



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB1354

Introduced 2/20/2007, by Rep. William B. Black

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Income Tax Act. Creates tax credits, for taxable years ending on or after December 31, 2007 and on or before December 30, 2010, for the cost of electricity purchased from AmerenIP, AmerenCILCO, or AmerenCIPS for residential or small-business purposes. Sets forth the amounts of the credits. Requires the electricity providers to send a statement of the annual electrical costs to customers. Provides that the credits may not be carried forward or back and may not reduce the taxpayer's liability to less than zero. Amends the Motor Fuel Tax Law. Requires that, from the tax proceeds, \$4,066,667 must be transferred each month to the Supplemental Low-Income Energy Assistance Fund to be used by the Department of Healthcare and Family Services for the purposes of LIHEAP, established under the Energy Assistance Act of 1989. Amends the Election Code. Requires that the election of commissioners of the Illinois Commerce Commission be included on general election ballots. Amends the Public Utilities Act. Provides for a Commerce Commission consisting of 5 members. Provides that an electric utility must credit customers for times of service disruption by reducing the customer's bill at the end of that month proportionately to the length of time of the service disruption. Provides that the rates of residential customers with all electric residential service shall not be increased prior to January 1, 2008. Provides that residential customers may participate in a deferral program for electric rates that increase subsequent to the mandatory transition period, and prohibits an electric utility from charging interest on the deferred amount. Makes other changes. Effective immediately.

LRB095 11148 BDD 31489 b

FISCAL NOTE ACT  
MAY APPLY

HOUSING  
AFFORDABILITY  
IMPACT NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning energy.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Election Code is amended by changing  
5 Sections 2A-1.2, 7-10, 7-12, 10-9, 22-1, and 22-7 as follows:

6 (10 ILCS 5/2A-1.2) (from Ch. 46, par. 2A-1.2)

7 Sec. 2A-1.2. Consolidated schedule of elections; offices  
8 designated.

9 (a) At the general election in the appropriate  
10 even-numbered years, the following offices shall be filled or  
11 shall be on the ballot as otherwise required by this Code:

12 (1) Elector of President and Vice President of the  
13 United States;

14 (2) United States Senator and United States  
15 Representative;

16 (3) State Executive Branch elected officers;

17 (4) State Senator and State Representative;

18 (5) County elected officers, including State's  
19 Attorney, County Board member, County Commissioners, and  
20 elected President of the County Board or County Chief  
21 Executive;

22 (6) Circuit Court Clerk;

23 (7) Regional Superintendent of Schools, except in

1 counties or educational service regions in which that  
2 office has been abolished;

3 (8) Judges of the Supreme, Appellate and Circuit  
4 Courts, on the question of retention, to fill vacancies and  
5 newly created judicial offices;

6 (9) Members of the Illinois Commerce Commission  
7 ~~(Blank)~~;

8 (10) Trustee of the Metropolitan Sanitary District of  
9 Chicago, and elected Trustee of other Sanitary Districts;

10 (11) Special District elected officers, not otherwise  
11 designated in this Section, where the statute creating or  
12 authorizing the creation of the district requires an annual  
13 election and permits or requires election of candidates of  
14 political parties.

15 (b) At the general primary election:

16 (1) in each even-numbered year candidates of political  
17 parties shall be nominated for those offices to be filled  
18 at the general election in that year, except where pursuant  
19 to law nomination of candidates of political parties is  
20 made by caucus.

21 (2) in the appropriate even-numbered years the  
22 political party offices of State central committeeman,  
23 township committeeman, ward committeeman, and precinct  
24 committeeman shall be filled and delegates and alternate  
25 delegates to the National nominating conventions shall be  
26 elected as may be required pursuant to this Code. In the

1 even-numbered years in which a Presidential election is to  
2 be held, candidates in the Presidential preference primary  
3 shall also be on the ballot.

4 (3) in each even-numbered year, where the municipality  
5 has provided for annual elections to elect municipal  
6 officers pursuant to Section 6(f) or Section 7 of Article  
7 VII of the Constitution, pursuant to the Illinois Municipal  
8 Code or pursuant to the municipal charter, the offices of  
9 such municipal officers shall be filled at an election held  
10 on the date of the general primary election, provided that  
11 the municipal election shall be a nonpartisan election  
12 where required by the Illinois Municipal Code. For partisan  
13 municipal elections in even-numbered years, a primary to  
14 nominate candidates for municipal office to be elected at  
15 the general primary election shall be held on the Tuesday 6  
16 weeks preceding that election.

17 (4) in each school district which has adopted the  
18 provisions of Article 33 of the School Code, successors to  
19 the members of the board of education whose terms expire in  
20 the year in which the general primary is held shall be  
21 elected.

22 (c) At the consolidated election in the appropriate  
23 odd-numbered years, the following offices shall be filled:

24 (1) Municipal officers, provided that in  
25 municipalities in which candidates for alderman or other  
26 municipal office are not permitted by law to be candidates

1 of political parties, the runoff election where required by  
2 law, or the nonpartisan election where required by law,  
3 shall be held on the date of the consolidated election; and  
4 provided further, in the case of municipal officers  
5 provided for by an ordinance providing the form of  
6 government of the municipality pursuant to Section 7 of  
7 Article VII of the Constitution, such offices shall be  
8 filled by election or by runoff election as may be provided  
9 by such ordinance;

10 (2) Village and incorporated town library directors;

11 (3) City boards of stadium commissioners;

12 (4) Commissioners of park districts;

13 (5) Trustees of public library districts;

14 (6) Special District elected officers, not otherwise  
15 designated in this section, where the statute creating or  
16 authorizing the creation of the district permits or  
17 requires election of candidates of political parties;

18 (7) Township officers, including township park  
19 commissioners, township library directors, and boards of  
20 managers of community buildings, and Multi-Township  
21 Assessors;

22 (8) Highway commissioners and road district clerks;

23 (9) Members of school boards in school districts which  
24 adopt Article 33 of the School Code;

25 (10) The directors and chairman of the Chain O Lakes -  
26 Fox River Waterway Management Agency;

1           (11) Forest preserve district commissioners elected  
2           under Section 3.5 of the Downstate Forest Preserve District  
3           Act;

4           (12) Elected members of school boards, school  
5           trustees, directors of boards of school directors,  
6           trustees of county boards of school trustees (except in  
7           counties or educational service regions having a  
8           population of 2,000,000 or more inhabitants) and members of  
9           boards of school inspectors, except school boards in school  
10          districts that adopt Article 33 of the School Code;

11          (13) Members of Community College district boards;

12          (14) Trustees of Fire Protection Districts;

13          (15) Commissioners of the Springfield Metropolitan  
14          Exposition and Auditorium Authority;

15          (16) Elected Trustees of Tuberculosis Sanitarium  
16          Districts;

17          (17) Elected Officers of special districts not  
18          otherwise designated in this Section for which the law  
19          governing those districts does not permit candidates of  
20          political parties.

21          (d) At the consolidated primary election in each  
22          odd-numbered year, candidates of political parties shall be  
23          nominated for those offices to be filled at the consolidated  
24          election in that year, except where pursuant to law nomination  
25          of candidates of political parties is made by caucus, and  
26          except those offices listed in paragraphs (12) through (17) of

1 subsection (c).

2 At the consolidated primary election in the appropriate  
3 odd-numbered years, the mayor, clerk, treasurer, and aldermen  
4 shall be elected in municipalities in which candidates for  
5 mayor, clerk, treasurer, or alderman are not permitted by law  
6 to be candidates of political parties, subject to runoff  
7 elections to be held at the consolidated election as may be  
8 required by law, and municipal officers shall be nominated in a  
9 nonpartisan election in municipalities in which pursuant to law  
10 candidates for such office are not permitted to be candidates  
11 of political parties.

12 At the consolidated primary election in the appropriate  
13 odd-numbered years, municipal officers shall be nominated or  
14 elected, or elected subject to a runoff, as may be provided by  
15 an ordinance providing a form of government of the municipality  
16 pursuant to Section 7 of Article VII of the Constitution.

17 (e) (Blank).

18 (f) At any election established in Section 2A-1.1, public  
19 questions may be submitted to voters pursuant to this Code and  
20 any special election otherwise required or authorized by law or  
21 by court order may be conducted pursuant to this Code.

22 Notwithstanding the regular dates for election of officers  
23 established in this Article, whenever a referendum is held for  
24 the establishment of a political subdivision whose officers are  
25 to be elected, the initial officers shall be elected at the  
26 election at which such referendum is held if otherwise so

1 provided by law. In such cases, the election of the initial  
2 officers shall be subject to the referendum.

3 Notwithstanding the regular dates for election of  
4 officials established in this Article, any community college  
5 district which becomes effective by operation of law pursuant  
6 to Section 6-6.1 of the Public Community College Act, as now or  
7 hereafter amended, shall elect the initial district board  
8 members at the next regularly scheduled election following the  
9 effective date of the new district.

10 (g) At any election established in Section 2A-1.1, if in  
11 any precinct there are no offices or public questions required  
12 to be on the ballot under this Code then no election shall be  
13 held in the precinct on that date.

14 (h) There may be conducted a referendum in accordance with  
15 the provisions of Division 6-4 of the Counties Code.

16 (Source: P.A. 89-5, eff. 1-1-96; 89-95, eff. 1-1-96; 89-626,  
17 eff. 8-9-96; 90-358, eff. 1-1-98.)

18 (10 ILCS 5/7-10) (from Ch. 46, par. 7-10)

19 Sec. 7-10. Form of petition for nomination. The name of no  
20 candidate for nomination, or State central committeeman, or  
21 township committeeman, or precinct committeeman, or ward  
22 committeeman or candidate for delegate or alternate delegate to  
23 national nominating conventions, shall be printed upon the  
24 primary ballot unless a petition for nomination has been filed  
25 in his behalf as provided in this Article in substantially the



1 following form:

2 We, the undersigned, members of and affiliated with the  
 3 .... party and qualified primary electors of the .... party, in  
 4 the .... of ....., in the county of .... and State of Illinois,  
 5 do hereby petition that the following named person or persons  
 6 shall be a candidate or candidates of the .... party for the  
 7 nomination for (or in case of committeemen for election to) the  
 8 office or offices hereinafter specified, to be voted for at the  
 9 primary election to be held on (insert date).

10	Name	Office	Address
11	John Jones	Governor	Belvidere, Ill.
12	Thomas Smith	Attorney General	Oakland, Ill.

13 Name..... Address.....

14 State of Illinois)

15 ) ss.

16 County of.....)

17 I, ....., do hereby certify that I reside at No. ....  
 18 street, in the .... of ....., county of ....., and State of  
 19 ....., that I am 18 years of age or older, that I am a citizen  
 20 of the United States, and that the signatures on this sheet  
 21 were signed in my presence, and are genuine, and that to the  
 22 best of my knowledge and belief the persons so signing were at  
 23 the time of signing the petitions qualified voters of the ....  
 24 party, and that their respective residences are correctly

1 stated, as above set forth.

2 .....

3 Subscribed and sworn to before me on (insert date).

4 .....

5

6 Each sheet of the petition other than the statement of  
7 candidacy and candidate's statement shall be of uniform size  
8 and shall contain above the space for signatures an appropriate  
9 heading giving the information as to name of candidate or  
10 candidates, in whose behalf such petition is signed; the  
11 office, the political party represented and place of residence;  
12 and the heading of each sheet shall be the same.

13 Such petition shall be signed by qualified primary electors  
14 residing in the political division for which the nomination is  
15 sought in their own proper persons only and opposite the  
16 signature of each signer, his residence address shall be  
17 written or printed. The residence address required to be  
18 written or printed opposite each qualified primary elector's  
19 name shall include the street address or rural route number of  
20 the signer, as the case may be, as well as the signer's county,  
21 and city, village or town, and state. However the county or  
22 city, village or town, and state of residence of the electors  
23 may be printed on the petition forms where all of the electors  
24 signing the petition reside in the same county or city, village  
25 or town, and state. Standard abbreviations may be used in

1 writing the residence address, including street number, if any.  
2 At the bottom of each sheet of such petition shall be added a  
3 circulator statement signed by a person 18 years of age or  
4 older who is a citizen of the United States, stating the street  
5 address or rural route number, as the case may be, as well as  
6 the county, city, village or town, and state; and certifying  
7 that the signatures on that sheet of the petition were signed  
8 in his or her presence and certifying that the signatures are  
9 genuine; and either (1) indicating the dates on which that  
10 sheet was circulated, or (2) indicating the first and last  
11 dates on which the sheet was circulated, or (3) certifying that  
12 none of the signatures on the sheet were signed more than 90  
13 days preceding the last day for the filing of the petition and  
14 certifying that to the best of his or her knowledge and belief  
15 the persons so signing were at the time of signing the  
16 petitions qualified voters of the political party for which a  
17 nomination is sought. Such statement shall be sworn to before  
18 some officer authorized to administer oaths in this State.

19 No petition sheet shall be circulated more than 90 days  
20 preceding the last day provided in Section 7-12 for the filing  
21 of such petition.

22 The person circulating the petition, or the candidate on  
23 whose behalf the petition is circulated, may strike any  
24 signature from the petition, provided that:

25 (1) the person striking the signature shall initial the  
26 petition at the place where the signature is struck; and

1           (2) the person striking the signature shall sign a  
2           certification listing the page number and line number of  
3           each signature struck from the petition. Such  
4           certification shall be filed as a part of the petition.

5           Such sheets before being filed shall be neatly fastened  
6           together in book form, by placing the sheets in a pile and  
7           fastening them together at one edge in a secure and suitable  
8           manner, and the sheets shall then be numbered consecutively.  
9           The sheets shall not be fastened by pasting them together end  
10          to end, so as to form a continuous strip or roll. All petition  
11          sheets which are filed with the proper local election  
12          officials, election authorities or the State Board of Elections  
13          shall be the original sheets which have been signed by the  
14          voters and by the circulator thereof, and not photocopies or  
15          duplicates of such sheets. Each petition must include as a part  
16          thereof, a statement of candidacy for each of the candidates  
17          filing, or in whose behalf the petition is filed. This  
18          statement shall set out the address of such candidate, the  
19          office for which he is a candidate, shall state that the  
20          candidate is a qualified primary voter of the party to which  
21          the petition relates and is qualified for the office specified  
22          (in the case of a candidate for State's Attorney it shall state  
23          that the candidate is at the time of filing such statement a  
24          licensed attorney-at-law of this State), shall state that he  
25          has filed (or will file before the close of the petition filing  
26          period) a statement of economic interests as required by the

1 Illinois Governmental Ethics Act, shall request that the  
 2 candidate's name be placed upon the official ballot, and shall  
 3 be subscribed and sworn to by such candidate before some  
 4 officer authorized to take acknowledgment of deeds in the State  
 5 and shall be in substantially the following form:

6 Statement of Candidacy

7	Name	Address	Office	District	Party
8	John Jones	102 Main St.	Governor	Statewide	Republican
9		Belvidere,			
10		Illinois			

11 State of Illinois)

12 ) ss.

13 County of .....)

14 I, ....., being first duly sworn, say that I reside at ....  
 15 Street in the city (or village) of ....., in the county of .....,  
 16 State of Illinois; that I am a qualified voter therein and am a  
 17 qualified primary voter of the .... party; that I am a  
 18 candidate for nomination (for election in the case of  
 19 committeeman and delegates and alternate delegates) to the  
 20 office of .... to be voted upon at the primary election to be  
 21 held on (insert date); that I am legally qualified (including  
 22 being the holder of any license that may be an eligibility  
 23 requirement for the office I seek the nomination for) to hold  
 24 such office and that I have filed (or I will file before the  
 25 close of the petition filing period) a statement of economic

1 interests as required by the Illinois Governmental Ethics Act  
 2 and I hereby request that my name be printed upon the official  
 3 primary ballot for nomination for (or election to in the case  
 4 of committeemen and delegates and alternate delegates) such  
 5 office.

6 Signed .....

7 Subscribed and sworn to (or affirmed) before me by .....,  
 8 who is to me personally known, on (insert date).

9 Signed .....

10 (Official Character)

11 (Seal, if officer has one.)

12 The petitions, when filed, shall not be withdrawn or added  
 13 to, and no signatures shall be revoked except by revocation  
 14 filed in writing with the State Board of Elections, election  
 15 authority or local election official with whom the petition is  
 16 required to be filed, and before the filing of such petition.  
 17 Whoever forges the name of a signer upon any petition required  
 18 by this Article is deemed guilty of a forgery and on conviction  
 19 thereof shall be punished accordingly.

20 A candidate for the offices listed in this Section must  
 21 obtain the number of signatures specified in this Section on  
 22 his or her petition for nomination.

23 (a) Statewide office or delegate to a national nominating  
 24 convention. If a candidate seeks to run for statewide office or  
 25 as a delegate or alternate delegate to a national nominating

1 convention elected from the State at-large, then the  
2 candidate's petition for nomination must contain at least 5,000  
3 but not more than 10,000 signatures.

4 (b) Congressional office or congressional delegate to a  
5 national nominating convention. If a candidate seeks to run for  
6 United States Congress or as a congressional delegate or  
7 alternate congressional delegate to a national nominating  
8 convention elected from a congressional district, then the  
9 candidate's petition for nomination must contain at least the  
10 number of signatures equal to 0.5% of the qualified primary  
11 electors of his or her party in his or her congressional  
12 district. In the first primary election following a  
13 redistricting of congressional districts, a candidate's  
14 petition for nomination must contain at least 600 signatures of  
15 qualified primary electors of the candidate's political party  
16 in his or her congressional district.

17 (c) County office. If a candidate seeks to run for any  
18 countywide office, including but not limited to county board  
19 chairperson or county board member, elected on an at-large  
20 basis, in a county other than Cook County, then the candidate's  
21 petition for nomination must contain at least the number of  
22 signatures equal to 0.5% of the qualified electors of his or  
23 her party who cast votes at the last preceding general election  
24 in his or her county. If a candidate seeks to run for county  
25 board member elected from a county board district, then the  
26 candidate's petition for nomination must contain at least the

1 number of signatures equal to 0.5% of the qualified primary  
2 electors of his or her party in the county board district. In  
3 the first primary election following a redistricting of county  
4 board districts or the initial establishment of county board  
5 districts, a candidate's petition for nomination must contain  
6 at least the number of signatures equal to 0.5% of the  
7 qualified electors of his or her party in the entire county who  
8 cast votes at the last preceding general election divided by  
9 the total number of county board districts comprising the  
10 county board; provided that in no event shall the number of  
11 signatures be less than 25.

12 (d) County office; Cook County only.

13 (1) If a candidate seeks to run for countywide office  
14 in Cook County, then the candidate's petition for  
15 nomination must contain at least the number of signatures  
16 equal to 0.5% of the qualified electors of his or her party  
17 who cast votes at the last preceding general election in  
18 Cook County.

19 (2) If a candidate seeks to run for Cook County Board  
20 Commissioner, then the candidate's petition for nomination  
21 must contain at least the number of signatures equal to  
22 0.5% of the qualified primary electors of his or her party  
23 in his or her county board district. In the first primary  
24 election following a redistricting of Cook County Board of  
25 Commissioners districts, a candidate's petition for  
26 nomination must contain at least the number of signatures



1 equal to 0.5% of the qualified electors of his or her party  
2 in the entire county who cast votes at the last preceding  
3 general election divided by the total number of county  
4 board districts comprising the county board; provided that  
5 in no event shall the number of signatures be less than 25.

6 (3) If a candidate seeks to run for Cook County Board  
7 of Review Commissioner, which is elected from a district  
8 pursuant to subsection (c) of Section 5-5 of the Property  
9 Tax Code, then the candidate's petition for nomination must  
10 contain at least the number of signatures equal to 0.5% of  
11 the total number of registered voters in his or her board  
12 of review district in the last general election at which a  
13 commissioner was regularly scheduled to be elected from  
14 that board of review district. In no event shall the number  
15 of signatures required be greater than the requisite number  
16 for a candidate who seeks countywide office in Cook County  
17 under subsection (d)(1) of this Section. In the first  
18 primary election following a redistricting of Cook County  
19 Board of Review districts, a candidate's petition for  
20 nomination must contain at least 4,000 signatures or at  
21 least the number of signatures required for a countywide  
22 candidate in Cook County, whichever is less, of the  
23 qualified electors of his or her party in the district.

24 (e) Municipal or township office. If a candidate seeks to  
25 run for municipal or township office, then the candidate's  
26 petition for nomination must contain at least the number of

1 signatures equal to 0.5% of the qualified primary electors of  
2 his or her party in the municipality or township. If a  
3 candidate seeks to run for alderman of a municipality, then the  
4 candidate's petition for nomination must contain at least the  
5 number of signatures equal to 0.5% of the qualified primary  
6 electors of his or her party of the ward. In the first primary  
7 election following redistricting of aldermanic wards or  
8 trustee districts of a municipality or the initial  
9 establishment of wards or districts, a candidate's petition for  
10 nomination must contain the number of signatures equal to at  
11 least 0.5% of the total number of votes cast for the candidate  
12 of that political party who received the highest number of  
13 votes in the entire municipality at the last regular election  
14 at which an officer was regularly scheduled to be elected from  
15 the entire municipality, divided by the number of wards or  
16 districts. In no event shall the number of signatures be less  
17 than 25.

18 (f) State central committeeperson. If a candidate seeks to  
19 run for State central committeeperson, then the candidate's  
20 petition for nomination must contain at least 100 signatures of  
21 the primary electors of his or her party of his or her  
22 congressional district.

23 (g) Sanitary district trustee. If a candidate seeks to run  
24 for trustee of a sanitary district in which trustees are not  
25 elected from wards, then the candidate's petition for  
26 nomination must contain at least the number of signatures equal

1 to 0.5% of the primary electors of his or her party from the  
2 sanitary district. If a candidate seeks to run for trustee of a  
3 sanitary district in which trustees are elected from wards,  
4 then the candidate's petition for nomination must contain at  
5 least the number of signatures equal to 0.5% of the primary  
6 electors of his or her party in the ward of that sanitary  
7 district. In the first primary election following  
8 redistricting of sanitary districts elected from wards, a  
9 candidate's petition for nomination must contain at least the  
10 signatures of 150 qualified primary electors of his or her ward  
11 of that sanitary district.

12 (h) Judicial office. If a candidate seeks to run for  
13 judicial office in a district, then the candidate's petition  
14 for nomination must contain the number of signatures equal to  
15 0.4% of the number of votes cast in that district for the  
16 candidate for his or her political party for the office of  
17 Governor at the last general election at which a Governor was  
18 elected, but in no event less than 500 signatures. If a  
19 candidate seeks to run for judicial office in a circuit or  
20 subcircuit, then the candidate's petition for nomination must  
21 contain the number of signatures equal to 0.25% of the number  
22 of votes cast for the judicial candidate of his or her  
23 political party who received the highest number of votes at the  
24 last general election at which a judicial officer from the same  
25 circuit or subcircuit was regularly scheduled to be elected,  
26 but in no event less than 500 signatures.

1 (i) Precinct, ward, and township committeeperson. If a  
2 candidate seeks to run for precinct committeeperson, then the  
3 candidate's petition for nomination must contain at least 10  
4 signatures of the primary electors of his or her party for the  
5 precinct. If a candidate seeks to run for ward committeeperson,  
6 then the candidate's petition for nomination must contain no  
7 less than the number of signatures equal to 10% of the primary  
8 electors of his or her party of the ward, but no more than 16%  
9 of those same electors; provided that the maximum number of  
10 signatures may be 50 more than the minimum number, whichever is  
11 greater. If a candidate seeks to run for township  
12 committeeperson, then the candidate's petition for nomination  
13 must contain no less than the number of signatures equal to 5%  
14 of the primary electors of his or her party of the township,  
15 but no more than 8% of those same electors; provided that the  
16 maximum number of signatures may be 50 more than the minimum  
17 number, whichever is greater.

18 (j) State's attorney or regional superintendent of schools  
19 for multiple counties. If a candidate seeks to run for State's  
20 attorney or regional Superintendent of Schools who serves more  
21 than one county, then the candidate's petition for nomination  
22 must contain at least the number of signatures equal to 0.5% of  
23 the primary electors of his or her party in the territory  
24 comprising the counties.

25 (k) If for a candidate for member of the Illinois Commerce  
26 Commission, by at least 0.5% of the primary electors of his or

1 her party in the district in which the person is a candidate  
2 for nomination.

3 (1) ~~(k)~~ Any other office. If a candidate seeks any other  
4 office, then the candidate's petition for nomination must  
5 contain at least the number of signatures equal to 0.5% of the  
6 registered voters of the political subdivision, district, or  
7 division for which the nomination is made or 25 signatures,  
8 whichever is greater.

9 For purposes of this Section the number of primary electors  
10 shall be determined by taking the total vote cast, in the  
11 applicable district, for the candidate for that political party  
12 who received the highest number of votes, statewide, at the  
13 last general election in the State at which electors for  
14 President of the United States were elected. For political  
15 subdivisions, the number of primary electors shall be  
16 determined by taking the total vote cast for the candidate for  
17 that political party who received the highest number of votes  
18 in the political subdivision at the last regular election at  
19 which an officer was regularly scheduled to be elected from  
20 that subdivision. For wards or districts of political  
21 subdivisions, the number of primary electors shall be  
22 determined by taking the total vote cast for the candidate for  
23 that political party who received the highest number of votes  
24 in the ward or district at the last regular election at which  
25 an officer was regularly scheduled to be elected from that ward  
26 or district.

1 A "qualified primary elector" of a party may not sign  
2 petitions for or be a candidate in the primary of more than one  
3 party.

4 The changes made to this Section of this amendatory Act of  
5 the 93rd General Assembly are declarative of existing law,  
6 except for item (3) of subsection (d).

7 Petitions of candidates for nomination for offices herein  
8 specified, to be filed with the same officer, may contain the  
9 names of 2 or more candidates of the same political party for  
10 the same or different offices.

11 (Source: P.A. 93-574, eff. 8-21-03; 94-645, eff. 8-22-05.)

12 (10 ILCS 5/7-12) (from Ch. 46, par. 7-12)

13 Sec. 7-12. Filing of petitions for nomination. All  
14 petitions for nomination shall be filed by mail or in person as  
15 follows:

16 (1) Where the nomination is to be made for a State,  
17 congressional, Illinois Commerce Commission, or judicial  
18 office, or for any office a nomination for which is made for a  
19 territorial division or district which comprises more than one  
20 county or is partly in one county and partly in another county  
21 or counties, then, except as otherwise provided in this  
22 Section, such petition for nomination shall be filed in the  
23 principal office of the State Board of Elections not more than  
24 99 and not less than 92 days prior to the date of the primary,  
25 but, in the case of petitions for nomination to fill a vacancy

1 by special election in the office of representative in Congress  
2 from this State, such petition for nomination shall be filed in  
3 the principal office of the State Board of Elections not more  
4 than 57 days and not less than 50 days prior to the date of the  
5 primary.

6 Where a vacancy occurs in the office of Supreme, Appellate  
7 or Circuit Court Judge within the 3-week period preceding the  
8 92nd day before a general primary election, petitions for  
9 nomination for the office in which the vacancy has occurred  
10 shall be filed in the principal office of the State Board of  
11 Elections not more than 78 nor less than 71 days prior to the  
12 date of the general primary election.

13 Where the nomination is to be made for delegates or  
14 alternate delegates to a national nominating convention, then  
15 such petition for nomination shall be filed in the principal  
16 office of the State Board of Elections not more than 99 and not  
17 less than 92 days prior to the date of the primary; provided,  
18 however, that if the rules or policies of a national political  
19 party conflict with such requirements for filing petitions for  
20 nomination for delegates or alternate delegates to a national  
21 nominating convention, the chairman of the State central  
22 committee of such national political party shall notify the  
23 Board in writing, citing by reference the rules or policies of  
24 the national political party in conflict, and in such case the  
25 Board shall direct such petitions to be filed not more than 69  
26 and not less than 62 days prior to the date of the primary.

1           (2) Where the nomination is to be made for a county office  
2 or trustee of a sanitary district then such petition shall be  
3 filed in the office of the county clerk not more than 99 nor  
4 less than 92 days prior to the date of the primary.

5           (3) Where the nomination is to be made for a municipal or  
6 township office, such petitions for nomination shall be filed  
7 in the office of the local election official, not more than 78  
8 nor less than 71 days prior to the date of the primary;  
9 provided, where a municipality's or township's boundaries are  
10 coextensive with or are entirely within the jurisdiction of a  
11 municipal board of election commissioners, the petitions shall  
12 be filed in the office of such board; and provided, that  
13 petitions for the office of multi-township assessor shall be  
14 filed with the election authority.

15           (4) The petitions of candidates for State central  
16 committeeman shall be filed in the principal office of the  
17 State Board of Elections not more than 99 nor less than 92 days  
18 prior to the date of the primary.

19           (5) Petitions of candidates for precinct, township or ward  
20 committeemen shall be filed in the office of the county clerk  
21 not more than 99 nor less than 92 days prior to the date of the  
22 primary.

23           (6) The State Board of Elections and the various election  
24 authorities and local election officials with whom such  
25 petitions for nominations are filed shall specify the place  
26 where filings shall be made and upon receipt shall endorse



1 thereon the day and hour on which each petition was filed. All  
2 petitions filed by persons waiting in line as of 8:00 a.m. on  
3 the first day for filing, or as of the normal opening hour of  
4 the office involved on such day, shall be deemed filed as of  
5 8:00 a.m. or the normal opening hour, as the case may be.  
6 Petitions filed by mail and received after midnight of the  
7 first day for filing and in the first mail delivery or pickup  
8 of that day shall be deemed as filed as of 8:00 a.m. of that day  
9 or as of the normal opening hour of such day, as the case may  
10 be. All petitions received thereafter shall be deemed as filed  
11 in the order of actual receipt. Where 2 or more petitions are  
12 received simultaneously, the State Board of Elections or the  
13 various election authorities or local election officials with  
14 whom such petitions are filed shall break ties and determine  
15 the order of filing, by means of a lottery or other fair and  
16 impartial method of random selection approved by the State  
17 Board of Elections. Such lottery shall be conducted within 9  
18 days following the last day for petition filing and shall be  
19 open to the public. Seven days written notice of the time and  
20 place of conducting such random selection shall be given by the  
21 State Board of Elections to the chairman of the State central  
22 committee of each established political party, and by each  
23 election authority or local election official, to the County  
24 Chairman of each established political party, and to each  
25 organization of citizens within the election jurisdiction  
26 which was entitled, under this Article, at the next preceding

1 election, to have pollwatchers present on the day of election.  
2 The State Board of Elections, election authority or local  
3 election official shall post in a conspicuous, open and public  
4 place, at the entrance of the office, notice of the time and  
5 place of such lottery. The State Board of Elections shall adopt  
6 rules and regulations governing the procedures for the conduct  
7 of such lottery. All candidates shall be certified in the order  
8 in which their petitions have been filed. Where candidates have  
9 filed simultaneously, they shall be certified in the order  
10 determined by lot and prior to candidates who filed for the  
11 same office at a later time.

12 (7) The State Board of Elections or the appropriate  
13 election authority or local election official with whom such a  
14 petition for nomination is filed shall notify the person for  
15 whom a petition for nomination has been filed of the obligation  
16 to file statements of organization, reports of campaign  
17 contributions, and annual reports of campaign contributions  
18 and expenditures under Article 9 of this Act. Such notice shall  
19 be given in the manner prescribed by paragraph (7) of Section  
20 9-16 of this Code.

21 (8) Nomination papers filed under this Section are not  
22 valid if the candidate named therein fails to file a statement  
23 of economic interests as required by the Illinois Governmental  
24 Ethics Act in relation to his candidacy with the appropriate  
25 officer by the end of the period for the filing of nomination  
26 papers unless he has filed a statement of economic interests in

1 relation to the same governmental unit with that officer within  
2 a year preceding the date on which such nomination papers were  
3 filed. If the nomination papers of any candidate and the  
4 statement of economic interest of that candidate are not  
5 required to be filed with the same officer, the candidate must  
6 file with the officer with whom the nomination papers are filed  
7 a receipt from the officer with whom the statement of economic  
8 interests is filed showing the date on which such statement was  
9 filed. Such receipt shall be so filed not later than the last  
10 day on which nomination papers may be filed.

11 (9) Any person for whom a petition for nomination, or for  
12 committeeman or for delegate or alternate delegate to a  
13 national nominating convention has been filed may cause his  
14 name to be withdrawn by request in writing, signed by him and  
15 duly acknowledged before an officer qualified to take  
16 acknowledgments of deeds, and filed in the principal or  
17 permanent branch office of the State Board of Elections or with  
18 the appropriate election authority or local election official,  
19 not later than the date of certification of candidates for the  
20 consolidated primary or general primary ballot. No names so  
21 withdrawn shall be certified or printed on the primary ballot.  
22 If petitions for nomination have been filed for the same person  
23 with respect to more than one political party, his name shall  
24 not be certified nor printed on the primary ballot of any  
25 party. If petitions for nomination have been filed for the same  
26 person for 2 or more offices which are incompatible so that the

1 same person could not serve in more than one of such offices if  
2 elected, that person must withdraw as a candidate for all but  
3 one of such offices within the 5 business days following the  
4 last day for petition filing. If he fails to withdraw as a  
5 candidate for all but one of such offices within such time his  
6 name shall not be certified, nor printed on the primary ballot,  
7 for any office. For the purpose of the foregoing provisions, an  
8 office in a political party is not incompatible with any other  
9 office.

10 (10) (a) Notwithstanding the provisions of any other  
11 statute, no primary shall be held for an established  
12 political party in any township, municipality, or ward  
13 thereof, where the nomination of such party for every  
14 office to be voted upon by the electors of such township,  
15 municipality, or ward thereof, is uncontested. Whenever a  
16 political party's nomination of candidates is uncontested  
17 as to one or more, but not all, of the offices to be voted  
18 upon by the electors of a township, municipality, or ward  
19 thereof, then a primary shall be held for that party in  
20 such township, municipality, or ward thereof; provided  
21 that the primary ballot shall not include those offices  
22 within such township, municipality, or ward thereof, for  
23 which the nomination is uncontested. For purposes of this  
24 Article, the nomination of an established political party  
25 of a candidate for election to an office shall be deemed to  
26 be uncontested where not more than the number of persons to

1 be nominated have timely filed valid nomination papers  
2 seeking the nomination of such party for election to such  
3 office.

4 (b) Notwithstanding the provisions of any other  
5 statute, no primary election shall be held for an  
6 established political party for any special primary  
7 election called for the purpose of filling a vacancy in the  
8 office of representative in the United States Congress  
9 where the nomination of such political party for said  
10 office is uncontested. For the purposes of this Article,  
11 the nomination of an established political party of a  
12 candidate for election to said office shall be deemed to be  
13 uncontested where not more than the number of persons to be  
14 nominated have timely filed valid nomination papers  
15 seeking the nomination of such established party for  
16 election to said office. This subsection (b) shall not  
17 apply if such primary election is conducted on a regularly  
18 scheduled election day.

19 (c) Notwithstanding the provisions in subparagraph (a)  
20 and (b) of this paragraph (10), whenever a person who has  
21 not timely filed valid nomination papers and who intends to  
22 become a write-in candidate for a political party's  
23 nomination for any office for which the nomination is  
24 uncontested files a written statement or notice of that  
25 intent with the State Board of Elections or the local  
26 election official with whom nomination papers for such

1 office are filed, a primary ballot shall be prepared and a  
2 primary shall be held for that office. Such statement or  
3 notice shall be filed on or before the date established in  
4 this Article for certifying candidates for the primary  
5 ballot. Such statement or notice shall contain (i) the name  
6 and address of the person intending to become a write-in  
7 candidate, (ii) a statement that the person is a qualified  
8 primary elector of the political party from whom the  
9 nomination is sought, (iii) a statement that the person  
10 intends to become a write-in candidate for the party's  
11 nomination, and (iv) the office the person is seeking as a  
12 write-in candidate. An election authority shall have no  
13 duty to conduct a primary and prepare a primary ballot for  
14 any office for which the nomination is uncontested unless a  
15 statement or notice meeting the requirements of this  
16 Section is filed in a timely manner.

17 (11) If multiple sets of nomination papers are filed for a  
18 candidate to the same office, the State Board of Elections,  
19 appropriate election authority or local election official  
20 where the petitions are filed shall within 2 business days  
21 notify the candidate of his or her multiple petition filings  
22 and that the candidate has 3 business days after receipt of the  
23 notice to notify the State Board of Elections, appropriate  
24 election authority or local election official that he or she  
25 may cancel prior sets of petitions. If the candidate notifies  
26 the State Board of Elections, appropriate election authority or

1 local election official, the last set of petitions filed shall  
2 be the only petitions to be considered valid by the State Board  
3 of Elections, election authority or local election official. If  
4 the candidate fails to notify the State Board of Elections,  
5 election authority or local election official then only the  
6 first set of petitions filed shall be valid and all subsequent  
7 petitions shall be void.

8 (12) All nominating petitions shall be available for public  
9 inspection and shall be preserved for a period of not less than  
10 6 months.

11 (Source: P.A. 86-867; 86-873; 86-875; 86-1028; 86-1089;  
12 87-1052.)

13 (10 ILCS 5/10-9) (from Ch. 46, par. 10-9)

14 Sec. 10-9. The following electoral boards are designated  
15 for the purpose of hearing and passing upon the objector's  
16 petition described in Section 10-8.

17 1. The State Board of Elections will hear and pass upon  
18 objections to the nominations of candidates for State offices,  
19 nominations of candidates for congressional, legislative and  
20 judicial offices of districts, subcircuits, or circuits  
21 situated in more than one county, nominations of candidates for  
22 members of the Illinois Commerce Commission, nominations of  
23 candidates for the offices of State's attorney or regional  
24 superintendent of schools to be elected from more than one  
25 county, and petitions for proposed amendments to the

1 Constitution of the State of Illinois as provided for in  
2 Section 3 of Article XIV of the Constitution.

3 2. The county officers electoral board to hear and pass  
4 upon objections to the nominations of candidates for county  
5 offices, for congressional, legislative and judicial offices  
6 of a district, subcircuit, or circuit coterminous with or less  
7 than a county, for school trustees to be voted for by the  
8 electors of the county or by the electors of a township of the  
9 county, for the office of multi-township assessor where  
10 candidates for such office are nominated in accordance with  
11 this Code, and for all special district offices, shall be  
12 composed of the county clerk, or an assistant designated by the  
13 county clerk, the State's attorney of the county or an  
14 Assistant State's Attorney designated by the State's Attorney,  
15 and the clerk of the circuit court, or an assistant designated  
16 by the clerk of the circuit court, of the county, of whom the  
17 county clerk or his designee shall be the chairman, except that  
18 in any county which has established a county board of election  
19 commissioners that board shall constitute the county officers  
20 electoral board ex-officio.

21 3. The municipal officers electoral board to hear and pass  
22 upon objections to the nominations of candidates for officers  
23 of municipalities shall be composed of the mayor or president  
24 of the board of trustees of the city, village or incorporated  
25 town, and the city, village or incorporated town clerk, and one  
26 member of the city council or board of trustees, that member



1 being designated who is eligible to serve on the electoral  
2 board and has served the greatest number of years as a member  
3 of the city council or board of trustees, of whom the mayor or  
4 president of the board of trustees shall be the chairman.

5 4. The township officers electoral board to pass upon  
6 objections to the nominations of township officers shall be  
7 composed of the township supervisor, the town clerk, and that  
8 eligible town trustee elected in the township who has had the  
9 longest term of continuous service as town trustee, of whom the  
10 township supervisor shall be the chairman.

11 5. The education officers electoral board to hear and pass  
12 upon objections to the nominations of candidates for offices in  
13 school or community college districts shall be composed of the  
14 presiding officer of the school or community college district  
15 board, who shall be the chairman, the secretary of the school  
16 or community college district board and the eligible elected  
17 school or community college board member who has the longest  
18 term of continuous service as a board member.

19 6. In all cases, however, where the Congressional or  
20 Legislative district is wholly within the jurisdiction of a  
21 board of election commissioners and in all cases where the  
22 school district or special district is wholly within the  
23 jurisdiction of a municipal board of election commissioners and  
24 in all cases where the municipality or township is wholly or  
25 partially within the jurisdiction of a municipal board of  
26 election commissioners, the board of election commissioners

1 shall ex-officio constitute the electoral board.

2 For special districts situated in more than one county, the  
3 county officers electoral board of the county in which the  
4 principal office of the district is located has jurisdiction to  
5 hear and pass upon objections. For purposes of this Section,  
6 "special districts" means all political subdivisions other  
7 than counties, municipalities, townships and school and  
8 community college districts.

9 In the event that any member of the appropriate board is a  
10 candidate for the office with relation to which the objector's  
11 petition is filed, he shall not be eligible to serve on that  
12 board and shall not act as a member of the board and his place  
13 shall be filled as follows:

14 a. In the county officers electoral board by the county  
15 treasurer, and if he or she is ineligible to serve, by the  
16 sheriff of the county.

17 b. In the municipal officers electoral board by the  
18 eligible elected city council or board of trustees member  
19 who has served the second greatest number of years as a  
20 city council or board of trustees member.

21 c. In the township officers electoral board by the  
22 eligible elected town trustee who has had the second  
23 longest term of continuous service as a town trustee.

24 d. In the education officers electoral board by the  
25 eligible elected school or community college district  
26 board member who has had the second longest term of

1 continuous service as a board member.

2 In the event that the chairman of the electoral board is  
3 ineligible to act because of the fact that he is a candidate  
4 for the office with relation to which the objector's petition  
5 is filed, then the substitute chosen under the provisions of  
6 this Section shall be the chairman; In this case, the officer  
7 or board with whom the objector's petition is filed, shall  
8 transmit the certificate of nomination or nomination papers as  
9 the case may be, and the objector's petition to the substitute  
10 chairman of the electoral board.

11 When 2 or more eligible individuals, by reason of their  
12 terms of service on a city council or board of trustees,  
13 township board of trustees, or school or community college  
14 district board, qualify to serve on an electoral board, the one  
15 to serve shall be chosen by lot.

16 Any vacancies on an electoral board not otherwise filled  
17 pursuant to this Section shall be filled by public members  
18 appointed by the Chief Judge of the Circuit Court for the  
19 county wherein the electoral board hearing is being held upon  
20 notification to the Chief Judge of such vacancies. The Chief  
21 Judge shall be so notified by a member of the electoral board  
22 or the officer or board with whom the objector's petition was  
23 filed. In the event that none of the individuals designated by  
24 this Section to serve on the electoral board are eligible, the  
25 chairman of an electoral board shall be designated by the Chief  
26 Judge.

1 (Source: P.A. 94-645, eff. 8-22-05.)

2 (10 ILCS 5/22-1) (from Ch. 46, par. 22-1)

3 Sec. 22-1. Abstracts of votes. Within 21 days after the  
4 close of the election at which candidates for offices  
5 hereinafter named in this Section are voted upon, the election  
6 authorities of the respective counties shall open the returns  
7 and make abstracts of the votes on a separate sheet for each of  
8 the following:

9 A. For Governor and Lieutenant Governor;

10 B. For State officers;

11 C. For presidential electors;

12 D. For United States Senators and Representatives to  
13 Congress;

14 E. For judges of the Supreme Court;

15 F. For judges of the Appellate Court;

16 G. For judges of the circuit court;

17 H. For Senators and Representatives to the General  
18 Assembly;

19 I. For State's Attorneys elected from 2 or more counties;

20 J. For amendments to the Constitution, and for other  
21 propositions submitted to the electors of the entire State;

22 K. For county officers and for propositions submitted to  
23 the electors of the county only;

24 L. For Regional Superintendent of Schools;

25 M. For trustees of Sanitary Districts; ~~and~~

1 N. For Trustee of a Regional Board of School Trustees; ~~and~~  
2 O. For members of the Illinois Commerce Commission.

3 Each sheet shall report the returns by precinct or ward.

4 Multiple originals of each of the sheets shall be prepared  
5 and one of each shall be turned over to the chairman of the  
6 county central committee of each of the then existing  
7 established political parties, as defined in Section 10-2, or  
8 his duly authorized representative immediately after the  
9 completion of the entries on the sheets and before the totals  
10 have been compiled.

11 The foregoing abstracts shall be preserved by the election  
12 authority in its office.

13 Whenever any county clerk is unable to canvass the vote,  
14 the deputy county clerk or a designee of the county clerk shall  
15 serve in his or her place.

16 The powers and duties of the election authority canvassing  
17 the votes are limited to those specified in this Section.

18 No person who is shown by the election authority's  
19 ~~canvassing board's~~ proclamation to have been elected at the  
20 consolidated election or general election as a write-in  
21 candidate shall take office unless that person has first filed  
22 with the certifying office or board a statement of candidacy  
23 pursuant to Section 7-10 or Section 10-5, a statement pursuant  
24 to Section 7-10.1, and a receipt for filing a statement of  
25 economic interests in relation to the unit of government to  
26 which he or she has been elected. For officers elected at the

1 consolidated election, the certifying officer shall notify the  
2 election authority of the receipt of those documents, and the  
3 county clerk shall issue the certification of election under  
4 the provisions of Section 22-18.

5 (Source: P.A. 93-847, eff. 7-30-04; 94-645, eff. 8-22-05;  
6 94-647, eff. 1-1-06; revised 10-4-05.)

7 (10 ILCS 5/22-7) (from Ch. 46, par. 22-7)

8 Sec. 22-7. Canvass of votes; declaration and proclamation  
9 of result. The State Board of Elections, shall proceed within  
10 31 days after the election, and sooner if all the returns are  
11 received, to canvass the votes given for United States Senators  
12 and Representatives to Congress, State executive officers,  
13 members of the Illinois Commerce Commission, judges of the  
14 Supreme Court, judges of the Appellate Court, judges of the  
15 Circuit Court, Senators, Representatives to the General  
16 Assembly, State's Attorneys and Regional Superintendents of  
17 Schools elected from 2 or more counties, respectively, and the  
18 persons having the highest number of votes for the respective  
19 offices shall be declared duly elected, but if it appears that  
20 more than the number of persons to be elected have the highest  
21 and an equal number of votes for the same office, the electoral  
22 board shall decide by lot which of such persons shall be  
23 elected; and to each person duly elected, the Governor shall  
24 give a certificate of election or commission, as the case may  
25 require, and shall cause proclamation to be made of the result

1 of the canvass, and they shall at the same time and in the same  
2 manner, canvass the vote cast upon amendments to the  
3 Constitution, and upon other propositions submitted to the  
4 electors of the entire State; and the Governor shall cause to  
5 be made such proclamation of the result of the canvass as the  
6 statutes elsewhere provide. The State Board of Elections shall  
7 transmit to the State Comptroller a list of the persons elected  
8 to the various offices. The State Board of Elections shall also  
9 transmit to the Supreme Court the names of persons elected to  
10 judgeships in adversary elections and the names of judges who  
11 fail to win retention in office.

12 No person who is shown by the canvassing board's  
13 proclamation to have been elected at the consolidated election  
14 or general election as a write-in candidate shall take office  
15 unless that person has first filed with the certifying office  
16 or board a statement of candidacy pursuant to Section 7-10 or  
17 Section 10-5, a statement pursuant to Section 7-10.1, and a  
18 receipt for filing a statement of economic interests in  
19 relation to the unit of government to which he or she has been  
20 elected. For officers elected at the consolidated election, the  
21 certifying officer shall notify the election authority of the  
22 receipt of those documents, and the county clerk shall issue  
23 the certification of election under the provisions of Section  
24 22-18.

25 (Source: P.A. 93-847, eff. 7-30-04; 94-645, eff. 8-22-05.)

1 Section 10. The Illinois Income Tax Act is amended by  
2 adding Sections 218 and 219 as follows:

3 (35 ILCS 5/218 new)

4 Sec. 218. Credit for costs of residential electric service.

5 (a) For taxable years ending on or after December 31, 2007  
6 and on or before December 30, 2010, each individual taxpayer  
7 who, during the taxable year, purchases electricity for his or  
8 her residence from AmerenIP, AmerenCILCO, or AmerenCIPS is  
9 entitled to a credit against the tax imposed under subsections  
10 (a) and (b) of Section 201 in an amount equal to 10% of the  
11 annual cost of that electricity, but not to exceed \$500.

12 (b) On or before January 31 of each year, AmerenIP,  
13 AmerenCILCO, and AmerenCIPS must mail each customer who  
14 purchased residential electric service during the previous  
15 year a statement of the annual cost of that electricity.

16 (c) The credit under this Section may not be carried  
17 forward or back and may not reduce the taxpayer's liability to  
18 less than zero.

19 (35 ILCS 5/219 new)

20 Sec. 219. Credit for costs of small-business electric  
21 service.

22 (a) For taxable years ending on or after December 31, 2007  
23 and on or before December 30, 2010, each taxpayer who, during  
24 the taxable year, purchases electricity for the purpose of a



1 small business from AmerenIP, AmerenCILCO, or AmerenCIPS is  
2 entitled to a credit against the tax imposed under subsections  
3 (a) and (b) of Section 201 in an amount equal to 5% of the  
4 annual cost of that electricity, but not to exceed \$1,000.

5 (b) For partners, shareholders of Subchapter S  
6 corporations, and owners of limited liability companies, if the  
7 liability company is treated as a partnership for purposes of  
8 federal and State income taxation, there is allowed a credit  
9 under this Section to be determined in accordance with the  
10 determination of income and distributive share of income under  
11 Sections 702 and 704 and Subchapter S of the Internal Revenue  
12 Code.

13 (c) On or before January 31 of each year, AmerenIP,  
14 AmerenCILCO, and AmerenCIPS must mail, to each customer who  
15 purchased electric service during the previous year for a small  
16 business, a statement of the annual cost of that electricity.

17 (d) The credit under this Section may not be carried  
18 forward or back and may not reduce the taxpayer's liability to  
19 less than zero.

20 (e) For the purpose of this Section, "small business" means  
21 a business concern with less than 50 employees.

22 Section 15. The Motor Fuel Tax Law is amended by changing  
23 Section 8 as follows:

24 (35 ILCS 505/8) (from Ch. 120, par. 424)

1           Sec. 8. Except as provided in Section 8a, subdivision  
2           (h) (1) of Section 12a, Section 13a.6, and items 13, 14, 15, and  
3           16 of Section 15, all money received by the Department under  
4           this Act, including payments made to the Department by member  
5           jurisdictions participating in the International Fuel Tax  
6           Agreement, shall be deposited in a special fund in the State  
7           treasury, to be known as the "Motor Fuel Tax Fund", and shall  
8           be used as follows:

9           (a) 2 1/2 cents per gallon of the tax collected on special  
10          fuel under paragraph (b) of Section 2 and Section 13a of this  
11          Act shall be transferred to the State Construction Account Fund  
12          in the State Treasury;

13          (b) \$420,000 shall be transferred each month to the State  
14          Boating Act Fund to be used by the Department of Natural  
15          Resources for the purposes specified in Article X of the Boat  
16          Registration and Safety Act;

17          (c) \$2,250,000 shall be transferred each month to the Grade  
18          Crossing Protection Fund to be used as follows: not less than  
19          \$6,000,000 each fiscal year shall be used for the construction  
20          or reconstruction of rail highway grade separation structures;  
21          \$2,250,000 in fiscal year 2004 and each fiscal year thereafter  
22          shall be transferred to the Transportation Regulatory Fund and  
23          shall be accounted for as part of the rail carrier portion of  
24          such funds and shall be used to pay the cost of administration  
25          of the Illinois Commerce Commission's railroad safety program  
26          in connection with its duties under subsection (3) of Section

1 18c-7401 of the Illinois Vehicle Code, with the remainder to be  
2 used by the Department of Transportation upon order of the  
3 Illinois Commerce Commission, to pay that part of the cost  
4 apportioned by such Commission to the State to cover the  
5 interest of the public in the use of highways, roads, streets,  
6 or pedestrian walkways in the county highway system, township  
7 and district road system, or municipal street system as defined  
8 in the Illinois Highway Code, as the same may from time to time  
9 be amended, for separation of grades, for installation,  
10 construction or reconstruction of crossing protection or  
11 reconstruction, alteration, relocation including construction  
12 or improvement of any existing highway necessary for access to  
13 property or improvement of any grade crossing including the  
14 necessary highway approaches thereto of any railroad across the  
15 highway or public road, or for the installation, construction,  
16 reconstruction, or maintenance of a pedestrian walkway over or  
17 under a railroad right-of-way, as provided for in and in  
18 accordance with Section 18c-7401 of the Illinois Vehicle Code.  
19 The Commission shall not order more than \$2,000,000 per year in  
20 Grade Crossing Protection Fund moneys for pedestrian walkways.  
21 In entering orders for projects for which payments from the  
22 Grade Crossing Protection Fund will be made, the Commission  
23 shall account for expenditures authorized by the orders on a  
24 cash rather than an accrual basis. For purposes of this  
25 requirement an "accrual basis" assumes that the total cost of  
26 the project is expended in the fiscal year in which the order

1 is entered, while a "cash basis" allocates the cost of the  
2 project among fiscal years as expenditures are actually made.  
3 To meet the requirements of this subsection, the Illinois  
4 Commerce Commission shall develop annual and 5-year project  
5 plans of rail crossing capital improvements that will be paid  
6 for with moneys from the Grade Crossing Protection Fund. The  
7 annual project plan shall identify projects for the succeeding  
8 fiscal year and the 5-year project plan shall identify projects  
9 for the 5 directly succeeding fiscal years. The Commission  
10 shall submit the annual and 5-year project plans for this Fund  
11 to the Governor, the President of the Senate, the Senate  
12 Minority Leader, the Speaker of the House of Representatives,  
13 and the Minority Leader of the House of Representatives on the  
14 first Wednesday in April of each year;

15 (c-5) \$4,066,667 must be transferred each month to the  
16 Supplemental Low-Income Energy Assistance Fund to be used by  
17 the Department of Healthcare and Family Services for the  
18 purposes of LIHEAP, established under the Energy Assistance Act  
19 of 1989.

20 (d) of the amount remaining after allocations provided for  
21 in subsections (a), (b), ~~and (c)~~, and (c-5) a sufficient amount  
22 shall be reserved to pay all of the following:

23 (1) the costs of the Department of Revenue in  
24 administering this Act;

25 (2) the costs of the Department of Transportation in  
26 performing its duties imposed by the Illinois Highway Code

1 for supervising the use of motor fuel tax funds apportioned  
2 to municipalities, counties and road districts;

3 (3) refunds provided for in Section 13 of this Act and  
4 under the terms of the International Fuel Tax Agreement  
5 referenced in Section 14a;

6 (4) from October 1, 1985 until June 30, 1994, the  
7 administration of the Vehicle Emissions Inspection Law,  
8 which amount shall be certified monthly by the  
9 Environmental Protection Agency to the State Comptroller  
10 and shall promptly be transferred by the State Comptroller  
11 and Treasurer from the Motor Fuel Tax Fund to the Vehicle  
12 Inspection Fund, and for the period July 1, 1994 through  
13 June 30, 2000, one-twelfth of \$25,000,000 each month, for  
14 the period July 1, 2000 through June 30, 2003, one-twelfth  
15 of \$30,000,000 each month, and \$15,000,000 on July 1, 2003,  
16 and \$15,000,000 on January 1, 2004, and \$15,000,000 on each  
17 July 1 and October 1, or as soon thereafter as may be  
18 practical, during the period July 1, 2004 through June 30,  
19 2008, for the administration of the Vehicle Emissions  
20 Inspection Law of 1995, to be transferred by the State  
21 Comptroller and Treasurer from the Motor Fuel Tax Fund into  
22 the Vehicle Inspection Fund;

23 (5) amounts ordered paid by the Court of Claims; and

24 (6) payment of motor fuel use taxes due to member  
25 jurisdictions under the terms of the International Fuel Tax  
26 Agreement. The Department shall certify these amounts to

1 the Comptroller by the 15th day of each month; the  
2 Comptroller shall cause orders to be drawn for such  
3 amounts, and the Treasurer shall administer those amounts  
4 on or before the last day of each month;

5 (e) after allocations for the purposes set forth in  
6 subsections (a), (b), (c), (c-5), and (d), the remaining amount  
7 shall be apportioned as follows:

8 (1) Until January 1, 2000, 58.4%, and beginning January  
9 1, 2000, 45.6% shall be deposited as follows:

10 (A) 37% into the State Construction Account Fund,  
11 and

12 (B) 63% into the Road Fund, \$1,250,000 of which  
13 shall be reserved each month for the Department of  
14 Transportation to be used in accordance with the  
15 provisions of Sections 6-901 through 6-906 of the  
16 Illinois Highway Code;

17 (2) Until January 1, 2000, 41.6%, and beginning January  
18 1, 2000, 54.4% shall be transferred to the Department of  
19 Transportation to be distributed as follows:

20 (A) 49.10% to the municipalities of the State,

21 (B) 16.74% to the counties of the State having  
22 1,000,000 or more inhabitants,

23 (C) 18.27% to the counties of the State having less  
24 than 1,000,000 inhabitants,

25 (D) 15.89% to the road districts of the State.

26 As soon as may be after the first day of each month the

1 Department of Transportation shall allot to each municipality  
2 its share of the amount apportioned to the several  
3 municipalities which shall be in proportion to the population  
4 of such municipalities as determined by the last preceding  
5 municipal census if conducted by the Federal Government or  
6 Federal census. If territory is annexed to any municipality  
7 subsequent to the time of the last preceding census the  
8 corporate authorities of such municipality may cause a census  
9 to be taken of such annexed territory and the population so  
10 ascertained for such territory shall be added to the population  
11 of the municipality as determined by the last preceding census  
12 for the purpose of determining the allotment for that  
13 municipality. If the population of any municipality was not  
14 determined by the last Federal census preceding any  
15 apportionment, the apportionment to such municipality shall be  
16 in accordance with any census taken by such municipality. Any  
17 municipal census used in accordance with this Section shall be  
18 certified to the Department of Transportation by the clerk of  
19 such municipality, and the accuracy thereof shall be subject to  
20 approval of the Department which may make such corrections as  
21 it ascertains to be necessary.

22 As soon as may be after the first day of each month the  
23 Department of Transportation shall allot to each county its  
24 share of the amount apportioned to the several counties of the  
25 State as herein provided. Each allotment to the several  
26 counties having less than 1,000,000 inhabitants shall be in

1 proportion to the amount of motor vehicle license fees received  
2 from the residents of such counties, respectively, during the  
3 preceding calendar year. The Secretary of State shall, on or  
4 before April 15 of each year, transmit to the Department of  
5 Transportation a full and complete report showing the amount of  
6 motor vehicle license fees received from the residents of each  
7 county, respectively, during the preceding calendar year. The  
8 Department of Transportation shall, each month, use for  
9 allotment purposes the last such report received from the  
10 Secretary of State.

11 As soon as may be after the first day of each month, the  
12 Department of Transportation shall allot to the several  
13 counties their share of the amount apportioned for the use of  
14 road districts. The allotment shall be apportioned among the  
15 several counties in the State in the proportion which the total  
16 mileage of township or district roads in the respective  
17 counties bears to the total mileage of all township and  
18 district roads in the State. Funds allotted to the respective  
19 counties for the use of road districts therein shall be  
20 allocated to the several road districts in the county in the  
21 proportion which the total mileage of such township or district  
22 roads in the respective road districts bears to the total  
23 mileage of all such township or district roads in the county.  
24 After July 1 of any year, no allocation shall be made for any  
25 road district unless it levied a tax for road and bridge  
26 purposes in an amount which will require the extension of such



1 tax against the taxable property in any such road district at a  
2 rate of not less than either .08% of the value thereof, based  
3 upon the assessment for the year immediately prior to the year  
4 in which such tax was levied and as equalized by the Department  
5 of Revenue or, in DuPage County, an amount equal to or greater  
6 than \$12,000 per mile of road under the jurisdiction of the  
7 road district, whichever is less. If any road district has  
8 levied a special tax for road purposes pursuant to Sections  
9 6-601, 6-602 and 6-603 of the Illinois Highway Code, and such  
10 tax was levied in an amount which would require extension at a  
11 rate of not less than .08% of the value of the taxable property  
12 thereof, as equalized or assessed by the Department of Revenue,  
13 or, in DuPage County, an amount equal to or greater than  
14 \$12,000 per mile of road under the jurisdiction of the road  
15 district, whichever is less, such levy shall, however, be  
16 deemed a proper compliance with this Section and shall qualify  
17 such road district for an allotment under this Section. If a  
18 township has transferred to the road and bridge fund money  
19 which, when added to the amount of any tax levy of the road  
20 district would be the equivalent of a tax levy requiring  
21 extension at a rate of at least .08%, or, in DuPage County, an  
22 amount equal to or greater than \$12,000 per mile of road under  
23 the jurisdiction of the road district, whichever is less, such  
24 transfer, together with any such tax levy, shall be deemed a  
25 proper compliance with this Section and shall qualify the road  
26 district for an allotment under this Section.

1           In counties in which a property tax extension limitation is  
2 imposed under the Property Tax Extension Limitation Law, road  
3 districts may retain their entitlement to a motor fuel tax  
4 allotment if, at the time the property tax extension limitation  
5 was imposed, the road district was levying a road and bridge  
6 tax at a rate sufficient to entitle it to a motor fuel tax  
7 allotment and continues to levy the maximum allowable amount  
8 after the imposition of the property tax extension limitation.  
9 Any road district may in all circumstances retain its  
10 entitlement to a motor fuel tax allotment if it levied a road  
11 and bridge tax in an amount that will require the extension of  
12 the tax against the taxable property in the road district at a  
13 rate of not less than 0.08% of the assessed value of the  
14 property, based upon the assessment for the year immediately  
15 preceding the year in which the tax was levied and as equalized  
16 by the Department of Revenue or, in DuPage County, an amount  
17 equal to or greater than \$12,000 per mile of road under the  
18 jurisdiction of the road district, whichever is less.

19           As used in this Section the term "road district" means any  
20 road district, including a county unit road district, provided  
21 for by the Illinois Highway Code; and the term "township or  
22 district road" means any road in the township and district road  
23 system as defined in the Illinois Highway Code. For the  
24 purposes of this Section, "road district" also includes park  
25 districts, forest preserve districts and conservation  
26 districts organized under Illinois law and "township or

1 district road" also includes such roads as are maintained by  
2 park districts, forest preserve districts and conservation  
3 districts. The Department of Transportation shall determine  
4 the mileage of all township and district roads for the purposes  
5 of making allotments and allocations of motor fuel tax funds  
6 for use in road districts.

7 Payment of motor fuel tax moneys to municipalities and  
8 counties shall be made as soon as possible after the allotment  
9 is made. The treasurer of the municipality or county may invest  
10 these funds until their use is required and the interest earned  
11 by these investments shall be limited to the same uses as the  
12 principal funds.

13 (Source: P.A. 93-32, eff. 6-20-03; 93-839, eff. 7-30-04;  
14 94-839, eff. 6-6-06.)

15 Section 20. The Public Utilities Act is amended by changing  
16 Sections 2-101, 2-101.5, 2-102, 9-254, 16-102, 16-111, and  
17 16-113 and adding Section 16-111.4 as follows:

18 (220 ILCS 5/2-101) (from Ch. 111 2/3, par. 2-101)

19 Sec. 2-101. Commerce Commission created. There is created  
20 an Illinois Commerce Commission consisting of 5 members elected  
21 as provided in Section 2-101.5 ~~not more than 3 of whom shall be~~  
22 ~~members of the same political party at the time of appointment.~~  
23 The Governor shall fill a vacancy by appointment ~~appoint the~~  
24 ~~members of such Commission~~ by and with the advice and consent

1 of the Senate. In case of a vacancy in such office during the  
2 recess of the Senate the Governor shall make a temporary  
3 appointment until the next meeting of the Senate, when he shall  
4 nominate some person to fill such office; and any person so  
5 nominated who is confirmed by the Senate, shall hold his office  
6 during the remainder of the term and until his successor shall  
7 be elected ~~appointed~~ and qualified. If 28 or fewer months  
8 remain on the vacating member's term, the person appointed to  
9 fill the vacancy shall serve for the remainder of the term. If  
10 more than 28 months remain on the vacating member's term, the  
11 person appointed to fill the vacancy shall serve until the  
12 second Monday in January after the next general election; at  
13 that next general election a person shall be elected to fill  
14 the remainder of the vacating member's term. Each member of the  
15 Commission shall hold office ~~for a term of 5 years~~ from the  
16 second ~~third~~ Monday in January of the year in which his  
17 predecessor's term expires for a term as provided in Section  
18 2-101.5.

19 ~~Notwithstanding any provision of this Section to the~~  
20 ~~contrary, the term of office of each member of the Commission~~  
21 ~~is terminated on the effective date of this amendatory Act of~~  
22 ~~1995, but the incumbent members shall continue to exercise all~~  
23 ~~of the powers and be subject to all of the duties of members of~~  
24 ~~the Commission until their respective successors are appointed~~  
25 ~~and qualified. Of the members initially appointed under the~~  
26 ~~provisions of this amendatory Act of 1995, one member shall be~~

1 ~~appointed for a term of office which shall expire on the third~~  
2 ~~Monday of January, 1997; 2 members shall be appointed for terms~~  
3 ~~of office which shall expire on the third Monday of January,~~  
4 ~~1998; one member shall be appointed for a term of office which~~  
5 ~~shall expire on the third Monday of January, 1999; and one~~  
6 ~~member shall be appointed for a term of office which shall~~  
7 ~~expire on the third Monday of January, 2000. Each respective~~  
8 ~~successor shall be appointed for a term of 5 years from the~~  
9 ~~third Monday of January of the year in which his predecessor's~~  
10 ~~term expires in accordance with the provisions of the first~~  
11 ~~paragraph of this Section.~~

12 Each member shall serve until his successor is elected  
13 ~~appointed~~ and qualified, ~~except that if the Senate refuses to~~  
14 ~~consent to the appointment of any member, such office shall be~~  
15 ~~deemed vacant, and within 2 weeks of the date the Senate~~  
16 ~~refuses to consent to the reappointment of any member, such~~  
17 ~~member shall vacate such office. The Governor shall from time~~  
18 ~~to time designate the member of the Commission who shall be its~~  
19 ~~chairman. One member of the Commission shall be elected by the~~  
20 ~~members to serve as Chairperson for a term of 2 years. The~~  
21 ~~election for chairperson shall be held on the second Monday in~~  
22 ~~the January following the general election after the members~~  
23 ~~elected at that general election have assumed office.~~  
24 Consistent with the provisions of this Act, the Chairman shall  
25 be the chief executive officer of the Commission for the  
26 purpose of ensuring that the Commission's policies are properly

1 executed.

2 If there is no vacancy on the Commission, 4 members of the  
3 Commission shall constitute a quorum to transact business;  
4 otherwise, a majority of the Commission shall constitute a  
5 quorum to transact business, and no vacancy shall impair the  
6 right of the remaining commissioners to exercise all of the  
7 powers of the Commission. Every finding, order, or decision  
8 approved by a majority of the members of the Commission shall  
9 be deemed to be the finding, order, or decision of the  
10 Commission.

11 The terms of all members holding office on January 11, 2009  
12 shall terminate at the end of that day.

13 (Source: P.A. 92-22, eff. 6-30-01.)

14 (220 ILCS 5/2-101.5 new)

15 Sec. 2-101.5. Commission districts; election of members.

16 (a) Commission Districts shall be compact, contiguous, and  
17 substantially equal in population. In 2007, and in the year  
18 following each federal decennial census year thereafter, the  
19 General Assembly by law shall redistrict the State into 5  
20 Commission Districts. If no redistricting plan becomes  
21 effective by June 30 of that year, the General Assembly shall  
22 follow the procedure set forth for legislative redistricting in  
23 subsection (b) of Section 3 of Article 4 of the Illinois  
24 Constitution. The Commission Districts shall be divided into 2  
25 groups for the purpose of establishing terms for which the

1 members shall be elected in each group. One group shall be  
2 comprised of the even-numbered districts and the other group  
3 shall be comprised of the odd-numbered districts.

4 (b) At the general election in 2008, one member of the  
5 Commission shall be elected from each Commission District  
6 established under subsection (a) of this Section. The members  
7 of the Commission elected in 2008 shall serve 4-year terms.  
8 Within 120 days after the general election held in 2012, the  
9 members shall meet and publicly by lot determine which group  
10 shall be the first group and which group shall be the second  
11 group. The members or their successors from the first group  
12 shall be elected for successive terms of 4 years, 4 years and 2  
13 years and members and their successors from the second group  
14 shall be elected for successive terms of 2 years, 4 years and 4  
15 years.

16 (c) To be eligible to serve as a member of the Commission,  
17 a person must be a United States citizen, at least 21 years  
18 old, and for the 2 years preceding his or her election or  
19 appointment a resident of the district he or she is to  
20 represent. In the general election following a redistricting, a  
21 candidate for the Illinois Commerce Commission may be elected  
22 from any district that contains a part of the district in which  
23 he or she resided at the time of the redistricting and may be  
24 reelected if a resident of the new district he or she  
25 represents for 18 months prior to reelection.

1 (220 ILCS 5/2-102) (from Ch. 111 2/3, par. 2-102)

2 Sec. 2-102. Commissioners and officers; prohibited  
3 activities.

4 (a) Each commissioner and each person appointed to office  
5 by the Commission shall before entering upon the duties of his  
6 office take and subscribe the constitutional oath of office.

7 Before entering upon the duties of his office each  
8 commissioner shall give bond, with security to be approved by  
9 the Governor, in the sum of \$20,000, conditioned for the  
10 faithful performance of his duty as such commissioner. Every  
11 person appointed or employed by the Commission, may, in the  
12 discretion of the Commission, before entering upon the duties  
13 of his office, be required to give bond for the faithful  
14 discharge of his duties, in such sum as the Commission may  
15 designate, which bond shall be approved by the Commission.

16 All bonds required to be filed pursuant to this section  
17 shall be filed in the office of the Secretary of State.

18 (b) No person in the employ of or holding any official  
19 relation to any corporation or person subject in whole or in  
20 part to regulation by the Commission, and no person holding  
21 stock or bonds in any such corporation, or who is in any other  
22 manner pecuniarily interested therein, directly or indirectly,  
23 shall be appointed ~~to or hold the office of commissioner or be~~  
24 ~~appointed~~ or employed by the Commission; and if any such person  
25 shall voluntarily become so interested his office or employment  
26 shall ipso facto become vacant. If any person become so



1 interested otherwise than voluntarily he shall within a  
2 reasonable time divest himself of such interest, and if he  
3 fails to do so his office or employment shall become vacant.

4 No commissioner or person appointed or employed by the  
5 Commission shall solicit or accept any gift, gratuity,  
6 emolument or employment from any person or corporation subject  
7 to the supervision of the Commission, or from any officer,  
8 agent or employee thereof; nor solicit, request from or  
9 recommend, directly or indirectly, to any such person or  
10 corporation, or to any officer, agent or employee thereof the  
11 appointment of any person to any place or position. Every such  
12 corporation and person, and every officer, agent or employee  
13 thereof, is hereby forbidden to offer to any commissioner or to  
14 any person appointed or employed by the Commission any gift,  
15 gratuity, emolument or employment. If any commissioner or any  
16 person appointed or employed by the Commission shall violate  
17 any provisions of this paragraph he shall be removed from the  
18 office or employment held by him. Every person violating the  
19 provisions of this paragraph shall be guilty of a Class A  
20 misdemeanor.

21 (c) Each commissioner shall devote his entire time to the  
22 duties of his office, and shall hold no other office or  
23 position of profit, or engage in any other business, employment  
24 or vocation.

25 (Source: P.A. 84-617.)

1 (220 ILCS 5/9-254 new)

2 Sec. 9-254. Customer credits for utility outages. An  
3 electric utility must credit customers for times of service  
4 disruption by reducing the customer's bill at the end of that  
5 month proportionately to the length of time of the service  
6 disruption.

7 (220 ILCS 5/16-102)

8 Sec. 16-102. Definitions. For the purposes of this Article  
9 the following terms shall be defined as set forth in this  
10 Section.

11 "Alternative retail electric supplier" means every person,  
12 cooperative, corporation, municipal corporation, company,  
13 association, joint stock company or association, firm,  
14 partnership, individual, or other entity, their lessees,  
15 trustees, or receivers appointed by any court whatsoever, that  
16 offers electric power or energy for sale, lease or in exchange  
17 for other value received to one or more retail customers, or  
18 that engages in the delivery or furnishing of electric power or  
19 energy to such retail customers, and shall include, without  
20 limitation, resellers, aggregators and power marketers, but  
21 shall not include (i) electric utilities (or any agent of the  
22 electric utility to the extent the electric utility provides  
23 tariffed services to retail customers through that agent), (ii)  
24 any electric cooperative or municipal system as defined in  
25 Section 17-100 to the extent that the electric cooperative or

1 municipal system is serving retail customers within any area in  
2 which it is or would be entitled to provide service under the  
3 law in effect immediately prior to the effective date of this  
4 amendatory Act of 1997, (iii) a public utility that is owned  
5 and operated by any public institution of higher education of  
6 this State, or a public utility that is owned by such public  
7 institution of higher education and operated by any of its  
8 lessees or operating agents, within any area in which it is or  
9 would be entitled to provide service under the law in effect  
10 immediately prior to the effective date of this amendatory Act  
11 of 1997, (iv) a retail customer to the extent that customer  
12 obtains its electric power and energy from that customer's own  
13 cogeneration or self-generation facilities, (v) an entity that  
14 owns, operates, sells, or arranges for the installation of a  
15 customer's own cogeneration or self-generation facilities, but  
16 only to the extent the entity is engaged in owning, selling or  
17 arranging for the installation of such facility, or operating  
18 the facility on behalf of such customer, provided however that  
19 any such third party owner or operator of a facility built  
20 after January 1, 1999, complies with the labor provisions of  
21 Section 16-128(a) as though such third party were an  
22 alternative retail electric supplier, or (vi) an industrial or  
23 manufacturing customer that owns its own distribution  
24 facilities, to the extent that the customer provides service  
25 from that distribution system to a third-party contractor  
26 located on the customer's premises that is integrally and

1 predominantly engaged in the customer's industrial or  
2 manufacturing process; provided, that if the industrial or  
3 manufacturing customer has elected delivery services, the  
4 customer shall pay transition charges applicable to the  
5 electric power and energy consumed by the third-party  
6 contractor unless such charges are otherwise paid by the third  
7 party contractor, which shall be calculated based on the usage  
8 of, and the base rates or the contract rates applicable to, the  
9 third-party contractor in accordance with Section 16-102.

10 "Base rates" means the rates for those tariffed services  
11 that the electric utility is required to offer pursuant to  
12 subsection (a) of Section 16-103 and that were identified in a  
13 rate order for collection of the electric utility's base rate  
14 revenue requirement, excluding (i) separate automatic rate  
15 adjustment riders then in effect, (ii) special or negotiated  
16 contract rates, (iii) delivery services tariffs filed pursuant  
17 to Section 16-108, (iv) real-time pricing, or (v) tariffs that  
18 were in effect prior to October 1, 1996 and that based charges  
19 for services on an index or average of other utilities'  
20 charges, but including (vi) any subsequent redesign of such  
21 rates for tariffed services that is authorized by the  
22 Commission after notice and hearing.

23 "Competitive service" includes (i) any service that has  
24 been declared to be competitive pursuant to Section 16-113 of  
25 this Act, (ii) contract service, and (iii) services, other than  
26 tariffed services, that are related to, but not necessary for,

1 the provision of electric power and energy or delivery  
2 services.

3 "Contract service" means (1) services, including the  
4 provision of electric power and energy or other services, that  
5 are provided by mutual agreement between an electric utility  
6 and a retail customer that is located in the electric utility's  
7 service area, provided that, delivery services shall not be a  
8 contract service until such services are declared competitive  
9 pursuant to Section 16-113; and also means (2) the provision of  
10 electric power and energy by an electric utility to retail  
11 customers outside the electric utility's service area pursuant  
12 to Section 16-116. Provided, however, contract service does not  
13 include electric utility services provided pursuant to (i)  
14 contracts that retail customers are required to execute as a  
15 condition of receiving tariffed services, or (ii) special or  
16 negotiated rate contracts for electric utility services that  
17 were entered into between an electric utility and a retail  
18 customer prior to the effective date of this amendatory Act of  
19 1997 and filed with the Commission.

20 "Delivery services" means those services provided by the  
21 electric utility that are necessary in order for the  
22 transmission and distribution systems to function so that  
23 retail customers located in the electric utility's service area  
24 can receive electric power and energy from suppliers other than  
25 the electric utility, and shall include, without limitation,  
26 standard metering and billing services.

1 "Electric utility" means a public utility, as defined in  
2 Section 3-105 of this Act, that has a franchise, license,  
3 permit or right to furnish or sell electricity to retail  
4 customers within a service area.

5 "Mandatory transition period" means the period from  
6 December 16, 1997 (the effective date of Public Act 90-561)  
7 ~~this amendatory Act of 1997~~ through January 1, 2007 and from  
8 the effective date of this amendatory Act of the 95th General  
9 Assembly through January 1, 2008, for residential customers  
10 with all electric residential service offered in the service  
11 areas of all electric utilities that, on December 31, 2005,  
12 served at least 100,000 customers.

13 "Municipal system" shall have the meaning set forth in  
14 Section 17-100.

15 "Real-time pricing" means tariffed retail charges for  
16 delivered electric power and energy that vary hour-to-hour and  
17 are determined from wholesale market prices using a methodology  
18 approved by the Illinois Commerce Commission.

19 "Retail customer" means a single entity using electric  
20 power or energy at a single premises and that (A) either (i) is  
21 receiving or is eligible to receive tariffed services from an  
22 electric utility, or (ii) that is served by a municipal system  
23 or electric cooperative within any area in which the municipal  
24 system or electric cooperative is or would be entitled to  
25 provide service under the law in effect immediately prior to  
26 the effective date of this amendatory Act of 1997, or (B) an

1 entity which on the effective date of this Act was receiving  
2 electric service from a public utility and (i) was engaged in  
3 the practice of resale and redistribution of such electricity  
4 within a building prior to January 2, 1957, or (ii) was  
5 providing lighting services to tenants in a multi-occupancy  
6 building, but only to the extent such resale, redistribution or  
7 lighting service is authorized by the electric utility's  
8 tariffs that were on file with the Commission on the effective  
9 date of this Act.

10 "Service area" means (i) the geographic area within which  
11 an electric utility was lawfully entitled to provide electric  
12 power and energy to retail customers as of the effective date  
13 of this amendatory Act of 1997, and includes (ii) the location  
14 of any retail customer to which the electric utility was  
15 lawfully providing electric utility services on such effective  
16 date.

17 "Small commercial retail customer" means those  
18 nonresidential retail customers of an electric utility  
19 consuming 15,000 kilowatt-hours or less of electricity  
20 annually in its service area.

21 "Tariffed service" means services provided to retail  
22 customers by an electric utility as defined by its rates on  
23 file with the Commission pursuant to the provisions of Article  
24 IX of this Act, but shall not include competitive services.

25 "Transition charge" means a charge expressed in cents per  
26 kilowatt-hour that is calculated for a customer or class of

1 customers as follows for each year in which an electric utility  
2 is entitled to recover transition charges as provided in  
3 Section 16-108:

4 (1) the amount of revenue that an electric utility  
5 would receive from the retail customer or customers if it  
6 were serving such customers' electric power and energy  
7 requirements as a tariffed service based on (A) all of the  
8 customers' actual usage during the 3 years ending 90 days  
9 prior to the date on which such customers were first  
10 eligible for delivery services pursuant to Section 16-104,  
11 and (B) on (i) the base rates in effect on October 1, 1996  
12 (adjusted for the reductions required by subsection (b) of  
13 Section 16-111, for any reduction resulting from a rate  
14 decrease under Section 16-101(b), for any restatement of  
15 base rates made in conjunction with an elimination of the  
16 fuel adjustment clause pursuant to subsection (b), (d), or  
17 (f) of Section 9-220 and for any removal of decommissioning  
18 costs from base rates pursuant to Section 16-114) and any  
19 separate automatic rate adjustment riders (other than a  
20 decommissioning rate as defined in Section 16-114) under  
21 which the customers were receiving or, had they been  
22 customers, would have received electric power and energy  
23 from the electric utility during the year immediately  
24 preceding the date on which such customers were first  
25 eligible for delivery service pursuant to Section 16-104,  
26 or (ii) to the extent applicable, any contract rates,



1 including contracts or rates for consolidated or  
2 aggregated billing, under which such customers were  
3 receiving electric power and energy from the electric  
4 utility during such year;

5 (2) less the amount of revenue, other than revenue from  
6 transition charges and decommissioning rates, that the  
7 electric utility would receive from such retail customers  
8 for delivery services provided by the electric utility,  
9 assuming such customers were taking delivery services for  
10 all of their usage, based on the delivery services tariffs  
11 in effect during the year for which the transition charge  
12 is being calculated and on the usage identified in  
13 paragraph (1);

14 (3) less the market value for the electric power and  
15 energy that the electric utility would have used to supply  
16 all of such customers' electric power and energy  
17 requirements, as a tariffed service, based on the usage  
18 identified in paragraph (1), with such market value  
19 determined in accordance with Section 16-112 of this Act;

20 (4) less the following amount which represents the  
21 amount to be attributed to new revenue sources and cost  
22 reductions by the electric utility through the end of the  
23 period for which transition costs are recovered pursuant to  
24 Section 16-108, referred to in this Article XVI as a  
25 "mitigation factor":

26 (A) for nonresidential retail customers, an amount

1 equal to the greater of (i) 0.5 cents per kilowatt-hour  
2 during the period October 1, 1999 through December 31,  
3 2004, 0.6 cents per kilowatt-hour in calendar year  
4 2005, and 0.9 cents per kilowatt-hour in calendar year  
5 2006, multiplied in each year by the usage identified  
6 in paragraph (1), or (ii) an amount equal to the  
7 following percentages of the amount produced by  
8 applying the applicable base rates (adjusted as  
9 described in subparagraph (1)(B)) or contract rate to  
10 the usage identified in paragraph (1): 8% for the  
11 period October 1, 1999 through December 31, 2002, 10%  
12 in calendar years 2003 and 2004, 11% in calendar year  
13 2005 and 12% in calendar year 2006; and

14 (B) for residential retail customers, an amount  
15 equal to the following percentages of the amount  
16 produced by applying the base rates in effect on  
17 October 1, 1996 (adjusted as described in subparagraph  
18 (1)(B)) to the usage identified in paragraph (1): (i)  
19 6% from May 1, 2002 through December 31, 2002, (ii) 7%  
20 in calendar years 2003 and 2004, (iii) 8% in calendar  
21 year 2005, and (iv) 10% in calendar year 2006;

22 (5) divided by the usage of such customers identified  
23 in paragraph (1),  
24 provided that the transition charge shall never be less than  
25 zero.

26 "Unbundled service" means a component or constituent part

1 of a tariffed service which the electric utility subsequently  
2 offers separately to its customers.

3 (Source: P.A. 94-977, eff. 6-30-06.)

4 (220 ILCS 5/16-111)

5 Sec. 16-111. Rates and restructuring transactions during  
6 mandatory transition period.

7 (a) During the mandatory transition period,  
8 notwithstanding any provision of Article IX of this Act, and  
9 except as provided in subsections (b), (d), (e), and (f) of  
10 this Section, the Commission shall order all electric utilities  
11 that, on December 31, 2005, served at least 100,000 customers  
12 to file and implement tariffs to reinstate all rates for  
13 residential customers with all electric residences paid by the  
14 electric utilities' residential customers with all electric  
15 residences on December 31, 2006, within 10 days after the  
16 effective date of this amendatory Act of the 95th General  
17 Assembly, and the Commission shall not, prior to 2008, (i)  
18 initiate, authorize or order any change by way of increase  
19 (other than in connection with a request for rate increase  
20 which was filed after September 1, 1997 but prior to October  
21 15, 1997, by an electric utility serving less than 12,500  
22 customers in this State) or (ii), ~~(ii) initiate or, unless~~  
23 ~~requested by the electric utility, authorize or order any~~  
24 ~~change by way of decrease, restructuring or unbundling (except~~  
25 ~~as provided in Section 16-109A), in the rates of any electric~~

1 ~~utility that were in effect on October 1, 1996, or (iii)~~ in any  
2 order approving any application for a merger pursuant to  
3 Section 7-204 that was pending as of May 16, 1997, impose any  
4 condition requiring any filing for an increase, decrease, or  
5 change in, or other review of, an electric utility's rates or  
6 enforce any such condition of any such order; provided,  
7 however, that this subsection shall not prohibit the Commission  
8 from:

9 (1) (blank); ~~approving the application of an electric~~  
10 ~~utility to implement an alternative to rate of return~~  
11 ~~regulation or a regulatory mechanism that rewards or~~  
12 ~~penalizes the electric utility through adjustment of rates~~  
13 ~~based on utility performance, pursuant to Section 9-244;~~

14 (2) authorizing an electric utility to eliminate its  
15 fuel adjustment clause and adjust its base rate tariffs in  
16 accordance with subsection (b), (d), or (f) of Section  
17 9-220 of this Act, to fix its fuel adjustment factor in  
18 accordance with subsection (c) of Section 9-220 of this  
19 Act, or to eliminate its fuel adjustment clause in  
20 accordance with subsection (e) of Section 9-220 of this  
21 Act;

22 (3) ordering into effect tariffs for delivery services  
23 and transition charges in accordance with Sections 16-104  
24 and 16-108, for real-time pricing in accordance with  
25 Section 16-107, or the options required by Section 16-110  
26 and subsection (n) of 16-112, allowing a billing experiment

1 in accordance with Section 16-106, or modifying delivery  
2 services tariffs in accordance with Section 16-109; or

3 (4) ordering or allowing into effect any tariff to  
4 recover charges pursuant to Sections 9-201.5, 9-220.1,  
5 9-221, 9-222 (except as provided in Section 9-222.1),  
6 16-108, and 16-114 of this Act, Section 5-5 of the  
7 Electricity Infrastructure Maintenance Fee Law, Section  
8 6-5 of the Renewable Energy, Energy Efficiency, and Coal  
9 Resources Development Law of 1997, and Section 13 of the  
10 Energy Assistance Act.

11 After December 31, 2004, the provisions of this subsection  
12 (a) shall not apply to an electric utility whose average  
13 residential retail rate was less than or equal to 90% of the  
14 average residential retail rate for the "Midwest Utilities", as  
15 that term is defined in subsection (b) of this Section, based  
16 on data reported on Form 1 to the Federal Energy Regulatory  
17 Commission for calendar year 1995, and which served between  
18 150,000 and 250,000 retail customers in this State on January  
19 1, 1995 unless the electric utility or its holding company has  
20 been acquired by or merged with an affiliate of another  
21 electric utility subsequent to January 1, 2002. This exemption  
22 shall be limited to this subsection (a) and shall not extend to  
23 any other provisions of this Act.

24 (b) Notwithstanding the provisions of subsection (a), each  
25 Illinois electric utility serving more than 12,500 customers in  
26 Illinois shall file tariffs (i) reducing, effective August 1,

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

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

1 2002, each component of its base rates to residential retail  
2 customers by 1% from the base rates in effect immediately prior  
3 to January 1, 1998. Provided, further, that any electric  
4 utility for which a decrease in base rates has been or is  
5 placed into effect between October 1, 1996 and the dates  
6 specified in the preceding sentences of this subsection, other  
7 than pursuant to the requirements of this subsection, shall be  
8 entitled to reduce the amount of any reduction or reductions in  
9 its base rates required by this subsection by the amount of  
10 such other decrease. The tariffs required under this subsection  
11 shall be filed 45 days in advance of the effective date.  
12 Notwithstanding anything to the contrary in Section 9-220 of  
13 this Act, no restatement of base rates in conjunction with the  
14 elimination of a fuel adjustment clause under that Section  
15 shall result in a lesser decrease in base rates than customers  
16 would otherwise receive under this subsection had the electric  
17 utility's fuel adjustment clause not been eliminated.

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



1 August 1 through December 31, 1998: "Effective August 1, 1998,  
2 your rates have been reduced by 5% by the Electric Service  
3 Customer Choice and Rate Relief Law of 1997 passed by the  
4 Illinois General Assembly."

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

12 (d) During the mandatory transition period, but not before  
13 January 1, 2000, and notwithstanding the provisions of  
14 subsection (a), an electric utility may request an increase in  
15 its base rates if the electric utility demonstrates that the  
16 2-year average of its earned rate of return on common equity,  
17 calculated as its net income applicable to common stock divided  
18 by the average of its beginning and ending balances of common  
19 equity using data reported in the electric utility's Form 1  
20 report to the Federal Energy Regulatory Commission but adjusted  
21 to remove the effects of accelerated depreciation or  
22 amortization or other transition or mitigation measures  
23 implemented by the electric utility pursuant to subsection (g)  
24 of this Section and the effect of any refund paid pursuant to  
25 subsection (e) of this Section, is below the 2-year average for  
26 the same 2 years of the monthly average yields of 30-year U.S.

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

14 (e) For the purposes of this subsection (e) all  
15 calculations and comparisons shall be performed for the  
16 Illinois operations of multijurisdictional utilities. During  
17 the mandatory transition period, notwithstanding the  
18 provisions of subsection (a), if the 2-year average of an  
19 electric utility's earned rate of return on common equity,  
20 calculated as its net income applicable to common stock divided  
21 by the average of its beginning and ending balances of common  
22 equity using data reported in the electric utility's Form 1  
23 report to the Federal Energy Regulatory Commission but adjusted  
24 to remove the effect of any refund paid under this subsection  
25 (e), and further adjusted to include the annual amortization of  
26 any difference between the consideration received by an

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

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

1 transition charges for an additional period after December 31,  
2 2006.

3 (1) For purposes of this subsection (e), "excess  
4 earnings" means the difference between (A) the 2-year  
5 average of the electric utility's earned rate of return on  
6 common equity, less (B) the 2-year average of the sum of  
7 (i) the Index applicable to each of the 2 years and (ii)  
8 1.5 percentage points; provided, that "excess earnings"  
9 shall never be less than zero.

10 (2) On or before March 31 of each year 2000 through  
11 2007 each electric utility shall file a report with the  
12 Commission showing its earned rate of return on common  
13 equity, calculated in accordance with this subsection, for  
14 the preceding calendar year and the average for the  
15 preceding 2 calendar years.

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

22 (i) The electric utility's excess earnings shall  
23 be multiplied by the average of the beginning and  
24 ending balances of the electric utility's common  
25 equity for the 2-year period in which excess earnings  
26 occurred.

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

5           (iii) The result of the calculation in (ii) shall  
6 be divided by the sum of the electric utility's  
7 projected total kilowatt-hour sales to retail  
8 customers plus projected kilowatt-hours to be  
9 delivered to delivery services customers over a one  
10 year period beginning with the first billing date in  
11 April in the succeeding year to determine a cents per  
12 kilowatt-hour refund factor.

13           (iv) The cents per kilowatt-hour refund factor  
14 calculated in (iii) shall be credited to the electric  
15 utility's customers by applying the factor on the  
16 customer's monthly bills to each kilowatt-hour sold or  
17 delivered until the total amount calculated in (ii) has  
18 been paid to customers.

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

24           (g) During the mandatory transition period, an electric  
25 utility may, without obtaining any approval of the Commission  
26 other than that provided for in this subsection and

1 notwithstanding any other provision of this Act or any rule or  
2 regulation of the Commission that would require such approval:

3 (1) implement a reorganization, other than a merger of  
4 2 or more public utilities as defined in Section 3-105 or  
5 their holding companies;

6 (2) retire generating plants from service;

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

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

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

26 (i) a complete statement of the entries that the



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

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

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

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

1 Article XVI; and

2 (v) if the electric utility proposes to sell,  
3 assign, lease or otherwise transfer a generating plant  
4 that brings the amount of net dependable generating  
5 capacity transferred pursuant to this subsection to an  
6 amount equal to or greater than 15% of the electric  
7 utility's net dependable capacity as of the effective  
8 date of this amendatory Act of 1997, and enters into a  
9 power purchase agreement with the entity to which such  
10 generating plant is sold, assigned, leased, or  
11 otherwise transferred, the electric utility also  
12 agrees, if its fuel adjustment clause has not already  
13 been eliminated, to eliminate its fuel adjustment  
14 clause in accordance with subsection (b) of Section  
15 9-220 for a period of time equal to the length of any  
16 such power purchase agreement or successor agreement,  
17 or until January 1, 2005, whichever is longer; if the  
18 capacity of the generating plant so transferred and  
19 related power purchase agreement does not result in the  
20 elimination of the fuel adjustment clause under this  
21 subsection, and the fuel adjustment clause has not  
22 already been eliminated, the electric utility shall  
23 agree that the costs associated with the transferred  
24 plant that are included in the calculation of the rate  
25 per kilowatt-hour to be applied pursuant to the  
26 electric utility's fuel adjustment clause during such

1 period shall not exceed the per kilowatt-hour cost  
2 associated with such generating plant included in the  
3 electric utility's fuel adjustment clause during the  
4 full calendar year preceding the transfer, with such  
5 limit to be adjusted each year thereafter by the Gross  
6 Domestic Product Implicit Price Deflator.

7 (vi) In addition, if the electric utility proposes  
8 to sell, assign, or lease, (A) either (1) an amount of  
9 generating plant that brings the amount of net  
10 dependable generating capacity transferred pursuant to  
11 this subsection to an amount equal to or greater than  
12 15% of its net dependable capacity on the effective  
13 date of this amendatory Act of 1997, or (2) one or more  
14 generating plants with a total net dependable capacity  
15 of 1100 megawatts, or (B) transmission and  
16 distribution facilities that either (1) bring the  
17 amount of transmission and distribution facilities  
18 transferred pursuant to this subsection to an amount  
19 equal to or greater than 15% of the electric utility's  
20 total depreciated original cost investment in such  
21 facilities, or (2) represent an investment of  
22 \$25,000,000 in terms of total depreciated original  
23 cost, the electric utility shall provide, in addition  
24 to the information listed in subparagraphs (i) through  
25 (v), the following information: (A) a description of  
26 how the electric utility will meet its service

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

1           however, that a sale, assignment, or lease of  
2           transmission facilities to an independent system  
3           operator that meets the requirements of Section 16-126  
4           shall not be subject to Commission approval under this  
5           Section.

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

17          The Commission shall not in any subsequent proceeding or  
18          otherwise, review such a reorganization or other transaction  
19          authorized by this Section, but shall retain the authority to  
20          allocate costs as stated in Section 16-111(i). An entity to  
21          which an electric utility sells, assigns, leases or transfers  
22          assets pursuant to this subsection (g) shall not, as a result  
23          of the transactions specified in this subsection (g), be deemed  
24          a public utility as defined in Section 3-105. Nothing in this  
25          subsection (g) shall change any requirement under the  
26          jurisdiction of the Illinois Department of Nuclear Safety

1 including, but not limited to, the payment of fees. Nothing in  
2 this subsection (g) shall exempt a utility from obtaining a  
3 certificate pursuant to Section 8-406 of this Act for the  
4 construction of a new electric generating facility. Nothing in  
5 this subsection (g) is intended to exempt the transactions  
6 hereunder from the operation of the federal or State antitrust  
7 laws. Nothing in this subsection (g) shall require an electric  
8 utility to use the procedures specified in this subsection for  
9 any of the transactions specified herein. Any other procedure  
10 available under this Act may, at the electric utility's  
11 election, be used for any such transaction.

12 (h) During the mandatory transition period, the Commission  
13 shall not establish or use any rates of depreciation, which for  
14 purposes of this subsection shall include amortization, for any  
15 electric utility other than those established pursuant to  
16 subsection (c) of Section 5-104 of this Act or utilized  
17 pursuant to subsection (g) of this Section. Provided, however,  
18 that in any proceeding to review an electric utility's rates  
19 for tariffed services pursuant to Section 9-201, 9-202, 9-250  
20 or 16-111(d) of this Act, the Commission may establish new  
21 rates of depreciation for the electric utility in the same  
22 manner provided in subsection (d) of Section 5-104 of this Act.  
23 An electric utility implementing an accelerated cost recovery  
24 method including accelerated depreciation, accelerated  
25 amortization or other capital recovery methods, or recording  
26 reductions to the original cost of its assets, pursuant to

1 subsection (g) of this Section, shall file a statement with the  
2 Commission describing the accelerated cost recovery method to  
3 be implemented or the reduction in the original cost of its  
4 assets to be recorded. Upon the filing of such statement, the  
5 accelerated cost recovery method or the reduction in the  
6 original cost of assets shall be deemed to be approved by the  
7 Commission as though an order had been entered by the  
8 Commission.

9 (i) Subsequent to the mandatory transition period, the  
10 Commission, in any proceeding to establish rates and charges  
11 for tariffed services offered by an electric utility, shall  
12 consider only (1) the then current or projected revenues,  
13 costs, investments and cost of capital directly or indirectly  
14 associated with the provision of such tariffed services; (2)  
15 collection of transition charges in accordance with Sections  
16 16-102 and 16-108 of this Act; (3) recovery of any employee  
17 transition costs as described in Section 16-128 which the  
18 electric utility is continuing to incur, including recovery of  
19 any unamortized portion of such costs previously incurred or  
20 committed, with such costs to be equitably allocated among  
21 bundled services, delivery services, and contracts with  
22 alternative retail electric suppliers; and (4) recovery of the  
23 costs associated with the electric utility's compliance with  
24 decommissioning funding requirements; and shall not consider  
25 any other revenues, costs, investments or cost of capital of  
26 either the electric utility or of any affiliate of the electric

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

22 (j) During the mandatory transition period, an electric  
23 utility may elect to transfer to a non-operating income account  
24 under the Commission's Uniform System of Accounts either or  
25 both of (i) an amount of unamortized investment tax credit that  
26 is in addition to the ratable amount which is credited to the



1 electric utility's operating income account for the year in  
2 accordance with Section 46(f)(2) of the federal Internal  
3 Revenue Code of 1986, as in effect prior to P.L. 101-508, or  
4 (ii) "excess tax reserves", as that term is defined in Section  
5 203(e)(2)(A) of the federal Tax Reform Act of 1986, provided  
6 that (A) the amount transferred may not exceed the amount of  
7 the electric utility's assets that were created pursuant to  
8 Statement of Financial Accounting Standards No. 71 which the  
9 electric utility has written off during the mandatory  
10 transition period, and (B) the transfer shall not be effective  
11 until approved by the Internal Revenue Service. An electric  
12 utility electing to make such a transfer shall file a statement  
13 with the Commission stating the amount and timing of the  
14 transfer for which it intends to request approval of the  
15 Internal Revenue Service, along with a copy of its proposed  
16 request to the Internal Revenue Service for a ruling. The  
17 Commission shall issue an order within 14 days after the  
18 electric utility's filing approving, subject to receipt of  
19 approval from the Internal Revenue Service, the proposed  
20 transfer.

21 (k) If an electric utility is selling or transferring to a  
22 single buyer 5 or more generating plants located in this State  
23 with a total net dependable capacity of 5000 megawatts or more  
24 pursuant to subsection (g) of this Section and has obtained a  
25 sale price or consideration that exceeds 200% of the book value  
26 of such plants, the electric utility must provide to the

1 Governor, the President of the Illinois Senate, the Minority  
2 Leader of the Illinois Senate, the Speaker of the Illinois  
3 House of Representatives, and the Minority Leader of the  
4 Illinois House of Representatives no later than 15 days after  
5 filing its notice under subsection (g) of this Section or 5  
6 days after the date on which this subsection (k) becomes law,  
7 whichever is later, a written commitment in which such electric  
8 utility agrees to expend \$2 billion outside the corporate  
9 limits of any municipality with 1,000,000 or more inhabitants  
10 within such electric utility's service area, over a 6-year  
11 period beginning with the calendar year in which the notice is  
12 filed, on projects, programs, and improvements within its  
13 service area relating to transmission and distribution  
14 including, without limitation, infrastructure expansion,  
15 repair and replacement, capital investments, operations and  
16 maintenance, and vegetation management.

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

19 (220 ILCS 5/16-111.4 new)

20 Sec. 16-111.4. Provisions relating to rates following the  
21 mandatory transition period.

22 (a) The General Assembly finds that although competition in  
23 the electric services market is creating opportunities for new  
24 products and services for retail customers and lower costs for  
25 many users of electricity, additional steps should be taken in

1 order to mitigate the rate impacts associated with the end of  
2 the mandatory transition period on those residential customers  
3 that are served by the State's largest utilities, encourage the  
4 use of renewable resources and energy efficiency in competitive  
5 markets, and provide the revenues needed to ensure reliable  
6 service, while still allowing for the development of an  
7 effectively competitive electricity market that operates  
8 efficiently and is equitable to all consumers. Accordingly, if  
9 the residential customer electric service rates that have been  
10 approved by the Commission to take effect at the end of the  
11 mandatory transition period for an electric utility reflect a  
12 projected increase of more than 15% in the electric utility's  
13 average rate charged to residential customers for bundled  
14 electric service, such electric utility shall be required to  
15 implement for all of its residential customers a rate  
16 mitigation plan. If such electric utility serves two million or  
17 more residential customers in its service area, its rate  
18 mitigation plan shall incorporate a three-phase rate increase  
19 with the following limitations on the increases in the electric  
20 service rates to customers: (i) in 2007, no more than 7% over  
21 the average rate charged to residential customers in 2006; (ii)  
22 in 2008, no more than an additional 7% over the average rate  
23 charged to residential customers in 2006; and (iii) in 2009, no  
24 more than an additional 8% over the average rate charged to  
25 residential customers in 2006. If such electric utility serves  
26 more than 100,000 and fewer than two million residential

1 customers in its service area, its rate mitigation plan shall  
2 incorporate a three-phase rate increase with the following  
3 limitations on the increases in the electric service rates to  
4 customers: (i) in 2007, no more than 14% over the average rate  
5 charged to residential customers in 2006; (ii) in 2008, no more  
6 than an additional 14% over the average rate charged to  
7 residential customers in 2006; and (iii) in 2009, no more than  
8 an additional 14% over the average rate charged to residential  
9 customers in 2006. The above limitations on the increases to  
10 customers shall be separately calculated for each residential  
11 class of service. Such limitations on the increase shall be  
12 calculated using the same data used in the electric utility's  
13 most recent rate case. Each electric utility required to  
14 implement a mitigation plan under this Section shall submit  
15 tariffs reflecting such plan to the Commission no later than 30  
16 days after the effective date of this amendatory Act of the  
17 95th General Assembly. The tariffs shall provide for the first  
18 credit that implements the rate mitigation plan and offsets the  
19 otherwise applicable rate to appear on the customer's bill no  
20 later than bills issued in May 2007 billing period. The  
21 Commission shall issue an order with regard to such tariffs no  
22 later than April 1, 2007, and may in that order require such  
23 amendments as are necessary to bring the tariffs in compliance  
24 with the provisions of this subsection (a). The order approving  
25 the tariff shall authorize the utility to defer, record as a  
26 regulatory asset, and collect over the period 2010 through

1 2012, the amounts that would have otherwise been recovered but  
2 for this subsection (a). Such collections shall not include  
3 carrying costs. There shall be a prohibition against any  
4 interest charge for a residential customer that participates in  
5 the deferral program.

6 This subsection (a) shall not apply to electric service  
7 rates for classes other than the residential customer class.  
8 For purposes of this Section, "residential customer" means any  
9 customer who takes utility residential service, regardless of  
10 the customer's choice of electric supplier.

11 Nothing in this subsection (a) shall be interpreted to  
12 limit the Commission's authority over ratemaking or to preclude  
13 the Commission from reviewing or approving other or  
14 supplemental rate mitigation or phase-in plans or rate designs  
15 proposed by an electric utility; or increasing, decreasing, or  
16 changing an electric utility's rates; or reviewing or approving  
17 individual rates and riders; to the extent otherwise allowed  
18 under this Act.

19 (b) An electric utility that is required to file a rate  
20 mitigation plan as provided in subsection (a) of this Section  
21 and that serves two million or more residential customers in  
22 this State, shall, notwithstanding any other provisions of this  
23 Act, and without obtaining any approvals from the Commission  
24 other than those set forth below, make the following payments  
25 or incur the following costs associated with the development of  
26 energy efficiency and renewable resources for the benefit of

1 its residential customers, and assistance to those residential  
2 customers least able to afford utility services:

3 (1) costs of \$3 million prior to December 31, 2007,  
4 associated with either customer education that promotes  
5 the use of energy efficiency programs and services by  
6 residential customers, maintenance and upgrades of a  
7 website that allows such customers to analyze their energy  
8 usage and provides incentives for the purchase of energy  
9 efficient products, or the provision of energy efficient  
10 lightbulbs to residential customers at a discount;

11 (2) payments of \$10 million in aggregate during the  
12 period January 2, 2007 through December 31, 2009 toward  
13 energy efficiency programs, including demand response  
14 programs, that are proposed by the electric utility for its  
15 residential customers and approved by the Commission as  
16 consistent with the goals and objectives stated in this  
17 Section and in Section 16-101A of this Act. The electric  
18 utility shall file a description of the programs it  
19 proposes to implement under this item (2) with the  
20 Commission within 30 days of the effective date of this  
21 amendatory Act, and the Commission shall enter its order  
22 approving or modifying such programs within 150 days of the  
23 date on which the utility's proposal is filed. The  
24 Commission may approve a request to continue such a program  
25 beyond December 31, 2009, provided that in any order  
26 approving such continuation the Commission shall provide

1 for recovery of the ongoing costs associated with such  
2 program and specify how such costs will be recovered by the  
3 utility;

4 (3) incremental costs associated with the purchase of  
5 renewable energy of \$10 million in total aggregate costs  
6 during the period beginning January 2, 2007 and ending  
7 December 31, 2009, provided that the Commission approve any  
8 contract for such purchase that extends beyond December 31,  
9 2009 as consistent with the goals and objectives stated in  
10 this Section and in Section 16-101A of this Act, and that  
11 if the contract for such purchase extends beyond December  
12 31, 2009 the Commission shall in its order approving such a  
13 purchase provide for recovery of the ongoing costs  
14 associated with such purchase and specify how such costs  
15 will be recovered by the utility;

16 (4) payments of \$1 million per year for each of the  
17 years 2007, 2008, and 2009 associated with a pilot program  
18 within the electric utility's service area that is proposed  
19 and designed by the utilities for residential customers  
20 eligible to participate in the State-administered Low  
21 Income Home Energy Assistance Program that has been  
22 reviewed and accepted by the Department of Healthcare and  
23 Family Services and that provides for the provision of  
24 electric service under a percentage of income payment plan;

25 (5) payments of \$1 million per year for each of the  
26 years 2007, 2008, and 2009 into a working families

1 assistance fund that is administered in coordination with  
2 the Illinois Department of Healthcare and Family Services  
3 and provides assistance to residential households within  
4 the electric utility's service area that are not eligible  
5 for the State-administered Low Income Home Energy  
6 Assistance Program and that have household income less than  
7 twice the poverty level; and

8 (6) costs of \$4 million during the period January 2,  
9 2007 through December 31, 2009 that are associated with a  
10 program that provides senior citizens who live in  
11 subsidized housing and pay their own electric bills with  
12 monthly bill credits in each of the July, August, and  
13 September billing periods.

14 (c) An electric utility that is required to file a rate  
15 mitigation plan as provided in subsection (a) of this Section  
16 and that serves more than 100,000 but fewer than two million  
17 residential customers in this State, shall, notwithstanding  
18 any other provisions of this Act and without obtaining any  
19 approvals from the Commission other than those set forth below,  
20 make the following payments or incur the following costs  
21 associated with the development of energy efficiency and  
22 renewable resources for the benefit of its residential  
23 customers and assistance to those residential customers least  
24 able to afford utility services:

25 (1) payments of at least \$6 million prior to December  
26 31, 2008, toward energy efficiency programs that are



1 proposed by the electric utility for its residential  
2 customers and approved by the Commission as consistent with  
3 the goals and objectives stated in this Section and in  
4 Section 16-101A of this Act. The electric utility shall  
5 file a description of the programs it proposes to implement  
6 under this item (1) with the Commission within 30 days of  
7 the effective date of this amendatory Act, and the  
8 Commission shall enter its order approving or modifying  
9 such programs within 150 days of the date on which the  
10 utility's proposal is filed. The Commission may approve a  
11 request to continue such a program beyond December 31,  
12 2008, provided that in any order approving such  
13 continuation, the Commission shall provide for recovery of  
14 the ongoing costs associated with such program and specify  
15 how such costs will be recovered by the utility; and

16 (2) costs, of at least a total of \$9 million during the  
17 period January 2, 2007 through December 31, 2008, that are  
18 associated with programs that assist low income  
19 residential customers pay their electric bills, which may  
20 include programs similar to those described in subsection  
21 (b) of this Section.

22 (d) The Commission shall, on or before December 31, 2009,  
23 adopt rules governing the recovery through rates of the costs  
24 associated with an electric utility's discretionary investment  
25 in programs that promote the use of energy efficiency and  
26 renewable resources, other than those specific costs

1 identified in subsections (b) and (c) of this Section.

2 (e) (i) In the event that an electric utility that serves  
3 two million or more residential customers in its service area  
4 and that is required to file a rate mitigation plan as provided  
5 in subsection (a) of this Section is assigned a noninvestment  
6 grade credit rating on its senior unsecured debt from three  
7 nationally recognized credit rating agencies, the limitations  
8 in such rate mitigation plan shall cease to apply, rates  
9 reflecting the full residential revenue requirement previously  
10 approved for the utility shall be fully in effect, and the  
11 utility shall begin recovering all amounts that have been  
12 deferred on the terms set forth in the tariff approved by the  
13 Commission. In addition, in such event the provisions of  
14 subsections (b) and (c) of this Section shall cease to apply  
15 and shall be of no further force and effect except for any  
16 provision for cost recovery that has been made for the costs,  
17 including ongoing costs, of such programs and purchases.

18 (ii) In the event that an electric utility that serves over  
19 100,000 and fewer than two million residential customers in its  
20 service area and that is required to file a rate mitigation  
21 plan as provided in subsection (a) of this Section is assigned  
22 a noninvestment grade corporate credit rating or issuer rating  
23 from either Standard & Poor's or Moody's Investor Service, the  
24 limitations in such rate mitigation plan shall cease to apply,  
25 rates reflecting the full residential revenue requirement  
26 previously approved for the utility shall be fully in effect,

1 and the utility shall begin recovering all amounts that have  
2 been deferred on the terms set forth in the tariff approved by  
3 the Commission. In addition, in such event the provisions of  
4 subsections (b) and (c) of this Section shall cease to apply  
5 and shall be of no further force and effect except for any  
6 provisions for cost recovery that has been made for the costs,  
7 including ongoing costs, of such programs and purchases.

8 (220 ILCS 5/16-113)

9 Sec. 16-113. Declaration of service as a competitive  
10 service.

11 (a) An electric utility may, by petition, request the  
12 Commission to declare a tariffed service provided by the  
13 electric utility to be a competitive service. The electric  
14 utility shall give notice of its petition to the public in the  
15 same manner that public notice is provided for proposed general  
16 increases in rates for tariffed services, in accordance with  
17 rules and regulations prescribed by the Commission. The  
18 Commission shall hold a hearing and ~~on the petition if a~~  
19 ~~hearing is deemed necessary by the Commission. The Commission~~  
20 shall declare the class of tariffed service to be a competitive  
21 service ~~for some identifiable customer segment or group of~~  
22 ~~customers, or some clearly defined geographical area~~ within the  
23 electric utility's service area, only after the electric  
24 utility demonstrates that at least 33% of the customers in the  
25 electric utility's service area that are eligible to take the

1 class of tariffed service instead take service from alternative  
2 retail electric suppliers, as defined in Section 16-102, and  
3 that at least 3 alternative retail electric suppliers provide  
4 service that is comparable to the class of tariffed service to  
5 those customers in the utility's service area that do not take  
6 service from the electric utility; ~~if the service or a~~  
7 ~~reasonably equivalent substitute service is reasonably~~  
8 ~~available to the customer segment or group or in the defined~~  
9 ~~geographical area at a comparable price from one or more~~  
10 ~~providers other than the electric utility or an affiliate of~~  
11 ~~the electric utility, and the electric utility has lost or~~  
12 ~~there is a reasonable likelihood that the electric utility will~~  
13 ~~lose business for the service to the other provider or~~  
14 ~~providers;~~ provided, that the Commission may not declare the  
15 provision of electric power and energy to be competitive  
16 pursuant to this subsection with respect to (i) any retail  
17 customer or group of retail customers that is not eligible  
18 pursuant to Section 16-104 to take delivery services provided  
19 by the electric utility and (ii) any residential and small  
20 commercial retail customers prior to the last date on which  
21 such customers are required to pay transition charges. In  
22 determining whether to grant or deny a petition to declare the  
23 provision of electric power and energy competitive, the  
24 Commission shall consider, in applying the above criteria,  
25 whether there is adequate transmission capacity into the  
26 service area of the petitioning electric utility to make

1 electric power and energy reasonably available to the customer  
2 segment or group or in the defined geographical area from one  
3 or more providers other than the electric utility or an  
4 affiliate of the electric utility, in accordance with this  
5 subsection. The Commission shall make its determination and  
6 issue its final order declaring or refusing to declare the  
7 service to be a competitive service within 180 ~~120~~ days  
8 following the date that the petition is filed, ~~or otherwise the~~  
9 ~~petition shall be deemed to be granted; provided, that if the~~  
10 ~~petition is deemed to be granted by operation of law, the~~  
11 ~~Commission shall not thereby be precluded from finding and~~  
12 ~~ordering, in a subsequent proceeding initiated by the~~  
13 ~~Commission, and after notice and hearing, that the service is~~  
14 ~~not competitive based on the criteria set forth in this~~  
15 ~~subsection.~~

16 (b) Any customer except a customer identified in subsection  
17 (c) of Section 16-103 who is taking a tariffed service that is  
18 declared to be a competitive service pursuant to subsection (a)  
19 of this Section shall be entitled to continue to take the  
20 service from the electric utility on a tariffed basis for a  
21 period of 3 years following the date that the service is  
22 declared competitive, or such other period as is stated in the  
23 electric utility's tariff pursuant to Section 16-110. This  
24 subsection shall not require the electric utility to offer or  
25 provide on a tariffed basis any service to any customer (except  
26 those customers identified in subsection (c) of Section 16-103)

1 that was not taking such service on a tariffed basis on the  
2 date the service was declared to be competitive.

3 (c) If the Commission denies a petition to declare a  
4 service to be a competitive service, or determines in a  
5 separate proceeding that a service is not competitive based on  
6 the criteria set forth in subsection (a), the electric utility  
7 may file a new petition no earlier than 6 months following the  
8 date of the Commission's order, requesting, on the basis of  
9 additional or different facts and circumstances, that the  
10 service be declared to be a competitive service.

11 (d) The Commission shall not deny a petition to declare a  
12 service to be a competitive service, and shall not find that a  
13 service is not a competitive service, on the grounds that it  
14 has previously denied the petition of another electric utility  
15 to declare the same or a similar service to be a competitive  
16 service or has previously determined that the same or a similar  
17 service provided by another electric utility is not a  
18 competitive service.

19 (e) An electric utility may declare a service, other than  
20 delivery services or the provision of electric power or energy,  
21 to be competitive by filing with the Commission at least 14  
22 days prior to the date on which the service is to become  
23 competitive a notice describing the service that is being  
24 declared competitive and the date on which it will become  
25 competitive; provided, that any customer who is taking a  
26 tariffed service that is declared to be a competitive service

1 pursuant to this subsection (e) shall be entitled to continue  
2 to take the service from the electric utility on a tariffed  
3 basis until the electric utility files, and the Commission  
4 grants, a petition to declare the service competitive in  
5 accordance with subsection (a) of this Section. The Commission  
6 shall be authorized to find and order, after notice and hearing  
7 in a subsequent proceeding initiated by the Commission, that  
8 any service declared to be competitive pursuant to this  
9 subsection (e) is not competitive in accordance with the  
10 criteria set forth in subsection (a) of this Section.

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

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

1		INDEX
2		Statutes amended in order of appearance
3	10 ILCS 5/2A-1.2	from Ch. 46, par. 2A-1.2
4	10 ILCS 5/7-10	from Ch. 46, par. 7-10
5	10 ILCS 5/7-12	from Ch. 46, par. 7-12
6	10 ILCS 5/10-9	from Ch. 46, par. 10-9
7	10 ILCS 5/22-1	from Ch. 46, par. 22-1
8	10 ILCS 5/22-7	from Ch. 46, par. 22-7
9	35 ILCS 5/218 new	
10	35 ILCS 5/219 new	
11	35 ILCS 505/8	from Ch. 120, par. 424
12	220 ILCS 5/2-101	from Ch. 111 2/3, par. 2-101
13	220 ILCS 5/2-101.5 new	
14	220 ILCS 5/2-102	from Ch. 111 2/3, par. 2-102
15	220 ILCS 5/9-254 new	
16	220 ILCS 5/16-102	
17	220 ILCS 5/16-111	
18	220 ILCS 5/16-111.4 new	
19	220 ILCS 5/16-113	