

1 AN ACT relating to 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 Section 16-126 as follows:

6 (220 ILCS 5/16-126)

7 Sec. 16-126. Membership in an independent system
8 operator.

9 (a) The General Assembly finds that the establishment of
10 one or more independent system operators or their functional
11 equivalents is required to facilitate the development of an
12 open and efficient marketplace for electric power and energy
13 to the benefit of Illinois consumers. Therefore, an each
14 Illinois electric utility owning or controlling transmission
15 facilities or providing transmission services in Illinois and
16 that is a member of the Mid-American Interconnected Network
17 as of the effective date of this amendatory Act of 1997 shall
18 submit for approval to the Federal Energy Regulatory
19 Commission an application for establishing or joining an
20 independent system operator that shall:

21 (1) independently manage and control transmission
22 facilities of any electric utility;

23 (2) provide for nondiscriminatory access to and use
24 of the transmission system for buyers and sellers of
25 electricity;

26 (3) direct the transmission activities of the
27 control area operators;

28 (4) coordinate, plan, and order the installation of
29 new transmission facilities;

30 (5) adopt inspection, maintenance, repair, and
31 replacement standards for the transmission facilities

1 under its control and direct maintenance, repair, and
2 replacement of all facilities under its control; and
3 (6) implement procedures and act to assure the
4 provision of adequate and reliable service.

5 These standards shall be consistent with reliability
6 criteria no less stringent than those established by the
7 Mid-American Interconnected Network and the North American
8 Electric Reliability Council or their successors.

9 (b) The requirements of this Section may be met by
10 joining or establishing a regional independent system
11 operator that meets the criteria enumerated in subsections
12 (a), (c), and (d) of this Section, as determined by the
13 Commission. To achieve the objectives set forth in subsection
14 (a), the State of Illinois, through the appropriate officers,
15 departments, and agencies, shall work cooperatively with the
16 appropriate officials and agencies of those States contiguous
17 to this State and the Federal Energy Regulatory Commission
18 towards the formation of one or more regional independent
19 system operators.

20 (c) The independent system operator's governance
21 structure must be fair and nondiscriminatory, and the
22 independent system operator must be independent of any one
23 market participant or class of participants. The independent
24 system operator's rules of governance must prevent control,
25 or the appearance of control, of decision-making by any class
26 of participants.

27 (d) Participants in the independent system operator
28 shall make available to the independent system operator all
29 information required by the independent system operator in
30 performance of its functions described herein. The
31 independent system operator and the electric utilities
32 participating in the independent system operator shall make
33 all filings required by the Federal Energy Regulatory
34 Commission. The independent system operator shall ensure that

1 additional filings at the Federal Energy Regulatory
2 Commission request confirmation of the relevant provisions of
3 this amendatory Act of 1997.

4 (e) If a spot market, exchange market, or other
5 market-based mechanism providing transparent real-time market
6 prices for electric power has not been developed, the
7 independent system operator or a closely cooperating agent of
8 the independent system operator may provide an efficient
9 competitive power exchange auction for electric power and
10 energy, open on a nondiscriminatory basis to all suppliers,
11 which meets the loads of all auction customers at efficient
12 prices.

13 (f) For those electric utilities referred to in
14 subsection (a) which have not filed with the Federal Energy
15 Regulatory Commission by June 30, 1998 an application for
16 establishment or participation in an independent system
17 operator or if such application has not been approved by the
18 Federal Energy Regulatory Commission by March 31, 1999, a 5
19 member Oversight Board shall be formed. The Oversight Board
20 shall (1) oversee the creation of an Illinois independent
21 system operator and (2) determine the composition and initial
22 terms of service of, and appoint the initial members of, the
23 Illinois independent system operator board of directors. The
24 Oversight Board shall consist of the following: (1) 3 persons
25 appointed by the Governor; (2) one person appointed by the
26 Speaker of the House of Representatives; and (3) one person
27 appointed by the President of the Senate. The Oversight Board
28 shall take the steps that are necessary to ensure the
29 earliest possible incorporation of an Illinois independent
30 system operator under the Business Corporation Act of 1983,
31 and shall serve until the Illinois independent system
32 operator is incorporated.

33 (g) After notice and hearing, the Commission shall
34 require each electric utility referred to in subsection (a),

1 that is not participating in an independent system operator
2 meeting the requirements of subsections (a) and (c), to seek
3 authority from the Federal Energy Regulatory Commission to
4 transfer functional control of transmission facilities to the
5 Illinois independent system operator for control by the
6 Illinois independent system operator consistent with the
7 requirements of subsection (a). Upon approval by the Federal
8 Energy Regulatory Commission, electric utilities may also
9 elect to transfer ownership of transmission facilities to the
10 Illinois independent system operator. Nothing in this Act
11 shall be deemed to preclude the Illinois independent system
12 operator from (1) seeking authority, as necessary, to merge
13 with or otherwise combine its operations with those of one or
14 more other entities authorized to provide transmission
15 services, (2) purchasing or leasing transmission assets from
16 transmission-owning entities not required by this Section to
17 lease transmission facilities to the Illinois independent
18 system operator, or (3) operating as a transmission public
19 utility under the Federal Power Act.

20 (h) Any other owner of transmission facilities in
21 Illinois not required by this Section to participate in an
22 independent system operator shall be permitted, but not
23 required, to become a member of the Illinois independent
24 system operator.

25 (i) The Illinois independent system operator created
26 under this Section, and any other independent system operator
27 authorized by the Federal Energy Regulatory Commission to
28 provide transmission services as a public utility under the
29 Federal Power Act within the State of Illinois, shall be
30 deemed to be a public utility for purposes of Section 8-503
31 and 8-509 of this Act.

32 (j) Electric utilities referred to in subsection (a) may
33 withdraw from the Illinois independent system operator upon
34 becoming a member of an independent system operator or

1 operators conforming with the criteria in subsections (a) and
2 (c) and whose formation and operation has been approved by
3 the Federal Energy Regulatory Commission. This subsection
4 does not relieve any electric utility of any obligations
5 under Federal law.

6 (k) Nothing in this Section shall be construed as
7 imposing any requirements or obligations that are in conflict
8 with federal law.

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