

1 AN ACT concerning public utilities.

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

4 Section 5. The Public Utilities Act is amended by
5 changing Sections 9-244 and 16-125 as follows:

6 (220 ILCS 5/9-244) (from Ch. 111 2/3, par. 9-244)

7 Sec. 9-244. Alternative rate regulation.

8 (a) Notwithstanding any of the ratemaking provisions of
9 this Article IX or other Sections of this Act, or the
10 Commission's rules that are deemed to require rate of return
11 regulation, and except as provided in Article XVI, the
12 Commission, upon its own motion or upon petition ~~by--an~~
13 ~~electric-or-gas-public-utility~~, and after notice and hearing,
14 may authorize for some or all of the regulated services of an
15 electric or gas public ~~that~~ utility, the implementation of
16 one or more programs consisting of (i) alternatives to rate
17 of return regulation, including but not limited to earnings
18 sharing, rate moratoria, price caps or flexible rate options,
19 or (ii) other regulatory mechanisms that reward or penalize
20 the utility through the adjustment of rates based on utility
21 performance such as rate of return tied to reliability
22 performance. In the case of other regulatory mechanisms that
23 reward or penalize utilities through the adjustment of rates
24 based on utility performance, the utility's performance shall
25 be compared to standards established in the Commission order
26 authorizing the implementation of other regulatory
27 mechanisms. The Commission is specifically authorized to
28 approve in response to such petitions different forms of
29 alternatives to rate of return regulation or other regulatory
30 mechanisms to fit the particular characteristics and
31 requirements of different utilities and their service

1 territories.

2 (b) The Commission shall approve the program if it
3 finds, based on the record, that:

4 (1) the program is likely to result in rates lower
5 than otherwise would have been in effect under
6 traditional rate of return regulation for the services
7 covered by the program and that are consistent with the
8 provisions of Section 9-241 of the Act; or and

9 (2) the program is likely to result in other
10 substantial and identifiable benefits that would be
11 realized by customers served under the program and that
12 would not be realized in the absence of the program; and

13 (3) the utility is in compliance with applicable
14 Commission standards for reliability and implementation
15 of the program is not likely to adversely affect service
16 reliability or the program is specifically designed to
17 improve service reliability; and

18 (4) implementation of the program is not likely to
19 result in deterioration of the utility's financial
20 condition; and

21 (5) implementation of the program is not likely to
22 adversely affect the development of competitive markets;
23 and

24 (6) the electric utility is in compliance with its
25 obligation to offer delivery services pursuant to Article
26 XVI; and

27 (7) the program includes annual reporting
28 requirements and other provisions that will enable the
29 Commission to adequately monitor its implementation of
30 the program; and

31 (8) the program includes provisions for an
32 equitable sharing of any net economic benefits between
33 the utility and its customers to the extent the program
34 is likely to result in such benefits.

1 The Commission shall issue its order approving or denying
2 the program no later than 330 270 days from the date of
3 filing of the petition. Any program approved under this
4 Section shall continue in effect until revised, modified or
5 terminated by order of the Commission as provided in this
6 Section. If the Commission cannot make the above findings,
7 it shall specifically identify in its order the reason or
8 reasons why the proposed program does not meet the above
9 criteria, and shall identify any modifications supported in
10 the record, if any, that would cause the program to satisfy
11 the above criteria. ~~In the event the order identifies any~~
12 ~~such modifications it shall not become a final order subject~~
13 ~~to petitions for rehearing until 15 days after service of~~
14 ~~same by the Commission. The utility shall have 14 days~~
15 ~~following the date of service of the order to notify the~~
16 ~~Commission in writing whether it will accept any~~
17 ~~modifications so identified in the order or whether it has~~
18 ~~elected not to proceed with the program. If the utility~~
19 ~~notifies the Commission that it will accept such~~
20 ~~modifications, the Commission shall issue an amended order,~~
21 ~~without further hearing, within 14 days following such~~
22 ~~notification, approving the program as modified and such~~
23 ~~order shall be considered to be a final order of the~~
24 ~~Commission subject to petitions for rehearing and appellate~~
25 ~~procedures.~~

26 (c) The Commission shall open a proceeding to review any
27 program approved under subsection (b) no later than 2 years
28 after the program is first implemented to determine whether
29 the program is meeting its objectives, and may make such
30 revisions, no later than 270 days after the proceeding is
31 opened, as are necessary to result in the program meeting its
32 objectives. A utility ~~may elect to discontinue any program~~
33 ~~so revised. The Commission shall not otherwise direct a~~
34 ~~utility to~~ revise, modify or cancel a program during its term

1 of operation, except as found necessary by the Commission,
2 after notice and hearing, to ensure system reliability.

3 (d) Upon its own motion or complaint, the Commission may
4 investigate whether the utility is implementing an approved
5 program in accordance with the Commission order approving the
6 program. If the Commission finds after notice and hearing,
7 that the utility is not implementing the program in
8 accordance with such order, the Commission shall order the
9 utility to comply with the terms of the order. ~~Complaints~~
10 ~~relating--to--the--program--filed--under--Section--9--250--of--this~~
11 ~~Act,--alleging--that--the--program--does--not--comply--with--that~~
12 ~~Section--or--the--requirements--of--subsection--(b)--shall--not--be~~
13 ~~filed--sooner--than--one--year--after--the--review--provided--for--in~~
14 ~~subsection--(c).---The--complainant--shall--bear--the--burden--of~~
15 ~~proving--the--allegations--in--the--complaint.~~

16 (e) The Commission shall not be authorized to allow or
17 order an electric utility to place a program into effect,
18 pursuant to this Section, applicable to delivery services
19 provided by a utility, unless the utility already has in
20 effect a delivery services tariff conforming to the
21 requirements of Section 16-108 of this Act.

22 (f) The Commission may, upon subsequent petition ~~by the~~
23 ~~utility~~, after notice and hearing, authorize the extension of
24 a program that was previously approved pursuant to this
25 Section or approve revisions or modifications of such a
26 program to be effective, after the initially approved program
27 has been in effect. Any such petition seeking an extension,
28 revision, or modification of such a program must be
29 accompanied by an evaluation of the program addressing the
30 criteria set forth in subsection (b) hereof. The ~~utility's~~
31 petition may, but is not required to, specify a termination
32 date for the extended, revised or modified program. The
33 Commission may require a review of the extended, revised, or
34 modified program at such intervals as may be ordered by the

1 Commission, for the purpose of determining whether the
2 program should be revised, modified, or terminated.

3 (Source: P.A. 89-194, eff. 1-1-96; 90-561, eff. 12-16-97.)

4 (220 ILCS 5/16-125)

5 Sec. 16-125. Transmission and distribution reliability
6 requirements.

7 (a) To assure the reliable delivery of electricity to
8 all customers in this State and the effective implementation
9 of the provisions of this Article, the Commission shall,
10 within 180 days of the effective date of this Article, adopt
11 rules and regulations for assessing and assuring the
12 reliability of the transmission and distribution systems and
13 facilities that are under the Commission's jurisdiction.

14 (b) These rules and regulations shall require each
15 electric utility or alternative retail electric supplier
16 owning, controlling, or operating transmission and
17 distribution facilities and equipment subject to the
18 Commission's jurisdiction, referred to in this Section as
19 "jurisdictional entities", to adopt and implement procedures
20 for restoring transmission and distribution services to
21 customers after transmission or distribution outages on a
22 nondiscriminatory basis without regard to whether a customer
23 has chosen the electric utility, an affiliate of the electric
24 utility, or another entity as its provider of electric power
25 and energy. These rules and regulations shall also, at a
26 minimum, specifically require each jurisdictional entity to
27 submit annually to the Commission.

28 (1) the number and duration of planned and
29 unplanned outages during the prior year and their impacts
30 on customers;

31 (2) outages that were controllable and outages that
32 were exacerbated in scope or duration by the condition of
33 facilities, equipment or premises or by the actions or

1 inactions of operating personnel or agents;

2 (3) customer service interruptions that were due
3 solely to the actions or inactions of an alternative
4 retail electric supplier or a public utility in supplying
5 power or energy;

6 (4) a detailed report of the age, current
7 condition, reliability and performance of the
8 jurisdictional entity's existing transmission and
9 distribution facilities, which shall include, without
10 limitation, the following data:

11 (i) a summary of the jurisdictional entity's
12 outages and voltage variances reportable under the
13 Commission's rules;

14 (ii) the jurisdictional entity's expenditures
15 for transmission construction and maintenance, the
16 ratio of those expenditures to the jurisdictional
17 entity's transmission investment, and the average
18 remaining depreciation lives of the entity's
19 transmission facilities, expressed as a percentage
20 of total depreciation lives;

21 (iii) the jurisdictional entity's expenditures
22 for distribution construction and maintenance, the
23 ratio of those expenditures to the jurisdictional
24 entity's distribution investment, and the average
25 remaining depreciation lives of the entity's
26 distribution facilities, expressed as a percentage
27 of total depreciation lives;

28 (iv) a customer satisfaction survey covering,
29 among other areas identified in Commission rules,
30 reliability, customer service, and understandability
31 of the jurisdictional entity's services and prices;
32 and

33 (v) the corresponding information, in the same
34 format, for the previous 3 years, if available;

1 (5) a plan for future investment and reliability
2 improvements for the jurisdictional entity's transmission
3 and distribution facilities that will ensure continued
4 reliable delivery of energy to customers and provide the
5 delivery reliability needed for fair and open
6 competition; and

7 (6) a report of the jurisdictional entity's
8 implementation of its plan filed pursuant to subparagraph
9 (5) for the previous reporting period.

10 (c) The Commission rules shall set forth the criteria
11 that will be used to assess each jurisdictional entity's
12 annual report and evaluate its reliability performance. Such
13 criteria must take into account, at a minimum: the items
14 required to be reported in subsection (b); the relevant
15 characteristics of the area served; the age and condition of
16 the system's equipment and facilities; good engineering
17 practices; the costs of potential actions; and the benefits
18 of avoiding the risks of service disruption.

19 (d) At least every 3 years, beginning in the year the
20 Commission issues the rules required by subsection (a) or the
21 following year if the rules are issued after June 1, the
22 Commission shall assess the annual report of each
23 jurisdictional entity and evaluate its reliability
24 performance. The Commission's evaluation shall include
25 specific identification of, and recommendations concerning,
26 any potential reliability problems that it has identified as
27 a result of its evaluation. The Commission may conduct the
28 evaluation or may select and arrange for persons independent
29 of the utility to conduct the evaluation. The cost of an
30 independent evaluation shall be borne initially by the
31 jurisdictional entity. For jurisdictional entities under the
32 Commission's ratemaking jurisdiction, the results of the
33 evaluation of the jurisdictional entity's reliability
34 performance shall be considered in determining a reasonable

1 rate of return on investment or the terms of alternative
2 regulation programs for the jurisdictional entity.

3 (e) In the event that more than 30,000 customers of an
4 electric utility are subjected to a continuous power
5 interruption of 4 hours or more that results in the
6 transmission of power at less than 50% of the standard
7 voltage, or that results in the total loss of power
8 transmission, the utility shall be responsible for
9 compensating customers affected by that interruption for 4
10 hours or more for all actual damages, which shall not
11 include consequential damages, suffered as a result of the
12 power interruption. The utility shall also reimburse the
13 affected municipality, county, or other unit of local
14 government in which the power interruption has taken place
15 for all emergency and contingency expenses incurred by the
16 unit of local government as a result of the interruption. A
17 waiver of the requirements of this subsection may be granted
18 by the Commission in instances in which the utility can show
19 that the power interruption was a result of any one or more
20 of the following causes:

21 (1) Unpreventable damage due to weather events or
22 conditions.

23 (2) Customer tampering.

24 (3) Unpreventable damage due to civil or
25 international unrest or animals.

26 (4) Damage to utility equipment or other actions by
27 a party other than the utility, its employees, agents,
28 or contractors.

29 Loss of revenue and expenses incurred in complying with this
30 subsection may not be recovered from ratepayers.

31 (f) In the event of a power surge or other fluctuation
32 that causes damage and affects more than 30,000 customers,
33 the electric utility shall pay to affected customers the
34 replacement value of all goods damaged as a result of the

1 power surge or other fluctuation unless the utility can show
2 that the power surge or other fluctuation was due to one or
3 more of the following causes:

4 (1) Unpreventable damage due to weather events or
5 conditions.

6 (2) Customer tampering.

7 (3) Unpreventable damage due to civil or
8 international unrest or animals.

9 (4) Damage to utility equipment or other actions by
10 a party other than the utility, its employees, agents,
11 or contractors.

12 Loss of revenue and expenses incurred in complying with this
13 subsection may not be recovered from ratepayers. Customers
14 with respect to whom a waiver has been granted by the
15 Commission pursuant to subparagraphs (1)-(4) of subsections
16 (e) and (f) shall not count toward the 30,000 customers
17 required therein.

18 (g) Whenever an electric utility must perform planned
19 or routine maintenance or repairs on its equipment that will
20 result in transmission of power at less than 50% of the
21 standard voltage, loss of power, or power fluctuation (as
22 defined in subsection (f)), the utility shall make
23 reasonable efforts to notify potentially affected customers
24 no less than 24 hours in advance of performance of the
25 repairs or maintenance.

26 (h) Remedies provided for under this Section may be
27 sought exclusively through the Illinois Commerce Commission
28 as provided under Section 10-109 of this Act. Damages
29 awarded under this Section for a power interruption shall be
30 limited to actual damages, which shall not include
31 consequential damages, and litigation costs. Damage awards
32 may not be paid out of utility rate funds.

33 (i) The provisions of this Section shall not in any way
34 diminish or replace other civil or administrative remedies

1 available to a customer or a class of customers.

2 (j) The Commission shall by rule require an electric
3 utility to maintain service records detailing information on
4 each instance of transmission of power at less than 50% of
5 the standard voltage, loss of power, or power fluctuation
6 (as defined in subsection (f)), that affects 10 or more
7 customers. Occurrences that are momentary shall not be
8 required to be recorded or reported. The service record
9 shall include, for each occurrence, the following
10 information:

- 11 (1) The date.
- 12 (2) The time of occurrence.
- 13 (3) The duration of the incident.
- 14 (4) The number of customers affected.
- 15 (5) A description of the cause.
- 16 (6) The geographic area affected.
- 17 (7) The specific equipment involved in the
18 fluctuation or interruption.
- 19 (8) A description of measures taken to restore
20 service.
- 21 (9) A description of measures taken to remedy the
22 cause of the power interruption or fluctuation.
- 23 (10) A description of measures taken to prevent
24 future occurrence.
- 25 (11) The amount of remuneration, if any, paid to
26 affected customers.
- 27 (12) A statement of whether the fixed charge was
28 waived for affected customers.

29 Copies of the records containing this information shall
30 be available for public inspection at the utility's offices,
31 and copies thereof may be obtained upon payment of a fee not
32 exceeding the reasonable cost of reproduction. A copy of
33 each record shall be filed with the Commission and shall be
34 available for public inspection. Copies of the records may

1 be obtained upon payment of a fee not exceeding the
2 reasonable cost of reproduction.

3 (k) The requirements of subsections (e) through (j) of
4 this Section shall apply only to an electric public utility
5 having 1,000,000 or more customers.

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

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