

1 AN ACT relating to public utilities.

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

4 Section 5. The Public Utilities Act is amended by  
5 changing Section 16-126 as follows:

6 (220 ILCS 5/16-126)

7 Sec. 16-126. Membership in an independent system  
8 operator.

9 (a) The General Assembly finds that the establishment of  
10 one or more independent system operators or their functional  
11 equivalents is required to facilitate the development of an  
12 open and efficient marketplace for electric power and energy  
13 to the benefit of Illinois consumers. Therefore, an each  
14 Illinois electric utility owning or controlling transmission  
15 facilities or providing transmission services in Illinois and  
16 that is a member of the Mid-American Interconnected Network  
17 as of the effective date of this amendatory Act of 1997 shall  
18 submit for approval to the Federal Energy Regulatory  
19 Commission an application for establishing or joining an  
20 independent system operator that shall:

21 (1) independently manage and control transmission  
22 facilities of any electric utility;

23 (2) provide for nondiscriminatory access to and use  
24 of the transmission system for buyers and sellers of  
25 electricity;

26 (3) direct the transmission activities of the  
27 control area operators;

28 (4) coordinate, plan, and order the installation of  
29 new transmission facilities;

30 (5) adopt inspection, maintenance, repair, and  
31 replacement standards for the transmission facilities

1 under its control and direct maintenance, repair, and  
2 replacement of all facilities under its control; and

3 (6) implement procedures and act to assure the  
4 provision of adequate and reliable service.

5 These standards shall be consistent with reliability  
6 criteria no less stringent than those established by the  
7 Mid-American Interconnected Network and the North American  
8 Electric Reliability Council or their successors.

9 (b) The requirements of this Section may be met by  
10 joining or establishing a regional independent system  
11 operator that meets the criteria enumerated in subsections  
12 (a), (c), and (d) of this Section, as determined by the  
13 Commission. To achieve the objectives set forth in subsection  
14 (a), the State of Illinois, through the appropriate officers,  
15 departments, and agencies, shall work cooperatively with the  
16 appropriate officials and agencies of those States contiguous  
17 to this State and the Federal Energy Regulatory Commission  
18 towards the formation of one or more regional independent  
19 system operators.

20 (c) The independent system operator's governance  
21 structure must be fair and nondiscriminatory, and the  
22 independent system operator must be independent of any one  
23 market participant or class of participants. The independent  
24 system operator's rules of governance must prevent control,  
25 or the appearance of control, of decision-making by any class  
26 of participants.

27 (d) Participants in the independent system operator  
28 shall make available to the independent system operator all  
29 information required by the independent system operator in  
30 performance of its functions described herein. The  
31 independent system operator and the electric utilities  
32 participating in the independent system operator shall make  
33 all filings required by the Federal Energy Regulatory  
34 Commission. The independent system operator shall ensure that

1 additional filings at the Federal Energy Regulatory  
2 Commission request confirmation of the relevant provisions of  
3 this amendatory Act of 1997.

4 (e) If a spot market, exchange market, or other  
5 market-based mechanism providing transparent real-time market  
6 prices for electric power has not been developed, the  
7 independent system operator or a closely cooperating agent of  
8 the independent system operator may provide an efficient  
9 competitive power exchange auction for electric power and  
10 energy, open on a nondiscriminatory basis to all suppliers,  
11 which meets the loads of all auction customers at efficient  
12 prices.

13 (f) For those electric utilities referred to in  
14 subsection (a) which have not filed with the Federal Energy  
15 Regulatory Commission by June 30, 1998 an application for  
16 establishment or participation in an independent system  
17 operator or if such application has not been approved by the  
18 Federal Energy Regulatory Commission by March 31, 1999, a 5  
19 member Oversight Board shall be formed. The Oversight Board  
20 shall (1) oversee the creation of an Illinois independent  
21 system operator and (2) determine the composition and initial  
22 terms of service of, and appoint the initial members of, the  
23 Illinois independent system operator board of directors. The  
24 Oversight Board shall consist of the following: (1) 3 persons  
25 appointed by the Governor; (2) one person appointed by the  
26 Speaker of the House of Representatives; and (3) one person  
27 appointed by the President of the Senate. The Oversight Board  
28 shall take the steps that are necessary to ensure the  
29 earliest possible incorporation of an Illinois independent  
30 system operator under the Business Corporation Act of 1983,  
31 and shall serve until the Illinois independent system  
32 operator is incorporated.

33 (g) After notice and hearing, the Commission shall  
34 require each electric utility referred to in subsection (a),

1 that is not participating in an independent system operator  
2 meeting the requirements of subsections (a) and (c), to seek  
3 authority from the Federal Energy Regulatory Commission to  
4 transfer functional control of transmission facilities to the  
5 Illinois independent system operator for control by the  
6 Illinois independent system operator consistent with the  
7 requirements of subsection (a). Upon approval by the Federal  
8 Energy Regulatory Commission, electric utilities may also  
9 elect to transfer ownership of transmission facilities to the  
10 Illinois independent system operator. Nothing in this Act  
11 shall be deemed to preclude the Illinois independent system  
12 operator from (1) seeking authority, as necessary, to merge  
13 with or otherwise combine its operations with those of one or  
14 more other entities authorized to provide transmission  
15 services, (2) purchasing or leasing transmission assets from  
16 transmission-owning entities not required by this Section to  
17 lease transmission facilities to the Illinois independent  
18 system operator, or (3) operating as a transmission public  
19 utility under the Federal Power Act.

20 (h) Any other owner of transmission facilities in  
21 Illinois not required by this Section to participate in an  
22 independent system operator shall be permitted, but not  
23 required, to become a member of the Illinois independent  
24 system operator.

25 (i) The Illinois independent system operator created  
26 under this Section, and any other independent system operator  
27 authorized by the Federal Energy Regulatory Commission to  
28 provide transmission services as a public utility under the  
29 Federal Power Act within the State of Illinois, shall be  
30 deemed to be a public utility for purposes of Section 8-503  
31 and 8-509 of this Act.

32 (j) Electric utilities referred to in subsection (a) may  
33 withdraw from the Illinois independent system operator upon  
34 becoming a member of an independent system operator or

1 operators conforming with the criteria in subsections (a) and  
2 (c) and whose formation and operation has been approved by  
3 the Federal Energy Regulatory Commission. This subsection  
4 does not relieve any electric utility of any obligations  
5 under Federal law.

6 (k) Nothing in this Section shall be construed as  
7 imposing any requirements or obligations that are in conflict  
8 with federal law.

9 (Source: P.A. 90-561, eff. 12-16-97.)