



Sen. James F. Clayborne Jr.

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LRB094 07173 MKM 41277 a

1 AMENDMENT TO SENATE BILL 90

2 AMENDMENT NO. _____. Amend Senate Bill 90 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Public Utilities Act is amended by changing
5 Section 9-220 as follows:

6 (220 ILCS 5/9-220) (from Ch. 111 2/3, par. 9-220)

7 Sec. 9-220. Rate changes based on changes in fuel costs.

8 (a) Notwithstanding the provisions of Section 9-201, the
9 Commission may authorize the increase or decrease of rates and
10 charges based upon changes in the cost of fuel used in the
11 generation or production of electric power, changes in the cost
12 of purchased power, or changes in the cost of purchased gas
13 through the application of fuel adjustment clauses or purchased
14 gas adjustment clauses. The Commission may also authorize the
15 increase or decrease of rates and charges based upon
16 expenditures or revenues resulting from the purchase or sale of
17 emission allowances created under the federal Clean Air Act
18 Amendments of 1990, through such fuel adjustment clauses, as a
19 cost of fuel. For the purposes of this paragraph, cost of fuel
20 used in the generation or production of electric power shall
21 include the amount of any fees paid by the utility for the
22 implementation and operation of a process for the
23 desulfurization of the flue gas when burning high sulfur coal
24 at any location within the State of Illinois irrespective of

1 the attainment status designation of such location; but shall
2 not include transportation costs of coal (i) except to the
3 extent that for contracts entered into on and after the
4 effective date of this amendatory Act of 1997, the cost of the
5 coal, including transportation costs, constitutes the lowest
6 cost for adequate and reliable fuel supply reasonably available
7 to the public utility in comparison to the cost, including
8 transportation costs, of other adequate and reliable sources of
9 fuel supply reasonably available to the public utility, or (ii)
10 except as otherwise provided in the next 3 sentences of this
11 paragraph. Such costs of fuel shall, when requested by a
12 utility or at the conclusion of the utility's next general
13 electric rate proceeding, whichever shall first occur, include
14 transportation costs of coal purchased under existing coal
15 purchase contracts. For purposes of this paragraph "existing
16 coal purchase contracts" means contracts for the purchase of
17 coal in effect on the effective date of this amendatory Act of
18 1991, as such contracts may thereafter be amended, but only to
19 the extent that any such amendment does not increase the
20 aggregate quantity of coal to be purchased under such contract.
21 Nothing herein shall authorize an electric utility to recover
22 through its fuel adjustment clause any amounts of
23 transportation costs of coal that were included in the revenue
24 requirement used to set base rates in its most recent general
25 rate proceeding. Cost shall be based upon uniformly applied
26 accounting principles. Annually, the Commission shall initiate
27 public hearings to determine whether the clauses reflect actual
28 costs of fuel, gas, power, or coal transportation purchased to
29 determine whether such purchases were prudent, and to reconcile
30 any amounts collected with the actual costs of fuel, power,
31 gas, or coal transportation prudently purchased. In each such
32 proceeding, the burden of proof shall be upon the utility to
33 establish the prudence of its cost of fuel, power, gas, or coal
34 transportation purchases and costs. The Commission shall issue

1 its final order in each such annual proceeding for an electric
2 utility by December 31 of the year immediately following the
3 year to which the proceeding pertains, provided, that the
4 Commission shall issue its final order with respect to such
5 annual proceeding for the years 1996 and earlier by December
6 31, 1998.

7 (b) A public utility providing electric service, other than
8 a public utility described in subsections (e) or (f) of this
9 Section, may at any time during the mandatory transition period
10 file with the Commission proposed tariff sheets that eliminate
11 the public utility's fuel adjustment clause and adjust the
12 public utility's base rate tariffs by the amount necessary for
13 the base fuel component of the base rates to recover the public
14 utility's average fuel and power supply costs per kilowatt-hour
15 for the 2 most recent years for which the Commission has issued
16 final orders in annual proceedings pursuant to subsection (a),
17 where the average fuel and power supply costs per kilowatt-hour
18 shall be calculated as the sum of the public utility's prudent
19 and allowable fuel and power supply costs as found by the
20 Commission in the 2 proceedings divided by the public utility's
21 actual jurisdictional kilowatt-hour sales for those 2 years.
22 Notwithstanding any contrary or inconsistent provisions in
23 Section 9-201 of this Act, in subsection (a) of this Section or
24 in any rules or regulations promulgated by the Commission
25 pursuant to subsection (g) of this Section, the Commission
26 shall review and shall by order approve, or approve as
27 modified, the proposed tariff sheets within 60 days after the
28 date of the public utility's filing. The Commission may modify
29 the public utility's proposed tariff sheets only to the extent
30 the Commission finds necessary to achieve conformance to the
31 requirements of this subsection (b). During the 5 years
32 following the date of the Commission's order, but in any event
33 no earlier than January 1, 2007, a public utility whose fuel
34 adjustment clause has been eliminated pursuant to this

1 subsection shall not file proposed tariff sheets seeking, or
2 otherwise petition the Commission for, reinstatement of a fuel
3 adjustment clause.

4 (c) Notwithstanding any contrary or inconsistent
5 provisions in Section 9-201 of this Act, in subsection (a) of
6 this Section or in any rules or regulations promulgated by the
7 Commission pursuant to subsection (g) of this Section, a public
8 utility providing electric service, other than a public utility
9 described in subsection (e) or (f) of this Section, may at any
10 time during the mandatory transition period file with the
11 Commission proposed tariff sheets that establish the rate per
12 kilowatt-hour to be applied pursuant to the public utility's
13 fuel adjustment clause at the average value for such rate
14 during the preceding 24 months, provided that such average rate
15 results in a credit to customers' bills, without making any
16 revisions to the public utility's base rate tariffs. The
17 proposed tariff sheets shall establish the fuel adjustment rate
18 for a specific time period of at least 3 years but not more
19 than 5 years, provided that the terms and conditions for any
20 reinstatement earlier than 5 years shall be set forth in the
21 proposed tariff sheets and subject to modification or approval
22 by the Commission. The Commission shall review and shall by
23 order approve the proposed tariff sheets if it finds that the
24 requirements of this subsection are met. The Commission shall
25 not conduct the annual hearings specified in the last 3
26 sentences of subsection (a) of this Section for the utility for
27 the period that the factor established pursuant to this
28 subsection is in effect.

29 (d) A public utility providing electric service, or a
30 public utility providing gas service may file with the
31 Commission proposed tariff sheets that eliminate the public
32 utility's fuel or purchased gas adjustment clause and adjust
33 the public utility's base rate tariffs to provide for recovery
34 of power supply costs or gas supply costs that would have been

1 recovered through such clause; provided, that the provisions of
2 this subsection (d) shall not be available to a public utility
3 described in subsections (e) or (f) of this Section to
4 eliminate its fuel adjustment clause. Notwithstanding any
5 contrary or inconsistent provisions in Section 9-201 of this
6 Act, in subsection (a) of this Section, or in any rules or
7 regulations promulgated by the Commission pursuant to
8 subsection (g) of this Section, the Commission shall review and
9 shall by order approve, or approve as modified in the
10 Commission's order, the proposed tariff sheets within 240 days
11 after the date of the public utility's filing. The Commission's
12 order shall approve rates and charges that the Commission,
13 based on information in the public utility's filing or on the
14 record if a hearing is held by the Commission, finds will
15 recover the reasonable, prudent and necessary jurisdictional
16 power supply costs or gas supply costs incurred or to be
17 incurred by the public utility during a 12 month period found
18 by the Commission to be appropriate for these purposes,
19 provided, that such period shall be either (i) a 12 month
20 historical period occurring during the 15 months ending on the
21 date of the public utility's filing, or (ii) a 12 month future
22 period ending no later than 15 months following the date of the
23 public utility's filing. The public utility shall include with
24 its tariff filing information showing both (1) its actual
25 jurisdictional power supply costs or gas supply costs for a 12
26 month historical period conforming to (i) above and (2) its
27 projected jurisdictional power supply costs or gas supply costs
28 for a future 12 month period conforming to (ii) above. If the
29 Commission's order requires modifications in the tariff sheets
30 filed by the public utility, the public utility shall have 7
31 days following the date of the order to notify the Commission
32 whether the public utility will implement the modified tariffs
33 or elect to continue its fuel or purchased gas adjustment
34 clause in force as though no order had been entered. The

1 Commission's order shall provide for any reconciliation of
2 power supply costs or gas supply costs, as the case may be, and
3 associated revenues through the date that the public utility's
4 fuel or purchased gas adjustment clause is eliminated. During
5 the 5 years following the date of the Commission's order, a
6 public utility whose fuel or purchased gas adjustment clause
7 has been eliminated pursuant to this subsection shall not file
8 proposed tariff sheets seeking, or otherwise petition the
9 Commission for, reinstatement or adoption of a fuel or
10 purchased gas adjustment clause. Nothing in this subsection (d)
11 shall be construed as limiting the Commission's authority to
12 eliminate a public utility's fuel adjustment clause or
13 purchased gas adjustment clause in accordance with any other
14 applicable provisions of this Act.

15 (e) Notwithstanding any contrary or inconsistent
16 provisions in Section 9-201 of this Act, in subsection (a) of
17 this Section, or in any rules promulgated by the Commission
18 pursuant to subsection (g) of this Section, a public utility
19 providing electric service to more than 1,000,000 customers in
20 this State may, within the first 6 months after the effective
21 date of this amendatory Act of 1997, file with the Commission
22 proposed tariff sheets that eliminate, effective January 1,
23 1997, the public utility's fuel adjustment clause without
24 adjusting its base rates, and such tariff sheets shall be
25 effective upon filing. To the extent the application of the
26 fuel adjustment clause had resulted in net charges to customers
27 after January 1, 1997, the utility shall also file a tariff
28 sheet that provides for a refund stated on a per kilowatt-hour
29 basis of such charges over a period not to exceed 6 months;
30 provided however, that such refund shall not include the
31 proportional amounts of taxes paid under the Use Tax Act,
32 Service Use Tax Act, Service Occupation Tax Act, and Retailers'
33 Occupation Tax Act on fuel used in generation. The Commission
34 shall issue an order within 45 days after the date of the

1 public utility's filing approving or approving as modified such
2 tariff sheet. If the fuel adjustment clause is eliminated
3 pursuant to this subsection, the Commission shall not conduct
4 the annual hearings specified in the last 3 sentences of
5 subsection (a) of this Section for the utility for any period
6 after December 31, 1996 and prior to any reinstatement of such
7 clause. A public utility whose fuel adjustment clause has been
8 eliminated pursuant to this subsection shall not file a
9 proposed tariff sheet seeking, or otherwise petition the
10 Commission for, reinstatement of the fuel adjustment clause
11 prior to January 1, 2007.

12 (f) Notwithstanding any contrary or inconsistent
13 provisions in Section 9-201 of this Act, in subsection (a) of
14 this Section, or in any rules or regulations promulgated by the
15 Commission pursuant to subsection (g) of this Section, a public
16 utility providing electric service to more than 500,000
17 customers but fewer than 1,000,000 customers in this State may,
18 within the first 6 months after the effective date of this
19 amendatory Act of 1997, file with the Commission proposed
20 tariff sheets that eliminate, effective January 1, 1997, the
21 public utility's fuel adjustment clause and adjust its base
22 rates by the amount necessary for the base fuel component of
23 the base rates to recover 91% of the public utility's average
24 fuel and power supply costs for the 2 most recent years for
25 which the Commission, as of January 1, 1997, has issued final
26 orders in annual proceedings pursuant to subsection (a), where
27 the average fuel and power supply costs per kilowatt-hour shall
28 be calculated as the sum of the public utility's prudent and
29 allowable fuel and power supply costs as found by the
30 Commission in the 2 proceedings divided by the public utility's
31 actual jurisdictional kilowatt-hour sales for those 2 years,
32 provided, that such tariff sheets shall be effective upon
33 filing. To the extent the application of the fuel adjustment
34 clause had resulted in net charges to customers after January

1 1, 1997, the utility shall also file a tariff sheet that
2 provides for a refund stated on a per kilowatt-hour basis of
3 such charges over a period not to exceed 6 months. Provided
4 however, that such refund shall not include the proportional
5 amounts of taxes paid under the Use Tax Act, Service Use Tax
6 Act, Service Occupation Tax Act, and Retailers' Occupation Tax
7 Act on fuel used in generation. The Commission shall issue an
8 order within 45 days after the date of the public utility's
9 filing approving or approving as modified such tariff sheet. If
10 the fuel adjustment clause is eliminated pursuant to this
11 subsection, the Commission shall not conduct the annual
12 hearings specified in the last 3 sentences of subsection (a) of
13 this Section for the utility for any period after December 31,
14 1996 and prior to any reinstatement of such clause. A public
15 utility whose fuel adjustment clause has been eliminated
16 pursuant to this subsection shall not file a proposed tariff
17 sheet seeking, or otherwise petition the Commission for,
18 reinstatement of the fuel adjustment clause prior to January 1,
19 2007.

20 (g) The Commission shall have authority to promulgate rules
21 and regulations to carry out the provisions of this Section.

22 (h) Any gas utility may enter into a long-term supply
23 contract with any company for synthetic natural gas produced
24 from coal through the gasification process. The cost for the
25 synthetic natural gas is reasonable and prudent and recoverable
26 through the purchased gas adjustment clause if: (i) the only
27 coal used in the gasification process has high volatile
28 bituminous rank and greater than 1.7 pounds of sulfur per
29 million Btu content; (ii) at the time the contract is entered
30 into the price per million Btu does not exceed \$5 in 2004
31 dollars, adjusted annually based on the change in the Annual
32 Consumer Price Index for All Urban Consumers for the Midwest
33 Region as published in April by the United States Department of
34 Labor, Bureau of Labor Statistics (or a suitable Consumer Price

1 Index calculation if this Consumer Price Index is not
2 available) for the previous calendar year; provided that the
3 price per million Btu shall not exceed \$5.50 at any time during
4 the contract; (iii) the utility's aggregate long-term supply
5 contracts for the purchase of synthetic natural gas produced
6 from coal through the gasification process does not exceed 25%
7 of the annual system supply requirements of the utility at the
8 time the contract is entered into; and (iv) the contract is
9 entered into before January 1, 2015 and terminates before
10 January 1, 2036.

11 (i) If a gas utility or an affiliate of a gas utility has
12 an ownership interest in any entity that produces or sells
13 synthetic natural gas, Article VII of this Act shall apply.

14 (Source: P.A. 92-537, eff. 6-6-02.)

15 Section 99. Effective date. This Act takes effect upon
16 becoming law."