

1 AMENDMENT TO HOUSE BILL 2313

2 AMENDMENT NO. _____. Amend House Bill 2313 by replacing
3 the title with the following:

4 "AN ACT concerning public utilities."; and

5 by replacing everything after the enacting clause with the
6 following:

7 "Section 5. The Public Utilities Act is amended by
8 adding Section 9-220.3 as follows:

9 (220 ILCS 5/9-220.3 new)

10 Sec. 9-220.3. Asbestos surcharges authorized.

11 (a) The Commission shall adopt a rule authorizing an
12 electric or gas utility to implement a surcharge ("asbestos
13 rider"). The surcharge shall be applied to customer bills no
14 earlier than January 1, 2007, to recover costs associated
15 with asbestos; provided that, for any calendar year, the
16 amount of the surcharge for an electric or gas utility shall
17 not exceed 5% of its annual Illinois retail revenue for sales
18 to ultimate customers as reported in the Commission's Form 21
19 of the utility for 2002.

20 (b) Recoverable costs under an asbestos rider for a
21 given year shall consist of the prudent costs incurred by the

1 electric or gas utility and the prudent costs incurred by an
2 owner of electric property or gas property, as those terms
3 are defined in subsection (c) of this Section for:

4 (1) litigation costs and final injury and damage
5 award judgments by a court of competent jurisdiction or
6 settlements relating to asbestos exposure by employees
7 and others on electric or gas property while owned by the
8 utility;

9 (2) costs related to asbestos exposure insurance
10 coverage, litigation pertaining to insurance coverage,
11 and insurance claims; and

12 (3) the cost of site remediation (including
13 removal, encapsulation, or other appropriate remediation
14 methods).

15 For purposes of this subsection, "settlement costs"
16 include litigation expenses, including legal consulting and
17 dispute resolution costs.

18 "Recoverable costs" under an asbestos rider shall be
19 those costs in excess of the level of such costs reflected in
20 the establishment of a utility's base rates. However,
21 "recoverable costs" under an asbestos rider shall not include
22 any internal costs of the electric or gas utility.

23 (c) The cost of site remediation (including removal,
24 encapsulation, or other appropriate remediation methods)
25 shall be recoverable under an asbestos rider if the costs are
26 associated with remediation of electric property or gas
27 property and the site remediation is performed by a workforce
28 of skilled and trained employees equipped with appropriate
29 technical training and experience. Adequate skill, training,
30 and expertise shall be demonstrated by factors such as
31 completion by the employee of an accredited or otherwise
32 recognized apprenticeship program for the particular craft,
33 trade, or skill. Contractors performing site remediation
34 shall comply with all governmental requirements for licensing

1 and for the removal and handling of asbestos materials.
2 "Electric property" or "gas property" shall mean all plant
3 and property in the rate base of the electric utility or gas
4 utility as of or subsequent to October 1, 1996, regardless of
5 whether the electric or gas utility has subsequently retired,
6 sold, leased, or otherwise transferred such plant or
7 property.

8 (d) Under an asbestos rider, all related insurance
9 recoveries shall be offset against costs charged through the
10 rider, and allowable costs and revenues under the rider shall
11 be reconciled annually pursuant to subsection (f) of this
12 Section. Recoverable costs, net of insurance recoveries,
13 incurred between the effective date of this amendatory Act of
14 the 93rd General Assembly and December 31, 2006 may be
15 deferred by an electric utility for recovery through an
16 asbestos rider provided that those costs and recoveries are
17 booked to deferred accounts that are not the subject of the
18 Commission's determination of the return on common equity
19 pursuant to subsection (d) or (e) of Section 16-111.
20 Recoverable costs, net of insurance recoveries, incurred
21 between the effective date of this amendatory Act of the 93rd
22 General Assembly and December 31, 2006 may be deferred by a
23 gas utility for recovery through an asbestos rider provided
24 that those costs and recoveries are booked to deferred
25 accounts that are not the subject of the Commission's
26 determination of the gas utility's return on common equity.
27 Additionally, electric and gas utilities may defer amounts in
28 excess of the 5% annual cap. The electric or gas utility may
29 accrue a carrying charge on the deferred amounts each month
30 at a rate to be determined by the Commission's rulemaking.
31 The Commission may determine that any such deferred amount
32 and associated carrying costs may be amortized over a period
33 not to exceed 60 months; provided that the deferred amounts
34 shall continue to accrue carrying charges at the authorized

1 rate during the amortization period.

2 (e) The Commission shall initiate a rulemaking
3 proceeding within 90 days after the effective date of this
4 amendatory Act of the 93rd General Assembly to addresses the
5 following considerations:

6 (1) rate design for recovering asbestos related
7 costs, including jurisdictional allocation methods for
8 multi-state utilities;

9 (2) frequency of rate changes and timing of
10 filings;

11 (3) true-up mechanisms for over-or-under collection
12 of costs;

13 (4) information requirements;

14 (5) methodology for determining amount of asbestos
15 costs in existing base rates and for deferring asbestos
16 costs in excess of base rate level;

17 (6) guidelines for the prudence of incurred
18 recoverable costs to be used in annual reviews;

19 (7) tariff terms and conditions;

20 (8) carrying charge rate applicable to deferred
21 recoverable costs; and

22 (9) length of the amortization period for the
23 deferred costs.

24 The utility must file a tariff complying with the
25 Commission's final rules to initiate the asbestos surcharge.
26 The asbestos surcharge shall appear as a separate line item
27 on customer bills. A utility intending to defer recoverable
28 costs under this Section shall provide written notice to the
29 Commission's Chief Clerk and Manger of Accounting prior to
30 deferring such costs. A utility is required to file an
31 asbestos rider in compliance with the Commission's final rule
32 prior to implementing the surcharge for recovering any
33 deferred costs and current recoverable costs after 2006.

34 (f) Annually, the Commission shall initiate a proceeding

1 to reconcile any amounts collected under the tariff with the
2 actual amount of prudent recoverable costs in excess of the
3 level of such costs already reflected in the utility's base
4 rates. In each proceeding, the burden of proof shall be on
5 the utility to establish the prudence of its incurred
6 recoverable costs. The Commission shall endeavor to issue its
7 final order in each such annual proceeding by December 31 of
8 the year following the year to which it pertains.

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.".