

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 receive essential levels of heat and electric service
16 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 ensure that citizens have access to
5 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 ensure the
22 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, 1989,~~ 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 20 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 serving 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;

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

18 (14) three members designated by the Mayor of the
19 City of Chicago.

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

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

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

32 (2) to assist the Department in developing and
33 administering rules and regulations required to be
34 promulgated pursuant to this Act in a manner consistent

1 with the purpose and objectives of this Act;

2 (3) to facilitate and coordinate the collection and
3 exchange of all program data and other information needed
4 by the Department and others in fulfilling their duties
5 pursuant to this Act;

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

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

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

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

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

33 (3)--6--persons--who--shall--be--appointed--by--the
34 Director--of--the--Department--of--Commerce-and-Community

1 Affairs-to-serve-2-year-terms-and-until-their--successors
2 are-appointed-and-qualified, who-shall-be-persons-meeting
3 such--qualifications--as--may--be-required-by-the-federal
4 government-for-the-administration-of--the--Weatherization
5 Assistance--Program--funded--by--the--U.S.--Department-of
6 Energy-and-any-such-related-energy-assistance-programs.

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

10 (b)--The-Policy-Advisory-Council-shall-have-the-following
11 duties:

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

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

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

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

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

29 (6)--on-or-before-March-1-of-each-year-beginning--in
30 1990,--to-prepare-and-submit-a-report-to-the-Governor-and
31 General-Assembly-which-describes-the--activities--of--the
32 Department--in--the--development--and--implementation--of
33 energy--assistance--and--related--policies--and-programs,
34 which--characterizes--progress--towards--meeting--the

1 objectives--and--requirements--of--this--Act,--and--which
2 recommends--any--statutory--changes--which--might--be--needed--to
3 further--such--progress.---The--report--submitted--in--1991
4 shall--include--an--analysis---of---and---recommendations
5 regarding--this--Act's--provisions--concerning--State--payment
6 of--pre--program--arrearages;--and

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

13 (Source: P.A. 89-445, eff. 2-7-96; 89-507, eff. 7-1-97;
14 90-561, eff. 12-16-97.)

15 (305 ILCS 20/6) (from Ch. 111 2/3, par. 1406)

16 Sec. 6. Eligibility, Conditions of Participation, and
17 Energy Assistance.

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

28 (b) Applicants who qualify for assistance pursuant to
29 subsection (a) of this Section shall, subject to
30 appropriation from the General Assembly and subject to
31 availability of funds to the Department, receive energy
32 assistance as provided by this Act. The Department, upon
33 receipt of monies authorized pursuant to this Act for energy

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

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

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

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

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

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

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

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

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

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

24 (305 ILCS 20/7) (from Ch. 111 2/3, par. 1407)

25 Sec. 7. State Weatherization Plan and Program.

26 (a) The Department shall, after consultation with the
27 Policy Advisory Council, prepare and promulgate an annual
28 State Weatherization Plan beginning in the year this Act
29 becomes effective. To the extent practicable, such Plan
30 shall provide for targeting use of both State and federal
31 weatherization funds to the households of eligible applicants
32 pursuant to this Act whose ratios of energy costs to income
33 are the highest. The State Weatherization Plan shall include

1 but need not be limited to the following:

2 (1) a description of the demographic
3 characteristics and energy use patterns of people
4 eligible for assistance pursuant to this Act;

5 (2) the methodology used by the Department in
6 targeting weatherization funds;

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

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

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

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

27 (305 ILCS 20/8) (from Ch. 111 2/3, par. 1408)

28 Sec. 8. Program Evaluation Reports.

29 (a) The Department of Natural Resources shall prepare
30 and submit to the Governor and the General Assembly reports
31 on September 30 biennially March-15-of-each--year, beginning
32 in 2003 1991, evaluating the effectiveness of the energy
33 assistance and weatherization policies authorized by this

1 Act. The first report shall cover such effects during the
2 first winter during which the program authorized by this Act,
3 is in operation, and successive reports shall cover effects
4 since the issuance of the preceding report.

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

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

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

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

- 1 (1) the definition of an eligible low income
- 2 residential customer;
- 3 (2) access of low income residential customers to
- 4 essential energy services;
- 5 (3) past due amounts owed to utilities by low
- 6 income persons in Illinois;
- 7 (4) appropriate measures to encourage energy
- 8 conservation, efficiency, and responsibility among low
- 9 income residential customers;
- 10 (5) the activities of the Department in the
- 11 development and implementation of energy assistance and
- 12 related policies and programs, which characterizes
- 13 progress toward meeting the objectives and requirements
- 14 of this Act, and which recommends any statutory changes
- 15 which might be needed to further such progress.

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

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

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

26 (305 ILCS 20/13)

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

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

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

17 (b) Notwithstanding the provisions of Section 16-111 of
18 the Public Utilities Act but subject to subsection (k) 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 Energy Assistance
26 Charge for the Supplemental Low-Income Energy Assistance
27 Fund. The delivering public utility, municipal electric or
28 gas utility, or electric or gas cooperative for a
29 self-assessing purchaser remains subject to the collection of
30 the fee imposed by this Section. The monthly charge shall be
31 as follows:

32 (1) \$0.40 per month on each account for residential
33 electric service;

34 (2) \$0.40 per month on each account for residential

1 gas service;

2 (3) \$4 per month on each account for
3 non-residential electric service which had less than 10
4 megawatts of peak demand during the previous calendar
5 year;

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

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

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

18 (c) For purposes of this Section:

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

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

33 (3) "non-residential electric service" means
34 electric utility service which is not residential

1 electric service; and

2 (4) "non-residential gas service" means gas utility
3 service which is not residential gas service.

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

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

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

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

32 (h) (Blank). If--as--of--June--30,--2002--the--program
33 authorized-by-Section-4-of-this-Act-has-not-been-replaced--by
34 a--new--energy-assistance-program-which-is-in-operation,--then

~~1 the-General--Assembly--shall--review--the--program;--provided
2 however,--that-after-that-date,--any-public-utility,--municipal
3 utility,--or-electric-cooperative-shall-continue-to-assess--an
4 Energy--Assistance-Charge-which-was-originally-assessed-on-or
5 before-June-30,--2002-and-which-remains-unpaid.~~

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

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

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

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

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

1 This Section is repealed effective December 31, 2007
 2 unless renewed by action of the General Assembly. The General
 3 Assembly shall consider the results of the evaluations
 4 described in Section 8 in its deliberations.

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

6 (305 ILCS 20/7.1 rep.)

7 (305 ILCS 20/9 rep.)

8 (305 ILCS 20/12 rep.)

9 (305 ILCS 20/14 rep.)

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

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

15 (20 ILCS 687/6-5)

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

17 Sec. 6-5. Renewable Energy Resources and Coal Technology
 18 Development Assistance Charge.

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

1 imposed by this Section. The monthly charge shall be as
2 follows:

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

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

9 (3) \$0.50 per month on each account for
10 nonresidential electric service, as defined in Section 13
11 of the Energy Assistance Act of 1989, which had less than
12 10 megawatts of peak demand during the previous calendar
13 year;

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

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

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

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

33 (c) Fifty percent of the moneys collected pursuant to
34 this Section shall be deposited in the Renewable Energy

1 Resources Trust Fund by the Department of Revenue. The
2 remaining 50 percent of the moneys collected pursuant to this
3 Section shall be deposited in the Coal Technology Development
4 Assistance Fund by the Department of Revenue for use under
5 the Illinois Coal Technology Development Assistance Act.

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

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

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

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

33 Section 20. The Public Utilities Act is amended by

1 changing Sections 8-207, 16-108, and 16-111 as follows:

2 (220 ILCS 5/8-207) (from Ch. 111 2/3, par. 8-207)

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

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

31 The terms and conditions of any deferred payment
32 arrangements established by the utility and a former customer
33 shall take into consideration the following factors, based

1 upon information available from current utility records or
2 provided by the former customer:

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

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

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

33 The Commission shall develop rules to govern the
34 reconnection of a former customer who demonstrates a

1 financial inability to meet the requirement of 1/3 of the
2 amount past due and 1/3 of any deposit requested by the
3 utility. The Commission's rules shall establish a means by
4 which the former customer's utility service may be
5 reconnected through the payment of a reasonable amount and
6 upon entering into a deferred payment agreement.

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

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

31 Each gas and electric utility which has former customers
32 affected by this Section shall file reports with the
33 Commission providing such information as the Commission may
34 deem appropriate. The Commission shall notify each gas and

1 electric utility prior to August 1 of each year concerning
2 the information which is to be included in the report for
3 that year.

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

8 The Commission shall promulgate rules to implement this
9 Section.

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

11 (220 ILCS 5/16-108)

12 Sec. 16-108. Recovery of costs associated with the
13 provision of delivery services.

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

1 (b) The Commission shall enter an order approving, or
2 approving as modified, the delivery services tariff no later
3 than 30 days prior to the date on which the electric utility
4 must commence offering such services. The Commission may
5 subsequently modify such tariff pursuant to this Act.

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

1 described in (i) or (ii) that are found to be appropriately
2 included in the electric utility's delivery services rates to
3 any particular customer group or geographic area in setting
4 delivery services rates.

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

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

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

1 customers and for all customers described in subsection (h),
2 but shall not implement transition charges for power and
3 energy that a retail customer takes from cogeneration or
4 self-generation facilities located on that retail customer's
5 premises, if such facilities meet the following criteria:

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

18 (ii) the cogeneration or self-generation facilities
19 either (A) are sized pursuant to generally accepted
20 engineering standards for the retail customer's
21 electrical load at that premises (taking into account
22 standby or other reliability considerations related to
23 that retail customer's operations at that site) or (B) if
24 the facility is a cogeneration facility located on the
25 retail customer's premises, the retail customer is the
26 thermal host for that facility and the facility has been
27 designed to meet that retail customer's thermal energy
28 requirements resulting in electrical output beyond that
29 retail customer's electrical demand at that premises,
30 comply with the operating and efficiency standards
31 applicable to "qualifying facilities" specified in title
32 18 Code of Federal Regulations Section 292.205 as in
33 effect on the effective date of this amendatory Act of
34 1999;

1 (iii) the retail customer on whose premises the
2 facilities are located either has an exclusive right to
3 receive, and corresponding obligation to pay for, all of
4 the electrical capacity of the facility, or in the case
5 of a cogeneration facility that has been designed to meet
6 the retail customer's thermal energy requirements at that
7 premises, an identified amount of the electrical capacity
8 of the facility, over a minimum 5-year period; and

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

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

1 Section 16-102, and shall be collected on each kilowatt-hour
2 delivered under a delivery services tariff to a retail
3 customer from the date the customer first takes delivery
4 services until December 31, 2006 except as provided in
5 subsection (h) of this Section. Provided, however, that an
6 electric utility, other than an electric utility providing
7 service to at least 1,000,000 customers in this State on
8 January 1, 1999, shall be entitled to petition for entry of
9 an order by the Commission authorizing the electric utility
10 to implement transition charges for an additional period
11 ending no later than December 31, 2008. The electric utility
12 shall file its petition with supporting evidence no earlier
13 than 16 months, and no later than 12 months, prior to
14 December 31, 2006. The Commission shall hold a hearing on
15 the electric utility's petition and shall enter its order no
16 later than 8 months after the petition is filed. The
17 Commission shall determine whether and to what extent the
18 electric utility shall be authorized to implement transition
19 charges for an additional period. The Commission may
20 authorize the electric utility to implement transition
21 charges for some or all of the additional period, and shall
22 determine the mitigation factors to be used in implementing
23 such transition charges; provided, that the Commission shall
24 not authorize mitigation factors less than 110% of those in
25 effect during the 12 months ended December 31, 2006. In
26 making its determination, the Commission shall consider the
27 following factors: the necessity to implement transition
28 charges for an additional period in order to maintain the
29 financial integrity of the electric utility; the prudence of
30 the electric utility's actions in reducing its costs since
31 the effective date of this amendatory Act of 1997; the
32 ability of the electric utility to provide safe, adequate and
33 reliable service to retail customers in its service area; and
34 the impact on competition of allowing the electric utility to

1 implement transition charges for the additional period.

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

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

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

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

27 (j) If a retail customer that obtains electric power and
28 energy from cogeneration or self-generation facilities
29 installed for its own use on or before January 1, 1997,
30 subsequently takes service from an alternative retail
31 electric supplier or an electric utility other than the
32 electric utility in whose service area the customer is
33 located for any portion of the customer's electric power and
34 energy requirements formerly obtained from those facilities

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

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

17 (220 ILCS 5/16-111)

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

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

1 7-204 that was pending as of May 16, 1997, impose any
2 condition requiring any filing for an increase, decrease, or
3 change in, or other review of, an electric utility's rates or
4 enforce any such condition of any such order; provided,
5 however, that this subsection shall not prohibit the
6 Commission from:

7 (1) approving the application of an electric
8 utility to implement an alternative to rate of return
9 regulation or a regulatory mechanism that rewards or
10 penalizes the electric utility through adjustment of
11 rates based on utility performance, pursuant to Section
12 9-244;

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

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

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

1 Resources Development Law of 1997, and Section 13 of the
2 Energy Assistance Act of 1989.

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

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

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

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

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

32 (d) During the mandatory transition period, but not
33 before January 1, 2000, and notwithstanding the provisions
34 of subsection (a), an electric utility may request an

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

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

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

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

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

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

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

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

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

1 earnings occurred.

2 (ii) The result of the calculation in (i)
3 shall be multiplied by 0.50 and then divided by a
4 number equal to 1 minus the electric utility's
5 composite federal and State income tax rate.

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

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

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

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

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

- 1 (2) retire generating plants from service;
- 2 (3) sell, assign, lease or otherwise transfer
- 3 assets to an affiliated or unaffiliated entity and as
- 4 part of such transaction enter into service agreements,
- 5 power purchase agreements, or other agreements with the
- 6 transferee; provided, however, that the prices, terms and
- 7 conditions of any power purchase agreement must be
- 8 approved or allowed into effect by the Federal Energy
- 9 Regulatory Commission; or
- 10 (4) use any accelerated cost recovery method
- 11 including accelerated depreciation, accelerated
- 12 amortization or other capital recovery methods, or record
- 13 reductions to the original cost of its assets.

14 In order to implement a reorganization, retire generating

15 plants from service, or sell, assign, lease or otherwise

16 transfer assets pursuant to this Section, the electric

17 utility shall comply with subsections (c) and (d) of Section

18 16-128, if applicable, and subsection (k) of this Section, if

19 applicable, and provide the Commission with at least 30 days

20 notice of the proposed reorganization or transaction, which

21 notice shall include the following information:

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

1 will use proceeds of any sale, assignment, lease or
2 transfer to retire debt or otherwise reduce or
3 recover the costs of services provided by such
4 electric utility;

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

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

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

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

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

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

34 In any proceeding conducted by the Commission

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

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

33 (h) During the mandatory transition period, the
34 Commission shall not establish or use any rates of

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

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

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

28 (j) During the mandatory transition period, an electric
29 utility may elect to transfer to a non-operating income
30 account under the Commission's Uniform System of Accounts
31 either or both of (i) an amount of unamortized investment tax
32 credit that is in addition to the ratable amount which is
33 credited to the electric utility's operating income account
34 for the year in accordance with Section 46(f)(2) of the

1 federal Internal Revenue Code of 1986, as in effect prior to
2 P.L. 101-508, or (ii) "excess tax reserves", as that term is
3 defined in Section 203(e)(2)(A) of the federal Tax Reform Act
4 of 1986, provided that (A) the amount transferred may not
5 exceed the amount of the electric utility's assets that were
6 created pursuant to Statement of Financial Accounting
7 Standards No. 71 which the electric utility has written off
8 during the mandatory transition period, and (B) the transfer
9 shall not be effective until approved by the Internal Revenue
10 Service. An electric utility electing to make such a
11 transfer shall file a statement with the Commission stating
12 the amount and timing of the transfer for which it intends to
13 request approval of the Internal Revenue Service, along with
14 a copy of its proposed request to the Internal Revenue
15 Service for a ruling. The Commission shall issue an order
16 within 14 days after the electric utility's filing approving,
17 subject to receipt of approval from the Internal Revenue
18 Service, the proposed transfer.

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

1 service area, over a 6-year period beginning with the
2 calendar year in which the notice is filed, on projects,
3 programs, and improvements within its service area relating
4 to transmission and distribution including, without
5 limitation, infrastructure expansion, repair and replacement,
6 capital investments, operations and maintenance, and
7 vegetation management.

8 (Source: P.A. 90-561, eff. 12-16-97; 90-563, eff. 12-16-97;
9 91-50, eff. 6-30-99.)

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.

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305 ILCS 20/5	from Ch. 111 2/3, par. 1405
305 ILCS 20/6	from Ch. 111 2/3, par. 1406
305 ILCS 20/7	from Ch. 111 2/3, par. 1407
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