



Rep. Robert F. Flider

Filed: 5/15/2009

09600SB1918ham002

LRB096 07889 MJR 26910 a

1 AMENDMENT TO SENATE BILL 1918

2 AMENDMENT NO. _____. Amend Senate Bill 1918, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

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

7 (20 ILCS 3855/1-10)

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

9 Sec. 1-10. Definitions.

10 "Agency" means the Illinois Power Agency.

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

1 maintenance, insurance, and other matters in respect of the
2 project.

3 "Authority" means the Illinois Finance Authority.

4 "Commission" means the Illinois Commerce Commission.

5 "Costs incurred in connection with the development and
6 construction of a facility" means:

7 (1) the cost of acquisition of all real property and
8 improvements in connection therewith and equipment and
9 other property, rights, and easements acquired that are
10 deemed necessary for the operation and maintenance of the
11 facility;

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

14 (3) all origination, commitment, utilization,
15 facility, placement, underwriting, syndication, credit
16 enhancement, and rating agency fees;

17 (4) engineering, design, procurement, consulting,
18 legal, accounting, title insurance, survey, appraisal,
19 escrow, trustee, collateral agency, interest rate hedging,
20 interest rate swap, capitalized interest and other
21 financing costs, and other expenses for professional
22 services; and

23 (5) the costs of plans, specifications, site study and
24 investigation, installation, surveys, other Agency costs
25 and estimates of costs, and other expenses necessary or
26 incidental to determining the feasibility of any project,

1 together with such other expenses as may be necessary or
2 incidental to the financing, insuring, acquisition, and
3 construction of a specific project and placing that project
4 in operation.

5 "Department" means the Department of Commerce and Economic
6 Opportunity.

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

8 "Demand-response" means measures that decrease peak
9 electricity demand or shift demand from peak to off-peak
10 periods.

11 "Energy efficiency" means measures that reduce the amount
12 of electricity or natural gas required to achieve a given end
13 use.

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

16 "Facility" means an electric generating unit or a
17 co-generating unit that produces electricity along with
18 related equipment necessary to connect the facility to an
19 electric transmission or distribution system.

20 "Governmental aggregator" means one or more units of local
21 government that individually or collectively procure
22 electricity to serve residential retail electrical loads
23 located within its or their jurisdiction.

24 "Local government" means a unit of local government as
25 defined in Article VII of Section 1 of the Illinois
26 Constitution.

1 "Municipality" means a city, village, or incorporated
2 town.

3 "Person" means any natural person, firm, partnership,
4 corporation, either domestic or foreign, company, association,
5 limited liability company, joint stock company, or association
6 and includes any trustee, receiver, assignee, or personal
7 representative thereof.

8 "Project" means the planning, bidding, and construction of
9 a facility.

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

12 "Real property" means any interest in land together with
13 all structures, fixtures, and improvements thereon, including
14 lands under water and riparian rights, any easements,
15 covenants, licenses, leases, rights-of-way, uses, and other
16 interests, together with any liens, judgments, mortgages, or
17 other claims or security interests related to real property.

18 "Renewable energy credit" means a tradable credit that
19 represents the environmental attributes of a certain amount of
20 energy produced from a renewable energy resource.

21 "Renewable energy resources" includes energy and its
22 associated renewable energy credit or renewable energy credits
23 from wind, solar thermal energy, photovoltaic cells and panels,
24 biodiesel, crops and untreated and unadulterated organic waste
25 biomass, trees and tree trimmings, hydropower that does not
26 involve new construction or significant expansion of

1 hydropower dams, and other alternative sources of
2 environmentally preferable energy. For purposes of this Act,
3 landfill gas produced in the State is considered a renewable
4 energy resource. "Renewable energy resources" does not include
5 the incineration or burning of tires, garbage, general
6 household, institutional, and commercial waste, industrial
7 lunchroom or office waste, landscape waste other than trees and
8 tree trimmings, railroad crossties, utility poles, or
9 construction or demolition debris, other than untreated and
10 unadulterated waste wood.

11 "Revenue bond" means any bond, note, or other evidence of
12 indebtedness issued by the Authority, the principal and
13 interest of which is payable solely from revenues or income
14 derived from any project or activity of the Agency.

15 "Total resource cost test" or "TRC test" means a standard
16 that is met if, for an investment in energy efficiency or
17 demand-response measures, the benefit-cost ratio is greater
18 than one. The benefit-cost ratio is the ratio of the net
19 present value of the total benefits of the program to the net
20 present value of the total costs as calculated over the
21 lifetime of the measures. A total resource cost test compares
22 the sum of avoided electric utility costs, representing the
23 benefits that accrue to the system and the participant in the
24 delivery of those efficiency measures, as well as other
25 quantifiable societal benefits, including avoided natural gas
26 utility costs, to the sum of all incremental costs of end-use

1 measures that are implemented due to the program (including
2 both utility and participant contributions), plus costs to
3 administer, deliver, and evaluate each demand-side program, to
4 quantify the net savings obtained by substituting the
5 demand-side program for supply resources. In calculating
6 avoided costs of power and energy that an electric utility
7 would otherwise have had to acquire, reasonable estimates shall
8 be included of financial costs likely to be imposed by future
9 regulations and legislation on emissions of greenhouse gases.

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

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

12 Sec. 1-10. Definitions.

13 "Agency" means the Illinois Power Agency.

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

22 "Authority" means the Illinois Finance Authority.

23 "Clean coal facility" means an electric generating
24 facility that uses primarily coal as a feedstock and that
25 captures and sequesters carbon emissions at the following

1 levels: at least 50% of the total carbon emissions that the
2 facility would otherwise emit if, at the time construction
3 commences, the facility is scheduled to commence operation
4 before 2016, at least 70% of the total carbon emissions that
5 the facility would otherwise emit if, at the time construction
6 commences, the facility is scheduled to commence operation
7 during 2016 or 2017, and at least 90% of the total carbon
8 emissions that the facility would otherwise emit if, at the
9 time construction commences, the facility is scheduled to
10 commence operation after 2017. The power block of the clean
11 coal facility shall not exceed allowable emission rates for
12 sulfur dioxide, nitrogen oxides, carbon monoxide, particulates
13 and mercury for a natural gas-fired combined-cycle facility the
14 same size as and in the same location as the clean coal
15 facility at the time the clean coal facility obtains an
16 approved air permit. All coal used by a clean coal facility
17 shall have high volatile bituminous rank and greater than 1.7
18 pounds of sulfur per million btu content, unless the clean coal
19 facility does not use gasification technology and was operating
20 as a conventional coal-fired electric generating facility on
21 June 1, 2009 (the effective date of Public Act 95-1027) ~~this~~
22 ~~amendatory Act of the 95th General Assembly.~~

23 "Clean coal SNG facility" means a facility that uses a
24 gasification process to produce substitute natural gas, that
25 sequesters at least 90% of the total carbon emissions that the
26 facility would otherwise emit and that uses coal as a

1 feedstock, with all such coal having a high bituminous rank and
2 greater than 1.7 pounds of sulfur per million btu content.

3 "Commission" means the Illinois Commerce Commission.

4 "Costs incurred in connection with the development and
5 construction of a facility" means:

6 (1) the cost of acquisition of all real property and
7 improvements in connection therewith and equipment and
8 other property, rights, and easements acquired that are
9 deemed necessary for the operation and maintenance of the
10 facility;

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

13 (3) all origination, commitment, utilization,
14 facility, placement, underwriting, syndication, credit
15 enhancement, and rating agency fees;

16 (4) engineering, design, procurement, consulting,
17 legal, accounting, title insurance, survey, appraisal,
18 escrow, trustee, collateral agency, interest rate hedging,
19 interest rate swap, capitalized interest and other
20 financing costs, and other expenses for professional
21 services; and

22 (5) the costs of plans, specifications, site study and
23 investigation, installation, surveys, other Agency costs
24 and estimates of costs, and other expenses necessary or
25 incidental to determining the feasibility of any project,
26 together with such other expenses as may be necessary or

1 incidental to the financing, insuring, acquisition, and
2 construction of a specific project and placing that project
3 in operation.

4 "Department" means the Department of Commerce and Economic
5 Opportunity.

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

7 "Demand-response" means measures that decrease peak
8 electricity demand or shift demand from peak to off-peak
9 periods.

10 "Energy efficiency" means measures that reduce the amount
11 of electricity or natural gas required to achieve a given end
12 use.

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

15 "Facility" means an electric generating unit or a
16 co-generating unit that produces electricity along with
17 related equipment necessary to connect the facility to an
18 electric transmission or distribution system.

19 "Governmental aggregator" means one or more units of local
20 government that individually or collectively procure
21 electricity to serve residential retail electrical loads
22 located within its or their jurisdiction.

23 "Local government" means a unit of local government as
24 defined in Article VII of Section 1 of the Illinois
25 Constitution.

26 "Municipality" means a city, village, or incorporated

1 town.

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3 corporation, either domestic or foreign, company, association,
4 limited liability company, joint stock company, or association
5 and includes any trustee, receiver, assignee, or personal
6 representative thereof.

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8 a facility.

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10 Section 3-105 of the Public Utilities Act.

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12 all structures, fixtures, and improvements thereon, including
13 lands under water and riparian rights, any easements,
14 covenants, licenses, leases, rights-of-way, uses, and other
15 interests, together with any liens, judgments, mortgages, or
16 other claims or security interests related to real property.

17 "Renewable energy credit" means a tradable credit that
18 represents the environmental attributes of a certain amount of
19 energy produced from a renewable energy resource.

20 "Renewable energy resources" includes energy and its
21 associated renewable energy credit or renewable energy credits
22 from wind, solar thermal energy, photovoltaic cells and panels,
23 biodiesel, crops and untreated and unadulterated organic waste
24 biomass, trees and tree trimmings, hydropower that does not
25 involve new construction or significant expansion of
26 hydropower dams, and other alternative sources of

1 environmentally preferable energy. For purposes of this Act,
2 landfill gas produced in the State is considered a renewable
3 energy resource. "Renewable energy resources" does not include
4 the incineration or burning of tires, garbage, general
5 household, institutional, and commercial waste, industrial
6 lunchroom or office waste, landscape waste other than trees and
7 tree trimmings, railroad crossties, utility poles, or
8 construction or demolition debris, other than untreated and
9 unadulterated waste wood.

10 "Revenue bond" means any bond, note, or other evidence of
11 indebtedness issued by the Authority, the principal and
12 interest of which is payable solely from revenues or income
13 derived from any project or activity of the Agency.

14 "Sequester" means permanent storage of carbon dioxide by
15 injecting it into a saline aquifer, a depleted gas reservoir,
16 or an oil reservoir, directly or through an enhanced oil
17 recovery process that may involve intermediate storage in a
18 salt dome.

19 "Servicing agreement" means (i) in the case of an electric
20 utility, an agreement between the owner of a clean coal
21 facility and such electric utility, which agreement shall have
22 terms and conditions meeting the requirements of paragraph (3)
23 of subsection (d) of Section 1-75, and (ii) in the case of an
24 alternative retail electric supplier, an agreement between the
25 owner of a clean coal facility and such alternative retail
26 electric supplier, which agreement shall have terms and

1 conditions meeting the requirements of Section 16-115(d) (5) of
2 the Public Utilities Act.

3 "Substitute natural gas" or "SNG" means a gas manufactured
4 by gasification of hydrocarbon feedstock, which is
5 substantially interchangeable in use and distribution with
6 conventional natural gas.

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 95-1027, eff. 6-1-09; revised 1-14-09.)

4 Section 10. The Public Utilities Act is amended by changing
5 Sections 2-103, 8-103, 9-201, 10-102, 10-103, 10-110, 10-111,
6 10-201 by adding Sections 8-104, 8-105, 9-229, 16-111.7,
7 16-111.8, 16-115D, 19-140, and 19-145 as follows:

8 (220 ILCS 5/2-103) (from Ch. 111 2/3, par. 2-103)

9 Sec. 2-103. (a) No former member of the Commission or
10 person formerly employed by the Commission may, ~~for a period of~~
11 ~~one year following the termination of his services with the~~
12 ~~Commission,~~ represent any person before the Commission in any a
13 ~~professional~~ capacity with respect to any particular
14 Commission proceeding ~~matter~~ in which he participated
15 personally and substantially as a member or employee of the
16 Commission.

17 (b) No former member of the Commission may appear before
18 the Commission ~~act as agent or attorney for any one other than~~
19 ~~the State of Illinois~~ in connection with any particular
20 Commission proceeding for a period of 2 years following the
21 termination of service with the Commission ~~matter in which he~~
22 ~~participated personally and substantially as a member of the~~
23 ~~Commission, through decision, approval, disapproval,~~
24 ~~recommendation, the rendering of service, investigation, or~~

1 ~~otherwise.~~

2 (c) No former member of the Commission may accept any
3 employment with any entity ~~public utility~~ subject to Commission
4 regulation ~~regulations~~ or certification, or with any industry
5 trade association that (i) receives a majority of its funding
6 from entities regulated or certificated by the Commission; or
7 (ii) has a majority of members regulated or certificated by the
8 Commission, for one year following the termination of ~~his~~
9 services with the Commission; provided such prohibition shall
10 extend to 2 years for commissioners appointed subsequent to the
11 effective date of this amendatory Act of the 96th General
12 Assembly.

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

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

2 (220 ILCS 5/8-103)

3 Sec. 8-103. Energy efficiency and demand-response
4 measures.

5 (a) It is the policy of the State that electric utilities
6 are required to use cost-effective energy efficiency and
7 demand-response measures to reduce delivery load. Requiring
8 investment in cost-effective energy efficiency and
9 demand-response measures will reduce direct and indirect costs
10 to consumers by decreasing environmental impacts and by
11 avoiding or delaying the need for new generation, transmission,
12 and distribution infrastructure. It serves the public interest
13 to allow electric utilities to recover costs for reasonably and
14 prudently incurred expenses for energy efficiency and
15 demand-response measures. As used in this Section,
16 "cost-effective" means that the measures satisfy the total
17 resource cost test. The low-income measures described in
18 subsection (f) (4) of this Section shall not be required to meet
19 the total resource cost test. For purposes of this Section, the
20 terms "energy-efficiency", "demand-response", "electric
21 utility", and "total resource cost test" shall have the
22 meanings set forth in the Illinois Power Agency Act. For
23 purposes of this Section, the amount per kilowatthour means the
24 total amount paid for electric service expressed on a per
25 kilowatthour basis. For purposes of this Section, the total

1 amount paid for electric service includes without limitation
2 estimated amounts paid for supply, transmission, distribution,
3 surcharges, and add-on-taxes.

4 (b) Electric utilities shall implement cost-effective
5 energy efficiency measures to meet the following incremental
6 annual energy savings goals:

7 (1) 0.2% of energy delivered in the year commencing
8 June 1, 2008;

9 (2) 0.4% of energy delivered in the year commencing
10 June 1, 2009;

11 (3) 0.6% of energy delivered in the year commencing
12 June 1, 2010;

13 (4) 0.8% of energy delivered in the year commencing
14 June 1, 2011;

15 (5) 1% of energy delivered in the year commencing June
16 1, 2012;

17 (6) 1.4% of energy delivered in the year commencing
18 June 1, 2013;

19 (7) 1.8% of energy delivered in the year commencing
20 June 1, 2014; and

21 (8) 2% of energy delivered in the year commencing June
22 1, 2015 and each year thereafter.

23 (c) Electric utilities shall implement cost-effective
24 demand-response measures to reduce peak demand by 0.1% over the
25 prior year for eligible retail customers, as defined in Section
26 16-111.5 of this Act. This requirement commences June 1, 2008

1 and continues for 10 years.

2 (d) Notwithstanding the requirements of subsections (b)
3 and (c) of this Section, an electric utility shall reduce the
4 amount of energy efficiency and demand-response measures
5 implemented in any single year by an amount necessary to limit
6 the estimated average increase in the amounts paid by retail
7 customers in connection with electric service due to the cost
8 of those measures to:

9 (1) in 2008, no more than 0.5% of the amount paid per
10 kilowatthour by those customers during the year ending May
11 31, 2007;

12 (2) in 2009, the greater of an additional 0.5% of the
13 amount paid per kilowatthour by those customers during the
14 year ending May 31, 2008 or 1% of the amount paid per
15 kilowatthour by those customers during the year ending May
16 31, 2007;

17 (3) in 2010, the greater of an additional 0.5% of the
18 amount paid per kilowatthour by those customers during the
19 year ending May 31, 2009 or 1.5% of the amount paid per
20 kilowatthour by those customers during the year ending May
21 31, 2007;

22 (4) in 2011, the greater of an additional 0.5% of the
23 amount paid per kilowatthour by those customers during the
24 year ending May 31, 2010 or 2% of the amount paid per
25 kilowatthour by those customers during the year ending May
26 31, 2007; and

1 (5) thereafter, the amount of energy efficiency and
2 demand-response measures implemented for any single year
3 shall be reduced by an amount necessary to limit the
4 estimated average net increase due to the cost of these
5 measures included in the amounts paid by eligible retail
6 customers in connection with electric service to no more
7 than the greater of 2.015% of the amount paid per
8 kilowatthour by those customers during the year ending May
9 31, 2007 or the incremental amount per kilowatthour paid
10 for these measures in 2011.

11 No later than June 30, 2011, the Commission shall review
12 the limitation on the amount of energy efficiency and
13 demand-response measures implemented pursuant to this Section
14 and report to the General Assembly its findings as to whether
15 that limitation unduly constrains the procurement of energy
16 efficiency and demand-response measures.

17 (e) Electric utilities shall be responsible for overseeing
18 the design, development, and filing of energy efficiency and
19 demand-response plans with the Commission. Electric utilities
20 shall implement 100% of the demand-response measures in the
21 plans. Electric utilities shall implement 75% of the energy
22 efficiency measures approved by the Commission, and may, as
23 part of that implementation, outsource various aspects of
24 program development and implementation. The remaining 25% of
25 those energy efficiency measures approved by the Commission
26 shall be implemented by the Department of Commerce and Economic

1 Opportunity, and must be designed in conjunction with the
2 utility and the filing process. The Department may outsource
3 development and implementation of energy efficiency measures.
4 A minimum of 10% of the entire portfolio of cost-effective
5 energy efficiency measures shall be procured from units of
6 local government, municipal corporations, school districts,
7 and community college districts. The Department shall
8 coordinate the implementation of these measures.

9 The apportionment of the dollars to cover the costs to
10 implement the Department's share of the portfolio of energy
11 efficiency measures shall be made to the Department once the
12 Department has executed grants or contracts for energy
13 efficiency measures and provided supporting documentation for
14 those grants and the contracts to the utility.

15 The details of the measures implemented by the Department
16 shall be submitted by the Department to the Commission in
17 connection with the utility's filing regarding the energy
18 efficiency and demand-response measures that the utility
19 implements.

20 A utility providing approved energy efficiency and
21 demand-response measures in the State shall be permitted to
22 recover costs of those measures through an automatic adjustment
23 clause tariff filed with and approved by the Commission. The
24 tariff shall be established outside the context of a general
25 rate case. Each year the Commission shall initiate a review to
26 reconcile any amounts collected with the actual costs and to

1 determine the required adjustment to the annual tariff factor
2 to match annual expenditures.

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

19 The portfolio of measures, administered by both the
20 utilities and the Department, shall, in combination, be
21 designed to achieve the annual savings targets described in
22 subsections (b) and (c) of this Section, as modified by
23 subsection (d) of this Section.

24 The utility and the Department shall agree upon a
25 reasonable portfolio of measures and determine the measurable
26 corresponding percentage of the savings goals associated with

1 measures implemented by the utility or Department.

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

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

23 (f) No later than November 15, 2007, each electric utility
24 shall file an energy efficiency and demand-response plan with
25 the Commission to meet the energy efficiency and
26 demand-response standards for 2008 through 2010. Every 3 years

1 thereafter, each electric utility shall file, no later than
2 October 1, an energy efficiency and demand-response plan with
3 the Commission. If a utility does not file such a plan by
4 October 1 of an applicable year, it shall face a penalty of
5 \$100,000 per day until the plan is filed. Each utility's plan
6 shall set forth the utility's proposals to meet the utility's
7 portion of the energy efficiency standards identified in
8 subsection (b) and the demand-response standards identified in
9 subsection (c) of this Section as modified by subsections (d)
10 and (e), taking into account the unique circumstances of the
11 utility's service territory. The Commission shall seek public
12 comment on the utility's plan and shall issue an order
13 approving or disapproving each plan within 3 months after its
14 submission. If the Commission disapproves a plan, the
15 Commission shall, within 30 days, describe in detail the
16 reasons for the disapproval and describe a path by which the
17 utility may file a revised draft of the plan to address the
18 Commission's concerns satisfactorily. If the utility does not
19 refile with the Commission within 60 days, the utility shall be
20 subject to penalties at a rate of \$100,000 per day until the
21 plan is filed. This process shall continue, and penalties shall
22 accrue, until the utility has successfully filed a portfolio of
23 energy efficiency and demand-response measures. Penalties
24 shall be deposited into the Energy Efficiency Trust Fund. In
25 submitting proposed energy efficiency and demand-response
26 plans and funding levels to meet the savings goals adopted by

1 this Act the utility shall:

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

6 (2) Present specific proposals to implement new
7 building and appliance standards that have been placed into
8 effect.

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

15 (4) Coordinate with the Department ~~and the Department~~
16 ~~of Healthcare and Family Services~~ to present a portfolio of
17 energy efficiency measures targeted to households at or
18 below 150% of the poverty level at a level proportionate to
19 those households' share of total annual utility revenues in
20 Illinois.

21 (5) Demonstrate that its overall portfolio of energy
22 efficiency and demand-response measures, not including
23 programs covered by item (4) of this subsection (f), are
24 cost-effective using the total resource cost test and
25 represent a diverse cross-section of opportunities for
26 customers of all rate classes to participate in the

1 programs.

2 (6) Include a proposed cost-recovery tariff mechanism
3 to fund the proposed energy efficiency and demand-response
4 measures and to ensure the recovery of the prudently and
5 reasonably incurred costs of Commission-approved programs.

6 (7) Provide for an annual independent evaluation of the
7 performance of the cost-effectiveness of the utility's
8 portfolio of measures and the Department's portfolio of
9 measures, as well as a full review of the 3-year results of
10 the broader net program impacts and, to the extent
11 practical, for adjustment of the measures on a
12 going-forward basis as a result of the evaluations. The
13 resources dedicated to evaluation shall not exceed 3% of
14 portfolio resources in any given year.

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

18 (h) This Section does not apply to an electric utility that
19 on December 31, 2005 provided electric service to fewer than
20 100,000 customers in Illinois.

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

1 large electric utility shall pay \$665,000, and a medium
2 electric utility shall pay \$335,000. If, after 3 years, an
3 electric utility fails to meet the efficiency standard
4 specified in subsection (b) of this Section, as modified by
5 subsections (d) and (e), it shall make a contribution to the
6 Low-Income Home Energy Assistance Program. The combined total
7 liability for failure to meet the goal shall be \$1,000,000,
8 which shall be assessed as follows: a large electric utility
9 shall pay \$665,000, and a medium electric utility shall pay
10 \$335,000. In addition, the responsibility for implementing the
11 energy efficiency measures of the utility making the payment
12 shall be transferred to the Illinois Power Agency if, after 3
13 years, or in any subsequent 3-year period, the utility fails to
14 meet the efficiency standard specified in subsection (b) of
15 this Section, as modified by subsections (d) and (e). The
16 Agency shall implement a competitive procurement program to
17 procure resources necessary to meet the standards specified in
18 this Section as modified by subsections (d) and (e), with costs
19 for those resources to be recovered in the same manner as
20 products purchased through the procurement plan as provided in
21 Section 16-111.5. The Director shall implement this
22 requirement in connection with the procurement plan as provided
23 in Section 16-111.5.

24 For purposes of this Section, (i) a "large electric
25 utility" is an electric utility that, on December 31, 2005,
26 served more than 2,000,000 electric customers in Illinois; (ii)

1 a "medium electric utility" is an electric utility that, on
2 December 31, 2005, served 2,000,000 or fewer but more than
3 100,000 electric customers in Illinois; and (iii) Illinois
4 electric utilities that are affiliated by virtue of a common
5 parent company are considered a single electric utility.

6 (j) If, after 3 years, or any subsequent 3-year period, the
7 Department fails to implement the Department's share of energy
8 efficiency measures required by the standards in subsection
9 (b), then the Illinois Power Agency may assume responsibility
10 for and control of the Department's share of the required
11 energy efficiency measures. The Agency shall implement a
12 competitive procurement program to procure resources necessary
13 to meet the standards specified in this Section, with the costs
14 of these resources to be recovered in the same manner as
15 provided for the Department in this Section.

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

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

20 (220 ILCS 5/8-104 new)

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

22 (a) It is the policy of the State that natural gas
23 utilities and the Department of Commerce and Economic
24 Opportunity are required to use cost-effective energy
25 efficiency to reduce direct and indirect costs to consumers. It

1 serves the public interest to allow natural gas utilities to
2 recover costs for reasonably and prudently incurred expenses
3 for cost-effective energy efficiency measures.

4 (b) For purposes of this Section, "energy efficiency" means
5 measures that reduce the amount of energy required to achieve a
6 given end use and "cost-effective" means that the measures
7 satisfy the total resource cost test which, for purposes of
8 this Section, means a standard that is met if, for an
9 investment in energy efficiency, the benefit-cost ratio is
10 greater than one. The benefit-cost ratio is the ratio of the
11 net present value of the total benefits of the measures to the
12 net present value of the total costs as calculated over the
13 lifetime of the measures. The total resource cost test compares
14 the sum of avoided natural gas 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 electric
18 utility costs, to the sum of all incremental costs of end use
19 measures (including both utility and participant
20 contributions), plus costs to administer, deliver, and
21 evaluate each demand-side measure, to quantify the net savings
22 obtained by substituting demand-side measures for supply
23 resources. In calculating avoided costs, reasonable estimates
24 shall be included for financial costs likely to be imposed by
25 future regulation of emissions of greenhouse gases. The
26 low-income programs described in item (4) of subsection (f) of

1 this Section shall not be required to meet the total resource
2 cost test.

3 (c) Natural gas utilities shall implement cost-effective
4 energy efficiency measures to meet at least the following
5 natural gas savings requirements, which shall be based upon the
6 total amount of gas delivered to retail customers, other than
7 the customers described in subsection (m) of this Section,
8 during calendar year 2009 multiplied by the applicable
9 percentage. Natural gas utilities may comply with this Section
10 by meeting the annual incremental savings goal in the
11 applicable year or by showing that total savings associated
12 with measures implemented after May 31, 2011 were equal to the
13 sum of each annual incremental savings requirement from May 31,
14 2011 through the end of the applicable year:

15 (1) 0.2% by May 31, 2012;

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

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

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

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

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

26 (7) an additional 1.4% by May 31, 2018, increasing

1 total savings to 5.6%;

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

4 (9) an additional 1.5% in each 12 month period
5 thereafter.

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

25 (e) Natural gas utilities shall be responsible for
26 overseeing the design, development, and filing of their

1 efficiency plans with the Commission. The utility shall utilize
2 75% of the available funding associated with energy efficiency
3 programs approved by the Commission, and may outsource various
4 aspects of program development and implementation. The
5 remaining 25% of available funding shall be used by the
6 Department of Commerce and Economic Opportunity to implement
7 energy efficiency measures that achieve no less than 20% of the
8 requirements of subsection (c) of this section. Such measures
9 shall be designed in conjunction with the utility and approved
10 by the Commission. The Department may outsource development and
11 implementation of energy efficiency measures. A minimum of 10%
12 of the entire portfolio of cost-effective energy efficiency
13 measures shall be procured from local government, municipal
14 corporations, school districts, and community college
15 districts. Five percent of the entire portfolio of
16 cost-effective energy efficiency measures may be granted to
17 local government and municipal corporations for market
18 transformation initiatives. The Department shall coordinate
19 the implementation of these measures and shall integrate
20 delivery of natural gas efficiency programs with electric
21 efficiency programs delivered pursuant to Section 8-103 of this
22 Act, unless the Department can show that integration is not
23 feasible.

24 The apportionment of the dollars to cover the costs to
25 implement the Department's share of the portfolio of energy
26 efficiency measures shall be made to the Department once the

1 Department has executed grants or contracts for energy
2 efficiency measures and provided supporting documentation for
3 those grants and the contracts to the utility.

4 The details of the measures implemented by the Department
5 shall be submitted by the Department to the Commission in
6 connection with the utility's filing regarding the energy
7 efficiency measures that the utility implements.

8 A utility providing approved energy efficiency measures in
9 this State shall be permitted to recover costs of those
10 measures through an automatic adjustment clause tariff filed
11 with and approved by the Commission. The tariff shall be
12 established outside the context of a general rate case and
13 shall be applicable to the utility's customers other than the
14 customers described in subsection (m) of this section. Each
15 year the Commission shall initiate a review to reconcile any
16 amounts collected with the actual costs and to determine the
17 required adjustment to the annual tariff factor to match annual
18 expenditures.

19 Each utility shall include, in its recovery of costs, the
20 costs estimated for both the utility's and the Department's
21 implementation of energy efficiency measures. Costs collected
22 by the utility for measures implemented by the Department shall
23 be submitted to the Department pursuant to Section 605-323 of
24 the Civil Administrative Code of Illinois and shall be used by
25 the Department solely for the purpose of implementing these
26 measures. A utility shall not be required to advance any moneys

1 to the Department but only to forward such funds as it has
2 collected. The Department shall report to the Commission on an
3 annual basis regarding the costs actually incurred by the
4 Department in the implementation of the measures. Any changes
5 to the costs of energy efficiency measures as a result of plan
6 modifications shall be appropriately reflected in amounts
7 recovered by the utility and turned over to the Department.

8 The portfolio of measures, administered by both the
9 utilities and the Department, shall, in combination, be
10 designed to achieve the annual energy savings requirements set
11 forth in subsection (c) of this Section, as modified by
12 subsection (d) of this Section.

13 The utility and the Department shall agree upon a
14 reasonable portfolio of measures and determine the measurable
15 corresponding percentage of the savings goals associated with
16 measures implemented by the Department.

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

26 If the Department is unable to meet performance

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

12 (f) No later than October 1, 2010, each gas utility shall
13 file an energy efficiency plan with the Commission to meet the
14 energy efficiency standards through May 31, 2014. Every 3 years
15 thereafter, each utility shall file, no later than October 1,
16 an energy efficiency plan with the Commission. If a utility
17 does not file such a plan by October 1 of the applicable year,
18 then it shall face a penalty of \$100,000 per day until the plan
19 is filed. Each utility's plan shall set forth the utility's
20 proposals to meet the utility's portion of the energy
21 efficiency standards identified in subsection (c) of this
22 Section, as modified by subsection (d) of this Section, taking
23 into account the unique circumstances of the utility's service
24 territory. The Commission shall seek public comment on the
25 utility's plan and shall issue an order approving or
26 disapproving each plan. If the Commission disapproves a plan,

1 the Commission shall, within 30 days, describe in detail the
2 reasons for the disapproval and describe a path by which the
3 utility may file a revised draft of the plan to address the
4 Commission's concerns satisfactorily. If the utility does not
5 refile with the Commission within 60 days after the
6 disapproval, the utility shall be subject to penalties at a
7 rate of \$100,000 per day until the plan is filed. This process
8 shall continue, and penalties shall accrue, until the utility
9 has successfully filed a portfolio of energy efficiency
10 measures. Penalties shall be deposited into the Energy
11 Efficiency Trust Fund and the cost of any such penalties may
12 not be recovered from ratepayers. In submitting proposed energy
13 efficiency plans and funding levels to meet the savings goals
14 adopted by this Act the utility shall:

15 (1) Demonstrate that its proposed energy efficiency
16 measures will achieve the requirements that are identified
17 in subsection (c) of this Section, as modified by
18 subsection (d) of this Section.

19 (2) Present specific proposals to implement new
20 building and appliance standards that have been placed into
21 effect.

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

1 (4) Coordinate with the Department to present a
2 portfolio of energy efficiency measures proportionate to
3 the share of total annual utility revenues in Illinois from
4 households at or below 150% of the poverty level. Such
5 programs shall be targeted to households with incomes at or
6 below 80% of area median income.

7 (5) Demonstrate that its overall portfolio of energy
8 efficiency measures, not including programs covered by
9 item (4) of this subsection (f), are cost-effective using
10 the total resource cost test and represent a diverse cross
11 section of opportunities for customers of all rate classes
12 to participate in the programs.

13 (6) Demonstrate that a gas utility affiliated with an
14 electric utility that is required to comply with Section
15 8-103 of this Act has integrated gas and electric
16 efficiency measures into a single program that reduces
17 program or participant costs and appropriately allocates
18 costs to gas and electric ratepayers. The Department shall
19 integrate all gas and electric programs it delivers in any
20 such utilities' service territories, unless the Department
21 can show that integration is not feasible or appropriate.

22 (7) Include a proposed cost recovery tariff mechanism
23 to fund the proposed energy efficiency measures and to
24 ensure the recovery of the prudently and reasonably
25 incurred costs of Commission approved programs.

26 (8) Provide for quarterly status reports tracking

1 implementation of and expenditures for the utility's
2 portfolio of measures and the Department's portfolio of
3 measures, an annual independent review, and a full
4 independent evaluation of the 3-year results of the
5 performance and the cost-effectiveness of the utility's
6 and Department's portfolios of measures and broader net
7 program impacts and, to the extent practical, for
8 adjustment of the measures on a going forward basis as a
9 result of the evaluations. The resources dedicated to
10 evaluation shall not exceed 3% of portfolio resources in
11 any given 3-year period.

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

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

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

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

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

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

2 For purposes of this Section, (i) a "large gas utility" is
3 a gas utility that on December 31, 2008, served more than
4 1,500,000 gas customers in Illinois; (ii) a "medium gas
5 utility" is a gas utility that on December 31, 2008, served
6 fewer than 1,500,000, but more than 500,000 gas customers in
7 Illinois; and (iii) a "small gas utility" is a gas utility that
8 on December 31, 2008, served fewer than 500,000 and more than
9 100,000 gas customers in Illinois. The costs of this
10 contribution may not be recovered from ratepayers.

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

1 administrator to include inserts in customer bills. The utility
2 may recover reasonable costs associated with any such
3 assistance.

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

7 (k) Not later than January 1, 2012, the Commission shall
8 develop and solicit public comment on a plan to foster
9 statewide coordination and consistency between
10 statutorily-mandated natural gas and electric energy
11 efficiency programs to reduce program or participant costs or
12 to improve program performance. Not later than September 1,
13 2013, the Commission shall issue a report to the General
14 Assembly containing its findings and recommendations.

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

18 (m) Subsections (a) through (k) of this Section do not
19 apply to customers of a natural gas utility that have a North
20 American Industry Classification System Classification code
21 number beginning with the digits 31, 32, or 33 and (i) annual
22 usage in the aggregate of 4 million therms or more within the
23 service territory of the affected gas utility or with aggregate
24 usage of 8 million therms or more in this State and complying
25 with the provisions of item (l) of this subsection (m); or (ii)
26 using natural gas as feedstock and meeting the usage

1 requirements described in item (i) of this subsection (m), to
2 the extent such annual feedstock usage is greater than 60% of
3 the customer's total annual usage of natural gas.

4 (1) Customers described in this subsection (m) of this
5 Section shall apply, on a form approved on or before
6 October 1, 2009 by the Department, to the Department to be
7 designated as a self-directing customer ("SDC") or as an
8 exempt customer using natural gas as a feedstock from which
9 other products are made, including, but not limited to,
10 feedstock for a hydrogen plant, on or before the 1st day of
11 February, 2010. Thereafter, application may be made not
12 less than 6 months before the filing date of the gas
13 utility energy efficiency plan described in subsection (f)
14 of this Section; however, a new customer that commences
15 taking service from a natural gas utility after February 1,
16 2010 may apply to become a SDC or exempt customer up to 30
17 days after beginning service. Such application shall
18 contain the following:

19 (A) the customer's certification that, at the time
20 of its application, it qualifies to be a SDC or exempt
21 customer described in this subsection (m) of this
22 Section;

23 (B) in the case of a SDC, the customer's
24 certification that it has established or will
25 establish by the beginning of the utility's 3-year
26 planning period commencing subsequent to the

1 application, and will maintain for accounting
2 purposes, an energy efficiency reserve account and
3 that the customer will accrue funds in said account to
4 be held for the purpose of funding, in whole or in
5 part, energy efficiency measures of the customer's
6 choosing, which may include, but are not limited to,
7 projects involving combined heat and power systems
8 that use the same energy source both for the generation
9 of electrical or mechanical power and the production of
10 steam or another form of useful thermal energy or the
11 use of combustible gas produced from biomass, or both;

12 (C) in the case of a SDC, the customer's
13 certification that annual funding levels for the
14 energy efficiency reserve account will be equal to 2%
15 of the customer's cost of natural gas, composed of the
16 customer's commodity cost and the delivery service
17 charges paid to the gas utility, or \$150,000, whichever
18 is less;

19 (D) in the case of a SDC, the customer's
20 certification that the required reserve account
21 balance will be capped at 3 years worth of accruals and
22 that the customer may, at its option, make further
23 deposits to the account to the extent such deposit
24 would increase the reserve account balance above the
25 designated cap level;

26 (E) in the case of a SDC, the customer's

1 certification that by October 1 of each year, beginning
2 no sooner than October 1, 2012, the customer will
3 report to the Department information, for the 12-month
4 period ending May 31 of the same year, on all deposits
5 and reductions, if any, to the reserve account during
6 the reporting year, and to the extent deposits to the
7 reserve account in any year are in an amount less than
8 \$150,000, the basis for such reduced deposits; reserve
9 account balances by month; a description of energy
10 efficiency measures undertaken by the customer and
11 paid for in whole or in part with funds from the
12 reserve account; an estimate of the energy saved, or to
13 be saved, by the measure; and that the report shall
14 include a verification by an officer or plant manager
15 of the customer or by a registered professional
16 engineer or certified energy efficiency trade
17 professional that the funds withdrawn from the reserve
18 account were used for the energy efficiency measures;

19 (F) in the case of an exempt customer, the
20 customer's certification of the level of gas usage as
21 feedstock in the customer's operation in a typical year
22 and that it will provide information establishing this
23 level, upon request of the Department;

24 (G) in the case of either an exempt customer or a
25 SDC, the customer's certification that it has provided
26 the gas utility or utilities serving the customer with

1 a copy of the application as filed with the Department;

2 (H) in the case of either an exempt customer or a
3 SDC, certification of the natural gas utility or
4 utilities serving the customer in Illinois including
5 the natural gas utility accounts that are the subject
6 of the application; and

7 (I) in the case of either an exempt customer or a
8 SDC, a verification signed by a plant manager or an
9 authorized corporate officer attesting to the
10 truthfulness and accuracy of the information contained
11 in the application.

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

1 information and identify the information that is missing,
2 and the customer shall provide the missing information
3 within 15 working days after the date of receipt of the
4 Department's notification.

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

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

24 (n) The applicability of this Section to customers
25 described in subsection (m) of this Section is conditioned on
26 the existence of the SDC program. In no event will any

1 provision of this Section apply to such customers after January
2 1, 2020.

3 (220 ILCS 5/8-105 new)

4 Sec. 8-105. Financial assistance; electric and gas
5 utilities.

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

18 (b) The costs of any program offered by a gas utility in
19 2010 or 2011 and by an electric utility in 2011 under this
20 Section, excluding utility information technology costs, shall
21 be reimbursed from the Supplemental Low-Income Energy
22 Assistance Fund established in Section 13 of the Energy
23 Assistance Act. The utility shall submit a bill to the
24 Department of Commerce and Economic Opportunity which shall be
25 promptly paid out of such funds or may net such costs against

1 monies it would otherwise remit to the Fund. In furtherance of
2 these programs, the utilities have committed to make a
3 contribution to the Fund, as described in subsection (b) of
4 Section 13 of the Energy Assistance Act. The utility shall
5 provide a report to the Commission on a quarterly basis
6 accounting for monies reimbursed or netted through the Fund.
7 Nothing in this Section shall preclude a utility from
8 recovering prudently incurred information technology costs
9 associated with these programs in rates.

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

11 (220 ILCS 5/9-201) (from Ch. 111 2/3, par. 9-201)

12 Sec. 9-201. (a) Unless the Commission otherwise orders, and
13 except as otherwise provided in this Section, no change shall
14 be made by any public utility in any rate or other charge or
15 classification, or in any rule, regulation, practice or
16 contract relating to or affecting any rate or other charge,
17 classification or service, or in any privilege or facility,
18 except after 45 days' notice to the Commission and to the
19 public as herein provided. Such notice shall be given by filing
20 with the Commission and keeping open for public inspection new
21 schedules or supplements stating plainly the change or changes
22 to be made in the schedule or schedules then in force, and the
23 time when the change or changes will go into effect, and by
24 publication in a newspaper of general circulation or such other
25 notice to persons affected by such change as may be prescribed

1 by rule of the Commission. The Commission, for good cause
2 shown, may allow changes without requiring the 45 days' notice
3 herein provided for, by an order specifying the changes so to
4 be made and the time when they shall take effect and the manner
5 in which they shall be filed and published.

6 When any change is proposed in any rate or other charge, or
7 classification, or in any rule, regulation, practice, or
8 contract relating to or affecting any rate or other charge,
9 classification or service, or in any privilege or facility,
10 such proposed change shall be plainly indicated on the new
11 schedule filed with the Commission, by some character to be
12 designated by the Commission, immediately preceding or
13 following the item.

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

25 (b) Whenever there shall be filed with the Commission any
26 schedule stating an individual or joint rate or other charge,

1 classification, contract, practice, rule or regulation, the
2 Commission shall have power, and it is hereby given authority,
3 either upon complaint or upon its own initiative without
4 complaint, at once, and if it so orders, without answer or
5 other formal pleadings by the interested public utility or
6 utilities, but upon reasonable notice, to enter upon a hearing
7 concerning the propriety of such rate or other charge,
8 classification, contract, practice, rule or regulation, and
9 pending the hearing and decision thereon, such rate or other
10 charge, classification, contract, practice, rule or regulation
11 shall not go into effect. The period of suspension of such rate
12 or other charge, classification, contract, practice, rule or
13 regulation shall not extend more than 105 days beyond the time
14 when such rate or other charge, classification, contract,
15 practice, rule or regulation would otherwise go into effect
16 unless the Commission, in its discretion, extends the period of
17 suspension for a further period not exceeding 6 months.

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

1 Within 30 days after such changes have been authorized by
2 the Commission, copies of the new or revised schedules shall be
3 posted or filed in accordance with the terms of Section 9-103
4 of this Act, in such a manner that all changes shall be plainly
5 indicated. The Commission shall incorporate into the period of
6 suspension a review period of 4 business days during which the
7 Commission may review and determine whether the new or revised
8 schedules comply with the Commission's decision approving a
9 change to the public utility's rates. Such review period shall
10 not extend the suspension period by more than 2 days. Absent
11 notification to the contrary within the 4 business day period,
12 the new or revised schedules shall be deemed approved.

13 (c) If the Commission enters upon a hearing concerning the
14 propriety of any proposed rate or other charge, classification,
15 contract, practice, rule or regulation, the Commission shall
16 establish the rates or other charges, classifications,
17 contracts, practices, rules or regulations proposed, in whole
18 or in part, or others in lieu thereof, which it shall find to
19 be just and reasonable. In such hearing, the burden of proof to
20 establish the justness and reasonableness of the proposed rates
21 or other charges, classifications, contracts, practices, rules
22 or regulations, in whole and in part, shall be upon the
23 utility. The utility, the staff of the Commission, the Attorney
24 General, or any party to a proceeding initiated under this
25 Section who has been granted intervenor status and submitted a
26 post-hearing brief must be given the opportunity to present

1 oral argument, if requested no later than the date for filing
2 exceptions, on the propriety of any proposed rate or other
3 charge, classification, contract, practice, rule, or
4 regulation. No rate or other charge, classification, contract,
5 practice, rule or regulation shall be found just and reasonable
6 unless it is consistent with Sections of this Article.

7 (d) Except where compliance with Section 8-401 of this Act
8 is of urgent and immediate concern, no representative of a
9 public utility may discuss with a commissioner, commissioner's
10 assistant, or hearing examiner in a non-public setting a
11 planned filing for a general rate increase. If a public utility
12 makes a filing under this Section, then no substantive
13 communication by any such person with a commissioner,
14 commissioner's assistant or hearing examiner concerning the
15 filing is permitted until a notice of hearing has been issued.
16 After the notice of hearing has been issued, the only
17 communications by any such person with a commissioner,
18 commissioner's assistant, or hearing examiner concerning the
19 filing permitted are communications permitted under Section
20 10-103 of this Act. If any such communication does occur, then
21 within 5 days of the docket being initiated all details
22 relating to the communication shall be placed on the public
23 record of the proceeding. The record shall include any
24 materials, whether written, recorded, filmed, or graphic in
25 nature, produced or reproduced on any media, used in connection
26 with the communication. The record shall reflect the names of

1 all persons who transmitted, received, or were otherwise
2 involved in the communication, the duration of the
3 communication, and whether the communication occurred in
4 person or by other means. In the case of an oral communication,
5 the record shall also reflect the location or locations of all
6 persons involved in the communication and, if the communication
7 occurred by telephone, the telephone numbers for the callers
8 and recipients of the communication. A commissioner,
9 commissioner's assistant, or hearing examiner who is involved
10 in any such communication shall be recused from the affected
11 proceeding. The Commission, or any commissioner or hearing
12 examiner presiding over the proceeding shall, in the event of a
13 violation of this Section, take action necessary to ensure that
14 such violation does not prejudice any party or adversely affect
15 the fairness of the proceedings including dismissing the
16 affected proceeding. Nothing in this subsection (d) is intended
17 to preclude otherwise allowable updates on issues that may be
18 indirectly related to a general rate case filing because cost
19 recovery for the underlying activity may be requested. Such
20 updates may include, without limitation, issues related to
21 outages and restoration, credit ratings, security issuances,
22 reliability, Federal Energy Regulatory Commission matters,
23 Federal Communications Commission matters, regional
24 reliability organizations, consumer education, or labor
25 matters, provided that such updates may not include cost
26 recovery in a planned rate case.

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

2 (220 ILCS 5/9-229 new)

3 Sec. 9-229. Consideration of attorney and expert
4 compensation as an expense. The Commission shall specifically
5 assess the justness and reasonableness of any amount expended
6 by a public utility to compensate attorneys or technical
7 experts to prepare and litigate a general rate case filing.
8 This issue shall be expressly addressed in the Commission's
9 final order.

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

11 Sec. 10-102. All meetings of the Commission shall be
12 conducted pursuant to the provisions of the Open Meetings Act.
13 Whenever the Commission holds an open meeting or, pursuant to
14 such Act, closes any meeting, or portion of any meeting, it
15 shall arrange for all discussions, deliberations and meetings
16 ~~so closed~~ to be transcribed verbatim by a ~~stenographer,~~
17 certified court reporter, ~~or similar means.~~ The transcripts may
18 be provided in an electronic format only. The Commission shall
19 review and approve all such transcripts within 30 days of the
20 date of the ~~closed~~ meeting, but at least 10 days prior to the
21 expiration of the time within which an application for
22 rehearing is due in any proceeding that is the subject of the
23 meeting. When and when, in the Commission's ~~its~~ judgment, the
24 exception of the Open Meetings Act relied upon for authorizing

1 the closing of a ~~such~~ meeting, as recorded pursuant to Section
2 2a of the Open Meetings Act, is no longer applicable, such
3 transcripts shall be made available to the public. Any party to
4 a Commission proceeding shall be given access to the transcript
5 of any closed meeting pertaining to such proceeding at least 10
6 days prior to the expiration of the time within which his
7 application for rehearing must be filed, upon the signing of an
8 appropriate protective agreement. Transcripts of open
9 Commission meetings shall be electronically posted in the
10 relevant docket on the same day that the transcript is approved
11 by the Commission.

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

13 (220 ILCS 5/10-103) (from Ch. 111 2/3, par. 10-103)

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

24 The provisions of Section 10-60 of the Illinois
25 Administrative Procedure Act shall apply in full to Commission

1 proceedings, including ratemaking cases, any provision of the
2 Illinois Administrative Procedure Act to the contrary
3 notwithstanding.

4 The provisions of Section 10-60 shall not apply, however,
5 to communications between Commission employees who are engaged
6 in investigatory, prosecutorial or advocacy functions and
7 other parties to the proceeding, provided that such Commission
8 employees are still prohibited from communicating on an ex
9 parte basis, as designated in Section 10-60, directly or
10 indirectly, with members of the Commission, any hearing
11 examiner in the proceeding, or any Commission employee who is
12 or may reasonably be expected to be involved in the decisional
13 process of the proceeding. Any commissioner, hearing examiner,
14 or other person ~~Commission employee~~ who is or may reasonably be
15 expected to be involved in the decisional process of a
16 proceeding, who receives, or who makes or knowingly causes to
17 be made, a communication prohibited by this Section or Section
18 10-60 of the Illinois Administrative Procedure Act as modified
19 by this Section, shall place on the public record of the
20 proceeding (1) any and all such written communications; (2)
21 memoranda stating the substance of any and all such oral
22 communications; and (3) any and all written responses and
23 memoranda stating the substance of any and all oral responses
24 to the materials described in clauses (1) and (2).

25 The Commission, or any commissioner or hearing examiner
26 presiding over the proceeding, shall in the event of a

1 violation of this Section, take whatever action is necessary to
2 ensure that such violation does not prejudice any party or
3 adversely affect the fairness of the proceedings, including
4 dismissing the affected matter.

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

6 (220 ILCS 5/10-110) (from Ch. 111 2/3, par. 10-110)

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

1 order, and may, on application and for good cause shown, extend
2 the time for compliance fixed in its order. A full and complete
3 record shall be preserved of all proceedings had before the
4 Commission, or any member thereof, or any hearing examiner, on
5 any formal hearing had, and all testimony shall be taken down
6 by a stenographer appointed by the Commission, and the parties
7 shall be entitled to be heard in person or by attorney.

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

24 In case of an appeal from any order or decision of the
25 Commission, under the terms of Sections 10-201 and 10-202 of
26 this Act, a transcript of such testimony, together with all

1 exhibits or copies thereof introduced and all information
2 secured by the Commission on its own initiative and considered
3 by it in rendering its order or decision (and required by this
4 Act to be made a part of its records) and of the pleadings,
5 records and proceedings in the case, including transcripts of
6 Commission meetings prepared in accordance with Section 10-102
7 of this Act, shall constitute the record of the Commission:
8 Provided, that on appeal from an order or decision of the
9 Commission, the person or corporation taking the appeal and the
10 Commission may stipulate that a certain question or certain
11 questions alone and a specified portion only of the evidence
12 shall be certified to the court for its judgment, whereupon
13 such stipulation and the question or questions and the evidence
14 therein specified shall constitute the record on appeal.

15 Copies of all official documents and orders filed or
16 deposited according to law in the office of the Commission,
17 certified by the Chairman of the Commission or his or her
18 designee to be true copies of the originals, under the official
19 seal of the Commission, shall be evidence in like manner as the
20 originals.

21 In any matter concerning which the Commission is authorized
22 to hold a hearing, upon complaint or application or upon its
23 own motion, notice shall be given to the public utility and to
24 such other interested persons as the Commission shall deem
25 necessary in the manner provided in Section 10-108, and the
26 hearing shall be conducted in like manner as if complaint had

1 been made to or by the Commission. But nothing in this Act
2 shall be taken to limit or restrict the power of the
3 Commission, summarily, of its own motion, with or without
4 notice, to conduct any investigations or inquiries authorized
5 by this Act, in such manner and by such means as it may deem
6 proper, and to take such action as it may deem necessary in
7 connection therewith. With respect to any rules, regulations,
8 decisions or orders which the Commission is authorized to issue
9 without a hearing, and so issues, any public utility or other
10 person or corporation affected thereby and deeming such rules,
11 regulations, decisions or orders, or any of them, improper,
12 unreasonable or contrary to law, may apply for a hearing
13 thereon, setting forth specifically in such application every
14 ground of objection which the applicant desires to urge against
15 such rule, regulation, decision or order. The Commission may,
16 in its discretion, grant or deny the application, and a
17 hearing, if had, shall be subject to the provisions of this and
18 the preceding Sections.

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

20 (220 ILCS 5/10-111) (from Ch. 111 2/3, par. 10-111)

21 Sec. 10-111. In any hearing, proceeding, investigation or
22 rulemaking conducted by the Commission, the Commission,
23 commissioner or hearing examiner presiding, shall, after the
24 close of evidentiary hearings, prepare a recommended or
25 tentative decision, finding or order including a statement of

1 findings and conclusions and the reasons or basis therefore
2 ~~therefor~~, on all the material issues of fact, law or discretion
3 presented on the record. Such recommended or tentative
4 decision, finding or order shall be served on all parties who
5 shall be entitled to a reasonable opportunity to respond
6 thereto, either in briefs or comments otherwise to be filed or
7 separately. The recommended or tentative decision, finding or
8 order and any responses thereto, shall be included in the
9 record for decision. This Section shall not apply to any
10 hearing, proceeding, or investigation conducted under Section
11 13-515.

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

13 (220 ILCS 5/10-201) (from Ch. 111 2/3, par. 10-201)

14 Sec. 10-201. (a) Jurisdiction. Within 35 days from the date
15 that a copy of the order or decision sought to be reviewed was
16 served upon the party affected by any order or decision of the
17 Commission refusing an application for a rehearing of any rule,
18 regulation, order or decision of the Commission, including any
19 order granting or denying interim rate relief, or within 35
20 days from the date that a copy of the order or decision sought
21 to be reviewed was served upon the party affected by any final
22 order or decision of the Commission upon and after a rehearing
23 of any rule, regulation, order or decision of the Commission,
24 including any order granting or denying interim rate relief,
25 any person or corporation affected by such rule, regulation,

1 order or decision, may appeal to the appellate court of the
2 judicial district in which the subject matter of the hearing is
3 situated, or if the subject matter of the hearing is situated
4 in more than one district, then of any one of such districts,
5 for the purpose of having the reasonableness or lawfulness of
6 the rule, regulation, order or decision inquired into and
7 determined.

8 The court first acquiring jurisdiction of any appeal from
9 any rule, regulation, order or decision shall have and retain
10 jurisdiction of such appeal and of all further appeals from the
11 same rule, regulation, order or decision until such appeal is
12 disposed of in such appellate court.

13 (b) Pleadings and Record. No proceeding to contest any
14 rule, regulation, decision or order which the Commission is
15 authorized to issue without a hearing and has so issued shall
16 be brought in any court unless application shall have been
17 first made to the Commission for a hearing thereon and until
18 after such application has been acted upon by the Commission,
19 nor shall any person or corporation in any court urge or rely
20 upon any grounds not set forth in such application for a
21 hearing before the Commission, but the Commission shall decide
22 the questions presented by the application with all possible
23 expedition consistent with the duties of the Commission. The
24 party taking such an appeal shall file with the Commission
25 written notice of the appeal. The Commission, upon the filing
26 of such notice of appeal, shall, within 5 days thereafter, file

1 with the clerk of the appellate court to which such appeal is
2 taken a certified copy of the order appealed. The ~~from and~~
3 ~~within 20 days thereafter the party appealing shall furnish to~~
4 ~~the~~ Commission shall prepare either a copy of the transcript of
5 the evidence, including exhibits and transcripts of Commission
6 meetings prepared in accordance with Section 10-102 of this
7 Act, or any portion of the record designated in ~~enter into~~ a
8 stipulation that only certain questions are involved on appeal,
9 which ~~transcript or~~ stipulation is to be included in the record
10 provided for in Section 10-110. The Commission shall certify
11 the record and file the same with the clerk of the appellate
12 court to which such appeal is taken within 35 ~~45~~ days of the
13 filing of the notice of appeal ~~being furnished the transcript~~
14 ~~or stipulation~~. The party serving such notice of appeal shall,
15 within 5 days after the service of such notice upon the
16 Commission, file a copy of the notice, with proof of service,
17 with the clerk of the court to which such appeal is taken, and
18 thereupon the appellate court shall have jurisdiction over the
19 appeal. The appeal shall be heard according to the rules
20 governing other civil cases, so far as the same are applicable.

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

26 (d) No new or additional evidence may be introduced in any

1 proceeding upon appeal from a rule, regulation, order or
2 decision of the Commission, issued or confirmed after a
3 hearing, but the appeal shall be heard on the record of the
4 Commission as certified by it. The findings and conclusions of
5 the Commission on questions of fact shall be held prima facie
6 to be true and as found by the Commission; rules, regulations,
7 orders or decisions of the Commission shall be held to be prima
8 facie reasonable, and the burden of proof upon all issues
9 raised by the appeal shall be upon the person or corporation
10 appealing from such rules, regulations, orders or decisions.

11 (e) Powers and duties of Reviewing Court:

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

21 (ii) If it appears that the Commission failed to
22 receive evidence properly proffered, on a hearing or a
23 rehearing, or an application therefor, the court shall
24 remand the case, in whole or in part, to the Commission
25 with instructions to receive the testimony so proffered and
26 rejected, and to enter a new order based upon the evidence

1 theretofore taken, and such new evidence as it is directed
2 to receive, unless it shall appear that such new evidence
3 would not be controlling, in which case the court shall so
4 find in its order. If the court remands only part of the
5 Commission's rule, regulation, order or decision, it shall
6 determine without delay the lawfulness and reasonableness
7 of any independent portions of the rule, regulation, order
8 or decision subject to appeal.

9 (iii) If the court determines that the Commission's
10 rule, regulation, order or decision does not contain
11 findings or analysis sufficient to allow an informed
12 judicial review thereof, the court shall remand the rule,
13 regulation, order or decision, in whole or in part, with
14 instructions to the Commission to make the necessary
15 findings or analysis.

16 (iv) The court shall reverse a Commission rule,
17 regulation, order or decision, in whole or in part, if it
18 finds that:

19 A. The findings of the Commission are not supported
20 by substantial evidence based on the entire record of
21 evidence presented to or before the Commission for and
22 against such rule, regulation, order or decision; or

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

25 C. The rule, regulation, order or decision is in
26 violation of the State or federal constitution or laws;

1 or

2 D. The proceedings or manner by which the
3 Commission considered and decided its rule,
4 regulation, order or decision were in violation of the
5 State or federal constitution or laws, to the prejudice
6 of the appellant.

7 (v) The court may affirm or reverse the rule,
8 regulation, order or decision of the Commission in whole or
9 in part, or to remand the decision in whole or in part
10 where a hearing has been held before the Commission, and to
11 state the questions requiring further hearings or
12 proceedings and to give such other instructions as may be
13 proper.

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

1 mandate (or within 6 months after the effective date of
2 this amendatory Act of 1988 in the case of a remanded
3 matter pending before it on the effective date of this
4 amendatory Act of 1988), and the Commission shall enter its
5 final order within 5 months after the date the interim
6 order was entered.

7 (f) When no appeal is taken from a rule, regulation, order
8 or decision of the Commission, as herein provided, parties
9 affected by such rule, regulation, order or decision, shall be
10 deemed to have waived the right to have the merits of the
11 controversy reviewed by a court and there shall be no trial of
12 the merits of any controversy in which such rule, regulation,
13 order or decision was made, by any court to which application
14 may be made for the enforcement of the same, or in any other
15 judicial proceedings.

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

17 (220 ILCS 5/16-111.7 new)

18 Sec. 16-111.7. On-bill financing program; electric
19 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, an
4 electric utility serving more than 100,000 customers on January
5 1, 2009 shall offer a Commission-approved on-bill financing
6 program ("program") that allows its eligible retail customers,
7 as that term is defined in Section 16-111.5 of this Act, who
8 own a residential single family home, duplex, or other
9 residential building with 4 or less units, or condominium at
10 which the electric service is being provided (i) to borrow
11 funds from a third party lender in order to purchase electric
12 energy efficiency measures approved under the program for
13 installation in such home or condominium without any required
14 upfront payment and (ii) to pay back such funds over time
15 through the electric utility's bill. Based upon the process
16 described in subsection (b-5) of this Section, small commercial
17 retail customers, as that term is defined in Section 16-102 of
18 this Act, who own the premises at which electric service is
19 being provided may be included in such program. After receiving
20 a request from an electric utility for approval of a proposed
21 program and tariffs pursuant to this Section, the Commission
22 shall render its decision within 120 days. If no decision is
23 rendered within 120 days, then the request shall be deemed to
24 be approved.

25 (b-5) Within 30 days after the effective date of this
26 amendatory Act of the 96th General Assembly, the Commission

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

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

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

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

23 (B) application of the measure to equipment and
24 systems will have estimated electricity savings
25 (determined by rates in effect at the time of
26 purchase), that are sufficient to cover the costs of

1 implementing the measures, including finance charges
2 and any program fees not recovered pursuant to
3 subsection (f) of this Section. To assist the electric
4 utility in identifying or approving measures, the
5 utility may consult with the Department of Commerce and
6 Economic Opportunity, as well as with retailers,
7 technicians, and installers of electric energy
8 efficiency measures and energy auditors (collectively
9 "vendors").

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

19 (3) The utility shall work with the lenders selected
20 pursuant to the RFP process, and with vendors, to establish
21 the terms and processes pursuant to which a participant can
22 purchase eligible electric energy efficiency measures
23 using the financing obtained from the lender. The vendor
24 shall explain and offer the approved financing packaging to
25 those customers identified in subsection (b) of this
26 Section and shall assist customers in applying for

1 financing. As part of the process, vendors shall also
2 provide to participants information about any other
3 incentives that may be available for the measures.

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

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

1 as appropriate, small commercial electric service.

2 (6) The electric utility shall remit payment in full to
3 the lender each month on behalf of the participant. In the
4 event a participant defaults on payment of its electric
5 utility bill, the electric utility shall continue to remit
6 all payments due under the program to the lender, and the
7 utility shall be entitled to recover all costs related to a
8 participant's nonpayment through the automatic adjustment
9 clause tariff established pursuant to Section 16-111.8 of
10 this Act. In addition, the electric utility shall retain a
11 security interest in the measure or measures purchased
12 under the program, and the utility retains its right to
13 disconnect a participant that defaults on the payment of
14 its utility bill.

15 (7) The total outstanding amount financed under the
16 program shall not exceed \$2.5 million for an electric
17 utility or electric utilities under a single holding
18 company, provided that the electric utility or electric
19 utilities may petition the Commission for an increase in
20 such amount.

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

23 (1) guidelines for financing of measures installed
24 under a program, including, but not limited to, RFP
25 criteria and limits on both individual loan amounts and the
26 duration of the loans;

1 (2) criteria and standards for identifying and
2 approving measures;

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

6 (4) sample contracts and agreements necessary to
7 implement the measures and program; and

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

12 (e) The proposed program submitted by each electric utility
13 shall be consistent with the provisions of this Section that
14 define operational, financial and billing arrangements between
15 and among program participants, vendors, lenders, and the
16 electric utility.

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

26 (g) An independent evaluation of a program shall be

1 conducted after 3 years of the program's operation. The
2 electric utility shall retain an independent evaluator who
3 shall evaluate the effects of the measures installed under the
4 program and the overall operation of the program, including but
5 not limited to customer eligibility criteria and whether the
6 payment obligation for permanent electric energy efficiency
7 measures that will continue to provide benefits of energy
8 savings should attach to the meter location. As part of the
9 evaluation process, the evaluator shall also solicit feedback
10 from participants and interested stakeholders. The evaluator
11 shall issue a report to the Commission on its findings no later
12 than 4 years after the date on which the program commenced, and
13 the Commission shall issue a report to the Governor and General
14 Assembly including a summary of the information described in
15 this Section as well as its recommendations as to whether the
16 program should be discontinued, continued with modification or
17 modifications or continued without modification, provided that
18 any recommended modifications shall only apply prospectively
19 and to measures not yet installed or financed.

20 (h) An electric utility offering a Commission-approved
21 program pursuant to this Section shall not be required to
22 comply with any other statute, order, rule, or regulation of
23 this State that may relate to the offering of such program,
24 provided that nothing in this Section is intended to limit the
25 electric utility's obligation to comply with this Act and the
26 Commission's orders, rules, and regulations, including Part

1 280 of Title 83 of the Illinois Administrative Code.

2 (i) The source of a utility customer's electric supply
3 shall not disqualify a customer from participation in the
4 utility's on-bill financing program. Customers of alternative
5 retail electric suppliers may participate in the program under
6 the same terms and conditions applicable to the utility's
7 supply customers.

8 (220 ILCS 5/16-111.8 new)

9 Sec. 16-111.8. Automatic adjustment clause tariff;
10 uncollectibles.

11 (a) An electric utility shall be permitted, at its
12 election, to recover through an automatic adjustment clause
13 tariff the incremental difference between its actual
14 uncollectible amount as set forth in Account 904 in the
15 utility's most recent annual FERC Form 1 and the uncollectible
16 amount included in the utility's rates for the period reported
17 in such annual FERC Form 1. The Commission may, in a proceeding
18 to review a general rate case filed subsequent to the effective
19 date of the tariff established under this Section,
20 prospectively switch from using the actual uncollectible
21 amount set forth in Account 904 to using net write-offs in such
22 tariff, but only if net write-offs are also used to determine
23 the utility's uncollectible amount in rates. In the event the
24 Commission requires such a change, it shall be made effective
25 at the beginning of the first full calendar year after the new

1 rates approved in such proceeding are first placed in effect
2 and an adjustment shall be made, if necessary, to ensure the
3 change does not result in double-recovery or unrecovered
4 uncollectible amounts for any year. For purposes of this
5 Section, "uncollectible amount" means the expense set forth in
6 Account 904 of the utility's FERC Form 1 or cost of net
7 write-offs as appropriate. In the event the utility's rates
8 change during the period of time reported in its most recent
9 annual FERC Form 1, the uncollectible amount included in the
10 utility's rates during such period of time for purposes of this
11 Section will be a weighted average, based on revenues earned
12 during such period by the utility under each set of rates, of
13 the uncollectible amount included in the utility's rates at the
14 beginning of such period and at the end of such period. This
15 difference may either be a charge or a credit to customers
16 depending on whether the uncollectible amount is more or less
17 than the uncollectible amount then included in the utility's
18 rates.

19 (b) The tariff may be established outside the context of a
20 general rate case filing and shall specify the terms of any
21 applicable audit. The Commission shall review and by order
22 approve, or approve as modified, the proposed tariff within 180
23 days after the date on which it is filed. Charges and credits
24 under the tariff shall be allocated to the appropriate customer
25 class or classes. In addition, customers who purchase their
26 electric supply from an alternative retail electric supplier

1 shall not be charged by the utility for uncollectible amounts
2 associated with electric supply provided by the utility to the
3 utility's customers, provided that nothing in this Section is
4 intended to affect or alter the rights and obligations imposed
5 pursuant to Section 16-118 of this Act and any Commission order
6 issued thereunder. Upon approval of the tariff, the utility
7 shall, based on the 2008 FERC Form 1, apply the appropriate
8 credit or charge based on the full year 2008 amounts for the
9 remainder of the 2010 calendar year. Starting with the 2009
10 FERC Form 1 reporting period and each subsequent period, the
11 utility shall apply the appropriate credit or charge over a
12 12-month period beginning with the June billing period and
13 ending with the May billing period, with the first such billing
14 period beginning June 2010.

15 (c) The approved tariff shall provide that the utility
16 shall file a petition with the Commission annually, no later
17 than August 31st, seeking initiation of an annual review to
18 reconcile all amounts collected with the actual uncollectible
19 amount in the prior period. As part of its review, the
20 Commission shall verify that the utility collects no more and
21 no less than its actual uncollectible amount in each applicable
22 FERC Form 1 reporting period. The Commission shall review the
23 prudence and reasonableness of the utility's actions to pursue
24 minimization and collection of uncollectibles which shall
25 include, at a minimum, the 6 enumerated criteria set forth in
26 this Section. The Commission shall determine any required

1 adjustments and may include suggestions for prospective
2 changes in current practices. Nothing in this Section or the
3 implementing tariffs shall affect or alter the electric
4 utility's existing obligation to pursue collection of
5 uncollectibles or the electric utility's right to disconnect
6 service. A utility that has in effect a tariff authorized by
7 this Section shall pursue minimization of and collection of
8 uncollectibles through the following activities, including,
9 but not limited to:

10 (1) identifying customers with late payments;

11 (2) contacting the customers in an effort to obtain
12 payment;

13 (3) providing delinquent customers with information
14 about possible options, including payment plans and
15 assistance programs;

16 (4) serving disconnection notices;

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

19 (6) pursuing collection activities based on the level
20 of uncollectibles.

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

23 (220 ILCS 5/16-115D new)

24 Sec. 16-115D. Renewable portfolio standard for alternative
25 retail electric suppliers and electric utilities operating

1 outside their service territories.

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

6 (1) The definition of renewable energy resources
7 contained in Section 1-10 of the Illinois Power Agency Act
8 applies to all renewable energy resources required to be
9 procured by alternative retail electric suppliers.

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

18 (3) The quantity of renewable energy resources shall be
19 in amounts at least equal to the annual percentages set
20 forth in item (1) of subsection (c) of Section 1-75 of the
21 Illinois Power Agency Act. At least 60% of the renewable
22 energy resources procured pursuant to items (1) through (3)
23 of subsection (b) of this Section shall come from wind
24 generation and, starting June 1, 2015, at least 6% of the
25 renewable energy resources procured pursuant to items (1)
26 through (3) of subsection (b) of this Section shall come

1 from solar photovoltaics. If, in any given year, an
2 alternative retail electric supplier does not purchase at
3 least these levels of renewable energy resources, then the
4 alternative retail electric supplier shall make
5 alternative compliance payments, as described in
6 subsection (d) of this Section.

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

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

3 (6) The required procurement of renewable energy
4 resources by an alternative retail electric supplier shall
5 apply to all metered electricity delivered to Illinois
6 retail customers by the alternative retail electric
7 supplier pursuant to contracts executed or extended after
8 March 15, 2009.

9 (b) An alternative retail electric supplier shall comply
10 with the renewable energy portfolio standards by making an
11 alternative compliance payment, as described in subsection (d)
12 of this Section, to cover at least one-half of the alternative
13 retail electric supplier's compliance obligation and any one or
14 combination of the following means to cover the remainder of
15 the alternative retail electric supplier's compliance
16 obligation:

17 (1) Generating electricity using renewable energy
18 resources identified pursuant to item (4) of subsection (a)
19 of this Section.

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

23 (3) Purchasing renewable energy credits from renewable
24 energy resources identified pursuant to item (4) of
25 subsection (a) of this Section.

26 (4) Making an alternative compliance payment as

1 described in subsection (d) of this Section.

2 (c) Use of renewable energy credits.

3 (1) Renewable energy credits that are not used by an
4 alternative retail electric supplier to comply with a
5 renewable portfolio standard in a compliance year may be
6 banked and carried forward up to 2 12-month compliance
7 periods after the compliance period in which the credit was
8 generated for the purpose of complying with a renewable
9 portfolio standard in those 2 subsequent compliance
10 periods. For the 2009-2010 and 2010-2011 compliance
11 periods, an alternative retail electric supplier may use
12 renewable credits generated after December 31, 2008 and
13 before June 1, 2009 to comply with this Section.

14 (2) An alternative retail electric supplier is
15 responsible for demonstrating that a renewable energy
16 credit used to comply with a renewable portfolio standard
17 is derived from a renewable energy resource and that the
18 alternative retail electric supplier has not used, traded,
19 sold, or otherwise transferred the credit.

20 (3) The same renewable energy credit may be used by an
21 alternative retail electric supplier to comply with a
22 federal renewable portfolio standard and a renewable
23 portfolio standard established under this Act. An
24 alternative retail electric supplier that uses a renewable
25 energy credit to comply with a renewable portfolio standard
26 imposed by any other state may not use the same credit to

1 comply with a renewable portfolio standard established
2 under this Act.

3 (d) Alternative compliance payments.

4 (1) The Commission shall establish and post on its
5 website, within 5 business days after entering an order
6 approving a procurement plan pursuant to Section 1-75 of
7 the Illinois Power Agency Act, maximum alternative
8 compliance payment rates, expressed on a per kilowatt-hour
9 basis, that will be applicable in the first compliance
10 period following the plan approval. A separate maximum
11 alternative compliance payment rate shall be established
12 for the service territory of each electric utility that is
13 subject to subsection (c) of Section 1-75 of the Illinois
14 Power Agency Act. Each maximum alternative compliance
15 payment rate shall be equal to the maximum allowable annual
16 estimated average net increase due to the costs of the
17 utility's purchase of renewable energy resources included
18 in the amounts paid by eligible retail customers in
19 connection with electric service, as described in item (2)
20 of subsection (c) of Section 1-75 of the Illinois Power
21 Agency Act for the compliance period, and as established in
22 the approved procurement plan. Following each procurement
23 event through which renewable energy resources are
24 purchased for one or more of these utilities for the
25 compliance period, the Commission shall establish and post
26 on its website estimates of the alternative compliance

1 payment rates, expressed on a per kilowatt-hour basis, that
2 shall apply for that compliance period. Posting of the
3 estimates shall occur no later than 10 business days
4 following the procurement event, however, the Commission
5 shall not be required to establish and post such estimates
6 more often than once per calendar month. By July 1 of each
7 year, the Commission shall establish and post on its
8 website the actual alternative compliance payment rates
9 for the preceding compliance year. Each alternative
10 compliance payment rate shall be equal to the total amount
11 of dollars for which the utility contracted to spend on
12 renewable resources for the compliance period divided by
13 the forecasted load of eligible retail customers, at the
14 customers' meters, as previously established in the
15 Commission-approved procurement plan for that compliance
16 year. The actual alternative compliance payment rates may
17 not exceed the maximum alternative compliance payment
18 rates established for the compliance period. For purposes
19 of this subsection (d), the term "eligible retail
20 customers" has the same meaning as found in Section
21 16-111.5 of this Act.

22 (2) In any given compliance year, an alternative retail
23 electric supplier may elect to use alternative compliance
24 payments to comply with all or a part of the applicable
25 renewable portfolio standard. In the event that an
26 alternative retail electric supplier elects to make

1 alternative compliance payments to comply with all or a
2 part of the applicable renewable portfolio standard, such
3 payments shall be made by September 1, 2010 for the period
4 of June 1, 2009 to May 1, 2010 and by September 1 of each
5 year thereafter for the subsequent compliance period, in
6 the manner and form as determined by the Commission. Any
7 election by an alternative retail electric supplier to use
8 alternative compliance payments is subject to review by the
9 Commission under subsection (e) of this Section.

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

1 to comply with the requirements of this Section within the
2 service territory to the product of the percentage of
3 renewable energy resources required under item (3) of
4 subsection (a) of this Section and the actual amount of
5 metered electricity delivered by the alternative retail
6 electric supplier to retail customers within the service
7 territory during the compliance period.

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

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

25 (e) Each alternative retail electric supplier shall, by
26 September 1, 2010 and by September 1 of each year thereafter,

1 prepare and submit to the Commission a report, in a format to
2 be specified by the Commission on or before December 31, 2009,
3 that provides information certifying compliance by the
4 alternative retail electric supplier with this Section,
5 including copies of all PJM-GATS and M-RETS reports, and
6 documentation relating to banking, retiring renewable energy
7 credits, and any other information that the Commission
8 determines necessary to ensure compliance with this Section. An
9 alternative retail electric supplier may file commercially or
10 financially sensitive information or trade secrets with the
11 Commission as provided under the rules of the Commission. To be
12 filed confidentially, the information shall be accompanied by
13 an affidavit that sets forth both the reasons for the
14 confidentiality and a public synopsis of the information.

15 (f) The Commission may initiate a contested case to review
16 allegations that the alternative retail electric supplier has
17 violated this Section, including an order issued or rule
18 promulgated under this Section. In any such proceeding, the
19 alternative retail electric supplier shall have the burden of
20 proof. If the Commission finds, after notice and hearing, that
21 an alternative retail electric supplier has violated this
22 Section, then the Commission shall issue an order requiring the
23 alternative retail electric supplier to:

24 (1) immediately comply with this Section; and

25 (2) if the violation involves a failure to procure the
26 requisite quantity of renewable energy resources or pay the

1 applicable alternative compliance payment by the annual
2 deadline, the Commission shall require the alternative retail
3 electric supplier to double the applicable alternative
4 compliance payment that would otherwise be required to bring
5 the alternative retail electric supplier into compliance with
6 this Section.

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

17 (g) All of the provisions of this Section apply to electric
18 utilities operating outside their service area except under
19 item (2) of subsection (a) of this Section the quantity of
20 renewable energy resources shall be measured as a percentage of
21 the actual amount of electricity (megawatt-hours) supplied in
22 the State outside of the utility's service territory during the
23 12-month period June 1 through May 31, commencing June 1, 2009,
24 and the comparable 12-month period in each year thereafter
25 except as provided in item (6) of subsection (a) of this
26 Section.

1 If any such utility fails to procure the requisite quantity
2 of renewable energy resources by the annual deadline, then the
3 Commission shall require the utility to double the alternative
4 compliance payment that would otherwise be required to bring
5 the utility into compliance with this Section.

6 If any such utility fails to comply with the renewable
7 energy resource portfolio requirement in this Section more than
8 once in a 5-year period, then the Commission shall order the
9 utility to cease all sales outside of the utility's service
10 territory for a period of at least one year.

11 (h) The provisions of this Section and the provisions of
12 subsection (d) of Section 16-115 of this Act relating to
13 procurement of renewable energy resources shall not apply to an
14 Alternative Retail Electric Supplier that operates a combined
15 heat and power system in this State or that has a corporate
16 affiliate that operates such a combined heat and power system
17 in this State that supplies electricity primarily to or for the
18 benefit of: (i) facilities owned by the supplier, its
19 subsidiary, or other corporate affiliate; (ii) facilities
20 electrically integrated with the electrical system of
21 facilities owned by the supplier, its subsidiary, or other
22 corporate affiliate; or (iii) facilities that are adjacent to
23 the site on which the combined heat and power system is
24 located.

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

2 (a) The Illinois General Assembly finds that Illinois homes
3 and businesses have the potential to save energy through
4 conservation and cost-effective energy efficiency measures.
5 Programs created pursuant to this Section will allow utility
6 customers to purchase cost-effective energy efficiency
7 measures with no required initial upfront payment, and to pay
8 the cost of those products and services over time on their
9 utility bill.

10 (b) Notwithstanding any other provision of this Act, a gas
11 utility serving more than 100,000 customers on January 1, 2009
12 shall offer a Commission-approved on-bill financing program
13 ("program") that allows its retail customers who own a
14 residential single family home, duplex, or other residential
15 building with 4 or less units, or condominium at which the gas
16 service is being provided (i) to borrow funds from a third
17 party lender in order to purchase gas energy efficiency
18 measures approved under the program for installation in such
19 home or condominium without any required upfront payment and
20 (ii) to pay back such funds over time through the gas utility's
21 bill. Based upon the process described in subsection (b-5) of
22 this Section, small commercial retail customers, as that term
23 is defined in Section 19-105 of this Act, who own the premises
24 at which gas service is being provided may be included in such
25 program. After receiving a request from a gas utility for
26 approval of a proposed program and tariffs pursuant to this

1 Section, the Commission shall render its decision within 120
2 days. If no decision is rendered within 120 days, then the
3 request shall be deemed to be approved.

4 (b-5) Within 30 days after the effective date of this
5 amendatory Act of the 96th General Assembly, the Commission
6 shall convene a workshop process during which interested
7 participants may discuss issues related to the program,
8 including program design, eligible gas energy efficiency
9 measures, vendor qualifications, and a methodology for
10 ensuring ongoing compliance with such qualifications,
11 financing, sample documents such as request for proposals,
12 contracts and agreements, dispute resolution, pre-installment
13 and post-installment verification, and evaluation. The
14 workshop process shall be completed within 150 days after the
15 effective date of this amendatory Act of the 96th General
16 Assembly.

17 (c) Not later than 60 days following completion of the
18 workshop process described in subsection (b-5) of this Section,
19 each gas utility subject to subsection (b) of this Section
20 shall submit a proposed program to the Commission that contains
21 the following components:

22 (1) A list of recommended gas energy efficiency
23 measures that will be eligible for on-bill financing. An
24 eligible gas energy efficiency measure ("measure") shall
25 be defined by the following:

26 (A) The measure would be applied to or replace gas

1 energy-using equipment; and

2 (B) Application of the measure to equipment and
3 systems will have estimated gas savings (determined by
4 rates in effect at the time of purchase), that are
5 sufficient to cover the costs of implementing the
6 measures, including finance charges and any program
7 fees not recovered pursuant to subsection (f) of this
8 Section. To assist the gas utility in identifying or
9 approving measures, the utility may consult with the
10 Department of Commerce and Economic Opportunity, as
11 well as with retailers, technicians and installers of
12 gas energy efficiency measures and energy auditors
13 (collectively "vendors").

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

22 (3) The utility shall work with the lenders selected
23 pursuant to the RFP process, and with vendors, to establish
24 the terms and processes pursuant to which a participant can
25 purchase eligible gas energy efficiency measures using the
26 financing obtained from the lender. The vendor shall

1 explain and offer the approved financing packaging to those
2 customers identified in subsection (b) of this Section and
3 shall assist customers in applying for financing. As part
4 of such process, vendors shall also provide to participants
5 information about any other incentives that may be
6 available for the measures.

7 (4) The lender shall conduct credit checks or undertake
8 other appropriate measures to limit credit risk, and shall
9 review and approve or deny financing applications
10 submitted by customers identified in subsection (b) of this
11 Section. Following the lender's approval of financing and
12 the participant's purchase of the measure or measures, the
13 lender shall forward payment information to the gas
14 utility, and the utility shall add as a separate line item
15 on the participant's utility bill a charge showing the
16 amount due under the program each month.

17 (5) A loan issued to a participant pursuant to the
18 program shall be the sole responsibility of the
19 participant, and any dispute that may arise concerning the
20 loan's terms, conditions, or charges shall be resolved
21 between the participant and lender. Upon transfer of the
22 property title for the premises at which the participant
23 receives gas service from the utility or the participant's
24 request to terminate service at such premises, the
25 participant shall pay in full its gas utility bill,
26 including all amounts due under the program, provided that

1 this obligation may be modified as provided in subsection
2 (g) of this Section. Amounts due under the program shall be
3 deemed amounts owed for residential and, as appropriate,
4 small commercial gas service.

5 (6) The gas utility shall remit payment in full to the
6 lender each month on behalf of the participant. In the
7 event a participant defaults on payment of its gas utility
8 bill, the gas utility shall continue to remit all payments
9 due under the program to the lender, and the utility shall
10 be entitled to recover all costs related to a participant's
11 nonpayment through the automatic adjustment clause tariff
12 established pursuant to Section 19-145 of this Act. In
13 addition, the gas utility shall retain a security interest
14 in the measure or measures purchased under the program, and
15 the utility retains its right to disconnect a participant
16 that defaults on the payment of its utility bill.

17 (7) The total outstanding amount financed under the
18 program shall not exceed \$2.5 million for a gas utility or
19 gas utilities under a single holding company, provided that
20 the gas utility or gas utilities may petition the
21 Commission for an increase in such amount.

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

24 (1) guidelines for financing of measures installed
25 under a program, including, but not limited to, RFP
26 criteria and limits on both individual loan amounts and the

1 duration of the loans;

2 (2) criteria and standards for identifying and
3 approving measures;

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

7 (4) sample contracts and agreements necessary to
8 implement the measures and program; and

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

13 (e) The proposed program submitted by each gas utility
14 shall be consistent with the provisions of this Section that
15 define operational, financial, and billing arrangements
16 between and among program participants, vendors, lenders, and
17 the gas utility.

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

1 (g) An independent evaluation of a program shall be
2 conducted after 3 years of the program's operation. The gas
3 utility shall retain an independent evaluator who shall
4 evaluate the effects of the measures installed under the
5 program and the overall operation of the program, including,
6 but not limited to, customer eligibility criteria and whether
7 the payment obligation for permanent gas energy efficiency
8 measures that will continue to provide benefits of energy
9 savings should attach to the meter location. As part of the
10 evaluation process, the evaluator shall also solicit feedback
11 from participants and interested stakeholders. The evaluator
12 shall issue a report to the Commission on its findings no later
13 than 4 years after the date on which the program commenced, and
14 the Commission shall issue a report to the Governor and General
15 Assembly including a summary of the information described in
16 this Section as well as its recommendations as to whether the
17 program should be discontinued, continued with modification or
18 modifications or continued without modification, provided that
19 any recommended modifications shall only apply prospectively
20 and to measures not yet installed or financed.

21 (h) A gas utility offering a Commission-approved program
22 pursuant to this Section shall not be required to comply with
23 any other statute, order, rule, or regulation of this State
24 that may relate to the offering of such program, provided that
25 nothing in this Section is intended to limit the gas utility's
26 obligation to comply with this Act and the Commission's orders,

1 rules, and regulations, including Part 280 of Title 83 of the
2 Illinois Administrative Code.

3 (i) The source of a utility customer's gas supply shall not
4 disqualify a customer from participation in the utility's
5 on-bill financing program. Customers of alternative gas
6 suppliers may participate in the program under the same terms
7 and conditions applicable to the utility's supply customers.

8 (220 ILCS 5/19-145 new)

9 Sec. 19-145. Automatic adjustment clause tariff;
10 uncollectibles.

11 (a) A gas utility shall be permitted, at its election, to
12 recover through an automatic adjustment clause tariff the
13 incremental difference between its actual uncollectible amount
14 as set forth in Account 904 in the utility's most recent annual
15 Form 21 ILCC and the uncollectible amount included in the
16 utility's rates for the period reported in such annual Form 21
17 ILCC. The Commission may, in a proceeding to review a general
18 rate case filed subsequent to the effective date of the tariff
19 established under this Section, prospectively switch, from
20 using the actual uncollectible amount set forth in Account 904
21 to using net write-offs in such tariff, but only if net
22 write-offs are also used to determine the utility's
23 uncollectible amount in rates. In the event the Commission
24 requires such a change, it shall be made effective at the
25 beginning of the first full calendar year after the new rates

1 approved in such proceeding are first placed in effect and an
2 adjustment shall be made, if necessary, to ensure the change
3 does not result in double-recovery or unrecovered
4 uncollectible amounts for any year. For purposes of this
5 Section, "uncollectible amount" means the expense set forth in
6 Account 904 of the utility's Form 21 ILCC or cost of net
7 write-offs as appropriate. In the event the utility's rates
8 change during the period of time reported in its most recent
9 annual Form 21 ILCC, the uncollectible amount included in the
10 utility's rates during such period of time for purposes of this
11 Section will be a weighted average, based on revenues earned
12 during such period by the utility under each set of rates, of
13 the uncollectible amount included in the utility's rates at the
14 beginning of such period and at the end of such period. This
15 difference may either be a charge or a credit to customers
16 depending on whether the uncollectible amount is more or less
17 than the uncollectible amount then included in the utility's
18 rates.

19 (b) The tariff may be established outside the context of a
20 general rate case filing, and shall specify the terms of any
21 applicable audit. The Commission shall review and by order
22 approve, or approve as modified, the proposed tariff within 180
23 days after the date on which it is filed. Charges and credits
24 under the tariff shall be allocated to the appropriate customer
25 class or classes. In addition, customers who do not purchase
26 their gas supply from a gas utility shall not be charged by the

1 utility for uncollectible amounts associated with gas supply
2 provided by the utility to the utility's customers. Upon
3 approval of the tariff, the utility shall, based on the 2008
4 Form 21 ILCC, apply the appropriate credit or charge based on
5 the full year 2008 amounts for the remainder of the 2010
6 calendar year. Starting with the 2009 Form 21 ILCC reporting
7 period and each subsequent period, the utility shall apply the
8 appropriate credit or charge over a 12-month period beginning
9 with the June billing period and ending with the May billing
10 period, with the first such billing period beginning June 2010.

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

1 the gas utility's right to disconnect service. A utility that
2 has in effect a tariff authorized by this Section shall pursue
3 minimization of and collection of uncollectibles through the
4 following activities, including but not limited to:

5 (1) identifying customers with late payments;

6 (2) contacting the customers in an effort to obtain
7 payment;

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

11 (4) serving disconnection notices;

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

14 (6) pursuing collection activities based on the level
15 of uncollectibles.

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

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

21 (305 ILCS 20/2) (from Ch. 111 2/3, par. 1402)

22 Sec. 2. Findings and Intent.

23 (a) The General Assembly finds that:

24 (1) the health, welfare, and prosperity of the people

1 of the State of Illinois require that all citizens receive
2 essential levels of heat and electric service regardless of
3 economic circumstance;

4 (2) public utilities and other entities providing such
5 services are entitled to receive proper payment for
6 services actually rendered;

7 (3) variability of declining Federal low income energy
8 assistance funding necessitates a State response to ensure
9 the continuity and the further development of energy
10 assistance and related policies and programs within
11 Illinois; ~~and~~

12 (4) energy assistance policies and programs in effect
13 in Illinois have benefited all Illinois citizens, and
14 should therefore be continued with the modifications
15 provided herein; and -

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

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

3 (1) a comprehensive low income energy assistance
4 policy and program should be established which
5 incorporates income assistance, home weatherization, and
6 other measures to ensure that citizens have access to
7 affordable energy services;

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

11 (3) resources applied in achieving this policy should
12 be coordinated and efficiently utilized through the
13 integration of public programs and through the targeting of
14 assistance; and

15 (4) the State should utilize all appropriate and
16 available means to fund this program and, to the extent
17 possible, should identify and utilize sources of funding
18 which complement State tax revenues.

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

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

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

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

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

3 (c) "energy provider" means any utility, municipal
4 utility, cooperative utility, or any other corporation or
5 individual which provides winter energy services;

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

8 (Source: P.A. 94-773, eff. 5-18-06; 94-793, eff. 5-19-06;
9 95-331, eff. 8-21-07.)

10 (305 ILCS 20/13)

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

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

13 (a) The Supplemental Low-Income Energy Assistance Fund is
14 hereby created as a special fund in the State Treasury. The
15 Supplemental Low-Income Energy Assistance Fund is authorized
16 to receive moneys from voluntary donations from individuals,
17 foundations, corporations, and other sources, moneys received
18 pursuant to Section 17, and, by statutory deposit, the moneys
19 collected pursuant to this Section. The Fund is also authorized
20 to receive voluntary donations from individuals, foundations,
21 corporations, and other sources, as well as contributions made
22 in accordance with Section 507MM of the Illinois Income Tax
23 Act. Subject to appropriation, the Department shall use moneys
24 from the Supplemental Low-Income Energy Assistance Fund for
25 payments to electric or gas public utilities, municipal

1 electric or gas utilities, and electric cooperatives on behalf
2 of their customers who are participants in the program
3 authorized by Sections 4 and 18 ~~Section 4~~ of this Act, for the
4 provision of weatherization services and for administration of
5 the Supplemental Low-Income Energy Assistance Fund. The yearly
6 expenditures for weatherization may not exceed 10% of the
7 amount collected during the year pursuant to this Section. The
8 yearly administrative expenses of the Supplemental Low-Income
9 Energy Assistance Fund may not exceed 10% of the amount
10 collected during that year pursuant to this Section.

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

25 (1) \$0.48 ~~\$0.40~~ per month on each account for
26 residential electric service;

1 (2) \$0.48 ~~\$0.40~~ per month on each account for
2 residential gas service;

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

6 (4) \$4.80 ~~\$4~~ per month on each account for
7 non-residential gas service which had distributed to it
8 less than 4,000,000 therms of gas during the previous
9 calendar year;

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

14 (6) \$360 ~~\$300~~ per month on each account for
15 non-residential gas service which had 4,000,000 or more
16 therms of gas distributed to it during the previous
17 calendar year.

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

23 In addition, electric and gas utilities have committed, and
24 shall contribute, a one-time payment of \$22 million to the
25 Fund, within 10 days after the effective date of the tariffs
26 established pursuant to Sections 16-111.8 and 19-145 of the

1 Public Utilities Act to be used for the Department's cost of
2 implementing the programs described in Section 18 of this
3 amendatory Act of the 96th General Assembly, the Arrearage
4 Reduction Program described in Section 18, and the programs
5 described in Section 8-105 of the Public Utilities Act. If a
6 utility elects not to file a rider within 90 days after the
7 effective date of this amendatory Act of the 96th General
8 Assembly, then the contribution from such utility shall be made
9 no later than February 1, 2010.

10 (c) For purposes of this Section:

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

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

25 (3) "non-residential electric service" means electric
26 utility service which is not residential electric service;

1 and

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

4 (d) Within 30 days after the effective date of this
5 amendatory Act of the 96th General Assembly ~~At least 45 days~~
6 ~~prior to the date on which it must begin assessing Energy~~
7 ~~Assistance Charges~~, each public utility engaged in the delivery
8 of electricity or the distribution of natural gas shall file
9 with the Illinois Commerce Commission tariffs incorporating
10 the Energy Assistance Charge in other charges stated in such
11 tariffs, which shall become effective no later than the
12 beginning of the first billing cycle following such filing.

13 (e) The Energy Assistance Charge assessed by electric and
14 gas public utilities shall be considered a charge for public
15 utility service.

16 (f) By the 20th day of the month following the month in
17 which the charges imposed by the Section were collected, each
18 public utility, municipal utility, and electric cooperative
19 shall remit to the Department of Revenue all moneys received as
20 payment of the Energy Assistance Charge on a return prescribed
21 and furnished by the Department of Revenue showing such
22 information as the Department of Revenue may reasonably
23 require; provided, however, that a utility offering an
24 Arrearage Reduction Program pursuant to Section 18 of this Act
25 shall be entitled to net those amounts necessary to fund and
26 recover the costs of such Program as authorized by that Section

1 that is no more than the incremental change in such Energy
2 Assistance Charge authorized by this amendatory Act of the 96th
3 General Assembly. If a customer makes a partial payment, a
4 public utility, municipal utility, or electric cooperative may
5 elect either: (i) to apply such partial payments first to
6 amounts owed to the utility or cooperative for its services and
7 then to payment for the Energy Assistance Charge or (ii) to
8 apply such partial payments on a pro-rata basis between amounts
9 owed to the utility or cooperative for its services and to
10 payment for the Energy Assistance Charge.

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

20 (h) (Blank).

21 On or before December 31, 2002, the Department shall
22 prepare a report for the General Assembly on the expenditure of
23 funds appropriated from the Low-Income Energy Assistance Block
24 Grant Fund for the program authorized under Section 4 of this
25 Act.

26 (i) The Department of Revenue may establish such rules as

1 it deems necessary to implement this Section.

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

5 (k) The charges imposed by this Section shall only apply to
6 customers of municipal electric or gas utilities and electric
7 or gas cooperatives if the municipal electric or gas utility or
8 electric or gas cooperative makes an affirmative decision to
9 impose the charge. If a municipal electric or gas utility or an
10 electric cooperative makes an affirmative decision to impose
11 the charge provided by this Section, the municipal electric or
12 gas utility or electric cooperative shall inform the Department
13 of Revenue in writing of such decision when it begins to impose
14 the charge. If a municipal electric or gas utility or electric
15 or gas cooperative does not assess this charge, the Department
16 may not use funds from the Supplemental Low-Income Energy
17 Assistance Fund to provide benefits to its customers under the
18 program authorized by Section 4 of this Act.

19 In its use of federal funds under this Act, the Department
20 may not cause a disproportionate share of those federal funds
21 to benefit customers of systems which do not assess the charge
22 provided by this Section.

23 This Section is repealed effective December 31, 2013 unless
24 renewed by action of the General Assembly. The General Assembly
25 shall consider the results of the evaluations described in
26 Section 8 in its deliberations.

1 (Source: P.A. 94-773, eff. 5-18-06; 94-793, eff. 5-19-06;
2 94-817, eff. 5-30-06; 95-48, eff. 8-10-07; 95-331, eff.
3 8-21-07.)

4 (305 ILCS 20/18 new)

5 Sec. 18. Financial assistance; payment plans.

6 (a) The Percentage of Income Payment Plan (PIPP or PIP
7 Plan) is hereby created as a statewide bill payment assistance
8 program for low-income residential customers of utilities
9 servicing more than 100,000 retail customers as of January 1,
10 2009. The PIP Plan will:

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

13 (2) provide incentives for participants to make timely
14 payments;

15 (3) encourage participants to reduce usage and
16 participate in conservation and energy efficiency measures
17 that reduce the customer's bill and payment requirements;
18 and

19 (4) identify participants whose homes are most in need
20 of weatherization.

21 (b) For purposes of this Section:

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

25 (2) "Plan participant" is an eligible participant who

1 is also eligible for the PIPP and who will receive either a
2 percentage of income payment credit under the PIPP criteria
3 set forth in this Act or a benefit pursuant to Section 4 of
4 this Act. Plan participants are a subset of eligible
5 participants.

6 (3) "Pre-program arrears" means the amount a plan
7 participant owes for gas or electric service at the time
8 the participant is determined to be eligible for the PIPP
9 or the program set forth in Section 4 of this Act.

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

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

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

1 (2) The Department shall establish the percentage of
2 income formula to determine the amount of a monthly credit,
3 not to exceed \$150 per month per household, not to exceed
4 \$1,800 annually, that will be applied to PIP Plan
5 participants' utility bills based on the portion of the
6 bill that is the responsibility of the participant provided
7 that the percentage shall be no more than a total of 6% of
8 the relevant income for gas and electric utility bills
9 combined, but in any event no less than \$10 per month,
10 unless the household does not pay directly for heat, in
11 which case its payment shall be 2.4% of income but in any
12 event no less than \$5 per month. The Department may
13 establish a minimum credit amount based on the cost of
14 administering the program and may deny credits to otherwise
15 eligible participants if the cost of administering the
16 credit exceeds the actual amount of any monthly credit to a
17 participant. If the participant takes both gas and electric
18 service, 66.67% of the credit shall be allocated to the
19 entity that provides the participant's primary energy
20 supply for heating. Each participant shall enter into a
21 levelized payment plan for, as applicable, gas and electric
22 service and such plans shall be implemented by the utility
23 so that a participant's usage and required payments are
24 reviewed and adjusted regularly, but no more frequently
25 than quarterly. Nothing in this Section is intended to
26 prohibit a customer, who is otherwise eligible for LIHEAP,

1 from participating in the program described in Section 4 of
2 this Act. Eligible participants who receive such a benefit
3 shall be considered plan participants and shall be eligible
4 to participate in the Arrearage Reduction Program
5 described in item (5) of this subsection (c).

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

20 (4) A plan participant is responsible for all actual
21 charges for utility service in excess of the PIPP credit.
22 Pre-program arrears that are included in the Arrearage
23 Reduction Program described in item (5) of this subsection
24 (c) shall not be included in the calculation of the
25 levelized payment plan. Emergency or crisis assistance
26 payments shall not affect the amount of any PIPP credit to

1 which a participant is entitled.

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

1 for the purpose of funding the ARP, the Department shall
2 remit such amounts to the utilities upon verification that
3 such funds are needed to fund the ARP.

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

8 (7) The Department, in consultation with the Policy
9 Advisory Council, may adjust the number of PIP Plan
10 participants annually, if necessary, to match the
11 availability of funds from LIHEAP.

12 (8) The Department shall fully implement the PIPP at
13 the earliest possible date it is able to effectively
14 administer the PIPP. Within 90 days of the effective date
15 of this amendatory Act of the 96th General Assembly, the
16 Department shall, in consultation with utility companies,
17 participating alternative suppliers, LAAs and the Illinois
18 Commerce Commission (Commission), issue a detailed
19 implementation plan which shall include detailed testing
20 protocols and analysis of the capacity for implementation
21 by the LAAs and utilities. Such consultation process also
22 shall address how to implement the PIPP in the most
23 cost-effective and timely manner, and shall identify
24 opportunities for relying on the expertise of utilities,
25 LAAs and the Commission. Following the implementation of
26 the testing protocols, the Department shall issue a written

1 report on the feasibility of full or gradual
2 implementation. The PIPP shall be fully implemented by
3 September 1, 2011, but may be phased in prior to that date.

4 (9) As part of the screening process established under
5 item (1) of this subsection (c), the Department and LAAs
6 shall assess whether any energy efficiency or demand
7 response measures are available to the plan participant at
8 no cost, and if so, the participant shall enroll in any
9 such program for which he or she is eligible. The LAAs
10 shall assist the participant in the applicable enrollment
11 or application process.

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

1 customers who elect to participate in the program.

2 (d) The Department, in consultation with the Policy
3 Advisory Council, shall develop and implement a program to
4 educate customers about the PIP Plan and about their rights and
5 responsibilities under the percentage of income component. The
6 Department, in consultation with the Policy Advisory Council,
7 shall establish a process that LAAs shall use to contact
8 customers in jeopardy of losing eligibility due to late
9 payments. The Department shall ensure that LAAs are adequately
10 funded to perform all necessary educational tasks.

11 (e) The PIPP shall be administered in a manner which
12 ensures that credits to plan participants will not be counted
13 as income or as a resource in other means-tested assistance
14 programs for low-income households or otherwise result in the
15 loss of federal or state assistance dollars for low-income
16 households.

17 (f) In order to ensure that implementation costs are
18 minimized, the Department and utilities shall work together to
19 identify cost-effective ways to transfer information
20 electronically and to employ available protocols that will
21 minimize their respective administrative costs as follows:

22 (1) The Commission may require utilities to provide
23 such information on customer usage and billing and payment
24 information as required by the Department to implement the
25 PIP Plan and to provide written notices and communications
26 to plan participants.

1 (2) Each utility and participating alternative
2 supplier shall file annual reports with the Department and
3 the Commission that cumulatively summarize and update
4 program information as required by the Commission's rules.
5 The reports shall track implementation costs and contain
6 such information as is necessary to evaluate the success of
7 the PIPP.

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

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

18 Section 95. No acceleration or delay. Where this Act makes
19 changes in a statute that is represented in this Act by text
20 that is not yet or no longer in effect (for example, a Section
21 represented by multiple versions), the use of that text does
22 not accelerate or delay the taking effect of (i) the changes
23 made by this Act or (ii) provisions derived from any other
24 Public Act.

1 Section 97. Inseverability. The provisions of this
2 amendatory Act of the 96th General Assembly are mutually
3 dependent and inseverable. If any provision or its application
4 to any person or circumstance is held invalid, then this entire
5 Act is invalid. It is the further legislative intent that in
6 such event all other Acts shall not be affected and shall
7 continue to be valid.

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.".