



Rep. Gary Hannig

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LRB095 10034 MJR 35480 a

1 AMENDMENT TO HOUSE BILL 1834

2 AMENDMENT NO. _____. Amend House Bill 1834, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Public Utilities Act is amended by adding
6 Article XXI as follows:

7 (220 ILCS 5/Art. XXI heading new)

8 ARTICLE XXI. CLEAN COAL DEVELOPMENT PROGRAM LAW

9 (220 ILCS 5/21-101 new)

10 Sec. 21-101. Short title. This Article may be cited as the
11 Clean Coal Development Program Law.

12 (220 ILCS 5/21-105 new)

13 Sec. 21-105. Findings. The General Assembly finds that:

14 (a) Growth of the State's population and economic base has

1 created a need for new baseload electric generation capacity in
2 Illinois.

3 (b) Illinois has considerable natural resources that are
4 currently underutilized and could support development of new
5 baseload electric power at an affordable price.

6 (c) The development of new baseload electric generating
7 capacity is needed if the State is to continue to be successful
8 in attracting new businesses and jobs.

9 (d) Certain regions of the State, such as central and
10 southern Illinois, could benefit greatly from new employment
11 opportunities created by development of baseload electric
12 generating plants utilizing the plentiful supply of Illinois
13 Basin coal.

14 (e) Technology can be deployed that allows high sulfur
15 Illinois Basin coal to be burned efficiently while meeting
16 strict State and federal air quality limitations.
17 Specifically, the State shall encourage the use of advanced
18 clean coal technology, such as Integrated Gasification
19 Combined Cycle (IGCC) technology.

20 (f) The development of new baseload electric generating
21 plants, as contemplated in the Clean Coal Development Program
22 Law, will create benefits to all consumers of electricity in
23 the State by reducing market energy prices and electric
24 capacity prices through increased supply. Such benefits will
25 include lower and more stable prices for electricity.

1 (220 ILCS 5/21-110 new)

2 Sec. 21-110. Definitions. For the purposes of this Article,
3 the following terms shall be defined as set forth in this
4 Section.

5 The terms defined in Section 16-102 of the Public Utilities
6 Act have the meanings ascribed to them in that Act.

7 "Actual total capital costs" means, as more specifically
8 set forth in the service agreement or agreements for a clean
9 coal project, the total initial capital costs recoverable by
10 such clean coal project pursuant to its wholesale sales tariff
11 upon completion of such clean coal project.

12 "CCN" means a certificate of convenience and necessity.

13 "Clean coal project" means any existing or planned electric
14 generating project that has a wholesale tariff pursuant to the
15 Federal Power Act and that is designed (1) to have a nameplate
16 capacity of no less than 400 megawatts gross, (2) to be
17 directly interconnected with a participating electric utility,
18 (3) to utilize integrated gasification combined cycle
19 technology, and (4) to utilize as its primary fuel or feedstock
20 coal having high volatile bituminous rank and greater than 1.7
21 pounds of sulfur per million Btu content and for which a final
22 air permit has been issued that describes the project as having
23 a designed nameplate capacity of no less than 400 megawatts
24 gross. When warranted by the usage, "clean coal project" shall
25 mean the owner, operator, or lessee of a clean coal project.

26 "Core plant construction cost ceiling" means, as more

1 specifically set forth in the service agreement or agreements
2 for a given clean coal project, \$2,500 per kilowatt of net
3 design capacity (excluding for this purpose any power required
4 for carbon capture) of a clean coal project expressed in
5 January 2007 nominal dollars, adjusted for inflation using the
6 producer price index published by the U.S. Bureau of Labor
7 Statistics to the date upon that the core plant construction
8 cost quote for such clean coal project is expressed.

9 "Core plant construction cost quote" means, as more
10 specifically set forth for a clean coal project in the
11 applicable service agreement or agreements, a price quote or
12 estimate prepared by a reputable engineering and construction
13 services firm (or group of firms) for the costs payable to one
14 or more contractors or suppliers for the engineering,
15 procurement, and construction of the core plant facilities
16 comprising a clean coal project. Such core plant facilities
17 shall include all civil, structural, mechanical, electrical,
18 control, and safety systems associated with the following major
19 core plant functional areas: air separation, coal grinding and
20 slurry preparation, gasification and high temperature
21 synthesis gas cooling, low temperature synthesis gas cooling,
22 acid gas removal, sulfur recovery, tail gas treatment, combined
23 cycle power block, coal fines and slag handling, and water and
24 wastewater treatment at the plant site. The quote or estimate
25 shall be based on detailed design work sufficient to permit
26 quantification of major categories of materials, commodities,

1 and labor man hours, and receipt of quotes from vendors of
2 major equipment packages. The costs shall be expressed in
3 nominal dollars as of the date of the estimate and shall be
4 exclusive of construction financing costs, taxes, insurance,
5 and an escalation in materials and labor beyond the date as of
6 which the core plant construction cost quote is expressed,
7 costs associated with non-core plant interconnection
8 facilities for electric transmission, natural gas supply,
9 water supply and coal delivery, and other non-core plant costs.
10 For purposes of Section 21-145, the core plant construction
11 cost quote shall be expressed in nominal dollars per kilowatt
12 of net design capacity of the clean coal project by dividing
13 the core plant construction cost quote by the net design
14 capacity of the clean coal project.

15 "Department" means the Department of Commerce and Economic
16 Opportunity.

17 "FERC" means the Federal Energy Regulatory Commission, an
18 independent regulatory commission within the Department of
19 Energy established by Section 401 of the Department of Energy
20 Organization Act, or any agency succeeding to the powers
21 thereof under Section 205 of the Federal Power Act.

22 "Final air permit" means a Prevention of Significant
23 Deterioration of Air Quality (PSD) Construction Permit issued
24 on or before December 31, 2010.

25 "Formula rate" means a formula used to calculate a
26 cost-based rate for the sale of electric capacity and

1 associated energy from a clean coal project set forth in the
2 applicable wholesale sales tariff.

3 "FutureGen demonstration project" means a 10-year
4 demonstration project sponsored by the United States to create
5 a zero-emissions electricity and hydrogen power plant that is:

6 (1) not otherwise eligible to participate in the Clean
7 Coal Development Program;

8 (2) designed to include all of the following:

9 (A) have a nameplate capacity of not greater than
10 300 megawatts gross;

11 (B) be directly interconnected with a
12 participating electric utility; and

13 (C) utilize as its primary fuel or feedstock coal
14 having high volatile bituminous rank and greater than
15 1.7 pounds of sulfur per million Btu content; and

16 (3) has a planned construction start date not later
17 than December 31, 2010.

18 "Participating electric utility" means any Illinois
19 electric utility as defined in the Public Utilities Act that as
20 of the effective date of this Act provides delivery services to
21 more than 100,000 electric customers in Illinois.

22 "Service agreement" means a service agreement for the sale
23 of electric capacity and associated energy from a clean coal
24 project substantively identical to the pro forma service
25 agreement contained in the applicable wholesale sales tariff.

26 "Total capital cost target" means the net design output of

1 the clean coal project (excluding for this purpose any power
2 requirements for carbon capture), expressed in kilowatts times
3 \$3,850, as adjusted in accordance with the following:

4 (1) such amount shall be increased by any reasonably
5 estimated increase in any total capital costs per kilowatt
6 that results from the core plant construction cost quote,
7 as approved by the ICC, being higher than the core plant
8 construction cost ceiling;

9 (2) such amount shall be decreased or increased, as the
10 case may be, by the amount, if any, by which actual total
11 capital costs per kilowatt are decreased or increased due
12 to positive or negative price escalation provided for under
13 the applicable contract or contracts for the core plant
14 construction, with any escalation in commodity prices
15 being based on published indices;

16 (3) such amount shall be increased by the amount of any
17 additional capital costs per kilowatt that are justly and
18 reasonably incurred due to a change in law or regulation
19 enacted after the date the applicable service agreement is
20 executed by the participating electric utility; and

21 (4) such amount shall be increased by any increase in
22 total capitalized financing costs per kilowatt resulting
23 from a clean coal project not receiving Illinois moral
24 obligation bond financing or tax exempt finance volume cap
25 allocation in the amounts preliminarily approved for such
26 clean coal project by the Illinois Finance Authority or not

1 receiving state grants equal to at least 15% of the total
2 capital cost ceiling.

3 "Wholesale sales tariff" means a schedule of rates, terms,
4 and conditions for the sale of electric capacity and associated
5 energy from a clean coal project filed with FERC by the owner,
6 lessee, or operator of that clean coal project and allowed by
7 FERC to become effective pursuant to Section 205 of the Federal
8 Power Act and Part 35 of FERC's regulations.

9 (220 ILCS 5/21-115 new)

10 Sec. 21-115. Clean coal development program.

11 (a) Each participating electric utility shall purchase
12 electric capacity and associated energy from the owners,
13 lessees, or operators of clean coal projects pursuant to
14 service agreements in accordance with the provisions of Section
15 21-115 of this Article.

16 (b) Upon receipt of an offer from a clean coal project to
17 sell capacity and associated energy pursuant to a wholesale
18 sales tariff, the participating electric utility shall, within
19 30 days after receipt of the pro forma service agreement
20 contained in the wholesale sales tariff, execute the service
21 agreement and file the executed service agreement for
22 informational purposes with the Commission, provided that no
23 participating electric utility shall enter into a service
24 agreement if the amount of capacity to be purchased under such
25 service agreement, together with the aggregate amount of all

1 capacity purchased under other service agreements executed
2 previously or contemporaneously by the participating electric
3 utility from all clean coal projects other than a FutureGen
4 demonstration project, exceeds 5% of the participating
5 electric utility's coincident peak delivery services load,
6 expressed in kilowatts, for the calendar year immediately
7 preceding the effective date of this Article.

8 (220 ILCS 5/21-120 new)

9 Sec. 21-120. Characteristics of the wholesale sales
10 tariff. Subject to the jurisdiction of FERC with respect to the
11 wholesale sales tariff, in order to fulfill the purposes of the
12 Clean Coal Development Program, it is desirable that the
13 formula rate and service agreement have characteristics that
14 are adequate and appropriate to support the long-term
15 investments necessary for the construction and operation of
16 clean coal projects. It is the intent of the General Assembly
17 that:

18 (1) With respect to the formula rate, the following
19 characteristics are adequate and appropriate:

20 (A) the use of a cost of service methodology
21 employing a level capital recovery component;

22 (B) the use of a hypothetical capital structure, as
23 such structure is used by FERC pursuant to Sections 205
24 and 206 of the Federal Power Act, that assumes a
25 capital structure for a clean coal project of 45%

1 equity and 55% debt;

2 (C) (i) with respect to the first clean coal
3 project that has a wholesale sales tariff made
4 effective pursuant to Section 205 of the Federal Power
5 Act and part 35 of FERC's regulations, the use of a
6 return on equity that is fixed for the term of the
7 service agreement at a rate equal to 11.5%; and (ii)
8 with respect to any subsequent clean coal projects, the
9 use of a return on equity that is fixed for the term of
10 the service agreement at a rate equal to a rate of
11 between 9% and 11% (with a single fixed rate being set
12 forth in the service agreement); and

13 (D) the use of an incentive or penalty mechanism
14 such that (i) if the actual total capital costs of a
15 given clean coal project exceeds the total capital cost
16 target, then the return on equity applicable to the
17 portion of the actual total capital costs in excess of
18 the total capital cost target (a) shall be reduced by
19 300 basis points (with there being 100 basis points in
20 each percent of return on equity) for the first \$80 per
21 kilowatt of such excess total capital costs, (b) shall
22 be reduced by 600 basis points for the next \$80 per
23 kilowatt of such excess total capital costs, and (c)
24 shall be reduced to zero for any excess capital costs
25 over \$160 per kilowatt, and (ii) if the actual total
26 capital costs of a given clean coal project are less

1 than the total capital cost target, then the return on
2 equity for an amount equal to the amount that the total
3 capital cost is less than the total capital cost target
4 shall be increased by 300 basis points.

5 (2) With respect to the service agreement, the
6 following characteristics are adequate and appropriate:

7 (A) a provision setting forth a term of 40 years
8 commencing on the date upon which the clean coal
9 project achieves commercial operation;

10 (B) a provision incorporating the duties and
11 obligations of the clean coal project and the
12 participating electric utility with respect to the
13 notice and termination mechanism set forth in Section
14 21-145 of this Article;

15 (C) a provision to the effect that a change in law,
16 regulation or market conditions is not a basis for
17 termination or reduction in payments by the purchaser;

18 (D) provisions for a plant availability target of
19 85% from and after the third full calendar year of
20 operation and an incentive structure for meeting such
21 target, provided that the total bonus in any year for
22 exceeding the target in any year shall not exceed an
23 amount equivalent to 10% of the total return on equity
24 for such year and the total penalty for falling short
25 of such target in any year shall not exceed an amount
26 equal to 15% of the total return on equity for such

1 year; and

2 (E) a provision pursuant to which at the end of the
3 40-year contract term the clean coal project will, upon
4 the request of the Commission or other agency of the
5 State of Illinois authorized to make such request, be
6 transferred for the benefit of ratepayers to a trust or
7 other entity nominated by the Commission or other
8 agency in return for no consideration other than the
9 assumption of the obligation to retire the clean coal
10 project and remediate the site when the clean coal
11 project reaches the end of its useful economic life.

12 (3) With respect to the standard of review under the
13 Federal Power Act of the wholesale sales tariff, it is
14 adequate and appropriate that absent mutual written
15 consent of the participating electric utility and the
16 owner, operator, or lessee of a clean coal project any
17 proposed changes under Sections 205 and 206 of the Federal
18 Power Act to the wholesale sales tariff, including without
19 limitation the formula rate and service agreement, are
20 subject to the "public interest" standard of review as such
21 standard of review is applied by FERC pursuant to sections
22 205 and 206 of the Federal Power Act.

23 To the extent, if any, that a wholesale sales tariff as
24 allowed to be effective by FERC has characteristics in addition
25 to, or different from, those set forth in this Section, such
26 additional or different characteristics shall not alter a

1 participating electric utility's obligation to purchase
2 capacity and associated energy pursuant to wholesale sales
3 tariffs as set forth in this Article.

4 Nothing in this Article shall be deemed to limit the
5 participation of the State, or any agency or political
6 subdivision thereof, or any elected or appointed official of
7 the State of Illinois or any agency or political subdivision
8 thereof, in any FERC proceeding related to a wholesale sales
9 tariff.

10 (220 ILCS 5/21-125 new)

11 Sec. 21-125. Disposition of capacity and energy.

12 (a) Each participating electric utility that executes a
13 service agreement pursuant to the Clean Coal Development
14 Program Law shall resell the capacity and associated energy
15 purchased from a clean coal project to wholesale purchasers in
16 the wholesale capacity and energy markets available to the
17 participating electric utility. The participating electric
18 utility shall use its best efforts to obtain the highest prices
19 for the capacity and associated energy sold pursuant to this
20 Section so as to minimize the costs passed through to the
21 participating electric utility's delivery service customers
22 pursuant to Section 21-130.

23 (b) The participating electric utility shall be in
24 compliance with this Section if:

25 (1) the prices obtained by the participating electric

1 utility are no less than the prices available for the
2 capacity and associated energy if sold into the day-ahead
3 and real time capacity and energy markets administered by a
4 regional transmission organization to which the applicable
5 qualified clean coal project is interconnected; or

6 (2) the participating electric utility otherwise sells
7 the capacity and associated energy pursuant to a plan set
8 forth in a tariff approved by the Commission pursuant to
9 Article IX of the Public Utilities Act.

10 (220 ILCS 5/21-130 new)

11 Sec. 21-130. Pass-through of clean coal development
12 benefits and costs.

13 (a) Because a participating electric utility is required to
14 accept an offer from a clean coal project to sell capacity and
15 associated energy pursuant to a wholesale sales tariff as
16 provided in Section 21-115 of this Article, the participating
17 electric utility is entitled to recover the costs less benefits
18 from its purchases pursuant to the wholesale sales tariff in
19 its retail rates. Each participating electric utility shall
20 pass-through to its delivery services customers the benefits
21 and costs of the Clean Coal Development Program without mark-up
22 as set forth in this Section.

23 (b) Within 60 days after the effective date of this
24 Article, each participating electric utility shall file with
25 the Commission a rider to such utility's tariff that complies

1 with this Section. Such tariff riders shall be subject to
2 Article IX of the Public Utilities Act; provided, however, that
3 the period of suspension of such rider shall not extend more
4 than 75 days beyond the time when such rider would otherwise go
5 into effect and such period of suspension shall not be extended
6 by the Commission. Any proceeding initiated pursuant to Article
7 IX with respect to such rider shall be limited to making a
8 determination that, as a matter of law, the tariff rider
9 complies with the requirements of this section and any such
10 proceeding may not exceed 120 days in length.

11 (c) In order to comply with this Section, a tariff rider
12 shall:

13 (1) apply to all customers to which the participating
14 electric utility provides bundled retail services or
15 retail distribution service;

16 (2) be incorporated onto the participating electric
17 utility's customer bills in the same manner in which the
18 participating electric utility, as of the effective date of
19 this Article, incorporates charges pursuant to Section 6-5
20 of the Renewable Energy, Energy Efficiency and Coal
21 Resources Development Law of 1997; and

22 (3) use an automatic rate adjustment methodology, as
23 such methodology understood pursuant to the Public
24 Utilities Act, having the following characteristics:

25 (A) a "CCDP factor" defined as the factor
26 calculated as set forth in this subsection (c) to

1 represent the net benefit or cost of the Clean Coal
2 Development Program;

3 (B) a "determination period" defined as the
4 calendar month for which a CCDP Factor is determined
5 for the participating electric utility's delivery
6 services customers;

7 (C) an "effective period" defined as the monthly
8 billing period occurring 2 months after the
9 determination period, during which the CCDP factor is
10 applied to kilowatt-hours of energy delivered by the
11 participating electric utility to its delivery
12 services customers;

13 (D) "accrued CCDP expenses" defined as the sum of
14 accrued expenses incurred by the participating
15 electric utility during the determination period
16 pursuant to executed service agreements with clean
17 coal projects;

18 (E) "accrued CCDP revenues" defined as the sum of
19 accrued revenues recorded by the participating
20 electric utility during the determination period
21 associated with the sale of capacity and associated
22 energy by the participating electric utility pursuant
23 to Section 125 of this Article;

24 (F) "automatic CCDP balancing factor" defined as
25 the cumulative debit or credit balance, if any,
26 resulting from the application of the CCDP factor from

1 the effective date of the tariff rider through the
2 determination period;

3 (G) "forecast usage" (expressed in kilowatt-hours)
4 defined as the forecast by the participating electric
5 utility of the total energy that the participating
6 electric utility expects to deliver to its delivery
7 services customers during the effective period; and

8 (H) a formula for the determination of the CCDP
9 factor that divides the sum of the CCDP accrued
10 revenues, CCDP accrued expenses, and automatic CCDP
11 balancing factor by the forecast usage.

12 (d) Each participating electric utility shall submit its
13 CCDP factor to the Commission in an informational filing at
14 least 3 business days prior to the start of each effective
15 period during which it is to be applied. In addition, each
16 participating electric utility that is purchasing capacity and
17 associated energy pursuant to a service agreement during a
18 calendar year shall prepare and submit to the Commission an
19 annual report for each calendar year during which such
20 purchases are made, containing the details of the calculation
21 of its CCDP factor on or before the last business day of April
22 of the following calendar year.

23 (220 ILCS 5/21-135 new)

24 Sec. 21-135. Affiliate transactions. Notwithstanding any
25 other provision of this Article, if an electric utility or an

1 affiliate of an electric utility has an ownership interest in
2 any eligible facility, Article VII of this Act shall apply.

3 (220 ILCS 5/21-140 new)

4 Sec. 21-140. Certificates of convenience and necessity.

5 (a) If a CCN is required from the Commission for the
6 construction of transmission or pipeline facilities necessary
7 to support interconnection or supplemental fuel supply of a
8 clean coal project, the Commission's order shall be entered (1)
9 within 180 days after the date on which an application for such
10 a CCN has been filed pursuant to Section 8-406 of this Act
11 without a request for an order pursuant to Section 8-503 of
12 this Act; or (2) within 270 days in the case of an application
13 with a request for an order pursuant to Section 8-503 of this
14 Act.

15 (b) In any proceeding conducted by the Commission with
16 respect to a CCN filed pursuant to this Section, intervention
17 shall be limited to parties with a direct interest in the
18 requested CCN and any statutory consumer protection agency as
19 defined in subsection (d) of Section 9-102.1 of this Act.
20 Parties with a direct interest shall include each owner of
21 record of the land that would be crossed by the proposed
22 transmission or pipeline facilities unless the Commission
23 determines that such owner has acquired the land solely for the
24 purpose of becoming a party to the CCN proceeding, and all
25 utilities and railroads whose lines will be crossed by the

1 proposed transmission or pipeline facilities or whose lines
2 will be paralleled within 200 feet by such proposed facilities.
3 Any application seeking rehearing of an order issued in
4 response to an application for a CCN filed pursuant to the
5 Section shall be filed within 10 days after service of the
6 order.

7 (c) The construction of transmission and pipeline
8 facilities necessary to support interconnection or
9 supplemental fuel supply of a clean coal project is in the
10 public interest, and in determining whether to issue an order
11 granting a CCN for construction of such facilities, the
12 Commission shall liberally construe the provisions of this
13 Section in favor of granting a CCN for construction of such
14 facilities.

15 (220 ILCS 5/21-145 new)

16 Sec. 21-145. Termination mechanism. Because (i) the core
17 plant construction cost quote will not likely be known at the
18 time when the applicable service agreement is executed by the
19 participating electric utility and (ii) the clean coal project
20 will likely incur significant costs related to the engineering
21 and design services performed to obtain the core plant
22 construction cost quote, and in order to provide a mechanism
23 for the Commission to review and approve any increase in the
24 anticipated core plant construction costs quote, the following
25 termination mechanism shall apply to all clean coal projects

1 participating in the Clean Coal Development Program:

2 (1) Upon completion of the core plant construction cost
3 quote for a given clean coal project, the clean coal
4 project shall compare its core plant construction cost
5 quote to the inflation-adjusted core plant construction
6 cost ceiling and determine whether its core plant
7 construction cost quote is in excess of the
8 inflation-adjusted core plant construction cost ceiling.

9 (2) If a clean coal project determines that its core
10 plant construction cost quote is in excess of the
11 inflation-adjusted core plant construction cost ceiling,
12 then the clean coal project shall file with the Commission
13 a pleading summarizing its determination that its core
14 plant construction cost quote is in excess of the
15 inflation-adjusted core plant construction cost ceiling
16 and any calculations and work papers related to such
17 determination.

18 (3) Upon receipt of a filing pursuant to Section 21-145
19 of this Article, the Commission shall promptly commence an
20 investigation pursuant to Article X of this Act to
21 determine whether it is in the public interest for the
22 clean coal project to be constructed given the
23 determination that the core plant construction cost quote
24 is in excess of the inflation-adjusted core plant
25 construction cost ceiling. The Commission shall make such
26 public interest determination after hearing evidence

1 limited to the issue of whether the purposes of the Clean
2 Coal Development Program, as set forth in Section 21-105 of
3 this Article, shall be frustrated by the fact that the core
4 plant construction cost quote for the applicable clean coal
5 project is in excess of the inflation-adjusted core plant
6 construction cost ceiling. Any proceeding initiated by the
7 Commission pursuant to this Section may not exceed 120 days
8 in length.

9 (4) If, and only if, the Commission determines that the
10 purposes of the Clean Coal Development Program will be
11 frustrated by the fact that the core plant construction
12 cost quote for a given clean coal project is in excess of
13 the inflation-adjusted core plant construction cost
14 ceiling, then each participating electric utility that
15 executed a service agreement with such clean coal project
16 shall enforce its right to terminate such service agreement
17 and reimburse the clean coal project as a termination fee
18 the amounts paid by the clean coal project to unrelated
19 third parties to obtain the core plant construction cost
20 quote. In the event that more than one participating
21 electric utility has executed a service agreement with such
22 clean coal project, then the termination fee applicable to
23 each service agreement shall be allocated in proportion to
24 the amount of capacity contracted for relative to the total
25 capacity contracted for pursuant to all service agreements
26 applicable to such clean coal project. The aggregate of

1 termination fees paid by participating electric utilities
2 to a clean coal project pursuant to this Section shall not
3 exceed \$8,000,000.

4 (5) If a participating electric utility terminates a
5 service agreement as contemplated in Section 21-145 of this
6 Article, the participating electric utility shall treat
7 the termination fee paid to the clean coal project as an
8 accrued CCDP expense and recover such termination fee
9 pursuant to the tariff rider set forth in Section 21-130 of
10 this Article.

11 (220 ILCS 5/21-150 new)

12 Sec. 21-150. Participation by a FutureGen demonstration
13 project. A FutureGen demonstration project may elect to be
14 deemed a clean coal project and participate in the Clean Coal
15 Development Program as set forth in this Article and as
16 modified by this Section. A FutureGen demonstration project
17 shall be deemed to have made such election on the date that the
18 FutureGen demonstration project files its wholesale sales
19 tariff at FERC pursuant to Section 205 of the Federal Power
20 Act.

21 No participating electric utility shall enter into a
22 service agreement with a FutureGen demonstration project if the
23 amount of capacity to be purchased under such service
24 agreement, together with the aggregate amount of all capacity
25 purchased under other service agreements executed previously

1 or contemporaneously by the participating electric utility
2 with any FutureGen demonstration project, exceeds 1% of the
3 participating electric utility's coincident peak delivery
4 services load, expressed in kilowatts, for the calendar year
5 immediately preceding the effective date of this Article.

6 Subsections 21-120(1) (other than Subsection 21-120(1)(D))
7 and 21-120(2) shall not apply to the wholesale sales tariff of
8 a FutureGen demonstration project that elects to be deemed a
9 clean coal project. Subsection 21-120(1)(D) and Section 145
10 shall apply to a FutureGen demonstration project. With respect
11 to a FutureGen demonstration project that elects to be deemed a
12 clean coal project, it is the intent of the General Assembly
13 that the wholesale sales tariff of a FutureGen demonstration
14 project recognize that (i) the FutureGen demonstration project
15 may be operated based on objectives different from a baseload
16 generating plant, and (ii) a FutureGen demonstration project is
17 likely to be funded by government appropriations and
18 contributions from non-profit organizations for which
19 traditional ratemaking concepts such as return on invested
20 capital are not appropriate.

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