



**94TH GENERAL ASSEMBLY**  
**State of Illinois**  
**2005 and 2006**  
**HB5835**

Introduced 09/26/06, by Rep. William B. Black

**SYNOPSIS AS INTRODUCED:**

220 ILCS 5/16-111

Amends the Electric Service Customer Choice and Rate Relief Law of 1997 of the Public Utilities Act. Imposes limits on rate increases the Commission may initiate, authorize, or order by AmerenIP through calendar year 2009. Effective immediately.

LRB094 21463 MJR 59827 b

FISCAL NOTE ACT  
MAY APPLY

HOUSING  
AFFORDABILITY  
IMPACT NOTE ACT  
MAY APPLY

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 Section 16-111 as follows:

6 (220 ILCS 5/16-111)

7 Sec. 16-111. Rates and restructuring transactions during  
8 and after mandatory transition period.

9 (a) During the mandatory transition period,  
10 notwithstanding any provision of Article IX of this Act, and  
11 except as provided in subsections (b), (d), (e), and (f) of  
12 this Section, the Commission shall not (i) initiate, authorize  
13 or order any change by way of increase (other than in  
14 connection with a request for rate increase which was filed  
15 after September 1, 1997 but prior to October 15, 1997, by an  
16 electric utility serving less than 12,500 customers in this  
17 State), (ii) initiate or, unless requested by the electric  
18 utility, authorize or order any change by way of decrease,  
19 restructuring or unbundling (except as provided in Section  
20 16-109A), in the rates of any electric utility that were in  
21 effect on October 1, 1996, or (iii) in any order approving any  
22 application for a merger pursuant to Section 7-204 that was  
23 pending as of May 16, 1997, impose any condition requiring any  
24 filing for an increase, decrease, or change in, or other review  
25 of, an electric utility's rates or enforce any such condition  
26 of any such order; provided, however, that this subsection  
27 shall not prohibit the Commission from:

28 (1) approving the application of an electric utility to  
29 implement an alternative to rate of return regulation or a  
30 regulatory mechanism that rewards or penalizes the  
31 electric utility through adjustment of rates based on  
32 utility performance, pursuant to Section 9-244;

1           (2) authorizing an electric utility to eliminate its  
2 fuel adjustment clause and adjust its base rate tariffs in  
3 accordance with subsection (b), (d), or (f) of Section  
4 9-220 of this Act, to fix its fuel adjustment factor in  
5 accordance with subsection (c) of Section 9-220 of this  
6 Act, or to eliminate its fuel adjustment clause in  
7 accordance with subsection (e) of Section 9-220 of this  
8 Act;

9           (3) ordering into effect tariffs for delivery services  
10 and transition charges in accordance with Sections 16-104  
11 and 16-108, for real-time pricing in accordance with  
12 Section 16-107, or the options required by Section 16-110  
13 and subsection (n) of 16-112, allowing a billing experiment  
14 in accordance with Section 16-106, or modifying delivery  
15 services tariffs in accordance with Section 16-109; or

16           (4) ordering or allowing into effect any tariff to  
17 recover charges pursuant to Sections 9-201.5, 9-220.1,  
18 9-221, 9-222 (except as provided in Section 9-222.1),  
19 16-108, and 16-114 of this Act, Section 5-5 of the  
20 Electricity Infrastructure Maintenance Fee Law, Section  
21 6-5 of the Renewable Energy, Energy Efficiency, and Coal  
22 Resources Development Law of 1997, and Section 13 of the  
23 Energy Assistance Act.

24           After December 31, 2004, the provisions of this subsection  
25 (a) shall not apply to an electric utility whose average  
26 residential retail rate was less than or equal to 90% of the  
27 average residential retail rate for the "Midwest Utilities", as  
28 that term is defined in subsection (b) of this Section, based  
29 on data reported on Form 1 to the Federal Energy Regulatory  
30 Commission for calendar year 1995, and which served between  
31 150,000 and 250,000 retail customers in this State on January  
32 1, 1995 unless the electric utility or its holding company has  
33 been acquired by or merged with an affiliate of another  
34 electric utility subsequent to January 1, 2002. This exemption  
35 shall be limited to this subsection (a) and shall not extend to  
36 any other provisions of this Act.

1 (b) Notwithstanding the provisions of subsection (a), each  
2 Illinois electric utility serving more than 12,500 customers in  
3 Illinois shall file tariffs (i) reducing, effective August 1,  
4 1998, each component of its base rates to residential retail  
5 customers by 15% from the base rates in effect immediately  
6 prior to January 1, 1998 and (ii) if the public utility  
7 provides electric service to (A) more than 500,000 customers  
8 but less than 1,000,000 customers in this State on January 1,  
9 1999, reducing, effective May 1, 2002, each component of its  
10 base rates to residential retail customers by an additional 5%  
11 from the base rates in effect immediately prior to January 1,  
12 1998, or (B) at least 1,000,000 customers in this State on  
13 January 1, 1999, reducing, effective October 1, 2001, each  
14 component of its base rates to residential retail customers by  
15 an additional 5% from the base rates in effect immediately  
16 prior to January 1, 1998. Provided, however, that (A) if an  
17 electric utility's average residential retail rate is less than  
18 or equal to the average residential retail rate for a group of  
19 Midwest Utilities (consisting of all investor-owned electric  
20 utilities with annual system peaks in excess of 1000 megawatts  
21 in the States of Illinois, Indiana, Iowa, Kentucky, Michigan,  
22 Missouri, Ohio, and Wisconsin), based on data reported on Form  
23 1 to the Federal Energy Regulatory Commission for calendar year  
24 1995, then it shall only be required to file tariffs (i)  
25 reducing, effective August 1, 1998, each component of its base  
26 rates to residential retail customers by 5% from the base rates  
27 in effect immediately prior to January 1, 1998, (ii) reducing,  
28 effective October 1, 2000, each component of its base rates to  
29 residential retail customers by the lesser of 5% of the base  
30 rates in effect immediately prior to January 1, 1998 or the  
31 percentage by which the electric utility's average residential  
32 retail rate exceeds the average residential retail rate of the  
33 Midwest Utilities, based on data reported on Form 1 to the  
34 Federal Energy Regulatory Commission for calendar year 1999,  
35 and (iii) reducing, effective October 1, 2002, each component  
36 of its base rates to residential retail customers by an

1 additional amount equal to the lesser of 5% of the base rates  
2 in effect immediately prior to January 1, 1998 or the  
3 percentage by which the electric utility's average residential  
4 retail rate exceeds the average residential retail rate of the  
5 Midwest Utilities, based on data reported on Form 1 to the  
6 Federal Energy Regulatory Commission for calendar year 2001;  
7 and (B) if the average residential retail rate of an electric  
8 utility serving between 150,000 and 250,000 retail customers in  
9 this State on January 1, 1995 is less than or equal to 90% of  
10 the average residential retail rate for the Midwest Utilities,  
11 based on data reported on Form 1 to the Federal Energy  
12 Regulatory Commission for calendar year 1995, then it shall  
13 only be required to file tariffs (i) reducing, effective August  
14 1, 1998, each component of its base rates to residential retail  
15 customers by 2% from the base rates in effect immediately prior  
16 to January 1, 1998; (ii) reducing, effective October 1, 2000,  
17 each component of its base rates to residential retail  
18 customers by 2% from the base rate in effect immediately prior  
19 to January 1, 1998; and (iii) reducing, effective October 1,  
20 2002, each component of its base rates to residential retail  
21 customers by 1% from the base rates in effect immediately prior  
22 to January 1, 1998. Provided, further, that any electric  
23 utility for which a decrease in base rates has been or is  
24 placed into effect between October 1, 1996 and the dates  
25 specified in the preceding sentences of this subsection, other  
26 than pursuant to the requirements of this subsection, shall be  
27 entitled to reduce the amount of any reduction or reductions in  
28 its base rates required by this subsection by the amount of  
29 such other decrease. The tariffs required under this subsection  
30 shall be filed 45 days in advance of the effective date.  
31 Notwithstanding anything to the contrary in Section 9-220 of  
32 this Act, no restatement of base rates in conjunction with the  
33 elimination of a fuel adjustment clause under that Section  
34 shall result in a lesser decrease in base rates than customers  
35 would otherwise receive under this subsection had the electric  
36 utility's fuel adjustment clause not been eliminated.

1 (c) Any utility reducing its base rates by 15% on August 1,  
2 1998 pursuant to subsection (b) shall include the following  
3 statement on its bills for residential customers from August 1  
4 through December 31, 1998: "Effective August 1, 1998, your  
5 rates have been reduced by 15% by the Electric Service Customer  
6 Choice and Rate Relief Law of 1997 passed by the Illinois  
7 General Assembly.". Any utility reducing its base rates by 5%  
8 on August 1, 1998, pursuant to subsection (b) shall include the  
9 following statement on its bills for residential customers from  
10 August 1 through December 31, 1998: "Effective August 1, 1998,  
11 your rates have been reduced by 5% by the Electric Service  
12 Customer Choice and Rate Relief Law of 1997 passed by the  
13 Illinois General Assembly."

14 Any utility reducing its base rates by 2% on August 1, 1998  
15 pursuant to subsection (b) shall include the following  
16 statement on its bills for residential customers from August 1  
17 through December 31, 1998: "Effective August 1, 1998, your  
18 rates have been reduced by 2% by the Electric Service Customer  
19 Choice and Rate Relief Law of 1997 passed by the Illinois  
20 General Assembly."

21 (d) During the mandatory transition period, but not before  
22 January 1, 2000, and notwithstanding the provisions of  
23 subsection (a), an electric utility may request an increase in  
24 its base rates if the electric utility demonstrates that the  
25 2-year average of its earned rate of return on common equity,  
26 calculated as its net income applicable to common stock divided  
27 by the average of its beginning and ending balances of common  
28 equity using data reported in the electric utility's Form 1  
29 report to the Federal Energy Regulatory Commission but adjusted  
30 to remove the effects of accelerated depreciation or  
31 amortization or other transition or mitigation measures  
32 implemented by the electric utility pursuant to subsection (g)  
33 of this Section and the effect of any refund paid pursuant to  
34 subsection (e) of this Section, is below the 2-year average for  
35 the same 2 years of the monthly average yields of 30-year U.S.  
36 Treasury bonds published by the Board of Governors of the

1 Federal Reserve System in its weekly H.15 Statistical Release  
2 or successor publication. The Commission shall review the  
3 electric utility's request, and may review the justness and  
4 reasonableness of all rates for tariffed services, in  
5 accordance with the provisions of Article IX of this Act,  
6 provided that the Commission shall consider any special or  
7 negotiated adjustments to the revenue requirement agreed to  
8 between the electric utility and the other parties to the  
9 proceeding. In setting rates under this Section, the Commission  
10 shall exclude the costs and revenues that are associated with  
11 competitive services and any billing or pricing experiments  
12 conducted under Section 16-106.

13 (e) For the purposes of this subsection (e) all  
14 calculations and comparisons shall be performed for the  
15 Illinois operations of multijurisdictional utilities. During  
16 the mandatory transition period, notwithstanding the  
17 provisions of subsection (a), if the 2-year average of an  
18 electric utility's earned rate of return on common equity,  
19 calculated as its net income applicable to common stock divided  
20 by the average of its beginning and ending balances of common  
21 equity using data reported in the electric utility's Form 1  
22 report to the Federal Energy Regulatory Commission but adjusted  
23 to remove the effect of any refund paid under this subsection  
24 (e), and further adjusted to include the annual amortization of  
25 any difference between the consideration received by an  
26 affiliated interest of the electric utility in the sale of an  
27 asset which had been sold or transferred by the electric  
28 utility to the affiliated interest subsequent to the effective  
29 date of this amendatory Act of 1997 and the consideration for  
30 which such asset had been sold or transferred to the affiliated  
31 interest, with such difference to be amortized ratably from the  
32 date of the sale by the affiliated interest to December 31,  
33 2006, exceeds the 2-year average of the Index for the same 2  
34 years by 1.5 or more percentage points, the electric utility  
35 shall make refunds to customers beginning the first billing day  
36 of April in the following year in the manner described in

1 paragraph (3) of this subsection. For purposes of this  
2 subsection (e), the "Index" shall be the sum of (A) the average  
3 for the 12 months ended September 30 of the monthly average  
4 yields of 30-year U.S. Treasury bonds published by the Board of  
5 Governors of the Federal Reserve System in its weekly H.15  
6 Statistical Release or successor publication for each year 1998  
7 through 2006, and (B) (i) 4.00 percentage points for each of  
8 the 12-month periods ending September 30, 1998 through  
9 September 30, 1999 or 8.00 percentage points if the electric  
10 utility's average residential retail rate is less than or equal  
11 to 90% of the average residential retail rate for the "Midwest  
12 Utilities", as that term is defined in subsection (b) of this  
13 Section, based on data reported on Form 1 to the Federal Energy  
14 Regulatory Commission for calendar year 1995, and the electric  
15 utility served between 150,000 and 250,000 retail customers on  
16 January 1, 1995, (ii) 7.00 percentage points for each of the  
17 12-month periods ending September 30, 2000 through September  
18 30, 2006 if the electric utility was providing service to at  
19 least 1,000,000 customers in this State on January 1, 1999, or  
20 9.00 percentage points if the electric utility's average  
21 residential retail rate is less than or equal to 90% of the  
22 average residential retail rate for the "Midwest Utilities", as  
23 that term is defined in subsection (b) of this Section, based  
24 on data reported on Form 1 to the Federal Energy Regulatory  
25 Commission for calendar year 1995 and the electric utility  
26 served between 150,000 and 250,000 retail customers in this  
27 State on January 1, 1995, (iii) 11.00 percentage points for  
28 each of the 12-month periods ending September 30, 2000 through  
29 September 30, 2006, but only if the electric utility's average  
30 residential retail rate is less than or equal to 90% of the  
31 average residential retail rate for the "Midwest Utilities", as  
32 that term is defined in subsection (b) of this Section, based  
33 on data reported on Form 1 to the Federal Energy Regulatory  
34 Commission for calendar year 1995, the electric utility served  
35 between 150,000 and 250,000 retail customers in this State on  
36 January 1, 1995, and the electric utility offers delivery



1 services on or before June 1, 2000 to retail customers whose  
2 annual electric energy use comprises 33% of the kilowatt hour  
3 sales to that group of retail customers that are classified  
4 under Division D, Groups 20 through 39 of the Standard  
5 Industrial Classifications set forth in the Standard  
6 Industrial Classification Manual published by the United  
7 States Office of Management and Budget, excluding the kilowatt  
8 hour sales to those customers that are eligible for delivery  
9 services pursuant to Section 16-104(a)(1)(i), and offers  
10 delivery services to its remaining retail customers classified  
11 under Division D, Groups 20 through 39 on or before October 1,  
12 2000, and, provided further, that the electric utility commits  
13 not to petition pursuant to Section 16-108(f) for entry of an  
14 order by the Commission authorizing the electric utility to  
15 implement transition charges for an additional period after  
16 December 31, 2006, or (iv) 5.00 percentage points for each of  
17 the 12-month periods ending September 30, 2000 through  
18 September 30, 2006 for all other electric utilities or 7.00  
19 percentage points for such utilities for each of the 12-month  
20 periods ending September 30, 2000 through September 30, 2006  
21 for any such utility that commits not to petition pursuant to  
22 Section 16-108(f) for entry of an order by the Commission  
23 authorizing the electric utility to implement transition  
24 charges for an additional period after December 31, 2006 or  
25 11.00 percentage points for each of the 12-month periods ending  
26 September 30, 2005 and September 30, 2006 for each electric  
27 utility providing service to fewer than 6,500, or between  
28 75,000 and 150,000, electric retail customers in this State on  
29 January 1, 1995 if such utility commits not to petition  
30 pursuant to Section 16-108(f) for entry of an order by the  
31 Commission authorizing the electric utility to implement  
32 transition charges for an additional period after December 31,  
33 2006.

34 (1) For purposes of this subsection (e), "excess  
35 earnings" means the difference between (A) the 2-year  
36 average of the electric utility's earned rate of return on

1 common equity, less (B) the 2-year average of the sum of  
2 (i) the Index applicable to each of the 2 years and (ii)  
3 1.5 percentage points; provided, that "excess earnings"  
4 shall never be less than zero.

5 (2) On or before March 31 of each year 2000 through  
6 2007 each electric utility shall file a report with the  
7 Commission showing its earned rate of return on common  
8 equity, calculated in accordance with this subsection, for  
9 the preceding calendar year and the average for the  
10 preceding 2 calendar years.

11 (3) If an electric utility has excess earnings,  
12 determined in accordance with paragraphs (1) and (2) of  
13 this subsection, the refunds which the electric utility  
14 shall pay to its customers beginning the first billing day  
15 of April in the following year shall be calculated and  
16 applied as follows:

17 (i) The electric utility's excess earnings shall  
18 be multiplied by the average of the beginning and  
19 ending balances of the electric utility's common  
20 equity for the 2-year period in which excess earnings  
21 occurred.

22 (ii) The result of the calculation in (i) shall be  
23 multiplied by 0.50 and then divided by a number equal  
24 to 1 minus the electric utility's composite federal and  
25 State income tax rate.

26 (iii) The result of the calculation in (ii) shall  
27 be divided by the sum of the electric utility's  
28 projected total kilowatt-hour sales to retail  
29 customers plus projected kilowatt-hours to be  
30 delivered to delivery services customers over a one  
31 year period beginning with the first billing date in  
32 April in the succeeding year to determine a cents per  
33 kilowatt-hour refund factor.

34 (iv) The cents per kilowatt-hour refund factor  
35 calculated in (iii) shall be credited to the electric  
36 utility's customers by applying the factor on the

1 customer's monthly bills to each kilowatt-hour sold or  
2 delivered until the total amount calculated in (ii) has  
3 been paid to customers.

4 (f) During the mandatory transition period, an electric  
5 utility may file revised tariffs reducing the price of any  
6 tariffed service offered by the electric utility for all  
7 customers taking that tariffed service, which shall be  
8 effective 7 days after filing.

9 (g) During the mandatory transition period, an electric  
10 utility may, without obtaining any approval of the Commission  
11 other than that provided for in this subsection and  
12 notwithstanding any other provision of this Act or any rule or  
13 regulation of the Commission that would require such approval:

14 (1) implement a reorganization, other than a merger of  
15 2 or more public utilities as defined in Section 3-105 or  
16 their holding companies;

17 (2) retire generating plants from service;

18 (3) sell, assign, lease or otherwise transfer assets to  
19 an affiliated or unaffiliated entity and as part of such  
20 transaction enter into service agreements, power purchase  
21 agreements, or other agreements with the transferee;  
22 provided, however, that the prices, terms and conditions of  
23 any power purchase agreement must be approved or allowed  
24 into effect by the Federal Energy Regulatory Commission; or

25 (4) use any accelerated cost recovery method including  
26 accelerated depreciation, accelerated amortization or  
27 other capital recovery methods, or record reductions to the  
28 original cost of its assets.

29 In order to implement a reorganization, retire generating  
30 plants from service, or sell, assign, lease or otherwise  
31 transfer assets pursuant to this Section, the electric utility  
32 shall comply with subsections (c) and (d) of Section 16-128, if  
33 applicable, and subsection (k) of this Section, if applicable,  
34 and provide the Commission with at least 30 days notice of the  
35 proposed reorganization or transaction, which notice shall  
36 include the following information:

1 (i) a complete statement of the entries that the  
2 electric utility will make on its books and records of  
3 account to implement the proposed reorganization or  
4 transaction together with a certification from an  
5 independent certified public accountant that such  
6 entries are in accord with generally accepted  
7 accounting principles and, if the Commission has  
8 previously approved guidelines for cost allocations  
9 between the utility and its affiliates, a  
10 certification from the chief accounting officer of the  
11 utility that such entries are in accord with those cost  
12 allocation guidelines;

13 (ii) a description of how the electric utility will  
14 use proceeds of any sale, assignment, lease or transfer  
15 to retire debt or otherwise reduce or recover the costs  
16 of services provided by such electric utility;

17 (iii) a list of all federal approvals or approvals  
18 required from departments and agencies of this State,  
19 other than the Commission, that the electric utility  
20 has or will obtain before implementing the  
21 reorganization or transaction;

22 (iv) an irrevocable commitment by the electric  
23 utility that it will not, as a result of the  
24 transaction, impose any stranded cost charges that it  
25 might otherwise be allowed to charge retail customers  
26 under federal law or increase the transition charges  
27 that it is otherwise entitled to collect under this  
28 Article XVI; and

29 (v) if the electric utility proposes to sell,  
30 assign, lease or otherwise transfer a generating plant  
31 that brings the amount of net dependable generating  
32 capacity transferred pursuant to this subsection to an  
33 amount equal to or greater than 15% of the electric  
34 utility's net dependable capacity as of the effective  
35 date of this amendatory Act of 1997, and enters into a  
36 power purchase agreement with the entity to which such

1 generating plant is sold, assigned, leased, or  
2 otherwise transferred, the electric utility also  
3 agrees, if its fuel adjustment clause has not already  
4 been eliminated, to eliminate its fuel adjustment  
5 clause in accordance with subsection (b) of Section  
6 9-220 for a period of time equal to the length of any  
7 such power purchase agreement or successor agreement,  
8 or until January 1, 2005, whichever is longer; if the  
9 capacity of the generating plant so transferred and  
10 related power purchase agreement does not result in the  
11 elimination of the fuel adjustment clause under this  
12 subsection, and the fuel adjustment clause has not  
13 already been eliminated, the electric utility shall  
14 agree that the costs associated with the transferred  
15 plant that are included in the calculation of the rate  
16 per kilowatt-hour to be applied pursuant to the  
17 electric utility's fuel adjustment clause during such  
18 period shall not exceed the per kilowatt-hour cost  
19 associated with such generating plant included in the  
20 electric utility's fuel adjustment clause during the  
21 full calendar year preceding the transfer, with such  
22 limit to be adjusted each year thereafter by the Gross  
23 Domestic Product Implicit Price Deflator.

24 (vi) In addition, if the electric utility proposes  
25 to sell, assign, or lease, (A) either (1) an amount of  
26 generating plant that brings the amount of net  
27 dependable generating capacity transferred pursuant to  
28 this subsection to an amount equal to or greater than  
29 15% of its net dependable capacity on the effective  
30 date of this amendatory Act of 1997, or (2) one or more  
31 generating plants with a total net dependable capacity  
32 of 1100 megawatts, or (B) transmission and  
33 distribution facilities that either (1) bring the  
34 amount of transmission and distribution facilities  
35 transferred pursuant to this subsection to an amount  
36 equal to or greater than 15% of the electric utility's

1 total depreciated original cost investment in such  
2 facilities, or (2) represent an investment of  
3 \$25,000,000 in terms of total depreciated original  
4 cost, the electric utility shall provide, in addition  
5 to the information listed in subparagraphs (i) through  
6 (v), the following information: (A) a description of  
7 how the electric utility will meet its service  
8 obligations under this Act in a safe and reliable  
9 manner and (B) the electric utility's projected earned  
10 rate of return on common equity, calculated in  
11 accordance with subsection (d) of this Section, for  
12 each year from the date of the notice through December  
13 31, 2006 both with and without the proposed  
14 transaction. If the Commission has not issued an order  
15 initiating a hearing on the proposed transaction  
16 within 30 days after the date the electric utility's  
17 notice is filed, the transaction shall be deemed  
18 approved. The Commission may, after notice and  
19 hearing, prohibit the proposed transaction if it makes  
20 either or both of the following findings: (1) that the  
21 proposed transaction will render the electric utility  
22 unable to provide its tariffed services in a safe and  
23 reliable manner, or (2) that there is a strong  
24 likelihood that consummation of the proposed  
25 transaction will result in the electric utility being  
26 entitled to request an increase in its base rates  
27 during the mandatory transition period pursuant to  
28 subsection (d) of this Section. Any hearing initiated  
29 by the Commission into the proposed transaction shall  
30 be completed, and the Commission's final order  
31 approving or prohibiting the proposed transaction  
32 shall be entered, within 90 days after the date the  
33 electric utility's notice was filed. Provided,  
34 however, that a sale, assignment, or lease of  
35 transmission facilities to an independent system  
36 operator that meets the requirements of Section 16-126

1 shall not be subject to Commission approval under this  
2 Section.

3 In any proceeding conducted by the Commission  
4 pursuant to this subparagraph (vi), intervention shall  
5 be limited to parties with a direct interest in the  
6 transaction which is the subject of the hearing and any  
7 statutory consumer protection agency as defined in  
8 subsection (d) of Section 9-102.1. Notwithstanding the  
9 provisions of Section 10-113 of this Act, any  
10 application seeking rehearing of an order issued under  
11 this subparagraph (vi), whether filed by the electric  
12 utility or by an intervening party, shall be filed  
13 within 10 days after service of the order.

14 The Commission shall not in any subsequent proceeding or  
15 otherwise, review such a reorganization or other transaction  
16 authorized by this Section, but shall retain the authority to  
17 allocate costs as stated in Section 16-111(i). An entity to  
18 which an electric utility sells, assigns, leases or transfers  
19 assets pursuant to this subsection (g) shall not, as a result  
20 of the transactions specified in this subsection (g), be deemed  
21 a public utility as defined in Section 3-105. Nothing in this  
22 subsection (g) shall change any requirement under the  
23 jurisdiction of the Illinois Department of Nuclear Safety  
24 including, but not limited to, the payment of fees. Nothing in  
25 this subsection (g) shall exempt a utility from obtaining a  
26 certificate pursuant to Section 8-406 of this Act for the  
27 construction of a new electric generating facility. Nothing in  
28 this subsection (g) is intended to exempt the transactions  
29 hereunder from the operation of the federal or State antitrust  
30 laws. Nothing in this subsection (g) shall require an electric  
31 utility to use the procedures specified in this subsection for  
32 any of the transactions specified herein. Any other procedure  
33 available under this Act may, at the electric utility's  
34 election, be used for any such transaction.

35 (h) During the mandatory transition period, the Commission  
36 shall not establish or use any rates of depreciation, which for

1 purposes of this subsection shall include amortization, for any  
2 electric utility other than those established pursuant to  
3 subsection (c) of Section 5-104 of this Act or utilized  
4 pursuant to subsection (g) of this Section. Provided, however,  
5 that in any proceeding to review an electric utility's rates  
6 for tariffed services pursuant to Section 9-201, 9-202, 9-250  
7 or 16-111(d) of this Act, the Commission may establish new  
8 rates of depreciation for the electric utility in the same  
9 manner provided in subsection (d) of Section 5-104 of this Act.  
10 An electric utility implementing an accelerated cost recovery  
11 method including accelerated depreciation, accelerated  
12 amortization or other capital recovery methods, or recording  
13 reductions to the original cost of its assets, pursuant to  
14 subsection (g) of this Section, shall file a statement with the  
15 Commission describing the accelerated cost recovery method to  
16 be implemented or the reduction in the original cost of its  
17 assets to be recorded. Upon the filing of such statement, the  
18 accelerated cost recovery method or the reduction in the  
19 original cost of assets shall be deemed to be approved by the  
20 Commission as though an order had been entered by the  
21 Commission.

22 (i) Except as provided in subsection (l) of this Section,  
23 subsequent ~~Subsequent~~ to the mandatory transition period, the  
24 Commission, in any proceeding to establish rates and charges  
25 for tariffed services offered by an electric utility, shall  
26 consider only (1) the then current or projected revenues,  
27 costs, investments and cost of capital directly or indirectly  
28 associated with the provision of such tariffed services; (2)  
29 collection of transition charges in accordance with Sections  
30 16-102 and 16-108 of this Act; (3) recovery of any employee  
31 transition costs as described in Section 16-128 which the  
32 electric utility is continuing to incur, including recovery of  
33 any unamortized portion of such costs previously incurred or  
34 committed, with such costs to be equitably allocated among  
35 bundled services, delivery services, and contracts with  
36 alternative retail electric suppliers; and (4) recovery of the



1 costs associated with the electric utility's compliance with  
2 decommissioning funding requirements; and shall not consider  
3 any other revenues, costs, investments or cost of capital of  
4 either the electric utility or of any affiliate of the electric  
5 utility that are not associated with the provision of tariffed  
6 services. In setting rates for tariffed services, the  
7 Commission shall equitably allocate joint and common costs and  
8 investments between the electric utility's competitive and  
9 tariffed services. In determining the justness and  
10 reasonableness of the electric power and energy component of an  
11 electric utility's rates for tariffed services subsequent to  
12 the mandatory transition period and prior to the time that the  
13 provision of such electric power and energy is declared  
14 competitive, the Commission shall consider the extent to which  
15 the electric utility's tariffed rates for such component for  
16 each customer class exceed the market value determined pursuant  
17 to Section 16-112, and, if the electric power and energy  
18 component of such tariffed rate exceeds the market value by  
19 more than 10% for any customer class, may establish such  
20 electric power and energy component at a rate equal to the  
21 market value plus 10%. In any such case, the Commission may  
22 also elect to extend the provisions of Section 16-111(e) for  
23 any period in which the electric utility is collecting  
24 transition charges, using information applicable to such  
25 period.

26 (j) During the mandatory transition period, an electric  
27 utility may elect to transfer to a non-operating income account  
28 under the Commission's Uniform System of Accounts either or  
29 both of (i) an amount of unamortized investment tax credit that  
30 is in addition to the ratable amount which is credited to the  
31 electric utility's operating income account for the year in  
32 accordance with Section 46(f)(2) of the federal Internal  
33 Revenue Code of 1986, as in effect prior to P.L. 101-508, or  
34 (ii) "excess tax reserves", as that term is defined in Section  
35 203(e)(2)(A) of the federal Tax Reform Act of 1986, provided  
36 that (A) the amount transferred may not exceed the amount of

1 the electric utility's assets that were created pursuant to  
2 Statement of Financial Accounting Standards No. 71 which the  
3 electric utility has written off during the mandatory  
4 transition period, and (B) the transfer shall not be effective  
5 until approved by the Internal Revenue Service. An electric  
6 utility electing to make such a transfer shall file a statement  
7 with the Commission stating the amount and timing of the  
8 transfer for which it intends to request approval of the  
9 Internal Revenue Service, along with a copy of its proposed  
10 request to the Internal Revenue Service for a ruling. The  
11 Commission shall issue an order within 14 days after the  
12 electric utility's filing approving, subject to receipt of  
13 approval from the Internal Revenue Service, the proposed  
14 transfer.

15 (k) If an electric utility is selling or transferring to a  
16 single buyer 5 or more generating plants located in this State  
17 with a total net dependable capacity of 5000 megawatts or more  
18 pursuant to subsection (g) of this Section and has obtained a  
19 sale price or consideration that exceeds 200% of the book value  
20 of such plants, the electric utility must provide to the  
21 Governor, the President of the Illinois Senate, the Minority  
22 Leader of the Illinois Senate, the Speaker of the Illinois  
23 House of Representatives, and the Minority Leader of the  
24 Illinois House of Representatives no later than 15 days after  
25 filing its notice under subsection (g) of this Section or 5  
26 days after the date on which this subsection (k) becomes law,  
27 whichever is later, a written commitment in which such electric  
28 utility agrees to expend \$2 billion outside the corporate  
29 limits of any municipality with 1,000,000 or more inhabitants  
30 within such electric utility's service area, over a 6-year  
31 period beginning with the calendar year in which the notice is  
32 filed, on projects, programs, and improvements within its  
33 service area relating to transmission and distribution  
34 including, without limitation, infrastructure expansion,  
35 repair and replacement, capital investments, operations and  
36 maintenance, and vegetation management.

1       (1) After the mandatory transition period, the Commission  
2       may not initiate, authorize, or order any increase in the  
3       residential electric rates of AmerenIP that exceed the  
4       following: (1) in calendar year 2007, 10% of the rate  
5       authorized in calendar year 2006; (2) in calendar year 2008,  
6       11% of the rate authorized in calendar year 2007; and (3) in  
7       calendar year 2009, 12.5% of the rate authorized in calendar  
8       year 2008.

9       (Source: P.A. 91-50, eff. 6-30-99; 92-537, eff. 6-6-02; 92-690,  
10       eff. 7-18-02; revised 9-10-02.)

11       Section 99. Effective date. This Act takes effect upon  
12       becoming law.