

1 AN ACT concerning utilities.

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

4 Section 5. The Public Utilities Act is amended by
5 changing Section 7-204 and adding Section 16-103.5 as
6 follows:

7 (220 ILCS 5/7-204) (from Ch. 111 2/3, par. 7-204)

8 Sec. 7-204. Reorganization defined; Commission approval
9 therefore.

10 (a) For purposes of this Section, "reorganization" means
11 any transaction which, regardless of the means by which it is
12 accomplished, results in a change in the ownership of a
13 majority of the voting capital stock of an Illinois public
14 utility; or the ownership or control of any entity which owns
15 or controls a majority of the voting capital stock of a
16 public utility; or by which 2 public utilities merge, or by
17 which a public utility acquires substantially all of the
18 assets of another public utility; or the transactions
19 described in subsection (g); provided, however, that
20 "reorganization" as used in this Section shall not include a
21 mortgage or pledge transaction entered into to secure a bona
22 fide borrowing by the party granting the mortgage or making
23 the pledge.

24 In addition to the foregoing, "reorganization" shall
25 include for purposes of this Section any transaction which,
26 regardless of the means by which it is accomplished, will
27 have the effect of terminating the affiliated interest status
28 of any entity as defined in paragraphs (a), (b), (c) or (d)
29 of subsection (2) of Section 7-101 of this Act where such
30 entity had transactions with the public utility, in the 12
31 calendar months immediately preceding the date of termination

1 of such affiliated interest status subject to subsection (3)
2 of Section 7-101 of this Act with a value greater than 15% of
3 the public utility's revenues for that same 12-month period.
4 If the proposed transaction would have the effect of
5 terminating the affiliated interest status of more than one
6 Illinois public utility, the utility with the greatest
7 revenues for the 12-month period shall be used to determine
8 whether such proposed transaction is a reorganization for the
9 purposes of this Section. The Commission shall have
10 jurisdiction over any reorganization as defined herein.

11 (b) No reorganization shall take place without prior
12 Commission approval. The Commission shall not approve any
13 proposed reorganization if the Commission finds, after notice
14 and hearing, that the reorganization will adversely affect
15 the utility's ability to perform its duties under this Act.
16 In reviewing any proposed reorganization, the Commission must
17 find that:

18 (1) the proposed reorganization will not diminish
19 the utility's ability to provide adequate, reliable,
20 efficient, safe and least-cost public utility service;

21 (2) the proposed reorganization will not result in
22 the unjustified subsidization of non-utility activities
23 by the utility or its customers;

24 (3) costs and facilities are fairly and reasonably
25 allocated between utility and non-utility activities in
26 such a manner that the Commission may identify those
27 costs and facilities which are properly included by the
28 utility for ratemaking purposes;

29 (4) the proposed reorganization will not
30 significantly impair the utility's ability to raise
31 necessary capital on reasonable terms or to maintain a
32 reasonable capital structure;

33 (5) the utility will remain subject to all
34 applicable laws, regulations, rules, decisions and

1 policies governing the regulation of Illinois public
2 utilities;

3 (6) the proposed reorganization is not likely to
4 have a significant adverse effect on competition in those
5 markets over which the Commission has jurisdiction;

6 (7) the proposed reorganization is not likely to
7 result in any adverse rate impacts on retail customers.

8 (c) The Commission shall not approve a reorganization
9 without ruling on: (i) the allocation of any savings
10 resulting from the proposed reorganization; and (ii) whether
11 the companies should be allowed to recover any costs incurred
12 in accomplishing the proposed reorganization and, if so, the
13 amount of costs eligible for recovery and how the costs will
14 be allocated.

15 (d) The Commission shall issue its Order approving or
16 denying the proposed reorganization within 11 months after
17 the application is filed. The Commission may extend the
18 deadline for a period equivalent to the length of any delay
19 which the Commission finds to have been caused by the
20 Applicant's failure to provide data or information requested
21 by the Commission or that the Commission ordered the
22 Applicant to provide to the parties. The Commission may also
23 extend the deadline by an additional period not to exceed 3
24 months to consider amendments to the Applicant's filing, or
25 to consider reasonably unforeseeable changes in circumstances
26 subsequent to the Applicant's initial filing.

27 (e) Subsections (c) and (d) and subparagraphs (6) and
28 (7) of subsection (b) of this Section shall apply only to
29 merger applications submitted to the Commission subsequent to
30 April 23, 1997. No other Commission approvals shall be
31 required for mergers that are subject to this Section.

32 (f) In approving any proposed reorganization pursuant to
33 this Section the Commission may impose such terms, conditions
34 or requirements as, in its judgment, are necessary to protect

1 the interests of the public utility and its customers.

2 (g) The Commission shall, within 9 months after an
3 application is filed, issue its Order approving or denying
4 any proposed reorganization involving the acquisition by a
5 public utility or its affiliate of all of the common stock or
6 substantially all of the operating assets, whether by merger,
7 creation and acquisition of a limited liability or other
8 company, or otherwise, of another public utility that has
9 secured debt that is, or was, within the year prior to the
10 filing of the application, rated below investment grade by at
11 least 3 nationally recognized rating agencies.

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

13 (220 ILCS 5/16-103.5 new)

14 Sec. 16-103.5. Renewable energy resources standard.

15 (a) In furtherance of subsection (f) of Section 5 of the
16 Illinois Resource Development and Energy Security Act, which
17 provides that "renewable forms of energy should be promoted
18 as an important element of the energy and environmental
19 policies of the State and it is a goal of the State that at
20 least 5% of the State's energy production and use be derived
21 from renewable forms of energy by 2010 and at least 15% from
22 renewable forms of energy by 2020", a renewable energy
23 resources standard is hereby established in Illinois.

24 (b) This Section applies to electric utilities and
25 alternative retail electric suppliers.

26 (c) "Renewable energy resources" has the meaning given
27 that term in subsection (f) of Section 6-3 of the Renewable
28 Energy, Energy Efficiency, and Coal Resources Development Law
29 of 1997.

30 (d) During 2004, an electric utility or alternative
31 retail electric supplier shall take all appropriate actions
32 to meet the standards set forth in this Section and shall
33 submit a report to the Commission by December 31, 2004

1 describing that year's actions in detail.

2 (e) Each electric utility or alternative retail electric
3 supplier shall in the years specified supply electricity to
4 Illinois customers generated by renewable energy resources in
5 at least the following minimum percentages of the total
6 electricity supplied by that electric utility or alternative
7 retail electric supplier to customers in Illinois:

8 (1) 2005, 2%;

9 (2) 2007, 3%;

10 (3) 2009, 4%;

11 (4) 2010, 5%;

12 (5) 2012, 7%;

13 (6) 2014, 9%;

14 (7) 2016, 11%;

15 (8) 2018, 13%;

16 (9) 2020 and each year thereafter, 15%.

17 (f) An electric utility or alternative retail electric
18 supplier shall meet the standards in subsection (e) by any
19 combination of:

20 (1) generating electricity in Illinois with
21 renewable energy resources and then supplying that
22 electricity to its Illinois customers; or

23 (2) purchasing electricity generated in Illinois
24 with renewable energy resources and then supplying that
25 electricity to its Illinois customers.

26 (g) Any electric utility or alternative retail electric
27 supplier may choose to arrange with another electric utility
28 or alternative retail electric supplier to supply its
29 Illinois customers with electricity generated in Illinois
30 with renewable energy resources.

31 (h)(1) By April 1 of each year beginning in 2006, an
32 electric utility or alternative retail electric supplier
33 subject to this Section shall submit a report to the
34 Commission that documents compliance with the provisions of

1 this Section for the preceding year.

2 (2) The report shall include, but need not be limited
3 to, the following information:

4 (A) the total megawatt hours of electricity sold to
5 customers in Illinois;

6 (B) the total megawatt hours of electricity
7 generated in Illinois with each kind of renewable energy
8 resource that is sold to customers in Illinois;

9 (C) the total megawatt hours of electricity
10 acquired from other electric utilities or alternative
11 retail electric suppliers that is generated in Illinois
12 with renewable energy resources; and

13 (D) any other information necessary to demonstrate
14 compliance with this Section.

15 (3) The Commission shall establish additional reporting
16 requirements to ensure implementation of this Section.

17 (4) The Commission shall promptly post every report
18 submitted under this subsection on the Commission's Internet
19 site.

20 (5) The Commission may audit the accuracy of all
21 information submitted under this subsection, and may request
22 and obtain from each electric utility or alternative retail
23 electric supplier any other information necessary to monitor
24 compliance with and enforcement of this Section.

25 (i) An electric utility or alternative retail electric
26 supplier shall be assessed a penalty of not less than \$50 for
27 each megawatt hour of electricity that the electric utility
28 or alternative retail electric supplier does not supply as
29 required under subsection (e).

30 (j) Costs associated with the procurement of renewable
31 energy resources pursuant to this Section shall be fully
32 recoverable from retail customers to the extent allowed by
33 law and shall not be subject to any limitations stated in
34 subsection (i) of Section 16-111 of this Act relating to the

1 recovery of the power and energy cost component in tariffed
2 rates. Costs associated with contracts that were prudent
3 when entered into pursuant to this Section shall not
4 subsequently be denied recovery due to changes in State or
5 federal law.

6 (k) The Commission shall establish penalties for other
7 violations of this Section.