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1 AMENDMENT TO SENATE BILL 1912

2 AMENDMENT NO. _____. Amend Senate Bill 1912 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Public Utilities Act is amended by changing
5 Sections 16-111 and 16-111.3 as follows:

6 (220 ILCS 5/16-111)

7 Sec. 16-111. Rates and restructuring transactions during
8 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

1 of, an electric utility's rates or enforce any such condition
2 of any such order; provided, however, that this subsection
3 shall not prohibit the Commission from:

4 (1) approving the application of an electric utility to
5 implement an alternative to rate of return regulation or a
6 regulatory mechanism that rewards or penalizes the
7 electric utility through adjustment of rates based on
8 utility performance, pursuant to Section 9-244;

9 (2) authorizing an electric utility to eliminate its
10 fuel adjustment clause and adjust its base rate tariffs in
11 accordance with subsection (b), (d), or (f) of Section
12 9-220 of this Act, to fix its fuel adjustment factor in
13 accordance with subsection (c) of Section 9-220 of this
14 Act, or to eliminate its fuel adjustment clause in
15 accordance with subsection (e) of Section 9-220 of this
16 Act;

17 (3) ordering into effect tariffs for delivery services
18 and transition charges in accordance with Sections 16-104
19 and 16-108, for real-time pricing in accordance with
20 Section 16-107, or the options required by Section 16-110
21 and subsection (n) of 16-112, allowing a billing experiment
22 in accordance with Section 16-106, or modifying delivery
23 services tariffs in accordance with Section 16-109; or

24 (4) ordering or allowing into effect any tariff to
25 recover charges pursuant to Sections 9-201.5, 9-220.1,
26 9-221, 9-222 (except as provided in Section 9-222.1),
27 16-108, and 16-114 of this Act, Section 5-5 of the
28 Electricity Infrastructure Maintenance Fee Law, Section
29 6-5 of the Renewable Energy, Energy Efficiency, and Coal
30 Resources Development Law of 1997, and Section 13 of the
31 Energy Assistance Act.

32 After December 31, 2004, the provisions of this subsection
33 (a) shall not apply to an electric utility whose average
34 residential retail rate was less than or equal to 90% of the

1 average residential retail rate for the "Midwest Utilities", as
2 that term is defined in subsection (b) of this Section, based
3 on data reported on Form 1 to the Federal Energy Regulatory
4 Commission for calendar year 1995, and which served between
5 150,000 and 250,000 retail customers in this State on January
6 1, 1995 unless the electric utility or its holding company has
7 been acquired by or merged with an affiliate of another
8 electric utility subsequent to January 1, 2002. This exemption
9 shall be limited to this subsection (a) and shall not extend to
10 any other provisions of this Act.

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

1 reducing, effective August 1, 1998, each component of its base
2 rates to residential retail customers by 5% from the base rates
3 in effect immediately prior to January 1, 1998, (ii) reducing,
4 effective October 1, 2000, each component of its base rates to
5 residential retail customers by the lesser of 5% of the base
6 rates in effect immediately prior to January 1, 1998 or the
7 percentage by which the electric utility's average residential
8 retail rate exceeds the average residential retail rate of the
9 Midwest Utilities, based on data reported on Form 1 to the
10 Federal Energy Regulatory Commission for calendar year 1999,
11 and (iii) reducing, effective October 1, 2002, each component
12 of its base rates to residential retail customers by an
13 additional amount equal to the lesser of 5% of the base rates
14 in effect immediately prior to January 1, 1998 or the
15 percentage by which the electric utility's average residential
16 retail rate exceeds the average residential retail rate of the
17 Midwest Utilities, based on data reported on Form 1 to the
18 Federal Energy Regulatory Commission for calendar year 2001;
19 and (B) if the average residential retail rate of an electric
20 utility serving between 150,000 and 250,000 retail customers in
21 this State on January 1, 1995 is less than or equal to 90% of
22 the average residential retail rate for the Midwest Utilities,
23 based on data reported on Form 1 to the Federal Energy
24 Regulatory Commission for calendar year 1995, then it shall
25 only be required to file tariffs (i) reducing, effective August
26 1, 1998, each component of its base rates to residential retail
27 customers by 2% from the base rates in effect immediately prior
28 to January 1, 1998; (ii) reducing, effective October 1, 2000,
29 each component of its base rates to residential retail
30 customers by 2% from the base rate in effect immediately prior
31 to January 1, 1998; and (iii) reducing, effective October 1,
32 2002, each component of its base rates to residential retail
33 customers by 1% from the base rates in effect immediately prior
34 to January 1, 1998. Provided, further, that any electric

1 utility for which a decrease in base rates has been or is
2 placed into effect between October 1, 1996 and the dates
3 specified in the preceding sentences of this subsection, other
4 than pursuant to the requirements of this subsection, shall be
5 entitled to reduce the amount of any reduction or reductions in
6 its base rates required by this subsection by the amount of
7 such other decrease. The tariffs required under this subsection
8 shall be filed 45 days in advance of the effective date.
9 Notwithstanding anything to the contrary in Section 9-220 of
10 this Act, no restatement of base rates in conjunction with the
11 elimination of a fuel adjustment clause under that Section
12 shall result in a lesser decrease in base rates than customers
13 would otherwise receive under this subsection had the electric
14 utility's fuel adjustment clause not been eliminated.

15 (c) Any utility reducing its base rates by 15% on August 1,
16 1998 pursuant to subsection (b) shall include the following
17 statement on its bills for residential customers from August 1
18 through December 31, 1998: "Effective August 1, 1998, your
19 rates have been reduced by 15% by the Electric Service Customer
20 Choice and Rate Relief Law of 1997 passed by the Illinois
21 General Assembly.". Any utility reducing its base rates by 5%
22 on August 1, 1998, pursuant to subsection (b) shall include the
23 following statement on its bills for residential customers from
24 August 1 through December 31, 1998: "Effective August 1, 1998,
25 your rates have been reduced by 5% by the Electric Service
26 Customer Choice and Rate Relief Law of 1997 passed by the
27 Illinois General Assembly.".

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

1 (d) During the mandatory transition period, but not before
2 January 1, 2000, and notwithstanding the provisions of
3 subsection (a), an electric utility may request an increase in
4 its base rates if the electric utility demonstrates that the
5 2-year average of its earned rate of return on common equity,
6 calculated as its net income applicable to common stock divided
7 by the average of its beginning and ending balances of common
8 equity using data reported in the electric utility's Form 1
9 report to the Federal Energy Regulatory Commission but adjusted
10 to remove the effects of accelerated depreciation or
11 amortization or other transition or mitigation measures
12 implemented by the electric utility pursuant to subsection (g)
13 of this Section and the effect of any refund paid pursuant to
14 subsection (e) of this Section, is below the 2-year average for
15 the same 2 years of the monthly average yields of 30-year U.S.
16 Treasury bonds published by the Board of Governors of the
17 Federal Reserve System in its weekly H.15 Statistical Release
18 or successor publication. The Commission shall review the
19 electric utility's request, and may review the justness and
20 reasonableness of all rates for tariffed services, in
21 accordance with the provisions of Article IX of this Act,
22 provided that the Commission shall consider any special or
23 negotiated adjustments to the revenue requirement agreed to
24 between the electric utility and the other parties to the
25 proceeding. In setting rates under this Section, the Commission
26 shall exclude the costs and revenues that are associated with
27 competitive services and any billing or pricing experiments
28 conducted under Section 16-106.

29 (e) For the purposes of this subsection (e) all
30 calculations and comparisons shall be performed for the
31 Illinois operations of multijurisdictional utilities. During
32 the mandatory transition period, notwithstanding the
33 provisions of subsection (a), if the 2-year average of an
34 electric utility's earned rate of return on common equity,

1 calculated as its net income applicable to common stock divided
2 by the average of its beginning and ending balances of common
3 equity using data reported in the electric utility's Form 1
4 report to the Federal Energy Regulatory Commission but adjusted
5 to remove the effect of any refund paid under this subsection
6 (e), and further adjusted to include the annual amortization of
7 any difference between the consideration received by an
8 affiliated interest of the electric utility in the sale of an
9 asset which had been sold or transferred by the electric
10 utility to the affiliated interest subsequent to the effective
11 date of this amendatory Act of 1997 and the consideration for
12 which such asset had been sold or transferred to the affiliated
13 interest, with such difference to be amortized ratably from the
14 date of the sale by the affiliated interest to December 31,
15 2006, exceeds the 2-year average of the Index for the same 2
16 years by 1.5 or more percentage points, the electric utility
17 shall make refunds to customers beginning the first billing day
18 of April in the following year in the manner described in
19 paragraph (3) of this subsection. For purposes of this
20 subsection (e), the "Index" shall be the sum of (A) the average
21 for the 12 months ended September 30 of the number referred to
22 in Section 16-111.3 of this Act ~~the monthly average yields of~~
23 ~~30-year U.S. Treasury bonds published by the Board of Governors~~
24 ~~of the Federal Reserve System in its weekly H.15 Statistical~~
25 ~~Release or successor publication~~ for each year 1998 through
26 2006, and (B) (i) 4.00 percentage points for each of the
27 12-month periods ending September 30, 1998 through September
28 30, 1999 or 8.00 percentage points if the electric utility's
29 average residential retail rate is less than or equal to 90% of
30 the average residential retail rate for the "Midwest
31 Utilities", as that term is defined in subsection (b) of this
32 Section, based on data reported on Form 1 to the Federal Energy
33 Regulatory Commission for calendar year 1995, and the electric
34 utility served between 150,000 and 250,000 retail customers on

1 January 1, 1995, (ii) 7.00 percentage points for each of the
2 12-month periods ending September 30, 2000 through September
3 30, 2006 if the electric utility was providing service to at
4 least 1,000,000 customers in this State on January 1, 1999, or
5 9.00 percentage points if the electric utility's average
6 residential retail rate is less than or equal to 90% of the
7 average residential retail rate for the "Midwest Utilities", as
8 that term is defined in subsection (b) of this Section, based
9 on data reported on Form 1 to the Federal Energy Regulatory
10 Commission for calendar year 1995 and the electric utility
11 served between 150,000 and 250,000 retail customers in this
12 State on January 1, 1995, (iii) 11.00 percentage points for
13 each of the 12-month periods ending September 30, 2000 through
14 September 30, 2006, but only if the electric utility's average
15 residential retail rate is less than or equal to 90% of the
16 average residential retail rate for the "Midwest Utilities", as
17 that term is defined in subsection (b) of this Section, based
18 on data reported on Form 1 to the Federal Energy Regulatory
19 Commission for calendar year 1995, the electric utility served
20 between 150,000 and 250,000 retail customers in this State on
21 January 1, 1995, and the electric utility offers delivery
22 services on or before June 1, 2000 to retail customers whose
23 annual electric energy use comprises 33% of the kilowatt hour
24 sales to that group of retail customers that are classified
25 under Division D, Groups 20 through 39 of the Standard
26 Industrial Classifications set forth in the Standard
27 Industrial Classification Manual published by the United
28 States Office of Management and Budget, excluding the kilowatt
29 hour sales to those customers that are eligible for delivery
30 services pursuant to Section 16-104(a)(1)(i), and offers
31 delivery services to its remaining retail customers classified
32 under Division D, Groups 20 through 39 on or before October 1,
33 2000, and, provided further, that the electric utility commits
34 not to petition pursuant to Section 16-108(f) for entry of an

1 order by the Commission authorizing the electric utility to
2 implement transition charges for an additional period after
3 December 31, 2006, or (iv) 5.00 percentage points for each of
4 the 12-month periods ending September 30, 2000 through
5 September 30, 2006 for all other electric utilities or 7.00
6 percentage points for such utilities for each of the 12-month
7 periods ending September 30, 2000 through September 30, 2006
8 for any such utility that commits not to petition pursuant to
9 Section 16-108(f) for entry of an order by the Commission
10 authorizing the electric utility to implement transition
11 charges for an additional period after December 31, 2006 or
12 11.00 percentage points for each of the 12-month periods ending
13 September 30, 2005 and September 30, 2006 for each electric
14 utility providing service to fewer than 6,500, or between
15 75,000 and 150,000, electric retail customers in this State on
16 January 1, 1995 if such utility commits not to petition
17 pursuant to Section 16-108(f) for entry of an order by the
18 Commission authorizing the electric utility to implement
19 transition charges for an additional period after December 31,
20 2006.

21 (1) For purposes of this subsection (e), "excess
22 earnings" means the difference between (A) the 2-year
23 average of the electric utility's earned rate of return on
24 common equity, less (B) the 2-year average of the sum of
25 (i) the Index applicable to each of the 2 years and (ii)
26 1.5 percentage points; provided, that "excess earnings"
27 shall never be less than zero.

28 (2) On or before March 31 of each year 2000 through
29 2007 each electric utility shall file a report with the
30 Commission showing its earned rate of return on common
31 equity, calculated in accordance with this subsection, for
32 the preceding calendar year and the average for the
33 preceding 2 calendar years.

34 (3) If an electric utility has excess earnings,

1 determined in accordance with paragraphs (1) and (2) of
2 this subsection, the refunds which the electric utility
3 shall pay to its customers beginning the first billing day
4 of April in the following year shall be calculated and
5 applied as follows:

6 (i) The electric utility's excess earnings shall
7 be multiplied by the average of the beginning and
8 ending balances of the electric utility's common
9 equity for the 2-year period in which excess earnings
10 occurred.

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

15 (iii) The result of the calculation in (ii) shall
16 be divided by the sum of the electric utility's
17 projected total kilowatt-hour sales to retail
18 customers plus projected kilowatt-hours to be
19 delivered to delivery services customers over a one
20 year period beginning with the first billing date in
21 April in the succeeding year to determine a cents per
22 kilowatt-hour refund factor.

23 (iv) The cents per kilowatt-hour refund factor
24 calculated in (iii) shall be credited to the electric
25 utility's customers by applying the factor on the
26 customer's monthly bills to each kilowatt-hour sold or
27 delivered until the total amount calculated in (ii) has
28 been paid to customers.

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

34 (g) During the mandatory transition period, an electric

1 utility may, without obtaining any approval of the Commission
2 other than that provided for in this subsection and
3 notwithstanding any other provision of this Act or any rule or
4 regulation of the Commission that would require such approval:

5 (1) implement a reorganization, other than a merger of
6 2 or more public utilities as defined in Section 3-105 or
7 their holding companies;

8 (2) retire generating plants from service;

9 (3) sell, assign, lease or otherwise transfer assets to
10 an affiliated or unaffiliated entity and as part of such
11 transaction enter into service agreements, power purchase
12 agreements, or other agreements with the transferee;
13 provided, however, that the prices, terms and conditions of
14 any power purchase agreement must be approved or allowed
15 into effect by the Federal Energy Regulatory Commission; or

16 (4) use any accelerated cost recovery method including
17 accelerated depreciation, accelerated amortization or
18 other capital recovery methods, or record reductions to the
19 original cost of its assets.

20 In order to implement a reorganization, retire generating
21 plants from service, or sell, assign, lease or otherwise
22 transfer assets pursuant to this Section, the electric utility
23 shall comply with subsections (c) and (d) of Section 16-128, if
24 applicable, and subsection (k) of this Section, if applicable,
25 and provide the Commission with at least 30 days notice of the
26 proposed reorganization or transaction, which notice shall
27 include the following information:

28 (i) a complete statement of the entries that the
29 electric utility will make on its books and records of
30 account to implement the proposed reorganization or
31 transaction together with a certification from an
32 independent certified public accountant that such
33 entries are in accord with generally accepted
34 accounting principles and, if the Commission has

1 previously approved guidelines for cost allocations
2 between the utility and its affiliates, a
3 certification from the chief accounting officer of the
4 utility that such entries are in accord with those cost
5 allocation guidelines;

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

10 (iii) a list of all federal approvals or approvals
11 required from departments and agencies of this State,
12 other than the Commission, that the electric utility
13 has or will obtain before implementing the
14 reorganization or transaction;

15 (iv) an irrevocable commitment by the electric
16 utility that it will not, as a result of the
17 transaction, impose any stranded cost charges that it
18 might otherwise be allowed to charge retail customers
19 under federal law or increase the transition charges
20 that it is otherwise entitled to collect under this
21 Article XVI; and

22 (v) if the electric utility proposes to sell,
23 assign, lease or otherwise transfer a generating plant
24 that brings the amount of net dependable generating
25 capacity transferred pursuant to this subsection to an
26 amount equal to or greater than 15% of the electric
27 utility's net dependable capacity as of the effective
28 date of this amendatory Act of 1997, and enters into a
29 power purchase agreement with the entity to which such
30 generating plant is sold, assigned, leased, or
31 otherwise transferred, the electric utility also
32 agrees, if its fuel adjustment clause has not already
33 been eliminated, to eliminate its fuel adjustment
34 clause in accordance with subsection (b) of Section

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

19 (vi) In addition, if the electric utility proposes
20 to sell, assign, or lease, (A) either (1) an amount of
21 generating plant that brings the amount of net
22 dependable generating capacity transferred pursuant to
23 this subsection to an amount equal to or greater than
24 15% of its net dependable capacity on the effective
25 date of this amendatory Act of 1997, or (2) one or more
26 generating plants with a total net dependable capacity
27 of 1100 megawatts, or (B) transmission and
28 distribution facilities that either (1) bring the
29 amount of transmission and distribution facilities
30 transferred pursuant to this subsection to an amount
31 equal to or greater than 15% of the electric utility's
32 total depreciated original cost investment in such
33 facilities, or (2) represent an investment of
34 \$25,000,000 in terms of total depreciated original

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

1 Section.

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

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

34 (h) During the mandatory transition period, the Commission

1 shall not establish or use any rates of depreciation, which for
2 purposes of this subsection shall include amortization, for any
3 electric utility other than those established pursuant to
4 subsection (c) of Section 5-104 of this Act or utilized
5 pursuant to subsection (g) of this Section. Provided, however,
6 that in any proceeding to review an electric utility's rates
7 for tariffed services pursuant to Section 9-201, 9-202, 9-250
8 or 16-111(d) of this Act, the Commission may establish new
9 rates of depreciation for the electric utility in the same
10 manner provided in subsection (d) of Section 5-104 of this Act.
11 An electric utility implementing an accelerated cost recovery
12 method including accelerated depreciation, accelerated
13 amortization or other capital recovery methods, or recording
14 reductions to the original cost of its assets, pursuant to
15 subsection (g) of this Section, shall file a statement with the
16 Commission describing the accelerated cost recovery method to
17 be implemented or the reduction in the original cost of its
18 assets to be recorded. Upon the filing of such statement, the
19 accelerated cost recovery method or the reduction in the
20 original cost of assets shall be deemed to be approved by the
21 Commission as though an order had been entered by the
22 Commission.

23 (i) 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

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

28 (j) During the mandatory transition period, an electric
29 utility may elect to transfer to a non-operating income account
30 under the Commission's Uniform System of Accounts either or
31 both of (i) an amount of unamortized investment tax credit that
32 is in addition to the ratable amount which is credited to the
33 electric utility's operating income account for the year in
34 accordance with Section 46(f)(2) of the federal Internal

1 Revenue Code of 1986, as in effect prior to P.L. 101-508, or
2 (ii) "excess tax reserves", as that term is defined in Section
3 203(e)(2)(A) of the federal Tax Reform Act of 1986, provided
4 that (A) the amount transferred may not exceed the amount of
5 the electric utility's assets that were created pursuant to
6 Statement of Financial Accounting Standards No. 71 which the
7 electric utility has written off during the mandatory
8 transition period, and (B) the transfer shall not be effective
9 until approved by the Internal Revenue Service. An electric
10 utility electing to make such a transfer shall file a statement
11 with the Commission stating the amount and timing of the
12 transfer for which it intends to request approval of the
13 Internal Revenue Service, along with a copy of its proposed
14 request to the Internal Revenue Service for a ruling. The
15 Commission shall issue an order within 14 days after the
16 electric utility's filing approving, subject to receipt of
17 approval from the Internal Revenue Service, the proposed
18 transfer.

19 (k) If an electric utility is selling or transferring to a
20 single buyer 5 or more generating plants located in this State
21 with a total net dependable capacity of 5000 megawatts or more
22 pursuant to subsection (g) of this Section and has obtained a
23 sale price or consideration that exceeds 200% of the book value
24 of such plants, the electric utility must provide to the
25 Governor, the President of the Illinois Senate, the Minority
26 Leader of the Illinois Senate, the Speaker of the Illinois
27 House of Representatives, and the Minority Leader of the
28 Illinois House of Representatives no later than 15 days after
29 filing its notice under subsection (g) of this Section or 5
30 days after the date on which this subsection (k) becomes law,
31 whichever is later, a written commitment in which such electric
32 utility agrees to expend \$2 billion outside the corporate
33 limits of any municipality with 1,000,000 or more inhabitants
34 within such electric utility's service area, over a 6-year

1 period beginning with the calendar year in which the notice is
2 filed, on projects, programs, and improvements within its
3 service area relating to transmission and distribution
4 including, without limitation, infrastructure expansion,
5 repair and replacement, capital investments, operations and
6 maintenance, and vegetation management.

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

9 (220 ILCS 5/16-111.3)

10 Sec. 16-111.3. Transition period earnings calculations.
11 The rate for the purpose of calculating the Index defined in
12 subpart (A) of subsection (e) of Section 16-111 of this Act
13 shall be established by reference to the weekly H.15
14 Statistical Release or successor publication of the Board of
15 Governors of the Federal Reserve System. Of each of the
16 following that are published in that weekly Statistical Release
17 or successor publication, the lowest shall be used: (i) monthly
18 average nominal yields of 20-year U.S. Treasury Bonds, (ii)
19 Monthly Average Nominal Treasury Long-Term Treasury Rates (25
20 years and above), and (iii) monthly average nominal yields of
21 30-year U.S. Treasury bonds. At such time as the Board of
22 Governors of the Federal Reserve System ceases to include the
23 monthly average yields of 30-year U.S. Treasury bonds in its
24 weekly H.15 Statistical Release or successor publication, the
25 Monthly Treasury Long Term Average Rates (25 years and above)
26 published by the Board of Governors of the Federal Reserve
27 System in its weekly H.15 Statistical Release or successor
28 publication shall instead be used to establish a rate for the
29 purpose of calculating the Index defined in subsection (e) of
30 Section 16-111 of this Act, and at such time, such Monthly
31 Treasury Long Term Average Rates (25 years and above) shall
32 also be used in place of the monthly average yields of 30-year
33 U.S. Treasury bonds in the rate of return calculation required

1 ~~by subsection (d) of Section 16-111.~~ An electric utility shall
2 also remove the effects, if any, of any impairment due to the
3 application of Statement of Financial Accounting Standards No.
4 142, which was issued in June 2001, when making the
5 calculations required by this Section or by subsections (d) and
6 (e) of Section 16-111.
7 (Source: P.A. 92-537, eff. 6-6-02.)".