



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB2825

by Rep. Jerry Costello, II

SYNOPSIS AS INTRODUCED:

220 ILCS 5/8-103
220 ILCS 5/8-103B
220 ILCS 5/8-104

Amends the Public Utilities Act. Provides that certain energy efficiency and demand-response plans administered by the Department of Commerce and Economic Opportunity that were approved by the Illinois Commerce Commission on or before the effective date of Public Act 99-906 for the period June 1, 2014 through May 31, 2017 shall continue to be in force and effect through December 31, 2017. Provides that the Department of Commerce and Economic Opportunity and each such utility is authorized to increase, on a pro rata basis, the energy savings goals and budgets approved in its plan to reflect the additional 7 months of the plan's operation. Provides that implementation of energy efficiency measures targeted at the public sector shall prioritize programming whose goal is to make local, State, and federal public facilities more economical and environmentally responsible, and that such programming shall be contracted to State public universities and community colleges that have existing relationships with or experience serving public sector energy efficiency programs in the State.

LRB100 09650 RJF 19819 b

1 AN ACT concerning regulation.

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

4 Section 5. The Public Utilities Act is amended by changing
5 Sections 8-103, 8-103B, and 8-104 as follows:

6 (220 ILCS 5/8-103)

7 (Text of Section before amendment by P.A. 99-906)

8 Sec. 8-103. Energy efficiency and demand-response
9 measures.

10 (a) It is the policy of the State that electric utilities
11 are required to use cost-effective energy efficiency and
12 demand-response measures to reduce delivery load. Requiring
13 investment in cost-effective energy efficiency and
14 demand-response measures will reduce direct and indirect costs
15 to consumers by decreasing environmental impacts and by
16 avoiding or delaying the need for new generation, transmission,
17 and distribution infrastructure. It serves the public interest
18 to allow electric utilities to recover costs for reasonably and
19 prudently incurred expenses for energy efficiency and
20 demand-response measures. As used in this Section,
21 "cost-effective" means that the measures satisfy the total
22 resource cost test. The low-income measures described in
23 subsection (f) (4) of this Section shall not be required to meet

1 the total resource cost test. For purposes of this Section, the
2 terms "energy-efficiency", "demand-response", "electric
3 utility", and "total resource cost test" shall have the
4 meanings set forth in the Illinois Power Agency Act. For
5 purposes of this Section, the amount per kilowatthour means the
6 total amount paid for electric service expressed on a per
7 kilowatthour basis. For purposes of this Section, the total
8 amount paid for electric service includes without limitation
9 estimated amounts paid for supply, transmission, distribution,
10 surcharges, and add-on-taxes.

11 (b) Electric utilities shall implement cost-effective
12 energy efficiency measures to meet the following incremental
13 annual energy savings goals:

14 (1) 0.2% of energy delivered in the year commencing
15 June 1, 2008;

16 (2) 0.4% of energy delivered in the year commencing
17 June 1, 2009;

18 (3) 0.6% of energy delivered in the year commencing
19 June 1, 2010;

20 (4) 0.8% of energy delivered in the year commencing
21 June 1, 2011;

22 (5) 1% of energy delivered in the year commencing June
23 1, 2012;

24 (6) 1.4% of energy delivered in the year commencing
25 June 1, 2013;

26 (7) 1.8% of energy delivered in the year commencing

1 June 1, 2014; and

2 (8) 2% of energy delivered in the year commencing June
3 1, 2015 and each year thereafter.

4 Electric utilities may comply with this subsection (b) by
5 meeting the annual incremental savings goal in the applicable
6 year or by showing that the total cumulative annual savings
7 within a 3-year planning period associated with measures
8 implemented after May 31, 2014 was equal to the sum of each
9 annual incremental savings requirement from May 31, 2014
10 through the end of the applicable year.

11 (c) Electric utilities shall implement cost-effective
12 demand-response measures to reduce peak demand by 0.1% over the
13 prior year for eligible retail customers, as defined in Section
14 16-111.5 of this Act, and for customers that elect hourly
15 service from the utility pursuant to Section 16-107 of this
16 Act, provided those customers have not been declared
17 competitive. This requirement commences June 1, 2008 and
18 continues for 10 years.

19 (d) Notwithstanding the requirements of subsections (b)
20 and (c) of this Section, an electric utility shall reduce the
21 amount of energy efficiency and demand-response measures
22 implemented over a 3-year planning period by an amount
23 necessary to limit the estimated average annual increase in the
24 amounts paid by retail customers in connection with electric
25 service due to the cost of those measures to:

26 (1) in 2008, no more than 0.5% of the amount paid per

1 kilowatthour by those customers during the year ending May
2 31, 2007;

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

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

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

18 (5) thereafter, the amount of energy efficiency and
19 demand-response measures implemented for any single year
20 shall be reduced by an amount necessary to limit the
21 estimated average net increase due to the cost of these
22 measures included in the amounts paid by eligible retail
23 customers in connection with electric service to no more
24 than the greater of 2.015% of the amount paid per
25 kilowatthour by those customers during the year ending May
26 31, 2007 or the incremental amount per kilowatthour paid

1 for these measures in 2011.

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

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

26 The apportionment of the dollars to cover the costs to

1 implement the Department's share of the portfolio of energy
2 efficiency measures shall be made to the Department once the
3 Department has executed rebate agreements, grants, or
4 contracts for energy efficiency measures and provided
5 supporting documentation for those rebate agreements, grants,
6 and contracts to the utility. The Department is authorized to
7 adopt any rules necessary and prescribe procedures in order to
8 ensure compliance by applicants in carrying out the purposes of
9 rebate agreements for energy efficiency measures implemented
10 by the Department made under this Section.

11 The details of the measures implemented by the Department
12 shall be submitted by the Department to the Commission in
13 connection with the utility's filing regarding the energy
14 efficiency and demand-response measures that the utility
15 implements.

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

25 Each utility shall include, in its recovery of costs, the
26 costs estimated for both the utility's and the Department's

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

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

21 The utility and the Department shall agree upon a
22 reasonable portfolio of measures and determine the measurable
23 corresponding percentage of the savings goals associated with
24 measures implemented by the utility or Department.

25 No utility shall be assessed a penalty under subsection (f)
26 of this Section for failure to make a timely filing if that

1 failure is the result of a lack of agreement with the
2 Department with respect to the allocation of responsibilities
3 or related costs or target assignments. In that case, the
4 Department and the utility shall file their respective plans
5 with the Commission and the Commission shall determine an
6 appropriate division of measures and programs that meets the
7 requirements of this Section.

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

20 (f) No later than November 15, 2007, each electric utility
21 shall file an energy efficiency and demand-response plan with
22 the Commission to meet the energy efficiency and
23 demand-response standards for 2008 through 2010. No later than
24 October 1, 2010, each electric utility shall file an energy
25 efficiency and demand-response plan with the Commission to meet
26 the energy efficiency and demand-response standards for 2011

1 through 2013. Every 3 years thereafter, each electric utility
2 shall file, no later than September 1, an energy efficiency and
3 demand-response plan with the Commission. If a utility does not
4 file such a plan by September 1 of an applicable year, it shall
5 face a penalty of \$100,000 per day until the plan is filed.
6 Each utility's plan shall set forth the utility's proposals to
7 meet the utility's portion of the energy efficiency standards
8 identified in subsection (b) and the demand-response standards
9 identified in subsection (c) of this Section as modified by
10 subsections (d) and (e), taking into account the unique
11 circumstances of the utility's service territory. The
12 Commission shall seek public comment on the utility's plan and
13 shall issue an order approving or disapproving each plan within
14 5 months after its submission. If the Commission disapproves a
15 plan, the Commission shall, within 30 days, describe in detail
16 the reasons for the disapproval and describe a path by which
17 the utility may file a revised draft of the plan to address the
18 Commission's concerns satisfactorily. If the utility does not
19 refile with the Commission within 60 days, the utility shall be
20 subject to penalties at a rate of \$100,000 per day until the
21 plan is filed. This process shall continue, and penalties shall
22 accrue, until the utility has successfully filed a portfolio of
23 energy efficiency and demand-response measures. Penalties
24 shall be deposited into the Energy Efficiency Trust Fund. In
25 submitting proposed energy efficiency and demand-response
26 plans and funding levels to meet the savings goals adopted by

1 this Act the utility shall:

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

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

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

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

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

1 programs.

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

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

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

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

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

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

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

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

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

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

19 (Source: P.A. 97-616, eff. 10-26-11; 97-841, eff. 7-20-12;
20 98-90, eff. 7-15-13.)

21 (Text of Section after amendment by P.A. 99-906)

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

24 (a) It is the policy of the State that electric utilities
25 are required to use cost-effective energy efficiency and

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

23 (a-5) This Section applies to electric utilities serving
24 500,000 or less but more than 200,000 retail customers in this
25 State. Through December 31, 2017, this Section also applies to
26 electric utilities serving more than 500,000 retail customers

1 in the State.

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

5 (1) 0.2% of energy delivered in the year commencing
6 June 1, 2008;

7 (2) 0.4% of energy delivered in the year commencing
8 June 1, 2009;

9 (3) 0.6% of energy delivered in the year commencing
10 June 1, 2010;

11 (4) 0.8% of energy delivered in the year commencing
12 June 1, 2011;

13 (5) 1% of energy delivered in the year commencing June
14 1, 2012;

15 (6) 1.4% of energy delivered in the year commencing
16 June 1, 2013;

17 (7) 1.8% of energy delivered in the year commencing
18 June 1, 2014; and

19 (8) 2% of energy delivered in the year commencing June
20 1, 2015 and each year thereafter.

21 Electric utilities may comply with this subsection (b) by
22 meeting the annual incremental savings goal in the applicable
23 year or by showing that the total cumulative annual savings
24 within a 3-year planning period associated with measures
25 implemented after May 31, 2014 was equal to the sum of each
26 annual incremental savings requirement from May 31, 2014

1 through the end of the applicable year.

2 (c) Electric utilities shall implement cost-effective
3 demand-response measures to reduce peak demand by 0.1% over the
4 prior year for eligible retail customers, as defined in Section
5 16-111.5 of this Act, and for customers that elect hourly
6 service from the utility pursuant to Section 16-107 of this
7 Act, provided those customers have not been declared
8 competitive. This requirement commences June 1, 2008 and
9 continues for 10 years.

10 (d) Notwithstanding the requirements of subsections (b)
11 and (c) of this Section, an electric utility shall reduce the
12 amount of energy efficiency and demand-response measures
13 implemented over a 3-year planning period by an amount
14 necessary to limit the estimated average annual increase in the
15 amounts paid by retail customers in connection with electric
16 service due to the cost of those measures to:

17 (1) in 2008, no more than 0.5% of the amount paid per
18 kilowatthour by those customers during the year ending May
19 31, 2007;

20 (2) in 2009, the greater of an additional 0.5% of the
21 amount paid per kilowatthour by those customers during the
22 year ending May 31, 2008 or 1% of the amount paid per
23 kilowatthour by those customers during the year ending May
24 31, 2007;

25 (3) in 2010, the greater of an additional 0.5% of the
26 amount paid per kilowatthour by those customers during the

1 year ending May 31, 2009 or 1.5% of the amount paid per
2 kilowatthour by those customers during the year ending May
3 31, 2007;

4 (4) in 2011, the greater of an additional 0.5% of the
5 amount paid per kilowatthour by those customers during the
6 year ending May 31, 2010 or 2% of the amount paid per
7 kilowatthour by those customers during the year ending May
8 31, 2007; and

9 (5) thereafter, the amount of energy efficiency and
10 demand-response measures implemented for any single year
11 shall be reduced by an amount necessary to limit the
12 estimated average net increase due to the cost of these
13 measures included in the amounts paid by eligible retail
14 customers in connection with electric service to no more
15 than the greater of 2.015% of the amount paid per
16 kilowatthour by those customers during the year ending May
17 31, 2007 or the incremental amount per kilowatthour paid
18 for these measures in 2011.

19 No later than June 30, 2011, the Commission shall review
20 the limitation on the amount of energy efficiency and
21 demand-response measures implemented pursuant to this Section
22 and report to the General Assembly its findings as to whether
23 that limitation unduly constrains the procurement of energy
24 efficiency and demand-response measures.

25 (e) Electric utilities shall be responsible for overseeing
26 the design, development, and filing of energy efficiency and

1 demand-response plans with the Commission. Electric utilities
2 shall implement 100% of the demand-response measures in the
3 plans. Electric utilities shall implement 75% of the energy
4 efficiency measures approved by the Commission, and may, as
5 part of that implementation, outsource various aspects of
6 program development and implementation. The remaining 25% of
7 those energy efficiency measures approved by the Commission
8 shall be implemented by the Department of Commerce and Economic
9 Opportunity, and must be designed in conjunction with the
10 utility and the filing process. The Department may outsource
11 development and implementation of energy efficiency measures.
12 A minimum of 10% of the entire portfolio of cost-effective
13 energy efficiency measures shall be procured from units of
14 local government, municipal corporations, school districts,
15 and community college districts. The Department shall
16 coordinate the implementation of these measures.

17 The apportionment of the dollars to cover the costs to
18 implement the Department's share of the portfolio of energy
19 efficiency measures shall be made to the Department once the
20 Department has executed rebate agreements, grants, or
21 contracts for energy efficiency measures and provided
22 supporting documentation for those rebate agreements, grants,
23 and contracts to the utility. The Department is authorized to
24 adopt any rules necessary and prescribe procedures in order to
25 ensure compliance by applicants in carrying out the purposes of
26 rebate agreements for energy efficiency measures implemented

1 by the Department made under this Section.

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

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

16 Each utility shall include, in its recovery of costs, the
17 costs estimated for both the utility's and the Department's
18 implementation of energy efficiency and demand-response
19 measures. Costs collected by the utility for measures
20 implemented by the Department shall be submitted to the
21 Department pursuant to Section 605-323 of the Civil
22 Administrative Code of Illinois, shall be deposited into the
23 Energy Efficiency Portfolio Standards Fund, and shall be used
24 by the Department solely for the purpose of implementing these
25 measures. A utility shall not be required to advance any moneys
26 to the Department but only to forward such funds as it has

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

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

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

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

25 If the Department is unable to meet incremental annual
26 performance goals for the portion of the portfolio implemented

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

11 (f) No later than November 15, 2007, each electric utility
12 shall file an energy efficiency and demand-response plan with
13 the Commission to meet the energy efficiency and
14 demand-response standards for 2008 through 2010. No later than
15 October 1, 2010, each electric utility shall file an energy
16 efficiency and demand-response plan with the Commission to meet
17 the energy efficiency and demand-response standards for 2011
18 through 2013. Every 3 years thereafter, each electric utility
19 shall file, no later than September 1, an energy efficiency and
20 demand-response plan with the Commission. If a utility does not
21 file such a plan by September 1 of an applicable year, it shall
22 face a penalty of \$100,000 per day until the plan is filed.
23 Each utility's plan shall set forth the utility's proposals to
24 meet the utility's portion of the energy efficiency standards
25 identified in subsection (b) and the demand-response standards
26 identified in subsection (c) of this Section as modified by

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

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

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

26 (3) Present estimates of the total amount paid for

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

6 (4) Coordinate with the Department to present a
7 portfolio of energy efficiency measures proportionate to
8 the share of total annual utility revenues in Illinois from
9 households at or below 150% of the poverty level. The
10 energy efficiency programs shall be targeted to households
11 with incomes at or below 80% of area median income.

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

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

23 (7) Provide for an annual independent evaluation of the
24 performance of the cost-effectiveness of the utility's
25 portfolio of measures and the Department's portfolio of
26 measures, as well as a full review of the 3-year results of

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

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

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

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

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

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

23 (j) If, after 3 years, or any subsequent 3-year period, the
24 Department fails to implement the Department's share of energy
25 efficiency measures required by the standards in subsection
26 (b), then the Illinois Power Agency may assume responsibility

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

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

10 (l)(1) The energy efficiency and demand-response plans of
11 electric utilities serving more than 500,000 retail customers
12 in the State, including all such programs administered by the
13 Department of Commerce and Economic Opportunity, that were
14 approved by the Commission on or before the effective date of
15 this amendatory Act of the 99th General Assembly for the period
16 June 1, 2014 through May 31, 2017 shall continue to be in force
17 and effect through December 31, 2017 so that the energy
18 efficiency programs set forth in those plans continue to be
19 offered during the period June 1, 2017 through December 31,
20 2017. The Department of Commerce and Economic Opportunity and
21 each ~~Each~~ such utility is authorized to increase, on a pro rata
22 basis, the energy savings goals and budgets approved in its
23 plan to reflect the additional 7 months of the plan's
24 operation, provided that such increase shall also incorporate
25 reductions to goals and budgets to reflect the proportion of
26 the utility's load attributable to customers who are exempt

1 from this Section under subsection (m) of this Section.

2 (2) If an electric utility serving more than 500,000 retail
3 customers in the State filed with the Commission, under
4 subsection (f) of this Section, its proposed energy efficiency
5 and demand-response plan for the period June 1, 2017 through
6 May 31, 2020, and the Commission has not yet entered its final
7 order approving such plan on or before the effective date of
8 this amendatory Act of the 99th General Assembly, then the
9 utility shall file a notice of withdrawal with the Commission,
10 following such effective date, to withdraw the proposed energy
11 efficiency and demand-response plan. Upon receipt of such
12 notice, the Commission shall dismiss with prejudice any docket
13 that had been initiated to investigate such plan, and the plan
14 and the record related thereto shall not be the subject of any
15 further hearing, investigation, or proceeding of any kind.

16 (3) For those electric utilities that serve more than
17 500,000 retail customers in the State, this amendatory Act of
18 the 99th General Assembly preempts and supersedes any orders
19 entered by the Commission that approved such utilities' energy
20 efficiency and demand response plans for the period commencing
21 June 1, 2017 and ending May 31, 2020. Any such orders shall be
22 void, and the provisions of paragraph (1) of this subsection
23 (1) shall apply.

24 (m) Notwithstanding anything to the contrary, after May 31,
25 2017, this Section does not apply to any retail customers of an
26 electric utility that serves more than 3,000,000 retail

1 customers in the State and whose total highest 30 minute demand
2 was more than 10,000 kilowatts, or any retail customers of an
3 electric utility that serves less than 3,000,000 retail
4 customers but more than 500,000 retail customers in the State
5 and whose total highest 15 minute demand was more than 10,000
6 kilowatts. For purposes of this subsection (m), "retail
7 customer" has the meaning set forth in Section 16-102 of this
8 Act. The criteria for determining whether this subsection (m)
9 is applicable to a retail customer shall be based on the 12
10 consecutive billing periods prior to the start of the first
11 year of each such multi-year plan.

12 (Source: P.A. 98-90, eff. 7-15-13; 99-906, eff. 6-1-17.)

13 (220 ILCS 5/8-103B)

14 (This Section may contain text from a Public Act with a
15 delayed effective date)

16 Sec. 8-103B. Energy efficiency and demand-response
17 measures.

18 (a) It is the policy of the State that electric utilities
19 are required to use cost-effective energy efficiency and
20 demand-response measures to reduce delivery load. Requiring
21 investment in cost-effective energy efficiency and
22 demand-response measures will reduce direct and indirect costs
23 to consumers by decreasing environmental impacts and by
24 avoiding or delaying the need for new generation, transmission,
25 and distribution infrastructure. It serves the public interest

1 to allow electric utilities to recover costs for reasonably and
2 prudently incurred expenditures for energy efficiency and
3 demand-response measures. As used in this Section,
4 "cost-effective" means that the measures satisfy the total
5 resource cost test. The low-income measures described in
6 subsection (c) of this Section shall not be required to meet
7 the total resource cost test. For purposes of this Section, the
8 terms "energy-efficiency", "demand-response", "electric
9 utility", and "total resource cost test" have the meanings set
10 forth in the Illinois Power Agency Act.

11 (a-5) This Section applies to electric utilities serving
12 more than 500,000 retail customers in the State for those
13 multi-year plans commencing after December 31, 2017.

14 (b) For purposes of this Section, electric utilities
15 subject to this Section that serve more than 3,000,000 retail
16 customers in the State shall be deemed to have achieved a
17 cumulative persisting annual savings of 6.6% from energy
18 efficiency measures and programs implemented during the period
19 beginning January 1, 2012 and ending December 31, 2017, which
20 percent is based on the deemed average weather normalized sales
21 of electric power and energy during calendar years 2014, 2015,
22 and 2016 of 88,000,000 MWhs. For the purposes of this
23 subsection (b) and subsection (b-5), the 88,000,000 MWhs of
24 deemed electric power and energy sales shall be reduced by the
25 number of MWhs equal to the sum of the annual consumption of
26 customers that are exempt from subsections (a) through (j) of

1 this Section under subsection (1) of this Section, as averaged
2 across the calendar years 2014, 2015, and 2016. After 2017, the
3 deemed value of cumulative persisting annual savings from
4 energy efficiency measures and programs implemented during the
5 period beginning January 1, 2012 and ending December 31, 2017,
6 shall be reduced each year, as follows, and the applicable
7 value shall be applied to and count toward the utility's
8 achievement of the cumulative persisting annual savings goals
9 set forth in subsection (b-5):

10 (1) 5.8% deemed cumulative persisting annual savings
11 for the year ending December 31, 2018;

12 (2) 5.2% deemed cumulative persisting annual savings
13 for the year ending December 31, 2019;

14 (3) 4.5% deemed cumulative persisting annual savings
15 for the year ending December 31, 2020;

16 (4) 4.0% deemed cumulative persisting annual savings
17 for the year ending December 31, 2021;

18 (5) 3.5% deemed cumulative persisting annual savings
19 for the year ending December 31, 2022;

20 (6) 3.1% deemed cumulative persisting annual savings
21 for the year ending December 31, 2023;

22 (7) 2.8% deemed cumulative persisting annual savings
23 for the year ending December 31, 2024;

24 (8) 2.5% deemed cumulative persisting annual savings
25 for the year ending December 31, 2025;

26 (9) 2.3% deemed cumulative persisting annual savings

1 for the year ending December 31, 2026;

2 (10) 2.1% deemed cumulative persisting annual savings
3 for the year ending December 31, 2027;

4 (11) 1.8% deemed cumulative persisting annual savings
5 for the year ending December 31, 2028;

6 (12) 1.7% deemed cumulative persisting annual savings
7 for the year ending December 31, 2029; and

8 (13) 1.5% deemed cumulative persisting annual savings
9 for the year ending December 31, 2030.

10 For purposes of this Section, "cumulative persisting
11 annual savings" means the total electric energy savings in a
12 given year from measures installed in that year or in previous
13 years, but no earlier than January 1, 2012, that are still
14 operational and providing savings in that year because the
15 measures have not yet reached the end of their useful lives.

16 (b-5) Beginning in 2018, electric utilities subject to this
17 Section that serve more than 3,000,000 retail customers in the
18 State shall achieve the following cumulative persisting annual
19 savings goals, as modified by subsection (f) of this Section
20 and as compared to the deemed baseline of 88,000,000 MWhs of
21 electric power and energy sales set forth in subsection (b), as
22 reduced by the number of MWhs equal to the sum of the annual
23 consumption of customers that are exempt from subsections (a)
24 through (j) of this Section under subsection (l) of this
25 Section as averaged across the calendar years 2014, 2015, and
26 2016, through the implementation of energy efficiency measures

1 during the applicable year and in prior years, but no earlier
2 than January 1, 2012:

3 (1) 7.8% cumulative persisting annual savings for the
4 year ending December 31, 2018;

5 (2) 9.1% cumulative persisting annual savings for the
6 year ending December 31, 2019;

7 (3) 10.4% cumulative persisting annual savings for the
8 year ending December 31, 2020;

9 (4) 11.8% cumulative persisting annual savings for the
10 year ending December 31, 2021;

11 (5) 13.1% cumulative persisting annual savings for the
12 year ending December 31, 2022;

13 (6) 14.4% cumulative persisting annual savings for the
14 year ending December 31, 2023;

15 (7) 15.7% cumulative persisting annual savings for the
16 year ending December 31, 2024;

17 (8) 17% cumulative persisting annual savings for the
18 year ending December 31, 2025;

19 (9) 17.9% cumulative persisting annual savings for the
20 year ending December 31, 2026;

21 (10) 18.8% cumulative persisting annual savings for
22 the year ending December 31, 2027;

23 (11) 19.7% cumulative persisting annual savings for
24 the year ending December 31, 2028;

25 (12) 20.6% cumulative persisting annual savings for
26 the year ending December 31, 2029; and

1 (13) 21.5% cumulative persisting annual savings for
2 the year ending December 31, 2030.

3 (b-10) For purposes of this Section, electric utilities
4 subject to this Section that serve less than 3,000,000 retail
5 customers but more than 500,000 retail customers in the State
6 shall be deemed to have achieved a cumulative persisting annual
7 savings of 6.6% from energy efficiency measures and programs
8 implemented during the period beginning January 1, 2012 and
9 ending December 31, 2017, which is based on the deemed average
10 weather normalized sales of electric power and energy during
11 calendar years 2014, 2015, and 2016 of 36,900,000 MWhs. For the
12 purposes of this subsection (b-10) and subsection (b-15), the
13 36,900,000 MWhs of deemed electric power and energy sales shall
14 be reduced by the number of MWhs equal to the sum of the annual
15 consumption of customers that are exempt from subsections (a)
16 through (j) of this Section under subsection (l) of this
17 Section, as averaged across the calendar years 2014, 2015, and
18 2016. After 2017, the deemed value of cumulative persisting
19 annual savings from energy efficiency measures and programs
20 implemented during the period beginning January 1, 2012 and
21 ending December 31, 2017, shall be reduced each year, as
22 follows, and the applicable value shall be applied to and count
23 toward the utility's achievement of the cumulative persisting
24 annual savings goals set forth in subsection (b-15):

25 (1) 5.8% deemed cumulative persisting annual savings
26 for the year ending December 31, 2018;

1 (2) 5.2% deemed cumulative persisting annual savings
2 for the year ending December 31, 2019;

3 (3) 4.5% deemed cumulative persisting annual savings
4 for the year ending December 31, 2020;

5 (4) 4.0% deemed cumulative persisting annual savings
6 for the year ending December 31, 2021;

7 (5) 3.5% deemed cumulative persisting annual savings
8 for the year ending December 31, 2022;

9 (6) 3.1% deemed cumulative persisting annual savings
10 for the year ending December 31, 2023;

11 (7) 2.8% deemed cumulative persisting annual savings
12 for the year ending December 31, 2024;

13 (8) 2.5% deemed cumulative persisting annual savings
14 for the year ending December 31, 2025;

15 (9) 2.3% deemed cumulative persisting annual savings
16 for the year ending December 31, 2026;

17 (10) 2.1% deemed cumulative persisting annual savings
18 for the year ending December 31, 2027;

19 (11) 1.8% deemed cumulative persisting annual savings
20 for the year ending December 31, 2028;

21 (12) 1.7% deemed cumulative persisting annual savings
22 for the year ending December 31, 2029; and

23 (13) 1.5% deemed cumulative persisting annual savings
24 for the year ending December 31, 2030.

25 (b-15) Beginning in 2018, electric utilities subject to
26 this Section that serve less than 3,000,000 retail customers

1 but more than 500,000 retail customers in the State shall
2 achieve the following cumulative persisting annual savings
3 goals, as modified by subsection (b-20) and subsection (f) of
4 this Section and as compared to the deemed baseline as reduced
5 by the number of MWhs equal to the sum of the annual
6 consumption of customers that are exempt from subsections (a)
7 through (j) of this Section under subsection (l) of this
8 Section as averaged across the calendar years 2014, 2015, and
9 2016, through the implementation of energy efficiency measures
10 during the applicable year and in prior years, but no earlier
11 than January 1, 2012:

12 (1) 7.4% cumulative persisting annual savings for the
13 year ending December 31, 2018;

14 (2) 8.2% cumulative persisting annual savings for the
15 year ending December 31, 2019;

16 (3) 9.0% cumulative persisting annual savings for the
17 year ending December 31, 2020;

18 (4) 9.8% cumulative persisting annual savings for the
19 year ending December 31, 2021;

20 (5) 10.6% cumulative persisting annual savings for the
21 year ending December 31, 2022;

22 (6) 11.4% cumulative persisting annual savings for the
23 year ending December 31, 2023;

24 (7) 12.2% cumulative persisting annual savings for the
25 year ending December 31, 2024;

26 (8) 13% cumulative persisting annual savings for the

1 year ending December 31, 2025;

2 (9) 13.6% cumulative persisting annual savings for the
3 year ending December 31, 2026;

4 (10) 14.2% cumulative persisting annual savings for
5 the year ending December 31, 2027;

6 (11) 14.8% cumulative persisting annual savings for
7 the year ending December 31, 2028;

8 (12) 15.4% cumulative persisting annual savings for
9 the year ending December 31, 2029; and

10 (13) 16% cumulative persisting annual savings for the
11 year ending December 31, 2030.

12 The difference between the cumulative persisting annual
13 savings goal for the applicable calendar year and the
14 cumulative persisting annual savings goal for the immediately
15 preceding calendar year is 0.8% for the period of January 1,
16 2018 through December 31, 2025 and 0.6% for the period of
17 January 1, 2026 through December 31, 2030.

18 (b-20) Each electric utility subject to this Section may
19 include cost-effective voltage optimization measures in its
20 plans submitted under subsections (f) and (g) of this Section,
21 and the costs incurred by a utility to implement the measures
22 under a Commission-approved plan shall be recovered under the
23 provisions of Article IX or Section 16-108.5 of this Act. For
24 purposes of this Section, the measure life of voltage
25 optimization measures shall be 15 years. The measure life
26 period is independent of the depreciation rate of the voltage

1 optimization assets deployed.

2 Within 270 days after the effective date of this amendatory
3 Act of the 99th General Assembly, an electric utility that
4 serves less than 3,000,000 retail customers but more than
5 500,000 retail customers in the State shall file a plan with
6 the Commission that identifies the cost-effective voltage
7 optimization investment the electric utility plans to
8 undertake through December 31, 2024. The Commission, after
9 notice and hearing, shall approve or approve with modification
10 the plan within 120 days after the plan's filing and, in the
11 order approving or approving with modification the plan, the
12 Commission shall adjust the applicable cumulative persisting
13 annual savings goals set forth in subsection (b-15) to reflect
14 any amount of cost-effective energy savings approved by the
15 Commission that is greater than or less than the following
16 cumulative persisting annual savings values attributable to
17 voltage optimization for the applicable year:

18 (1) 0.0% of cumulative persisting annual savings for
19 the year ending December 31, 2018;

20 (2) 0.17% of cumulative persisting annual savings for
21 the year ending December 31, 2019;

22 (3) 0.17% of cumulative persisting annual savings for
23 the year ending December 31, 2020;

24 (4) 0.33% of cumulative persisting annual savings for
25 the year ending December 31, 2021;

26 (5) 0.5% of cumulative persisting annual savings for

1 the year ending December 31, 2022;

2 (6) 0.67% of cumulative persisting annual savings for
3 the year ending December 31, 2023;

4 (7) 0.83% of cumulative persisting annual savings for
5 the year ending December 31, 2024; and

6 (8) 1.0% of cumulative persisting annual savings for
7 the year ending December 31, 2025.

8 (b-25) In the event an electric utility jointly offers an
9 energy efficiency measure or program with a gas utility under
10 plans approved under this Section and Section 8-104 of this
11 Act, the electric utility may continue offering the program,
12 including the gas energy efficiency measures, in the event the
13 gas utility discontinues funding the program. In that event,
14 the energy savings value associated with such other fuels shall
15 be converted to electric energy savings on an equivalent Btu
16 basis for the premises. However, the electric utility shall
17 prioritize programs for low-income residential customers to
18 the extent practicable. An electric utility may recover the
19 costs of offering the gas energy efficiency measures under this
20 subsection (b-25).

21 For those energy efficiency measures or programs that save
22 both electricity and other fuels but are not jointly offered
23 with a gas utility under plans approved under this Section and
24 Section 8-104 or not offered with an affiliated gas utility
25 under paragraph (6) of subsection (f) of Section 8-104 of this
26 Act, the electric utility may count savings of fuels other than

1 electricity toward the achievement of its annual savings goal,
2 and the energy savings value associated with such other fuels
3 shall be converted to electric energy savings on an equivalent
4 Btu basis at the premises.

5 In no event shall more than 10% of each year's applicable
6 annual incremental goal as defined in paragraph (7) of
7 subsection (g) of this Section be met through savings of fuels
8 other than electricity.

9 (c) Electric utilities shall be responsible for overseeing
10 the design, development, and filing of energy efficiency plans
11 with the Commission and may, as part of that implementation,
12 outsource various aspects of program development and
13 implementation. A minimum of 10%, for electric utilities that
14 serve more than 3,000,000 retail customers in the State, and a
15 minimum of 7%, for electric utilities that serve less than
16 3,000,000 retail customers but more than 500,000 retail
17 customers in the State, of the utility's entire portfolio
18 funding level for a given year shall be used to procure
19 cost-effective energy efficiency measures from units of local
20 government, municipal corporations, school districts, public
21 housing, and community college districts, provided that a
22 minimum percentage of available funds shall be used to procure
23 energy efficiency from public housing, which percentage shall
24 be equal to public housing's share of public building energy
25 consumption.

26 The utilities shall also implement energy efficiency

1 measures targeted at low-income households, which, for
2 purposes of this Section, shall be defined as households at or
3 below 80% of area median income, and expenditures to implement
4 the measures shall be no less than \$25,000,000 per year for
5 electric utilities that serve more than 3,000,000 retail
6 customers in the State and no less than \$8,350,000 per year for
7 electric utilities that serve less than 3,000,000 retail
8 customers but more than 500,000 retail customers in the State.

9 Each electric utility shall assess opportunities to
10 implement cost-effective energy efficiency measures and
11 programs through a public housing authority or authorities
12 located in its service territory. If such opportunities are
13 identified, the utility shall propose such measures and
14 programs to address the opportunities. Expenditures to address
15 such opportunities shall be credited toward the minimum
16 procurement and expenditure requirements set forth in this
17 subsection (c).

18 Implementation of energy efficiency measures and programs
19 targeted at low-income households should be contracted, when it
20 is practicable, to independent third parties that have
21 demonstrated capabilities to serve such households, with a
22 preference for not-for-profit entities and government agencies
23 that have existing relationships with or experience serving
24 low-income communities in the State.

25 Implementation of energy efficiency measures targeted at
26 the public sector shall prioritize programming with a goal of

1 making local, State, and federal public facilities more
2 economical and environmentally responsible. Such programming
3 shall be contracted, when it is practicable, to State public
4 universities and community colleges that have existing
5 relationships with or experience serving public sector energy
6 efficiency programs in the State.

7 Each electric utility shall develop and implement
8 reporting procedures that address and assist in determining the
9 amount of energy savings that can be applied to the low-income
10 procurement and expenditure requirements set forth in this
11 subsection (c).

12 The electric utilities shall also convene a low-income
13 energy efficiency advisory committee to assist in the design
14 and evaluation of the low-income energy efficiency programs.
15 The committee shall be comprised of the electric utilities
16 subject to the requirements of this Section, the gas utilities
17 subject to the requirements of Section 8-104 of this Act, the
18 utilities' low-income energy efficiency implementation
19 contractors, and representatives of community-based
20 organizations.

21 (d) Notwithstanding any other provision of law to the
22 contrary, a utility providing approved energy efficiency
23 measures and, if applicable, demand-response measures in the
24 State shall be permitted to recover all reasonable and
25 prudently incurred costs of those measures from all retail
26 customers, except as provided in subsection (1) of this

1 Section, as follows, provided that nothing in this subsection

2 (d) permits the double recovery of such costs from customers:

3 (1) The utility may recover its costs through an
4 automatic adjustment clause tariff filed with and approved
5 by the Commission. The tariff shall be established outside
6 the context of a general rate case. Each year the
7 Commission shall initiate a review to reconcile any amounts
8 collected with the actual costs and to determine the
9 required adjustment to the annual tariff factor to match
10 annual expenditures. To enable the financing of the
11 incremental capital expenditures, including regulatory
12 assets, for electric utilities that serve less than
13 3,000,000 retail customers but more than 500,000 retail
14 customers in the State, the utility's actual year-end
15 capital structure that includes a common equity ratio,
16 excluding goodwill, of up to and including 50% of the total
17 capital structure shall be deemed reasonable and used to
18 set rates.

19 (2) A utility may recover its costs through an energy
20 efficiency formula rate approved by the Commission under a
21 filing under subsections (f) and (g) of this Section, which
22 shall specify the cost components that form the basis of
23 the rate charged to customers with sufficient specificity
24 to operate in a standardized manner and be updated annually
25 with transparent information that reflects the utility's
26 actual costs to be recovered during the applicable rate

1 year, which is the period beginning with the first billing
2 day of January and extending through the last billing day
3 of the following December. The energy efficiency formula
4 rate shall be implemented through a tariff filed with the
5 Commission under subsections (f) and (g) of this Section
6 that is consistent with the provisions of this paragraph
7 (2) and that shall be applicable to all delivery services
8 customers. The Commission shall conduct an investigation
9 of the tariff in a manner consistent with the provisions of
10 this paragraph (2), subsections (f) and (g) of this
11 Section, and the provisions of Article IX of this Act to
12 the extent they do not conflict with this paragraph (2).
13 The energy efficiency formula rate approved by the
14 Commission shall remain in effect at the discretion of the
15 utility and shall do the following:

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

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

1 reasonableness consistent with Commission practice and
2 law. To enable the financing of the incremental capital
3 expenditures, including regulatory assets, for
4 electric utilities that serve less than 3,000,000
5 retail customers but more than 500,000 retail
6 customers in the State, a participating electric
7 utility's actual year-end capital structure that
8 includes a common equity ratio, excluding goodwill, of
9 up to and including 50% of the total capital structure
10 shall be deemed reasonable and used to set rates.

11 (C) Include a cost of equity, which shall be
12 calculated as the sum of the following:

13 (i) the average for the applicable calendar
14 year of the monthly average yields of 30-year U.S.
15 Treasury bonds published by the Board of Governors
16 of the Federal Reserve System in its weekly H.15
17 Statistical Release or successor publication; and

18 (ii) 580 basis points.

19 At such time as the Board of Governors of the
20 Federal Reserve System ceases to include the monthly
21 average yields of 30-year U.S. Treasury bonds in its
22 weekly H.15 Statistical Release or successor
23 publication, the monthly average yields of the U.S.
24 Treasury bonds then having the longest duration
25 published by the Board of Governors in its weekly H.15
26 Statistical Release or successor publication shall

1 instead be used for purposes of this paragraph (2).

2 (D) Permit and set forth protocols, subject to a
3 determination of prudence and reasonableness
4 consistent with Commission practice and law, for the
5 following:

6 (i) recovery of incentive compensation expense
7 that is based on the achievement of operational
8 metrics, including metrics related to budget
9 controls, outage duration and frequency, safety,
10 customer service, efficiency and productivity, and
11 environmental compliance; however, this protocol
12 shall not apply if such expense related to costs
13 incurred under this Section is recovered under
14 Article IX or Section 16-108.5 of this Act;
15 incentive compensation expense that is based on
16 net income or an affiliate's earnings per share
17 shall not be recoverable under the energy
18 efficiency formula rate;

19 (ii) recovery of pension and other
20 post-employment benefits expense, provided that
21 such costs are supported by an actuarial study;
22 however, this protocol shall not apply if such
23 expense related to costs incurred under this
24 Section is recovered under Article IX or Section
25 16-108.5 of this Act;

26 (iii) recovery of existing regulatory assets

1 over the periods previously authorized by the
2 Commission;

3 (iv) as described in subsection (e),
4 amortization of costs incurred under this Section;
5 and

6 (v) projected, weather normalized billing
7 determinants for the applicable rate year.

8 (E) Provide for an annual reconciliation, as
9 described in paragraph (3) of this subsection (d), less
10 any deferred taxes related to the reconciliation, with
11 interest at an annual rate of return equal to the
12 utility's weighted average cost of capital, including
13 a revenue conversion factor calculated to recover or
14 refund all additional income taxes that may be payable
15 or receivable as a result of that return, of the energy
16 efficiency revenue requirement reflected in rates for
17 each calendar year, beginning with the calendar year in
18 which the utility files its energy efficiency formula
19 rate tariff under this paragraph (2), with what the
20 revenue requirement would have been had the actual cost
21 information for the applicable calendar year been
22 available at the filing date.

23 The utility shall file, together with its tariff, the
24 projected costs to be incurred by the utility during the
25 rate year under the utility's multi-year plan approved
26 under subsections (f) and (g) of this Section, including,

1 but not limited to, the projected capital investment costs
2 and projected regulatory asset balances with
3 correspondingly updated depreciation and amortization
4 reserves and expense, that shall populate the energy
5 efficiency formula rate and set the initial rates under the
6 formula.

7 The Commission shall review the proposed tariff in
8 conjunction with its review of a proposed multi-year plan,
9 as specified in paragraph (5) of subsection (g) of this
10 Section. The review shall be based on the same evidentiary
11 standards, including, but not limited to, those concerning
12 the prudence and reasonableness of the costs incurred by
13 the utility, the Commission applies in a hearing to review
14 a filing for a general increase in rates under Article IX
15 of this Act. The initial rates shall take effect beginning
16 with the January monthly billing period following the
17 Commission's approval.

18 The tariff's rate design and cost allocation across
19 customer classes shall be consistent with the utility's
20 automatic adjustment clause tariff in effect on the
21 effective date of this amendatory Act of the 99th General
22 Assembly; however, the Commission may revise the tariff's
23 rate design and cost allocation in subsequent proceedings
24 under paragraph (3) of this subsection (d).

25 If the energy efficiency formula rate is terminated,
26 the then current rates shall remain in effect until such

1 time as the energy efficiency costs are incorporated into
2 new rates that are set under this subsection (d) or Article
3 IX of this Act, subject to retroactive rate adjustment,
4 with interest, to reconcile rates charged with actual
5 costs.

6 (3) The provisions of this paragraph (3) shall only
7 apply to an electric utility that has elected to file an
8 energy efficiency formula rate under paragraph (2) of this
9 subsection (d). Subsequent to the Commission's issuance of
10 an order approving the utility's energy efficiency formula
11 rate structure and protocols, and initial rates under
12 paragraph (2) of this subsection (d), the utility shall
13 file, on or before June 1 of each year, with the Chief
14 Clerk of the Commission its updated cost inputs to the
15 energy efficiency formula rate for the applicable rate year
16 and the corresponding new charges, as well as the
17 information described in paragraph (9) of subsection (g) of
18 this Section. Each such filing shall conform to the
19 following requirements and include the following
20 information:

21 (A) The inputs to the energy efficiency formula
22 rate for the applicable rate year shall be based on the
23 projected costs to be incurred by the utility during
24 the rate year under the utility's multi-year plan
25 approved under subsections (f) and (g) of this Section,
26 including, but not limited to, projected capital

1 investment costs and projected regulatory asset
2 balances with correspondingly updated depreciation and
3 amortization reserves and expense. The filing shall
4 also include a reconciliation of the energy efficiency
5 revenue requirement that was in effect for the prior
6 rate year (as set by the cost inputs for the prior rate
7 year) with the actual revenue requirement for the prior
8 rate year (determined using a year-end rate base) that
9 uses amounts reflected in the applicable FERC Form 1
10 that reports the actual costs for the prior rate year.
11 Any over-collection or under-collection indicated by
12 such reconciliation shall be reflected as a credit
13 against, or recovered as an additional charge to,
14 respectively, with interest calculated at a rate equal
15 to the utility's weighted average cost of capital
16 approved by the Commission for the prior rate year, the
17 charges for the applicable rate year. Such
18 over-collection or under-collection shall be adjusted
19 to remove any deferred taxes related to the
20 reconciliation, for purposes of calculating interest
21 at an annual rate of return equal to the utility's
22 weighted average cost of capital approved by the
23 Commission for the prior rate year, including a revenue
24 conversion factor calculated to recover or refund all
25 additional income taxes that may be payable or
26 receivable as a result of that return. Each

1 reconciliation shall be certified by the participating
2 utility in the same manner that FERC Form 1 is
3 certified. The filing shall also include the charge or
4 credit, if any, resulting from the calculation
5 required by subparagraph (E) of paragraph (2) of this
6 subsection (d).

7 Notwithstanding any other provision of law to the
8 contrary, the intent of the reconciliation is to
9 ultimately reconcile both the revenue requirement
10 reflected in rates for each calendar year, beginning
11 with the calendar year in which the utility files its
12 energy efficiency formula rate tariff under paragraph
13 (2) of this subsection (d), with what the revenue
14 requirement determined using a year-end rate base for
15 the applicable calendar year would have been had the
16 actual cost information for the applicable calendar
17 year been available at the filing date.

18 For purposes of this Section, "FERC Form 1" means
19 the Annual Report of Major Electric Utilities,
20 Licensees and Others that electric utilities are
21 required to file with the Federal Energy Regulatory
22 Commission under the Federal Power Act, Sections 3,
23 4(a), 304 and 209, modified as necessary to be
24 consistent with 83 Ill. Admin. Code Part 415 as of May
25 1, 2011. Nothing in this Section is intended to allow
26 costs that are not otherwise recoverable to be

1 recoverable by virtue of inclusion in FERC Form 1.

2 (B) The new charges shall take effect beginning on
3 the first billing day of the following January billing
4 period and remain in effect through the last billing
5 day of the next December billing period regardless of
6 whether the Commission enters upon a hearing under this
7 paragraph (3).

8 (C) The filing shall include relevant and
9 necessary data and documentation for the applicable
10 rate year. Normalization adjustments shall not be
11 required.

12 Within 45 days after the utility files its annual
13 update of cost inputs to the energy efficiency formula
14 rate, the Commission shall with reasonable notice,
15 initiate a proceeding concerning whether the projected
16 costs to be incurred by the utility and recovered during
17 the applicable rate year, and that are reflected in the
18 inputs to the energy efficiency formula rate, are
19 consistent with the utility's approved multi-year plan
20 under subsections (f) and (g) of this Section and whether
21 the costs incurred by the utility during the prior rate
22 year were prudent and reasonable. The Commission shall also
23 have the authority to investigate the information and data
24 described in paragraph (9) of subsection (g) of this
25 Section, including the proposed adjustment to the
26 utility's return on equity component of its weighted

1 average cost of capital. During the course of the
2 proceeding, each objection shall be stated with
3 particularity and evidence provided in support thereof,
4 after which the utility shall have the opportunity to rebut
5 the evidence. Discovery shall be allowed consistent with
6 the Commission's Rules of Practice, which Rules of Practice
7 shall be enforced by the Commission or the assigned hearing
8 examiner. The Commission shall apply the same evidentiary
9 standards, including, but not limited to, those concerning
10 the prudence and reasonableness of the costs incurred by
11 the utility, during the proceeding as it would apply in a
12 proceeding to review a filing for a general increase in
13 rates under Article IX of this Act. The Commission shall
14 not, however, have the authority in a proceeding under this
15 paragraph (3) to consider or order any changes to the
16 structure or protocols of the energy efficiency formula
17 rate approved under paragraph (2) of this subsection (d).
18 In a proceeding under this paragraph (3), the Commission
19 shall enter its order no later than the earlier of 195 days
20 after the utility's filing of its annual update of cost
21 inputs to the energy efficiency formula rate or December
22 15. The utility's proposed return on equity calculation, as
23 described in paragraphs (7) through (9) of subsection (g)
24 of this Section, shall be deemed the final, approved
25 calculation on December 15 of the year in which it is filed
26 unless the Commission enters an order on or before December

1 15, after notice and hearing, that modifies such
2 calculation consistent with this Section. The Commission's
3 determinations of the prudence and reasonableness of the
4 costs incurred, and determination of such return on equity
5 calculation, for the applicable calendar year shall be
6 final upon entry of the Commission's order and shall not be
7 subject to reopening, reexamination, or collateral attack
8 in any other Commission proceeding, case, docket, order,
9 rule, or regulation; however, nothing in this paragraph (3)
10 shall prohibit a party from petitioning the Commission to
11 rehear or appeal to the courts the order under the
12 provisions of this Act.

13 (e) Beginning on the effective date of this amendatory Act
14 of the 99th General Assembly, a utility subject to the
15 requirements of this Section may elect to defer, as a
16 regulatory asset, up to the full amount of its expenditures
17 incurred under this Section for each annual period, including,
18 but not limited to, any expenditures incurred above the funding
19 level set by subsection (f) of this Section for a given year.
20 The total expenditures deferred as a regulatory asset in a
21 given year shall be amortized and recovered over a period that
22 is equal to the weighted average of the energy efficiency
23 measure lives implemented for that year that are reflected in
24 the regulatory asset. The unamortized balance shall be
25 recognized as of December 31 for a given year. The utility
26 shall also earn a return on the total of the unamortized

1 balances of all of the energy efficiency regulatory assets,
2 less any deferred taxes related to those unamortized balances,
3 at an annual rate equal to the utility's weighted average cost
4 of capital that includes, based on a year-end capital
5 structure, the utility's actual cost of debt for the applicable
6 calendar year and a cost of equity, which shall be calculated
7 as the sum of the (i) the average for the applicable calendar
8 year of the monthly average yields of 30-year U.S. Treasury
9 bonds published by the Board of Governors of the Federal
10 Reserve System in its weekly H.15 Statistical Release or
11 successor publication; and (ii) 580 basis points, including a
12 revenue conversion factor calculated to recover or refund all
13 additional income taxes that may be payable or receivable as a
14 result of that return. Capital investment costs shall be
15 depreciated and recovered over their useful lives consistent
16 with generally accepted accounting principles. The weighted
17 average cost of capital shall be applied to the capital
18 investment cost balance, less any accumulated depreciation and
19 accumulated deferred income taxes, as of December 31 for a
20 given year.

21 When an electric utility creates a regulatory asset under
22 the provisions of this Section, the costs are recovered over a
23 period during which customers also receive a benefit which is
24 in the public interest. Accordingly, it is the intent of the
25 General Assembly that an electric utility that elects to create
26 a regulatory asset under the provisions of this Section shall

1 recover all of the associated costs as set forth in this
2 Section. After the Commission has approved the prudence and
3 reasonableness of the costs that comprise the regulatory asset,
4 the electric utility shall be permitted to recover all such
5 costs, and the value and recoverability through rates of the
6 associated regulatory asset shall not be limited, altered,
7 impaired, or reduced.

8 (f) Beginning in 2017, each electric utility shall file an
9 energy efficiency plan with the Commission to meet the energy
10 efficiency standards for the next applicable multi-year period
11 beginning January 1 of the year following the filing, according
12 to the schedule set forth in paragraphs (1) through (3) of this
13 subsection (f). If a utility does not file such a plan on or
14 before the applicable filing deadline for the plan, it shall
15 face a penalty of \$100,000 per day until the plan is filed.

16 (1) No later than 30 days after the effective date of
17 this amendatory Act of the 99th General Assembly or May 1,
18 2017, whichever is later, each electric utility shall file
19 a 4-year energy efficiency plan commencing on January 1,
20 2018 that is designed to achieve the cumulative persisting
21 annual savings goals specified in paragraphs (1) through
22 (4) of subsection (b-5) of this Section or in paragraphs
23 (1) through (4) of subsection (b-15) of this Section, as
24 applicable, through implementation of energy efficiency
25 measures; however, the goals may be reduced if the
26 utility's expenditures are limited pursuant to subsection

1 (m) of this Section or, for a utility that serves less than
2 3,000,000 retail customers, if each of the following
3 conditions are met: (A) the plan's analysis and forecasts
4 of the utility's ability to acquire energy savings
5 demonstrate that achievement of such goals is not cost
6 effective; and (B) the amount of energy savings achieved by
7 the utility as determined by the independent evaluator for
8 the most recent year for which savings have been evaluated
9 preceding the plan filing was less than the average annual
10 amount of savings required to achieve the goals for the
11 applicable 4-year plan period. Except as provided in
12 subsection (m) of this Section, annual increases in
13 cumulative persisting annual savings goals during the
14 applicable 4-year plan period shall not be reduced to
15 amounts that are less than the maximum amount of cumulative
16 persisting annual savings that is forecast to be
17 cost-effectively achievable during the 4-year plan period.
18 The Commission shall review any proposed goal reduction as
19 part of its review and approval of the utility's proposed
20 plan.

21 (2) No later than March 1, 2021, each electric utility
22 shall file a 4-year energy efficiency plan commencing on
23 January 1, 2022 that is designed to achieve the cumulative
24 persisting annual savings goals specified in paragraphs
25 (5) through (8) of subsection (b-5) of this Section or in
26 paragraphs (5) through (8) of subsection (b-15) of this

1 Section, as applicable, through implementation of energy
2 efficiency measures; however, the goals may be reduced if
3 the utility's expenditures are limited pursuant to
4 subsection (m) of this Section or, each of the following
5 conditions are met: (A) the plan's analysis and forecasts
6 of the utility's ability to acquire energy savings
7 demonstrate that achievement of such goals is not cost
8 effective; and (B) the amount of energy savings achieved by
9 the utility as determined by the independent evaluator for
10 the most recent year for which savings have been evaluated
11 preceding the plan filing was less than the average annual
12 amount of savings required to achieve the goals for the
13 applicable 4-year plan period. Except as provided in
14 subsection (m) of this Section, annual increases in
15 cumulative persisting annual savings goals during the
16 applicable 4-year plan period shall not be reduced to
17 amounts that are less than the maximum amount of cumulative
18 persisting annual savings that is forecast to be
19 cost-effectively achievable during the 4-year plan period.
20 The Commission shall review any proposed goal reduction as
21 part of its review and approval of the utility's proposed
22 plan.

23 (3) No later than March 1, 2025, each electric utility
24 shall file a 5-year energy efficiency plan commencing on
25 January 1, 2026 that is designed to achieve the cumulative
26 persisting annual savings goals specified in paragraphs

1 (9) through (13) of subsection (b-5) of this Section or in
2 paragraphs (9) through (13) of subsection (b-15) of this
3 Section, as applicable, through implementation of energy
4 efficiency measures; however, the goals may be reduced if
5 the utility's expenditures are limited pursuant to
6 subsection (m) of this Section or, each of the following
7 conditions are met: (A) the plan's analysis and forecasts
8 of the utility's ability to acquire energy savings
9 demonstrate that achievement of such goals is not cost
10 effective; and (B) the amount of energy savings achieved by
11 the utility as determined by the independent evaluator for
12 the most recent year for which savings have been evaluated
13 preceding the plan filing was less than the average annual
14 amount of savings required to achieve the goals for the
15 applicable 5-year plan period. Except as provided in
16 subsection (m) of this Section, annual increases in
17 cumulative persisting annual savings goals during the
18 applicable 5-year plan period shall not be reduced to
19 amounts that are less than the maximum amount of cumulative
20 persisting annual savings that is forecast to be
21 cost-effectively achievable during the 5-year plan period.
22 The Commission shall review any proposed goal reduction as
23 part of its review and approval of the utility's proposed
24 plan.

25 Each utility's plan shall set forth the utility's proposals
26 to meet the energy efficiency standards identified in

1 subsection (b-5) or (b-15), as applicable and as such standards
2 may have been modified under this subsection (f), taking into
3 account the unique circumstances of the utility's service
4 territory. For those plans commencing on January 1, 2018, the
5 Commission shall seek public comment on the utility's plan and
6 shall issue an order approving or disapproving each plan no
7 later than August 31, 2017, or 105 days after the effective
8 date of this amendatory Act of the 99th General Assembly,
9 whichever is later. For those plans commencing after December
10 31, 2021, the Commission shall seek public comment on the
11 utility's plan and shall issue an order approving or
12 disapproving each plan within 6 months after its submission. If
13 the Commission disapproves a plan, the Commission shall, within
14 30 days, describe in detail the reasons for the disapproval and
15 describe a path by which the utility may file a revised draft
16 of the plan to address the Commission's concerns
17 satisfactorily. If the utility does not refile with the
18 Commission within 60 days, the utility shall be subject to
19 penalties at a rate of \$100,000 per day until the plan is
20 filed. This process shall continue, and penalties shall accrue,
21 until the utility has successfully filed a portfolio of energy
22 efficiency and demand-response measures. Penalties shall be
23 deposited into the Energy Efficiency Trust Fund.

24 (g) In submitting proposed plans and funding levels under
25 subsection (f) of this Section to meet the savings goals
26 identified in subsection (b-5) or (b-15) of this Section, as

1 applicable, the utility shall:

2 (1) Demonstrate that its proposed energy efficiency
3 measures will achieve the applicable requirements that are
4 identified in subsection (b-5) or (b-15) of this Section,
5 as modified by subsection (f) of this Section.

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

9 (3) Demonstrate that its overall portfolio of
10 measures, not including low-income programs described in
11 subsection (c) of this Section, is cost-effective using the
12 total resource cost test or complies with paragraphs (1)
13 through (3) of subsection (f) of this Section and
14 represents a diverse cross-section of opportunities for
15 customers of all rate classes, other than those customers
16 described in subsection (1) of this Section, to participate
17 in the programs. Individual measures need not be cost
18 effective.

19 (4) Present a third-party energy efficiency
20 implementation program subject to the following
21 requirements:

22 (A) beginning with the year commencing January 1,
23 2019, electric utilities that serve more than
24 3,000,000 retail customers in the State shall fund
25 third-party energy efficiency programs in an amount
26 that is no less than \$25,000,000 per year, and electric

1 utilities that serve less than 3,000,000 retail
2 customers but more than 500,000 retail customers in the
3 State shall fund third-party energy efficiency
4 programs in an amount that is no less than \$8,350,000
5 per year;

6 (B) during 2018, the utility shall conduct a
7 solicitation process for purposes of requesting
8 proposals from third-party vendors for those
9 third-party energy efficiency programs to be offered
10 during one or more of the years commencing January 1,
11 2019, January 1, 2020, and January 1, 2021; for those
12 multi-year plans commencing on January 1, 2022 and
13 January 1, 2026, the utility shall conduct a
14 solicitation process during 2021 and 2025,
15 respectively, for purposes of requesting proposals
16 from third-party vendors for those third-party energy
17 efficiency programs to be offered during one or more
18 years of the respective multi-year plan period; for
19 each solicitation process, the utility shall identify
20 the sector, technology, or geographical area for which
21 it is seeking requests for proposals;

22 (C) the utility shall propose the bidder
23 qualifications, performance measurement process, and
24 contract structure, which must include a performance
25 payment mechanism and general terms and conditions;
26 the proposed qualifications, process, and structure

1 shall be subject to Commission approval; and

2 (D) the utility shall retain an independent third
3 party to score the proposals received through the
4 solicitation process described in this paragraph (4),
5 rank them according to their cost per lifetime
6 kilowatt-hours saved, and assemble the portfolio of
7 third-party programs.

8 The electric utility shall recover all costs
9 associated with Commission-approved, third-party
10 administered programs regardless of the success of those
11 programs.

12 (4.5) Implement cost-effective demand-response measures
13 to reduce peak demand by 0.1% over the prior year for
14 eligible retail customers, as defined in Section 16-111.5
15 of this Act, and for customers that elect hourly service
16 from the utility pursuant to Section 16-107 of this Act,
17 provided those customers have not been declared
18 competitive. This requirement continues until December 31,
19 2026.

20 (5) Include a proposed or revised cost-recovery tariff
21 mechanism, as provided for under subsection (d) of this
22 Section, to fund the proposed energy efficiency and
23 demand-response measures and to ensure the recovery of the
24 prudently and reasonably incurred costs of
25 Commission-approved programs.

26 (6) Provide for an annual independent evaluation of the

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

8 (7) For electric utilities that serve more than
9 3,000,000 retail customers in the State:

10 (A) Through December 31, 2025, provide for an
11 adjustment to the return on equity component of the
12 utility's weighted average cost of capital calculated
13 under subsection (d) of this Section:

14 (i) If the independent evaluator determines
15 that the utility achieved a cumulative persisting
16 annual savings that is less than the applicable
17 annual incremental goal, then the return on equity
18 component shall be reduced by a maximum of 200
19 basis points in the event that the utility achieved
20 no more than 75% of such goal. If the utility
21 achieved more than 75% of the applicable annual
22 incremental goal but less than 100% of such goal,
23 then the return on equity component shall be
24 reduced by 8 basis points for each percent by which
25 the utility failed to achieve the goal.

26 (ii) If the independent evaluator determines

1 that the utility achieved a cumulative persisting
2 annual savings that is more than the applicable
3 annual incremental goal, then the return on equity
4 component shall be increased by a maximum of 200
5 basis points in the event that the utility achieved
6 at least 125% of such goal. If the utility achieved
7 more than 100% of the applicable annual
8 incremental goal but less than 125% of such goal,
9 then the return on equity component shall be
10 increased by 8 basis points for each percent by
11 which the utility achieved above the goal. If the
12 applicable annual incremental goal was reduced
13 under paragraphs (1) or (2) of subsection (f) of
14 this Section, then the following adjustments shall
15 be made to the calculations described in this item
16 (ii):

17 (aa) the calculation for determining
18 achievement that is at least 125% of the
19 applicable annual incremental goal shall use
20 the unreduced applicable annual incremental
21 goal to set the value; and

22 (bb) the calculation for determining
23 achievement that is less than 125% but more
24 than 100% of the applicable annual incremental
25 goal shall use the reduced applicable annual
26 incremental goal to set the value for 100%

1 achievement of the goal and shall use the
2 unreduced goal to set the value for 125%
3 achievement. The 8 basis point value shall also
4 be modified, as necessary, so that the 200
5 basis points are evenly apportioned among each
6 percentage point value between 100% and 125%
7 achievement.

8 (B) For the period January 1, 2026 through December
9 31, 2030, provide for an adjustment to the return on
10 equity component of the utility's weighted average
11 cost of capital calculated under subsection (d) of this
12 Section:

13 (i) If the independent evaluator determines
14 that the utility achieved a cumulative persisting
15 annual savings that is less than the applicable
16 annual incremental goal, then the return on equity
17 component shall be reduced by a maximum of 200
18 basis points in the event that the utility achieved
19 no more than 66% of such goal. If the utility
20 achieved more than 66% of the applicable annual
21 incremental goal but less than 100% of such goal,
22 then the return on equity component shall be
23 reduced by 6 basis points for each percent by which
24 the utility failed to achieve the goal.

25 (ii) If the independent evaluator determines
26 that the utility achieved a cumulative persisting

1 annual savings that is more than the applicable
2 annual incremental goal, then the return on equity
3 component shall be increased by a maximum of 200
4 basis points in the event that the utility achieved
5 at least 134% of such goal. If the utility achieved
6 more than 100% of the applicable annual
7 incremental goal but less than 134% of such goal,
8 then the return on equity component shall be
9 increased by 6 basis points for each percent by
10 which the utility achieved above the goal. If the
11 applicable annual incremental goal was reduced
12 under paragraph (3) of subsection (f) of this
13 Section, then the following adjustments shall be
14 made to the calculations described in this item
15 (ii):

16 (aa) the calculation for determining
17 achievement that is at least 134% of the
18 applicable annual incremental goal shall use
19 the unreduced applicable annual incremental
20 goal to set the value; and

21 (bb) the calculation for determining
22 achievement that is less than 134% but more
23 than 100% of the applicable annual incremental
24 goal shall use the reduced applicable annual
25 incremental goal to set the value for 100%
26 achievement of the goal and shall use the

1 unreduced goal to set the value for 134%
2 achievement. The 6 basis point value shall also
3 be modified, as necessary, so that the 200
4 basis points are evenly apportioned among each
5 percentage point value between 100% and 134%
6 achievement.

7 (7.5) For purposes of this Section, the term
8 "applicable annual incremental goal" means the difference
9 between the cumulative persisting annual savings goal for
10 the calendar year that is the subject of the independent
11 evaluator's determination and the cumulative persisting
12 annual savings goal for the immediately preceding calendar
13 year, as such goals are defined in subsections (b-5) and
14 (b-15) of this Section and as these goals may have been
15 modified as provided for under subsection (b-20) and
16 paragraphs (1) through (3) of subsection (f) of this
17 Section. Under subsections (b), (b-5), (b-10), and (b-15)
18 of this Section, a utility must first replace energy
19 savings from measures that have reached the end of their
20 measure lives and would otherwise have to be replaced to
21 meet the applicable savings goals identified in subsection
22 (b-5) or (b-15) of this Section before any progress towards
23 achievement of its applicable annual incremental goal may
24 be counted. Notwithstanding anything else set forth in this
25 Section, the difference between the actual annual
26 incremental savings achieved in any given year, including

1 the replacement of energy savings from measures that have
2 expired, and the applicable annual incremental goal shall
3 not affect adjustments to the return on equity for
4 subsequent calendar years under this subsection (g).

5 (8) For electric utilities that serve less than
6 3,000,000 retail customers but more than 500,000 retail
7 customers in the State:

8 (A) Through December 31, 2025, the applicable
9 annual incremental goal shall be compared to the annual
10 incremental savings as determined by the independent
11 evaluator.

12 (i) The return on equity component shall be
13 reduced by 8 basis points for each percent by which
14 the utility did not achieve 84.4% of the applicable
15 annual incremental goal.

16 (ii) The return on equity component shall be
17 increased by 8 basis points for each percent by
18 which the utility exceeded 100% of the applicable
19 annual incremental goal.

20 (iii) The return on equity component shall not
21 be increased or decreased if the annual
22 incremental savings as determined by the
23 independent evaluator is greater than 84.4% of the
24 applicable annual incremental goal and less than
25 100% of the applicable annual incremental goal.

26 (iv) The return on equity component shall not

1 be increased or decreased by an amount greater than
2 200 basis points pursuant to this subparagraph
3 (A).

4 (B) For the period of January 1, 2026 through
5 December 31, 2030, the applicable annual incremental
6 goal shall be compared to the annual incremental
7 savings as determined by the independent evaluator.

8 (i) The return on equity component shall be
9 reduced by 6 basis points for each percent by which
10 the utility did not achieve 100% of the applicable
11 annual incremental goal.

12 (ii) The return on equity component shall be
13 increased by 6 basis points for each percent by
14 which the utility exceeded 100% of the applicable
15 annual incremental goal.

16 (iii) The return on equity component shall not
17 be increased or decreased by an amount greater than
18 200 basis points pursuant to this subparagraph
19 (B).

20 (C) If the applicable annual incremental goal was
21 reduced under paragraphs (1), (2) or (3) of subsection
22 (f) of this Section, then the following adjustments
23 shall be made to the calculations described in
24 subparagraphs (A) and (B) of this paragraph (8):

25 (i) The calculation for determining
26 achievement that is at least 125% or 134%, as

1 applicable, of the applicable annual incremental
2 goal shall use the unreduced applicable annual
3 incremental goal to set the value.

4 (ii) For the period through December 31, 2025,
5 the calculation for determining achievement that
6 is less than 125% but more than 100% of the
7 applicable annual incremental goal shall use the
8 reduced applicable annual incremental goal to set
9 the value for 100% achievement of the goal and
10 shall use the unreduced goal to set the value for
11 125% achievement. The 8 basis point value shall
12 also be modified, as necessary, so that the 200
13 basis points are evenly apportioned among each
14 percentage point value between 100% and 125%
15 achievement.

16 (iii) For the period of January 1, 2026 through
17 December 31, 2030, the calculation for determining
18 achievement that is less than 134% but more than
19 100% of the applicable annual incremental goal
20 shall use the reduced applicable annual
21 incremental goal to set the value for 100%
22 achievement of the goal and shall use the unreduced
23 goal to set the value for 125% achievement. The 6
24 basis point value shall also be modified, as
25 necessary, so that the 200 basis points are evenly
26 apportioned among each percentage point value

1 between 100% and 134% achievement.

2 (9) The utility shall submit the energy savings data to
3 the independent evaluator no later than 30 days after the
4 close of the plan year. The independent evaluator shall
5 determine the cumulative persisting annual savings for a
6 given plan year no later than 120 days after the close of
7 the plan year. The utility shall submit an informational
8 filing to the Commission no later than 160 days after the
9 close of the plan year that attaches the independent
10 evaluator's final report identifying the cumulative
11 persisting annual savings for the year and calculates,
12 under paragraph (7) or (8) of this subsection (g), as
13 applicable, any resulting change to the utility's return on
14 equity component of the weighted average cost of capital
15 applicable to the next plan year beginning with the January
16 monthly billing period and extending through the December
17 monthly billing period. However, if the utility recovers
18 the costs incurred under this Section under paragraphs (2)
19 and (3) of subsection (d) of this Section, then the utility
20 shall not be required to submit such informational filing,
21 and shall instead submit the information that would
22 otherwise be included in the informational filing as part
23 of its filing under paragraph (3) of such subsection (d)
24 that is due on or before June 1 of each year.

25 For those utilities that must submit the informational
26 filing, the Commission may, on its own motion or by

1 petition, initiate an investigation of such filing,
2 provided, however, that the utility's proposed return on
3 equity calculation shall be deemed the final, approved
4 calculation on December 15 of the year in which it is filed
5 unless the Commission enters an order on or before December
6 15, after notice and hearing, that modifies such
7 calculation consistent with this Section.

8 The adjustments to the return on equity component
9 described in paragraphs (7) and (8) of this subsection (g)
10 shall be applied as described in such paragraphs through a
11 separate tariff mechanism, which shall be filed by the
12 utility under subsections (f) and (g) of this Section.

13 (h) No more than 6% of energy efficiency and
14 demand-response program revenue may be allocated for research,
15 development, or pilot deployment of new equipment or measures.

16 (i) When practicable, electric utilities shall incorporate
17 advanced metering infrastructure data into the planning,
18 implementation, and evaluation of energy efficiency measures
19 and programs, subject to the data privacy and confidentiality
20 protections of applicable law.

21 (j) The independent evaluator shall follow the guidelines
22 and use the savings set forth in Commission-approved energy
23 efficiency policy manuals and technical reference manuals, as
24 each may be updated from time to time. Until such time as
25 measure life values for energy efficiency measures implemented
26 for low-income households under subsection (c) of this Section

1 are incorporated into such Commission-approved manuals, the
2 low-income measures shall have the same measure life values
3 that are established for same measures implemented in
4 households that are not low-income households.

5 (k) Notwithstanding any provision of law to the contrary,
6 an electric utility subject to the requirements of this Section
7 may file a tariff cancelling an automatic adjustment clause
8 tariff in effect under this Section or Section 8-103, which
9 shall take effect no later than one business day after the date
10 such tariff is filed. Thereafter, the utility shall be
11 authorized to defer and recover its expenditures incurred under
12 this Section through a new tariff authorized under subsection
13 (d) of this Section or in the utility's next rate case under
14 Article IX or Section 16-108.5 of this Act, with interest at an
15 annual rate equal to the utility's weighted average cost of
16 capital as approved by the Commission in such case. If the
17 utility elects to file a new tariff under subsection (d) of
18 this Section, the utility may file the tariff within 10 days
19 after the effective date of this amendatory Act of the 99th
20 General Assembly, and the cost inputs to such tariff shall be
21 based on the projected costs to be incurred by the utility
22 during the calendar year in which the new tariff is filed and
23 that were not recovered under the tariff that was cancelled as
24 provided for in this subsection. Such costs shall include those
25 incurred or to be incurred by the utility under its multi-year
26 plan approved under subsections (f) and (g) of this Section,

1 including, but not limited to, projected capital investment
2 costs and projected regulatory asset balances with
3 correspondingly updated depreciation and amortization reserves
4 and expense. The Commission shall, after notice and hearing,
5 approve, or approve with modification, such tariff and cost
6 inputs no later than 75 days after the utility filed the
7 tariff, provided that such approval, or approval with
8 modification, shall be consistent with the provisions of this
9 Section to the extent they do not conflict with this subsection
10 (k). The tariff approved by the Commission shall take effect no
11 later than 5 days after the Commission enters its order
12 approving the tariff.

13 No later than 60 days after the effective date of the
14 tariff cancelling the utility's automatic adjustment clause
15 tariff, the utility shall file a reconciliation that reconciles
16 the moneys collected under its automatic adjustment clause
17 tariff with the costs incurred during the period beginning June
18 1, 2016 and ending on the date that the electric utility's
19 automatic adjustment clause tariff was cancelled. In the event
20 the reconciliation reflects an under-collection, the utility
21 shall recover the costs as specified in this subsection (k). If
22 the reconciliation reflects an over-collection, the utility
23 shall apply the amount of such over-collection as a one-time
24 credit to retail customers' bills.

25 (1) For the calendar years covered by a multi-year plan
26 commencing after December 31, 2017, subsections (a) through (j)

1 of this Section do not apply to any retail customers of an
2 electric utility that serves more than 3,000,000 retail
3 customers in the State and whose total highest 30 minute demand
4 was more than 10,000 kilowatts, or any retail customers of an
5 electric utility that serves less than 3,000,000 retail
6 customers but more than 500,000 retail customers in the State
7 and whose total highest 15 minute demand was more than 10,000
8 kilowatts. For purposes of this subsection (1), "retail
9 customer" has the meaning set forth in Section 16-102 of this
10 Act. A determination of whether this subsection is applicable
11 to a customer shall be made for each multi-year plan beginning
12 after December 31, 2017. The criteria for determining whether
13 this subsection (1) is applicable to a retail customer shall be
14 based on the 12 consecutive billing periods prior to the start
15 of the first year of each such multi-year plan.

16 (m) Notwithstanding the requirements of this Section, as
17 part of a proceeding to approve a multi-year plan under
18 subsections (f) and (g) of this Section, the Commission shall
19 reduce the amount of energy efficiency measures implemented for
20 any single year, and whose costs are recovered under subsection
21 (d) of this Section, by an amount necessary to limit the
22 estimated average net increase due to the cost of the measures
23 to no more than

24 (1) 3.5% for the each of the 4 years beginning January
25 1, 2018,

26 (2) 3.75% for each of the 4 years beginning January 1,

1 2022, and
2 (3) 4% for each of the 5 years beginning January 1,
3 2026,
4 of the average amount paid per kilowatthour by residential
5 eligible retail customers during calendar year 2015. To
6 determine the total amount that may be spent by an electric
7 utility in any single year, the applicable percentage of the
8 average amount paid per kilowatthour shall be multiplied by the
9 total amount of energy delivered by such electric utility in
10 the calendar year 2015, adjusted to reflect the proportion of
11 the utility's load attributable to customers who are exempt
12 from subsections (a) through (j) of this Section under
13 subsection (l) of this Section. For purposes of this subsection
14 (m), the amount paid per kilowatthour includes, without
15 limitation, estimated amounts paid for supply, transmission,
16 distribution, surcharges, and add-on taxes. For purposes of
17 this Section, "eligible retail customers" shall have the
18 meaning set forth in Section 16-111.5 of this Act. Once the
19 Commission has approved a plan under subsections (f) and (g) of
20 this Section, no subsequent rate impact determinations shall be
21 made.

22 (Source: P.A. 99-906, eff. 6-1-17.)

23 (220 ILCS 5/8-104)

24 (Text of Section before amendment by P.A. 99-906)

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

1 (a) It is the policy of the State that natural gas
2 utilities and the Department of Commerce and Economic
3 Opportunity are required to use cost-effective energy
4 efficiency to reduce direct and indirect costs to consumers. It
5 serves the public interest to allow natural gas utilities to
6 recover costs for reasonably and prudently incurred expenses
7 for cost-effective energy efficiency measures.

8 (b) For purposes of this Section, "energy efficiency" means
9 measures that reduce the amount of energy required to achieve a
10 given end use. "Energy efficiency" also includes measures that
11 reduce the total Btus of electricity and natural gas needed to
12 meet the end use or uses. "Cost-effective" means that the
13 measures satisfy the total resource cost test which, for
14 purposes of this Section, means a standard that is met if, for
15 an investment in energy efficiency, the benefit-cost ratio is
16 greater than one. The benefit-cost ratio is the ratio of the
17 net present value of the total benefits of the measures to the
18 net present value of the total costs as calculated over the
19 lifetime of the measures. The total resource cost test compares
20 the sum of avoided natural gas utility costs, representing the
21 benefits that accrue to the system and the participant in the
22 delivery of those efficiency measures, as well as other
23 quantifiable societal benefits, including avoided electric
24 utility costs, to the sum of all incremental costs of end use
25 measures (including both utility and participant
26 contributions), plus costs to administer, deliver, and

1 evaluate each demand-side measure, to quantify the net savings
2 obtained by substituting demand-side measures for supply
3 resources. In calculating avoided costs, reasonable estimates
4 shall be included for financial costs likely to be imposed by
5 future regulation of emissions of greenhouse gases. The
6 low-income programs described in item (4) of subsection (f) of
7 this Section shall not be required to meet the total resource
8 cost test.

9 (c) Natural gas utilities shall implement cost-effective
10 energy efficiency measures to meet at least the following
11 natural gas savings requirements, which shall be based upon the
12 total amount of gas delivered to retail customers, other than
13 the customers described in subsection (m) of this Section,
14 during calendar year 2009 multiplied by the applicable
15 percentage. Natural gas utilities may comply with this Section
16 by meeting the annual incremental savings goal in the
17 applicable year or by showing that total cumulative annual
18 savings within a 3-year planning period associated with
19 measures implemented after May 31, 2011 were equal to the sum
20 of each annual incremental savings requirement from May 31,
21 2011 through the end of the applicable year:

22 (1) 0.2% by May 31, 2012;

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

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

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

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

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

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

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

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

13 (d) Notwithstanding the requirements of subsection (c) of
14 this Section, a natural gas utility shall limit the amount of
15 energy efficiency implemented in any 3-year reporting period
16 established by subsection (f) of Section 8-104 of this Act, by
17 an amount necessary to limit the estimated average increase in
18 the amounts paid by retail customers in connection with natural
19 gas service to no more than 2% in the applicable 3-year
20 reporting period. The energy savings requirements in
21 subsection (c) of this Section may be reduced by the Commission
22 for the subject plan, if the utility demonstrates by
23 substantial evidence that it is highly unlikely that the
24 requirements could be achieved without exceeding the
25 applicable spending limits in any 3-year reporting period. No
26 later than September 1, 2013, the Commission shall review the

1 limitation on the amount of energy efficiency measures
2 implemented pursuant to this Section and report to the General
3 Assembly, in the report required by subsection (k) of this
4 Section, its findings as to whether that limitation unduly
5 constrains the procurement of energy efficiency measures.

6 (e) Natural gas utilities shall be responsible for
7 overseeing the design, development, and filing of their
8 efficiency plans with the Commission. The utility shall utilize
9 75% of the available funding associated with energy efficiency
10 programs approved by the Commission, and may outsource various
11 aspects of program development and implementation. The
12 remaining 25% of available funding shall be used by the
13 Department of Commerce and Economic Opportunity to implement
14 energy efficiency measures that achieve no less than 20% of the
15 requirements of subsection (c) of this Section. Such measures
16 shall be designed in conjunction with the utility and approved
17 by the Commission. The Department may outsource development and
18 implementation of energy efficiency measures. A minimum of 10%
19 of the entire portfolio of cost-effective energy efficiency
20 measures shall be procured from local government, municipal
21 corporations, school districts, and community college
22 districts. Five percent of the entire portfolio of
23 cost-effective energy efficiency measures may be granted to
24 local government and municipal corporations for market
25 transformation initiatives. The Department shall coordinate
26 the implementation of these measures and shall integrate

1 delivery of natural gas efficiency programs with electric
2 efficiency programs delivered pursuant to Section 8-103 of this
3 Act, unless the Department can show that integration is not
4 feasible.

5 The apportionment of the dollars to cover the costs to
6 implement the Department's share of the portfolio of energy
7 efficiency measures shall be made to the Department once the
8 Department has executed rebate agreements, grants, or
9 contracts for energy efficiency measures and provided
10 supporting documentation for those rebate agreements, grants,
11 and contracts to the utility. The Department is authorized to
12 adopt any rules necessary and prescribe procedures in order to
13 ensure compliance by applicants in carrying out the purposes of
14 rebate agreements for energy efficiency measures implemented
15 by the Department made under this Section.

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

20 A utility providing approved energy efficiency measures in
21 this State shall be permitted to recover costs of those
22 measures through an automatic adjustment clause tariff filed
23 with and approved by the Commission. The tariff shall be
24 established outside the context of a general rate case and
25 shall be applicable to the utility's customers other than the
26 customers described in subsection (m) of this Section. Each

1 year the Commission shall initiate a review to reconcile any
2 amounts collected with the actual costs and to determine the
3 required adjustment to the annual tariff factor to match annual
4 expenditures.

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

22 The portfolio of measures, administered by both the
23 utilities and the Department, shall, in combination, be
24 designed to achieve the annual energy savings requirements set
25 forth in subsection (c) of this Section, as modified by
26 subsection (d) of this Section.

1 The utility and the Department shall agree upon a
2 reasonable portfolio of measures and determine the measurable
3 corresponding percentage of the savings goals associated with
4 measures implemented by the Department.

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

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

26 (f) No later than October 1, 2010, each gas utility shall

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

1 efficiency plans and funding levels to meet the savings goals
2 adopted by this Act the utility shall:

3 (1) Demonstrate that its proposed energy efficiency
4 measures will achieve the requirements that are identified
5 in subsection (c) of this Section, as modified by
6 subsection (d) of this Section.

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

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

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

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

1 (6) Demonstrate that a gas utility affiliated with an
2 electric utility that is required to comply with Section
3 8-103 of this Act has integrated gas and electric
4 efficiency measures into a single program that reduces
5 program or participant costs and appropriately allocates
6 costs to gas and electric ratepayers. The Department shall
7 integrate all gas and electric programs it delivers in any
8 such utilities' service territories, unless the Department
9 can show that integration is not feasible or appropriate.

10 (7) Include a proposed cost recovery tariff mechanism
11 to fund the proposed energy efficiency measures and to
12 ensure the recovery of the prudently and reasonably
13 incurred costs of Commission-approved programs.

14 (8) Provide for quarterly status reports tracking
15 implementation of and expenditures for the utility's
16 portfolio of measures and the Department's portfolio of
17 measures, an annual independent review, and a full
18 independent evaluation of the 3-year results of the
19 performance and the cost-effectiveness of the utility's
20 and Department's portfolios of measures and broader net
21 program impacts and, to the extent practical, for
22 adjustment of the measures on a going forward basis as a
23 result of the evaluations. The resources dedicated to
24 evaluation shall not exceed 3% of portfolio resources in
25 any given 3-year period.

26 (g) No more than 3% of expenditures on energy efficiency

1 measures may be allocated for demonstration of breakthrough
2 equipment and devices.

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

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

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

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

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

16 For purposes of this Section, (i) a "large gas utility" is
17 a gas utility that on December 31, 2008, served more than
18 1,500,000 gas customers in Illinois; (ii) a "medium gas
19 utility" is a gas utility that on December 31, 2008, served
20 fewer than 1,500,000, but more than 500,000 gas customers in
21 Illinois; and (iii) a "small gas utility" is a gas utility that
22 on December 31, 2008, served fewer than 500,000 and more than
23 100,000 gas customers in Illinois. The costs of this
24 contribution may not be recovered from ratepayers.

25 If a gas utility fails to meet the efficiency standard
26 specified in subsection (c) of this Section, as modified by

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

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

21 (k) Not later than January 1, 2012, the Commission shall
22 develop and solicit public comment on a plan to foster
23 statewide coordination and consistency between statutorily
24 mandated natural gas and electric energy efficiency programs to
25 reduce program or participant costs or to improve program
26 performance. Not later than September 1, 2013, the Commission

1 shall issue a report to the General Assembly containing its
2 findings and recommendations.

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

6 (m) Subsections (a) through (k) of this Section do not
7 apply to customers of a natural gas utility that have a North
8 American Industry Classification System code number that is
9 22111 or any such code number beginning with the digits 31, 32,
10 or 33 and (i) annual usage in the aggregate of 4 million therms
11 or more within the service territory of the affected gas
12 utility or with aggregate usage of 8 million therms or more in
13 this State and complying with the provisions of item (l) of
14 this subsection (m); or (ii) using natural gas as feedstock and
15 meeting the usage requirements described in item (i) of this
16 subsection (m), to the extent such annual feedstock usage is
17 greater than 60% of the customer's total annual usage of
18 natural gas.

19 (1) Customers described in this subsection (m) of this
20 Section shall apply, on a form approved on or before
21 October 1, 2009 by the Department, to the Department to be
22 designated as a self-directing customer ("SDC") or as an
23 exempt customer using natural gas as a feedstock from which
24 other products are made, including, but not limited to,
25 feedstock for a hydrogen plant, on or before the 1st day of
26 February, 2010. Thereafter, application may be made not

1 less than 6 months before the filing date of the gas
2 utility energy efficiency plan described in subsection (f)
3 of this Section; however, a new customer that commences
4 taking service from a natural gas utility after February 1,
5 2010 may apply to become a SDC or exempt customer up to 30
6 days after beginning service. Customers described in this
7 subsection (m) that have not already been approved by the
8 Department may apply to be designated a self-directing
9 customer or exempt customer, on a form approved by the
10 Department, between September 1, 2013 and September 30,
11 2013. Customer applications that are approved by the
12 Department under this amendatory Act of the 98th General
13 Assembly shall be considered to be a self-directing
14 customer or exempt customer, as applicable, for the current
15 3-year planning period effective December 1, 2013. Such
16 application shall contain the following:

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

21 (B) in the case of a SDC, the customer's
22 certification that it has established or will
23 establish by the beginning of the utility's 3-year
24 planning period commencing subsequent to the
25 application, and will maintain for accounting
26 purposes, an energy efficiency reserve account and

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

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

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

24 (E) in the case of a SDC, the customer's
25 certification that by October 1 of each year, beginning
26 no sooner than October 1, 2012, the customer will

1 report to the Department information, for the 12-month
2 period ending May 31 of the same year, on all deposits
3 and reductions, if any, to the reserve account during
4 the reporting year, and to the extent deposits to the
5 reserve account in any year are in an amount less than
6 \$150,000, the basis for such reduced deposits; reserve
7 account balances by month; a description of energy
8 efficiency measures undertaken by the customer and
9 paid for in whole or in part with funds from the
10 reserve account; an estimate of the energy saved, or to
11 be saved, by the measure; and that the report shall
12 include a verification by an officer or plant manager
13 of the customer or by a registered professional
14 engineer or certified energy efficiency trade
15 professional that the funds withdrawn from the reserve
16 account were used for the energy efficiency measures;

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

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

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

1 SDC, certification of the natural gas utility or
2 utilities serving the customer in Illinois including
3 the natural gas utility accounts that are the subject
4 of the application; and

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

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

1 within 15 working days after the date of receipt of the
2 Department's notification.

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

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

22 Customers described in this subsection (m) that applied to
23 the Department on January 3, 2013, were approved by the
24 Department on February 13, 2013 to be a self-directing customer
25 or exempt customer, and receive natural gas from a utility that
26 provides gas service to at least 500,000 retail customers in

1 Illinois and electric service to at least 1,000,000 retail
2 customers in Illinois shall be considered to be a
3 self-directing customer or exempt customer, as applicable, for
4 the current 3-year planning period effective December 1, 2013.

5 (n) The applicability of this Section to customers
6 described in subsection (m) of this Section is conditioned on
7 the existence of the SDC program. In no event will any
8 provision of this Section apply to such customers after January
9 1, 2020.

10 (Source: P.A. 97-813, eff. 7-13-12; 97-841, eff. 7-20-12;
11 98-90, eff. 7-15-13; 98-225, eff. 8-9-13; 98-604, eff.
12 12-17-13.)

13 (Text of Section after amendment by P.A. 99-906)

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

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

22 (b) For purposes of this Section, "energy efficiency" means
23 measures that reduce the amount of energy required to achieve a
24 given end use. "Energy efficiency" also includes measures that
25 reduce the total Btus of electricity and natural gas needed to

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

24 (c) Natural gas utilities shall implement cost-effective
25 energy efficiency measures to meet at least the following
26 natural gas savings requirements, which shall be based upon the

1 total amount of gas delivered to retail customers, other than
2 the customers described in subsection (m) of this Section,
3 during calendar year 2009 multiplied by the applicable
4 percentage. Natural gas utilities may comply with this Section
5 by meeting the annual incremental savings goal in the
6 applicable year or by showing that total cumulative annual
7 savings within a multi-year planning period associated with
8 measures implemented after May 31, 2011 were equal to the sum
9 of each annual incremental savings requirement from the first
10 day of the multi-year planning period through the last day of
11 the multi-year planning period:

12 (1) 0.2% by May 31, 2012;

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

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

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

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

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

23 (7) an additional 1.4% in the year commencing January
24 1, 2018;

25 (8) an additional 1.5% in the year commencing January
26 1, 2019; and

1 (9) an additional 1.5% in each 12-month period
2 thereafter.

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

22 (e) The provisions of this subsection (e) apply to those
23 multi-year plans that commence prior to January 1, 2018. The
24 utility shall utilize 75% of the available funding associated
25 with energy efficiency programs approved by the Commission, and
26 may outsource various aspects of program development and

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

20 The apportionment of the dollars to cover the costs to
21 implement the Department's share of the portfolio of energy
22 efficiency measures shall be made to the Department once the
23 Department has executed rebate agreements, grants, or
24 contracts for energy efficiency measures and provided
25 supporting documentation for those rebate agreements, grants,
26 and contracts to the utility. The Department is authorized to

1 adopt any rules necessary and prescribe procedures in order to
2 ensure compliance by applicants in carrying out the purposes of
3 rebate agreements for energy efficiency measures implemented
4 by the Department made under this Section.

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

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

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

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

1 (e-5) The provisions of this subsection (e-5) shall be
2 applicable to those multi-year plans that commence after
3 December 31, 2017. Natural gas utilities shall be responsible
4 for overseeing the design, development, and filing of their
5 efficiency plans with the Commission and may outsource
6 development and implementation of energy efficiency measures.
7 A minimum of 10% of the entire portfolio of cost-effective
8 energy efficiency measures shall be procured from local
9 government, municipal corporations, school districts, and
10 community college districts. Five percent of the entire
11 portfolio of cost-effective energy efficiency measures may be
12 granted to local government and municipal corporations for
13 market transformation initiatives.

14 The utilities shall also present a portfolio of energy
15 efficiency measures proportionate to the share of total annual
16 utility revenues in Illinois from households at or below 150%
17 of the poverty level. Such programs shall be targeted to
18 households with incomes at or below 80% of area median income.

19 (e-10) A utility providing approved energy efficiency
20 measures in this State shall be permitted to recover costs of
21 those measures through an automatic adjustment clause tariff
22 filed with and approved by the Commission. The tariff shall be
23 established outside the context of a general rate case and
24 shall be applicable to the utility's customers other than the
25 customers described in subsection (m) of this Section. Each
26 year the Commission shall initiate a review to reconcile any

1 amounts collected with the actual costs and to determine the
2 required adjustment to the annual tariff factor to match annual
3 expenditures.

4 (e-15) For those multi-year plans that commence prior to
5 January 1, 2018, each utility shall include, in its recovery of
6 costs, the costs estimated for both the utility's and the
7 Department's implementation of energy efficiency measures.
8 Costs collected by the utility for measures implemented by the
9 Department shall be submitted to the Department pursuant to
10 Section 605-323 of the Civil Administrative Code of Illinois,
11 shall be deposited into the Energy Efficiency Portfolio
12 Standards Fund, and shall be used by the Department solely for
13 the purpose of implementing these measures. A utility shall not
14 be required to advance any moneys to the Department but only to
15 forward such funds as it has collected. The Department shall
16 report to the Commission on an annual basis regarding the costs
17 actually incurred by the Department in the implementation of
18 the measures. Any changes to the costs of energy efficiency
19 measures as a result of plan modifications shall be
20 appropriately reflected in amounts recovered by the utility and
21 turned over to the Department.

22 (f) No later than October 1, 2010, each gas utility shall
23 file an energy efficiency plan with the Commission to meet the
24 energy efficiency standards through May 31, 2014. No later than
25 October 1, 2013, each gas utility shall file an energy
26 efficiency plan with the Commission to meet the energy

1 efficiency standards through May 31, 2017. Beginning in 2017
2 and every 4 years thereafter, each utility shall file an energy
3 efficiency plan with the Commission to meet the energy
4 efficiency standards for the next applicable 4-year period
5 beginning January 1 of the year following the filing. For those
6 multi-year plans commencing on January 1, 2018, each utility
7 shall file its proposed energy efficiency plan no later than 30
8 days after the effective date of this amendatory Act of the
9 99th General Assembly or May 1, 2017, whichever is later.
10 Beginning in 2021 and every 4 years thereafter, each utility
11 shall file its energy efficiency plan no later than March 1. If
12 a utility does not file such a plan on or before the applicable
13 filing deadline for the plan, then it shall face a penalty of
14 \$100,000 per day until the plan is filed.

15 Each utility's plan shall set forth the utility's proposals
16 to meet the utility's portion of the energy efficiency
17 standards identified in subsection (c) of this Section, as
18 modified by subsection (d) of this Section, taking into account
19 the unique circumstances of the utility's service territory.
20 For those plans commencing after December 31, 2021, the
21 Commission shall seek public comment on the utility's plan and
22 shall issue an order approving or disapproving each plan within
23 6 months after its submission. For those plans commencing on
24 January 1, 2018, the Commission shall seek public comment on
25 the utility's plan and shall issue an order approving or
26 disapproving each plan no later than August 31, 2017, or 105

1 days after the effective date of this amendatory Act of the
2 99th General Assembly, whichever is later. If the Commission
3 disapproves a plan, the Commission shall, within 30 days,
4 describe in detail the reasons for the disapproval and describe
5 a path by which the utility may file a revised draft of the
6 plan to address the Commission's concerns satisfactorily. If
7 the utility does not refile with the Commission within 60 days
8 after the disapproval, the utility shall be subject to
9 penalties at a rate of \$100,000 per day until the plan is
10 filed. This process shall continue, and penalties shall accrue,
11 until the utility has successfully filed a portfolio of energy
12 efficiency measures. Penalties shall be deposited into the
13 Energy Efficiency Trust Fund and the cost of any such penalties
14 may not be recovered from ratepayers. In submitting proposed
15 energy efficiency plans and funding levels to meet the savings
16 goals adopted by this Act the utility shall:

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

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

24 (3) Present estimates of the total amount paid for gas
25 service expressed on a per therm basis associated with the
26 proposed portfolio of measures designed to meet the

1 requirements that are identified in subsection (c) of this
2 Section, as modified by subsection (d) of this Section.

3 (4) For those multi-year plans that commence prior to
4 January 1, 2018, coordinate with the Department to present
5 a portfolio of energy efficiency measures proportionate to
6 the share of total annual utility revenues in Illinois from
7 households at or below 150% of the poverty level. Such
8 programs shall be targeted to households with incomes at or
9 below 80% of area median income.

10 (5) Demonstrate that its overall portfolio of energy
11 efficiency measures, not including low-income programs
12 described in item (4) of this subsection (f) and subsection
13 (e-5) of this Section, are cost-effective using the total
14 resource cost test and represent a diverse cross section of
15 opportunities for customers of all rate classes to
16 participate in the programs.

17 (6) Demonstrate that a gas utility affiliated with an
18 electric utility that is required to comply with Section
19 8-103 or 8-103B of this Act has integrated gas and electric
20 efficiency measures into a single program that reduces
21 program or participant costs and appropriately allocates
22 costs to gas and electric ratepayers. For those multi-year
23 plans that commence prior to January 1, 2018, the
24 Department shall integrate all gas and electric programs it
25 delivers in any such utilities' service territories,
26 unless the Department can show that integration is not

1 feasible or appropriate.

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

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

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

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

25 (i) If, after 3 years, a gas utility fails to meet the
26 efficiency standard specified in subsection (c) of this Section

1 as modified by subsection (d), then it shall make a
2 contribution to the Low-Income Home Energy Assistance Program.
3 The total liability for failure to meet the goal shall be
4 assessed as follows:

- 5 (1) a large gas utility shall pay \$600,000;
- 6 (2) a medium gas utility shall pay \$400,000; and
- 7 (3) a small gas utility shall pay \$200,000.

8 For purposes of this Section, (i) a "large gas utility" is
9 a gas utility that on December 31, 2008, served more than
10 1,500,000 gas customers in Illinois; (ii) a "medium gas
11 utility" is a gas utility that on December 31, 2008, served
12 fewer than 1,500,000, but more than 500,000 gas customers in
13 Illinois; and (iii) a "small gas utility" is a gas utility that
14 on December 31, 2008, served fewer than 500,000 and more than
15 100,000 gas customers in Illinois. The costs of this
16 contribution may not be recovered from ratepayers.

17 If a gas utility fails to meet the efficiency standard
18 specified in subsection (c) of this Section, as modified by
19 subsection (d) of this Section, in any 2 consecutive multi-year
20 planning periods, then the responsibility for implementing the
21 utility's energy efficiency measures shall be transferred to an
22 independent program administrator selected by the Commission.
23 Reasonable and prudent costs incurred by the independent
24 program administrator to meet the efficiency standard
25 specified in subsection (c) of this Section, as modified by
26 subsection (d) of this Section, may be recovered from the

1 customers of the affected gas utilities, other than customers
2 described in subsection (m) of this Section. The utility shall
3 provide the independent program administrator with all
4 information and assistance necessary to perform the program
5 administrator's duties including but not limited to customer,
6 account, and energy usage data, and shall allow the program
7 administrator to include inserts in customer bills. The utility
8 may recover reasonable costs associated with any such
9 assistance.

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

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

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

24 (m) Subsections (a) through (k) of this Section do not
25 apply to customers of a natural gas utility that have a North
26 American Industry Classification System code number that is

1 22111 or any such code number beginning with the digits 31, 32,
2 or 33 and (i) annual usage in the aggregate of 4 million therms
3 or more within the service territory of the affected gas
4 utility or with aggregate usage of 8 million therms or more in
5 this State and complying with the provisions of item (l) of
6 this subsection (m); or (ii) using natural gas as feedstock and
7 meeting the usage requirements described in item (i) of this
8 subsection (m), to the extent such annual feedstock usage is
9 greater than 60% of the customer's total annual usage of
10 natural gas.

11 (1) Customers described in this subsection (m) of this
12 Section shall apply, on a form approved on or before
13 October 1, 2009 by the Department, to the Department to be
14 designated as a self-directing customer ("SDC") or as an
15 exempt customer using natural gas as a feedstock from which
16 other products are made, including, but not limited to,
17 feedstock for a hydrogen plant, on or before the 1st day of
18 February, 2010. Thereafter, application may be made not
19 less than 6 months before the filing date of the gas
20 utility energy efficiency plan described in subsection (f)
21 of this Section; however, a new customer that commences
22 taking service from a natural gas utility after February 1,
23 2010 may apply to become a SDC or exempt customer up to 30
24 days after beginning service. Customers described in this
25 subsection (m) that have not already been approved by the
26 Department may apply to be designated a self-directing

1 customer or exempt customer, on a form approved by the
2 Department, between September 1, 2013 and September 30,
3 2013. Customer applications that are approved by the
4 Department under this amendatory Act of the 98th General
5 Assembly shall be considered to be a self-directing
6 customer or exempt customer, as applicable, for the current
7 3-year planning period effective December 1, 2013. Such
8 application shall contain the following:

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

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

1 use of combustible gas produced from biomass, or both;

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

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

16 (E) in the case of a SDC, the customer's
17 certification that by October 1 of each year, beginning
18 no sooner than October 1, 2012, the customer will
19 report to the Department information, for the 12-month
20 period ending May 31 of the same year, on all deposits
21 and reductions, if any, to the reserve account during
22 the reporting year, and to the extent deposits to the
23 reserve account in any year are in an amount less than
24 \$150,000, the basis for such reduced deposits; reserve
25 account balances by month; a description of energy
26 efficiency measures undertaken by the customer and

1 paid for in whole or in part with funds from the
2 reserve account; an estimate of the energy saved, or to
3 be saved, by the measure; and that the report shall
4 include a verification by an officer or plant manager
5 of the customer or by a registered professional
6 engineer or certified energy efficiency trade
7 professional that the funds withdrawn from the reserve
8 account were used for the energy efficiency measures;

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

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

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

23 (I) in the case of either an exempt customer or a
24 SDC, a verification signed by a plant manager or an
25 authorized corporate officer attesting to the
26 truthfulness and accuracy of the information contained

1 in the application.

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

21 (3) The Department shall have the right to audit the
22 information provided in the customer's application and
23 annual reports to ensure continued compliance with the
24 requirements of this subsection. Based on the audit, if the
25 Department determines the customer is no longer in
26 compliance with the requirements of items (A) through (I)

1 of item (1) of this subsection (m), as applicable, the
2 Department shall notify the customer in writing of the
3 noncompliance. The customer shall have 30 days to establish
4 its compliance, and failing to do so, may have its status
5 as a SDC or exempt customer revoked by the Department. The
6 Department shall treat all information provided by any
7 customer seeking SDC status or exemption from the
8 provisions of this Section as strictly confidential.

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

14 Customers described in this subsection (m) that applied to
15 the Department on January 3, 2013, were approved by the
16 Department on February 13, 2013 to be a self-directing customer
17 or exempt customer, and receive natural gas from a utility that
18 provides gas service to at least 500,000 retail customers in
19 Illinois and electric service to at least 1,000,000 retail
20 customers in Illinois shall be considered to be a
21 self-directing customer or exempt customer, as applicable, for
22 the current 3-year planning period effective December 1, 2013.

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

1 1, 2020.

2 (o) Utilities' 3-year energy efficiency plans approved by
3 the Commission on or before the effective date of this
4 amendatory Act of the 99th General Assembly for the period June
5 1, 2014 through May 31, 2017, including all such programs
6 administered by the Department of Commerce and Economic
7 Opportunity, shall continue to be in force and effect through
8 December 31, 2017 so that the energy efficiency programs set
9 forth in those plans continue to be offered during the period
10 June 1, 2017 through December 31, 2017. Each utility is
11 authorized to increase, on a pro rata basis, the energy savings
12 goals and budgets approved in its plan to reflect the
13 additional 7 months of the plan's operation.

14 (Source: P.A. 98-90, eff. 7-15-13; 98-225, eff. 8-9-13; 98-604,
15 eff. 12-17-13; 99-906, eff. 6-1-17.)

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