

1 AN ACT concerning regulation.

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

4 Section 5. The Illinois Power Agency Act is amended by
5 changing Section 1-10 as follows:

6 (20 ILCS 3855/1-10)

7 (Text of Section before amendment by P.A. 95-1027)

8 Sec. 1-10. Definitions.

9 "Agency" means the Illinois Power Agency.

10 "Agency loan agreement" means any agreement pursuant to
11 which the Illinois Finance Authority agrees to loan the
12 proceeds of revenue bonds issued with respect to a project to
13 the Agency upon terms providing for loan repayment installments
14 at least sufficient to pay when due all principal of, interest
15 and premium, if any, on those revenue bonds, and providing for
16 maintenance, insurance, and other matters in respect of the
17 project.

18 "Authority" means the Illinois Finance Authority.

19 "Commission" means the Illinois Commerce Commission.

20 "Costs incurred in connection with the development and
21 construction of a facility" means:

22 (1) the cost of acquisition of all real property and
23 improvements in connection therewith and equipment and

1 other property, rights, and easements acquired that are
2 deemed necessary for the operation and maintenance of the
3 facility;

4 (2) financing costs with respect to bonds, notes, and
5 other evidences of indebtedness of the Agency;

6 (3) all origination, commitment, utilization,
7 facility, placement, underwriting, syndication, credit
8 enhancement, and rating agency fees;

9 (4) engineering, design, procurement, consulting,
10 legal, accounting, title insurance, survey, appraisal,
11 escrow, trustee, collateral agency, interest rate hedging,
12 interest rate swap, capitalized interest and other
13 financing costs, and other expenses for professional
14 services; and

15 (5) the costs of plans, specifications, site study and
16 investigation, installation, surveys, other Agency costs
17 and estimates of costs, and other expenses necessary or
18 incidental to determining the feasibility of any project,
19 together with such other expenses as may be necessary or
20 incidental to the financing, insuring, acquisition, and
21 construction of a specific project and placing that project
22 in operation.

23 "Department" means the Department of Commerce and Economic
24 Opportunity.

25 "Director" means the Director of the Illinois Power Agency.

26 "Demand-response" means measures that decrease peak

1 electricity demand or shift demand from peak to off-peak
2 periods.

3 "Energy efficiency" means measures that reduce the amount
4 of electricity or natural gas required to achieve a given end
5 use.

6 "Electric utility" has the same definition as found in
7 Section 16-102 of the Public Utilities Act.

8 "Facility" means an electric generating unit or a
9 co-generating unit that produces electricity along with
10 related equipment necessary to connect the facility to an
11 electric transmission or distribution system.

12 "Governmental aggregator" means one or more units of local
13 government that individually or collectively procure
14 electricity to serve residential retail electrical loads
15 located within its or their jurisdiction.

16 "Local government" means a unit of local government as
17 defined in Article VII of Section 1 of the Illinois
18 Constitution.

19 "Municipality" means a city, village, or incorporated
20 town.

21 "Person" means any natural person, firm, partnership,
22 corporation, either domestic or foreign, company, association,
23 limited liability company, joint stock company, or association
24 and includes any trustee, receiver, assignee, or personal
25 representative thereof.

26 "Project" means the planning, bidding, and construction of

1 a facility.

2 "Public utility" has the same definition as found in
3 Section 3-105 of the Public Utilities Act.

4 "Real property" means any interest in land together with
5 all structures, fixtures, and improvements thereon, including
6 lands under water and riparian rights, any easements,
7 covenants, licenses, leases, rights-of-way, uses, and other
8 interests, together with any liens, judgments, mortgages, or
9 other claims or security interests related to real property.

10 "Renewable energy credit" means a tradable credit that
11 represents the environmental attributes of a certain amount of
12 energy produced from a renewable energy resource.

13 "Renewable energy resources" includes energy and its
14 associated renewable energy credit or renewable energy credits
15 from wind, solar thermal energy, photovoltaic cells and panels,
16 biodiesel, crops and untreated and unadulterated organic waste
17 biomass, trees and tree trimmings, hydropower that does not
18 involve new construction or significant expansion of
19 hydropower dams, and other alternative sources of
20 environmentally preferable energy. For purposes of this Act,
21 landfill gas produced in the State is considered a renewable
22 energy resource. "Renewable energy resources" does not include
23 the incineration or burning of tires, garbage, general
24 household, institutional, and commercial waste, industrial
25 lunchroom or office waste, landscape waste other than trees and
26 tree trimmings, railroad crossties, utility poles, or

1 construction or demolition debris, other than untreated and
2 unadulterated waste wood.

3 "Revenue bond" means any bond, note, or other evidence of
4 indebtedness issued by the Authority, the principal and
5 interest of which is payable solely from revenues or income
6 derived from any project or activity of the Agency.

7 "Total resource cost test" or "TRC test" means a standard
8 that is met if, for an investment in energy efficiency or
9 demand-response measures, the benefit-cost ratio is greater
10 than one. The benefit-cost ratio is the ratio of the net
11 present value of the total benefits of the program to the net
12 present value of the total costs as calculated over the
13 lifetime of the measures. A total resource cost test compares
14 the sum of avoided electric utility costs, representing the
15 benefits that accrue to the system and the participant in the
16 delivery of those efficiency measures, as well as other
17 quantifiable societal benefits, including avoided natural gas
18 utility costs, to the sum of all incremental costs of end-use
19 measures that are implemented due to the program (including
20 both utility and participant contributions), plus costs to
21 administer, deliver, and evaluate each demand-side program, to
22 quantify the net savings obtained by substituting the
23 demand-side program for supply resources. In calculating
24 avoided costs of power and energy that an electric utility
25 would otherwise have had to acquire, reasonable estimates shall
26 be included of financial costs likely to be imposed by future

1 regulations and legislation on emissions of greenhouse gases.

2 (Source: P.A. 95-481, eff. 8-28-07; 95-913, eff. 1-1-09.)

3 (Text of Section after amendment by P.A. 95-1027)

4 Sec. 1-10. Definitions.

5 "Agency" means the Illinois Power Agency.

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7 which the Illinois Finance Authority agrees to loan the
8 proceeds of revenue bonds issued with respect to a project to
9 the Agency upon terms providing for loan repayment installments
10 at least sufficient to pay when due all principal of, interest
11 and premium, if any, on those revenue bonds, and providing for
12 maintenance, insurance, and other matters in respect of the
13 project.

14 "Authority" means the Illinois Finance Authority.

15 "Clean coal facility" means an electric generating
16 facility that uses primarily coal as a feedstock and that
17 captures and sequesters carbon emissions at the following
18 levels: at least 50% of the total carbon emissions that the
19 facility would otherwise emit if, at the time construction
20 commences, the facility is scheduled to commence operation
21 before 2016, at least 70% of the total carbon emissions that
22 the facility would otherwise emit if, at the time construction
23 commences, the facility is scheduled to commence operation
24 during 2016 or 2017, and at least 90% of the total carbon
25 emissions that the facility would otherwise emit if, at the

1 time construction commences, the facility is scheduled to
2 commence operation after 2017. The power block of the clean
3 coal facility shall not exceed allowable emission rates for
4 sulfur dioxide, nitrogen oxides, carbon monoxide, particulates
5 and mercury for a natural gas-fired combined-cycle facility the
6 same size as and in the same location as the clean coal
7 facility at the time the clean coal facility obtains an
8 approved air permit. All coal used by a clean coal facility
9 shall have high volatile bituminous rank and greater than 1.7
10 pounds of sulfur per million btu content, unless the clean coal
11 facility does not use gasification technology and was operating
12 as a conventional coal-fired electric generating facility on
13 June 1, 2009 (the effective date of Public Act 95-1027) ~~this~~
14 ~~amendatory Act of the 95th General Assembly.~~

15 "Clean coal SNG facility" means a facility that uses a
16 gasification process to produce substitute natural gas, that
17 sequesters at least 90% of the total carbon emissions that the
18 facility would otherwise emit and that uses coal as a
19 feedstock, with all such coal having a high bituminous rank and
20 greater than 1.7 pounds of sulfur per million btu content.

21 "Commission" means the Illinois Commerce Commission.

22 "Costs incurred in connection with the development and
23 construction of a facility" means:

24 (1) the cost of acquisition of all real property and
25 improvements in connection therewith and equipment and
26 other property, rights, and easements acquired that are

1 deemed necessary for the operation and maintenance of the
2 facility;

3 (2) financing costs with respect to bonds, notes, and
4 other evidences of indebtedness of the Agency;

5 (3) all origination, commitment, utilization,
6 facility, placement, underwriting, syndication, credit
7 enhancement, and rating agency fees;

8 (4) engineering, design, procurement, consulting,
9 legal, accounting, title insurance, survey, appraisal,
10 escrow, trustee, collateral agency, interest rate hedging,
11 interest rate swap, capitalized interest and other
12 financing costs, and other expenses for professional
13 services; and

14 (5) the costs of plans, specifications, site study and
15 investigation, installation, surveys, other Agency costs
16 and estimates of costs, and other expenses necessary or
17 incidental to determining the feasibility of any project,
18 together with such other expenses as may be necessary or
19 incidental to the financing, insuring, acquisition, and
20 construction of a specific project and placing that project
21 in operation.

22 "Department" means the Department of Commerce and Economic
23 Opportunity.

24 "Director" means the Director of the Illinois Power Agency.

25 "Demand-response" means measures that decrease peak
26 electricity demand or shift demand from peak to off-peak

1 periods.

2 "Energy efficiency" means measures that reduce the amount
3 of electricity or natural gas required to achieve a given end
4 use.

5 "Electric utility" has the same definition as found in
6 Section 16-102 of the Public Utilities Act.

7 "Facility" means an electric generating unit or a
8 co-generating unit that produces electricity along with
9 related equipment necessary to connect the facility to an
10 electric transmission or distribution system.

11 "Governmental aggregator" means one or more units of local
12 government that individually or collectively procure
13 electricity to serve residential retail electrical loads
14 located within its or their jurisdiction.

15 "Local government" means a unit of local government as
16 defined in Article VII of Section 1 of the Illinois
17 Constitution.

18 "Municipality" means a city, village, or incorporated
19 town.

20 "Person" means any natural person, firm, partnership,
21 corporation, either domestic or foreign, company, association,
22 limited liability company, joint stock company, or association
23 and includes any trustee, receiver, assignee, or personal
24 representative thereof.

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26 a facility.

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2 Section 3-105 of the Public Utilities Act.

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4 all structures, fixtures, and improvements thereon, including
5 lands under water and riparian rights, any easements,
6 covenants, licenses, leases, rights-of-way, uses, and other
7 interests, together with any liens, judgments, mortgages, or
8 other claims or security interests related to real property.

9 "Renewable energy credit" means a tradable credit that
10 represents the environmental attributes of a certain amount of
11 energy produced from a renewable energy resource.

12 "Renewable energy resources" includes energy and its
13 associated renewable energy credit or renewable energy credits
14 from wind, solar thermal energy, photovoltaic cells and panels,
15 biodiesel, crops and untreated and unadulterated organic waste
16 biomass, trees and tree trimmings, hydropower that does not
17 involve new construction or significant expansion of
18 hydropower dams, and other alternative sources of
19 environmentally preferable energy. For purposes of this Act,
20 landfill gas produced in the State is considered a renewable
21 energy resource. "Renewable energy resources" does not include
22 the incineration or burning of tires, garbage, general
23 household, institutional, and commercial waste, industrial
24 lunchroom or office waste, landscape waste other than trees and
25 tree trimmings, railroad crossties, utility poles, or
26 construction or demolition debris, other than untreated and

1 unadulterated waste wood.

2 "Revenue bond" means any bond, note, or other evidence of
3 indebtedness issued by the Authority, the principal and
4 interest of which is payable solely from revenues or income
5 derived from any project or activity of the Agency.

6 "Sequester" means permanent storage of carbon dioxide by
7 injecting it into a saline aquifer, a depleted gas reservoir,
8 or an oil reservoir, directly or through an enhanced oil
9 recovery process that may involve intermediate storage in a
10 salt dome.

11 "Servicing agreement" means (i) in the case of an electric
12 utility, an agreement between the owner of a clean coal
13 facility and such electric utility, which agreement shall have
14 terms and conditions meeting the requirements of paragraph (3)
15 of subsection (d) of Section 1-75, and (ii) in the case of an
16 alternative retail electric supplier, an agreement between the
17 owner of a clean coal facility and such alternative retail
18 electric supplier, which agreement shall have terms and
19 conditions meeting the requirements of Section 16-115(d) (5) of
20 the Public Utilities Act.

21 "Substitute natural gas" or "SNG" means a gas manufactured
22 by gasification of hydrocarbon feedstock, which is
23 substantially interchangeable in use and distribution with
24 conventional natural gas.

25 "Total resource cost test" or "TRC test" means a standard
26 that is met if, for an investment in energy efficiency or

1 demand-response measures, the benefit-cost ratio is greater
2 than one. The benefit-cost ratio is the ratio of the net
3 present value of the total benefits of the program to the net
4 present value of the total costs as calculated over the
5 lifetime of the measures. A total resource cost test compares
6 the sum of avoided electric utility costs, representing the
7 benefits that accrue to the system and the participant in the
8 delivery of those efficiency measures, as well as other
9 quantifiable societal benefits, including avoided natural gas
10 utility costs, to the sum of all incremental costs of end-use
11 measures that are implemented due to the program (including
12 both utility and participant contributions), plus costs to
13 administer, deliver, and evaluate each demand-side program, to
14 quantify the net savings obtained by substituting the
15 demand-side program for supply resources. In calculating
16 avoided costs of power and energy that an electric utility
17 would otherwise have had to acquire, reasonable estimates shall
18 be included of financial costs likely to be imposed by future
19 regulations and legislation on emissions of greenhouse gases.

20 (Source: P.A. 95-481, eff. 8-28-07; 95-913, eff. 1-1-09;
21 95-1027, eff. 6-1-09; revised 1-14-09.)

22 Section 10. The Public Utilities Act is amended by changing
23 Sections 2-103, 8-103, 9-201, 10-102, 10-103, 10-110, 10-111,
24 and 10-201 and by adding Sections 8-104, 8-105, 9-229,
25 16-111.7, 16-111.8, 16-115D, 19-140, and 19-145 as follows:

1 (220 ILCS 5/2-103) (from Ch. 111 2/3, par. 2-103)

2 Sec. 2-103. (a) No former member of the Commission or
3 person formerly employed by the Commission may, ~~for a period of~~
4 ~~one year following the termination of his services with the~~
5 ~~Commission,~~ represent any person before the Commission in any a
6 ~~professional~~ capacity with respect to any particular
7 Commission proceeding ~~matter~~ in which he participated
8 personally and substantially as a member or employee of the
9 Commission.

10 (b) No former member of the Commission may appear before
11 the Commission ~~act as agent or attorney for any one other than~~
12 ~~the State of Illinois~~ in connection with any ~~particular~~
13 Commission proceeding for a period of 2 years following the
14 termination of service with the Commission ~~matter in which he~~
15 ~~participated personally and substantially as a member of the~~
16 ~~Commission, through decision, approval, disapproval,~~
17 ~~recommendation, the rendering of service, investigation, or~~
18 ~~otherwise.~~

19 (c) No former member of the Commission may accept any
20 employment with any entity ~~public utility~~ subject to Commission
21 regulation ~~regulations~~ or certification, or with any industry
22 trade association that (i) receives a majority of its funding
23 from entities regulated or certificated by the Commission; or
24 (ii) has a majority of members regulated or certificated by the
25 Commission, for one year following the termination of ~~his~~

1 services with the Commission; provided such prohibition shall
2 extend to 2 years for commissioners appointed subsequent to the
3 effective date of this amendatory Act of the 96th General
4 Assembly.

5 (d) No entity ~~public utility~~ subject to Commission
6 regulation or certification or any industry trade association
7 that (i) receives a majority of its funding from entities
8 regulated or certificated by the Commission; or (ii) has a
9 majority of members regulated or certificated by the Commission
10 shall offer a former member of the Commission employment for a
11 period of one year following the termination of the former
12 Commission member's service with the Commission, or otherwise
13 hire such person as an agent, consultant, or attorney where
14 such employment or contractual relation would be in violation
15 of this Section; provided such prohibition on offers of
16 employment shall extend to 2 years for those commissioners
17 appointed subsequent to the effective date of this amendatory
18 Act of the 96th General Assembly.

19 (Source: P.A. 84-617.)

20 (220 ILCS 5/8-103)

21 Sec. 8-103. Energy efficiency and demand-response
22 measures.

23 (a) It is the policy of the State that electric utilities
24 are required to use cost-effective energy efficiency and
25 demand-response measures to reduce delivery load. Requiring

1 investment in cost-effective energy efficiency and
2 demand-response measures will reduce direct and indirect costs
3 to consumers by decreasing environmental impacts and by
4 avoiding or delaying the need for new generation, transmission,
5 and distribution infrastructure. It serves the public interest
6 to allow electric utilities to recover costs for reasonably and
7 prudently incurred expenses for energy efficiency and
8 demand-response measures. As used in this Section,
9 "cost-effective" means that the measures satisfy the total
10 resource cost test. The low-income measures described in
11 subsection (f) (4) of this Section shall not be required to meet
12 the total resource cost test. For purposes of this Section, the
13 terms "energy-efficiency", "demand-response", "electric
14 utility", and "total resource cost test" shall have the
15 meanings set forth in the Illinois Power Agency Act. For
16 purposes of this Section, the amount per kilowatthour means the
17 total amount paid for electric service expressed on a per
18 kilowatthour basis. For purposes of this Section, the total
19 amount paid for electric service includes without limitation
20 estimated amounts paid for supply, transmission, distribution,
21 surcharges, and add-on-taxes.

22 (b) Electric utilities shall implement cost-effective
23 energy efficiency measures to meet the following incremental
24 annual energy savings goals:

- 25 (1) 0.2% of energy delivered in the year commencing
26 June 1, 2008;

1 (2) 0.4% of energy delivered in the year commencing
2 June 1, 2009;

3 (3) 0.6% of energy delivered in the year commencing
4 June 1, 2010;

5 (4) 0.8% of energy delivered in the year commencing
6 June 1, 2011;

7 (5) 1% of energy delivered in the year commencing June
8 1, 2012;

9 (6) 1.4% of energy delivered in the year commencing
10 June 1, 2013;

11 (7) 1.8% of energy delivered in the year commencing
12 June 1, 2014; and

13 (8) 2% of energy delivered in the year commencing June
14 1, 2015 and each year thereafter.

15 (c) Electric utilities shall implement cost-effective
16 demand-response measures to reduce peak demand by 0.1% over the
17 prior year for eligible retail customers, as defined in Section
18 16-111.5 of this Act. This requirement commences June 1, 2008
19 and continues for 10 years.

20 (d) Notwithstanding the requirements of subsections (b)
21 and (c) of this Section, an electric utility shall reduce the
22 amount of energy efficiency and demand-response measures
23 implemented in any single year by an amount necessary to limit
24 the estimated average increase in the amounts paid by retail
25 customers in connection with electric service due to the cost
26 of those measures to:

1 (1) in 2008, no more than 0.5% of the amount paid per
2 kilowatthour by those customers during the year ending May
3 31, 2007;

4 (2) in 2009, the greater of an additional 0.5% of the
5 amount paid per kilowatthour by those customers during the
6 year ending May 31, 2008 or 1% of the amount paid per
7 kilowatthour by those customers during the year ending May
8 31, 2007;

9 (3) in 2010, the greater of an additional 0.5% of the
10 amount paid per kilowatthour by those customers during the
11 year ending May 31, 2009 or 1.5% of the amount paid per
12 kilowatthour by those customers during the year ending May
13 31, 2007;

14 (4) in 2011, the greater of an additional 0.5% of the
15 amount paid per kilowatthour by those customers during the
16 year ending May 31, 2010 or 2% of the amount paid per
17 kilowatthour by those customers during the year ending May
18 31, 2007; and

19 (5) thereafter, the amount of energy efficiency and
20 demand-response measures implemented for any single year
21 shall be reduced by an amount necessary to limit the
22 estimated average net increase due to the cost of these
23 measures included in the amounts paid by eligible retail
24 customers in connection with electric service to no more
25 than the greater of 2.015% of the amount paid per
26 kilowatthour by those customers during the year ending May

1 31, 2007 or the incremental amount per kilowatthour paid
2 for these measures in 2011.

3 No later than June 30, 2011, the Commission shall review
4 the limitation on the amount of energy efficiency and
5 demand-response measures implemented pursuant to this Section
6 and report to the General Assembly its findings as to whether
7 that limitation unduly constrains the procurement of energy
8 efficiency and demand-response measures.

9 (e) Electric utilities shall be responsible for overseeing
10 the design, development, and filing of energy efficiency and
11 demand-response plans with the Commission. Electric utilities
12 shall implement 100% of the demand-response measures in the
13 plans. Electric utilities shall implement 75% of the energy
14 efficiency measures approved by the Commission, and may, as
15 part of that implementation, outsource various aspects of
16 program development and implementation. The remaining 25% of
17 those energy efficiency measures approved by the Commission
18 shall be implemented by the Department of Commerce and Economic
19 Opportunity, and must be designed in conjunction with the
20 utility and the filing process. The Department may outsource
21 development and implementation of energy efficiency measures.
22 A minimum of 10% of the entire portfolio of cost-effective
23 energy efficiency measures shall be procured from units of
24 local government, municipal corporations, school districts,
25 and community college districts. The Department shall
26 coordinate the implementation of these measures.

1 The apportionment of the dollars to cover the costs to
2 implement the Department's share of the portfolio of energy
3 efficiency measures shall be made to the Department once the
4 Department has executed grants or contracts for energy
5 efficiency measures and provided supporting documentation for
6 those grants and the contracts to the utility.

7 The details of the measures implemented by the Department
8 shall be submitted by the Department to the Commission in
9 connection with the utility's filing regarding the energy
10 efficiency and demand-response measures that the utility
11 implements.

12 A utility providing approved energy efficiency and
13 demand-response measures in the State shall be permitted to
14 recover costs of those measures through an automatic adjustment
15 clause tariff filed with and approved by the Commission. The
16 tariff shall be established outside the context of a general
17 rate case. Each year the Commission shall initiate a review to
18 reconcile any amounts collected with the actual costs and to
19 determine the required adjustment to the annual tariff factor
20 to match annual expenditures.

21 Each utility shall include, in its recovery of costs, the
22 costs estimated for both the utility's and the Department's
23 implementation of energy efficiency and demand-response
24 measures. Costs collected by the utility for measures
25 implemented by the Department shall be submitted to the
26 Department pursuant to Section 605-323 of the Civil

1 Administrative Code of Illinois and shall be used by the
2 Department solely for the purpose of implementing these
3 measures. A utility shall not be required to advance any moneys
4 to the Department but only to forward such funds as it has
5 collected. The Department shall report to the Commission on an
6 annual basis regarding the costs actually incurred by the
7 Department in the implementation of the measures. Any changes
8 to the costs of energy efficiency measures as a result of plan
9 modifications shall be appropriately reflected in amounts
10 recovered by the utility and turned over to the Department.

11 The portfolio of measures, administered by both the
12 utilities and the Department, shall, in combination, be
13 designed to achieve the annual savings targets described in
14 subsections (b) and (c) of this Section, as modified by
15 subsection (d) of this Section.

16 The utility and the Department shall agree upon a
17 reasonable portfolio of measures and determine the measurable
18 corresponding percentage of the savings goals associated with
19 measures implemented by the utility or Department.

20 No utility shall be assessed a penalty under subsection (f)
21 of this Section for failure to make a timely filing if that
22 failure is the result of a lack of agreement with the
23 Department with respect to the allocation of responsibilities
24 or related costs or target assignments. In that case, the
25 Department and the utility shall file their respective plans
26 with the Commission and the Commission shall determine an

1 appropriate division of measures and programs that meets the
2 requirements of this Section.

3 If the Department is unable to meet incremental annual
4 performance goals for the portion of the portfolio implemented
5 by the Department, then the utility and the Department shall
6 jointly submit a modified filing to the Commission explaining
7 the performance shortfall and recommending an appropriate
8 course going forward, including any program modifications that
9 may be appropriate in light of the evaluations conducted under
10 item (7) of subsection (f) of this Section. In this case, the
11 utility obligation to collect the Department's costs and turn
12 over those funds to the Department under this subsection (e)
13 shall continue only if the Commission approves the
14 modifications to the plan proposed by the Department.

15 (f) No later than November 15, 2007, each electric utility
16 shall file an energy efficiency and demand-response plan with
17 the Commission to meet the energy efficiency and
18 demand-response standards for 2008 through 2010. Every 3 years
19 thereafter, each electric utility shall file, no later than
20 October 1, an energy efficiency and demand-response plan with
21 the Commission. If a utility does not file such a plan by
22 October 1 of an applicable year, it shall face a penalty of
23 \$100,000 per day until the plan is filed. Each utility's plan
24 shall set forth the utility's proposals to meet the utility's
25 portion of the energy efficiency standards identified in
26 subsection (b) and the demand-response standards identified in

1 subsection (c) of this Section as modified by subsections (d)
2 and (e), taking into account the unique circumstances of the
3 utility's service territory. The Commission shall seek public
4 comment on the utility's plan and shall issue an order
5 approving or disapproving each plan within 3 months after its
6 submission. If the Commission disapproves a plan, the
7 Commission shall, within 30 days, describe in detail the
8 reasons for the disapproval and describe a path by which the
9 utility may file a revised draft of the plan to address the
10 Commission's concerns satisfactorily. If the utility does not
11 refile with the Commission within 60 days, the utility shall be
12 subject to penalties at a rate of \$100,000 per day until the
13 plan is filed. This process shall continue, and penalties shall
14 accrue, until the utility has successfully filed a portfolio of
15 energy efficiency and demand-response measures. Penalties
16 shall be deposited into the Energy Efficiency Trust Fund. In
17 submitting proposed energy efficiency and demand-response
18 plans and funding levels to meet the savings goals adopted by
19 this Act the utility shall:

20 (1) Demonstrate that its proposed energy efficiency
21 and demand-response measures will achieve the requirements
22 that are identified in subsections (b) and (c) of this
23 Section, as modified by subsections (d) and (e).

24 (2) Present specific proposals to implement new
25 building and appliance standards that have been placed into
26 effect.

1 (3) Present estimates of the total amount paid for
2 electric service expressed on a per kilowatthour basis
3 associated with the proposed portfolio of measures
4 designed to meet the requirements that are identified in
5 subsections (b) and (c) of this Section, as modified by
6 subsections (d) and (e).

7 (4) Coordinate with the Department ~~and the Department~~
8 ~~of Healthcare and Family Services~~ to present a portfolio of
9 energy efficiency measures targeted to households at or
10 below 150% of the poverty level at a level proportionate to
11 those households' share of total annual utility revenues in
12 Illinois.

13 (5) Demonstrate that its overall portfolio of energy
14 efficiency and demand-response measures, not including
15 programs covered by item (4) of this subsection (f), are
16 cost-effective using the total resource cost test and
17 represent a diverse cross-section of opportunities for
18 customers of all rate classes to participate in the
19 programs.

20 (6) Include a proposed cost-recovery tariff mechanism
21 to fund the proposed energy efficiency and demand-response
22 measures and to ensure the recovery of the prudently and
23 reasonably incurred costs of Commission-approved programs.

24 (7) Provide for an annual independent evaluation of the
25 performance of the cost-effectiveness of the utility's
26 portfolio of measures and the Department's portfolio of

1 measures, as well as a full review of the 3-year results of
2 the broader net program impacts and, to the extent
3 practical, for adjustment of the measures on a
4 going-forward basis as a result of the evaluations. The
5 resources dedicated to evaluation shall not exceed 3% of
6 portfolio resources in any given year.

7 (g) No more than 3% of energy efficiency and
8 demand-response program revenue may be allocated for
9 demonstration of breakthrough equipment and devices.

10 (h) This Section does not apply to an electric utility that
11 on December 31, 2005 provided electric service to fewer than
12 100,000 customers in Illinois.

13 (i) If, after 2 years, an electric utility fails to meet
14 the efficiency standard specified in subsection (b) of this
15 Section, as modified by subsections (d) and (e), it shall make
16 a contribution to the Low-Income Home Energy Assistance
17 Program. The combined total liability for failure to meet the
18 goal shall be \$1,000,000, which shall be assessed as follows: a
19 large electric utility shall pay \$665,000, and a medium
20 electric utility shall pay \$335,000. If, after 3 years, an
21 electric utility fails to meet the efficiency standard
22 specified in subsection (b) of this Section, as modified by
23 subsections (d) and (e), it shall make a contribution to the
24 Low-Income Home Energy Assistance Program. The combined total
25 liability for failure to meet the goal shall be \$1,000,000,
26 which shall be assessed as follows: a large electric utility

1 shall pay \$665,000, and a medium electric utility shall pay
2 \$335,000. In addition, the responsibility for implementing the
3 energy efficiency measures of the utility making the payment
4 shall be transferred to the Illinois Power Agency if, after 3
5 years, or in any subsequent 3-year period, the utility fails to
6 meet the efficiency standard specified in subsection (b) of
7 this Section, as modified by subsections (d) and (e). The
8 Agency shall implement a competitive procurement program to
9 procure resources necessary to meet the standards specified in
10 this Section as modified by subsections (d) and (e), with costs
11 for those resources to be recovered in the same manner as
12 products purchased through the procurement plan as provided in
13 Section 16-111.5. The Director shall implement this
14 requirement in connection with the procurement plan as provided
15 in Section 16-111.5.

16 For purposes of this Section, (i) a "large electric
17 utility" is an electric utility that, on December 31, 2005,
18 served more than 2,000,000 electric customers in Illinois; (ii)
19 a "medium electric utility" is an electric utility that, on
20 December 31, 2005, served 2,000,000 or fewer but more than
21 100,000 electric customers in Illinois; and (iii) Illinois
22 electric utilities that are affiliated by virtue of a common
23 parent company are considered a single electric utility.

24 (j) If, after 3 years, or any subsequent 3-year period, the
25 Department fails to implement the Department's share of energy
26 efficiency measures required by the standards in subsection

1 (b), then the Illinois Power Agency may assume responsibility
2 for and control of the Department's share of the required
3 energy efficiency measures. The Agency shall implement a
4 competitive procurement program to procure resources necessary
5 to meet the standards specified in this Section, with the costs
6 of these resources to be recovered in the same manner as
7 provided for the Department in this Section.

8 (k) No electric utility shall be deemed to have failed to
9 meet the energy efficiency standards to the extent any such
10 failure is due to a failure of the Department or the Agency.

11 (Source: P.A. 95-481, eff. 8-28-07; 95-876, eff. 8-21-08.)

12 (220 ILCS 5/8-104 new)

13 Sec. 8-104. Natural gas energy efficiency programs.

14 (a) It is the policy of the State that natural gas
15 utilities and the Department of Commerce and Economic
16 Opportunity are required to use cost-effective energy
17 efficiency to reduce direct and indirect costs to consumers. It
18 serves the public interest to allow natural gas utilities to
19 recover costs for reasonably and prudently incurred expenses
20 for cost-effective energy efficiency measures.

21 (b) For purposes of this Section, "energy efficiency" means
22 measures that reduce the amount of energy required to achieve a
23 given end use and "cost-effective" means that the measures
24 satisfy the total resource cost test which, for purposes of
25 this Section, means a standard that is met if, for an

1 investment in energy efficiency, the benefit-cost ratio is
2 greater than one. The benefit-cost ratio is the ratio of the
3 net present value of the total benefits of the measures to the
4 net present value of the total costs as calculated over the
5 lifetime of the measures. The total resource cost test compares
6 the sum of avoided natural gas utility costs, representing the
7 benefits that accrue to the system and the participant in the
8 delivery of those efficiency measures, as well as other
9 quantifiable societal benefits, including avoided electric
10 utility costs, to the sum of all incremental costs of end use
11 measures (including both utility and participant
12 contributions), plus costs to administer, deliver, and
13 evaluate each demand-side measure, to quantify the net savings
14 obtained by substituting demand-side measures for supply
15 resources. In calculating avoided costs, reasonable estimates
16 shall be included for financial costs likely to be imposed by
17 future regulation of emissions of greenhouse gases. The
18 low-income programs described in item (4) of subsection (f) of
19 this Section shall not be required to meet the total resource
20 cost test.

21 (c) Natural gas utilities shall implement cost-effective
22 energy efficiency measures to meet at least the following
23 natural gas savings requirements, which shall be based upon the
24 total amount of gas delivered to retail customers, other than
25 the customers described in subsection (m) of this Section,
26 during calendar year 2009 multiplied by the applicable

1 percentage. Natural gas utilities may comply with this Section
2 by meeting the annual incremental savings goal in the
3 applicable year or by showing that total savings associated
4 with measures implemented after May 31, 2011 were equal to the
5 sum of each annual incremental savings requirement from May 31,
6 2011 through the end of the applicable year:

7 (1) 0.2% by May 31, 2012;

8 (2) an additional 0.4% by May 31, 2013, increasing
9 total savings to .6%;

10 (3) an additional 0.6% by May 31, 2014, increasing
11 total savings to 1.2%;

12 (4) an additional 0.8% by May 31, 2015, increasing
13 total savings to 2.0%;

14 (5) an additional 1% by May 31, 2016, increasing total
15 savings to 3.0%;

16 (6) an additional 1.2% by May 31, 2017, increasing
17 total savings to 4.2%;

18 (7) an additional 1.4% by May 31, 2018, increasing
19 total savings to 5.6%;

20 (8) an additional 1.5% by May 31, 2019, increasing
21 total savings to 7.1%; and

22 (9) an additional 1.5% in each 12-month period
23 thereafter.

24 (d) Notwithstanding the requirements of subsection (c) of
25 this Section, a natural gas utility shall limit the amount of
26 energy efficiency implemented in any 3-year reporting period

1 established by subsection (f) of Section 8-104 of this Act, by
2 an amount necessary to limit the estimated average increase in
3 the amounts paid by retail customers in connection with natural
4 gas service to no more than 2% in the applicable 3-year
5 reporting period. The energy savings requirements in
6 subsection (c) of this Section may be reduced by the Commission
7 for the subject plan, if the utility demonstrates by
8 substantial evidence that it is highly unlikely that the
9 requirements could be achieved without exceeding the
10 applicable spending limits in any 3-year reporting period. No
11 later than September 1, 2013, the Commission shall review the
12 limitation on the amount of energy efficiency measures
13 implemented pursuant to this Section and report to the General
14 Assembly, in the report required by subsection (k) of this
15 Section, its findings as to whether that limitation unduly
16 constrains the procurement of energy efficiency measures.

17 (e) Natural gas utilities shall be responsible for
18 overseeing the design, development, and filing of their
19 efficiency plans with the Commission. The utility shall utilize
20 75% of the available funding associated with energy efficiency
21 programs approved by the Commission, and may outsource various
22 aspects of program development and implementation. The
23 remaining 25% of available funding shall be used by the
24 Department of Commerce and Economic Opportunity to implement
25 energy efficiency measures that achieve no less than 20% of the
26 requirements of subsection (c) of this Section. Such measures

1 shall be designed in conjunction with the utility and approved
2 by the Commission. The Department may outsource development and
3 implementation of energy efficiency measures. A minimum of 10%
4 of the entire portfolio of cost-effective energy efficiency
5 measures shall be procured from local government, municipal
6 corporations, school districts, and community college
7 districts. Five percent of the entire portfolio of
8 cost-effective energy efficiency measures may be granted to
9 local government and municipal corporations for market
10 transformation initiatives. The Department shall coordinate
11 the implementation of these measures and shall integrate
12 delivery of natural gas efficiency programs with electric
13 efficiency programs delivered pursuant to Section 8-103 of this
14 Act, unless the Department can show that integration is not
15 feasible.

16 The apportionment of the dollars to cover the costs to
17 implement the Department's share of the portfolio of energy
18 efficiency measures shall be made to the Department once the
19 Department has executed grants or contracts for energy
20 efficiency measures and provided supporting documentation for
21 those grants and the contracts to the utility.

22 The details of the measures implemented by the Department
23 shall be submitted by the Department to the Commission in
24 connection with the utility's filing regarding the energy
25 efficiency measures that the utility implements.

26 A utility providing approved energy efficiency measures in

1 this State shall be permitted to recover costs of those
2 measures through an automatic adjustment clause tariff filed
3 with and approved by the Commission. The tariff shall be
4 established outside the context of a general rate case and
5 shall be applicable to the utility's customers other than the
6 customers described in subsection (m) of this Section. Each
7 year the Commission shall initiate a review to reconcile any
8 amounts collected with the actual costs and to determine the
9 required adjustment to the annual tariff factor to match annual
10 expenditures.

11 Each utility shall include, in its recovery of costs, the
12 costs estimated for both the utility's and the Department's
13 implementation of energy efficiency measures. Costs collected
14 by the utility for measures implemented by the Department shall
15 be submitted to the Department pursuant to Section 605-323 of
16 the Civil Administrative Code of Illinois and shall be used by
17 the Department solely for the purpose of implementing these
18 measures. A utility shall not be required to advance any moneys
19 to the Department but only to forward such funds as it has
20 collected. The Department shall report to the Commission on an
21 annual basis regarding the costs actually incurred by the
22 Department in the implementation of the measures. Any changes
23 to the costs of energy efficiency measures as a result of plan
24 modifications shall be appropriately reflected in amounts
25 recovered by the utility and turned over to the Department.

26 The portfolio of measures, administered by both the

1 utilities and the Department, shall, in combination, be
2 designed to achieve the annual energy savings requirements set
3 forth in subsection (c) of this Section, as modified by
4 subsection (d) of this Section.

5 The utility and the Department shall agree upon a
6 reasonable portfolio of measures and determine the measurable
7 corresponding percentage of the savings goals associated with
8 measures implemented by the Department.

9 No utility shall be assessed a penalty under subsection (f)
10 of this Section for failure to make a timely filing if that
11 failure is the result of a lack of agreement with the
12 Department with respect to the allocation of responsibilities
13 or related costs or target assignments. In that case, the
14 Department and the utility shall file their respective plans
15 with the Commission and the Commission shall determine an
16 appropriate division of measures and programs that meets the
17 requirements of this Section.

18 If the Department is unable to meet performance
19 requirements for the portion of the portfolio implemented by
20 the Department, then the utility and the Department shall
21 jointly submit a modified filing to the Commission explaining
22 the performance shortfall and recommending an appropriate
23 course going forward, including any program modifications that
24 may be appropriate in light of the evaluations conducted under
25 item (8) of subsection (f) of this Section. In this case, the
26 utility obligation to collect the Department's costs and turn

1 over those funds to the Department under this subsection (e)
2 shall continue only if the Commission approves the
3 modifications to the plan proposed by the Department.

4 (f) No later than October 1, 2010, each gas utility shall
5 file an energy efficiency plan with the Commission to meet the
6 energy efficiency standards through May 31, 2014. Every 3 years
7 thereafter, each utility shall file, no later than October 1,
8 an energy efficiency plan with the Commission. If a utility
9 does not file such a plan by October 1 of the applicable year,
10 then it shall face a penalty of \$100,000 per day until the plan
11 is filed. Each utility's plan shall set forth the utility's
12 proposals to meet the utility's portion of the energy
13 efficiency standards identified in subsection (c) of this
14 Section, as modified by subsection (d) of this Section, taking
15 into account the unique circumstances of the utility's service
16 territory. The Commission shall seek public comment on the
17 utility's plan and shall issue an order approving or
18 disapproving each plan. If the Commission disapproves a plan,
19 the Commission shall, within 30 days, describe in detail the
20 reasons for the disapproval and describe a path by which the
21 utility may file a revised draft of the plan to address the
22 Commission's concerns satisfactorily. If the utility does not
23 refile with the Commission within 60 days after the
24 disapproval, the utility shall be subject to penalties at a
25 rate of \$100,000 per day until the plan is filed. This process
26 shall continue, and penalties shall accrue, until the utility

1 has successfully filed a portfolio of energy efficiency
2 measures. Penalties shall be deposited into the Energy
3 Efficiency Trust Fund and the cost of any such penalties may
4 not be recovered from ratepayers. In submitting proposed energy
5 efficiency plans and funding levels to meet the savings goals
6 adopted by this Act the utility shall:

7 (1) Demonstrate that its proposed energy efficiency
8 measures will achieve the requirements that are identified
9 in subsection (c) of this Section, as modified by
10 subsection (d) of this Section.

11 (2) Present specific proposals to implement new
12 building and appliance standards that have been placed into
13 effect.

14 (3) Present estimates of the total amount paid for gas
15 service expressed on a per therm basis associated with the
16 proposed portfolio of measures designed to meet the
17 requirements that are identified in subsection (c) of this
18 Section, as modified by subsection (d) of this Section.

19 (4) Coordinate with the Department to present a
20 portfolio of energy efficiency measures proportionate to
21 the share of total annual utility revenues in Illinois from
22 households at or below 150% of the poverty level. Such
23 programs shall be targeted to households with incomes at or
24 below 80% of area median income.

25 (5) Demonstrate that its overall portfolio of energy
26 efficiency measures, not including programs covered by

1 item (4) of this subsection (f), are cost-effective using
2 the total resource cost test and represent a diverse cross
3 section of opportunities for customers of all rate classes
4 to participate in the programs.

5 (6) Demonstrate that a gas utility affiliated with an
6 electric utility that is required to comply with Section
7 8-103 of this Act has integrated gas and electric
8 efficiency measures into a single program that reduces
9 program or participant costs and appropriately allocates
10 costs to gas and electric ratepayers. The Department shall
11 integrate all gas and electric programs it delivers in any
12 such utilities' service territories, unless the Department
13 can show that integration is not feasible or appropriate.

14 (7) Include a proposed cost recovery tariff mechanism
15 to fund the proposed energy efficiency measures and to
16 ensure the recovery of the prudently and reasonably
17 incurred costs of Commission-approved programs.

18 (8) Provide for quarterly status reports tracking
19 implementation of and expenditures for the utility's
20 portfolio of measures and the Department's portfolio of
21 measures, an annual independent review, and a full
22 independent evaluation of the 3-year results of the
23 performance and the cost-effectiveness of the utility's
24 and Department's portfolios of measures and broader net
25 program impacts and, to the extent practical, for
26 adjustment of the measures on a going forward basis as a

1 result of the evaluations. The resources dedicated to
2 evaluation shall not exceed 3% of portfolio resources in
3 any given 3-year period.

4 (g) No more than 3% of expenditures on energy efficiency
5 measures may be allocated for demonstration of breakthrough
6 equipment and devices.

7 (h) Illinois natural gas utilities that are affiliated by
8 virtue of a common parent company may, at the utilities'
9 request, be considered a single natural gas utility for
10 purposes of complying with this Section.

11 (i) If, after 3 years, a gas utility fails to meet the
12 efficiency standard specified in subsection (c) of this Section
13 as modified by subsection (d), then it shall make a
14 contribution to the Low-Income Home Energy Assistance Program.
15 The total liability for failure to meet the goal shall be
16 assessed as follows:

17 (1) a large gas utility shall pay \$600,000;

18 (2) a medium gas utility shall pay \$400,000; and

19 (3) a small gas utility shall pay \$200,000.

20 For purposes of this Section, (i) a "large gas utility" is
21 a gas utility that on December 31, 2008, served more than
22 1,500,000 gas customers in Illinois; (ii) a "medium gas
23 utility" is a gas utility that on December 31, 2008, served
24 fewer than 1,500,000, but more than 500,000 gas customers in
25 Illinois; and (iii) a "small gas utility" is a gas utility that
26 on December 31, 2008, served fewer than 500,000 and more than

1 100,000 gas customers in Illinois. The costs of this
2 contribution may not be recovered from ratepayers.

3 If a gas utility fails to meet the efficiency standard
4 specified in subsection (c) of this Section, as modified by
5 subsection (d) of this Section, in any 2 consecutive 3-year
6 planning periods, then the responsibility for implementing the
7 utility's energy efficiency measures shall be transferred to an
8 independent program administrator selected by the Commission.
9 Reasonable and prudent costs incurred by the independent
10 program administrator to meet the efficiency standard
11 specified in subsection (c) of this Section, as modified by
12 subsection (d) of this Section, may be recovered from the
13 customers of the affected gas utilities, other than customers
14 described in subsection (m) of this Section. The utility shall
15 provide the independent program administrator with all
16 information and assistance necessary to perform the program
17 administrator's duties including but not limited to customer,
18 account, and energy usage data, and shall allow the program
19 administrator to include inserts in customer bills. The utility
20 may recover reasonable costs associated with any such
21 assistance.

22 (j) No utility shall be deemed to have failed to meet the
23 energy efficiency standards to the extent any such failure is
24 due to a failure of the Department.

25 (k) Not later than January 1, 2012, the Commission shall
26 develop and solicit public comment on a plan to foster

1 statewide coordination and consistency between statutorily
2 mandated natural gas and electric energy efficiency programs to
3 reduce program or participant costs or to improve program
4 performance. Not later than September 1, 2013, the Commission
5 shall issue a report to the General Assembly containing its
6 findings and recommendations.

7 (l) This Section does not apply to a gas utility that on
8 January 1, 2009, provided gas service to fewer than 100,000
9 customers in Illinois.

10 (m) Subsections (a) through (k) of this Section do not
11 apply to customers of a natural gas utility that have a North
12 American Industry Classification System code number that is
13 22111 or any such code number beginning with the digits 31, 32,
14 or 33 and (i) annual usage in the aggregate of 4 million therms
15 or more within the service territory of the affected gas
16 utility or with aggregate usage of 8 million therms or more in
17 this State and complying with the provisions of item (l) of
18 this subsection (m); or (ii) using natural gas as feedstock and
19 meeting the usage requirements described in item (i) of this
20 subsection (m), to the extent such annual feedstock usage is
21 greater than 60% of the customer's total annual usage of
22 natural gas.

23 (1) Customers described in this subsection (m) of this
24 Section shall apply, on a form approved on or before
25 October 1, 2009 by the Department, to the Department to be
26 designated as a self-directing customer ("SDC") or as an

1 exempt customer using natural gas as a feedstock from which
2 other products are made, including, but not limited to,
3 feedstock for a hydrogen plant, on or before the 1st day of
4 February, 2010. Thereafter, application may be made not
5 less than 6 months before the filing date of the gas
6 utility energy efficiency plan described in subsection (f)
7 of this Section; however, a new customer that commences
8 taking service from a natural gas utility after February 1,
9 2010 may apply to become a SDC or exempt customer up to 30
10 days after beginning service. Such application shall
11 contain the following:

12 (A) the customer's certification that, at the time
13 of its application, it qualifies to be a SDC or exempt
14 customer described in this subsection (m) of this
15 Section;

16 (B) in the case of a SDC, the customer's
17 certification that it has established or will
18 establish by the beginning of the utility's 3-year
19 planning period commencing subsequent to the
20 application, and will maintain for accounting
21 purposes, an energy efficiency reserve account and
22 that the customer will accrue funds in said account to
23 be held for the purpose of funding, in whole or in
24 part, energy efficiency measures of the customer's
25 choosing, which may include, but are not limited to,
26 projects involving combined heat and power systems

1 that use the same energy source both for the generation
2 of electrical or mechanical power and the production of
3 steam or another form of useful thermal energy or the
4 use of combustible gas produced from biomass, or both;

5 (C) in the case of a SDC, the customer's
6 certification that annual funding levels for the
7 energy efficiency reserve account will be equal to 2%
8 of the customer's cost of natural gas, composed of the
9 customer's commodity cost and the delivery service
10 charges paid to the gas utility, or \$150,000, whichever
11 is less;

12 (D) in the case of a SDC, the customer's
13 certification that the required reserve account
14 balance will be capped at 3 years' worth of accruals
15 and that the customer may, at its option, make further
16 deposits to the account to the extent such deposit
17 would increase the reserve account balance above the
18 designated cap level;

19 (E) in the case of a SDC, the customer's
20 certification that by October 1 of each year, beginning
21 no sooner than October 1, 2012, the customer will
22 report to the Department information, for the 12-month
23 period ending May 31 of the same year, on all deposits
24 and reductions, if any, to the reserve account during
25 the reporting year, and to the extent deposits to the
26 reserve account in any year are in an amount less than

1 \$150,000, the basis for such reduced deposits; reserve
2 account balances by month; a description of energy
3 efficiency measures undertaken by the customer and
4 paid for in whole or in part with funds from the
5 reserve account; an estimate of the energy saved, or to
6 be saved, by the measure; and that the report shall
7 include a verification by an officer or plant manager
8 of the customer or by a registered professional
9 engineer or certified energy efficiency trade
10 professional that the funds withdrawn from the reserve
11 account were used for the energy efficiency measures;

12 (F) in the case of an exempt customer, the
13 customer's certification of the level of gas usage as
14 feedstock in the customer's operation in a typical year
15 and that it will provide information establishing this
16 level, upon request of the Department;

17 (G) in the case of either an exempt customer or a
18 SDC, the customer's certification that it has provided
19 the gas utility or utilities serving the customer with
20 a copy of the application as filed with the Department;

21 (H) in the case of either an exempt customer or a
22 SDC, certification of the natural gas utility or
23 utilities serving the customer in Illinois including
24 the natural gas utility accounts that are the subject
25 of the application; and

26 (I) in the case of either an exempt customer or a

1 SDC, a verification signed by a plant manager or an
2 authorized corporate officer attesting to the
3 truthfulness and accuracy of the information contained
4 in the application.

5 (2) The Department shall review the application to
6 determine that it contains the information described in
7 provisions (A) through (I) of item (1) of this subsection
8 (m), as applicable. The review shall be completed within 30
9 days after the date the application is filed with the
10 Department. Absent a determination by the Department
11 within the 30-day period, the applicant shall be considered
12 to be a SDC or exempt customer, as applicable, for all
13 subsequent 3-year planning periods, as of the date of
14 filing the application described in this subsection (m). If
15 the Department determines that the application does not
16 contain the applicable information described in provisions
17 (A) through (I) of item (1) of this subsection (m), it
18 shall notify the customer, in writing, of its determination
19 that the application does not contain the required
20 information and identify the information that is missing,
21 and the customer shall provide the missing information
22 within 15 working days after the date of receipt of the
23 Department's notification.

24 (3) The Department shall have the right to audit the
25 information provided in the customer's application and
26 annual reports to ensure continued compliance with the

1 requirements of this subsection. Based on the audit, if the
2 Department determines the customer is no longer in
3 compliance with the requirements of items (A) through (I)
4 of item (1) of this subsection (m), as applicable, the
5 Department shall notify the customer in writing of the
6 noncompliance. The customer shall have 30 days to establish
7 its compliance, and failing to do so, may have its status
8 as a SDC or exempt customer revoked by the Department. The
9 Department shall treat all information provided by any
10 customer seeking SDC status or exemption from the
11 provisions of this Section as strictly confidential.

12 (4) Upon request, or on its own motion, the Commission
13 may open an investigation, no more than once every 3 years
14 and not before October 1, 2014, to evaluate the
15 effectiveness of the self-directing program described in
16 this subsection (m).

17 (n) The applicability of this Section to customers
18 described in subsection (m) of this Section is conditioned on
19 the existence of the SDC program. In no event will any
20 provision of this Section apply to such customers after January
21 1, 2020.

22 (220 ILCS 5/8-105 new)

23 Sec. 8-105. Financial assistance; electric and gas
24 utilities.

25 (a) Notwithstanding any other provision of this Act, an

1 electric or gas utility serving more than 100,000 retail
2 customers as of January 1, 2009, shall offer programs in 2010
3 and 2011 that are authorized under Section 16-111.5A of this
4 Act or approved by the Commission specifically designed to
5 provide bill payment assistance to customers in need. These
6 programs shall include a percentage of income payment plan.
7 After receiving a request from a utility for the approval of a
8 proposed plan pursuant to this Section, the Commission shall
9 render its decision within 120 days. If no decision is rendered
10 within 120 days, then the request shall be deemed to be
11 approved.

12 (b) The costs of any program offered by a gas utility in
13 2010 or 2011 and by an electric utility in 2011 under this
14 Section, excluding utility information technology costs, shall
15 be reimbursed from the Supplemental Low-Income Energy
16 Assistance Fund established in Section 13 of the Energy
17 Assistance Act. The utility shall submit a bill to the
18 Department of Commerce and Economic Opportunity which shall be
19 promptly paid out of such funds or may net such costs against
20 monies it would otherwise remit to the Fund. In furtherance of
21 these programs, the utilities have committed to make a
22 contribution to the Fund, as described in subsection (b) of
23 Section 13 of the Energy Assistance Act. The utility shall
24 provide a report to the Commission on a quarterly basis
25 accounting for monies reimbursed or netted through the Fund.
26 Nothing in this Section shall preclude a utility from

1 recovering prudently incurred information technology costs
2 associated with these programs in rates.

3 (c) This Section is repealed on December 31, 2011.

4 (220 ILCS 5/9-201) (from Ch. 111 2/3, par. 9-201)

5 Sec. 9-201. (a) Unless the Commission otherwise orders, and
6 except as otherwise provided in this Section, no change shall
7 be made by any public utility in any rate or other charge or
8 classification, or in any rule, regulation, practice or
9 contract relating to or affecting any rate or other charge,
10 classification or service, or in any privilege or facility,
11 except after 45 days' notice to the Commission and to the
12 public as herein provided. Such notice shall be given by filing
13 with the Commission and keeping open for public inspection new
14 schedules or supplements stating plainly the change or changes
15 to be made in the schedule or schedules then in force, and the
16 time when the change or changes will go into effect, and by
17 publication in a newspaper of general circulation or such other
18 notice to persons affected by such change as may be prescribed
19 by rule of the Commission. The Commission, for good cause
20 shown, may allow changes without requiring the 45 days' notice
21 herein provided for, by an order specifying the changes so to
22 be made and the time when they shall take effect and the manner
23 in which they shall be filed and published.

24 When any change is proposed in any rate or other charge, or
25 classification, or in any rule, regulation, practice, or

1 contract relating to or affecting any rate or other charge,
2 classification or service, or in any privilege or facility,
3 such proposed change shall be plainly indicated on the new
4 schedule filed with the Commission, by some character to be
5 designated by the Commission, immediately preceding or
6 following the item.

7 When any public utility providing water or sewer service
8 proposes any change in any rate or other charge, or
9 classification, or in any rule, regulation, practice, or
10 contract relating to or affecting any rate or other charge,
11 classification or service, or in any privilege or facility,
12 such utility shall, in addition to the other notice
13 requirements of this Act, provide notice of such change to all
14 customers potentially affected by including a notice and
15 description of such change, and of Commission procedures for
16 intervention, in the first bill sent to each such customer
17 after the filing of the proposed change.

18 (b) Whenever there shall be filed with the Commission any
19 schedule stating an individual or joint rate or other charge,
20 classification, contract, practice, rule or regulation, the
21 Commission shall have power, and it is hereby given authority,
22 either upon complaint or upon its own initiative without
23 complaint, at once, and if it so orders, without answer or
24 other formal pleadings by the interested public utility or
25 utilities, but upon reasonable notice, to enter upon a hearing
26 concerning the propriety of such rate or other charge,

1 classification, contract, practice, rule or regulation, and
2 pending the hearing and decision thereon, such rate or other
3 charge, classification, contract, practice, rule or regulation
4 shall not go into effect. The period of suspension of such rate
5 or other charge, classification, contract, practice, rule or
6 regulation shall not extend more than 105 days beyond the time
7 when such rate or other charge, classification, contract,
8 practice, rule or regulation would otherwise go into effect
9 unless the Commission, in its discretion, extends the period of
10 suspension for a further period not exceeding 6 months.

11 All rates or other charges, classifications, contracts,
12 practices, rules or regulations not so suspended shall, on the
13 expiration of 45 days from the time of filing the same with the
14 Commission, or of such lesser time as the Commission may grant,
15 go into effect and be the established and effective rates or
16 other charges, classifications, contracts, practices, rules
17 and regulations, subject to the power of the Commission, after
18 a hearing had on its own motion or upon complaint, as herein
19 provided, to alter or modify the same.

20 Within 30 days after such changes have been authorized by
21 the Commission, copies of the new or revised schedules shall be
22 posted or filed in accordance with the terms of Section 9-103
23 of this Act, in such a manner that all changes shall be plainly
24 indicated. The Commission shall incorporate into the period of
25 suspension a review period of 4 business days during which the
26 Commission may review and determine whether the new or revised

1 schedules comply with the Commission's decision approving a
2 change to the public utility's rates. Such review period shall
3 not extend the suspension period by more than 2 days. Absent
4 notification to the contrary within the 4 business day period,
5 the new or revised schedules shall be deemed approved.

6 (c) If the Commission enters upon a hearing concerning the
7 propriety of any proposed rate or other charge, classification,
8 contract, practice, rule or regulation, the Commission shall
9 establish the rates or other charges, classifications,
10 contracts, practices, rules or regulations proposed, in whole
11 or in part, or others in lieu thereof, which it shall find to
12 be just and reasonable. In such hearing, the burden of proof to
13 establish the justness and reasonableness of the proposed rates
14 or other charges, classifications, contracts, practices, rules
15 or regulations, in whole and in part, shall be upon the
16 utility. The utility, the staff of the Commission, the Attorney
17 General, or any party to a proceeding initiated under this
18 Section who has been granted intervenor status and submitted a
19 post-hearing brief must be given the opportunity to present
20 oral argument, if requested no later than the date for filing
21 exceptions, on the propriety of any proposed rate or other
22 charge, classification, contract, practice, rule, or
23 regulation. No rate or other charge, classification, contract,
24 practice, rule or regulation shall be found just and reasonable
25 unless it is consistent with Sections of this Article.

26 (d) Except where compliance with Section 8-401 of this Act

1 is of urgent and immediate concern, no representative of a
2 public utility may discuss with a commissioner, commissioner's
3 assistant, or hearing examiner in a non-public setting a
4 planned filing for a general rate increase. If a public utility
5 makes a filing under this Section, then no substantive
6 communication by any such person with a commissioner,
7 commissioner's assistant or hearing examiner concerning the
8 filing is permitted until a notice of hearing has been issued.
9 After the notice of hearing has been issued, the only
10 communications by any such person with a commissioner,
11 commissioner's assistant, or hearing examiner concerning the
12 filing permitted are communications permitted under Section
13 10-103 of this Act. If any such communication does occur, then
14 within 5 days of the docket being initiated all details
15 relating to the communication shall be placed on the public
16 record of the proceeding. The record shall include any
17 materials, whether written, recorded, filmed, or graphic in
18 nature, produced or reproduced on any media, used in connection
19 with the communication. The record shall reflect the names of
20 all persons who transmitted, received, or were otherwise
21 involved in the communication, the duration of the
22 communication, and whether the communication occurred in
23 person or by other means. In the case of an oral communication,
24 the record shall also reflect the location or locations of all
25 persons involved in the communication and, if the communication
26 occurred by telephone, the telephone numbers for the callers

1 and recipients of the communication. A commissioner,
2 commissioner's assistant, or hearing examiner who is involved
3 in any such communication shall be recused from the affected
4 proceeding. The Commission, or any commissioner or hearing
5 examiner presiding over the proceeding shall, in the event of a
6 violation of this Section, take action necessary to ensure that
7 such violation does not prejudice any party or adversely affect
8 the fairness of the proceedings including dismissing the
9 affected proceeding. Nothing in this subsection (d) is intended
10 to preclude otherwise allowable updates on issues that may be
11 indirectly related to a general rate case filing because cost
12 recovery for the underlying activity may be requested. Such
13 updates may include, without limitation, issues related to
14 outages and restoration, credit ratings, security issuances,
15 reliability, Federal Energy Regulatory Commission matters,
16 Federal Communications Commission matters, regional
17 reliability organizations, consumer education, or labor
18 matters, provided that such updates may not include cost
19 recovery in a planned rate case.

20 (Source: P.A. 84-617.)

21 (220 ILCS 5/9-229 new)

22 Sec. 9-229. Consideration of attorney and expert
23 compensation as an expense. The Commission shall specifically
24 assess the justness and reasonableness of any amount expended
25 by a public utility to compensate attorneys or technical

1 experts to prepare and litigate a general rate case filing.
2 This issue shall be expressly addressed in the Commission's
3 final order.

4 (220 ILCS 5/10-102) (from Ch. 111 2/3, par. 10-102)

5 Sec. 10-102. All meetings of the Commission shall be
6 conducted pursuant to the provisions of the Open Meetings Act.
7 Whenever the Commission holds an open meeting or, pursuant to
8 such Act, closes any meeting, or portion of any meeting, it
9 shall arrange for all discussions, deliberations and meetings
10 ~~so closed~~ to be transcribed verbatim by a ~~stenographer,~~
11 certified court reporter, ~~or similar means.~~ The transcripts may
12 be provided in an electronic format only. The Commission shall
13 review and approve all such transcripts within 30 days of the
14 date of the ~~closed~~ meeting, but at least 10 days prior to the
15 expiration of the time within which an application for
16 rehearing is due in any proceeding that is the subject of the
17 meeting. When and when, in the Commission's ~~its~~ judgment, the
18 exception of the Open Meetings Act relied upon for authorizing
19 the closing of a ~~such~~ meeting, as recorded pursuant to Section
20 2a of the Open Meetings Act, is no longer applicable, such
21 transcripts shall be made available to the public. Any party to
22 a Commission proceeding shall be given access to the transcript
23 of any closed meeting pertaining to such proceeding at least 10
24 days prior to the expiration of the time within which his
25 application for rehearing must be filed, upon the signing of an

1 appropriate protective agreement. Transcripts of open
2 Commission meetings shall be electronically posted in the
3 relevant docket on the same day that the transcript is approved
4 by the Commission.

5 (Source: P.A. 84-617.)

6 (220 ILCS 5/10-103) (from Ch. 111 2/3, par. 10-103)

7 Sec. 10-103. In all proceedings, investigations or
8 hearings conducted by the Commission, except in the disposition
9 of matters which the Commission is authorized to entertain or
10 dispose of on an ex parte basis, any finding, decision or order
11 made by the Commission shall be based exclusively on the record
12 for decision in the case, which shall include only the
13 transcript of testimony and exhibits together with all papers
14 and requests filed in the proceeding, including, in contested
15 cases, the documents and information described in Section 10-35
16 of the Illinois Administrative Procedure Act.

17 The provisions of Section 10-60 of the Illinois
18 Administrative Procedure Act shall apply in full to Commission
19 proceedings, including ratemaking cases, any provision of the
20 Illinois Administrative Procedure Act to the contrary
21 notwithstanding.

22 The provisions of Section 10-60 shall not apply, however,
23 to communications between Commission employees who are engaged
24 in investigatory, prosecutorial or advocacy functions and
25 other parties to the proceeding, provided that such Commission

1 employees are still prohibited from communicating on an ex
2 parte basis, as designated in Section 10-60, directly or
3 indirectly, with members of the Commission, any hearing
4 examiner in the proceeding, or any Commission employee who is
5 or may reasonably be expected to be involved in the decisional
6 process of the proceeding. Any commissioner, hearing examiner,
7 or other person ~~Commission employee~~ who is or may reasonably be
8 expected to be involved in the decisional process of a
9 proceeding, who receives, or who makes or knowingly causes to
10 be made, a communication prohibited by this Section or Section
11 10-60 of the Illinois Administrative Procedure Act as modified
12 by this Section, shall place on the public record of the
13 proceeding (1) any and all such written communications; (2)
14 memoranda stating the substance of any and all such oral
15 communications; and (3) any and all written responses and
16 memoranda stating the substance of any and all oral responses
17 to the materials described in clauses (1) and (2).

18 The Commission, or any commissioner or hearing examiner
19 presiding over the proceeding, shall in the event of a
20 violation of this Section, take whatever action is necessary to
21 ensure that such violation does not prejudice any party or
22 adversely affect the fairness of the proceedings, including
23 dismissing the affected matter.

24 (Source: P.A. 88-45.)

25 (220 ILCS 5/10-110) (from Ch. 111 2/3, par. 10-110)

1 Sec. 10-110. At the time fixed for any hearing upon a
2 complaint, the complainant and the person or corporation
3 complained of, and such persons or corporations as the
4 Commission may allow to intervene, shall be entitled to be
5 heard and to introduce evidence. The Commission shall issue
6 process to enforce the attendance of all necessary witnesses.
7 At the conclusion of such hearing the Commission shall make and
8 render findings concerning the subject matter and facts
9 inquired into and enter its order based thereon. A copy of such
10 order, certified under the seal of the Commission, shall be
11 served upon the person or corporation complained of, or his or
12 its attorney, which order shall, of its own force, take effect
13 and become operative twenty days after the service thereof,
14 except as otherwise provided, and shall continue in force
15 either for a period which may be designated therein or until
16 changed or abrogated by the Commission. Where an order cannot,
17 in the judgment of the Commission, be complied with within
18 twenty days, the Commission may prescribe such additional time
19 as in its judgment is reasonably necessary to comply with the
20 order, and may, on application and for good cause shown, extend
21 the time for compliance fixed in its order. A full and complete
22 record shall be preserved of all proceedings had before the
23 Commission, or any member thereof, or any hearing examiner, on
24 any formal hearing had, and all testimony shall be taken down
25 by a stenographer appointed by the Commission, and the parties
26 shall be entitled to be heard in person or by attorney.

1 In any proceeding involving a public utility in which the
2 lawfulness of any of its rates or other charges shall be called
3 in question by any person or corporation furnishing a commodity
4 or service in competition with said public utility at prices or
5 charges not subject to regulation, the Commission may
6 investigate the competitive prices or other charges demanded or
7 received by such person or corporation for such commodity or
8 service, including the rates or other charges applicable to the
9 transportation thereof. The Commission may, on its own motion
10 or that of any party to such proceeding, issue subpoenas to
11 secure the appearance of witnesses or the production of books,
12 papers, accounts and documents necessary to ascertain the
13 prices, rates or other charges for such commodity or service or
14 for the transportation thereof, and shall dismiss from such
15 proceeding any party failing to comply with a subpoena so
16 issued.

17 In case of an appeal from any order or decision of the
18 Commission, under the terms of Sections 10-201 and 10-202 of
19 this Act, a transcript of such testimony, together with all
20 exhibits or copies thereof introduced and all information
21 secured by the Commission on its own initiative and considered
22 by it in rendering its order or decision (and required by this
23 Act to be made a part of its records) and of the pleadings,
24 records and proceedings in the case, including transcripts of
25 Commission meetings prepared in accordance with Section 10-102
26 of this Act, shall constitute the record of the Commission:

1 Provided, that on appeal from an order or decision of the
2 Commission, the person or corporation taking the appeal and the
3 Commission may stipulate that a certain question or certain
4 questions alone and a specified portion only of the evidence
5 shall be certified to the court for its judgment, whereupon
6 such stipulation and the question or questions and the evidence
7 therein specified shall constitute the record on appeal.

8 Copies of all official documents and orders filed or
9 deposited according to law in the office of the Commission,
10 certified by the Chairman of the Commission or his or her
11 designee to be true copies of the originals, under the official
12 seal of the Commission, shall be evidence in like manner as the
13 originals.

14 In any matter concerning which the Commission is authorized
15 to hold a hearing, upon complaint or application or upon its
16 own motion, notice shall be given to the public utility and to
17 such other interested persons as the Commission shall deem
18 necessary in the manner provided in Section 10-108, and the
19 hearing shall be conducted in like manner as if complaint had
20 been made to or by the Commission. But nothing in this Act
21 shall be taken to limit or restrict the power of the
22 Commission, summarily, of its own motion, with or without
23 notice, to conduct any investigations or inquiries authorized
24 by this Act, in such manner and by such means as it may deem
25 proper, and to take such action as it may deem necessary in
26 connection therewith. With respect to any rules, regulations,

1 decisions or orders which the Commission is authorized to issue
2 without a hearing, and so issues, any public utility or other
3 person or corporation affected thereby and deeming such rules,
4 regulations, decisions or orders, or any of them, improper,
5 unreasonable or contrary to law, may apply for a hearing
6 thereon, setting forth specifically in such application every
7 ground of objection which the applicant desires to urge against
8 such rule, regulation, decision or order. The Commission may,
9 in its discretion, grant or deny the application, and a
10 hearing, if had, shall be subject to the provisions of this and
11 the preceding Sections.

12 (Source: P.A. 84-617; 84-1118.)

13 (220 ILCS 5/10-111) (from Ch. 111 2/3, par. 10-111)

14 Sec. 10-111. In any hearing, proceeding, investigation or
15 rulemaking conducted by the Commission, the Commission,
16 commissioner or hearing examiner presiding, shall, after the
17 close of evidentiary hearings, prepare a recommended or
18 tentative decision, finding or order including a statement of
19 findings and conclusions and the reasons or basis therefore
20 ~~therefor~~, on all the material issues of fact, law or discretion
21 presented on the record. Such recommended or tentative
22 decision, finding or order shall be served on all parties who
23 shall be entitled to a reasonable opportunity to respond
24 thereto, either in briefs or comments otherwise to be filed or
25 separately. The recommended or tentative decision, finding or

1 order and any responses thereto, shall be included in the
2 record for decision. This Section shall not apply to any
3 hearing, proceeding, or investigation conducted under Section
4 13-515.

5 (Source: P.A. 90-185, eff. 7-23-97.)

6 (220 ILCS 5/10-201) (from Ch. 111 2/3, par. 10-201)

7 Sec. 10-201. (a) Jurisdiction. Within 35 days from the date
8 that a copy of the order or decision sought to be reviewed was
9 served upon the party affected by any order or decision of the
10 Commission refusing an application for a rehearing of any rule,
11 regulation, order or decision of the Commission, including any
12 order granting or denying interim rate relief, or within 35
13 days from the date that a copy of the order or decision sought
14 to be reviewed was served upon the party affected by any final
15 order or decision of the Commission upon and after a rehearing
16 of any rule, regulation, order or decision of the Commission,
17 including any order granting or denying interim rate relief,
18 any person or corporation affected by such rule, regulation,
19 order or decision, may appeal to the appellate court of the
20 judicial district in which the subject matter of the hearing is
21 situated, or if the subject matter of the hearing is situated
22 in more than one district, then of any one of such districts,
23 for the purpose of having the reasonableness or lawfulness of
24 the rule, regulation, order or decision inquired into and
25 determined.

1 The court first acquiring jurisdiction of any appeal from
2 any rule, regulation, order or decision shall have and retain
3 jurisdiction of such appeal and of all further appeals from the
4 same rule, regulation, order or decision until such appeal is
5 disposed of in such appellate court.

6 (b) Pleadings and Record. No proceeding to contest any
7 rule, regulation, decision or order which the Commission is
8 authorized to issue without a hearing and has so issued shall
9 be brought in any court unless application shall have been
10 first made to the Commission for a hearing thereon and until
11 after such application has been acted upon by the Commission,
12 nor shall any person or corporation in any court urge or rely
13 upon any grounds not set forth in such application for a
14 hearing before the Commission, but the Commission shall decide
15 the questions presented by the application with all possible
16 expedition consistent with the duties of the Commission. The
17 party taking such an appeal shall file with the Commission
18 written notice of the appeal. The Commission, upon the filing
19 of such notice of appeal, shall, within 5 days thereafter, file
20 with the clerk of the appellate court to which such appeal is
21 taken a certified copy of the order appealed. The ~~from and~~
22 ~~within 20 days thereafter the party appealing shall furnish to~~
23 ~~the~~ Commission shall prepare either a copy of the transcript of
24 the evidence, including exhibits and transcripts of Commission
25 meetings prepared in accordance with Section 10-102 of this
26 Act, or any portion of the record designated in ~~enter into a~~

1 stipulation that only certain questions are involved on appeal,
2 which ~~transcript or~~ stipulation is to be included in the record
3 provided for in Section 10-110. The Commission shall certify
4 the record and file the same with the clerk of the appellate
5 court to which such appeal is taken within 35 ~~15~~ days of the
6 filing of the notice of appeal ~~being furnished the transcript~~
7 ~~or stipulation~~. The party serving such notice of appeal shall,
8 within 5 days after the service of such notice upon the
9 Commission, file a copy of the notice, with proof of service,
10 with the clerk of the court to which such appeal is taken, and
11 thereupon the appellate court shall have jurisdiction over the
12 appeal. The appeal shall be heard according to the rules
13 governing other civil cases, so far as the same are applicable.

14 (c) No appellate court shall permit a party affected by any
15 rule, regulation, order or decision of the Commission to
16 intervene or become a party plaintiff or appellant in such
17 court who has not taken an appeal from such rule, regulation,
18 order or decision in the manner as herein provided.

19 (d) No new or additional evidence may be introduced in any
20 proceeding upon appeal from a rule, regulation, order or
21 decision of the Commission, issued or confirmed after a
22 hearing, but the appeal shall be heard on the record of the
23 Commission as certified by it. The findings and conclusions of
24 the Commission on questions of fact shall be held prima facie
25 to be true and as found by the Commission; rules, regulations,
26 orders or decisions of the Commission shall be held to be prima

1 facie reasonable, and the burden of proof upon all issues
2 raised by the appeal shall be upon the person or corporation
3 appealing from such rules, regulations, orders or decisions.

4 (e) Powers and duties of Reviewing Court:

5 (i) An appellate court to which any such appeal is
6 taken shall have the power, and it shall be its duty, to
7 hear and determine such appeal with all convenient speed.
8 Any proceeding in any court in this State directly
9 affecting a rule, regulation, order or decision of the
10 Commission, or to which the Commission is a party, shall
11 have priority in hearing and determination over all other
12 civil proceedings pending in such court, excepting
13 election contests.

14 (ii) If it appears that the Commission failed to
15 receive evidence properly proffered, on a hearing or a
16 rehearing, or an application therefor, the court shall
17 remand the case, in whole or in part, to the Commission
18 with instructions to receive the testimony so proffered and
19 rejected, and to enter a new order based upon the evidence
20 theretofore taken, and such new evidence as it is directed
21 to receive, unless it shall appear that such new evidence
22 would not be controlling, in which case the court shall so
23 find in its order. If the court remands only part of the
24 Commission's rule, regulation, order or decision, it shall
25 determine without delay the lawfulness and reasonableness
26 of any independent portions of the rule, regulation, order

1 or decision subject to appeal.

2 (iii) If the court determines that the Commission's
3 rule, regulation, order or decision does not contain
4 findings or analysis sufficient to allow an informed
5 judicial review thereof, the court shall remand the rule,
6 regulation, order or decision, in whole or in part, with
7 instructions to the Commission to make the necessary
8 findings or analysis.

9 (iv) The court shall reverse a Commission rule,
10 regulation, order or decision, in whole or in part, if it
11 finds that:

12 A. The findings of the Commission are not supported
13 by substantial evidence based on the entire record of
14 evidence presented to or before the Commission for and
15 against such rule, regulation, order or decision; or

16 B. The rule, regulation, order or decision is
17 without the jurisdiction of the Commission; or

18 C. The rule, regulation, order or decision is in
19 violation of the State or federal constitution or laws;
20 or

21 D. The proceedings or manner by which the
22 Commission considered and decided its rule,
23 regulation, order or decision were in violation of the
24 State or federal constitution or laws, to the prejudice
25 of the appellant.

26 (v) The court may affirm or reverse the rule,

1 regulation, order or decision of the Commission in whole or
2 in part, or to remand the decision in whole or in part
3 where a hearing has been held before the Commission, and to
4 state the questions requiring further hearings or
5 proceedings and to give such other instructions as may be
6 proper.

7 (vi) When the court remands a rule, regulation, order
8 or decision of the Commission, in whole or in part, the
9 Commission shall enter its final order with respect to the
10 remanded rule, regulation, order or decision no later than
11 6 months after the date of issuance of the court's mandate.
12 The Commission shall enter its final order, with respect to
13 any remanded matter pending before it on the effective date
14 of this amendatory Act of 1988, no later than 6 months
15 after the effective date of this amendatory Act of 1988.
16 However, when the court mandates, or grants an extension of
17 time which the court determines to be necessary for, the
18 taking of additional evidence, the Commission shall enter
19 an interim order within 6 months after the issuance of the
20 mandate (or within 6 months after the effective date of
21 this amendatory Act of 1988 in the case of a remanded
22 matter pending before it on the effective date of this
23 amendatory Act of 1988), and the Commission shall enter its
24 final order within 5 months after the date the interim
25 order was entered.

26 (f) When no appeal is taken from a rule, regulation, order

1 or decision of the Commission, as herein provided, parties
2 affected by such rule, regulation, order or decision, shall be
3 deemed to have waived the right to have the merits of the
4 controversy reviewed by a court and there shall be no trial of
5 the merits of any controversy in which such rule, regulation,
6 order or decision was made, by any court to which application
7 may be made for the enforcement of the same, or in any other
8 judicial proceedings.

9 (Source: P.A. 88-1.)

10 (220 ILCS 5/16-111.7 new)

11 Sec. 16-111.7. On-bill financing program; electric
12 utilities.

13 (a) The Illinois General Assembly finds that Illinois homes
14 and businesses have the potential to save energy through
15 conservation and cost-effective energy efficiency measures.
16 Programs created pursuant to this Section will allow utility
17 customers to purchase cost-effective energy efficiency
18 measures with no required initial upfront payment, and to pay
19 the cost of those products and services over time on their
20 utility bill.

21 (b) Notwithstanding any other provision of this Act, an
22 electric utility serving more than 100,000 customers on January
23 1, 2009 shall offer a Commission-approved on-bill financing
24 program ("program") that allows its eligible retail customers,
25 as that term is defined in Section 16-111.5 of this Act, who

1 own a residential single family home, duplex, or other
2 residential building with 4 or less units, or condominium at
3 which the electric service is being provided (i) to borrow
4 funds from a third party lender in order to purchase electric
5 energy efficiency measures approved under the program for
6 installation in such home or condominium without any required
7 upfront payment and (ii) to pay back such funds over time
8 through the electric utility's bill. Based upon the process
9 described in subsection (b-5) of this Section, small commercial
10 retail customers, as that term is defined in Section 16-102 of
11 this Act, who own the premises at which electric service is
12 being provided may be included in such program. After receiving
13 a request from an electric utility for approval of a proposed
14 program and tariffs pursuant to this Section, the Commission
15 shall render its decision within 120 days. If no decision is
16 rendered within 120 days, then the request shall be deemed to
17 be approved.

18 (b-5) Within 30 days after the effective date of this
19 amendatory Act of the 96th General Assembly, the Commission
20 shall convene a workshop process during which interested
21 participants may discuss issues related to the program,
22 including program design, eligible electric energy efficiency
23 measures, vendor qualifications, and a methodology for
24 ensuring ongoing compliance with such qualifications,
25 financing, sample documents such as request for proposals,
26 contracts and agreements, dispute resolution, pre-installment

1 and post-installment verification, and evaluation. The
2 workshop process shall be completed within 150 days after the
3 effective date of this amendatory Act of the 96th General
4 Assembly.

5 (c) Not later than 60 days following completion of the
6 workshop process described in subsection (b-5) of this Section,
7 each electric utility subject to subsection (b) of this Section
8 shall submit a proposed program to the Commission that contains
9 the following components:

10 (1) A list of recommended electric energy efficiency
11 measures that will be eligible for on-bill financing. An
12 eligible electric energy efficiency measure ("measure")
13 shall be defined by the following:

14 (A) the measure would be applied to or replace
15 electric energy-using equipment; and

16 (B) application of the measure to equipment and
17 systems will have estimated electricity savings
18 (determined by rates in effect at the time of
19 purchase), that are sufficient to cover the costs of
20 implementing the measures, including finance charges
21 and any program fees not recovered pursuant to
22 subsection (f) of this Section. To assist the electric
23 utility in identifying or approving measures, the
24 utility may consult with the Department of Commerce and
25 Economic Opportunity, as well as with retailers,
26 technicians, and installers of electric energy

1 efficiency measures and energy auditors (collectively
2 "vendors").

3 (2) The electric utility shall issue a request for
4 proposals ("RFP") to lenders for purposes of providing
5 financing to participants to pay for approved measures. The
6 RFP criteria shall include, but not be limited to, the
7 interest rate, origination fees, and credit terms. The
8 utility shall select the winning bidders based on its
9 evaluation of these criteria, with a preference for those
10 bids containing the rates, fees, and terms most favorable
11 to participants;

12 (3) The utility shall work with the lenders selected
13 pursuant to the RFP process, and with vendors, to establish
14 the terms and processes pursuant to which a participant can
15 purchase eligible electric energy efficiency measures
16 using the financing obtained from the lender. The vendor
17 shall explain and offer the approved financing packaging to
18 those customers identified in subsection (b) of this
19 Section and shall assist customers in applying for
20 financing. As part of the process, vendors shall also
21 provide to participants information about any other
22 incentives that may be available for the measures.

23 (4) The lender shall conduct credit checks or undertake
24 other appropriate measures to limit credit risk, and shall
25 review and approve or deny financing applications
26 submitted by customers identified in subsection (b) of this

1 Section. Following the lender's approval of financing and
2 the participant's purchase of the measure or measures, the
3 lender shall forward payment information to the electric
4 utility, and the utility shall add as a separate line item
5 on the participant's utility bill a charge showing the
6 amount due under the program each month.

7 (5) A loan issued to a participant pursuant to the
8 program shall be the sole responsibility of the
9 participant, and any dispute that may arise concerning the
10 loan's terms, conditions, or charges shall be resolved
11 between the participant and lender. Upon transfer of the
12 property title for the premises at which the participant
13 receives electric service from the utility or the
14 participant's request to terminate service at such
15 premises, the participant shall pay in full its electric
16 utility bill, including all amounts due under the program,
17 provided that this obligation may be modified as provided
18 in subsection (g) of this Section. Amounts due under the
19 program shall be deemed amounts owed for residential and,
20 as appropriate, small commercial electric service.

21 (6) The electric utility shall remit payment in full to
22 the lender each month on behalf of the participant. In the
23 event a participant defaults on payment of its electric
24 utility bill, the electric utility shall continue to remit
25 all payments due under the program to the lender, and the
26 utility shall be entitled to recover all costs related to a

1 participant's nonpayment through the automatic adjustment
2 clause tariff established pursuant to Section 16-111.8 of
3 this Act. In addition, the electric utility shall retain a
4 security interest in the measure or measures purchased
5 under the program, and the utility retains its right to
6 disconnect a participant that defaults on the payment of
7 its utility bill.

8 (7) The total outstanding amount financed under the
9 program shall not exceed \$2.5 million for an electric
10 utility or electric utilities under a single holding
11 company, provided that the electric utility or electric
12 utilities may petition the Commission for an increase in
13 such amount.

14 (d) A program approved by the Commission shall also include
15 the following criteria and guidelines for such program:

16 (1) guidelines for financing of measures installed
17 under a program, including, but not limited to, RFP
18 criteria and limits on both individual loan amounts and the
19 duration of the loans;

20 (2) criteria and standards for identifying and
21 approving measures;

22 (3) qualifications of vendors that will market or
23 install measures, as well as a methodology for ensuring
24 ongoing compliance with such qualifications;

25 (4) sample contracts and agreements necessary to
26 implement the measures and program; and

1 (5) the types of data and information that utilities
2 and vendors participating in the program shall collect for
3 purposes of preparing the reports required under
4 subsection (g) of this Section.

5 (e) The proposed program submitted by each electric utility
6 shall be consistent with the provisions of this Section that
7 define operational, financial and billing arrangements between
8 and among program participants, vendors, lenders, and the
9 electric utility.

10 (f) An electric utility shall recover all of the prudently
11 incurred costs of offering a program approved by the Commission
12 pursuant to this Section, including, but not limited to, all
13 start-up and administrative costs and the costs for program
14 evaluation. All prudently incurred costs under this Section
15 shall be recovered from the residential and small commercial
16 retail customer classes eligible to participate in the program
17 through the automatic adjustment clause tariff established
18 pursuant to Section 8-103 of this Act.

19 (g) An independent evaluation of a program shall be
20 conducted after 3 years of the program's operation. The
21 electric utility shall retain an independent evaluator who
22 shall evaluate the effects of the measures installed under the
23 program and the overall operation of the program, including but
24 not limited to customer eligibility criteria and whether the
25 payment obligation for permanent electric energy efficiency
26 measures that will continue to provide benefits of energy

1 savings should attach to the meter location. As part of the
2 evaluation process, the evaluator shall also solicit feedback
3 from participants and interested stakeholders. The evaluator
4 shall issue a report to the Commission on its findings no later
5 than 4 years after the date on which the program commenced, and
6 the Commission shall issue a report to the Governor and General
7 Assembly including a summary of the information described in
8 this Section as well as its recommendations as to whether the
9 program should be discontinued, continued with modification or
10 modifications or continued without modification, provided that
11 any recommended modifications shall only apply prospectively
12 and to measures not yet installed or financed.

13 (h) An electric utility offering a Commission-approved
14 program pursuant to this Section shall not be required to
15 comply with any other statute, order, rule, or regulation of
16 this State that may relate to the offering of such program,
17 provided that nothing in this Section is intended to limit the
18 electric utility's obligation to comply with this Act and the
19 Commission's orders, rules, and regulations, including Part
20 280 of Title 83 of the Illinois Administrative Code.

21 (i) The source of a utility customer's electric supply
22 shall not disqualify a customer from participation in the
23 utility's on-bill financing program. Customers of alternative
24 retail electric suppliers may participate in the program under
25 the same terms and conditions applicable to the utility's
26 supply customers.

1 (220 ILCS 5/16-111.8 new)

2 Sec. 16-111.8. Automatic adjustment clause tariff;
3 uncollectibles.

4 (a) An electric utility shall be permitted, at its
5 election, to recover through an automatic adjustment clause
6 tariff the incremental difference between its actual
7 uncollectible amount as set forth in Account 904 in the
8 utility's most recent annual FERC Form 1 and the uncollectible
9 amount included in the utility's rates for the period reported
10 in such annual FERC Form 1. The Commission may, in a proceeding
11 to review a general rate case filed subsequent to the effective
12 date of the tariff established under this Section,
13 prospectively switch from using the actual uncollectible
14 amount set forth in Account 904 to using net write-offs in such
15 tariff, but only if net write-offs are also used to determine
16 the utility's uncollectible amount in rates. In the event the
17 Commission requires such a change, it shall be made effective
18 at the beginning of the first full calendar year after the new
19 rates approved in such proceeding are first placed in effect
20 and an adjustment shall be made, if necessary, to ensure the
21 change does not result in double-recovery or unrecovered
22 uncollectible amounts for any year. For purposes of this
23 Section, "uncollectible amount" means the expense set forth in
24 Account 904 of the utility's FERC Form 1 or cost of net
25 write-offs as appropriate. In the event the utility's rates

1 change during the period of time reported in its most recent
2 annual FERC Form 1, the uncollectible amount included in the
3 utility's rates during such period of time for purposes of this
4 Section will be a weighted average, based on revenues earned
5 during such period by the utility under each set of rates, of
6 the uncollectible amount included in the utility's rates at the
7 beginning of such period and at the end of such period. This
8 difference may either be a charge or a credit to customers
9 depending on whether the uncollectible amount is more or less
10 than the uncollectible amount then included in the utility's
11 rates.

12 (b) The tariff may be established outside the context of a
13 general rate case filing and shall specify the terms of any
14 applicable audit. The Commission shall review and by order
15 approve, or approve as modified, the proposed tariff within 180
16 days after the date on which it is filed. Charges and credits
17 under the tariff shall be allocated to the appropriate customer
18 class or classes. In addition, customers who purchase their
19 electric supply from an alternative retail electric supplier
20 shall not be charged by the utility for uncollectible amounts
21 associated with electric supply provided by the utility to the
22 utility's customers, provided that nothing in this Section is
23 intended to affect or alter the rights and obligations imposed
24 pursuant to Section 16-118 of this Act and any Commission order
25 issued thereunder. Upon approval of the tariff, the utility
26 shall, based on the 2008 FERC Form 1, apply the appropriate

1 credit or charge based on the full year 2008 amounts for the
2 remainder of the 2010 calendar year. Starting with the 2009
3 FERC Form 1 reporting period and each subsequent period, the
4 utility shall apply the appropriate credit or charge over a
5 12-month period beginning with the June billing period and
6 ending with the May billing period, with the first such billing
7 period beginning June 2010.

8 (c) The approved tariff shall provide that the utility
9 shall file a petition with the Commission annually, no later
10 than August 31st, seeking initiation of an annual review to
11 reconcile all amounts collected with the actual uncollectible
12 amount in the prior period. As part of its review, the
13 Commission shall verify that the utility collects no more and
14 no less than its actual uncollectible amount in each applicable
15 FERC Form 1 reporting period. The Commission shall review the
16 prudence and reasonableness of the utility's actions to pursue
17 minimization and collection of uncollectibles which shall
18 include, at a minimum, the 6 enumerated criteria set forth in
19 this Section. The Commission shall determine any required
20 adjustments and may include suggestions for prospective
21 changes in current practices. Nothing in this Section or the
22 implementing tariffs shall affect or alter the electric
23 utility's existing obligation to pursue collection of
24 uncollectibles or the electric utility's right to disconnect
25 service. A utility that has in effect a tariff authorized by
26 this Section shall pursue minimization of and collection of

1 uncollectibles through the following activities, including,
2 but not limited to:

3 (1) identifying customers with late payments;

4 (2) contacting the customers in an effort to obtain
5 payment;

6 (3) providing delinquent customers with information
7 about possible options, including payment plans and
8 assistance programs;

9 (4) serving disconnection notices;

10 (5) implementing disconnections based on the level of
11 uncollectibles; and

12 (6) pursuing collection activities based on the level
13 of uncollectibles.

14 (d) Nothing in this Section shall be construed to require a
15 utility to immediately disconnect service for nonpayment.

16 (220 ILCS 5/16-115D new)

17 Sec. 16-115D. Renewable portfolio standard for alternative
18 retail electric suppliers and electric utilities operating
19 outside their service territories.

20 (a) An alternative retail electric supplier shall be
21 responsible for procuring cost-effective renewable energy
22 resources as required under item (5) of subsection (d) of
23 Section 16-115 of this Act as outlined herein:

24 (1) The definition of renewable energy resources
25 contained in Section 1-10 of the Illinois Power Agency Act

1 applies to all renewable energy resources required to be
2 procured by alternative retail electric suppliers.

3 (2) The quantity of renewable energy resources shall be
4 measured as a percentage of the actual amount of metered
5 electricity (megawatt-hours) delivered by the alternative
6 retail electric supplier to Illinois retail customers
7 during the 12-month period June 1 through May 31,
8 commencing June 1, 2009, and the comparable 12-month period
9 in each year thereafter except as provided in item (6) of
10 this subsection (a).

11 (3) The quantity of renewable energy resources shall be
12 in amounts at least equal to the annual percentages set
13 forth in item (1) of subsection (c) of Section 1-75 of the
14 Illinois Power Agency Act. At least 60% of the renewable
15 energy resources procured pursuant to items (1) through (3)
16 of subsection (b) of this Section shall come from wind
17 generation and, starting June 1, 2015, at least 6% of the
18 renewable energy resources procured pursuant to items (1)
19 through (3) of subsection (b) of this Section shall come
20 from solar photovoltaics. If, in any given year, an
21 alternative retail electric supplier does not purchase at
22 least these levels of renewable energy resources, then the
23 alternative retail electric supplier shall make
24 alternative compliance payments, as described in
25 subsection (d) of this Section.

26 (4) The quantity and source of renewable energy

1 resources shall be independently verified through the PJM
2 Environmental Information System Generation Attribute
3 Tracking System (PJM-GATS) or the Midwest Renewable Energy
4 Tracking System (M-RETS), which shall document the
5 location of generation, resource type, month, and year of
6 generation for all qualifying renewable energy resources
7 that an alternative retail electric supplier uses to comply
8 with this Section. No later than June 1, 2009, the Illinois
9 Power Agency shall provide PJM-GATS, M-RETS, and
10 alternative retail electric suppliers with all information
11 necessary to identify resources located in Illinois,
12 within states that adjoin Illinois or within portions of
13 the PJM and MISO footprint in the United States that
14 qualify under the definition of renewable energy resources
15 in Section 1-10 of the Illinois Power Agency Act for
16 compliance with this Section 16-115D. Alternative retail
17 electric suppliers shall not be subject to the requirements
18 in item (3) of subsection (c) of Section 1-75 of the
19 Illinois Power Agency Act.

20 (5) All renewable energy credits used to comply with
21 this Section shall be permanently retired.

22 (6) The required procurement of renewable energy
23 resources by an alternative retail electric supplier shall
24 apply to all metered electricity delivered to Illinois
25 retail customers by the alternative retail electric
26 supplier pursuant to contracts executed or extended after

1 March 15, 2009.

2 (b) An alternative retail electric supplier shall comply
3 with the renewable energy portfolio standards by making an
4 alternative compliance payment, as described in subsection (d)
5 of this Section, to cover at least one-half of the alternative
6 retail electric supplier's compliance obligation and any one or
7 combination of the following means to cover the remainder of
8 the alternative retail electric supplier's compliance
9 obligation:

10 (1) Generating electricity using renewable energy
11 resources identified pursuant to item (4) of subsection (a)
12 of this Section.

13 (2) Purchasing electricity generated using renewable
14 energy resources identified pursuant to item (4) of
15 subsection (a) of this Section through an energy contract.

16 (3) Purchasing renewable energy credits from renewable
17 energy resources identified pursuant to item (4) of
18 subsection (a) of this Section.

19 (4) Making an alternative compliance payment as
20 described in subsection (d) of this Section.

21 (c) Use of renewable energy credits.

22 (1) Renewable energy credits that are not used by an
23 alternative retail electric supplier to comply with a
24 renewable portfolio standard in a compliance year may be
25 banked and carried forward up to 2 12-month compliance
26 periods after the compliance period in which the credit was

1 generated for the purpose of complying with a renewable
2 portfolio standard in those 2 subsequent compliance
3 periods. For the 2009-2010 and 2010-2011 compliance
4 periods, an alternative retail electric supplier may use
5 renewable credits generated after December 31, 2008 and
6 before June 1, 2009 to comply with this Section.

7 (2) An alternative retail electric supplier is
8 responsible for demonstrating that a renewable energy
9 credit used to comply with a renewable portfolio standard
10 is derived from a renewable energy resource and that the
11 alternative retail electric supplier has not used, traded,
12 sold, or otherwise transferred the credit.

13 (3) The same renewable energy credit may be used by an
14 alternative retail electric supplier to comply with a
15 federal renewable portfolio standard and a renewable
16 portfolio standard established under this Act. An
17 alternative retail electric supplier that uses a renewable
18 energy credit to comply with a renewable portfolio standard
19 imposed by any other state may not use the same credit to
20 comply with a renewable portfolio standard established
21 under this Act.

22 (d) Alternative compliance payments.

23 (1) The Commission shall establish and post on its
24 website, within 5 business days after entering an order
25 approving a procurement plan pursuant to Section 1-75 of
26 the Illinois Power Agency Act, maximum alternative

1 compliance payment rates, expressed on a per kilowatt-hour
2 basis, that will be applicable in the first compliance
3 period following the plan approval. A separate maximum
4 alternative compliance payment rate shall be established
5 for the service territory of each electric utility that is
6 subject to subsection (c) of Section 1-75 of the Illinois
7 Power Agency Act. Each maximum alternative compliance
8 payment rate shall be equal to the maximum allowable annual
9 estimated average net increase due to the costs of the
10 utility's purchase of renewable energy resources included
11 in the amounts paid by eligible retail customers in
12 connection with electric service, as described in item (2)
13 of subsection (c) of Section 1-75 of the Illinois Power
14 Agency Act for the compliance period, and as established in
15 the approved procurement plan. Following each procurement
16 event through which renewable energy resources are
17 purchased for one or more of these utilities for the
18 compliance period, the Commission shall establish and post
19 on its website estimates of the alternative compliance
20 payment rates, expressed on a per kilowatt-hour basis, that
21 shall apply for that compliance period. Posting of the
22 estimates shall occur no later than 10 business days
23 following the procurement event, however, the Commission
24 shall not be required to establish and post such estimates
25 more often than once per calendar month. By July 1 of each
26 year, the Commission shall establish and post on its

1 website the actual alternative compliance payment rates
2 for the preceding compliance year. Each alternative
3 compliance payment rate shall be equal to the total amount
4 of dollars for which the utility contracted to spend on
5 renewable resources for the compliance period divided by
6 the forecasted load of eligible retail customers, at the
7 customers' meters, as previously established in the
8 Commission-approved procurement plan for that compliance
9 year. The actual alternative compliance payment rates may
10 not exceed the maximum alternative compliance payment
11 rates established for the compliance period. For purposes
12 of this subsection (d), the term "eligible retail
13 customers" has the same meaning as found in Section
14 16-111.5 of this Act.

15 (2) In any given compliance year, an alternative retail
16 electric supplier may elect to use alternative compliance
17 payments to comply with all or a part of the applicable
18 renewable portfolio standard. In the event that an
19 alternative retail electric supplier elects to make
20 alternative compliance payments to comply with all or a
21 part of the applicable renewable portfolio standard, such
22 payments shall be made by September 1, 2010 for the period
23 of June 1, 2009 to May 1, 2010 and by September 1 of each
24 year thereafter for the subsequent compliance period, in
25 the manner and form as determined by the Commission. Any
26 election by an alternative retail electric supplier to use

1 alternative compliance payments is subject to review by the
2 Commission under subsection (e) of this Section.

3 (3) An alternative retail electric supplier's
4 alternative compliance payments shall be computed
5 separately for each electric utility's service territory
6 within which the alternative retail electric supplier
7 provided retail service during the compliance period,
8 provided that the electric utility was subject to
9 subsection (c) of Section 1-75 of the Illinois Power Agency
10 Act. For each service territory, the alternative retail
11 electric supplier's alternative compliance payment shall
12 be equal to (i) the actual alternative compliance payment
13 rate established in item (1) of this subsection (d),
14 multiplied by (ii) the actual amount of metered electricity
15 delivered by the alternative retail electric supplier to
16 retail customers within the service territory during the
17 compliance period, multiplied by (iii) the result of one
18 minus the ratios of the quantity of renewable energy
19 resources used by the alternative retail electric supplier
20 to comply with the requirements of this Section within the
21 service territory to the product of the percentage of
22 renewable energy resources required under item (3) of
23 subsection (a) of this Section and the actual amount of
24 metered electricity delivered by the alternative retail
25 electric supplier to retail customers within the service
26 territory during the compliance period.

1 (4) All alternative compliance payments by alternative
2 retail electric suppliers shall be deposited in the
3 Illinois Power Agency Renewable Energy Resources Fund and
4 used to purchase renewable energy credits, in accordance
5 with Section 1-56 of the Illinois Power Agency Act.

6 (5) The Commission, in consultation with the Illinois
7 Power Agency, shall establish a process or proceeding to
8 consider the impact of a federal renewable portfolio
9 standard, if enacted, on the operation of the alternative
10 compliance mechanism, which shall include, but not be
11 limited to, developing, to the extent permitted by the
12 applicable federal statute, an appropriate methodology to
13 apportion renewable energy credits retired as a result of
14 alternative compliance payments made in accordance with
15 this Section. The Commission shall commence any such
16 process or proceeding within 35 days after enactment of a
17 federal renewable portfolio standard.

18 (e) Each alternative retail electric supplier shall, by
19 September 1, 2010 and by September 1 of each year thereafter,
20 prepare and submit to the Commission a report, in a format to
21 be specified by the Commission on or before December 31, 2009,
22 that provides information certifying compliance by the
23 alternative retail electric supplier with this Section,
24 including copies of all PJM-GATS and M-RETS reports, and
25 documentation relating to banking, retiring renewable energy
26 credits, and any other information that the Commission

1 determines necessary to ensure compliance with this Section. An
2 alternative retail electric supplier may file commercially or
3 financially sensitive information or trade secrets with the
4 Commission as provided under the rules of the Commission. To be
5 filed confidentially, the information shall be accompanied by
6 an affidavit that sets forth both the reasons for the
7 confidentiality and a public synopsis of the information.

8 (f) The Commission may initiate a contested case to review
9 allegations that the alternative retail electric supplier has
10 violated this Section, including an order issued or rule
11 promulgated under this Section. In any such proceeding, the
12 alternative retail electric supplier shall have the burden of
13 proof. If the Commission finds, after notice and hearing, that
14 an alternative retail electric supplier has violated this
15 Section, then the Commission shall issue an order requiring the
16 alternative retail electric supplier to:

17 (1) immediately comply with this Section; and

18 (2) if the violation involves a failure to procure the
19 requisite quantity of renewable energy resources or pay the
20 applicable alternative compliance payment by the annual
21 deadline, the Commission shall require the alternative retail
22 electric supplier to double the applicable alternative
23 compliance payment that would otherwise be required to bring
24 the alternative retail electric supplier into compliance with
25 this Section.

26 If an alternative retail electric supplier fails to comply

1 with the renewable energy resource portfolio requirement in
2 this Section more than once in a 5-year period, then the
3 Commission shall revoke the alternative electric supplier's
4 certificate of service authority. The Commission shall not
5 accept an application for a certificate of service authority
6 from an alternative retail electric supplier that has lost
7 certification under this subsection (f), or any corporate
8 affiliate thereof, for at least one year after the date of
9 revocation.

10 (g) All of the provisions of this Section apply to electric
11 utilities operating outside their service area except under
12 item (2) of subsection (a) of this Section the quantity of
13 renewable energy resources shall be measured as a percentage of
14 the actual amount of electricity (megawatt-hours) supplied in
15 the State outside of the utility's service territory during the
16 12-month period June 1 through May 31, commencing June 1, 2009,
17 and the comparable 12-month period in each year thereafter
18 except as provided in item (6) of subsection (a) of this
19 Section.

20 If any such utility fails to procure the requisite quantity
21 of renewable energy resources by the annual deadline, then the
22 Commission shall require the utility to double the alternative
23 compliance payment that would otherwise be required to bring
24 the utility into compliance with this Section.

25 If any such utility fails to comply with the renewable
26 energy resource portfolio requirement in this Section more than

1 once in a 5-year period, then the Commission shall order the
2 utility to cease all sales outside of the utility's service
3 territory for a period of at least one year.

4 (h) The provisions of this Section and the provisions of
5 subsection (d) of Section 16-115 of this Act relating to
6 procurement of renewable energy resources shall not apply to an
7 alternative retail electric supplier that operates a combined
8 heat and power system in this State or that has a corporate
9 affiliate that operates such a combined heat and power system
10 in this State that supplies electricity primarily to or for the
11 benefit of: (i) facilities owned by the supplier, its
12 subsidiary, or other corporate affiliate; (ii) facilities
13 electrically integrated with the electrical system of
14 facilities owned by the supplier, its subsidiary, or other
15 corporate affiliate; or (iii) facilities that are adjacent to
16 the site on which the combined heat and power system is
17 located.

18 (220 ILCS 5/19-140 new)

19 Sec. 19-140. On-bill financing program; gas utilities.

20 (a) The Illinois General Assembly finds that Illinois homes
21 and businesses have the potential to save energy through
22 conservation and cost-effective energy efficiency measures.
23 Programs created pursuant to this Section will allow utility
24 customers to purchase cost-effective energy efficiency
25 measures with no required initial upfront payment, and to pay

1 the cost of those products and services over time on their
2 utility bill.

3 (b) Notwithstanding any other provision of this Act, a gas
4 utility serving more than 100,000 customers on January 1, 2009
5 shall offer a Commission-approved on-bill financing program
6 ("program") that allows its retail customers who own a
7 residential single family home, duplex, or other residential
8 building with 4 or less units, or condominium at which the gas
9 service is being provided (i) to borrow funds from a third
10 party lender in order to purchase gas energy efficiency
11 measures approved under the program for installation in such
12 home or condominium without any required upfront payment and
13 (ii) to pay back such funds over time through the gas utility's
14 bill. Based upon the process described in subsection (b-5) of
15 this Section, small commercial retail customers, as that term
16 is defined in Section 19-105 of this Act, who own the premises
17 at which gas service is being provided may be included in such
18 program. After receiving a request from a gas utility for
19 approval of a proposed program and tariffs pursuant to this
20 Section, the Commission shall render its decision within 120
21 days. If no decision is rendered within 120 days, then the
22 request shall be deemed to be approved.

23 (b-5) Within 30 days after the effective date of this
24 amendatory Act of the 96th General Assembly, the Commission
25 shall convene a workshop process during which interested
26 participants may discuss issues related to the program,

1 including program design, eligible gas energy efficiency
2 measures, vendor qualifications, and a methodology for
3 ensuring ongoing compliance with such qualifications,
4 financing, sample documents such as request for proposals,
5 contracts and agreements, dispute resolution, pre-installment
6 and post-installment verification, and evaluation. The
7 workshop process shall be completed within 150 days after the
8 effective date of this amendatory Act of the 96th General
9 Assembly.

10 (c) Not later than 60 days following completion of the
11 workshop process described in subsection (b-5) of this Section,
12 each gas utility subject to subsection (b) of this Section
13 shall submit a proposed program to the Commission that contains
14 the following components:

15 (1) A list of recommended gas energy efficiency
16 measures that will be eligible for on-bill financing. An
17 eligible gas energy efficiency measure ("measure") shall
18 be defined by the following:

19 (A) The measure would be applied to or replace gas
20 energy-using equipment; and

21 (B) Application of the measure to equipment and
22 systems will have estimated gas savings (determined by
23 rates in effect at the time of purchase), that are
24 sufficient to cover the costs of implementing the
25 measures, including finance charges and any program
26 fees not recovered pursuant to subsection (f) of this

1 Section. To assist the gas utility in identifying or
2 approving measures, the utility may consult with the
3 Department of Commerce and Economic Opportunity, as
4 well as with retailers, technicians and installers of
5 gas energy efficiency measures and energy auditors
6 (collectively "vendors").

7 (2) The gas utility shall issue a request for proposals
8 ("RFP") to lenders for purposes of providing financing to
9 participants to pay for approved measures. The RFP criteria
10 shall include, but not be limited to, the interest rate,
11 origination fees, and credit terms. The utility shall
12 select the winning bidders based on its evaluation of these
13 criteria, with a preference for those bids containing the
14 rates, fees, and terms most favorable to participants.

15 (3) The utility shall work with the lenders selected
16 pursuant to the RFP process, and with vendors, to establish
17 the terms and processes pursuant to which a participant can
18 purchase eligible gas energy efficiency measures using the
19 financing obtained from the lender. The vendor shall
20 explain and offer the approved financing packaging to those
21 customers identified in subsection (b) of this Section and
22 shall assist customers in applying for financing. As part
23 of such process, vendors shall also provide to participants
24 information about any other incentives that may be
25 available for the measures.

26 (4) The lender shall conduct credit checks or undertake

1 other appropriate measures to limit credit risk, and shall
2 review and approve or deny financing applications
3 submitted by customers identified in subsection (b) of this
4 Section. Following the lender's approval of financing and
5 the participant's purchase of the measure or measures, the
6 lender shall forward payment information to the gas
7 utility, and the utility shall add as a separate line item
8 on the participant's utility bill a charge showing the
9 amount due under the program each month.

10 (5) A loan issued to a participant pursuant to the
11 program shall be the sole responsibility of the
12 participant, and any dispute that may arise concerning the
13 loan's terms, conditions, or charges shall be resolved
14 between the participant and lender. Upon transfer of the
15 property title for the premises at which the participant
16 receives gas service from the utility or the participant's
17 request to terminate service at such premises, the
18 participant shall pay in full its gas utility bill,
19 including all amounts due under the program, provided that
20 this obligation may be modified as provided in subsection
21 (g) of this Section. Amounts due under the program shall be
22 deemed amounts owed for residential and, as appropriate,
23 small commercial gas service.

24 (6) The gas utility shall remit payment in full to the
25 lender each month on behalf of the participant. In the
26 event a participant defaults on payment of its gas utility

1 bill, the gas utility shall continue to remit all payments
2 due under the program to the lender, and the utility shall
3 be entitled to recover all costs related to a participant's
4 nonpayment through the automatic adjustment clause tariff
5 established pursuant to Section 19-145 of this Act. In
6 addition, the gas utility shall retain a security interest
7 in the measure or measures purchased under the program, and
8 the utility retains its right to disconnect a participant
9 that defaults on the payment of its utility bill.

10 (7) The total outstanding amount financed under the
11 program shall not exceed \$2.5 million for a gas utility or
12 gas utilities under a single holding company, provided that
13 the gas utility or gas utilities may petition the
14 Commission for an increase in such amount.

15 (d) A program approved by the Commission shall also include
16 the following criteria and guidelines for such program:

17 (1) guidelines for financing of measures installed
18 under a program, including, but not limited to, RFP
19 criteria and limits on both individual loan amounts and the
20 duration of the loans;

21 (2) criteria and standards for identifying and
22 approving measures;

23 (3) qualifications of vendors that will market or
24 install measures, as well as a methodology for ensuring
25 ongoing compliance with such qualifications;

26 (4) sample contracts and agreements necessary to

1 implement the measures and program; and

2 (5) the types of data and information that utilities
3 and vendors participating in the program shall collect for
4 purposes of preparing the reports required under
5 subsection (g) of this Section.

6 (e) The proposed program submitted by each gas utility
7 shall be consistent with the provisions of this Section that
8 define operational, financial, and billing arrangements
9 between and among program participants, vendors, lenders, and
10 the gas utility.

11 (f) A gas utility shall recover all of the prudently
12 incurred costs of offering a program approved by the Commission
13 pursuant to this Section, including, but not limited to, all
14 start-up and administrative costs and the costs for program
15 evaluation. All prudently incurred costs under this Section
16 shall be recovered from the residential and small commercial
17 retail customer classes eligible to participate in the program
18 through the automatic adjustment clause tariff established
19 pursuant to Section 8-104 of this Act.

20 (g) An independent evaluation of a program shall be
21 conducted after 3 years of the program's operation. The gas
22 utility shall retain an independent evaluator who shall
23 evaluate the effects of the measures installed under the
24 program and the overall operation of the program, including,
25 but not limited to, customer eligibility criteria and whether
26 the payment obligation for permanent gas energy efficiency

1 measures that will continue to provide benefits of energy
2 savings should attach to the meter location. As part of the
3 evaluation process, the evaluator shall also solicit feedback
4 from participants and interested stakeholders. The evaluator
5 shall issue a report to the Commission on its findings no later
6 than 4 years after the date on which the program commenced, and
7 the Commission shall issue a report to the Governor and General
8 Assembly including a summary of the information described in
9 this Section as well as its recommendations as to whether the
10 program should be discontinued, continued with modification or
11 modifications or continued without modification, provided that
12 any recommended modifications shall only apply prospectively
13 and to measures not yet installed or financed.

14 (h) A gas utility offering a Commission-approved program
15 pursuant to this Section shall not be required to comply with
16 any other statute, order, rule, or regulation of this State
17 that may relate to the offering of such program, provided that
18 nothing in this Section is intended to limit the gas utility's
19 obligation to comply with this Act and the Commission's orders,
20 rules, and regulations, including Part 280 of Title 83 of the
21 Illinois Administrative Code.

22 (i) The source of a utility customer's gas supply shall not
23 disqualify a customer from participation in the utility's
24 on-bill financing program. Customers of alternative gas
25 suppliers may participate in the program under the same terms
26 and conditions applicable to the utility's supply customers.

1 (220 ILCS 5/19-145 new)

2 Sec. 19-145. Automatic adjustment clause tariff;
3 uncollectibles.

4 (a) A gas utility shall be permitted, at its election, to
5 recover through an automatic adjustment clause tariff the
6 incremental difference between its actual uncollectible amount
7 as set forth in Account 904 in the utility's most recent annual
8 Form 21 ILCC and the uncollectible amount included in the
9 utility's rates for the period reported in such annual Form 21
10 ILCC. The Commission may, in a proceeding to review a general
11 rate case filed subsequent to the effective date of the tariff
12 established under this Section, prospectively switch, from
13 using the actual uncollectible amount set forth in Account 904
14 to using net write-offs in such tariff, but only if net
15 write-offs are also used to determine the utility's
16 uncollectible amount in rates. In the event the Commission
17 requires such a change, it shall be made effective at the
18 beginning of the first full calendar year after the new rates
19 approved in such proceeding are first placed in effect and an
20 adjustment shall be made, if necessary, to ensure the change
21 does not result in double-recovery or unrecovered
22 uncollectible amounts for any year. For purposes of this
23 Section, "uncollectible amount" means the expense set forth in
24 Account 904 of the utility's Form 21 ILCC or cost of net
25 write-offs as appropriate. In the event the utility's rates

1 change during the period of time reported in its most recent
2 annual Form 21 ILCC, the uncollectible amount included in the
3 utility's rates during such period of time for purposes of this
4 Section will be a weighted average, based on revenues earned
5 during such period by the utility under each set of rates, of
6 the uncollectible amount included in the utility's rates at the
7 beginning of such period and at the end of such period. This
8 difference may either be a charge or a credit to customers
9 depending on whether the uncollectible amount is more or less
10 than the uncollectible amount then included in the utility's
11 rates.

12 (b) The tariff may be established outside the context of a
13 general rate case filing, and shall specify the terms of any
14 applicable audit. The Commission shall review and by order
15 approve, or approve as modified, the proposed tariff within 180
16 days after the date on which it is filed. Charges and credits
17 under the tariff shall be allocated to the appropriate customer
18 class or classes. In addition, customers who do not purchase
19 their gas supply from a gas utility shall not be charged by the
20 utility for uncollectible amounts associated with gas supply
21 provided by the utility to the utility's customers. Upon
22 approval of the tariff, the utility shall, based on the 2008
23 Form 21 ILCC, apply the appropriate credit or charge based on
24 the full year 2008 amounts for the remainder of the 2010
25 calendar year. Starting with the 2009 Form 21 ILCC reporting
26 period and each subsequent period, the utility shall apply the

1 appropriate credit or charge over a 12-month period beginning
2 with the June billing period and ending with the May billing
3 period, with the first such billing period beginning June 2010.

4 (c) The approved tariff shall provide that the utility
5 shall file a petition with the Commission annually, no later
6 than August 31st, seeking initiation of an annual review to
7 reconcile all amounts collected with the actual uncollectible
8 amount in the prior period. As part of its review, the
9 Commission shall verify that the utility collects no more and
10 no less than its actual uncollectible amount in each applicable
11 Form 21 ILCC reporting period. The Commission shall review the
12 prudence and reasonableness of the utility's actions to pursue
13 minimization and collection of uncollectibles which shall
14 include, at a minimum, the 6 enumerated criteria set forth in
15 this Section. The Commission shall determine any required
16 adjustments and may include suggestions for prospective
17 changes in current practices. Nothing in this Section or the
18 implementing tariffs shall affect or alter the gas utility's
19 existing obligation to pursue collection of uncollectibles or
20 the gas utility's right to disconnect service. A utility that
21 has in effect a tariff authorized by this Section shall pursue
22 minimization of and collection of uncollectibles through the
23 following activities, including but not limited to:

24 (1) identifying customers with late payments;

25 (2) contacting the customers in an effort to obtain
26 payment;

1 (3) providing delinquent customers with information
2 about possible options, including payment plans and
3 assistance programs;

4 (4) serving disconnection notices;

5 (5) implementing disconnections based on the level of
6 uncollectibles; and

7 (6) pursuing collection activities based on the level
8 of uncollectibles.

9 (d) Nothing in this Section shall be construed to require a
10 utility to immediately disconnect service for nonpayment.

11 Section 15. The Energy Assistance Act is amended by
12 changing Sections 2, 3, and 13 and by adding Section 18 as
13 follows:

14 (305 ILCS 20/2) (from Ch. 111 2/3, par. 1402)

15 Sec. 2. Findings and Intent.

16 (a) The General Assembly finds that:

17 (1) the health, welfare, and prosperity of the people
18 of the State of Illinois require that all citizens receive
19 essential levels of heat and electric service regardless of
20 economic circumstance;

21 (2) public utilities and other entities providing such
22 services are entitled to receive proper payment for
23 services actually rendered;

24 (3) variability of declining Federal low income energy

1 assistance funding necessitates a State response to ensure
2 the continuity and the further development of energy
3 assistance and related policies and programs within
4 Illinois; ~~and~~

5 (4) energy assistance policies and programs in effect
6 in Illinois have benefited all Illinois citizens, and
7 should therefore be continued with the modifications
8 provided herein; and -

9 (5) low-income households are unable to afford
10 essential utility services and other necessities, such as
11 food, shelter, and medical care; the health and safety of
12 those who are unable to afford essential utility services
13 suffer when monthly payments for these services exceed a
14 reasonable percentage of the customer's household income;
15 costs of collecting past due bills and uncollectible
16 balances are reflected in rates paid by all ratepayers;
17 society benefits if essential utility services are
18 affordable and arrearages and disconnections are minimized
19 for those most in need.

20 (b) Consistent with its findings, the General Assembly
21 declares that it is the policy of the State that:

22 (1) a comprehensive low income energy assistance
23 policy and program should be established which
24 incorporates income assistance, home weatherization, and
25 other measures to ensure that citizens have access to
26 affordable energy services;

1 (2) the ability of public utilities and other entities
2 to receive just compensation for providing services should
3 not be jeopardized by this policy;

4 (3) resources applied in achieving this policy should
5 be coordinated and efficiently utilized through the
6 integration of public programs and through the targeting of
7 assistance; and

8 (4) the State should utilize all appropriate and
9 available means to fund this program and, to the extent
10 possible, should identify and utilize sources of funding
11 which complement State tax revenues.

12 (Source: P.A. 94-773, eff. 5-18-06.)

13 (305 ILCS 20/3) (from Ch. 111 2/3, par. 1403)

14 Sec. 3. Definitions. As used in this Act, unless the
15 context otherwise requires:

16 (a) the terms defined in Sections 3-101 through 3-121 of
17 The Public Utilities Act have the meanings ascribed to them in
18 that Act;

19 (b) "Department" means the Department of Commerce and
20 Economic Opportunity ~~Healthcare and Family Services~~;

21 (c) "energy provider" means any utility, municipal
22 utility, cooperative utility, or any other corporation or
23 individual which provides winter energy services;

24 (d) "winter" means the period from November 1 of any year
25 through April 30 of the following year.

1 (Source: P.A. 94-773, eff. 5-18-06; 94-793, eff. 5-19-06;
2 95-331, eff. 8-21-07.)

3 (305 ILCS 20/13)

4 (Section scheduled to be repealed on December 31, 2013)

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

6 (a) The Supplemental Low-Income Energy Assistance Fund is
7 hereby created as a special fund in the State Treasury. The
8 Supplemental Low-Income Energy Assistance Fund is authorized
9 to receive moneys from voluntary donations from individuals,
10 foundations, corporations, and other sources, moneys received
11 pursuant to Section 17, and, by statutory deposit, the moneys
12 collected pursuant to this Section. The Fund is also authorized
13 to receive voluntary donations from individuals, foundations,
14 corporations, and other sources, as well as contributions made
15 in accordance with Section 507MM of the Illinois Income Tax
16 Act. Subject to appropriation, the Department shall use moneys
17 from the Supplemental Low-Income Energy Assistance Fund for
18 payments to electric or gas public utilities, municipal
19 electric or gas utilities, and electric cooperatives on behalf
20 of their customers who are participants in the program
21 authorized by Sections 4 and 18 ~~Section 4~~ of this Act, for the
22 provision of weatherization services and for administration of
23 the Supplemental Low-Income Energy Assistance Fund. The yearly
24 expenditures for weatherization may not exceed 10% of the
25 amount collected during the year pursuant to this Section. The

1 yearly administrative expenses of the Supplemental Low-Income
2 Energy Assistance Fund may not exceed 10% of the amount
3 collected during that year pursuant to this Section.

4 (b) Notwithstanding the provisions of Section 16-111 of the
5 Public Utilities Act but subject to subsection (k) of this
6 Section, each public utility, electric cooperative, as defined
7 in Section 3.4 of the Electric Supplier Act, and municipal
8 utility, as referenced in Section 3-105 of the Public Utilities
9 Act, that is engaged in the delivery of electricity or the
10 distribution of natural gas within the State of Illinois shall,
11 effective January 1, 1998, assess each of its customer accounts
12 a monthly Energy Assistance Charge for the Supplemental
13 Low-Income Energy Assistance Fund. The delivering public
14 utility, municipal electric or gas utility, or electric or gas
15 cooperative for a self-assessing purchaser remains subject to
16 the collection of the fee imposed by this Section. The monthly
17 charge shall be as follows:

18 (1) \$0.48 ~~\$0.40~~ per month on each account for
19 residential electric service;

20 (2) \$0.48 ~~\$0.40~~ per month on each account for
21 residential gas service;

22 (3) \$4.80 ~~\$4~~ per month on each account for
23 non-residential electric service which had less than 10
24 megawatts of peak demand during the previous calendar year;

25 (4) \$4.80 ~~\$4~~ per month on each account for
26 non-residential gas service which had distributed to it

1 less than 4,000,000 therms of gas during the previous
2 calendar year;

3 (5) \$360 ~~\$300~~ per month on each account for
4 non-residential electric service which had 10 megawatts or
5 greater of peak demand during the previous calendar year;
6 and

7 (6) \$360 ~~\$300~~ per month on each account for
8 non-residential gas service which had 4,000,000 or more
9 therms of gas distributed to it during the previous
10 calendar year.

11 The incremental change to such charges imposed by this
12 amendatory Act of the 96th General Assembly shall not (i) be
13 used for any purpose other than to directly assist customers
14 and (ii) be applicable to utilities serving less than 100,000
15 customers in Illinois on January 1, 2009.

16 In addition, electric and gas utilities have committed, and
17 shall contribute, a one-time payment of \$22 million to the
18 Fund, within 10 days after the effective date of the tariffs
19 established pursuant to Sections 16-111.8 and 19-145 of the
20 Public Utilities Act to be used for the Department's cost of
21 implementing the programs described in Section 18 of this
22 amendatory Act of the 96th General Assembly, the Arrearage
23 Reduction Program described in Section 18, and the programs
24 described in Section 8-105 of the Public Utilities Act. If a
25 utility elects not to file a rider within 90 days after the
26 effective date of this amendatory Act of the 96th General

1 Assembly, then the contribution from such utility shall be made
2 no later than February 1, 2010.

3 (c) For purposes of this Section:

4 (1) "residential electric service" means electric
5 utility service for household purposes delivered to a
6 dwelling of 2 or fewer units which is billed under a
7 residential rate, or electric utility service for
8 household purposes delivered to a dwelling unit or units
9 which is billed under a residential rate and is registered
10 by a separate meter for each dwelling unit;

11 (2) "residential gas service" means gas utility
12 service for household purposes distributed to a dwelling of
13 2 or fewer units which is billed under a residential rate,
14 or gas utility service for household purposes distributed
15 to a dwelling unit or units which is billed under a
16 residential rate and is registered by a separate meter for
17 each dwelling unit;

18 (3) "non-residential electric service" means electric
19 utility service which is not residential electric service;
20 and

21 (4) "non-residential gas service" means gas utility
22 service which is not residential gas service.

23 (d) Within 30 days after the effective date of this
24 amendatory Act of the 96th General Assembly ~~At least 45 days~~
25 ~~prior to the date on which it must begin assessing Energy~~
26 ~~Assistance Charges~~, each public utility engaged in the delivery

1 of electricity or the distribution of natural gas shall file
2 with the Illinois Commerce Commission tariffs incorporating
3 the Energy Assistance Charge in other charges stated in such
4 tariffs, which shall become effective no later than the
5 beginning of the first billing cycle following such filing.

6 (e) The Energy Assistance Charge assessed by electric and
7 gas public utilities shall be considered a charge for public
8 utility service.

9 (f) By the 20th day of the month following the month in
10 which the charges imposed by the Section were collected, each
11 public utility, municipal utility, and electric cooperative
12 shall remit to the Department of Revenue all moneys received as
13 payment of the Energy Assistance Charge on a return prescribed
14 and furnished by the Department of Revenue showing such
15 information as the Department of Revenue may reasonably
16 require; provided, however, that a utility offering an
17 Arrearage Reduction Program pursuant to Section 18 of this Act
18 shall be entitled to net those amounts necessary to fund and
19 recover the costs of such Program as authorized by that Section
20 that is no more than the incremental change in such Energy
21 Assistance Charge authorized by this amendatory Act of the 96th
22 General Assembly. If a customer makes a partial payment, a
23 public utility, municipal utility, or electric cooperative may
24 elect either: (i) to apply such partial payments first to
25 amounts owed to the utility or cooperative for its services and
26 then to payment for the Energy Assistance Charge or (ii) to

1 apply such partial payments on a pro-rata basis between amounts
2 owed to the utility or cooperative for its services and to
3 payment for the Energy Assistance Charge.

4 (g) The Department of Revenue shall deposit into the
5 Supplemental Low-Income Energy Assistance Fund all moneys
6 remitted to it in accordance with subsection (f) of this
7 Section; provided, however, that the amounts remitted by each
8 utility shall be used to provide assistance to that utility's
9 customers. The utilities shall coordinate with the Department
10 to establish an equitable and practical methodology for
11 implementing this subsection (g) beginning with the 2010
12 program year.

13 (h) (Blank).

14 On or before December 31, 2002, the Department shall
15 prepare a report for the General Assembly on the expenditure of
16 funds appropriated from the Low-Income Energy Assistance Block
17 Grant Fund for the program authorized under Section 4 of this
18 Act.

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

21 (j) The Department of Commerce and Economic Opportunity
22 ~~Healthcare and Family Services~~ may establish such rules as it
23 deems necessary to implement this Section.

24 (k) The charges imposed by this Section shall only apply to
25 customers of municipal electric or gas utilities and electric
26 or gas cooperatives if the municipal electric or gas utility or

1 electric or gas cooperative makes an affirmative decision to
2 impose the charge. If a municipal electric or gas utility or an
3 electric cooperative makes an affirmative decision to impose
4 the charge provided by this Section, the municipal electric or
5 gas utility or electric cooperative shall inform the Department
6 of Revenue in writing of such decision when it begins to impose
7 the charge. If a municipal electric or gas utility or electric
8 or gas cooperative does not assess this charge, the Department
9 may not use funds from the Supplemental Low-Income Energy
10 Assistance Fund to provide benefits to its customers under the
11 program authorized by Section 4 of this Act.

12 In its use of federal funds under this Act, the Department
13 may not cause a disproportionate share of those federal funds
14 to benefit customers of systems which do not assess the charge
15 provided by this Section.

16 This Section is repealed effective December 31, 2013 unless
17 renewed by action of the General Assembly. The General Assembly
18 shall consider the results of the evaluations described in
19 Section 8 in its deliberations.

20 (Source: P.A. 94-773, eff. 5-18-06; 94-793, eff. 5-19-06;
21 94-817, eff. 5-30-06; 95-48, eff. 8-10-07; 95-331, eff.
22 8-21-07.)

23 (305 ILCS 20/18 new)

24 Sec. 18. Financial assistance; payment plans.

25 (a) The Percentage of Income Payment Plan (PIPP or PIP

1 Plan) is hereby created as a mandatory bill payment assistance
2 program for low-income residential customers of utilities
3 servng more than 100,000 retail customers as of January 1,
4 2009. The PIP Plan will:

5 (1) bring participants' gas and electric bills into the
6 range of affordability;

7 (2) provide incentives for participants to make timely
8 payments;

9 (3) encourage participants to reduce usage and
10 participate in conservation and energy efficiency measures
11 that reduce the customer's bill and payment requirements;
12 and

13 (4) identify participants whose homes are most in need
14 of weatherization.

15 (b) For purposes of this Section:

16 (1) "LIHEAP" means the energy assistance program
17 established under the Illinois Energy Assistance Act and
18 the Low-Income Home Energy Assistance Act of 1981.

19 (2) "Plan participant" is an eligible participant who
20 is also eligible for the PIPP and who will receive either a
21 percentage of income payment credit under the PIPP criteria
22 set forth in this Act or a benefit pursuant to Section 4 of
23 this Act. Plan participants are a subset of eligible
24 participants.

25 (3) "Pre-program arrears" means the amount a plan
26 participant owes for gas or electric service at the time

1 the participant is determined to be eligible for the PIPP
2 or the program set forth in Section 4 of this Act.

3 (4) "Eligible participant" means any person who has
4 applied for, been accepted and is receiving residential
5 service from a gas or electric utility and who is also
6 eligible for LIHEAP.

7 (c) The PIP Plan shall be administered as follows:

8 (1) The Department shall coordinate with Local
9 Administrative Agencies (LAAs), to determine eligibility
10 for the Illinois Low Income Home Energy Assistance Program
11 (LIHEAP) pursuant to the Energy Assistance Act, provided
12 that eligible income shall be no more than 150% of the
13 poverty level. Applicants will be screened to determine
14 whether the applicant's projected payments for electric
15 service or natural gas service over a 12-month period
16 exceed the criteria established in this Section. To
17 maintain the financial integrity of the program, the
18 Department may limit eligibility to households with income
19 below 125% of the poverty level.

20 (2) The Department shall establish the percentage of
21 income formula to determine the amount of a monthly credit,
22 not to exceed \$150 per month per household, not to exceed
23 \$1,800 annually, that will be applied to PIP Plan
24 participants' utility bills based on the portion of the
25 bill that is the responsibility of the participant provided
26 that the percentage shall be no more than a total of 6% of

1 the relevant income for gas and electric utility bills
2 combined, but in any event no less than \$10 per month,
3 unless the household does not pay directly for heat, in
4 which case its payment shall be 2.4% of income but in any
5 event no less than \$5 per month. The Department may
6 establish a minimum credit amount based on the cost of
7 administering the program and may deny credits to otherwise
8 eligible participants if the cost of administering the
9 credit exceeds the actual amount of any monthly credit to a
10 participant. If the participant takes both gas and electric
11 service, 66.67% of the credit shall be allocated to the
12 entity that provides the participant's primary energy
13 supply for heating. Each participant shall enter into a
14 levelized payment plan for, as applicable, gas and electric
15 service and such plans shall be implemented by the utility
16 so that a participant's usage and required payments are
17 reviewed and adjusted regularly, but no more frequently
18 than quarterly. Nothing in this Section is intended to
19 prohibit a customer, who is otherwise eligible for LIHEAP,
20 from participating in the program described in Section 4 of
21 this Act. Eligible participants who receive such a benefit
22 shall be considered plan participants and shall be eligible
23 to participate in the Arrearage Reduction Program
24 described in item (5) of this subsection (c).

25 (3) The Department shall remit, through the LAAs, to
26 the utility or participating alternative supplier that

1 portion of the plan participant's bill that is not the
2 responsibility of the participant. In the event that the
3 Department fails to timely remit payment to the utility,
4 the utility shall be entitled to recover all costs related
5 to such nonpayment through the automatic adjustment clause
6 tariffs established pursuant to Section 16-111.8 and
7 Section 19-145 of the Public Utilities Act. For purposes of
8 this item (3) of this subsection (c), payment is due on the
9 date specified on the participant's bill. The Department,
10 the Department of Revenue and LAAs shall adopt processes
11 that provide for the timely payment required by this item
12 (3) of this subsection (c).

13 (4) A plan participant is responsible for all actual
14 charges for utility service in excess of the PIPP credit.
15 Pre-program arrears that are included in the Arrearage
16 Reduction Program described in item (5) of this subsection
17 (c) shall not be included in the calculation of the
18 levelized payment plan. Emergency or crisis assistance
19 payments shall not affect the amount of any PIPP credit to
20 which a participant is entitled.

21 (5) Electric and gas utilities subject to this Section
22 shall implement an Arrearage Reduction Program (ARP) for
23 plan participants as follows: for each month that a plan
24 participant timely pays his or her utility bill, the
25 utility shall apply a credit to a portion of the
26 participant's pre-program arrears, if any, equal to

1 one-twelfth of such arrearage provided that the total
2 amount of arrearage credits shall equal no more than \$1,000
3 annually for each participant for gas and no more than
4 \$1,000 annually for each participant for electricity. In
5 the third year of the PIPP, the Department, in consultation
6 with the Policy Advisory Council established pursuant to
7 Section 5 of this Act, shall determine by rule an
8 appropriate per participant total cap on such amounts, if
9 any. Those plan participants participating in the ARP shall
10 not be subject to the imposition of any additional late
11 payment fees on pre-program arrears covered by the ARP. In
12 all other respects, the utility shall bill and collect the
13 monthly bill of a plan participant pursuant to the same
14 rules, regulations, programs and policies as applicable to
15 residential customers generally. Participation in the
16 Arrearage Reduction Program shall be limited to the maximum
17 amount of funds available as set forth in subsection (f) of
18 Section 13 of this Act. In the event any donated funds
19 under Section 13 of this Act are specifically designated
20 for the purpose of funding the ARP, the Department shall
21 remit such amounts to the utilities upon verification that
22 such funds are needed to fund the ARP.

23 (6) The Department may terminate a plan participant's
24 eligibility for the PIP Plan upon notification by the
25 utility that the participant's monthly utility payment is
26 more than 45 days past due.

1 (7) The Department, in consultation with the Policy
2 Advisory Council, may adjust the number of PIP Plan
3 participants annually, if necessary, to match the
4 availability of funds from LIHEAP.

5 (8) The Department shall fully implement the PIPP at
6 the earliest possible date it is able to effectively
7 administer the PIPP. Within 90 days of the effective date
8 of this amendatory Act of the 96th General Assembly, the
9 Department shall, in consultation with utility companies,
10 participating alternative suppliers, LAAs and the Illinois
11 Commerce Commission (Commission), issue a detailed
12 implementation plan which shall include detailed testing
13 protocols and analysis of the capacity for implementation
14 by the LAAs and utilities. Such consultation process also
15 shall address how to implement the PIPP in the most
16 cost-effective and timely manner, and shall identify
17 opportunities for relying on the expertise of utilities,
18 LAAs and the Commission. Following the implementation of
19 the testing protocols, the Department shall issue a written
20 report on the feasibility of full or gradual
21 implementation. The PIPP shall be fully implemented by
22 September 1, 2011, but may be phased in prior to that date.

23 (9) As part of the screening process established under
24 item (1) of this subsection (c), the Department and LAAs
25 shall assess whether any energy efficiency or demand
26 response measures are available to the plan participant at

1 no cost, and if so, the participant shall enroll in any
2 such program for which he or she is eligible. The LAAs
3 shall assist the participant in the applicable enrollment
4 or application process.

5 (10) Each alternative retail electric and gas supplier
6 serving residential customers shall elect whether to
7 participate in the PIPP or ARP described in this Section.
8 Any such supplier electing to participate in the PIPP shall
9 provide to the Department such information as the
10 Department may require, including, without limitation,
11 information sufficient for the Department to determine the
12 proportionate allocation of credits between the
13 alternative supplier and the utility. If a utility in whose
14 service territory an alternative supplier serves customers
15 contributes money to the ARP fund which is not recovered
16 from ratepayers, then an alternative supplier which
17 participates in ARP in that utility's service territory
18 shall also contribute to the ARP fund in an amount that is
19 commensurate with the number of alternative supplier
20 customers who elect to participate in the program.

21 (d) The Department, in consultation with the Policy
22 Advisory Council, shall develop and implement a program to
23 educate customers about the PIP Plan and about their rights and
24 responsibilities under the percentage of income component. The
25 Department, in consultation with the Policy Advisory Council,
26 shall establish a process that LAAs shall use to contact

1 customers in jeopardy of losing eligibility due to late
2 payments. The Department shall ensure that LAAs are adequately
3 funded to perform all necessary educational tasks.

4 (e) The PIPP shall be administered in a manner which
5 ensures that credits to plan participants will not be counted
6 as income or as a resource in other means-tested assistance
7 programs for low-income households or otherwise result in the
8 loss of federal or State assistance dollars for low-income
9 households.

10 (f) In order to ensure that implementation costs are
11 minimized, the Department and utilities shall work together to
12 identify cost-effective ways to transfer information
13 electronically and to employ available protocols that will
14 minimize their respective administrative costs as follows:

15 (1) The Commission may require utilities to provide
16 such information on customer usage and billing and payment
17 information as required by the Department to implement the
18 PIP Plan and to provide written notices and communications
19 to plan participants.

20 (2) Each utility and participating alternative
21 supplier shall file annual reports with the Department and
22 the Commission that cumulatively summarize and update
23 program information as required by the Commission's rules.
24 The reports shall track implementation costs and contain
25 such information as is necessary to evaluate the success of
26 the PIPP.

1 (3) The Department and the Commission shall have the
2 authority to promulgate rules and regulations necessary to
3 execute and administer the provisions of this Section.

4 (g) Each utility shall be entitled to recover reasonable
5 administrative and operational costs incurred to comply with
6 this Section from the Supplemental Low Income Energy Assistance
7 Fund. The utility may net such costs against monies it would
8 otherwise remit to the Funds, and each utility shall include in
9 the annual report required under subsection (f) of this Section
10 an accounting for the funds collected.

11 Section 95. No acceleration or delay. Where this Act makes
12 changes in a statute that is represented in this Act by text
13 that is not yet or no longer in effect (for example, a Section
14 represented by multiple versions), the use of that text does
15 not accelerate or delay the taking effect of (i) the changes
16 made by this Act or (ii) provisions derived from any other
17 Public Act.

18 Section 97. Inseverability. The provisions of this
19 amendatory Act of the 96th General Assembly are mutually
20 dependent and inseverable. If any provision or its application
21 to any person or circumstance is held invalid, then this entire
22 Act is invalid. It is the further legislative intent that in
23 such event all other Acts shall not be affected and shall
24 continue to be valid.

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.