15 pursuant to this Act. An electric utility shall provide the  
16 components of delivery services that are subject to the  
17 jurisdiction of the Federal Energy Regulatory Commission at  
18 the same prices, terms and conditions set forth in its  
19 applicable tariff as approved or allowed into effect by that  
20 Commission. The Commission shall otherwise have the authority  
21 pursuant to Article IX to review, approve, and modify the  
22 prices, terms and conditions of those components of delivery  
23 services not subject to the jurisdiction of the Federal  
24 Energy Regulatory Commission, including the authority to  
25 determine the extent to which such delivery services should  
26 be offered on an unbundled basis. In making any such  
27 determination the Commission shall consider, at a minimum,  
28 the effect of additional unbundling on (i) the objective of  
29 just and reasonable rates, (ii) electric utility employees,  
30 and (iii) the development of competitive markets for electric  
31 energy services in Illinois.

32 (b) The Commission shall enter an order approving, or  
33 approving as modified, the delivery services tariff no later

1 than 30 days prior to the date on which the electric utility  
2 must commence offering such services. The Commission may  
3 subsequently modify such tariff pursuant to this Act.

4 (c) The electric utility's tariffs shall define the  
5 classes of its customers for purposes of delivery services  
6 charges. Delivery services shall be priced and made  
7 available to all retail customers electing delivery services  
8 in each such class on a nondiscriminatory basis regardless of  
9 whether the retail customer chooses the electric utility, an  
10 affiliate of the electric utility, or another entity as its  
11 supplier of electric power and energy. Charges for delivery  
12 services shall be cost based, and shall allow the electric  
13 utility to recover the costs of providing delivery services  
14 through its charges to its delivery service customers that  
15 use the facilities and services associated with such costs.  
16 Such costs shall include the costs of owning, operating and  
17 maintaining transmission and distribution facilities. The  
18 Commission shall also be authorized to consider whether, and  
19 if so to what extent, the following costs are appropriately  
20 included in the electric utility's delivery services rates:  
21 (i) the costs of that portion of generation facilities used  
22 for the production and absorption of reactive power in order  
23 that retail customers located in the electric utility's  
24 service area can receive electric power and energy from  
25 suppliers other than the electric utility, and (ii) the costs  
26 associated with the use and redispatch of generation  
27 facilities to mitigate constraints on the transmission or  
28 distribution system in order that retail customers located in  
29 the electric utility's service area can receive electric  
30 power and energy from suppliers other than the electric  
31 utility. Nothing in this subsection shall be construed as  
32 directing the Commission to allocate any of the costs  
33 described in (i) or (ii) that are found to be appropriately  
34 included in the electric utility's delivery services rates to



1 any particular customer group or geographic area in setting  
2 delivery services rates.

3 (d) The Commission shall establish charges, terms and  
4 conditions for delivery services that are just and reasonable  
5 and shall take into account customer impacts when  
6 establishing such charges. In establishing charges, terms and  
7 conditions for delivery services, the Commission shall take  
8 into account voltage level differences. A retail customer  
9 shall have the option to request to purchase electric service  
10 at any delivery service voltage reasonably and technically  
11 feasible from the electric facilities serving that customer's  
12 premises provided that there are no significant adverse  
13 impacts upon system reliability or system efficiency. A  
14 retail customer shall also have the option to request to  
15 purchase electric service at any point of delivery that is  
16 reasonably and technically feasible provided that there are  
17 no significant adverse impacts on system reliability or  
18 efficiency. Such requests shall not be unreasonably denied.

19 (e) Electric utilities shall recover the costs of  
20 installing, operating or maintaining facilities for the  
21 particular benefit of one or more delivery services  
22 customers, including without limitation any costs incurred in  
23 complying with a customer's request to be served at a  
24 different voltage level, directly from the retail customer or  
25 customers for whose benefit the costs were incurred, to the  
26 extent such costs are not recovered through the charges  
27 referred to in subsections (c) and (d) of this Section.

28 (f) An electric utility shall be entitled but not  
29 required to implement transition charges in conjunction with  
30 the offering of delivery services pursuant to Section 16-104.  
31 If an electric utility implements transition charges, it  
32 shall implement such charges for all delivery services  
33 customers and for all customers described in subsection (h),  
34 but shall not implement transition charges for power and

1 energy that a retail customer takes from cogeneration or  
2 self-generation facilities located on that retail customer's  
3 premises, if such facilities meet the following criteria:

4 (i) the cogeneration or self-generation facilities  
5 serve a single retail customer and are located on that  
6 retail customer's premises (for purposes of this  
7 subparagraph and subparagraph (ii), an industrial or  
8 manufacturing retail customer and a third party  
9 contractor that is served by such industrial or  
10 manufacturing customer through such retail customer's own  
11 electrical distribution facilities under the  
12 circumstances described in subsection (vi) of the  
13 definition of "alternative retail electric supplier" set  
14 forth in Section 16-102, shall be considered a single  
15 retail customer);

16 (ii) the cogeneration or self-generation facilities  
17 either (A) are sized pursuant to generally accepted  
18 engineering standards for the retail customer's  
19 electrical load at that premises (taking into account  
20 standby or other reliability considerations related to  
21 that retail customer's operations at that site) or (B) if  
22 the facility is a cogeneration facility located on the  
23 retail customer's premises, the retail customer is the  
24 thermal host for that facility and the facility has been  
25 designed to meet that retail customer's thermal energy  
26 requirements resulting in electrical output beyond that  
27 retail customer's electrical demand at that premises,  
28 comply with the operating and efficiency standards  
29 applicable to "qualifying facilities" specified in title  
30 18 Code of Federal Regulations Section 292.205 as in  
31 effect on the effective date of this amendatory Act of  
32 1999;

33 (iii) the retail customer on whose premises the  
34 facilities are located either has an exclusive right to

1 receive, and corresponding obligation to pay for, all of  
2 the electrical capacity of the facility, or in the case  
3 of a cogeneration facility that has been designed to meet  
4 the retail customer's thermal energy requirements at that  
5 premises, an identified amount of the electrical capacity  
6 of the facility, over a minimum 5-year period; and

7 (iv) if the cogeneration facility is sized for the  
8 retail customer's thermal load at that premises but  
9 exceeds the electrical load, any sales of excess power or  
10 energy are made only at wholesale, are subject to the  
11 jurisdiction of the Federal Energy Regulatory Commission,  
12 and are not for the purpose of circumventing the  
13 provisions of this subsection (f).

14 If a generation facility located at a retail customer's  
15 premises does not meet the above criteria, an electric  
16 utility implementing transition charges shall implement a  
17 transition charge until December 31, 2006 for any power and  
18 energy taken by such retail customer from such facility as if  
19 such power and energy had been delivered by the electric  
20 utility. Provided, however, that an industrial retail  
21 customer that is taking power from a generation facility that  
22 does not meet the above criteria but that is located on such  
23 customer's premises will not be subject to a transition  
24 charge for the power and energy taken by such retail customer  
25 from such generation facility if the facility does not serve  
26 any other retail customer and either was installed on behalf  
27 of the customer and for its own use prior to January 1, 1997,  
28 or is both predominantly fueled by byproducts of such  
29 customer's manufacturing process at such premises and sells  
30 or offers an average of 300 megawatts or more of electricity  
31 produced from such generation facility into the wholesale  
32 market. Such charges shall be calculated as provided in  
33 Section 16-102, and shall be collected on each kilowatt-hour  
34 delivered under a delivery services tariff to a retail

1 customer from the date the customer first takes delivery  
2 services until December 31, 2006 except as provided in  
3 subsection (h) of this Section. Provided, however, that an  
4 electric utility, other than an electric utility providing  
5 service to at least 1,000,000 customers in this State on  
6 January 1, 1999, shall be entitled to petition for entry of  
7 an order by the Commission authorizing the electric utility  
8 to implement transition charges for an additional period  
9 ending no later than December 31, 2008. The electric utility  
10 shall file its petition with supporting evidence no earlier  
11 than 16 months, and no later than 12 months, prior to  
12 December 31, 2006. The Commission shall hold a hearing on  
13 the electric utility's petition and shall enter its order no  
14 later than 8 months after the petition is filed. The  
15 Commission shall determine whether and to what extent the  
16 electric utility shall be authorized to implement transition  
17 charges for an additional period. The Commission may  
18 authorize the electric utility to implement transition  
19 charges for some or all of the additional period, and shall  
20 determine the mitigation factors to be used in implementing  
21 such transition charges; provided, that the Commission shall  
22 not authorize mitigation factors less than 110% of those in  
23 effect during the 12 months ended December 31, 2006. In  
24 making its determination, the Commission shall consider the  
25 following factors: the necessity to implement transition  
26 charges for an additional period in order to maintain the  
27 financial integrity of the electric utility; the prudence of  
28 the electric utility's actions in reducing its costs since  
29 the effective date of this amendatory Act of 1997; the  
30 ability of the electric utility to provide safe, adequate and  
31 reliable service to retail customers in its service area; and  
32 the impact on competition of allowing the electric utility to  
33 implement transition charges for the additional period.

34 (g) The electric utility shall file tariffs that

1 establish the transition charges to be paid by each class of  
2 customers to the electric utility in conjunction with the  
3 provision of delivery services. The electric utility's  
4 tariffs shall define the classes of its customers for  
5 purposes of calculating transition charges. The electric  
6 utility's tariffs shall provide for the calculation of  
7 transition charges on a customer-specific basis for any  
8 retail customer whose average monthly maximum electrical  
9 demand on the electric utility's system during the 6 months  
10 with the customer's highest monthly maximum electrical  
11 demands equals or exceeds 3.0 megawatts for electric  
12 utilities having more than 1,000,000 customers, and for other  
13 electric utilities for any customer that has an average  
14 monthly maximum electrical demand on the electric utility's  
15 system of one megawatt or more, and (A) for which there  
16 exists data on the customer's usage during the 3 years  
17 preceding the date that the customer became eligible to take  
18 delivery services, or (B) for which there does not exist data  
19 on the customer's usage during the 3 years preceding the date  
20 that the customer became eligible to take delivery services,  
21 if in the electric utility's reasonable judgment there exists  
22 comparable usage information or a sufficient basis to develop  
23 such information, and further provided that the electric  
24 utility can require customers for which an individual  
25 calculation is made to sign contracts that set forth the  
26 transition charges to be paid by the customer to the electric  
27 utility pursuant to the tariff.

28 (h) An electric utility shall also be entitled to file  
29 tariffs that allow it to collect transition charges from  
30 retail customers in the electric utility's service area that  
31 do not take delivery services but that take electric power or  
32 energy from an alternative retail electric supplier or from  
33 an electric utility other than the electric utility in whose  
34 service area the customer is located. Such charges shall be

1 calculated, in accordance with the definition of transition  
2 charges in Section 16-102, for the period of time that the  
3 customer would be obligated to pay transition charges if it  
4 were taking delivery services, except that no deduction for  
5 delivery services revenues shall be made in such calculation,  
6 and usage data from the customer's class shall be used where  
7 historical usage data is not available for the individual  
8 customer. The customer shall be obligated to pay such  
9 charges on a lump sum basis on or before the date on which  
10 the customer commences to take service from the alternative  
11 retail electric supplier or other electric utility, provided,  
12 that the electric utility in whose service area the customer  
13 is located shall offer the customer the option of signing a  
14 contract pursuant to which the customer pays such charges  
15 ratably over the period in which the charges would otherwise  
16 have applied.

17 (i) An electric utility shall be entitled to add to the  
18 bills of delivery services customers charges pursuant to  
19 Sections 9-221, 9-222 (except as provided in Section  
20 9-222.1), and Section 16-114 of this Act, Section 5-5 of the  
21 Electricity Infrastructure Maintenance Fee Law, Section 6-5  
22 of the Renewable Energy, Energy Efficiency, and Coal  
23 Resources Development Law of 1997, and Section 13 of the  
24 Energy Assistance Act of 1989.

25 (j) If a retail customer that obtains electric power and  
26 energy from cogeneration or self-generation facilities  
27 installed for its own use on or before January 1, 1997,  
28 subsequently takes service from an alternative retail  
29 electric supplier or an electric utility other than the  
30 electric utility in whose service area the customer is  
31 located for any portion of the customer's electric power and  
32 energy requirements formerly obtained from those facilities  
33 (including that amount purchased from the utility in lieu of  
34 such generation and not as standby power purchases, under a

1 cogeneration displacement tariff in effect as of the  
2 effective date of this amendatory Act of 1997), the  
3 transition charges otherwise applicable pursuant to  
4 subsections (f), (g), or (h) of this Section shall not be  
5 applicable in any year to that portion of the customer's  
6 electric power and energy requirements formerly obtained from  
7 those facilities, provided, that for purposes of this  
8 subsection (j), such portion shall not exceed the average  
9 number of kilowatt-hours per year obtained from the  
10 cogeneration or self-generation facilities during the 3 years  
11 prior to the date on which the customer became eligible for  
12 delivery services, except as provided in subsection (f) of  
13 Section 16-110.

14 (Source: P.A. 90-561, eff. 12-16-97; 91-50, eff. 6-30-99.)

15 (220 ILCS 5/16-111)

16 Sec. 16-111. Rates and restructuring transactions during  
17 mandatory transition period.

18 (a) During the mandatory transition period,  
19 notwithstanding any provision of Article IX of this Act, and  
20 except as provided in subsections (b), (d), (e), and (f) of  
21 this Section, the Commission shall not (i) initiate,  
22 authorize or order any change by way of increase (other than  
23 in connection with a request for rate increase which was  
24 filed after September 1, 1997 but prior to October 15, 1997,  
25 by an electric utility serving less than 12,500 customers in  
26 this State), (ii) initiate or, unless requested by the  
27 electric utility, authorize or order any change by way of  
28 decrease, restructuring or unbundling (except as provided in  
29 Section 16-109A), in the rates of any electric utility that  
30 were in effect on October 1, 1996, or (iii) in any order  
31 approving any application for a merger pursuant to Section  
32 7-204 that was pending as of May 16, 1997, impose any  
33 condition requiring any filing for an increase, decrease, or

1 change in, or other review of, an electric utility's rates or  
2 enforce any such condition of any such order; provided,  
3 however, that this subsection shall not prohibit the  
4 Commission from:

5 (1) approving the application of an electric  
6 utility to implement an alternative to rate of return  
7 regulation or a regulatory mechanism that rewards or  
8 penalizes the electric utility through adjustment of  
9 rates based on utility performance, pursuant to Section  
10 9-244;

11 (2) authorizing an electric utility to eliminate  
12 its fuel adjustment clause and adjust its base rate  
13 tariffs in accordance with subsection (b), (d), or (f) of  
14 Section 9-220 of this Act, to fix its fuel adjustment  
15 factor in accordance with subsection (c) of Section 9-220  
16 of this Act, or to eliminate its fuel adjustment clause  
17 in accordance with subsection (e) of Section 9-220 of  
18 this Act;

19 (3) ordering into effect tariffs for delivery  
20 services and transition charges in accordance with  
21 Sections 16-104 and 16-108, for real-time pricing in  
22 accordance with Section 16-107, or the options required  
23 by Section 16-110 and subsection (n) of 16-112, allowing  
24 a billing experiment in accordance with Section 16-106,  
25 or modifying delivery services tariffs in accordance with  
26 Section 16-109; or

27 (4) ordering or allowing into effect any tariff to  
28 recover charges pursuant to Sections 9-201.5, 9-220.1,  
29 9-221, 9-222 (except as provided in Section 9-222.1),  
30 16-108, and 16-114 of this Act, Section 5-5 of the  
31 Electricity Infrastructure Maintenance Fee Law, Section  
32 6-5 of the Renewable Energy, Energy Efficiency, and Coal  
33 Resources Development Law of 1997, and Section 13 of the  
34 Energy Assistance Act of 1989.



1           (b) Notwithstanding the provisions of subsection (a),  
2 each Illinois electric utility serving more than 12,500  
3 customers in Illinois shall file tariffs (i) reducing,  
4 effective August 1, 1998, each component of its base rates to  
5 residential retail customers by 15% from the base rates in  
6 effect immediately prior to January 1, 1998 and (ii) if the  
7 public utility provides electric service to (A) more than  
8 500,000 customers but less than 1,000,000 customers in this  
9 State on January 1, 1999, reducing, effective May 1, 2002,  
10 each component of its base rates to residential retail  
11 customers by an additional 5% from the base rates in effect  
12 immediately prior to January 1, 1998, or (B) at least  
13 1,000,000 customers in this State on January 1, 1999,  
14 reducing, effective October 1, 2001, each component of its  
15 base rates to residential retail customers by an additional  
16 5% from the base rates in effect immediately prior to January  
17 1, 1998. Provided, however, that (A) if an electric utility's  
18 average residential retail rate is less than or equal to the  
19 average residential retail rate for a group of Midwest  
20 Utilities (consisting of all investor-owned electric  
21 utilities with annual system peaks in excess of 1000  
22 megawatts in the States of Illinois, Indiana, Iowa, Kentucky,  
23 Michigan, Missouri, Ohio, and Wisconsin), based on data  
24 reported on Form 1 to the Federal Energy Regulatory  
25 Commission for calendar year 1995, then it shall only be  
26 required to file tariffs (i) reducing, effective August 1,  
27 1998, each component of its base rates to residential retail  
28 customers by 5% from the base rates in effect immediately  
29 prior to January 1, 1998, (ii) reducing, effective October 1,  
30 2000, each component of its base rates to residential retail  
31 customers by the lesser of 5% of the base rates in effect  
32 immediately prior to January 1, 1998 or the percentage by  
33 which the electric utility's average residential retail rate  
34 exceeds the average residential retail rate of the Midwest

1 Utilities, based on data reported on Form 1 to the Federal  
2 Energy Regulatory Commission for calendar year 1999, and  
3 (iii) reducing, effective October 1, 2002, each component of  
4 its base rates to residential retail customers by an  
5 additional amount equal to the lesser of 5% of the base rates  
6 in effect immediately prior to January 1, 1998 or the  
7 percentage by which the electric utility's average  
8 residential retail rate exceeds the average residential  
9 retail rate of the Midwest Utilities, based on data reported  
10 on Form 1 to the Federal Energy Regulatory Commission for  
11 calendar year 2001; and (B) if the average residential retail  
12 rate of an electric utility serving between 150,000 and  
13 250,000 retail customers in this State on January 1, 1995 is  
14 less than or equal to 90% of the average residential retail  
15 rate for the Midwest Utilities, based on data reported on  
16 Form 1 to the Federal Energy Regulatory Commission for  
17 calendar year 1995, then it shall only be required to file  
18 tariffs (i) reducing, effective August 1, 1998, each  
19 component of its base rates to residential retail customers  
20 by 2% from the base rates in effect immediately prior to  
21 January 1, 1998; (ii) reducing, effective October 1, 2000,  
22 each component of its base rates to residential retail  
23 customers by 2% from the base rate in effect immediately  
24 prior to January 1, 1998; and (iii) reducing, effective  
25 October 1, 2002, each component of its base rates to  
26 residential retail customers by 1% from the base rates in  
27 effect immediately prior to January 1, 1998. Provided,  
28 further, that any electric utility for which a decrease in  
29 base rates has been or is placed into effect between October  
30 1, 1996 and the dates specified in the preceding sentences of  
31 this subsection, other than pursuant to the requirements of  
32 this subsection, shall be entitled to reduce the amount of  
33 any reduction or reductions in its base rates required by  
34 this subsection by the amount of such other decrease. The

1 tariffs required under this subsection shall be filed 45 days  
2 in advance of the effective date. Notwithstanding anything to  
3 the contrary in Section 9-220 of this Act, no restatement of  
4 base rates in conjunction with the elimination of a fuel  
5 adjustment clause under that Section shall result in a lesser  
6 decrease in base rates than customers would otherwise receive  
7 under this subsection had the electric utility's fuel  
8 adjustment clause not been eliminated.

9 (c) Any utility reducing its base rates by 15% on August  
10 1, 1998 pursuant to subsection (b) shall include the  
11 following statement on its bills for residential customers  
12 from August 1 through December 31, 1998: "Effective August 1,  
13 1998, your rates have been reduced by 15% by the Electric  
14 Service Customer Choice and Rate Relief Law of 1997 passed by  
15 the Illinois General Assembly.". Any utility reducing its  
16 base rates by 5% on August 1, 1998, pursuant to subsection  
17 (b) shall include the following statement on its bills for  
18 residential customers from August 1 through December 31,  
19 1998: "Effective August 1, 1998, your rates have been  
20 reduced by 5% by the Electric Service Customer Choice and  
21 Rate Relief Law of 1997 passed by the Illinois General  
22 Assembly.".

23 Any utility reducing its base rates by 2% on August 1,  
24 1998 pursuant to subsection (b) shall include the following  
25 statement on its bills for residential customers from August  
26 1 through December 31, 1998: "Effective August 1, 1998, your  
27 rates have been reduced by 2% by the Electric Service  
28 Customer Choice and Rate Relief Law of 1997 passed by the  
29 Illinois General Assembly.".

30 (d) During the mandatory transition period, but not  
31 before January 1, 2000, and notwithstanding the provisions  
32 of subsection (a), an electric utility may request an  
33 increase in its base rates if the electric utility  
34 demonstrates that the 2-year average of its earned rate of

1 return on common equity, calculated as its net income  
2 applicable to common stock divided by the average of its  
3 beginning and ending balances of common equity using data  
4 reported in the electric utility's Form 1 report to the  
5 Federal Energy Regulatory Commission but adjusted to remove  
6 the effects of accelerated depreciation or amortization or  
7 other transition or mitigation measures implemented by the  
8 electric utility pursuant to subsection (g) of this Section  
9 and the effect of any refund paid pursuant to subsection (e)  
10 of this Section, is below the 2-year average for the same 2  
11 years of the monthly average yields of 30-year U.S. Treasury  
12 bonds published by the Board of Governors of the Federal  
13 Reserve System in its weekly H.15 Statistical Release or  
14 successor publication. The Commission shall review the  
15 electric utility's request, and may review the justness and  
16 reasonableness of all rates for tariffed services, in  
17 accordance with the provisions of Article IX of this Act,  
18 provided that the Commission shall consider any special or  
19 negotiated adjustments to the revenue requirement agreed to  
20 between the electric utility and the other parties to the  
21 proceeding. In setting rates under this Section, the  
22 Commission shall exclude the costs and revenues that are  
23 associated with competitive services and any billing or  
24 pricing experiments conducted under Section 16-106.

25 (e) For the purposes of this subsection (e) all  
26 calculations and comparisons shall be performed for the  
27 Illinois operations of multijurisdictional utilities. During  
28 the mandatory transition period, notwithstanding the  
29 provisions of subsection (a), if the 2-year average of an  
30 electric utility's earned rate of return on common equity,  
31 calculated as its net income applicable to common stock  
32 divided by the average of its beginning and ending balances  
33 of common equity using data reported in the electric  
34 utility's Form 1 report to the Federal Energy Regulatory

1 Commission but adjusted to remove the effect of any refund  
2 paid under this subsection (e), and further adjusted to  
3 include the annual amortization of any difference between the  
4 consideration received by an affiliated interest of the  
5 electric utility in the sale of an asset which had been sold  
6 or transferred by the electric utility to the affiliated  
7 interest subsequent to the effective date of this amendatory  
8 Act of 1997 and the consideration for which such asset had  
9 been sold or transferred to the affiliated interest, with  
10 such difference to be amortized ratably from the date of the  
11 sale by the affiliated interest to December 31, 2006, exceeds  
12 the 2-year average of the Index for the same 2 years by 1.5  
13 or more percentage points, the electric utility shall make  
14 refunds to customers beginning the first billing day of April  
15 in the following year in the manner described in paragraph  
16 (3) of this subsection. For purposes of this subsection (e),  
17 the "Index" shall be the sum of (A) the average for the 12  
18 months ended September 30 of the monthly average yields of  
19 30-year U.S. Treasury bonds published by the Board of  
20 Governors of the Federal Reserve System in its weekly H.15  
21 Statistical Release or successor publication for each year  
22 1998 through 2004, and (B) (i) 4.00 percentage points for  
23 each of the 12-month periods ending September 30, 1998  
24 through September 30, 1999 or 8.00 percentage points if the  
25 electric utility's average residential retail rate is less  
26 than or equal to 90% of the average residential retail rate  
27 for the "Midwest Utilities", as that term is defined in  
28 subsection (b) of this Section, based on data reported on  
29 Form 1 to the Federal Energy Regulatory Commission for  
30 calendar year 1995, and the electric utility served between  
31 150,000 and 250,000 retail customers on January 1, 1995, (ii)  
32 7.00 percentage points for each of the 12-month periods  
33 ending September 30, 2000 through September 30, 2004 if the  
34 electric utility was providing service to at least 1,000,000

1 customers in this State on January 1, 1999, or 9.00  
2 percentage points if the electric utility's average  
3 residential retail rate is less than or equal to 90% of the  
4 average residential retail rate for the "Midwest Utilities",  
5 as that term is defined in subsection (b) of this Section,  
6 based on data reported on Form 1 to the Federal Energy  
7 Regulatory Commission for calendar year 1995 and the electric  
8 utility served between 150,000 and 250,000 retail customers  
9 in this State on January 1, 1995, (iii) 11.00 percentage  
10 points for each of the 12-month periods ending September 30,  
11 2000 through September 30, 2004, but only if the electric  
12 utility's average residential retail rate is less than or  
13 equal to 90% of the average residential retail rate for the  
14 "Midwest Utilities", as that term is defined in subsection  
15 (b) of this Section, based on data reported on Form 1 to the  
16 Federal Energy Regulatory Commission for calendar year 1995,  
17 the electric utility served between 150,000 and 250,000  
18 retail customers in this State on January 1, 1995, and the  
19 electric utility offers delivery services on or before June  
20 1, 2000 to retail customers whose annual electric energy use  
21 comprises 33% of the kilowatt hour sales to that group of  
22 retail customers that are classified under Division D, Groups  
23 20 through 39 of the Standard Industrial Classifications set  
24 forth in the Standard Industrial Classification Manual  
25 published by the United States Office of Management and  
26 Budget, excluding the kilowatt hour sales to those customers  
27 that are eligible for delivery services pursuant to Section  
28 16-104(a)(1)(i), and offers delivery services to its  
29 remaining retail customers classified under Division D,  
30 Groups 20 through 39 on or before October 1, 2000, and,  
31 provided further, that the electric utility commits not to  
32 petition pursuant to Section 16-108(f) for entry of an order  
33 by the Commission authorizing the electric utility to  
34 implement transition charges for an additional period after

1 December 31, 2006, or (iv) 5.00 percentage points for each of  
2 the 12-month periods ending September 30, 2000 through  
3 September 30, 2004 for all other electric utilities or 7.00  
4 percentage points for such utilities for each of the 12-month  
5 periods ending September 30, 2000 through September 30, 2004  
6 for any such utility that commits not to petition pursuant to  
7 Section 16-108(f) for entry of an order by the Commission  
8 authorizing the electric utility to implement transition  
9 charges for an additional period after December 31, 2006.

10 (1) For purposes of this subsection (e), "excess  
11 earnings" means the difference between (A) the 2-year  
12 average of the electric utility's earned rate of return  
13 on common equity, less (B) the 2-year average of the sum  
14 of (i) the Index applicable to each of the 2 years and  
15 (ii) 1.5 percentage points; provided, that "excess  
16 earnings" shall never be less than zero.

17 (2) On or before March 31 of each year 2000 through  
18 2005 each electric utility shall file a report with the  
19 Commission showing its earned rate of return on common  
20 equity, calculated in accordance with this subsection,  
21 for the preceding calendar year and the average for the  
22 preceding 2 calendar years.

23 (3) If an electric utility has excess earnings,  
24 determined in accordance with paragraphs (1) and (2) of  
25 this subsection, the refunds which the electric utility  
26 shall pay to its customers beginning the first billing  
27 day of April in the following year shall be calculated  
28 and applied as follows:

29 (i) The electric utility's excess earnings  
30 shall be multiplied by the average of the beginning  
31 and ending balances of the electric utility's common  
32 equity for the 2-year period in which excess  
33 earnings occurred.

34 (ii) The result of the calculation in (i)

1 shall be multiplied by 0.50 and then divided by a  
2 number equal to 1 minus the electric utility's  
3 composite federal and State income tax rate.

4 (iii) The result of the calculation in (ii)  
5 shall be divided by the sum of the electric  
6 utility's projected total kilowatt-hour sales to  
7 retail customers plus projected kilowatt-hours to be  
8 delivered to delivery services customers over a one  
9 year period beginning with the first billing date in  
10 April in the succeeding year to determine a cents  
11 per kilowatt-hour refund factor.

12 (iv) The cents per kilowatt-hour refund factor  
13 calculated in (iii) shall be credited to the  
14 electric utility's customers by applying the factor  
15 on the customer's monthly bills to each  
16 kilowatt-hour sold or delivered until the total  
17 amount calculated in (ii) has been paid to  
18 customers.

19 (f) During the mandatory transition period, an electric  
20 utility may file revised tariffs reducing the price of any  
21 tariffed service offered by the electric utility for all  
22 customers taking that tariffed service, which shall be  
23 effective 7 days after filing.

24 (g) During the mandatory transition period, an electric  
25 utility may, without obtaining any approval of the Commission  
26 other than that provided for in this subsection and  
27 notwithstanding any other provision of this Act or any rule  
28 or regulation of the Commission that would require such  
29 approval:

30 (1) implement a reorganization, other than a merger  
31 of 2 or more public utilities as defined in Section 3-105  
32 or their holding companies;

33 (2) retire generating plants from service;

34 (3) sell, assign, lease or otherwise transfer



1 assets to an affiliated or unaffiliated entity and as  
2 part of such transaction enter into service agreements,  
3 power purchase agreements, or other agreements with the  
4 transferee; provided, however, that the prices, terms and  
5 conditions of any power purchase agreement must be  
6 approved or allowed into effect by the Federal Energy  
7 Regulatory Commission; or

8 (4) use any accelerated cost recovery method  
9 including accelerated depreciation, accelerated  
10 amortization or other capital recovery methods, or record  
11 reductions to the original cost of its assets.

12 In order to implement a reorganization, retire generating  
13 plants from service, or sell, assign, lease or otherwise  
14 transfer assets pursuant to this Section, the electric  
15 utility shall comply with subsections (c) and (d) of Section  
16 16-128, if applicable, and subsection (k) of this Section, if  
17 applicable, and provide the Commission with at least 30 days  
18 notice of the proposed reorganization or transaction, which  
19 notice shall include the following information:

20 (i) a complete statement of the entries that  
21 the electric utility will make on its books and  
22 records of account to implement the proposed  
23 reorganization or transaction together with a  
24 certification from an independent certified public  
25 accountant that such entries are in accord with  
26 generally accepted accounting principles and, if the  
27 Commission has previously approved guidelines for  
28 cost allocations between the utility and its  
29 affiliates, a certification from the chief  
30 accounting officer of the utility that such entries  
31 are in accord with those cost allocation guidelines;

32 (ii) a description of how the electric utility  
33 will use proceeds of any sale, assignment, lease or  
34 transfer to retire debt or otherwise reduce or

1 recover the costs of services provided by such  
2 electric utility;

3 (iii) a list of all federal approvals or  
4 approvals required from departments and agencies of  
5 this State, other than the Commission, that the  
6 electric utility has or will obtain before  
7 implementing the reorganization or transaction;

8 (iv) an irrevocable commitment by the electric  
9 utility that it will not, as a result of the  
10 transaction, impose any stranded cost charges that  
11 it might otherwise be allowed to charge retail  
12 customers under federal law or increase the  
13 transition charges that it is otherwise entitled to  
14 collect under this Article XVI; and

15 (v) if the electric utility proposes to sell,  
16 assign, lease or otherwise transfer a generating  
17 plant that brings the amount of net dependable  
18 generating capacity transferred pursuant to this  
19 subsection to an amount equal to or greater than 15%  
20 of the electric utility's net dependable capacity as  
21 of the effective date of this amendatory Act of  
22 1997, and enters into a power purchase agreement  
23 with the entity to which such generating plant is  
24 sold, assigned, leased, or otherwise transferred,  
25 the electric utility also agrees, if its fuel  
26 adjustment clause has not already been eliminated,  
27 to eliminate its fuel adjustment clause in  
28 accordance with subsection (b) of Section 9-220 for  
29 a period of time equal to the length of any such  
30 power purchase agreement or successor agreement, or  
31 until January 1, 2005, whichever is longer; if the  
32 capacity of the generating plant so transferred and  
33 related power purchase agreement does not result in  
34 the elimination of the fuel adjustment clause under

1           this subsection, and the fuel adjustment clause has  
2           not already been eliminated, the electric utility  
3           shall agree that the costs associated with the  
4           transferred plant that are included in the  
5           calculation of the rate per kilowatt-hour to be  
6           applied pursuant to the electric utility's fuel  
7           adjustment clause during such period shall not  
8           exceed the per kilowatt-hour cost associated with  
9           such generating plant included in the electric  
10          utility's fuel adjustment clause during the full  
11          calendar year preceding the transfer, with such  
12          limit to be adjusted each year thereafter by the  
13          Gross Domestic Product Implicit Price Deflator.

14                 (vi) In addition, if the electric utility  
15          proposes to sell, assign, or lease, (A) either (1)  
16          an amount of generating plant that brings the amount  
17          of net dependable generating capacity transferred  
18          pursuant to this subsection to an amount equal to or  
19          greater than 15% of its net dependable capacity on  
20          the effective date of this amendatory Act of 1997,  
21          or (2) one or more generating plants with a total  
22          net dependable capacity of 1100 megawatts, or (B)  
23          transmission and distribution facilities that either  
24          (1) bring the amount of transmission and  
25          distribution facilities transferred pursuant to this  
26          subsection to an amount equal to or greater than 15%  
27          of the electric utility's total depreciated original  
28          cost investment in such facilities, or (2) represent  
29          an investment of \$25,000,000 in terms of total  
30          depreciated original cost, the electric utility  
31          shall provide, in addition to the information listed  
32          in subparagraphs (i) through (v), the following  
33          information: (A) a description of how the electric  
34          utility will meet its service obligations under this

1 Act in a safe and reliable manner and (B) the  
2 electric utility's projected earned rate of return  
3 on common equity, calculated in accordance with  
4 subsection (d) of this Section, for each year from  
5 the date of the notice through December 31, 2004  
6 both with and without the proposed transaction. If  
7 the Commission has not issued an order initiating a  
8 hearing on the proposed transaction within 30 days  
9 after the date the electric utility's notice is  
10 filed, the transaction shall be deemed approved.  
11 The Commission may, after notice and hearing,  
12 prohibit the proposed transaction if it makes either  
13 or both of the following findings: (1) that the  
14 proposed transaction will render the electric  
15 utility unable to provide its tariffed services in a  
16 safe and reliable manner, or (2) that there is a  
17 strong likelihood that consummation of the proposed  
18 transaction will result in the electric utility  
19 being entitled to request an increase in its base  
20 rates during the mandatory transition period  
21 pursuant to subsection (d) of this Section. Any  
22 hearing initiated by the Commission into the  
23 proposed transaction shall be completed, and the  
24 Commission's final order approving or prohibiting  
25 the proposed transaction shall be entered, within 90  
26 days after the date the electric utility's notice  
27 was filed. Provided, however, that a sale,  
28 assignment, or lease of transmission facilities to  
29 an independent system operator that meets the  
30 requirements of Section 16-126 shall not be subject  
31 to Commission approval under this Section.

32 In any proceeding conducted by the Commission  
33 pursuant to this subparagraph (vi), intervention  
34 shall be limited to parties with a direct interest

1 in the transaction which is the subject of the  
2 hearing and any statutory consumer protection agency  
3 as defined in subsection (d) of Section 9-102.1.  
4 Notwithstanding the provisions of Section 10-113 of  
5 this Act, any application seeking rehearing of an  
6 order issued under this subparagraph (vi), whether  
7 filed by the electric utility or by an intervening  
8 party, shall be filed within 10 days after service  
9 of the order.

10 The Commission shall not in any subsequent proceeding or  
11 otherwise, review such a reorganization or other transaction  
12 authorized by this Section, but shall retain the authority to  
13 allocate costs as stated in Section 16-111(i). An entity to  
14 which an electric utility sells, assigns, leases or transfers  
15 assets pursuant to this subsection (g) shall not, as a result  
16 of the transactions specified in this subsection (g), be  
17 deemed a public utility as defined in Section 3-105. Nothing  
18 in this subsection (g) shall change any requirement under the  
19 jurisdiction of the Illinois Department of Nuclear Safety  
20 including, but not limited to, the payment of fees. Nothing  
21 in this subsection (g) shall exempt a utility from obtaining  
22 a certificate pursuant to Section 8-406 of this Act for the  
23 construction of a new electric generating facility. Nothing  
24 in this subsection (g) is intended to exempt the transactions  
25 hereunder from the operation of the federal or State  
26 antitrust laws. Nothing in this subsection (g) shall require  
27 an electric utility to use the procedures specified in this  
28 subsection for any of the transactions specified herein. Any  
29 other procedure available under this Act may, at the electric  
30 utility's election, be used for any such transaction.

31 (h) During the mandatory transition period, the  
32 Commission shall not establish or use any rates of  
33 depreciation, which for purposes of this subsection shall  
34 include amortization, for any electric utility other than

1 those established pursuant to subsection (c) of Section 5-104  
2 of this Act or utilized pursuant to subsection (g) of this  
3 Section. Provided, however, that in any proceeding to review  
4 an electric utility's rates for tariffed services pursuant to  
5 Section 9-201, 9-202, 9-250 or 16-111(d) of this Act, the  
6 Commission may establish new rates of depreciation for the  
7 electric utility in the same manner provided in subsection  
8 (d) of Section 5-104 of this Act. An electric utility  
9 implementing an accelerated cost recovery method including  
10 accelerated depreciation, accelerated amortization or other  
11 capital recovery methods, or recording reductions to the  
12 original cost of its assets, pursuant to subsection (g) of  
13 this Section, shall file a statement with the Commission  
14 describing the accelerated cost recovery method to be  
15 implemented or the reduction in the original cost of its  
16 assets to be recorded. Upon the filing of such statement,  
17 the accelerated cost recovery method or the reduction in the  
18 original cost of assets shall be deemed to be approved by the  
19 Commission as though an order had been entered by the  
20 Commission.

21 (i) Subsequent to the mandatory transition period, the  
22 Commission, in any proceeding to establish rates and charges  
23 for tariffed services offered by an electric utility, shall  
24 consider only (1) the then current or projected revenues,  
25 costs, investments and cost of capital directly or indirectly  
26 associated with the provision of such tariffed services; (2)  
27 collection of transition charges in accordance with Sections  
28 16-102 and 16-108 of this Act; (3) recovery of any employee  
29 transition costs as described in Section 16-128 which the  
30 electric utility is continuing to incur, including recovery  
31 of any unamortized portion of such costs previously incurred  
32 or committed, with such costs to be equitably allocated among  
33 bundled services, delivery services, and contracts with  
34 alternative retail electric suppliers; and (4) recovery of

1 the costs associated with the electric utility's compliance  
2 with decommissioning funding requirements; and shall not  
3 consider any other revenues, costs, investments or cost of  
4 capital of either the electric utility or of any affiliate of  
5 the electric utility that are not associated with the  
6 provision of tariffed services. In setting rates for  
7 tariffed services, the Commission shall equitably allocate  
8 joint and common costs and investments between the electric  
9 utility's competitive and tariffed services. In determining  
10 the justness and reasonableness of the electric power and  
11 energy component of an electric utility's rates for tariffed  
12 services subsequent to the mandatory transition period and  
13 prior to the time that the provision of such electric power  
14 and energy is declared competitive, the Commission shall  
15 consider the extent to which the electric utility's tariffed  
16 rates for such component for each customer class exceed the  
17 market value determined pursuant to Section 16-112, and, if  
18 the electric power and energy component of such tariffed rate  
19 exceeds the market value by more than 10% for any customer  
20 class, may establish such electric power and energy component  
21 at a rate equal to the market value plus 10%. In any such  
22 case, the Commission may also elect to extend the provisions  
23 of Section 16-111(e) for any period in which the electric  
24 utility is collecting transition charges, using information  
25 applicable to such period.

26 (j) During the mandatory transition period, an electric  
27 utility may elect to transfer to a non-operating income  
28 account under the Commission's Uniform System of Accounts  
29 either or both of (i) an amount of unamortized investment tax  
30 credit that is in addition to the ratable amount which is  
31 credited to the electric utility's operating income account  
32 for the year in accordance with Section 46(f)(2) of the  
33 federal Internal Revenue Code of 1986, as in effect prior to  
34 P.L. 101-508, or (ii) "excess tax reserves", as that term is

1 defined in Section 203(e)(2)(A) of the federal Tax Reform Act  
2 of 1986, provided that (A) the amount transferred may not  
3 exceed the amount of the electric utility's assets that were  
4 created pursuant to Statement of Financial Accounting  
5 Standards No. 71 which the electric utility has written off  
6 during the mandatory transition period, and (B) the transfer  
7 shall not be effective until approved by the Internal Revenue  
8 Service. An electric utility electing to make such a  
9 transfer shall file a statement with the Commission stating  
10 the amount and timing of the transfer for which it intends to  
11 request approval of the Internal Revenue Service, along with  
12 a copy of its proposed request to the Internal Revenue  
13 Service for a ruling. The Commission shall issue an order  
14 within 14 days after the electric utility's filing approving,  
15 subject to receipt of approval from the Internal Revenue  
16 Service, the proposed transfer.

17 (k) If an electric utility is selling or transferring to  
18 a single buyer 5 or more generating plants located in this  
19 State with a total net dependable capacity of 5000 megawatts  
20 or more pursuant to subsection (g) of this Section and has  
21 obtained a sale price or consideration that exceeds 200% of  
22 the book value of such plants, the electric utility must  
23 provide to the Governor, the President of the Illinois  
24 Senate, the Minority Leader of the Illinois Senate, the  
25 Speaker of the Illinois House of Representatives, and the  
26 Minority Leader of the Illinois House of Representatives no  
27 later than 15 days after filing its notice under subsection  
28 (g) of this Section or 5 days after the date on which this  
29 subsection (k) becomes law, whichever is later, a written  
30 commitment in which such electric utility agrees to expend \$2  
31 billion outside the corporate limits of any municipality with  
32 1,000,000 or more inhabitants within such electric utility's  
33 service area, over a 6-year period beginning with the  
34 calendar year in which the notice is filed, on projects,



1 programs, and improvements within its service area relating  
2 to transmission and distribution including, without  
3 limitation, infrastructure expansion, repair and replacement,  
4 capital investments, operations and maintenance, and  
5 vegetation management.

6 (Source: P.A. 90-561, eff. 12-16-97; 90-563, eff. 12-16-97;  
7 91-50, eff. 6-30-99.)

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

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305 ILCS 20/5	from Ch. 111 2/3, par. 1405
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