

1 AMENDMENT TO HOUSE BILL 2200

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2200, AS AMENDED,  
3 by replacing everything after the enacting clause with the  
4 following:

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

8 (220 ILCS 5/7-204) (from Ch. 111 2/3, par. 7-204)  
9 Sec. 7-204. Reorganization defined; Commission approval  
10 therefore.

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

1 fide borrowing by the party granting the mortgage or making  
2 the pledge.

3 In addition to the foregoing, "reorganization" shall  
4 include for purposes of this Section any transaction which,  
5 regardless of the means by which it is accomplished, will  
6 have the effect of terminating the affiliated interest status  
7 of any entity as defined in paragraphs (a), (b), (c) or (d)  
8 of subsection (2) of Section 7-101 of this Act where such  
9 entity had transactions with the public utility, in the 12  
10 calendar months immediately preceding the date of termination  
11 of such affiliated interest status subject to subsection (3)  
12 of Section 7-101 of this Act with a value greater than 15% of  
13 the public utility's revenues for that same 12-month period.  
14 If the proposed transaction would have the effect of  
15 terminating the affiliated interest status of more than one  
16 Illinois public utility, the utility with the greatest  
17 revenues for the 12-month period shall be used to determine  
18 whether such proposed transaction is a reorganization for the  
19 purposes of this Section. The Commission shall have  
20 jurisdiction over any reorganization as defined herein.

21 (b) No reorganization shall take place without prior  
22 Commission approval. The Commission shall not approve any  
23 proposed reorganization if the Commission finds, after notice  
24 and hearing, that the reorganization will adversely affect  
25 the utility's ability to perform its duties under this Act.  
26 In reviewing any proposed reorganization, the Commission must  
27 find that:

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

31 (2) the proposed reorganization will not result in  
32 the unjustified subsidization of non-utility activities  
33 by the utility or its customers;

34 (3) costs and facilities are fairly and reasonably

1 allocated between utility and non-utility activities in  
2 such a manner that the Commission may identify those  
3 costs and facilities which are properly included by the  
4 utility for ratemaking purposes;

5 (4) the proposed reorganization will not  
6 significantly impair the utility's ability to raise  
7 necessary capital on reasonable terms or to maintain a  
8 reasonable capital structure;

9 (5) the utility will remain subject to all  
10 applicable laws, regulations, rules, decisions and  
11 policies governing the regulation of Illinois public  
12 utilities;

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

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

18 (c) The Commission shall not approve a reorganization  
19 without ruling on: (i) the allocation of any savings  
20 resulting from the proposed reorganization; and (ii) whether  
21 the companies should be allowed to recover any costs incurred  
22 in accomplishing the proposed reorganization and, if so, the  
23 amount of costs eligible for recovery and how the costs will  
24 be allocated.

25 (d) The Commission shall issue its Order approving or  
26 denying the proposed reorganization within 11 months after  
27 the application is filed. The Commission may extend the  
28 deadline for a period equivalent to the length of any delay  
29 which the Commission finds to have been caused by the  
30 Applicant's failure to provide data or information requested  
31 by the Commission or that the Commission ordered the  
32 Applicant to provide to the parties. The Commission may also  
33 extend the deadline by an additional period not to exceed 3  
34 months to consider amendments to the Applicant's filing, or

1 to consider reasonably unforeseeable changes in circumstances  
2 subsequent to the Applicant's initial filing.

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

8 (f) In approving any proposed reorganization pursuant to  
9 this Section the Commission may impose such terms, conditions  
10 or requirements as, in its judgment, are necessary to protect  
11 the interests of the public utility and its customers.

12 (g) The Commission shall, within 9 months after an  
13 application is filed, issue its Order approving or denying  
14 any proposed reorganization involving the acquisition by a  
15 public utility or its affiliate of all of the common stock or  
16 substantially all of the operating assets, whether by merger,  
17 creation and acquisition of a limited liability or other  
18 company, or otherwise, of another public utility that has  
19 secured debt that is, or was, within the year prior to the  
20 filing of the application, rated below investment grade by at  
21 least 3 nationally recognized rating agencies.

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

23 (220 ILCS 5/16-103.5 new)

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

25 (a) In furtherance of subsection (f) of Section 5 of the  
26 Illinois Resource Development and Energy Security Act, which  
27 provides that "renewable forms of energy should be promoted  
28 as an important element of the energy and environmental  
29 policies of the State and it is a goal of the State that at  
30 least 5% of the State's energy production and use be derived  
31 from renewable forms of energy by 2010 and at least 15% from  
32 renewable forms of energy by 2020", a renewable energy  
33 resources standard is hereby established in Illinois.

1       (b) This Section applies to electric utilities and  
2 alternative retail electric suppliers.

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

7       (d) During 2004, an electric utility or alternative  
8 retail electric supplier shall take all appropriate actions  
9 to meet the standards set forth in this Section and shall  
10 submit a report to the Commission by December 31, 2004  
11 describing that year's actions in detail.

12       (e) Each electric utility or alternative retail electric  
13 supplier shall in the years specified supply electricity to  
14 Illinois customers generated by renewable energy resources in  
15 at least the following minimum percentages of the total  
16 electricity supplied by that electric utility or alternative  
17 retail electric supplier to customers in Illinois:

18           (1) 2005, 2%;

19           (2) 2007, 3%;

20           (3) 2009, 4%;

21           (4) 2010, 5%;

22           (5) 2012, 7%;

23           (6) 2014, 9%;

24           (7) 2016, 11%;

25           (8) 2018, 13%;

26           (9) 2020 and each year thereafter, 15%.

27       (f) An electric utility or alternative retail electric  
28 supplier shall meet the standards in subsection (e) by any  
29 combination of:

30           (1) generating electricity in Illinois with  
31 renewable energy resources and then supplying that  
32 electricity to its Illinois customers; or

33           (2) purchasing electricity generated in Illinois  
34 with renewable energy resources and then supplying that

1 electricity to its Illinois customers.

2 (g) Any electric utility or alternative retail electric  
3 supplier may choose to arrange with another electric utility  
4 or alternative retail electric supplier to supply its  
5 Illinois customers with electricity generated in Illinois  
6 with renewable energy resources.

7 (h)(1) By April 1 of each year beginning in 2006, an  
8 electric utility or alternative retail electric supplier  
9 subject to this Section shall submit a report to the  
10 Commission that documents compliance with the provisions of  
11 this Section for the preceding year.

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

14 (A) the total megawatt hours of electricity sold to  
15 customers in Illinois;

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

19 (C) the total megawatt hours of electricity  
20 acquired from other electric utilities or alternative  
21 retail electric suppliers that is generated in Illinois  
22 with renewable energy resources; and

23 (D) any other information necessary to demonstrate  
24 compliance with this Section.

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

27 (4) The Commission shall promptly post every report  
28 submitted under this subsection on the Commission's Internet  
29 site.

30 (5) The Commission may audit the accuracy of all  
31 information submitted under this subsection, and may request  
32 and obtain from each electric utility or alternative retail  
33 electric supplier any other information necessary to monitor  
34 compliance with and enforcement of this Section.

1       (i) An electric utility or alternative retail electric  
2 supplier shall be assessed a penalty of not less than \$50 for  
3 each megawatt hour of electricity that the electric utility  
4 or alternative retail electric supplier does not supply as  
5 required under subsection (e).

6       (j) Costs associated with the procurement of renewable  
7 energy resources pursuant to this Section shall be fully  
8 recoverable from retail customers to the extent allowed by  
9 law and shall not be subject to any limitations stated in  
10 subsection (i) of Section 16-111 of this Act relating to the  
11 recovery of the power and energy cost component in tariffed  
12 rates. Costs associated with contracts that were prudent  
13 when entered into pursuant to this Section shall not  
14 subsequently be denied recovery due to changes in State or  
15 federal law.

16       (k) The Commission shall establish penalties for other  
17 violations of this Section."