

1 AN ACT concerning residential heating costs.

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

4 Section 1. Short title. This Act may be cited as the
5 Residential Heating Consumer Billing Act.

6 Section 5. Definitions.

7 "Base period" means the period from November 1999 through
8 March 2000.

9 "Heating oil" means petroleum that is No. 1, No. 2, No. 4
10 light, No. 4 heavy, No. 5 light, No. 5 heavy, or No. 6
11 technical grades of fuel oil; or other residual fuel oils
12 including Navy Special Fuel Oil and Bunker C.

13 "Heating products" means heating oil, natural gas, and
14 propane.

15 "Natural gas" means any gaseous heating fuel that is
16 naturally or synthetically produced.

17 "Propane" means a hydrocarbon whose chemical composition
18 is predominately C₃H₈, whether recovered from natural gas or
19 crude oil, and includes liquefied petroleum gases and
20 mixtures thereof.

21 "Retailer" means a person engaged in the business of
22 selling heating products to consumers in this State.

23 Section 10. Heating products billing plan.

24 (a) As a condition of transacting business in this
25 State, a retailer must offer to its consumers a heating
26 products billing plan that meets the requirements of this
27 Act.

28 (b) A heating products billing plan meets the
29 requirements of this Act if it provides that each month the
30 consumer must pay to the retailer an amount equal to the

1 average monthly amount paid by the consumer for heating
2 products during the base period plus a surcharge not to
3 exceed 10% of the amount by which the cost of heating
4 products consumed during the month exceeds the average
5 monthly amount paid by the consumer for heating products
6 during the base period. The retailer may add the surcharge to
7 the consumer's monthly bill each month until the cost of
8 heating products used by the consumer is paid in full.

9 Section 95. The Public Utilities Act is amended by
10 changing Section 9-220 as follows:

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

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

13 (a) Notwithstanding the provisions of Section 9-201, the
14 Commission may authorize the increase or decrease of rates
15 and charges based upon changes in the cost of fuel used in
16 the generation or production of electric power, changes in
17 the cost of purchased power, or changes in the cost of
18 purchased gas through the application of fuel adjustment
19 clauses or purchased gas adjustment clauses. Collection of
20 rates or charges imposed for the cost of purchased gas,
21 however, must comply with the Residential Heating Consumer
22 Billing Act. The Commission may also authorize the increase
23 or decrease of rates and charges based upon expenditures or
24 revenues resulting from the purchase or sale of emission
25 allowances created under the federal Clean Air Act Amendments
26 of 1990, through such fuel adjustment clauses, as a cost of
27 fuel. For the purposes of this paragraph, cost of fuel used
28 in the generation or production of electric power shall
29 include the amount of any fees paid by the utility for the
30 implementation and operation of a process for the
31 desulfurization of the flue gas when burning high sulfur coal
32 at any location within the State of Illinois irrespective of

1 the attainment status designation of such location; but shall
2 not include transportation costs of coal (i) except to the
3 extent that for contracts entered into on and after the
4 effective date of this amendatory Act of 1997, the cost of
5 the coal, including transportation costs, constitutes the
6 lowest cost for adequate and reliable fuel supply reasonably
7 available to the public utility in comparison to the cost,
8 including transportation costs, of other adequate and
9 reliable sources of fuel supply reasonably available to the
10 public utility, or (ii) except as otherwise provided in the
11 next 3 sentences of this paragraph. Such costs of fuel
12 shall, when requested by a utility or at the conclusion of
13 the utility's next general electric rate proceeding,
14 whichever shall first occur, include transportation costs of
15 coal purchased under existing coal purchase contracts. For
16 purposes of this paragraph "existing coal purchase contracts"
17 means contracts for the purchase of coal in effect on the
18 effective date of this amendatory Act of 1991, as such
19 contracts may thereafter be amended, but only to the extent
20 that any such amendment does not increase the aggregate
21 quantity of coal to be purchased under such contract. Nothing
22 herein shall authorize an electric utility to recover through
23 its fuel adjustment clause any amounts of transportation
24 costs of coal that were included in the revenue requirement
25 used to set base rates in its most recent general rate
26 proceeding. Cost shall be based upon uniformly applied
27 accounting principles. Annually, the Commission shall
28 initiate public hearings to determine whether the clauses
29 reflect actual costs of fuel, gas, power, or coal
30 transportation purchased to determine whether such purchases
31 were prudent, and to reconcile any amounts collected with the
32 actual costs of fuel, power, gas, or coal transportation
33 prudently purchased. In each such proceeding, the burden of
34 proof shall be upon the utility to establish the prudence of

1 its cost of fuel, power, gas, or coal transportation
2 purchases and costs. The Commission shall issue its final
3 order in each such annual proceeding for an electric utility
4 by December 31 of the year immediately following the year to
5 which the proceeding pertains, provided, that the Commission
6 shall issue its final order with respect to such annual
7 proceeding for the years 1996 and earlier by December 31,
8 1998.

9 (b) A public utility providing electric service, other
10 than a public utility described in subsections (e) or (f) of
11 this Section, may at any time during the mandatory transition
12 period file with the Commission proposed tariff sheets that
13 eliminate the public utility's fuel adjustment clause and
14 adjust the public utility's base rate tariffs by the amount
15 necessary for the base fuel component of the base rates to
16 recover the public utility's average fuel and power supply
17 costs per kilowatt-hour for the 2 most recent years for which
18 the Commission has issued final orders in annual proceedings
19 pursuant to subsection (a), where the average fuel and power
20 supply costs per kilowatt-hour shall be calculated as the sum
21 of the public utility's prudent and allowable fuel and power
22 supply costs as found by the Commission in the 2 proceedings
23 divided by the public utility's actual jurisdictional
24 kilowatt-hour sales for those 2 years. Notwithstanding any
25 contrary or inconsistent provisions in Section 9-201 of this
26 Act, in subsection (a) of this Section or in any rules or
27 regulations promulgated by the Commission pursuant to
28 subsection (g) of this Section, the Commission shall review
29 and shall by order approve, or approve as modified, the
30 proposed tariff sheets within 60 days after the date of the
31 public utility's filing. The Commission may modify the
32 public utility's proposed tariff sheets only to the extent
33 the Commission finds necessary to achieve conformance to the
34 requirements of this subsection (b). During the 5 years

1 following the date of the Commission's order, but in any
2 event no earlier than January 1, 2005, a public utility whose
3 fuel adjustment clause has been eliminated pursuant to this
4 subsection shall not file proposed tariff sheets seeking, or
5 otherwise petition the Commission for, reinstatement of a
6 fuel adjustment clause.

7 (c) Notwithstanding any contrary or inconsistent
8 provisions in Section 9-201 of this Act, in subsection (a) of
9 this Section or in any rules or regulations promulgated by
10 the Commission pursuant to subsection (g) of this Section, a
11 public utility providing electric service, other than a
12 public utility described in subsection (e) or (f) of this
13 Section, may at any time during the mandatory transition
14 period file with the Commission proposed tariff sheets that
15 establish the rate per kilowatt-hour to be applied pursuant
16 to the public utility's fuel adjustment clause at the average
17 value for such rate during the preceding 24 months, provided
18 that such average rate results in a credit to customers'
19 bills, without making any revisions to the public utility's
20 base rate tariffs. The proposed tariff sheets shall
21 establish the fuel adjustment rate for a specific time period
22 of at least 3 years but not more than 5 years, provided that
23 the terms and conditions for any reinstatement earlier than 5
24 years shall be set forth in the proposed tariff sheets and
25 subject to modification or approval by the Commission. The
26 Commission shall review and shall by order approve the
27 proposed tariff sheets if it finds that the requirements of
28 this subsection are met. The Commission shall not conduct
29 the annual hearings specified in the last 3 sentences of
30 subsection (a) of this Section for the utility for the period
31 that the factor established pursuant to this subsection is in
32 effect.

33 (d) A public utility providing electric service, or a
34 public utility providing gas service may file with the

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

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

21 (e) Notwithstanding any contrary or inconsistent
22 provisions in Section 9-201 of this Act, in subsection (a)
23 of this Section, or in any rules promulgated by the
24 Commission pursuant to subsection (g) of this Section, a
25 public utility providing electric service to more than
26 1,000,000 customers in this State may, within the first 6
27 months after the effective date of this amendatory Act of
28 1997, file with the Commission proposed tariff sheets that
29 eliminate, effective January 1, 1997, the public utility's
30 fuel adjustment clause without adjusting its base rates, and
31 such tariff sheets shall be effective upon filing. To the
32 extent the application of the fuel adjustment clause had
33 resulted in net charges to customers after January 1, 1997,
34 the utility shall also file a tariff sheet that provides for

1 a refund stated on a per kilowatt-hour basis of such charges
2 over a period not to exceed 6 months; provided however, that
3 such refund shall not include the proportional amounts of
4 taxes paid under the Use Tax Act, Service Use Tax Act,
5 Service Occupation Tax Act, and Retailers' Occupation Tax Act
6 on fuel used in generation. The Commission shall issue an
7 order within 45 days after the date of the public utility's
8 filing approving or approving as modified such tariff sheet.
9 If the fuel adjustment clause is eliminated pursuant to this
10 subsection, the Commission shall not conduct the annual
11 hearings specified in the last 3 sentences of subsection (a)
12 of this Section for the utility for any period after
13 December 31, 1996 and prior to any reinstatement of such
14 clause. A public utility whose fuel adjustment clause has
15 been eliminated pursuant to this subsection shall not file a
16 proposed tariff sheet seeking, or otherwise petition the
17 Commission for, reinstatement of the fuel adjustment clause
18 prior to January 1, 2005.

19 (f) Notwithstanding any contrary or inconsistent
20 provisions in Section 9-201 of this Act, in subsection (a) of
21 this Section, or in any rules or regulations promulgated by
22 the Commission pursuant to subsection (g) of this Section, a
23 public utility providing electric service to more than
24 500,000 customers but fewer than 1,000,000 customers in this
25 State may, within the first 6 months after the effective date
26 of this amendatory Act of 1997, file with the Commission
27 proposed tariff sheets that eliminate, effective January 1,
28 1997, the public utility's fuel adjustment clause and adjust
29 its base rates by the amount necessary for the base fuel
30 component of the base rates to recover 91% of the public
31 utility's average fuel and power supply costs for the 2 most
32 recent years for which the Commission, as of January 1, 1997,
33 has issued final orders in annual proceedings pursuant to
34 subsection (a), where the average fuel and power supply costs

1 per kilowatt-hour shall be calculated as the sum of the
2 public utility's prudent and allowable fuel and power supply
3 costs as found by the Commission in the 2 proceedings divided
4 by the public utility's actual jurisdictional kilowatt-hour
5 sales for those 2 years, provided, that such tariff sheets
6 shall be effective upon filing. To the extent the
7 application of the fuel adjustment clause had resulted in net
8 charges to customers after January 1, 1997, the utility shall
9 also file a tariff sheet that provides for a refund stated on
10 a per kilowatt-hour basis of such charges over a period not
11 to exceed 6 months. Provided however, that such refund shall
12 not include the proportional amounts of taxes paid under the
13 Use Tax Act, Service Use Tax Act, Service Occupation Tax Act,
14 and Retailers' Occupation Tax Act on fuel used in generation.
15 The Commission shall issue an order within 45 days after the
16 date of the public utility's filing approving or approving as
17 modified such tariff sheet. If the fuel adjustment clause is
18 eliminated pursuant to this subsection, the Commission shall
19 not conduct the annual hearings specified in the last 3
20 sentences of subsection (a) of this Section for the utility
21 for any period after December 31, 1996 and prior to any
22 reinstatement of such clause. A public utility whose fuel
23 adjustment clause has been eliminated pursuant to this
24 subsection shall not file a proposed tariff sheet seeking, or
25 otherwise petition the Commission for, reinstatement of the
26 fuel adjustment clause prior to January 1, 2005.

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

30 (Source: P.A. 90-561, eff. 12-16-97.)

31 Section 99. Effective date. This Act takes effect upon
32 becoming law.