



Sen. Dale A. Righter

**Filed: 7/27/2007**

09500HB1750sam001

LRB095 10948 MJR 38295 a

1 AMENDMENT TO HOUSE BILL 1750

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1750 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Public Utilities Act is amended by changing  
5 Section 16-111 and by adding Section 16-131 as follows:

6 (220 ILCS 5/16-111)

7 Sec. 16-111. Rates and restructuring transactions during  
8 and after mandatory transition period.

9 (a) During the mandatory transition period,  
10 notwithstanding any provision of Article IX of this Act, and  
11 except as provided in subsections (b), (d), (e), and (f) of  
12 this Section, the Commission shall not (i) initiate, authorize  
13 or order any change by way of increase (other than in  
14 connection with a request for rate increase which was filed  
15 after September 1, 1997 but prior to October 15, 1997, by an  
16 electric utility serving less than 12,500 customers in this

1 State), (ii) initiate or, unless requested by the electric  
2 utility, authorize or order any change by way of decrease,  
3 restructuring or unbundling (except as provided in Section  
4 16-109A), in the rates of any electric utility that were in  
5 effect on October 1, 1996, or (iii) in any order approving any  
6 application for a merger pursuant to Section 7-204 that was  
7 pending as of May 16, 1997, impose any condition requiring any  
8 filing for an increase, decrease, or change in, or other review  
9 of, an electric utility's rates or enforce any such condition  
10 of any such order; provided, however, that this subsection  
11 shall not prohibit the Commission from:

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

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

25 (3) ordering into effect tariffs for delivery services  
26 and transition charges in accordance with Sections 16-104

1 and 16-108, for real-time pricing in accordance with  
2 Section 16-107, or the options required by Section 16-110  
3 and subsection (n) of 16-112, allowing a billing experiment  
4 in accordance with Section 16-106, or modifying delivery  
5 services tariffs in accordance with Section 16-109; or

6 (4) ordering or allowing into effect any tariff to  
7 recover charges pursuant to Sections 9-201.5, 9-220.1,  
8 9-221, 9-222 (except as provided in Section 9-222.1),  
9 16-108, and 16-114 of this Act, Section 5-5 of the  
10 Electricity Infrastructure Maintenance Fee Law, Section  
11 6-5 of the Renewable Energy, Energy Efficiency, and Coal  
12 Resources Development Law of 1997, and Section 13 of the  
13 Energy Assistance Act.

14 After December 31, 2004, the provisions of this subsection  
15 (a) shall not apply to an electric utility whose average  
16 residential retail rate was less than or equal to 90% of the  
17 average residential retail rate for the "Midwest Utilities", as  
18 that term is defined in subsection (b) of this Section, based  
19 on data reported on Form 1 to the Federal Energy Regulatory  
20 Commission for calendar year 1995, and which served between  
21 150,000 and 250,000 retail customers in this State on January  
22 1, 1995 unless the electric utility or its holding company has  
23 been acquired by or merged with an affiliate of another  
24 electric utility subsequent to January 1, 2002. This exemption  
25 shall be limited to this subsection (a) and shall not extend to  
26 any other provisions of this Act.

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

1 in effect immediately prior to January 1, 1998, (ii) reducing,  
2 effective October 1, 2000, each component of its base rates to  
3 residential retail customers by the lesser of 5% of the base  
4 rates in effect immediately prior to January 1, 1998 or the  
5 percentage by which the electric utility's average residential  
6 retail rate exceeds the average residential retail rate of the  
7 Midwest Utilities, based on data reported on Form 1 to the  
8 Federal Energy Regulatory Commission for calendar year 1999,  
9 and (iii) reducing, effective October 1, 2002, each component  
10 of its base rates to residential retail customers by an  
11 additional amount equal to the lesser of 5% of the base rates  
12 in effect immediately prior to January 1, 1998 or the  
13 percentage by which the electric utility's average residential  
14 retail rate exceeds the average residential retail rate of the  
15 Midwest Utilities, based on data reported on Form 1 to the  
16 Federal Energy Regulatory Commission for calendar year 2001;  
17 and (B) if the average residential retail rate of an electric  
18 utility serving between 150,000 and 250,000 retail customers in  
19 this State on January 1, 1995 is less than or equal to 90% of  
20 the average residential retail rate for the Midwest Utilities,  
21 based on data reported on Form 1 to the Federal Energy  
22 Regulatory Commission for calendar year 1995, then it shall  
23 only be required to file tariffs (i) reducing, effective August  
24 1, 1998, each component of its base rates to residential retail  
25 customers by 2% from the base rates in effect immediately prior  
26 to January 1, 1998; (ii) reducing, effective October 1, 2000,

1 each component of its base rates to residential retail  
2 customers by 2% from the base rate in effect immediately prior  
3 to January 1, 1998; and (iii) reducing, effective October 1,  
4 2002, each component of its base rates to residential retail  
5 customers by 1% from the base rates in effect immediately prior  
6 to January 1, 1998. Provided, further, that any electric  
7 utility for which a decrease in base rates has been or is  
8 placed into effect between October 1, 1996 and the dates  
9 specified in the preceding sentences of this subsection, other  
10 than pursuant to the requirements of this subsection, shall be  
11 entitled to reduce the amount of any reduction or reductions in  
12 its base rates required by this subsection by the amount of  
13 such other decrease. The tariffs required under this subsection  
14 shall be filed 45 days in advance of the effective date.  
15 Notwithstanding anything to the contrary in Section 9-220 of  
16 this Act, no restatement of base rates in conjunction with the  
17 elimination of a fuel adjustment clause under that Section  
18 shall result in a lesser decrease in base rates than customers  
19 would otherwise receive under this subsection had the electric  
20 utility's fuel adjustment clause not been eliminated.

21 (c) Any utility reducing its base rates by 15% on August 1,  
22 1998 pursuant to subsection (b) shall include the following  
23 statement on its bills for residential customers from August 1  
24 through December 31, 1998: "Effective August 1, 1998, your  
25 rates have been reduced by 15% by the Electric Service Customer  
26 Choice and Rate Relief Law of 1997 passed by the Illinois

1 General Assembly.". Any utility reducing its base rates by 5%  
2 on August 1, 1998, pursuant to subsection (b) shall include the  
3 following statement on its bills for residential customers from  
4 August 1 through December 31, 1998: "Effective August 1, 1998,  
5 your rates have been reduced by 5% by the Electric Service  
6 Customer Choice and Rate Relief Law of 1997 passed by the  
7 Illinois General Assembly."

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

15 (d) During the mandatory transition period, but not before  
16 January 1, 2000, and notwithstanding the provisions of  
17 subsection (a), an electric utility may request an increase in  
18 its base rates if the electric utility demonstrates that the  
19 2-year average of its earned rate of return on common equity,  
20 calculated as its net income applicable to common stock divided  
21 by the average of its beginning and ending balances of common  
22 equity using data reported in the electric utility's Form 1  
23 report to the Federal Energy Regulatory Commission but adjusted  
24 to remove the effects of accelerated depreciation or  
25 amortization or other transition or mitigation measures  
26 implemented by the electric utility pursuant to subsection (g)

1 of this Section and the effect of any refund paid pursuant to  
2 subsection (e) of this Section, is below the 2-year average for  
3 the same 2 years of the monthly average yields of 30-year U.S.  
4 Treasury bonds published by the Board of Governors of the  
5 Federal Reserve System in its weekly H.15 Statistical Release  
6 or successor publication. The Commission shall review the  
7 electric utility's request, and may review the justness and  
8 reasonableness of all rates for tariffed services, in  
9 accordance with the provisions of Article IX of this Act,  
10 provided that the Commission shall consider any special or  
11 negotiated adjustments to the revenue requirement agreed to  
12 between the electric utility and the other parties to the  
13 proceeding. In setting rates under this Section, the Commission  
14 shall exclude the costs and revenues that are associated with  
15 competitive services and any billing or pricing experiments  
16 conducted under Section 16-106.

17 (e) For the purposes of this subsection (e) all  
18 calculations and comparisons shall be performed for the  
19 Illinois operations of multijurisdictional utilities. During  
20 the mandatory transition period, notwithstanding the  
21 provisions of subsection (a), if the 2-year average of an  
22 electric utility's earned rate of return on common equity,  
23 calculated as its net income applicable to common stock divided  
24 by the average of its beginning and ending balances of common  
25 equity using data reported in the electric utility's Form 1  
26 report to the Federal Energy Regulatory Commission but adjusted



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

1 Section, based on data reported on Form 1 to the Federal Energy  
2 Regulatory Commission for calendar year 1995, and the electric  
3 utility served between 150,000 and 250,000 retail customers on  
4 January 1, 1995, (ii) 7.00 percentage points for each of the  
5 12-month periods ending September 30, 2000 through September  
6 30, 2006 if the electric utility was providing service to at  
7 least 1,000,000 customers in this State on January 1, 1999, or  
8 9.00 percentage points if the electric utility's average  
9 residential retail rate is less than or equal to 90% of the  
10 average residential retail rate for the "Midwest Utilities", as  
11 that term is defined in subsection (b) of this Section, based  
12 on data reported on Form 1 to the Federal Energy Regulatory  
13 Commission for calendar year 1995 and the electric utility  
14 served between 150,000 and 250,000 retail customers in this  
15 State on January 1, 1995, (iii) 11.00 percentage points for  
16 each of the 12-month periods ending September 30, 2000 through  
17 September 30, 2006, but only if the electric utility's average  
18 residential retail rate is less than or equal to 90% of the  
19 average residential retail rate for the "Midwest Utilities", as  
20 that term is defined in subsection (b) of this Section, based  
21 on data reported on Form 1 to the Federal Energy Regulatory  
22 Commission for calendar year 1995, the electric utility served  
23 between 150,000 and 250,000 retail customers in this State on  
24 January 1, 1995, and the electric utility offers delivery  
25 services on or before June 1, 2000 to retail customers whose  
26 annual electric energy use comprises 33% of the kilowatt hour

1 sales to that group of retail customers that are classified  
2 under Division D, Groups 20 through 39 of the Standard  
3 Industrial Classifications set forth in the Standard  
4 Industrial Classification Manual published by the United  
5 States Office of Management and Budget, excluding the kilowatt  
6 hour sales to those customers that are eligible for delivery  
7 services pursuant to Section 16-104(a)(1)(i), and offers  
8 delivery services to its remaining retail customers classified  
9 under Division D, Groups 20 through 39 on or before October 1,  
10 2000, and, provided further, that the electric utility commits  
11 not to petition pursuant to Section 16-108(f) for entry of an  
12 order by the Commission authorizing the electric utility to  
13 implement transition charges for an additional period after  
14 December 31, 2006, or (iv) 5.00 percentage points for each of  
15 the 12-month periods ending September 30, 2000 through  
16 September 30, 2006 for all other electric utilities or 7.00  
17 percentage points for such utilities for each of the 12-month  
18 periods ending September 30, 2000 through September 30, 2006  
19 for any such utility that commits not to petition pursuant to  
20 Section 16-108(f) for entry of an order by the Commission  
21 authorizing the electric utility to implement transition  
22 charges for an additional period after December 31, 2006 or  
23 11.00 percentage points for each of the 12-month periods ending  
24 September 30, 2005 and September 30, 2006 for each electric  
25 utility providing service to fewer than 6,500, or between  
26 75,000 and 150,000, electric retail customers in this State on

1 January 1, 1995 if such utility commits not to petition  
2 pursuant to Section 16-108(f) for entry of an order by the  
3 Commission authorizing the electric utility to implement  
4 transition charges for an additional period after December 31,  
5 2006.

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

13 (2) On or before March 31 of each year 2000 through  
14 2007 each electric utility shall file a report with the  
15 Commission showing its earned rate of return on common  
16 equity, calculated in accordance with this subsection, for  
17 the preceding calendar year and the average for the  
18 preceding 2 calendar years.

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

25 (i) The electric utility's excess earnings shall  
26 be multiplied by the average of the beginning and

1 ending balances of the electric utility's common  
2 equity for the 2-year period in which excess earnings  
3 occurred.

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

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

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

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

1 (g) During the mandatory transition period, an electric  
2 utility may, without obtaining any approval of the Commission  
3 other than that provided for in this subsection and  
4 notwithstanding any other provision of this Act or any rule or  
5 regulation of the Commission that would require such approval:

6 (1) implement a reorganization, other than a merger of  
7 2 or more public utilities as defined in Section 3-105 or  
8 their holding companies;

9 (2) retire generating plants from service;

10 (3) sell, assign, lease or otherwise transfer assets to  
11 an affiliated or unaffiliated entity and as part of such  
12 transaction enter into service agreements, power purchase  
13 agreements, or other agreements with the transferee;  
14 provided, however, that the prices, terms and conditions of  
15 any power purchase agreement must be approved or allowed  
16 into effect by the Federal Energy Regulatory Commission; or

17 (4) use any accelerated cost recovery method including  
18 accelerated depreciation, accelerated amortization or  
19 other capital recovery methods, or record reductions to the  
20 original cost of its assets.

21 In order to implement a reorganization, retire generating  
22 plants from service, or sell, assign, lease or otherwise  
23 transfer assets pursuant to this Section, the electric utility  
24 shall comply with subsections (c) and (d) of Section 16-128, if  
25 applicable, and subsection (k) of this Section, if applicable,  
26 and provide the Commission with at least 30 days notice of the

1 proposed reorganization or transaction, which notice shall  
2 include the following information:

3 (i) a complete statement of the entries that the  
4 electric utility will make on its books and records of  
5 account to implement the proposed reorganization or  
6 transaction together with a certification from an  
7 independent certified public accountant that such  
8 entries are in accord with generally accepted  
9 accounting principles and, if the Commission has  
10 previously approved guidelines for cost allocations  
11 between the utility and its affiliates, a  
12 certification from the chief accounting officer of the  
13 utility that such entries are in accord with those cost  
14 allocation guidelines;

15 (ii) a description of how the electric utility will  
16 use proceeds of any sale, assignment, lease or transfer  
17 to retire debt or otherwise reduce or recover the costs  
18 of services provided by such electric utility;

19 (iii) a list of all federal approvals or approvals  
20 required from departments and agencies of this State,  
21 other than the Commission, that the electric utility  
22 has or will obtain before implementing the  
23 reorganization or transaction;

24 (iv) an irrevocable commitment by the electric  
25 utility that it will not, as a result of the  
26 transaction, impose any stranded cost charges that it

1           might otherwise be allowed to charge retail customers  
2           under federal law or increase the transition charges  
3           that it is otherwise entitled to collect under this  
4           Article XVI; and

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



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

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

1 to the information listed in subparagraphs (i) through  
2 (v), the following information: (A) a description of  
3 how the electric utility will meet its service  
4 obligations under this Act in a safe and reliable  
5 manner and (B) the electric utility's projected earned  
6 rate of return on common equity, calculated in  
7 accordance with subsection (d) of this Section, for  
8 each year from the date of the notice through December  
9 31, 2006 both with and without the proposed  
10 transaction. If the Commission has not issued an order  
11 initiating a hearing on the proposed transaction  
12 within 30 days after the date the electric utility's  
13 notice is filed, the transaction shall be deemed  
14 approved. The Commission may, after notice and  
15 hearing, prohibit the proposed transaction if it makes  
16 either or both of the following findings: (1) that the  
17 proposed transaction will render the electric utility  
18 unable to provide its tariffed services in a safe and  
19 reliable manner, or (2) that there is a strong  
20 likelihood that consummation of the proposed  
21 transaction will result in the electric utility being  
22 entitled to request an increase in its base rates  
23 during the mandatory transition period pursuant to  
24 subsection (d) of this Section. Any hearing initiated  
25 by the Commission into the proposed transaction shall  
26 be completed, and the Commission's final order

1 approving or prohibiting the proposed transaction  
2 shall be entered, within 90 days after the date the  
3 electric utility's notice was filed. Provided,  
4 however, that a sale, assignment, or lease of  
5 transmission facilities to an independent system  
6 operator that meets the requirements of Section 16-126  
7 shall not be subject to Commission approval under this  
8 Section.

9 In any proceeding conducted by the Commission  
10 pursuant to this subparagraph (vi), intervention shall  
11 be limited to parties with a direct interest in the  
12 transaction which is the subject of the hearing and any  
13 statutory consumer protection agency as defined in  
14 subsection (d) of Section 9-102.1. Notwithstanding the  
15 provisions of Section 10-113 of this Act, any  
16 application seeking rehearing of an order issued under  
17 this subparagraph (vi), whether filed by the electric  
18 utility or by an intervening party, shall be filed  
19 within 10 days after service of the order.

20 The Commission shall not in any subsequent proceeding or  
21 otherwise, review such a reorganization or other transaction  
22 authorized by this Section, but shall retain the authority to  
23 allocate costs as stated in Section 16-111(i). An entity to  
24 which an electric utility sells, assigns, leases or transfers  
25 assets pursuant to this subsection (g) shall not, as a result  
26 of the transactions specified in this subsection (g), be deemed

1 a public utility as defined in Section 3-105. Nothing in this  
2 subsection (g) shall change any requirement under the  
3 jurisdiction of the Illinois Department of Nuclear Safety  
4 including, but not limited to, the payment of fees. Nothing in  
5 this subsection (g) shall exempt a utility from obtaining a  
6 certificate pursuant to Section 8-406 of this Act for the  
7 construction of a new electric generating facility. Nothing in  
8 this subsection (g) is intended to exempt the transactions  
9 hereunder from the operation of the federal or State antitrust  
10 laws. Nothing in this subsection (g) shall require an electric  
11 utility to use the procedures specified in this subsection for  
12 any of the transactions specified herein. Any other procedure  
13 available under this Act may, at the electric utility's  
14 election, be used for any such transaction.

15 (h) During the mandatory transition period, the Commission  
16 shall not establish or use any rates of depreciation, which for  
17 purposes of this subsection shall include amortization, for any  
18 electric utility other than those established pursuant to  
19 subsection (c) of Section 5-104 of this Act or utilized  
20 pursuant to subsection (g) of this Section. Provided, however,  
21 that in any proceeding to review an electric utility's rates  
22 for tariffed services pursuant to Section 9-201, 9-202, 9-250  
23 or 16-111(d) of this Act, the Commission may establish new  
24 rates of depreciation for the electric utility in the same  
25 manner provided in subsection (d) of Section 5-104 of this Act.  
26 An electric utility implementing an accelerated cost recovery

1 method including accelerated depreciation, accelerated  
2 amortization or other capital recovery methods, or recording  
3 reductions to the original cost of its assets, pursuant to  
4 subsection (g) of this Section, shall file a statement with the  
5 Commission describing the accelerated cost recovery method to  
6 be implemented or the reduction in the original cost of its  
7 assets to be recorded. Upon the filing of such statement, the  
8 accelerated cost recovery method or the reduction in the  
9 original cost of assets shall be deemed to be approved by the  
10 Commission as though an order had been entered by the  
11 Commission.

12 (i) Except as provided in subsection (l) of this Section,  
13 subsequent ~~Subsequent~~ to the mandatory transition period, the  
14 Commission, in any proceeding to establish rates and charges  
15 for tariffed services offered by an electric utility, shall  
16 consider only (1) the then current or projected revenues,  
17 costs, investments and cost of capital directly or indirectly  
18 associated with the provision of such tariffed services; (2)  
19 collection of transition charges in accordance with Sections  
20 16-102 and 16-108 of this Act; (3) recovery of any employee  
21 transition costs as described in Section 16-128 which the  
22 electric utility is continuing to incur, including recovery of  
23 any unamortized portion of such costs previously incurred or  
24 committed, with such costs to be equitably allocated among  
25 bundled services, delivery services, and contracts with  
26 alternative retail electric suppliers; and (4) recovery of the

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

26 (j) During the mandatory transition period, an electric

1 utility may elect to transfer to a non-operating income account  
2 under the Commission's Uniform System of Accounts either or  
3 both of (i) an amount of unamortized investment tax credit that  
4 is in addition to the ratable amount which is credited to the  
5 electric utility's operating income account for the year in  
6 accordance with Section 46(f)(2) of the federal Internal  
7 Revenue Code of 1986, as in effect prior to P.L. 101-508, or  
8 (ii) "excess tax reserves", as that term is defined in Section  
9 203(e)(2)(A) of the federal Tax Reform Act of 1986, provided  
10 that (A) the amount transferred may not exceed the amount of  
11 the electric utility's assets that were created pursuant to  
12 Statement of Financial Accounting Standards No. 71 which the  
13 electric utility has written off during the mandatory  
14 transition period, and (B) the transfer shall not be effective  
15 until approved by the Internal Revenue Service. An electric  
16 utility electing to make such a transfer shall file a statement  
17 with the Commission stating the amount and timing of the  
18 transfer for which it intends to request approval of the  
19 Internal Revenue Service, along with a copy of its proposed  
20 request to the Internal Revenue Service for a ruling. The  
21 Commission shall issue an order within 14 days after the  
22 electric utility's filing approving, subject to receipt of  
23 approval from the Internal Revenue Service, the proposed  
24 transfer.

25 (k) If an electric utility is selling or transferring to a  
26 single buyer 5 or more generating plants located in this State

1 with a total net dependable capacity of 5000 megawatts or more  
2 pursuant to subsection (g) of this Section and has obtained a  
3 sale price or consideration that exceeds 200% of the book value  
4 of such plants, the electric utility must provide to the  
5 Governor, the President of the Illinois Senate, the Minority  
6 Leader of the Illinois Senate, the Speaker of the Illinois  
7 House of Representatives, and the Minority Leader of the  
8 Illinois House of Representatives no later than 15 days after  
9 filing its notice under subsection (g) of this Section or 5  
10 days after the date on which this subsection (k) becomes law,  
11 whichever is later, a written commitment in which such electric  
12 utility agrees to expend \$2 billion outside the corporate  
13 limits of any municipality with 1,000,000 or more inhabitants  
14 within such electric utility's service area, over a 6-year  
15 period beginning with the calendar year in which the notice is  
16 filed, on projects, programs, and improvements within its  
17 service area relating to transmission and distribution  
18 including, without limitation, infrastructure expansion,  
19 repair and replacement, capital investments, operations and  
20 maintenance, and vegetation management.

21 (1) Except as provided for in Section 16-131 of this Act,  
22 beginning on the effective date of this amendatory Act of the  
23 95th General Assembly, the Commission may not initiate,  
24 authorize, or order any increase in the residential electric  
25 rates of an electric utility that serves at least 100,000 but  
26 fewer than 2,000,000 residential customers that exceeds the



1 following: (1) in calendar year 2007, 7% of the rate authorized  
2 in calendar year 2006; (2) in calendar year 2008, 7% of the  
3 rate authorized in calendar year 2007; (3) in calendar year  
4 2009, 7% of the rate authorized in calendar year 2008; (4) in  
5 calendar year 2010, 7% of the rate authorized in calendar year  
6 2009; (5) in calendar year 2011, 7% of the rate authorized in  
7 calendar year 2010; and (6) in calendar year 2012, 7% of the  
8 rate authorized in calendar year 2011.

9 Subsequent to calendar year 2012, the Commission shall not  
10 authorize an electric utility that serves at least 100,000 but  
11 fewer than 2,000,000 residential customers to increase rates  
12 for residential customers that compensate for any restriction  
13 imposed under this subsection (1).

14 (Source: P.A. 91-50, eff. 6-30-99; 92-537, eff. 6-6-02; 92-690,  
15 eff. 7-18-02; revised 9-10-02.)

16 (220 ILCS 5/16-131 new)

17 Sec. 16-131. Power procurement procedure. As soon as  
18 practical, the Commission shall file and start an expedited  
19 docket case, which shall not last longer than 30 days. The  
20 docket case shall determine what type of power procurement  
21 strategies shall be offered to the Commission.

22 Section 99. Effective date. This Act takes effect upon  
23 becoming law."