



Sen. Don Harmon

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09700HB3036sam001

LRB097 05714 CEL 59004 a

1 AMENDMENT TO HOUSE BILL 3036

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3036 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Findings. The General Assembly finds that:

5 (1) subsection (b-10) of Section 16-108.5 of this  
6 amendatory Act of the 97th General Assembly provides  
7 substantial customer assistance programs for low-income  
8 customers, senior citizens, active members of the armed  
9 services and reserved forces, and disabled veterans;

10 (2) subsection (b) of Section 16-108.5 of this  
11 amendatory Act of the 97th General Assembly provides for  
12 infrastructure improvements designed to reduce outages due  
13 to storms;

14 (3) subsections (f) and (f-5) of Section 16-108.5 of  
15 this amendatory Act of the 97th General Assembly require  
16 improvement in a variety of performance metrics and impose  
17 penalties on the electric utilities for failure to achieve

1 the statutorily set goals;

2 (4) Black & Veatch, a global engineering, consulting  
3 and construction company, performed an independent  
4 evaluation of Commonwealth Edison Company's Advanced  
5 Metering Infrastructure ("AMI") pilot program and  
6 concluded that the cost savings and benefits to ComEd  
7 customers of full AMI deployment are nearly 3 times greater  
8 than the cost to deploy AMI, and further that AMI  
9 deployment is estimated to result in a net savings to ComEd  
10 customers of \$2.8 billion over 20 years; and

11 (5) this amendatory Act of the 97th General Assembly  
12 confers substantial benefits upon the State's electric  
13 utility customers.

14 Section 5. If and only if Senate Bill 1652 of the 97th  
15 General Assembly becomes law, then the Public Utilities Act is  
16 amended by changing Section 16-107.5, 16-108.5, 16-108.6,  
17 16-108.7, and 16-128 as follows:

18 (220 ILCS 5/16-107.5)

19 Sec. 16-107.5. Net electricity metering.

20 (a) The Legislature finds and declares that a program to  
21 provide net electricity metering, as defined in this Section,  
22 for eligible customers can encourage private investment in  
23 renewable energy resources, stimulate economic growth, enhance  
24 the continued diversification of Illinois' energy resource

1 mix, and protect the Illinois environment.

2 (b) As used in this Section, (i) "eligible customer" means  
3 a retail customer that owns or operates a solar, wind, or other  
4 eligible renewable electrical generating facility with a rated  
5 capacity of not more than 2,000 kilowatts that is located on  
6 the customer's premises and is intended primarily to offset the  
7 customer's own electrical requirements; (ii) "electricity  
8 provider" means an electric utility or alternative retail  
9 electric supplier; (iii) "eligible renewable electrical  
10 generating facility" means a generator powered by solar  
11 electric energy, wind, dedicated crops grown for electricity  
12 generation, agricultural residues, untreated and unadulterated  
13 wood waste, landscape trimmings, livestock manure, anaerobic  
14 digestion of livestock or food processing waste, fuel cells or  
15 microturbines powered by renewable fuels, or hydroelectric  
16 energy; and (iv) "net electricity metering" (or "net metering")  
17 means the measurement, during the billing period applicable to  
18 an eligible customer, of the net amount of electricity supplied  
19 by an electricity provider to the customer's premises or  
20 provided to the electricity provider by the customer.

21 (c) A net metering facility shall be equipped with metering  
22 equipment that can measure the flow of electricity in both  
23 directions at the same rate.

24 (1) For eligible customers whose electric service has  
25 not been declared competitive pursuant to Section 16-113 of  
26 this Act and whose electric delivery service is provided

1 and measured on a kilowatt-hour basis and electric supply  
2 service is not provided based on hourly pricing, this shall  
3 typically be accomplished through use of a single,  
4 bi-directional meter. If the eligible customer's existing  
5 electric revenue meter does not meet this requirement, the  
6 electricity provider shall arrange for the local electric  
7 utility or a meter service provider to install and maintain  
8 a new revenue meter at the electricity provider's expense.

9 (2) For eligible customers whose electric service has  
10 not been declared competitive pursuant to Section 16-113 of  
11 this Act and whose electric delivery service is provided  
12 and measured on a kilowatt demand basis and electric supply  
13 service is not provided based on hourly pricing, this shall  
14 typically be accomplished through use of a dual channel  
15 meter capable of measuring the flow of electricity both  
16 into and out of the customer's facility at the same rate  
17 and ratio. If such customer's existing electric revenue  
18 meter does not meet this requirement, then the electricity  
19 provider shall arrange for the local electric utility or a  
20 meter service provider to install and maintain a new  
21 revenue meter at the electricity provider's expense.

22 (3) For all other eligible customers, the electricity  
23 provider may arrange for the local electric utility or a  
24 meter service provider to install and maintain metering  
25 equipment capable of measuring the flow of electricity both  
26 into and out of the customer's facility at the same rate

1 and ratio, typically through the use of a dual channel  
2 meter. If the eligible customer's existing electric  
3 revenue meter does not meet this requirement, then the  
4 costs of installing such equipment shall be paid for by the  
5 customer.

6 (d) An electricity provider shall measure and charge or  
7 credit for the net electricity supplied to eligible customers  
8 or provided by eligible customers whose electric service has  
9 not been declared competitive pursuant to Section 16-113 of the  
10 Act and whose electric delivery service is provided and  
11 measured on a kilowatt-hour basis and electric supply service  
12 is not provided based on hourly pricing in the following  
13 manner:

14 (1) If the amount of electricity used by the customer  
15 during the billing period exceeds the amount of electricity  
16 produced by the customer, the electricity provider shall  
17 charge the customer for the net electricity supplied to and  
18 used by the customer as provided in subsection (e-5) of  
19 this Section.

20 (2) If the amount of electricity produced by a customer  
21 during the billing period exceeds the amount of electricity  
22 used by the customer during that billing period, the  
23 electricity provider supplying that customer shall apply a  
24 1:1 kilowatt-hour credit to a subsequent bill for service  
25 to the customer for the net electricity supplied to the  
26 electricity provider. The electricity provider shall

1 continue to carry over any excess kilowatt-hour credits  
2 earned and apply those credits to subsequent billing  
3 periods to offset any customer-generator consumption in  
4 those billing periods until all credits are used or until  
5 the end of the annualized period.

6 (3) At the end of the year or annualized over the  
7 period that service is supplied by means of net metering,  
8 or in the event that the retail customer terminates service  
9 with the electricity provider prior to the end of the year  
10 or the annualized period, any remaining credits in the  
11 customer's account shall expire.

12 (d-5) An electricity provider shall measure and charge or  
13 credit for the net electricity supplied to eligible customers  
14 or provided by eligible customers whose electric service has  
15 not been declared competitive pursuant to Section 16-113 of  
16 this Act and whose electric delivery service is provided and  
17 measured on a kilowatt-hour basis and electric supply service  
18 is provided based on hourly pricing in the following manner:

19 (1) If the amount of electricity used by the customer  
20 during any hourly period exceeds the amount of electricity  
21 produced by the customer, the electricity provider shall  
22 charge the customer for the net electricity supplied to and  
23 used by the customer according to the terms of the contract  
24 or tariff to which the same customer would be assigned to  
25 or be eligible for if the customer was not a net metering  
26 customer.

1           (2) If the amount of electricity produced by a customer  
2           during any hourly period exceeds the amount of electricity  
3           used by the customer during that hourly period, the energy  
4           provider shall apply a credit for the net kilowatt-hours  
5           produced in such period. The credit shall consist of an  
6           energy credit and a delivery service credit. The energy  
7           credit shall be valued at the same price per kilowatt-hour  
8           as the electric service provider would charge for  
9           kilowatt-hour energy sales during that same hourly period.  
10           The delivery credit shall be equal to the net  
11           kilowatt-hours produced in such hourly period times a  
12           credit that reflects all kilowatt-hour based charges in the  
13           customer's electric service rate, excluding energy  
14           charges.

15           (e) An electricity provider shall measure and charge or  
16           credit for the net electricity supplied to eligible customers  
17           whose electric service has not been declared competitive  
18           pursuant to Section 16-113 of this Act and whose electric  
19           delivery service is provided and measured on a kilowatt demand  
20           basis and electric supply service is not provided based on  
21           hourly pricing in the following manner:

22           (1) If the amount of electricity used by the customer  
23           during the billing period exceeds the amount of electricity  
24           produced by the customer, then the electricity provider  
25           shall charge the customer for the net electricity supplied  
26           to and used by the customer as provided in subsection (e-5)

1 of this Section, provided that the electricity provider  
2 shall assess and the customer remains responsible for all  
3 taxes, fees, and utility delivery charges that would  
4 otherwise be applicable to the gross amount of  
5 kilowatt-hours supplied to the eligible customer by the  
6 electricity provider.

7 (2) If the amount of electricity produced by a customer  
8 during the billing period exceeds the amount of electricity  
9 used by the customer during that billing period, then the  
10 electricity provider supplying that customer shall apply a  
11 1:1 kilowatt-hour credit that reflects the kilowatt-hour  
12 based charges in the customer's electric service rate to a  
13 subsequent bill for service to the customer for the net  
14 electricity supplied to the electricity provider. The  
15 electricity provider shall continue to carry over any  
16 excess kilowatt-hour credits earned and apply those  
17 credits to subsequent billing periods to offset any  
18 customer-generator consumption in those billing periods  
19 until all credits are used or until the end of the  
20 annualized period.

21 (3) At the end of the year or annualized over the  
22 period that service is supplied by means of net metering,  
23 or in the event that the retail customer terminates service  
24 with the electricity provider prior to the end of the year  
25 or the annualized period, any remaining credits in the  
26 customer's account shall expire.



1           (e-5) An electricity provider shall provide electric  
2 service to eligible customers whose electric service has not  
3 been declared competitive pursuant to Section 16-113 of this  
4 Act and whose electric supply service is not provided based on  
5 hourly pricing who utilize net metering at non-discriminatory  
6 rates that are identical, with respect to rate structure,  
7 retail rate components, and any monthly charges, to the rates  
8 that the customer would be charged if not a net metering  
9 customer. An electricity provider shall not charge net metering  
10 customers any fee or charge or require additional equipment,  
11 insurance, or any other requirements not specifically  
12 authorized by interconnection standards authorized by the  
13 Commission, unless the fee, charge, or other requirement would  
14 apply to other similarly situated customers who are not net  
15 metering customers. The customer will remain responsible for  
16 all taxes, fees, and utility delivery charges that would  
17 otherwise be applicable to the net amount of electricity used  
18 by the customer. Subsections (c) through (e) of this Section  
19 shall not be construed to prevent an arms-length agreement  
20 between an electricity provider and an eligible customer that  
21 sets forth different prices, terms, and conditions for the  
22 provision of net metering service, including, but not limited  
23 to, the provision of the appropriate metering equipment for  
24 non-residential customers.

25           (f) Notwithstanding the requirements of subsections (c)  
26 through (e-5) of this Section, an electricity provider must

1 require dual-channel metering for customers operating eligible  
2 renewable electrical generating facilities with a nameplate  
3 rating up to 2,000 kilowatts and to whom the provisions of  
4 neither subsection (d), (d-5), nor (e) of this Section apply.  
5 In such cases, electricity charges and credits shall be  
6 determined as follows:

7 (1) The electricity provider shall assess and the  
8 customer remains responsible for all taxes, fees, and  
9 utility delivery charges that would otherwise be  
10 applicable to the gross amount of kilowatt-hours supplied  
11 to the eligible customer by the electricity provider.

12 (2) Each month that service is supplied by means of  
13 dual-channel metering, the electricity provider shall  
14 compensate the eligible customer for any excess  
15 kilowatt-hour credits at the electricity provider's  
16 avoided cost of electricity supply over the monthly period  
17 or as otherwise specified by the terms of a power-purchase  
18 agreement negotiated between the customer and electricity  
19 provider.

20 (3) For all eligible net metering customers taking  
21 service from an electricity provider under contracts or  
22 tariffs employing time of use rates, any monthly  
23 consumption of electricity shall be calculated according  
24 to the terms of the contract or tariff to which the same  
25 customer would be assigned to or be eligible for if the  
26 customer was not a net metering customer. When those same

1 customer-generators are net generators during any discrete  
2 time of use period, the net kilowatt-hours produced shall  
3 be valued at the same price per kilowatt-hour as the  
4 electric service provider would charge for retail  
5 kilowatt-hour sales during that same time of use period.

6 (g) For purposes of federal and State laws providing  
7 renewable energy credits or greenhouse gas credits, the  
8 eligible customer shall be treated as owning and having title  
9 to the renewable energy attributes, renewable energy credits,  
10 and greenhouse gas emission credits related to any electricity  
11 produced by the qualified generating unit. The electricity  
12 provider may not condition participation in a net metering  
13 program on the signing over of a customer's renewable energy  
14 credits; provided, however, this subsection (g) shall not be  
15 construed to prevent an arms-length agreement between an  
16 electricity provider and an eligible customer that sets forth  
17 the ownership or title of the credits.

18 (h) Within 120 days after the effective date of this  
19 amendatory Act of the 95th General Assembly, the Commission  
20 shall establish standards for net metering and, if the  
21 Commission has not already acted on its own initiative,  
22 standards for the interconnection of eligible renewable  
23 generating equipment to the utility system. The  
24 interconnection standards shall address any procedural  
25 barriers, delays, and administrative costs associated with the  
26 interconnection of customer-generation while ensuring the

1 safety and reliability of the units and the electric utility  
2 system. The Commission shall consider the Institute of  
3 Electrical and Electronics Engineers (IEEE) Standard 1547 and  
4 the issues of (i) reasonable and fair fees and costs, (ii)  
5 clear timelines for major milestones in the interconnection  
6 process, (iii) nondiscriminatory terms of agreement, and (iv)  
7 any best practices for interconnection of distributed  
8 generation.

9 (i) All electricity providers shall begin to offer net  
10 metering no later than April 1, 2008.

11 (j) An electricity provider shall provide net metering to  
12 eligible customers until the load of its net metering customers  
13 equals 5% of the total peak demand supplied by that electricity  
14 provider during the previous year. Electricity providers are  
15 authorized to offer net metering beyond the 5% level if they so  
16 choose.

17 (k) Each electricity provider shall maintain records and  
18 report annually to the Commission the total number of net  
19 metering customers served by the provider, as well as the type,  
20 capacity, and energy sources of the generating systems used by  
21 the net metering customers. Nothing in this Section shall limit  
22 the ability of an electricity provider to request the redaction  
23 of information deemed by the Commission to be confidential  
24 business information. Each electricity provider shall notify  
25 the Commission when the total generating capacity of its net  
26 metering customers is equal to or in excess of the 5% cap

1 specified in subsection (j) of this Section.

2 (1) Notwithstanding the definition of "eligible customer"  
3 in item (i) of subsection (b) of this Section, each electricity  
4 provider shall consider whether to allow meter aggregation for  
5 the purposes of net metering on:

6 (1) properties owned or leased by multiple customers  
7 that contribute to the operation of an eligible renewable  
8 electrical generating facility, such as a community-owned  
9 wind project, a community-owned biomass project, a  
10 community-owned solar project, or a community methane  
11 digester processing livestock waste from multiple sources;  
12 and

13 (2) individual units, apartments, or properties owned  
14 or leased by multiple customers and collectively served by  
15 a common eligible renewable electrical generating  
16 facility, such as an apartment building served by  
17 photovoltaic panels on the roof.

18 For the purposes of this subsection (1), "meter  
19 aggregation" means the combination of reading and billing on a  
20 pro rata basis for the types of eligible customers described in  
21 this Section.

22 (m) Nothing in this Section shall affect the right of an  
23 electricity provider to continue to provide, or the right of a  
24 retail customer to continue to receive service pursuant to a  
25 contract for electric service between the electricity provider  
26 and the retail customer in accordance with the prices, terms,

1 and conditions provided for in that contract. Either the  
2 electricity provider or the customer may require compliance  
3 with the prices, terms, and conditions of the contract.

4 (Source: P.A. 95-420, eff. 8-24-07; 09700SB1652enr.)

5 (220 ILCS 5/16-108.5)

6 Sec. 16-108.5. Infrastructure investment and  
7 modernization; regulatory reform.

8 (a) (Blank). ~~The General Assembly recognizes that for well~~  
9 ~~over a century Illinois residents and businesses have been~~  
10 ~~well served by and have benefitted from a comprehensive~~  
11 ~~electric utility system. The General Assembly finds that~~  
12 ~~electric utilities are now entering a new construction cycle~~  
13 ~~that is needed to refurbish, rebuild, modernize, and expand~~  
14 ~~systems to continue to provide safe, reliable, and affordable~~  
15 ~~service to the State's current and future utility customers in~~  
16 ~~this newly digitized age. In particular, the General Assembly~~  
17 ~~finds that it is the policy of this State that significant~~  
18 ~~investments must be made in the State's electric grid over the~~  
19 ~~next decade to modernize and upgrade transmission and~~  
20 ~~distribution facilities in the State. These investments will~~  
21 ~~ensure that the State's electric utility infrastructure will~~  
22 ~~promote future economic development in the State and that the~~  
23 ~~State's electric utilities will be able to continue to provide~~  
24 ~~quality electric service to their customers, including~~  
25 ~~innovative technological offerings that will enhance customer~~

1 ~~experience and choice such as smart meters that are dependent~~  
2 ~~on a modernized or Smart Grid. These investments, including~~  
3 ~~programs to reinforce the safety and security of high voltage~~  
4 ~~transmission lines, will also ensure that the State's electric~~  
5 ~~utility infrastructure continues to be safe and reliable. The~~  
6 ~~introduction of performance metrics will further ensure that~~  
7 ~~reliability and other indicators are not just maintained but~~  
8 ~~improved over the next decade.~~

9 ~~The General Assembly further recognizes that, in addition~~  
10 ~~to attracting capital and businesses to the State, these~~  
11 ~~investments will create training opportunities for the~~  
12 ~~citizens of this State, all of which will create new employment~~  
13 ~~opportunities for Illinoisans at a time when they are most~~  
14 ~~needed, especially for minority owned and female owned~~  
15 ~~business enterprises. The General Assembly further finds that~~  
16 ~~regulatory reform measures that increase predictability,~~  
17 ~~stability, and transparency in the ratemaking process are~~  
18 ~~needed to promote prudent, long term infrastructure investment~~  
19 ~~and to mutually benefit the State's electric utilities and~~  
20 ~~their customers, regulators, and investors.~~

21 (b) For purposes of this Section, "participating utility"  
22 means an electric utility or a combination utility serving more  
23 than 1,000,000 customers in Illinois that voluntarily elects  
24 and commits to undertake (i) the infrastructure investment  
25 program consisting of the commitments and obligations  
26 described in this subsection (b) and (ii) the customer

1 assistance program consisting of the commitments and  
2 obligations described in subsection (b-10) of this Section,  
3 notwithstanding any other provisions of this Act and without  
4 obtaining any approvals from the Commission or any other agency  
5 other than as set forth in this Section, regardless of whether  
6 any such approval would otherwise be required. "Combination  
7 utility" means a utility that, as of January 1, 2011, provided  
8 electric service to at least one million retail customers in  
9 Illinois and gas service to at least 500,000 retail customers  
10 in Illinois. A participating utility shall recover the  
11 expenditures made under the infrastructure investment program  
12 through the ratemaking process, including, but not limited to,  
13 the performance-based formula rate and process set forth in  
14 this Section.

15 During the infrastructure investment program's peak  
16 program year, a participating utility other than a combination  
17 utility shall create 2,000 full-time equivalent jobs in  
18 Illinois, and a participating utility that is a combination  
19 utility shall create 450 full-time equivalent jobs in Illinois  
20 related to the provision of electric service. These jobs may  
21 include, ~~including~~ direct jobs, contractor positions, and  
22 induced jobs, but shall not include any portion of a job  
23 commitment, not specifically contingent on an amendatory Act of  
24 the 97th General Assembly becoming law, between a participating  
25 utility and a labor union that existed on the effective date of  
26 this amendatory Act of the 97th General Assembly and that has



1 not yet been fulfilled. A portion of the full-time equivalent  
2 jobs created by each participating utility shall include  
3 incremental personnel hired subsequent to the effective date of  
4 this amendatory Act of the 97th General Assembly. For purposes  
5 of this Section, "peak program year" means the consecutive  
6 12-month period with the highest number of full-time equivalent  
7 jobs that occurs between the beginning of investment year 2 and  
8 the end of investment year 4.

9 A participating utility shall meet one of the following  
10 commitments, as applicable:

11 (1) Beginning no later than 180 days after a  
12 participating utility other than a combination utility  
13 files a performance-based formula rate tariff pursuant to  
14 subsection (c) of this Section, or, beginning no later than  
15 January 1, 2012 if such utility files such  
16 performance-based formula rate tariff within 14 days of the  
17 effective date of this amendatory Act of the 97th General  
18 Assembly, the participating utility shall, except as  
19 provided in subsection (b-5):

20 (A) over a 5-year period, invest an estimated  
21 \$1,300,000,000 ~~\$1,100,000,000~~ in electric system  
22 upgrades, modernization projects, and training  
23 facilities, including, but not limited to:

24 (i) distribution infrastructure improvements  
25 totaling an estimated \$1,000,000,000, including  
26 underground residential distribution cable

1 injection and replacement and mainline cable  
2 system refurbishment and replacement projects;

3 (ii) training facility construction or upgrade  
4 projects totaling an estimated \$10,000,000,  
5 provided that, at a minimum, one such facility  
6 shall be located in a municipality having a  
7 population of more than 2 million residents and one  
8 such facility shall be located in a municipality  
9 having a population of more than 150,000 residents  
10 but fewer than 170,000 residents; any such new  
11 facility located in a municipality having a  
12 population of more than 2 million residents must be  
13 designed for the purpose of obtaining, and the  
14 owner of the facility shall apply for,  
15 certification under the United States Green  
16 Building Council's Leadership in Energy Efficiency  
17 Design Green Building Rating System; and

18 (iii) wood pole inspection, treatment, and  
19 replacement programs; ~~and~~

20 (iv) an estimated \$200,000,000 for reducing  
21 the susceptibility of certain circuits to  
22 storm-related damage, including, but not limited  
23 to, high winds, thunderstorms, and ice storms;  
24 improvements may include, but are not limited to,  
25 overhead to underground conversion and other  
26 engineered outcomes for circuits; the

1           participating utility shall prioritize the  
2           selection of circuits based on each circuit's  
3           historical susceptibility to storm-related damage  
4           and the ability to provide the greatest customer  
5           benefit upon completion of the improvements; to be  
6           eligible for improvement, the participating  
7           utility's ability to maintain proper tree  
8           clearances surrounding the overhead circuit must  
9           not have been impeded by third parties; and

10           (B) over a 10-year period, invest an estimated  
11           \$1,300,000,000 ~~\$1,500,000,000~~ to upgrade and modernize  
12           its transmission and distribution infrastructure and  
13           in Smart Grid electric system upgrades, including, but  
14           not limited to:

- 15                   (i) additional smart meters;  
16                   (ii) distribution automation;  
17                   (iii) associated cyber secure data  
18                   communication network; and  
19                   (iv) substation micro-processor relay  
20                   upgrades.

21           (2) Beginning no later than 180 days after a  
22           participating utility that is a combination utility files a  
23           performance-based formula rate tariff pursuant to  
24           subsection (c) of this Section, or, beginning no later than  
25           January 1, 2012 if such utility files such  
26           performance-based formula rate tariff within 14 days of the

1 effective date of this amendatory Act of the 97th General  
2 Assembly, the participating utility shall, except as  
3 provided in subsection (b-5):

4 (A) over a 10-year period, invest an estimated  
5 \$265,000,000 in electric system upgrades,  
6 modernization projects, and training facilities,  
7 including, but not limited to:

8 (i) distribution infrastructure improvements  
9 totaling an estimated \$245,000,000, which may  
10 include bulk supply substations, transformers,  
11 reconductoring, and rebuilding overhead  
12 distribution and sub-transmission lines,  
13 underground residential distribution cable  
14 injection and replacement and mainline cable  
15 system refurbishment and replacement projects;

16 (ii) training facility construction or upgrade  
17 projects totaling an estimated \$1,000,000; any  
18 such new facility must be designed for the purpose  
19 of obtaining, and the owner of the facility shall  
20 apply for, certification under the United States  
21 Green Building Council's Leadership in Energy  
22 Efficiency Design Green Building Rating System;  
23 and

24 (iii) wood pole inspection, treatment, and  
25 replacement programs; and

26 (B) over a 10-year period, invest an estimated

1           \$360,000,000 to upgrade and modernize its transmission  
2           and distribution infrastructure and in Smart Grid  
3           electric system upgrades, including, but not limited  
4           to:

5                   (i) additional smart meters;

6                   (ii) distribution automation;

7                   (iii) associated cyber secure data  
8                   communication network; and

9                   (iv) substation micro-processor relay  
10           upgrades.

11           For purposes of this Section, "Smart Grid electric system  
12           upgrades" shall have the meaning set forth in subsection (a) of  
13           Section 16-108.6 of this Act.

14           The investments in the infrastructure investment program  
15           described in this subsection (b) shall be incremental to the  
16           participating utility's annual capital investment program, as  
17           defined by, for purposes of this subsection (b), the  
18           participating utility's average capital spend for calendar  
19           years 2008, 2009, and 2010 as reported in the applicable  
20           Federal Energy Regulatory Commission (FERC) Form 1; provided  
21           that where one or more utilities have merged, the average  
22           capital spend shall be determined using the aggregate of the  
23           merged utilities' capital spend reported in FERC Form 1 for the  
24           years 2008, 2009, and 2010. A participating utility may add  
25           reasonable ramp-up and ramp-down time to the investment periods  
26           specified in this subsection (b).

1           Within 60 days after filing a tariff under subsection (c)  
2 of this Section, a participating utility shall submit to the  
3 Commission its plan, including scope, schedule, and staffing,  
4 for satisfying its infrastructure investment program  
5 commitments pursuant to this subsection (b). The submitted plan  
6 shall include a schedule and staffing plan for the next  
7 calendar year. The plan shall also include a plan for the  
8 creation, operation, and administration of a Smart Grid test  
9 bed as described in subsection (c) of Section 16-108.8. The  
10 plan need not allocate the work equally over the respective  
11 periods, but should allocate material increments throughout  
12 such periods commensurate with the work to be undertaken. No  
13 later than April 1 of each subsequent year, the utility shall  
14 submit to the Commission a report that includes any updates to  
15 the plan, a schedule for the next calendar year, the  
16 expenditures made for the prior calendar year and cumulatively,  
17 and the number of full-time equivalent jobs created for the  
18 prior calendar year and cumulatively. If the utility is  
19 materially deficient in satisfying a schedule or staffing plan,  
20 then the report must also include a corrective action plan to  
21 address the deficiency. The fact that the plan, implementation  
22 of the plan, or a schedule changes shall not imply the  
23 imprudence or unreasonableness of the infrastructure  
24 investment program, plan, or schedule. Further, no later than  
25 45 days following the last day of the first, second, and third  
26 quarters of each year of the plan, a participating utility

1 shall submit to the Commission a verified quarterly report for  
2 the prior quarter that includes (i) the total number of  
3 full-time equivalent jobs created during the prior quarter,  
4 (ii) the total number of employees as of the last day of the  
5 prior quarter, (iii) the total number of full-time equivalent  
6 hours in each job classification or job title, (v) the total  
7 number of incremental employees and contractors in support of  
8 the investments undertaken pursuant to this subsection (b) for  
9 the prior quarter, and (vi) any other information that the  
10 Commission may require by rule.

11 With respect to the participating utility's peak job  
12 commitment, if, after considering the utility's corrective  
13 action plan and compliance thereunder, the Commission enters an  
14 order finding, after notice and hearing, that a participating  
15 utility did not satisfy its peak job commitment described in  
16 this subsection (b) for reasons that are reasonably within its  
17 control, then the Commission shall also determine, after  
18 consideration of the evidence, including, but not limited to,  
19 evidence submitted by the Department of Commerce and Economic  
20 Opportunity and the utility, the deficiency in the number of  
21 full-time equivalent jobs during the peak program year due to  
22 such failure. The Commission shall notify the Department of any  
23 proceeding that is initiated pursuant to this paragraph. For  
24 each full-time equivalent job deficiency during the peak  
25 program year that the Commission finds as set forth in this  
26 paragraph, the participating utility shall, within 30 days

1 after the entry of the Commission's order, pay \$6,000 ~~\$3,000~~ to  
2 a fund for training grants administered under Section 605-800  
3 of The Department of Commerce and Economic Opportunity Law,  
4 which shall not be a recoverable expense.

5 With respect to the participating utility's investment  
6 amount commitments, if, after considering the utility's  
7 corrective action plan and compliance thereunder, the  
8 Commission enters an order finding, after notice and hearing,  
9 that a participating utility is not satisfying its investment  
10 amount commitments described in this subsection (b), then the  
11 utility shall no longer be eligible to annually update the  
12 performance-based formula rate tariff pursuant to subsection  
13 (d) of this Section. In such event, the then current rates  
14 shall remain in effect until such time as new rates are set  
15 pursuant to Article IX of this Act, subject to retroactive  
16 adjustment, with interest, to reconcile rates charged with  
17 actual costs.

18 If the Commission finds that a participating utility is no  
19 longer eligible to update the performance-based formula rate  
20 tariff pursuant to subsection (d) of this Section, or the  
21 performance-based formula rate is otherwise terminated, then  
22 the participating utility's voluntary commitments and  
23 obligations under this subsection (b) shall immediately  
24 terminate, except for the utility's obligation to pay an amount  
25 already owed to the fund for training grants pursuant to a  
26 Commission order.



1           In meeting the obligations of this subsection (b), to the  
2 extent feasible and consistent with State and federal law, the  
3 investments under the infrastructure investment program should  
4 provide employment opportunities for all segments of the  
5 population and workforce, including minority-owned and  
6 female-owned business enterprises, and shall not, consistent  
7 with State and federal law, discriminate based on race or  
8 socioeconomic status.

9           (b-5) Nothing in this Section shall prohibit the Commission  
10 from investigating the prudence and reasonableness of the  
11 expenditures made under the infrastructure investment program  
12 during the annual review required by subsection (d) of this  
13 Section and shall, as part of such investigation, determine  
14 whether the utility's actual costs under the program are  
15 prudent and reasonable. The fact that a participating utility  
16 invests more than the minimum amounts specified in subsection  
17 (b) of this Section or its plan shall not imply imprudence or  
18 unreasonableness.

19           If the participating utility finds that it is implementing  
20 its plan for satisfying the infrastructure investment program  
21 commitments described in subsection (b) of this Section at a  
22 cost below the estimated amounts specified in subsection (b) of  
23 this Section, then the utility may file a petition with the  
24 Commission requesting that it be permitted to satisfy its  
25 commitments by spending less than the estimated amounts  
26 specified in subsection (b) of this Section. The Commission

1 shall, after notice and hearing, enter its order approving, or  
2 approving as modified, or denying each such petition within 150  
3 days after the filing of the petition.

4 In no event, absent General Assembly approval, shall the  
5 capital investment costs incurred by a participating utility  
6 other than a combination utility in satisfying its  
7 infrastructure investment program commitments described in  
8 subsection (b) of this Section exceed \$3,000,000,000 or, for a  
9 participating utility that is a combination utility,  
10 \$720,000,000. If the participating utility's updated cost  
11 estimates for satisfying its infrastructure investment program  
12 commitments described in subsection (b) of this Section exceed  
13 the limitation imposed by this subsection (b-5), then it shall  
14 submit a report to the Commission that identifies the increased  
15 costs and explains the reason or reasons for the increased  
16 costs no later than the year in which the utility estimates it  
17 will exceed the limitation. The Commission shall review the  
18 report and shall, within 90 days after the participating  
19 utility files the report, report to the General Assembly its  
20 findings regarding the participating utility's report. If the  
21 General Assembly does not amend the limitation imposed by this  
22 subsection (b-5), then the utility may modify its plan so as  
23 not to exceed the limitation imposed by this subsection (b-5)  
24 and may propose corresponding changes to the metrics  
25 established pursuant to subparagraphs (5) through (8) of  
26 subsection (f) of this Section, and the Commission may modify

1 the metrics and incremental savings goals established pursuant  
2 to subsection (f) of this Section accordingly.

3 (b-10) All participating utilities shall make  
4 contributions for an energy low-income and support program in  
5 accordance with this subsection. Beginning no later than 180  
6 days after a participating utility files a performance-based  
7 formula rate tariff pursuant to subsection (c) of this Section,  
8 or beginning no later than January 1, 2012 if such utility  
9 files such performance-based formula rate tariff within 14 days  
10 of the effective date of this amendatory Act of the 97th  
11 General Assembly, and without obtaining any approvals from the  
12 Commission or any other agency other than as set forth in this  
13 Section, regardless of whether any such approval would  
14 otherwise be required, a participating utility other than a  
15 combination utility shall pay \$10,000,000 per year for 5 years  
16 and a participating utility that is a combination utility shall  
17 pay \$1,000,000 per year for 10 years to the energy low-income  
18 and support program, which is intended to fund customer  
19 assistance programs with the primary purpose being avoidance of  
20 imminent disconnection. Such programs may include:

21 (1) a residential hardship program that may partner  
22 with community-based organizations, including senior  
23 citizen organizations, and provides grants to low-income  
24 residential customers, including low-income senior  
25 citizens, who demonstrate a hardship;

26 (2) a program that provides grants and other bill

1 payment concessions to disabled veterans who demonstrate a  
2 hardship and members of the armed services or reserve  
3 forces of the United States or members of the Illinois  
4 National Guard who are on active duty pursuant to an  
5 executive order of the President of the United States, an  
6 act of the Congress of the United States, or an order of  
7 the Governor and who demonstrate a hardship;

8 (3) a budget assistance program that provides tools and  
9 education to low-income senior citizens to assist them with  
10 obtaining information regarding energy usage and effective  
11 means of managing energy costs;

12 (4) a non-residential special hardship program that  
13 provides grants to non-residential customers such as small  
14 businesses and non-profit organizations that demonstrate a  
15 hardship, including those providing services to senior  
16 citizen and low-income customers; and

17 (5) a performance-based assistance program that  
18 provides grants to encourage residential customers to make  
19 on-time payments by matching a portion of the customer's  
20 payments or providing credits towards arrearages.

21 The payments made by a participating utility pursuant to  
22 this subsection (b-10) shall not be a recoverable expense. A  
23 participating utility may elect to fund either new or existing  
24 customer assistance programs, including, but not limited to,  
25 those that are administered by the utility.

26 Programs that use funds that are provided by a

1 participating utility to reduce utility bills may be  
2 implemented through tariffs that are filed with and reviewed by  
3 the Commission. If a utility elects to file tariffs with the  
4 Commission to implement all or a portion of the programs, those  
5 tariffs shall, regardless of the date actually filed, be deemed  
6 accepted and approved, and shall become effective on the  
7 effective date of this amendatory Act of the 97th General  
8 Assembly. The participating utilities whose customers benefit  
9 from the funds that are disbursed as contemplated in this  
10 Section shall file annual reports documenting the disbursement  
11 of those funds with the Commission. The Commission has the  
12 authority to audit disbursement of the funds to ensure they  
13 were disbursed consistently with this Section.

14 If the Commission finds that a participating utility is no  
15 longer eligible to update the performance-based formula rate  
16 tariff pursuant to subsection (d) of this Section, or the  
17 performance-based formula rate is otherwise terminated, then  
18 the participating utility's voluntary commitments and  
19 obligations under this subsection (b-10) shall immediately  
20 terminate.

21 (c) A participating utility may elect to recover its  
22 delivery services costs through a performance-based formula  
23 rate approved by the Commission, which shall specify the cost  
24 components that form the basis of the rate charged to customers  
25 with sufficient specificity to operate in a standardized manner  
26 and be updated annually with transparent information that

1 reflects the utility's actual costs to be recovered during the  
2 applicable rate year, which is the period beginning with the  
3 first billing day of January and extending through the last  
4 billing day of the following December. In the event the utility  
5 recovers a portion of its costs through automatic adjustment  
6 clause tariffs on the effective date of this amendatory Act of  
7 the 97th General Assembly, the utility may elect to continue to  
8 recover these costs through such tariffs, but then these costs  
9 shall not be recovered through the performance-based formula  
10 rate. In the event the participating utility, prior to the  
11 effective date of this amendatory Act of the 97th General  
12 Assembly, filed electric delivery services tariffs with the  
13 Commission pursuant to Section 9-201 of this Act that are  
14 related to the recovery of its electric delivery services costs  
15 that are still pending on the effective date of this amendatory  
16 Act of the 97th General Assembly, the participating utility  
17 shall, at the time it files its performance-based formula rate  
18 tariff with the Commission, also file a notice of withdrawal  
19 with the Commission to withdraw the electric delivery services  
20 tariffs previously filed pursuant to Section 9-201 of this Act.  
21 Upon receipt of such notice, the Commission shall dismiss with  
22 prejudice any docket that had been initiated to investigate the  
23 electric delivery services tariffs filed pursuant to Section  
24 9-201 of this Act, and such tariffs and the record related  
25 thereto shall not be the subject of any further hearing,  
26 investigation, or proceeding of any kind related to rates for

1 electric delivery services.

2 The performance-based formula rate shall be implemented  
3 through a tariff filed with the Commission consistent with the  
4 provisions of this subsection (c) that shall be applicable to  
5 all delivery services customers. The Commission shall initiate  
6 and conduct an investigation of the tariff in a manner  
7 consistent with the provisions of this subsection (c) and the  
8 provisions of Article IX of this Act to the extent they do not  
9 conflict with this subsection (c). Except in the case where the  
10 Commission finds, after notice and hearing, that a  
11 participating utility is not satisfying its investment amount  
12 commitments under subsection (b) of this Section, the  
13 performance-based formula rate shall remain in effect at the  
14 discretion of the utility. The performance-based formula rate  
15 approved by the Commission shall do the following:

16 (1) Provide for the recovery of the utility's actual  
17 costs of delivery services that are prudently incurred and  
18 reasonable in amount consistent with Commission practice  
19 and law. The sole fact that a cost differs from that  
20 incurred in a prior calendar year or that an investment is  
21 different from that made in a prior calendar year shall not  
22 imply the imprudence or unreasonableness of that cost or  
23 investment.

24 (2) Reflect the utility's actual capital structure for  
25 the applicable calendar year, excluding goodwill, subject  
26 to a determination of prudence and reasonableness

1 consistent with Commission practice and law.

2 (3) Include a cost of equity, which shall be calculated  
3 as the sum of the following:

4 (A) the average for the applicable calendar year of  
5 the monthly average yields of 30-year U.S. Treasury  
6 bonds published by the Board of Governors of the  
7 Federal Reserve System in its weekly H.15 Statistical  
8 Release or successor publication; and

9 (B) 580 ~~600~~ basis points.

10 At such time as the Board of Governors of the Federal  
11 Reserve System ceases to include the monthly average yields  
12 of 30-year U.S. Treasury bonds in its weekly H.15  
13 Statistical Release or successor publication, the monthly  
14 average yields of the U.S. Treasury bonds then having the  
15 longest duration published by the Board of Governors in its  
16 weekly H.15 Statistical Release or successor publication  
17 shall instead be used for purposes of this paragraph (3).

18 (4) Permit and set forth protocols, subject to a  
19 determination of prudence and reasonableness consistent  
20 with Commission practice and law, for the following:

21 (A) recovery of incentive compensation expense  
22 that is based on the achievement of operational  
23 metrics, including metrics related to budget controls,  
24 outage duration and frequency, safety, customer  
25 service, efficiency and productivity, and  
26 environmental compliance. Incentive compensation



1 expense that is based on net income or an affiliate's  
2 earnings per share shall not be recoverable under the  
3 performance-based formula rate;

4 (B) recovery of pension and other post-employment  
5 benefits expense, provided that such costs are  
6 supported by an actuarial study;

7 (C) recovery of severance costs, provided that if  
8 the amount is over \$3,700,000 for a participating  
9 utility that is a combination utility or \$10,000,000  
10 for a participating utility that serves more than 3  
11 million retail customers, then the full amount shall be  
12 amortized consistent with subparagraph (F) of this  
13 paragraph (4);

14 (D) investment return on pension assets net of  
15 deferred tax benefits equal to the utility's long-term  
16 debt cost of capital as of the end of the applicable  
17 calendar year;

18 (E) recovery of the expenses related to the  
19 Commission proceeding under this subsection (c) to  
20 approve this performance-based formula rate and  
21 initial rates or to subsequent proceedings related to  
22 the formula, provided that the recovery shall be  
23 amortized over a 3-year period; recovery of expenses  
24 related to the annual Commission proceedings under  
25 subsection (d) of this Section to review the inputs to  
26 the performance-based formula rate shall be expensed

1 and recovered through the performance-based formula  
2 rate;

3 (F) amortization over a 5-year period of the full  
4 amount of each charge or credit that exceeds \$3,700,000  
5 for a participating utility that is a combination  
6 utility or \$10,000,000 for a participating utility  
7 that serves more than 3 million retail customers in the  
8 applicable calendar year and that relates to a  
9 workforce reduction program's severance costs, changes  
10 in accounting rules, changes in law, compliance with  
11 any Commission-initiated audit, or a single storm or  
12 other similar expense, provided that any unamortized  
13 balance shall be reflected in rate base. For purposes  
14 of this subparagraph (F), changes in law includes any  
15 enactment, repeal, or amendment in a law, ordinance,  
16 rule, regulation, interpretation, permit, license,  
17 consent, or order, including those relating to taxes,  
18 accounting, or to environmental matters, or in the  
19 interpretation or application thereof by any  
20 governmental authority occurring after the effective  
21 date of this amendatory Act of the 97th General  
22 Assembly;

23 (G) recovery of existing regulatory assets over  
24 the periods previously authorized by the Commission;

25 (H) historical weather normalized billing  
26 determinants; and

1 (I) allocation methods for common costs.

2 (5) Provide that if the participating utility's earned  
3 rate of return on common equity related to the provision of  
4 delivery services for the prior rate year (calculated using  
5 costs and capital structure approved by the Commission as  
6 provided in subparagraph (2) of this subsection (c),  
7 consistent with this Section, in accordance with  
8 Commission rules and orders, including, but not limited to,  
9 adjustments for goodwill, and after any Commission-ordered  
10 disallowances and taxes) is more than 50 basis points  
11 higher than the rate of return on common equity calculated  
12 pursuant to paragraph (3) of this subsection (c) (after  
13 adjusting for any penalties to the rate of return on common  
14 equity applied pursuant to the performance metrics  
15 provision of subsection (f) of this Section), then the  
16 participating utility shall apply a credit through the  
17 performance-based formula rate that reflects an amount  
18 equal to the value of that portion of the earned rate of  
19 return on common equity that is more than 50 basis points  
20 higher than the rate of return on common equity calculated  
21 pursuant to paragraph (3) of this subsection (c) (after  
22 adjusting for any penalties to the rate of return on common  
23 equity applied pursuant to the performance metrics  
24 provision of subsection (f) of this Section) for the prior  
25 rate year, adjusted for taxes. If the participating  
26 utility's earned rate of return on common equity related to

1 the provision of delivery services for the prior rate year  
2 (calculated using costs and capital structure approved by  
3 the Commission as provided in subparagraph (2) of this  
4 subsection (c), consistent with this Section, in  
5 accordance with Commission rules and orders, including,  
6 but not limited to, adjustments for goodwill, and after any  
7 Commission-ordered disallowances and taxes) is more than  
8 50 basis points less than the return on common equity  
9 calculated pursuant to paragraph (3) of this subsection (c)  
10 (after adjusting for any penalties to the rate of return on  
11 common equity applied pursuant to the performance metrics  
12 provision of subsection (f) of this Section), then the  
13 participating utility shall apply a charge through the  
14 performance-based formula rate that reflects an amount  
15 equal to the value of that portion of the earned rate of  
16 return on common equity that is more than 50 basis points  
17 less than the rate of return on common equity calculated  
18 pursuant to paragraph (3) of this subsection (c) (after  
19 adjusting for any penalties to the rate of return on common  
20 equity applied pursuant to the performance metrics  
21 provision of subsection (f) of this Section) for the prior  
22 rate year, adjusted for taxes.

23 (6) Provide for an annual reconciliation, with  
24 interest as described in subsection (d) of this Section, of  
25 the revenue requirement reflected in rates for each  
26 calendar year, beginning with the calendar year in which

1           the utility files its performance-based formula rate  
2           tariff pursuant to subsection (c) of this Section, with  
3           what the revenue requirement would have been had the actual  
4           cost information for the applicable calendar year been  
5           available at the filing date.

6           The utility shall file, together with its tariff, final  
7           data based on its most recently filed FERC Form 1, plus  
8           projected plant additions and correspondingly updated  
9           depreciation reserve and expense for the calendar year in which  
10          the tariff and data are filed, that shall populate the  
11          performance-based formula rate and set the initial delivery  
12          services rates under the formula. For purposes of this Section,  
13          "FERC Form 1" means the Annual Report of Major Electric  
14          Utilities, Licensees and Others that electric utilities are  
15          required to file with the Federal Energy Regulatory Commission  
16          under the Federal Power Act, Sections 3, 4(a), 304 and 209,  
17          modified as necessary to be consistent with 83 Ill. Admin. Code  
18          Part 415 as of May 1, 2011. Nothing in this Section is intended  
19          to allow costs that are not otherwise recoverable to be  
20          recoverable by virtue of inclusion in FERC Form 1.

21          After the utility files its proposed performance-based  
22          formula rate structure and protocols and initial rates, the  
23          Commission shall initiate a docket to review the filing. The  
24          Commission shall enter an order approving, or approving as  
25          modified, the performance-based formula rate, including the  
26          initial rates, as just and reasonable within 270 days after the

1 date on which the tariff was filed, or, if the tariff is filed  
2 within 14 days after the effective date of this amendatory Act  
3 of the 97th General Assembly, then by May 31, 2012. Such review  
4 shall be based on the same evidentiary standards, including,  
5 but not limited to, those concerning the prudence and  
6 reasonableness of the costs incurred by the utility, the  
7 Commission applies in a hearing to review a filing for a  
8 general increase in rates under Article IX of this Act. The  
9 initial rates shall take effect within 30 days after the  
10 Commission's order approving the performance-based formula  
11 rate tariff.

12       Until such time as the Commission approves a different rate  
13 design and cost allocation pursuant to subsection (e) of this  
14 Section, rate design and cost allocation across customer  
15 classes shall be consistent with the Commission's most recent  
16 order regarding the participating utility's request for a  
17 general increase in its delivery services rates.

18       Subsequent changes to the performance-based formula rate  
19 structure or protocols shall be made as set forth in Section  
20 9-201 of this Act, but nothing in this subsection (c) is  
21 intended to limit the Commission's authority under Article IX  
22 and other provisions of this Act to initiate an investigation  
23 of a participating utility's performance-based formula rate  
24 tariff, provided that any such changes shall be consistent with  
25 paragraphs (1) through (6) of this subsection (c). Any change  
26 ordered by the Commission shall be made at the same time new

1 rates take effect following the Commission's next order  
2 pursuant to subsection (d) of this Section, provided that the  
3 new rates take effect no less than 30 days after the date on  
4 which the Commission issues an order adopting the change.

5 A participating utility that files a tariff pursuant to  
6 this subsection (c) must submit a one-time \$200,000 filing fee  
7 at the time the Chief Clerk of the Commission accepts the  
8 filing, which shall be a recoverable expense.

9 In the event the performance-based formula rate is  
10 terminated, the then current rates shall remain in effect until  
11 such time as new rates are set pursuant to Article IX of this  
12 Act, subject to retroactive rate adjustment, with interest, to  
13 reconcile rates charged with actual costs. At such time that  
14 the performance-based formula rate is terminated, the  
15 participating utility's voluntary commitments and obligations  
16 under subsection (b) of this Section shall immediately  
17 terminate, except for the utility's obligation to pay an amount  
18 already owed to the fund for training grants pursuant to a  
19 Commission order issued under subsection (b) of this Section.

20 (d) Subsequent to the Commission's issuance of an order  
21 approving the utility's performance-based formula rate  
22 structure and protocols, and initial rates under subsection (c)  
23 of this Section, the utility shall file, on or before May 1 of  
24 each year, with the Chief Clerk of the Commission its updated  
25 cost inputs to the performance-based formula rate for the  
26 applicable rate year and the corresponding new charges. Each

1 such filing shall conform to the following requirements and  
2 include the following information:

3 (1) The inputs to the performance-based formula rate  
4 for the applicable rate year shall be based on final  
5 historical data reflected in the utility's most recently  
6 filed annual FERC Form 1 plus projected plant additions and  
7 correspondingly updated depreciation reserve and expense  
8 for the calendar year in which the inputs are filed. The  
9 filing shall also include a reconciliation of the revenue  
10 requirement that was in effect for the prior rate year (as  
11 set by the cost inputs for the prior rate year) with the  
12 actual revenue requirement for the prior rate year (as  
13 reflected in the applicable FERC Form 1 that reports the  
14 actual costs for the prior rate year). Any over-collection  
15 or under-collection indicated by such reconciliation shall  
16 be reflected as a credit against, or recovered as an  
17 additional charge to, respectively, with interest, the  
18 charges for the applicable rate year. Provided, however,  
19 that the first such reconciliation shall be for the  
20 calendar year in which the utility files its  
21 performance-based formula rate tariff pursuant to  
22 subsection (c) of this Section and shall reconcile (i) the  
23 revenue requirement or requirements established by the  
24 rate order or orders in effect from time to time during  
25 such calendar year (weighted, as applicable) with (ii) the  
26 revenue requirement for that calendar year calculated



1 pursuant to the performance-based formula rate using (A)  
2 actual costs for that year as reflected in the applicable  
3 FERC Form 1, and (B) for the first such reconciliation  
4 only, the cost of equity, which shall be calculated as the  
5 sum of 590 basis points plus the average for the applicable  
6 calendar year of the monthly average yields of 30-year U.S.  
7 Treasury bonds published by the Board of Governors of the  
8 Federal Reserve System in its weekly H.15 Statistical  
9 Release or successor publication ~~approved by the~~  
10 ~~Commission in such order or orders in effect during that~~  
11 ~~year (weighted, as applicable).~~ The first such  
12 reconciliation is not intended to provide for the recovery  
13 of costs previously excluded from rates based on a prior  
14 Commission order finding of imprudence or  
15 unreasonableness. Each reconciliation shall be certified  
16 by the participating utility in the same manner that FERC  
17 Form 1 is certified. The filing shall also include the  
18 charge or credit, if any, resulting from the calculation  
19 required by paragraph (6) of subsection (c) of this  
20 Section.

21 Notwithstanding anything that may be to the contrary,  
22 the intent of the reconciliation is to ultimately reconcile  
23 the revenue requirement reflected in rates for each  
24 calendar year, beginning with the calendar year in which  
25 the utility files its performance-based formula rate  
26 tariff pursuant to subsection (c) of this Section, with

1           what the revenue requirement would have been had the actual  
2           cost information for the applicable calendar year been  
3           available at the filing date.

4           (2) The new charges shall take effect beginning on the  
5           first billing day of the following January billing period  
6           and remain in effect through the last billing day of the  
7           next December billing period regardless of whether the  
8           Commission enters upon a hearing pursuant to this  
9           subsection (d).

10          (3) The filing shall include relevant and necessary  
11          data and documentation for the applicable rate year that is  
12          consistent with the Commission's rules applicable to a  
13          filing for a general increase in rates or any rules adopted  
14          by the Commission to implement this Section. Normalization  
15          adjustments shall not be required. Notwithstanding any  
16          other provision of this Section or Act or any rule or other  
17          requirement adopted by the Commission, a participating  
18          utility that is a combination utility with more than one  
19          rate zone shall not be required to file a separate set of  
20          such data and documentation for each rate zone and may  
21          combine such data and documentation into a single set of  
22          schedules.

23          Within 45 days after the utility files its annual update of  
24          cost inputs to the performance-based formula rate, the  
25          Commission shall have the authority, either upon complaint or  
26          its own initiative, but with reasonable notice, to enter upon a

1 hearing concerning the prudence and reasonableness of the costs  
2 incurred by the utility to be recovered during the applicable  
3 rate year that are reflected in the inputs to the  
4 performance-based formula rate derived from the utility's FERC  
5 Form 1. During the course of the hearing, each objection shall  
6 be stated with particularity and evidence provided in support  
7 thereof, after which the utility shall have the opportunity to  
8 rebut the evidence. Discovery shall be allowed consistent with  
9 the Commission's Rules of Practice, which Rules shall be  
10 enforced by the Commission or the assigned hearing examiner.  
11 The Commission shall apply the same evidentiary standards,  
12 including, but not limited to, those concerning the prudence  
13 and reasonableness of the costs incurred by the utility, in the  
14 hearing as it would apply in a hearing to review a filing for a  
15 general increase in rates under Article IX of this Act. The  
16 Commission shall not, however, have the authority in a  
17 proceeding under this subsection (d) to consider or order any  
18 changes to the structure or protocols of the performance-based  
19 formula rate approved pursuant to subsection (c) of this  
20 Section. In a proceeding under this subsection (d), the  
21 Commission shall enter its order no later than the earlier of  
22 240 days after the utility's filing of its annual update of  
23 cost inputs to the performance-based formula rate or December  
24 31. The Commission's determinations of the prudence and  
25 reasonableness of the costs incurred for the applicable  
26 calendar year shall be final upon entry of the Commission's

1 order and shall not be subject to reopening, reexamination, or  
2 collateral attack in any other Commission proceeding, case,  
3 docket, order, rule or regulation, provided, however, that  
4 nothing in this subsection (d) shall prohibit a party from  
5 petitioning the Commission to rehear or appeal to the courts  
6 the order pursuant to the provisions of this Act.

7 In the event the Commission does not, either upon complaint  
8 or its own initiative, enter upon a hearing within 45 days  
9 after the utility files the annual update of cost inputs to its  
10 performance-based formula rate, then the costs incurred for the  
11 applicable calendar year shall be deemed prudent and  
12 reasonable, and the filed charges shall not be subject to  
13 reopening, reexamination, or collateral attack in any other  
14 proceeding, case, docket, order, rule, or regulation.

15 A participating utility's first filing of the updated cost  
16 inputs, and any Commission investigation of such inputs  
17 pursuant to this subsection (d) shall proceed notwithstanding  
18 the fact that the Commission's investigation under subsection  
19 (c) of this Section is still pending and notwithstanding any  
20 other law, order, rule, or Commission practice to the contrary.

21 (e) Nothing in subsections (c) or (d) of this Section shall  
22 prohibit the Commission from investigating, or a participating  
23 utility from filing, revenue-neutral tariff changes related to  
24 rate design of a performance-based formula rate that has been  
25 placed into effect for the utility. Following approval of a  
26 participating utility's performance-based formula rate tariff

1 pursuant to subsection (c) of this Section, the utility shall  
2 make a filing with the Commission within one year after the  
3 effective date of the performance-based formula rate tariff  
4 that proposes changes to the tariff to incorporate the findings  
5 of any final rate design orders of the Commission applicable to  
6 the participating utility and entered subsequent to the  
7 Commission's approval of the tariff. The Commission shall,  
8 after notice and hearing, enter its order approving, or  
9 approving with modification, the proposed changes to the  
10 performance-based formula rate tariff within 240 days after the  
11 utility's filing. Following such approval, the utility shall  
12 make a filing with the Commission during each subsequent 3-year  
13 period that either proposes revenue-neutral tariff changes or  
14 re-files the existing tariffs without change, which shall  
15 present the Commission with an opportunity to suspend the  
16 tariffs and consider revenue-neutral tariff changes related to  
17 rate design.

18 (f) Within 30 days after the filing of a tariff pursuant to  
19 subsection (c) of this Section, each participating utility  
20 shall develop and file with the Commission multi-year metrics  
21 designed to achieve, ratably (i.e., in equal segments) over a  
22 10-year period, improvement over baseline performance values  
23 as follows:

24 (1) Twenty percent improvement in the System Average  
25 Interruption Frequency Index, using a baseline of the  
26 average of the data from 2001 through 2010.

1           (2) Fifteen percent improvement in the system Customer  
2 Average Interruption Duration Index, using a baseline of  
3 the average of the data from 2001 through 2010.

4           (3) For a participating utility other than a  
5 combination utility, 20% improvement in the System Average  
6 Interruption Frequency Index for its Southern Region,  
7 using a baseline of the average of the data from 2001  
8 through 2010. For purposes of this paragraph (3) ~~paragraph~~  
9 ~~(C)~~, Southern Region shall have the meaning set forth in  
10 the participating utility's most recent report filed  
11 pursuant to Section 16-125 of this Act.

12           (3.5) For a participating utility other than a  
13 combination utility, 20% improvement in the System Average  
14 Interruption Frequency Index for its Northeastern Region,  
15 using a baseline of the average of the data from 2001  
16 through 2010. For purposes of this paragraph (3.5),  
17 Northeastern Region shall have the meaning set forth in the  
18 participating utility's most recent report filed pursuant  
19 to Section 16-125 of this Act.

20           (4) Seventy-five percent improvement in the total  
21 number of customers who exceed the service reliability  
22 targets as set forth in subparagraphs (A) through (C) of  
23 paragraph (4) of subsection (b) of 83 Ill. Admin. Code Part  
24 411.140 as of May 1, 2011, using 2010 as the baseline year.

25           (5) Reduction in issuance of estimated electric bills:  
26 90% improvement for a participating utility other than a

1 combination utility, and 56% improvement for a  
2 participating utility that is a combination utility, using  
3 a baseline of the average number of estimated bills for the  
4 years 2008 through 2010.

5 (6) Consumption on inactive meters: 90% improvement  
6 for a participating utility other than a combination  
7 utility, and 56% improvement for a participating utility  
8 that is a combination utility, using a baseline of the  
9 average unbilled kilowatthours for the years 2009 and 2010.

10 (7) Unaccounted for energy: 50% improvement for a  
11 participating utility other than a combination utility  
12 using a baseline of the non-technical line loss unaccounted  
13 for energy kilowatthours for the year 2009.

14 (8) Uncollectible expense: reduce uncollectible  
15 expense by at least \$30,000,000 for a participating utility  
16 other than a combination utility and by at least \$3,500,000  
17 for a participating utility that is a combination utility,  
18 using a baseline of the average uncollectible expense for  
19 the years 2008 through 2010.

20 (9) Opportunities for minority-owned and female-owned  
21 business enterprises: design a performance metric  
22 regarding the creation of opportunities for minority-owned  
23 and female-owned business enterprises consistent with  
24 State and federal law using a base performance value of the  
25 percentage of the participating utility's capital  
26 expenditures that were paid to minority-owned and

1 female-owned business enterprises in 2010.

2 The definitions set forth in 83 Ill. Admin. Code Part  
3 411.20 as of May 1, 2011 shall be used for purposes of  
4 calculating performance under paragraphs (1) through (3.5) ~~(3)~~  
5 of this subsection (f), provided, however, that the  
6 participating utility may exclude up to 9 extreme weather event  
7 days from such calculation for each year, and provided further  
8 that the participating utility shall exclude 9 extreme weather  
9 event days when calculating each year of the baseline period to  
10 the extent that there are 9 such days in a given year of the  
11 baseline period. For purposes of this Section, an extreme  
12 weather event day is a 24-hour calendar day (beginning at 12:00  
13 a.m. and ending at 11:59 p.m.) during which any weather event  
14 (e.g., storm, tornado) caused interruptions for 10,000 or more  
15 of the participating utility's customers for 3 hours or more.  
16 If there are more than 9 extreme weather event days in a year,  
17 then the utility may choose no more than 9 extreme weather  
18 event days to exclude, provided that the same extreme weather  
19 event days are excluded from each of the calculations performed  
20 under paragraphs (1) through (3) of this subsection (f).

21 The metrics shall include incremental performance goals  
22 for each year of the 10-year period, which shall be designed to  
23 demonstrate that the utility is on track to achieve the  
24 performance goal in each category at the end of the 10-year  
25 period. The utility shall elect when the 10-year period shall  
26 commence for the metrics set forth in subparagraphs (1) through



1 (4) and (9) of this subsection (f), provided that it begins no  
2 later than 14 months following the date on which the utility  
3 begins investing pursuant to subsection (b) of this Section,  
4 and when the 10-year period shall commence for the metrics set  
5 forth in subparagraphs (5) through (8) of this subsection (f),  
6 provided that it begins no later than 14 months following the  
7 date on which the Commission enters its order approving the  
8 utility's Advanced Metering Infrastructure Deployment Plan  
9 pursuant to subsection (c) of Section 16-108.6 of this Act.

10 The metrics and performance goals set forth in  
11 subparagraphs (5) through (8) of this subsection (f) are based  
12 on the assumptions that the participating utility may fully  
13 implement the technology described in subsection (b) of this  
14 Section, including utilizing the full functionality of such  
15 technology and that there is no requirement for personal  
16 on-site notification. If the utility is unable to meet the  
17 metrics and performance goals set forth in subparagraphs (5)  
18 through (8) of this subsection (f) for such reasons, and the  
19 Commission so finds after notice and hearing, then the utility  
20 shall be excused from compliance, but only to the limited  
21 extent achievement of the affected metrics and performance  
22 goals was hindered by the less than full implementation.

23 (f-5) The financial penalties applicable to the metrics  
24 described in subparagraphs (1) through (9) ~~(8)~~ of subsection  
25 (f) of this Section, as applicable, shall be applied through an  
26 adjustment to the participating utility's return on equity of

1 no more than a total of 30 basis points in each of the first 3  
2 years, of no more than a total of 34 basis points in each of the  
3 3 years thereafter, and of no more than a total of 38 basis  
4 points in each of the 4 years thereafter, as follows:

5 (1) With respect to each of the incremental annual  
6 performance goals established pursuant to paragraph (1) of  
7 subsection (f) of this Section,

8 (A) for each year that a participating utility  
9 other than a combination utility does not achieve the  
10 annual goal, the participating utility's return on  
11 equity shall be reduced as follows: during years 1  
12 through 3, by 5 basis points; during years 4 through 6,  
13 by 6 basis points; and during years 7 through 10, by 7  
14 basis points; for such unachieved goal for the  
15 following 12-month period, and

16 (B) for each year that a participating utility that  
17 is a combination utility does not achieve the annual  
18 goal, the participating utility's return on equity  
19 shall be reduced as follows: during years 1 through 3,  
20 by 10 basis points; during years 4 through 6, by 12  
21 basis points; and during years 7 through 10, by 14  
22 basis points for each such unachieved goal for the  
23 following 12-month period.

24 (2) With respect to each of the incremental annual  
25 performance goals established pursuant to subparagraphs  
26 (2), ~~(3)~~, and (4) of subsection (f) of this Section, ~~as~~

1 ~~applicable,~~ for each year that the participating utility  
2 does not achieve each such goal, the participating  
3 utility's return on equity shall be reduced as follows:  
4 during years 1 through 3, by 5 basis points; during years 4  
5 through 6, by 6 basis points; and during years 7 through  
6 10, by 7 basis points ~~for each such unachieved goal for the~~  
7 ~~following 12 month period.~~

8 (3) With respect to each of the incremental annual  
9 performance goals established pursuant to paragraphs (3)  
10 and (3.5) of subsection (f) of this Section, for each year  
11 that a participating utility other than a combination  
12 utility does not achieve both such goals, the participating  
13 utility's return on equity shall be reduced as follows:  
14 during years 1 through 3, by 5 basis points; during years 4  
15 through 6, by 6 basis points; and during years 7 through  
16 10, by 7 basis points.

17 (4) With respect to each of the incremental annual  
18 performance goals established pursuant to paragraph (4) of  
19 subsection (f) of this Section, for each year that the  
20 participating utility does not achieve each such goal, the  
21 participating utility's return on equity shall be reduced  
22 as follows: during years 1 through 3, by 5 basis points;  
23 during years 4 through 6, by 6 basis points; and during  
24 years 7 through 10, by 7 basis points.

25 (5) With respect to each of the incremental annual  
26 performance goals established pursuant to subparagraph (5)

1 of subsection (f) of this Section, for each year that the  
2 participating utility does not achieve at least 95% of each  
3 such goal, the participating utility's return on equity  
4 shall be reduced by 5 basis points for each such unachieved  
5 goal for the following 12-month period.

6 (6) ~~(3)~~ With respect to each of the incremental annual  
7 performance goals established pursuant to paragraphs ~~(6)~~  
8 (7)~~7~~ and (8) of subsection (f) of this Section, as  
9 applicable, which together measure non-operational  
10 customer savings and benefits relating to the  
11 implementation of the Advanced Metering Infrastructure  
12 Deployment Plan, as defined in Section 16-108.6 of this  
13 Act, the performance under each such goal shall be  
14 calculated in terms of the percentage of the goal achieved.  
15 The percentage of goal achieved for each of the goals shall  
16 be aggregated, and an average percentage value calculated,  
17 for each year of the 10-year period. If the utility does  
18 not achieve an average percentage value in a given year of  
19 at least 95%, the participating utility's return on equity  
20 shall be reduced by 5 basis points for the following  
21 12-month period.

22 The financial penalties shall be applied as described in  
23 this subsection (f-5) through a separate tariff mechanism,  
24 which shall be filed by the utility together with its metrics.  
25 In the event the formula rate tariff established pursuant to  
26 subsection (c) of this Section terminates, the utility's

1 obligations under subsection (f) of this Section and this  
2 subsection (f-5) shall also terminate, provided, however, that  
3 the tariff mechanism established pursuant to subsection (f) of  
4 this Section and this subsection (f-5) shall remain in effect  
5 until any penalties due and owing at the time of such  
6 termination are applied.

7 The Commission shall, after notice and hearing, enter an  
8 order within 120 days after the metrics are filed approving, or  
9 approving with modification, a participating utility's tariff  
10 or mechanism to satisfy the metrics set forth in subsection (f)  
11 of this Section. On June 1 of each subsequent year, each  
12 participating utility shall file a report with the Commission  
13 that includes, among other things, a description of how the  
14 participating utility performed under each metric and an  
15 identification of any extraordinary events that adversely  
16 impacted the utility's performance. Whenever a participating  
17 utility does not satisfy the metrics required pursuant to  
18 subsection (f) of this Section, the Commission shall, after  
19 notice and hearing, enter an order approving financial  
20 penalties in accordance with this subsection (f-5). The  
21 Commission-approved financial penalties shall be applied  
22 beginning with the next rate year. Nothing in this Section  
23 shall authorize the Commission to reduce or otherwise obviate  
24 the imposition of financial penalties for failing to achieve  
25 one or more of the metrics established pursuant to subparagraph  
26 (1) through (4) of subsection (f) of this Section.

1 (g) On or before July 31, 2014, each participating utility  
2 shall file a report with the Commission that sets forth the  
3 average annual increase in the average amount paid per  
4 kilowatthour for residential eligible retail customers,  
5 exclusive of the effects of energy efficiency programs,  
6 comparing the 12-month period ending May 31, 2012; the 12-month  
7 period ending May 31, 2013; and the 12-month period ending May  
8 31, 2014. For a participating utility that is a combination  
9 utility with more than one rate zone, the weighted average  
10 aggregate increase shall be provided. The report shall be filed  
11 together with a statement from an independent auditor attesting  
12 to the accuracy of the report. The cost of the independent  
13 auditor shall be borne by the participating utility and shall  
14 not be a recoverable expense.

15 In the event that the average annual increase exceeds 2.5%  
16 as calculated pursuant to this subsection (g), then Sections  
17 16-108.5, 16-108.6, 16-108.7, and 16-108.8 of this Act, other  
18 than this subsection, shall be inoperative as they relate to  
19 the utility and its service area as of the date of the report  
20 due to be submitted pursuant to this subsection and the utility  
21 shall no longer be eligible to annually update the  
22 performance-based formula rate tariff pursuant to subsection  
23 (d) of this Section. In such event, the then current rates  
24 shall remain in effect until such time as new rates are set  
25 pursuant to Article IX of this Act, subject to retroactive  
26 adjustment, with interest, to reconcile rates charged with

1 actual costs, and the participating utility's voluntary  
2 commitments and obligations under subsection (b) of this  
3 Section shall immediately terminate, except for the utility's  
4 obligation to pay an amount already owed to the fund for  
5 training grants pursuant to a Commission order issued under  
6 subsection (b) of this Section.

7 In the event that the average annual increase is 2.5% or  
8 less as calculated pursuant to this subsection (g), then the  
9 performance-based formula rate shall remain in effect as set  
10 forth in this Section.

11 For purposes of this Section, the amount per kilowatthour  
12 means the total amount paid for electric service expressed on a  
13 per kilowatthour basis, and the total amount paid for electric  
14 service includes without limitation amounts paid for supply,  
15 transmission, distribution, surcharges, and add-on taxes  
16 exclusive of any increases in taxes or new taxes imposed after  
17 the effective date of this amendatory Act of the 97th General  
18 Assembly. For purposes of this Section, "eligible retail  
19 customers" shall have the meaning set forth in Section 16-111.5  
20 of this Act.

21 The fact that this Section becomes inoperative as set forth  
22 in this subsection shall not be construed to mean that the  
23 Commission may reexamine or otherwise reopen prudence or  
24 reasonableness determinations already made.

25 (h) Sections 16-108.5, 16-108.6, 16-108.7, and 16-108.8 of  
26 this Act, other than this subsection, are inoperative after

1 December 31, 2017 for every participating utility, after which  
2 time a participating utility shall no longer be eligible to  
3 annually update the performance-based formula rate tariff  
4 pursuant to subsection (d) of this Section. At such time, the  
5 then current rates shall remain in effect until such time as  
6 new rates are set pursuant to Article IX of this Act, subject  
7 to retroactive adjustment, with interest, to reconcile rates  
8 charged with actual costs.

9 By December 31, 2017, the Commission shall prepare and file  
10 with the General Assembly a report on the infrastructure  
11 program and the performance-based formula rate. The report  
12 shall include the change in the average amount per kilowatthour  
13 paid by residential customers between June 1, 2011 and May 31,  
14 2017. If the change in the total average rate paid exceeds 2.5%  
15 compounded annually, the Commission shall include in the report  
16 an analysis that shows the portion of the change due to the  
17 delivery services component and the portion of the change due  
18 to the supply component of the rate. The report shall include  
19 separate sections for each participating utility.

20 In the event Sections 16-108.5, 16-108.6, 16-108.7, and  
21 16-108.8 of this Act do not become inoperative after December  
22 31, 2017, then these Sections are inoperative after December  
23 31, 2022 for every participating utility, after which time a  
24 participating utility shall no longer be eligible to annually  
25 update the performance-based formula rate tariff pursuant to  
26 subsection (d) of this Section. At such time, the then current



1 rates shall remain in effect until such time as new rates are  
2 set pursuant to Article IX of this Act, subject to retroactive  
3 adjustment, with interest, to reconcile rates charged with  
4 actual costs.

5 The fact that this Section becomes inoperative as set forth  
6 in this subsection shall not be construed to mean that the  
7 Commission may reexamine or otherwise reopen prudence or  
8 reasonableness determinations already made.

9 (i) While a participating utility may use, develop, and  
10 maintain broadband systems and the delivery of broadband  
11 services, voice-over-internet-protocol services,  
12 telecommunications services, and cable and video programming  
13 services for use in providing delivery services and Smart Grid  
14 functionality or application to its retail customers,  
15 including, but not limited to, the installation,  
16 implementation and maintenance of Smart Grid electric system  
17 upgrades as defined in Section 16-108.6 of this Act, a  
18 participating utility is prohibited from offering to its retail  
19 customers broadband services or the delivery of broadband  
20 services, voice-over-internet-protocol services,  
21 telecommunications services, or cable or video programming  
22 services, unless they are part of a service directly related to  
23 delivery services or Smart Grid functionality or applications  
24 as defined in Section 16-108.6 of this Act, and from recovering  
25 the costs of such offerings from retail customers.

26 (j) Nothing in this Section is intended to legislatively

1 overturn the opinion issued in Commonwealth Edison Co. v. Ill.  
2 Commerce Comm'n, Nos. 2-08-0959, 2-08-1037, 2-08-1137,  
3 1-08-3008, 1-08-3030, 1-08-3054, 1-08-3313 cons. (Ill. App.  
4 Ct. 2d Dist. Sept. 30, 2010). This amendatory Act of the 97th  
5 General Assembly shall not be construed as creating a contract  
6 between the General Assembly and the participating utility, and  
7 shall not establish a property right in the participating  
8 utility.

9 (Source: 09700SB1652enr.)

10 (220 ILCS 5/16-108.6)

11 Sec. 16-108.6. Provisions relating to Smart Grid Advanced  
12 Metering Infrastructure Deployment Plan.

13 (a) For purposes of this Section and Sections 16-108.7 and  
14 16-108.8 of this Act:

15 "Advanced Metering Infrastructure" or "AMI" means the  
16 communications hardware and software and associated system  
17 software that enables Smart Grid functions by creating a  
18 network between advanced meters and utility business systems  
19 and allowing collection and distribution of information to  
20 customers and other parties in addition to providing  
21 information to the utility itself.

22 "Cost-beneficial" means a determination that the benefits  
23 of a participating utility's Smart Grid AMI Deployment Plan  
24 exceed the costs of the Smart Grid AMI Deployment Plan as  
25 initially filed with the Commission or as subsequently modified

1 by the Commission. This standard is met if the present value of  
2 the total benefits of the Smart Grid AMI Deployment Plan  
3 exceeds the present value of the total costs of the Smart Grid  
4 AMI Deployment Plan. The total cost shall include all utility  
5 costs reasonably associated with the Smart Grid AMI Deployment  
6 Plan. The total benefits shall include the sum of avoided  
7 electricity costs, including avoided utility operational  
8 costs, avoided consumer power, capacity, and energy costs, and  
9 avoided societal costs associated with the production and  
10 consumption of electricity, as well as other societal benefits,  
11 including the greater integration of renewable and distributed  
12 power resources, reductions in the emissions of harmful  
13 pollutants and associated avoided health-related costs, other  
14 benefits associated with energy efficiency measures,  
15 demand-response activities, and the enabling of greater  
16 penetration of alternative fuel vehicles.

17 "Participating utility" has the meaning set forth in  
18 Section 16-108.5 of this Act.

19 "Smart Grid" means investments and policies that together  
20 promote one or more of the following goals:

21 (1) Increased use of digital information and controls  
22 technology to improve reliability, security, and  
23 efficiency of the electric grid.

24 (2) Dynamic optimization of grid operations and  
25 resources, with full cyber security.

26 (3) Deployment and integration of distributed

1 resources and generation, including renewable resources.

2 (4) Development and incorporation of demand-response,  
3 demand-side resources, and energy efficiency resources.

4 (5) Deployment of "smart" technologies (real-time,  
5 automated, interactive technologies that optimize the  
6 physical operation of appliances and consumer devices) for  
7 metering, communications concerning grid operations and  
8 status, and distribution automation.

9 (6) Integration of "smart" appliances and consumer  
10 devices.

11 (7) Deployment and integration of advanced electricity  
12 storage and peak-shaving technologies, including plug-in  
13 electric and hybrid electric vehicles, thermal-storage air  
14 conditioning and renewable energy generation.

15 (8) Provision to consumers of timely information and  
16 control options.

17 (9) Development of open access standards for  
18 communication and interoperability of appliances and  
19 equipment connected to the electric grid, including the  
20 infrastructure serving the grid.

21 (10) Identification and lowering of unreasonable or  
22 unnecessary barriers to adoption of Smart Grid  
23 technologies, practices, services, and business models  
24 that support energy efficiency, demand-response, and  
25 distributed generation.

26 "Smart Grid Advisory Council" means the group of

1 stakeholders formed pursuant to subsection (b) of this Section  
2 for the purposes of advising and working with participating  
3 utilities on the development and implementation of a Smart Grid  
4 Advanced Metering Infrastructure Deployment Plan.

5 "Smart Grid electric system upgrades" means any of the  
6 following:

7 (1) metering devices, sensors, control devices, and  
8 other devices integrated with and attached to an electric  
9 utility system that are capable of engaging in Smart Grid  
10 functions;

11 (2) other monitoring and communications devices that  
12 enable Smart Grid functions, including, but not limited to,  
13 distribution automation;

14 (3) software that enables devices or computers to  
15 engage in Smart Grid functions;

16 (4) associated cyber secure data communication  
17 network, including enhancements to cyber-security  
18 technologies and measures;

19 (5) substation micro-processor relay upgrades;

20 (6) devices that allow electric or hybrid-electric  
21 vehicles to engage in Smart Grid functions; or

22 (7) devices that enable individual consumers to  
23 incorporate distributed and micro-generation.

24 "Smart Grid electric system upgrades" does not include  
25 expenditures for: (1) electricity generation, transmission, or  
26 distribution infrastructure or equipment that does not

1 directly relate to or support installing, implementing or  
2 enabling Smart Grid functions; (2) physical interconnection of  
3 generators or other devices to the grid except those that are  
4 directly related to enabling Smart Grid functions; or (3)  
5 ongoing or routine operation, billing, customer relations,  
6 security, and maintenance.

7 "Smart Grid functions" means:

8 (1) the ability to develop, store, send, and receive  
9 digital information concerning or enabling grid  
10 operations, electricity use, costs, prices, time of use,  
11 nature of use, storage, or other information relevant to  
12 device, grid, or utility operations, to or from or by means  
13 of the electric utility system through one or a combination  
14 of devices and technologies;

15 (2) the ability to develop, store, send, and receive  
16 digital information concerning electricity use, costs,  
17 prices, time of use, nature of use, storage, or other  
18 information relevant to device, grid, or utility  
19 operations to or from a computer or other control device;

20 (3) the ability to measure or monitor electricity use  
21 as a function of time of day, power quality characteristics  
22 such as voltage level, current, cycles per second, or  
23 source or type of generation and to store, synthesize, or  
24 report that information by digital means;

25 (4) the ability to sense and localize disruptions or  
26 changes in power flows on the grid and communicate such

1 information instantaneously and automatically for purposes  
2 of enabling automatic protective responses to sustain  
3 reliability and security of grid operations;

4 (5) the ability to detect, prevent, communicate with  
5 regard to, respond to, or recover from system security  
6 threats, including cyber-security threats and terrorism,  
7 using digital information, media, and devices;

8 (6) the ability of any device or machine to respond to  
9 signals, measurements, or communications automatically or  
10 in a manner programmed by its owner or operator without  
11 independent human intervention;

12 (7) the ability to use digital information to operate  
13 functionalities on the electric utility grid that were  
14 previously electro-mechanical or manual;

15 (8) the ability to use digital controls to manage and  
16 modify electricity demand, enable congestion management,  
17 assist in voltage control, provide operating reserves, and  
18 provide frequency regulation; or

19 (9) the ability to integrate electric plug-in  
20 vehicles, distributed generation, and storage in a safe and  
21 cost-effective manner on the electric grid.

22 (b) Within 30 days after the effective date of this  
23 amendatory Act of the 97th General Assembly, the Smart Grid  
24 Advisory Council shall be established, which shall consist of 9  
25 ~~7~~ total voting members with each member possessing either  
26 technical, business or consumer expertise in Smart Grid issues.

1 5 of whom shall be appointed by ~~and each having been the single~~  
2 ~~appointment of one of the following:~~ the Governor, one of whom  
3 shall be appointed by the Speaker of the House, one of whom  
4 shall be appointed by the Minority Leader of the House, one of  
5 whom shall be appointed by the President of the Senate, and one  
6 of whom shall be appointed by the Minority Leader of the  
7 Senate. Of the Governor's 4 appointments: (i) at least one must  
8 represent the Illinois Science & Technology Coalition, (ii) at  
9 least one must represent the Citizens Utility Board, (iii) at  
10 least one must represent the Building Owners and Managers  
11 Association of Chicago, and (iv) at least one must represent an  
12 alternative retail electric supplier that has obtained a  
13 certificate of service authority pursuant to Section 16-115 of  
14 this Act and that is not an affiliate of a participating  
15 utility prior to one year after the effective date of this  
16 amendatory Act of the 97th General Assembly, ~~the Illinois~~  
17 ~~Science and Technology Coalition, and the Citizens Utility~~  
18 ~~Board.~~

19 The Governor shall designate one of the members of the  
20 Council to serve as chairman, and that person shall serve as  
21 the chairman at the pleasure of the Governor. The members shall  
22 not be compensated for serving on the Smart Grid Advisory  
23 Council. The Smart Grid Advisory Council shall have the  
24 following duties:

- 25 (1) Serve as an advisor to participating utilities  
26 subject to this Section and in the manner described in this



1 Section, and the recommendations provided by the Council,  
2 although non-binding, shall be considered by the  
3 utilities.

4 (2) Serve as trustees of the trust or foundation  
5 established pursuant to Section 16-108.7 of this Act with  
6 the duties enumerated thereunder.

7 (c) After consultation with the Smart Grid Advisory  
8 Council, each participating utility shall file a Smart Grid  
9 Advanced Metering Infrastructure Deployment Plan ("AMI Plan")  
10 with the Commission within 180 days after the effective date of  
11 this amendatory Act of the 97th General Assembly or by November  
12 1, 2011, whichever is later, or in the case of a combination  
13 utility as defined in Section 16-108.5, by April 1, 2012,  
14 provided that a participating utility shall not file its plan  
15 until the evaluation report on the Pilot Program described in  
16 this subsection (c) is issued. The AMI Plan shall provide for  
17 investment over a 10-year period that is sufficient to  
18 implement the AMI Plan across its entire service territory in a  
19 manner that is consistent with subsection (b) of Section  
20 16-108.5 of this Act. The AMI Plan shall contain:

21 (1) the participating utility's Smart Grid AMI vision  
22 statement that is consistent with the goal of developing a  
23 cost-beneficial Smart Grid;

24 (2) a statement of Smart Grid AMI strategy that  
25 includes a description of how the utility evaluates and  
26 prioritizes technology choices to create customer value,

1 including a plan to enhance and enable customers' ability  
2 to take advantage of Smart Grid functions beginning at the  
3 time an account has billed successfully on the AMI network;

4 (3) a deployment schedule and plan that includes  
5 deployment of AMI to all customers for a participating  
6 utility other than a combination utility, and to 62% of all  
7 customers for a participating utility that is a combination  
8 utility;

9 (4) annual milestones and metrics for the purposes of  
10 measuring the success of the AMI Plan in enabling Smart  
11 Grid functions; and enhancing consumer benefits from Smart  
12 Grid AMI; and

13 (5) a plan for the consumer education to be implemented  
14 by the participating utility.

15 The AMI Plan shall be fully consistent with the standards  
16 of the National Institute of Standard and Technology (NIST) for  
17 Smart Grid interoperability that are in effect at the time the  
18 participating utility files its AMI Plan, shall include open  
19 standards and internet protocol to the maximum extent possible  
20 consistent with cyber security, and shall maximize, to the  
21 extent possible, a flexible smart meter platform that can  
22 accept remote device upgrades and contain sufficient internal  
23 memory capacity for additional storage capabilities, functions  
24 and services without the need for physical access to the meter.

25 The AMI Plan shall secure the privacy of personal  
26 information and establish the right of consumers to consent to

1 the disclosure of personal energy information to third parties  
2 through electronic, web-based, and other means in accordance  
3 with State and federal law and regulations regarding consumer  
4 privacy and protection of consumer data.

5 After notice and hearing, the Commission shall, within 60  
6 days of the filing of an AMI Plan, issue its order approving,  
7 or approving with modification, the AMI Plan if the Commission  
8 finds that the AMI Plan contains the information required in  
9 paragraphs (1) through (5) of this subsection (c) and further  
10 finds that the implementation of the AMI Plan will be  
11 cost-beneficial consistent with the principles established  
12 through the Illinois Smart Grid Collaborative, giving weight to  
13 the results of any Commission-approved pilot designed to  
14 examine the benefits and costs of AMI deployment. A  
15 participating utility's decision to invest pursuant to an AMI  
16 Plan approved by the Commission shall not be subject to  
17 prudence reviews in subsequent Commission proceedings. Nothing  
18 in this subsection (c) is intended to limit the Commission's  
19 ability to review the reasonableness of the costs incurred  
20 under the AMI Plan. A participating utility shall be allowed to  
21 recover the reasonable costs it incurs in implementing a  
22 Commission-approved AMI Plan, including the costs of retired  
23 meters, and may recover such costs through its tariffs,  
24 including the performance-based formula rate tariff approved  
25 pursuant to subsection (c) of Section 16-108.5 of this Act.

26 (d) The AMI Plan shall secure the privacy of the customer's

1 personal information. "Personal information" for this purpose  
2 consists of the customer's name, address, telephone number, and  
3 other personally identifying information, as well as  
4 information about the customer's electric usage. Electric  
5 utilities, their contractors or agents, and any third party who  
6 comes into possession of such personal information by virtue of  
7 working on Smart Grid technology shall not disclose such  
8 personal information to be used in mailing lists or to be used  
9 for other commercial purposes not reasonably related to the  
10 conduct of the utility's business. Electric utilities shall  
11 comply with the consumer privacy requirements of the Personal  
12 Information Protection Act. In the event a participating  
13 utility receives revenues from the sale of information obtained  
14 through Smart Grid technology that is not personal information,  
15 the participating utility shall use such revenues to offset the  
16 revenue requirement.

17 (e) On April 1 of each year beginning in 2013 and after  
18 consultation with the Smart Grid Advisory Council, each  
19 participating utility shall submit a report regarding the  
20 progress it has made toward completing implementation of its  
21 AMI Plan. This report shall:

22 (1) describe the AMI investments made during the prior  
23 12 months and the AMI investments planned to be made in the  
24 following 12 months;

25 (2) provide sufficient detail to determine the  
26 utility's progress in meeting the metrics and milestones

1 identified by the utility in its AMI Plan; and

2 (3) identify any updates to the AMI Plan.

3 Within 21 days after the utility files its annual report,  
4 the Commission shall have authority, either upon complaint or  
5 its own initiative, but with reasonable notice, to enter upon  
6 an investigation regarding the utility's progress in  
7 implementing the AMI Plan as described in paragraph (1) of this  
8 subsection (e). If the Commission finds, after notice and  
9 hearing, that the participating utility's progress in  
10 implementing the AMI Plan is materially deficient for the given  
11 plan year, then the Commission shall issue an order requiring  
12 the participating utility to devise a corrective action plan,  
13 subject to Commission approval and oversight, to bring  
14 implementation back on schedule consistent with the AMI Plan.  
15 The Commission's order must be entered within 90 days after the  
16 utility files its annual report. If the Commission does not  
17 initiate an investigation within 21 days after the utility  
18 files its annual report, then the filing shall be deemed  
19 accepted by the Commission. The utility shall not be required  
20 to suspend implementation of its AMI Plan during any Commission  
21 investigation.

22 The participating utility's annual report regarding AMI  
23 Plan year 10 shall contain a statement verifying that the  
24 implementation of its AMI Plan is complete, provided, however,  
25 that if the utility is subject to a corrective action plan that  
26 extends the implementation period beyond 10 years, the utility

1 shall include the verification statement in its final annual  
2 report. Following the date of a Commission order approving the  
3 final annual report or the date on which the final report is  
4 deemed accepted by the Commission, the utility's annual  
5 reporting obligations under this subsection (d) shall  
6 terminate, provided, however, that the utility shall have a  
7 continuing obligation to provide information, upon request, to  
8 the Commission and Smart Grid Advisory Council regarding the  
9 AMI Plan.

10 (f) Each participating utility shall pay a pro rata share,  
11 based on number of customers, of \$5,000,000 per year to the  
12 trust or foundation established pursuant to Section 16-108.7 of  
13 this Act for each plan year of the AMI Plan, which shall be  
14 used for purposes of providing customer education regarding  
15 smart meters and related consumer-facing technologies and  
16 services and 70% of which shall be a recoverable expense;  
17 provided that other reasonable amounts expended by the utility  
18 for such consumer education shall not be subject to the 70%  
19 limitation of this subsection.

20 (g) Within 60 days after the Commission approves a  
21 participating utility's AMI Plan pursuant to subsection (c) of  
22 this Section, the participating utility, after consultation  
23 with the Smart Grid Advisory Council, shall file a proposed  
24 tariff with the Commission that offers an opt-in market-based  
25 peak time rebate program to all residential retail customers  
26 with smart meters that is designed to provide, in a

1 competitively neutral manner, rebates to those residential  
2 retail customers that curtail their use of electricity during  
3 specific periods that are identified as peak usage periods. The  
4 total amount of rebates shall be the amount of compensation the  
5 utility obtains through markets or programs at the applicable  
6 regional transmission organization. The utility shall make all  
7 reasonable attempts to secure funding for the peak time rebate  
8 program through markets or programs at the applicable regional  
9 transmission organization. The rules and procedures for  
10 consumers to opt-in to the peak time rebate program shall  
11 include electronic sign-up, be designed to maximize  
12 participation, and be included on the utility's website. The  
13 Commission shall monitor the performance of programs  
14 established pursuant to this subsection (g) and shall order the  
15 termination or modification of a program if it determines that  
16 the program is not, after a reasonable period of time for  
17 development of at least 4 years, resulting in net benefits to  
18 the residential customers of the participating utility.

19 (h) If Section 16-108.5 of this Act becomes inoperative  
20 with respect to one or more participating utilities as set  
21 forth in subsection (g) or (h) of that Section, then Sections  
22 16-108.5, 16-108.6, 16-108.7, and 16-108.8 of this Act shall  
23 become inoperative as to each affected utility and its service  
24 area on the same date as Section 16-108.5 becomes inoperative.

25 (Source: 09700SB1652enr.)

1 (220 ILCS 5/16-108.7)

2 Sec. 16-108.7. Illinois Science and Energy Innovation  
3 Trust.

4 (a) Within 90 days of the effective date of this amendatory  
5 Act of the 97th General Assembly, the members of the Smart Grid  
6 Advisory Council established pursuant to Section 16-108.6 of  
7 this Act, or a majority of the members thereof, shall cause to  
8 be established an Illinois science and energy innovation trust  
9 or foundation for the purposes of providing financial and  
10 technical support and assistance to entities, public or  
11 private, within the State of Illinois including, but not  
12 limited to, units of State and local government, educational  
13 and research institutions, corporations, and charitable,  
14 educational, environmental and community organizations, for  
15 programs and projects that support, encourage or utilize  
16 innovative technologies or other methods of modernizing the  
17 State's electric grid that will benefit the public by promoting  
18 economic development in Illinois. Such activities shall be  
19 supported through grants, loans, contracts, or other programs  
20 designed to assist and further benefit technological advances  
21 in the area of electric grid modernization and operation. The  
22 trust or foundation shall also be eligible for receipt of other  
23 energy and environmental grant opportunities, from public or  
24 private sources. The trust or foundation shall not be a  
25 governmental entity.

26 (b) Funds received by the trust or foundation pursuant to



1 subsection (f) of Section 16-108.6 of this Act shall be used  
2 solely for the purpose of providing consumer education  
3 regarding smart meters and related consumer-facing  
4 technologies and services and the peak time rebate program  
5 described in subsection (g) of Section 16-108.6 of this Act.  
6 Thirty percent of such funds received from each participating  
7 utility shall be used by the trust or foundation for purposes  
8 of providing such education to each participating utility's  
9 low-income retail customers, including low-income senior  
10 citizens.

11 The trust or foundation shall use all funds received  
12 pursuant to subsection (f) of Section 16-108.6 of this Act in a  
13 manner that reflects the unique needs and characteristics of  
14 each participating utility's service territory and in  
15 proportion to each participating utility's payment.

16 (c) Such trust or foundation shall be governed by a  
17 declaration of trust or articles of incorporation and bylaws  
18 which shall, at a minimum, provide the following:

19 (1) There shall initially be 9 ~~7~~ trustees of the trust  
20 or foundation, which shall consist of the members of the  
21 Smart Grid Advisory Council established pursuant to  
22 Section 16-108.6 of this Act. Subsequently, the  
23 participating utilities shall appoint one trustee and the  
24 Clean Energy Trust shall appoint one non-voting trustee who  
25 shall provide expertise regarding early stage investment  
26 in Smart Grid projects.

1           (2) All trustees shall be entitled to reimbursement for  
2 reasonable expenses incurred on behalf of the trust in the  
3 performance of their duties as trustees. All such  
4 reimbursements shall be paid out of the trust.

5           (3) Trustees shall be appointed within 60 days after  
6 the creation of the trust or foundation and shall serve for  
7 a term of 5 years commencing upon the date of their  
8 respective appointments, until their respective successors  
9 are appointed and qualified.

10           (4) A vacancy in the office of trustee shall be filled  
11 by the person holding the office responsible for appointing  
12 the trustee whose death or resignation creates the vacancy,  
13 and a trustee appointed to fill a vacancy shall serve the  
14 remainder of the term of the trustee whose resignation or  
15 death created the vacancy.

16           (5) The trust or foundation shall have an indefinite  
17 term and shall terminate at such time as no trust assets  
18 remain.

19           (6) The allocation and disbursement of funds for the  
20 various purposes for which the trust or foundation is  
21 established shall be determined by the trustees in  
22 accordance with the declaration of trust or the articles of  
23 incorporation and bylaws.

24           (7) The trust or foundation shall be authorized to  
25 employ an executive director and other employees, or  
26 contract management of the trust or foundation in its

1           entirety to an outside organization found suitable by the  
2           trustees, to enter into leases, contracts and other  
3           obligations on behalf of the trust or foundation, and to  
4           incur expenses that the trustees deem necessary or  
5           appropriate for the fulfillment of the purposes for which  
6           the trust or foundation is established, provided, however,  
7           that salaries and administrative expenses incurred on  
8           behalf of the trust or foundation shall not exceed 3% of  
9           the trust's principal value, or \$750,000, whichever is  
10          greater, in any given year. The trustees shall not be  
11          compensated by the trust or foundation.

12           (8) The trustees may create and appoint advisory boards  
13          or committees to assist them with the administration of the  
14          trust or foundation, and to advise and make recommendations  
15          to them regarding the contribution and disbursement of the  
16          trust or foundation funds.

17           (9) All funds dispersed by the trust or foundation for  
18          programs and projects to meet the objectives of the trust  
19          or foundation as enumerated in this Section shall be  
20          subject to a peer-review process as determined by the  
21          trustees. This process shall be designed to determine, in  
22          an objective and unbiased manner, those programs and  
23          projects that best fit the objectives of the trust or  
24          foundation. In each fiscal year the trustees shall  
25          determine, based solely on the information provided  
26          through the peer-review process, a budget for programs and

1 projects for that fiscal year.

2 (10) The trustees shall administer a Smart Grid  
3 education fund from which it shall make grants to qualified  
4 not-for-profit organizations for the purpose of educating  
5 customers with regard to smart meters and related  
6 consumer-facing technologies and services. In making such  
7 grants the trust or foundation shall strongly encourage  
8 grantees to coordinate to the extent practicable and  
9 consider recommendations from the participating utilities  
10 regarding the development and implementation of customer  
11 education plans.

12 (11) One of the objectives of the trust or foundation  
13 is to remain self-funding. In order to meet this objective,  
14 the trustees may sign agreements with those entities  
15 receiving funding that provide for license fees,  
16 royalties, or other payments to the trust or foundation  
17 from such entities that receive support for their product  
18 development from the trust or foundation. Such payments,  
19 however, shall be contingent on the commercialization of  
20 such products, services, or technologies enabled by the  
21 funding provided by the trust or foundation.

22 (d) The trustees shall notify each participating utility as  
23 defined in Section 16-108.5 of this Act of the formation of the  
24 trust or foundation. Within 90 days after receipt of the  
25 notification, each participating utility that is not a  
26 combination utility as defined in Section 16-108.5 of this Act

1 shall contribute \$15,000,000 to the trust or foundation, and  
2 each participating utility that is a combination utility, as  
3 defined in Section 16-108.5 of this Act, shall contribute  
4 \$7,500,000 to the trust or foundation established pursuant to  
5 this Section. Such contributions shall not be a recoverable  
6 expense.

7 (e) If Section 16-108.5 of this Act becomes inoperative  
8 with respect to one or more participating utilities as set  
9 forth in subsection (g) or (h) of that Section, then Sections  
10 16-108.5, 16-108.6, 16-108.7, and 16-108.8 of this Act shall  
11 become inoperative as to each affected utility and its service  
12 area on the same date as Section 16-108.5 becomes inoperative.

13 (Source: 09700SB1652enr.)

14 (220 ILCS 5/16-128)

15 Sec. 16-128. Provisions related to utility employees  
16 ~~during the mandatory transition period.~~

17 (a) The General Assembly finds:

18 (1) The reliability and safety of the electric system  
19 has depended and depends on a workforce of skilled and  
20 dedicated employees, equipped with technical training and  
21 experience.

22 (2) The integrity and reliability of the system also  
23 requires the industry's commitment to invest in regular  
24 inspection and maintenance, to assure that it can withstand  
25 the demands of heavy service requirements and emergency

1 situations.

2 (3) It is in the State's interest to protect the  
3 interests of utility employees who have and continue to  
4 dedicate themselves to assuring reliable service to the  
5 citizens of this State, and who might otherwise be  
6 economically displaced in a restructured industry.

7 The General Assembly further finds that it is necessary to  
8 assure that employees of electric utilities and employees of  
9 contractors or subcontractors performing work on behalf of an  
10 electric utility operating in the deregulated industry have the  
11 requisite skills, knowledge, training, experience, and  
12 competence to provide reliable and safe electrical service  
13 under this Act .

14 The General Assembly also finds that it is necessary to  
15 assure that employees of alternative retail electric suppliers  
16 and employees of contractors or subcontractors performing work  
17 on behalf of an alternative retail electric supplier operating  
18 in the deregulated industry have the requisite skills,  
19 knowledge, training, experience, and competence to provide  
20 reliable and safe electrical service under this Act.

21 To ensure that these findings and prerequisites for  
22 reliable and safe electrical service continue to prevail, each  
23 alternative retail electric supplier, electric utility, and  
24 contractors and subcontractors performing work on behalf of an  
25 electric utility or alternative retail electric supplier must  
26 demonstrate the competence of their respective employees to

1 work on the distribution system.

2 The knowledge, skill, training, experience, and competence  
3 levels to be demonstrated shall be consistent with those  
4 required of or by the electric utilities in this State as of  
5 January 1, 2007, with respect to their employees and employees  
6 of contractors or subcontractors performing work on their  
7 behalf. Nothing in this Section shall prohibit an electric  
8 utility from establishing knowledge, skill, training,  
9 experience, and competence levels greater than those required  
10 as of January 1, 2007.

11 An adequate demonstration of requisite knowledge, skill,  
12 training, experience, and competence shall include, at a  
13 minimum, completion or current participation and ultimate  
14 completion by the employee of an accredited or otherwise  
15 recognized apprenticeship program for the particular craft,  
16 trade or skill, or specified and several years of employment  
17 performing a particular work function that is utilized by an  
18 electric utility.

19 Notwithstanding any law, tariff, Commission rule, order,  
20 or decision to the contrary, the Commission shall have an  
21 affirmative statutory obligation to ensure that an electric  
22 utility is employing employees, contractors, and  
23 subcontractors with employees who meet the requirements of  
24 subsection (a) of this Section when installing, constructing,  
25 operating, and maintaining generation, transmission, or  
26 distribution facilities and equipment within this State

1 pursuant to any provision in this Act or any Commission order,  
2 rule, or decision.

3 For purposes of this Section, "distribution facilities and  
4 equipment" means any and all of the facilities and equipment,  
5 including, but not limited to, substations, distribution  
6 feeder circuits, switches, meters, protective equipment,  
7 primary circuits, distribution transformers, line extensions  
8 and service extensions both above or below ground, conduit,  
9 risers, elbows, transformer pads, junction boxes, manholes,  
10 pedestals, conductors, and all associated fittings that  
11 connect the transmission or distribution system to either the  
12 weatherhead on the retail customer's building or other  
13 structure for above ground service or to the terminals on the  
14 meter base of the retail customer's building or other structure  
15 for below ground service.

16 To implement this requirement for alternative retail  
17 electric suppliers, the Commission, in determining that an  
18 applicant meets the standards for certification as an  
19 alternative retail electric supplier, shall require the  
20 applicant to demonstrate (i) that the applicant is licensed to  
21 do business, and bonded, in the State of Illinois; and (ii)  
22 that the employees of the applicant that will be installing,  
23 operating, and maintaining generation, transmission, or  
24 distribution facilities within this State, or any entity with  
25 which the applicant has contracted to perform those functions  
26 within this State, have the requisite knowledge, skills,



1 training, experience, and competence to perform those  
2 functions in a safe and responsible manner in order to provide  
3 safe and reliable service, in accordance with the criteria  
4 stated above.

5 (b) The General Assembly finds, based on experience in  
6 other industries that have undergone similar transitions, that  
7 the introduction of competition into the State's electric  
8 utility industry may result in workforce reductions by electric  
9 utilities which may adversely affect persons who have been  
10 employed by this State's electric utilities in functions  
11 important to the public convenience and welfare. The General  
12 Assembly further finds that the impacts on employees and their  
13 communities of any necessary reductions in the utility  
14 workforce directly caused by this restructuring of the electric  
15 industry shall be mitigated to the extent practicable through  
16 such means as offers of voluntary severance, retraining, early  
17 retirement, outplacement and related benefits. Therefore,  
18 before any such reduction in the workforce during the  
19 transition period, an electric utility shall present to its  
20 employees or their representatives a workforce reduction plan  
21 outlining the means by which the electric utility intends to  
22 mitigate the impact of such workforce reduction on its  
23 employees.

24 (c) In the event of a sale, purchase, or any other transfer  
25 of ownership during the mandatory transition period of one or  
26 more Illinois divisions or business units, and/or generating

1 stations or generating units, of an electric utility, the  
2 electric utility's contract and/or agreements with the  
3 acquiring entity or persons shall require that the entity or  
4 persons hire a sufficient number of non-supervisory employees  
5 to operate and maintain the station, division or unit by  
6 initially making offers of employment to the non-supervisory  
7 workforce of the electric utility's division, business unit,  
8 generating station and/or generating unit at no less than the  
9 wage rates, and substantially equivalent fringe benefits and  
10 terms and conditions of employment that are in effect at the  
11 time of transfer of ownership of said division, business unit,  
12 generating station, and/or generating units; and said wage  
13 rates and substantially equivalent fringe benefits and terms  
14 and conditions of employment shall continue for at least 30  
15 months from the time of said transfer of ownership unless the  
16 parties mutually agree to different terms and conditions of  
17 employment within that 30-month period. The utility shall offer  
18 a transition plan to those employees who are not offered jobs  
19 by the acquiring entity because that entity has a need for  
20 fewer workers. If there is litigation concerning the sale, or  
21 other transfer of ownership of the electric utility's  
22 divisions, business units, generating station, or generating  
23 units, the 30-month period will begin on the date the acquiring  
24 entity or persons take control or management of the divisions,  
25 business units, generating station or generating units of the  
26 electric utility.

1           (d) If a utility transfers ownership during the mandatory  
2 transition period of one or more Illinois divisions, business  
3 units, generating stations or generating units of an electric  
4 utility to a majority-owned subsidiary, that subsidiary shall  
5 continue to employ the utility's employees who were employed by  
6 the utility at such division, business unit or generating  
7 station at the time of the transfer under the same terms and  
8 conditions of employment as those employees enjoyed at the time  
9 of the transfer. If ownership of the subsidiary is subsequently  
10 sold or transferred to a third party during the transition  
11 period, the transition provisions outlined in subsection (c)  
12 shall apply.

13           (e) The plant transfer provisions set forth above shall not  
14 apply to any generating station which was the subject of a  
15 sales agreement entered into before January 1, 1997.

16           (Source: P.A. 90-561, eff. 12-16-97; 09700SB1652enr.)

17           Section 99. Effective date. This Act takes effect upon  
18 becoming law."