

1 AN ACT concerning public utilities.

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

4 Section 1. Findings. The General Assembly finds that:

5 (1) subsection (b-10) of Section 16-108.5 of this
6 amendatory Act of the 97th General Assembly provides
7 substantial customer assistance programs for low-income
8 customers, senior citizens, active members of the armed
9 services and reserved forces, and disabled veterans;

10 (2) subsection (b) of Section 16-108.5 of this
11 amendatory Act of the 97th General Assembly provides for
12 infrastructure improvements designed to reduce outages due
13 to storms;

14 (3) subsections (f) and (f-5) of Section 16-108.5 of
15 this amendatory Act of the 97th General Assembly require
16 improvement in a variety of performance metrics and impose
17 penalties on the electric utilities for failure to achieve
18 the statutorily set goals;

19 (4) Black & Veatch, a global engineering, consulting
20 and construction company, performed an independent
21 evaluation of Commonwealth Edison Company's Advanced
22 Metering Infrastructure ("AMI") pilot program and
23 concluded that the cost savings and benefits to ComEd
24 customers of full AMI deployment are nearly 3 times greater

1 than the cost to deploy AMI, and further that AMI
2 deployment is estimated to result in a net savings to ComEd
3 customers of \$2.8 billion over 20 years; and

4 (5) this amendatory Act of the 97th General Assembly
5 confers substantial benefits upon the State's electric
6 utility customers.

7 Section 5. If and only if Senate Bill 1652 of the 97th
8 General Assembly becomes law, then the Public Utilities Act is
9 amended by changing Sections 16-107.5, 16-108.5, 16-108.6,
10 16-108.7, and 16-128 as follows:

11 (220 ILCS 5/16-107.5)

12 Sec. 16-107.5. Net electricity metering.

13 (a) The Legislature finds and declares that a program to
14 provide net electricity metering, as defined in this Section,
15 for eligible customers can encourage private investment in
16 renewable energy resources, stimulate economic growth, enhance
17 the continued diversification of Illinois' energy resource
18 mix, and protect the Illinois environment.

19 (b) As used in this Section, (i) "eligible customer" means
20 a retail customer that owns or operates a solar, wind, or other
21 eligible renewable electrical generating facility with a rated
22 capacity of not more than 2,000 kilowatts that is located on
23 the customer's premises and is intended primarily to offset the
24 customer's own electrical requirements; (ii) "electricity

1 provider" means an electric utility or alternative retail
2 electric supplier; (iii) "eligible renewable electrical
3 generating facility" means a generator powered by solar
4 electric energy, wind, dedicated crops grown for electricity
5 generation, agricultural residues, untreated and unadulterated
6 wood waste, landscape trimmings, livestock manure, anaerobic
7 digestion of livestock or food processing waste, fuel cells or
8 microturbines powered by renewable fuels, or hydroelectric
9 energy; and (iv) "net electricity metering" (or "net metering")
10 means the measurement, during the billing period applicable to
11 an eligible customer, of the net amount of electricity supplied
12 by an electricity provider to the customer's premises or
13 provided to the electricity provider by the customer.

14 (c) A net metering facility shall be equipped with metering
15 equipment that can measure the flow of electricity in both
16 directions at the same rate.

17 (1) For eligible customers whose electric service has
18 not been declared competitive pursuant to Section 16-113 of
19 this Act and whose electric delivery service is provided
20 and measured on a kilowatt-hour basis and electric supply
21 service is not provided based on hourly pricing, this shall
22 typically be accomplished through use of a single,
23 bi-directional meter. If the eligible customer's existing
24 electric revenue meter does not meet this requirement, the
25 electricity provider shall arrange for the local electric
26 utility or a meter service provider to install and maintain

1 a new revenue meter at the electricity provider's expense.

2 (2) For eligible customers whose electric service has
3 not been declared competitive pursuant to Section 16-113 of
4 this Act and whose electric delivery service is provided
5 and measured on a kilowatt demand basis and electric supply
6 service is not provided based on hourly pricing, this shall
7 typically be accomplished through use of a dual channel
8 meter capable of measuring the flow of electricity both
9 into and out of the customer's facility at the same rate
10 and ratio. If such customer's existing electric revenue
11 meter does not meet this requirement, then the electricity
12 provider shall arrange for the local electric utility or a
13 meter service provider to install and maintain a new
14 revenue meter at the electricity provider's expense.

15 (3) For all other eligible customers, the electricity
16 provider may arrange for the local electric utility or a
17 meter service provider to install and maintain metering
18 equipment capable of measuring the flow of electricity both
19 into and out of the customer's facility at the same rate
20 and ratio, typically through the use of a dual channel
21 meter. If the eligible customer's existing electric
22 revenue meter does not meet this requirement, then the
23 costs of installing such equipment shall be paid for by the
24 customer.

25 (d) An electricity provider shall measure and charge or
26 credit for the net electricity supplied to eligible customers

1 or provided by eligible customers whose electric service has
2 not been declared competitive pursuant to Section 16-113 of the
3 Act and whose electric delivery service is provided and
4 measured on a kilowatt-hour basis and electric supply service
5 is not provided based on hourly pricing in the following
6 manner:

7 (1) If the amount of electricity used by the customer
8 during the billing period exceeds the amount of electricity
9 produced by the customer, the electricity provider shall
10 charge the customer for the net electricity supplied to and
11 used by the customer as provided in subsection (e-5) of
12 this Section.

13 (2) If the amount of electricity produced by a customer
14 during the billing period exceeds the amount of electricity
15 used by the customer during that billing period, the
16 electricity provider supplying that customer shall apply a
17 1:1 kilowatt-hour credit to a subsequent bill for service
18 to the customer for the net electricity supplied to the
19 electricity provider. The electricity provider shall
20 continue to carry over any excess kilowatt-hour credits
21 earned and apply those credits to subsequent billing
22 periods to offset any customer-generator consumption in
23 those billing periods until all credits are used or until
24 the end of the annualized period.

25 (3) At the end of the year or annualized over the
26 period that service is supplied by means of net metering,

1 or in the event that the retail customer terminates service
2 with the electricity provider prior to the end of the year
3 or the annualized period, any remaining credits in the
4 customer's account shall expire.

5 (d-5) An electricity provider shall measure and charge or
6 credit for the net electricity supplied to eligible customers
7 or provided by eligible customers whose electric service has
8 not been declared competitive pursuant to Section 16-113 of
9 this Act and whose electric delivery service is provided and
10 measured on a kilowatt-hour basis and electric supply service
11 is provided based on hourly pricing in the following manner:

12 (1) If the amount of electricity used by the customer
13 during any hourly period exceeds the amount of electricity
14 produced by the customer, the electricity provider shall
15 charge the customer for the net electricity supplied to and
16 used by the customer according to the terms of the contract
17 or tariff to which the same customer would be assigned to
18 or be eligible for if the customer was not a net metering
19 customer.

20 (2) If the amount of electricity produced by a customer
21 during any hourly period exceeds the amount of electricity
22 used by the customer during that hourly period, the energy
23 provider shall apply a credit for the net kilowatt-hours
24 produced in such period. The credit shall consist of an
25 energy credit and a delivery service credit. The energy
26 credit shall be valued at the same price per kilowatt-hour

1 as the electric service provider would charge for
2 kilowatt-hour energy sales during that same hourly period.
3 The delivery credit shall be equal to the net
4 kilowatt-hours produced in such hourly period times a
5 credit that reflects all kilowatt-hour based charges in the
6 customer's electric service rate, excluding energy
7 charges.

8 (e) An electricity provider shall measure and charge or
9 credit for the net electricity supplied to eligible customers
10 whose electric service has not been declared competitive
11 pursuant to Section 16-113 of this Act and whose electric
12 delivery service is provided and measured on a kilowatt demand
13 basis and electric supply service is not provided based on
14 hourly pricing in the following manner:

15 (1) If the amount of electricity used by the customer
16 during the billing period exceeds the amount of electricity
17 produced by the customer, then the electricity provider
18 shall charge the customer for the net electricity supplied
19 to and used by the customer as provided in subsection (e-5)
20 of this Section, provided that the electricity provider
21 shall assess and the customer remains responsible for all
22 taxes, fees, and utility delivery charges that would
23 otherwise be applicable to the gross amount of
24 kilowatt-hours supplied to the eligible customer by the
25 electricity provider.

26 (2) If the amount of electricity produced by a customer

1 during the billing period exceeds the amount of electricity
2 used by the customer during that billing period, then the
3 electricity provider supplying that customer shall apply a
4 1:1 kilowatt-hour credit that reflects the kilowatt-hour
5 based charges in the customer's electric service rate to a
6 subsequent bill for service to the customer for the net
7 electricity supplied to the electricity provider. The
8 electricity provider shall continue to carry over any
9 excess kilowatt-hour credits earned and apply those
10 credits to subsequent billing periods to offset any
11 customer-generator consumption in those billing periods
12 until all credits are used or until the end of the
13 annualized period.

14 (3) At the end of the year or annualized over the
15 period that service is supplied by means of net metering,
16 or in the event that the retail customer terminates service
17 with the electricity provider prior to the end of the year
18 or the annualized period, any remaining credits in the
19 customer's account shall expire.

20 (e-5) An electricity provider shall provide electric
21 service to eligible customers whose electric service has not
22 been declared competitive pursuant to Section 16-113 of this
23 Act and whose electric supply service is not provided based on
24 hourly pricing who utilize net metering at non-discriminatory
25 rates that are identical, with respect to rate structure,
26 retail rate components, and any monthly charges, to the rates

1 that the customer would be charged if not a net metering
2 customer. An electricity provider shall not charge net metering
3 customers any fee or charge or require additional equipment,
4 insurance, or any other requirements not specifically
5 authorized by interconnection standards authorized by the
6 Commission, unless the fee, charge, or other requirement would
7 apply to other similarly situated customers who are not net
8 metering customers. The customer will remain responsible for
9 all taxes, fees, and utility delivery charges that would
10 otherwise be applicable to the net amount of electricity used
11 by the customer. Subsections (c) through (e) of this Section
12 shall not be construed to prevent an arms-length agreement
13 between an electricity provider and an eligible customer that
14 sets forth different prices, terms, and conditions for the
15 provision of net metering service, including, but not limited
16 to, the provision of the appropriate metering equipment for
17 non-residential customers.

18 (f) Notwithstanding the requirements of subsections (c)
19 through (e-5) of this Section, an electricity provider must
20 require dual-channel metering for customers operating eligible
21 renewable electrical generating facilities with a nameplate
22 rating up to 2,000 kilowatts and to whom the provisions of
23 neither subsection (d), (d-5), nor (e) of this Section apply.
24 In such cases, electricity charges and credits shall be
25 determined as follows:

26 (1) The electricity provider shall assess and the

1 customer remains responsible for all taxes, fees, and
2 utility delivery charges that would otherwise be
3 applicable to the gross amount of kilowatt-hours supplied
4 to the eligible customer by the electricity provider.

5 (2) Each month that service is supplied by means of
6 dual-channel metering, the electricity provider shall
7 compensate the eligible customer for any excess
8 kilowatt-hour credits at the electricity provider's
9 avoided cost of electricity supply over the monthly period
10 or as otherwise specified by the terms of a power-purchase
11 agreement negotiated between the customer and electricity
12 provider.

13 (3) For all eligible net metering customers taking
14 service from an electricity provider under contracts or
15 tariffs employing time of use rates, any monthly
16 consumption of electricity shall be calculated according
17 to the terms of the contract or tariff to which the same
18 customer would be assigned to or be eligible for if the
19 customer was not a net metering customer. When those same
20 customer-generators are net generators during any discrete
21 time of use period, the net kilowatt-hours produced shall
22 be valued at the same price per kilowatt-hour as the
23 electric service provider would charge for retail
24 kilowatt-hour sales during that same time of use period.

25 (g) For purposes of federal and State laws providing
26 renewable energy credits or greenhouse gas credits, the

1 eligible customer shall be treated as owning and having title
2 to the renewable energy attributes, renewable energy credits,
3 and greenhouse gas emission credits related to any electricity
4 produced by the qualified generating unit. The electricity
5 provider may not condition participation in a net metering
6 program on the signing over of a customer's renewable energy
7 credits; provided, however, this subsection (g) shall not be
8 construed to prevent an arms-length agreement between an
9 electricity provider and an eligible customer that sets forth
10 the ownership or title of the credits.

11 (h) Within 120 days after the effective date of this
12 amendatory Act of the 95th General Assembly, the Commission
13 shall establish standards for net metering and, if the
14 Commission has not already acted on its own initiative,
15 standards for the interconnection of eligible renewable
16 generating equipment to the utility system. The
17 interconnection standards shall address any procedural
18 barriers, delays, and administrative costs associated with the
19 interconnection of customer-generation while ensuring the
20 safety and reliability of the units and the electric utility
21 system. The Commission shall consider the Institute of
22 Electrical and Electronics Engineers (IEEE) Standard 1547 and
23 the issues of (i) reasonable and fair fees and costs, (ii)
24 clear timelines for major milestones in the interconnection
25 process, (iii) nondiscriminatory terms of agreement, and (iv)
26 any best practices for interconnection of distributed

1 generation.

2 (i) All electricity providers shall begin to offer net
3 metering no later than April 1, 2008.

4 (j) An electricity provider shall provide net metering to
5 eligible customers until the load of its net metering customers
6 equals 5% of the total peak demand supplied by that electricity
7 provider during the previous year. Electricity providers are
8 authorized to offer net metering beyond the 5% level if they so
9 choose.

10 (k) Each electricity provider shall maintain records and
11 report annually to the Commission the total number of net
12 metering customers served by the provider, as well as the type,
13 capacity, and energy sources of the generating systems used by
14 the net metering customers. Nothing in this Section shall limit
15 the ability of an electricity provider to request the redaction
16 of information deemed by the Commission to be confidential
17 business information. Each electricity provider shall notify
18 the Commission when the total generating capacity of its net
19 metering customers is equal to or in excess of the 5% cap
20 specified in subsection (j) of this Section.

21 (l) Notwithstanding the definition of "eligible customer"
22 in item (i) of subsection (b) of this Section, each electricity
23 provider shall consider whether to allow meter aggregation for
24 the purposes of net metering on:

25 (1) properties owned or leased by multiple customers
26 that contribute to the operation of an eligible renewable

1 electrical generating facility, such as a community-owned
2 wind project, a community-owned biomass project, a
3 community-owned solar project, or a community methane
4 digester processing livestock waste from multiple sources;
5 and

6 (2) individual units, apartments, or properties owned
7 or leased by multiple customers and collectively served by
8 a common eligible renewable electrical generating
9 facility, such as an apartment building served by
10 photovoltaic panels on the roof.

11 For the purposes of this subsection (1), "meter
12 aggregation" means the combination of reading and billing on a
13 pro rata basis for the types of eligible customers described in
14 this Section.

15 (m) Nothing in this Section shall affect the right of an
16 electricity provider to continue to provide, or the right of a
17 retail customer to continue to receive service pursuant to a
18 contract for electric service between the electricity provider
19 and the retail customer in accordance with the prices, terms,
20 and conditions provided for in that contract. Either the
21 electricity provider or the customer may require compliance
22 with the prices, terms, and conditions of the contract.

23 (Source: P.A. 95-420, eff. 8-24-07; 09700SB1652enr.)

24 (220 ILCS 5/16-108.5)

25 Sec. 16-108.5. Infrastructure investment and

1 modernization; regulatory reform.

2 (a) (Blank). ~~The General Assembly recognizes that for well~~
3 ~~over a century Illinois residents and businesses have been~~
4 ~~well served by and have benefitted from a comprehensive~~
5 ~~electric utility system. The General Assembly finds that~~
6 ~~electric utilities are now entering a new construction cycle~~
7 ~~that is needed to refurbish, rebuild, modernize, and expand~~
8 ~~systems to continue to provide safe, reliable, and affordable~~
9 ~~service to the State's current and future utility customers in~~
10 ~~this newly digitized age. In particular, the General Assembly~~
11 ~~finds that it is the policy of this State that significant~~
12 ~~investments must be made in the State's electric grid over the~~
13 ~~next decade to modernize and upgrade transmission and~~
14 ~~distribution facilities in the State. These investments will~~
15 ~~ensure that the State's electric utility infrastructure will~~
16 ~~promote future economic development in the State and that the~~
17 ~~State's electric utilities will be able to continue to provide~~
18 ~~quality electric service to their customers, including~~
19 ~~innovative technological offerings that will enhance customer~~
20 ~~experience and choice such as smart meters that are dependent~~
21 ~~on a modernized or Smart Grid. These investments, including~~
22 ~~programs to reinforce the safety and security of high voltage~~
23 ~~transmission lines, will also ensure that the State's electric~~
24 ~~utility infrastructure continues to be safe and reliable. The~~
25 ~~introduction of performance metrics will further ensure that~~
26 ~~reliability and other indicators are not just maintained but~~

1 ~~improved over the next decade.~~

2 ~~The General Assembly further recognizes that, in addition~~
3 ~~to attracting capital and businesses to the State, these~~
4 ~~investments will create training opportunities for the~~
5 ~~citizens of this State, all of which will create new employment~~
6 ~~opportunities for Illinoisans at a time when they are most~~
7 ~~needed, especially for minority owned and female owned~~
8 ~~business enterprises. The General Assembly further finds that~~
9 ~~regulatory reform measures that increase predictability,~~
10 ~~stability, and transparency in the ratemaking process are~~
11 ~~needed to promote prudent, long-term infrastructure investment~~
12 ~~and to mutually benefit the State's electric utilities and~~
13 ~~their customers, regulators, and investors.~~

14 (b) For purposes of this Section, "participating utility"
15 means an electric utility or a combination utility serving more
16 than 1,000,000 customers in Illinois that voluntarily elects
17 and commits to undertake (i) the infrastructure investment
18 program consisting of the commitments and obligations
19 described in this subsection (b) and (ii) the customer
20 assistance program consisting of the commitments and
21 obligations described in subsection (b-10) of this Section,
22 notwithstanding any other provisions of this Act and without
23 obtaining any approvals from the Commission or any other agency
24 other than as set forth in this Section, regardless of whether
25 any such approval would otherwise be required. "Combination
26 utility" means a utility that, as of January 1, 2011, provided

1 electric service to at least one million retail customers in
2 Illinois and gas service to at least 500,000 retail customers
3 in Illinois. A participating utility shall recover the
4 expenditures made under the infrastructure investment program
5 through the ratemaking process, including, but not limited to,
6 the performance-based formula rate and process set forth in
7 this Section.

8 During the infrastructure investment program's peak
9 program year, a participating utility other than a combination
10 utility shall create 2,000 full-time equivalent jobs in
11 Illinois, and a participating utility that is a combination
12 utility shall create 450 full-time equivalent jobs in Illinois
13 related to the provision of electric service. These jobs shall
14 include, ~~including~~ direct jobs, contractor positions, and
15 induced jobs, but shall not include any portion of a job
16 commitment, not specifically contingent on an amendatory Act of
17 the 97th General Assembly becoming law, between a participating
18 utility and a labor union that existed on the effective date of
19 this amendatory Act of the 97th General Assembly and that has
20 not yet been fulfilled. A portion of the full-time equivalent
21 jobs created by each participating utility shall include
22 incremental personnel hired subsequent to the effective date of
23 this amendatory Act of the 97th General Assembly. For purposes
24 of this Section, "peak program year" means the consecutive
25 12-month period with the highest number of full-time equivalent
26 jobs that occurs between the beginning of investment year 2 and

1 the end of investment year 4.

2 A participating utility shall meet one of the following
3 commitments, as applicable:

4 (1) Beginning no later than 180 days after a
5 participating utility other than a combination utility
6 files a performance-based formula rate tariff pursuant to
7 subsection (c) of this Section, or, beginning no later than
8 January 1, 2012 if such utility files such
9 performance-based formula rate tariff within 14 days of the
10 effective date of this amendatory Act of the 97th General
11 Assembly, the participating utility shall, except as
12 provided in subsection (b-5):

13 (A) over a 5-year period, invest an estimated
14 \$1,300,000,000 ~~\$1,100,000,000~~ in electric system
15 upgrades, modernization projects, and training
16 facilities, including, but not limited to:

17 (i) distribution infrastructure improvements
18 totaling an estimated \$1,000,000,000, including
19 underground residential distribution cable
20 injection and replacement and mainline cable
21 system refurbishment and replacement projects;

22 (ii) training facility construction or upgrade
23 projects totaling an estimated \$10,000,000,
24 provided that, at a minimum, one such facility
25 shall be located in a municipality having a
26 population of more than 2 million residents and one

1 such facility shall be located in a municipality
2 having a population of more than 150,000 residents
3 but fewer than 170,000 residents; any such new
4 facility located in a municipality having a
5 population of more than 2 million residents must be
6 designed for the purpose of obtaining, and the
7 owner of the facility shall apply for,
8 certification under the United States Green
9 Building Council's Leadership in Energy Efficiency
10 Design Green Building Rating System; ~~and~~

11 (iii) wood pole inspection, treatment, and
12 replacement programs; ~~and~~

13 (iv) an estimated \$200,000,000 for reducing
14 the susceptibility of certain circuits to
15 storm-related damage, including, but not limited
16 to, high winds, thunderstorms, and ice storms;
17 improvements may include, but are not limited to,
18 overhead to underground conversion and other
19 engineered outcomes for circuits; the
20 participating utility shall prioritize the
21 selection of circuits based on each circuit's
22 historical susceptibility to storm-related damage
23 and the ability to provide the greatest customer
24 benefit upon completion of the improvements; to be
25 eligible for improvement, the participating
26 utility's ability to maintain proper tree

1 clearances surrounding the overhead circuit must
2 not have been impeded by third parties; and

3 (B) over a 10-year period, invest an estimated
4 \$1,300,000,000 ~~\$1,500,000,000~~ to upgrade and modernize
5 its transmission and distribution infrastructure and
6 in Smart Grid electric system upgrades, including, but
7 not limited to:

8 (i) additional smart meters;

9 (ii) distribution automation;

10 (iii) associated cyber secure data
11 communication network; and

12 (iv) substation micro-processor relay
13 upgrades.

14 (2) Beginning no later than 180 days after a
15 participating utility that is a combination utility files a
16 performance-based formula rate tariff pursuant to
17 subsection (c) of this Section, or, beginning no later than
18 January 1, 2012 if such utility files such
19 performance-based formula rate tariff within 14 days of the
20 effective date of this amendatory Act of the 97th General
21 Assembly, the participating utility shall, except as
22 provided in subsection (b-5):

23 (A) over a 10-year period, invest an estimated
24 \$265,000,000 in electric system upgrades,
25 modernization projects, and training facilities,
26 including, but not limited to:

1 (i) distribution infrastructure improvements
2 totaling an estimated \$245,000,000, which may
3 include bulk supply substations, transformers,
4 reconductoring, and rebuilding overhead
5 distribution and sub-transmission lines,
6 underground residential distribution cable
7 injection and replacement and mainline cable
8 system refurbishment and replacement projects;

9 (ii) training facility construction or upgrade
10 projects totaling an estimated \$1,000,000; any
11 such new facility must be designed for the purpose
12 of obtaining, and the owner of the facility shall
13 apply for, certification under the United States
14 Green Building Council's Leadership in Energy
15 Efficiency Design Green Building Rating System;
16 and

17 (iii) wood pole inspection, treatment, and
18 replacement programs; and

19 (B) over a 10-year period, invest an estimated
20 \$360,000,000 to upgrade and modernize its transmission
21 and distribution infrastructure and in Smart Grid
22 electric system upgrades, including, but not limited
23 to:

24 (i) additional smart meters;

25 (ii) distribution automation;

26 (iii) associated cyber secure data

1 communication network; and
2 (iv) substation micro-processor relay
3 upgrades.

4 For purposes of this Section, "Smart Grid electric system
5 upgrades" shall have the meaning set forth in subsection (a) of
6 Section 16-108.6 of this Act.

7 The investments in the infrastructure investment program
8 described in this subsection (b) shall be incremental to the
9 participating utility's annual capital investment program, as
10 defined by, for purposes of this subsection (b), the
11 participating utility's average capital spend for calendar
12 years 2008, 2009, and 2010 as reported in the applicable
13 Federal Energy Regulatory Commission (FERC) Form 1; provided
14 that where one or more utilities have merged, the average
15 capital spend shall be determined using the aggregate of the
16 merged utilities' capital spend reported in FERC Form 1 for the
17 years 2008, 2009, and 2010. A participating utility may add
18 reasonable construction ramp-up and ramp-down time to the
19 investment periods specified in this subsection (b). For each
20 such investment period, the ramp-up and ramp-down time shall
21 not exceed a total of 6 months.

22 Within 60 days after filing a tariff under subsection (c)
23 of this Section, a participating utility shall submit to the
24 Commission its plan, including scope, schedule, and staffing,
25 for satisfying its infrastructure investment program
26 commitments pursuant to this subsection (b). The submitted plan

1 shall include a schedule and staffing plan for the next
2 calendar year. The plan shall also include a plan for the
3 creation, operation, and administration of a Smart Grid test
4 bed as described in subsection (c) of Section 16-108.8. The
5 plan need not allocate the work equally over the respective
6 periods, but should allocate material increments throughout
7 such periods commensurate with the work to be undertaken. No
8 later than April 1 of each subsequent year, the utility shall
9 submit to the Commission a report that includes any updates to
10 the plan, a schedule for the next calendar year, the
11 expenditures made for the prior calendar year and cumulatively,
12 and the number of full-time equivalent jobs created for the
13 prior calendar year and cumulatively. If the utility is
14 materially deficient in satisfying a schedule or staffing plan,
15 then the report must also include a corrective action plan to
16 address the deficiency. The fact that the plan, implementation
17 of the plan, or a schedule changes shall not imply the
18 imprudence or unreasonableness of the infrastructure
19 investment program, plan, or schedule. Further, no later than
20 45 days following the last day of the first, second, and third
21 quarters of each year of the plan, a participating utility
22 shall submit to the Commission a verified quarterly report for
23 the prior quarter that includes (i) the total number of
24 full-time equivalent jobs created during the prior quarter,
25 (ii) the total number of employees as of the last day of the
26 prior quarter, (iii) the total number of full-time equivalent

1 hours in each job classification or job title, (iv) the total
2 number of incremental employees and contractors in support of
3 the investments undertaken pursuant to this subsection (b) for
4 the prior quarter, and (v) any other information that the
5 Commission may require by rule.

6 With respect to the participating utility's peak job
7 commitment, if, after considering the utility's corrective
8 action plan and compliance thereunder, the Commission enters an
9 order finding, after notice and hearing, that a participating
10 utility did not satisfy its peak job commitment described in
11 this subsection (b) for reasons that are reasonably within its
12 control, then the Commission shall also determine, after
13 consideration of the evidence, including, but not limited to,
14 evidence submitted by the Department of Commerce and Economic
15 Opportunity and the utility, the deficiency in the number of
16 full-time equivalent jobs during the peak program year due to
17 such failure. The Commission shall notify the Department of any
18 proceeding that is initiated pursuant to this paragraph. For
19 each full-time equivalent job deficiency during the peak
20 program year that the Commission finds as set forth in this
21 paragraph, the participating utility shall, within 30 days
22 after the entry of the Commission's order, pay \$6,000 ~~\$3,000~~ to
23 a fund for training grants administered under Section 605-800
24 of The Department of Commerce and Economic Opportunity Law,
25 which shall not be a recoverable expense.

26 With respect to the participating utility's investment

1 amount commitments, if, after considering the utility's
2 corrective action plan and compliance thereunder, the
3 Commission enters an order finding, after notice and hearing,
4 that a participating utility is not satisfying its investment
5 amount commitments described in this subsection (b), then the
6 utility shall no longer be eligible to annually update the
7 performance-based formula rate tariff pursuant to subsection
8 (d) of this Section. In such event, the then current rates
9 shall remain in effect until such time as new rates are set
10 pursuant to Article IX of this Act, subject to retroactive
11 adjustment, with interest, to reconcile rates charged with
12 actual costs.

13 If the Commission finds that a participating utility is no
14 longer eligible to update the performance-based formula rate
15 tariff pursuant to subsection (d) of this Section, or the
16 performance-based formula rate is otherwise terminated, then
17 the participating utility's voluntary commitments and
18 obligations under this subsection (b) shall immediately
19 terminate, except for the utility's obligation to pay an amount
20 already owed to the fund for training grants pursuant to a
21 Commission order.

22 In meeting the obligations of this subsection (b), to the
23 extent feasible and consistent with State and federal law, the
24 investments under the infrastructure investment program should
25 provide employment opportunities for all segments of the
26 population and workforce, including minority-owned and

1 female-owned business enterprises, and shall not, consistent
2 with State and federal law, discriminate based on race or
3 socioeconomic status.

4 (b-5) Nothing in this Section shall prohibit the Commission
5 from investigating the prudence and reasonableness of the
6 expenditures made under the infrastructure investment program
7 during the annual review required by subsection (d) of this
8 Section and shall, as part of such investigation, determine
9 whether the utility's actual costs under the program are
10 prudent and reasonable. The fact that a participating utility
11 invests more than the minimum amounts specified in subsection
12 (b) of this Section or its plan shall not imply imprudence or
13 unreasonableness.

14 If the participating utility finds that it is implementing
15 its plan for satisfying the infrastructure investment program
16 commitments described in subsection (b) of this Section at a
17 cost below the estimated amounts specified in subsection (b) of
18 this Section, then the utility may file a petition with the
19 Commission requesting that it be permitted to satisfy its
20 commitments by spending less than the estimated amounts
21 specified in subsection (b) of this Section. The Commission
22 shall, after notice and hearing, enter its order approving, or
23 approving as modified, or denying each such petition within 150
24 days after the filing of the petition.

25 In no event, absent General Assembly approval, shall the
26 capital investment costs incurred by a participating utility

1 other than a combination utility in satisfying its
2 infrastructure investment program commitments described in
3 subsection (b) of this Section exceed \$3,000,000,000 or, for a
4 participating utility that is a combination utility,
5 \$720,000,000. If the participating utility's updated cost
6 estimates for satisfying its infrastructure investment program
7 commitments described in subsection (b) of this Section exceed
8 the limitation imposed by this subsection (b-5), then it shall
9 submit a report to the Commission that identifies the increased
10 costs and explains the reason or reasons for the increased
11 costs no later than the year in which the utility estimates it
12 will exceed the limitation. The Commission shall review the
13 report and shall, within 90 days after the participating
14 utility files the report, report to the General Assembly its
15 findings regarding the participating utility's report. If the
16 General Assembly does not amend the limitation imposed by this
17 subsection (b-5), then the utility may modify its plan so as
18 not to exceed the limitation imposed by this subsection (b-5)
19 and may propose corresponding changes to the metrics
20 established pursuant to subparagraphs (5) through (8) of
21 subsection (f) of this Section, and the Commission may modify
22 the metrics and incremental savings goals established pursuant
23 to subsection (f) of this Section accordingly.

24 (b-10) All participating utilities shall make
25 contributions for an energy low-income and support program in
26 accordance with this subsection. Beginning no later than 180

1 days after a participating utility files a performance-based
2 formula rate tariff pursuant to subsection (c) of this Section,
3 or beginning no later than January 1, 2012 if such utility
4 files such performance-based formula rate tariff within 14 days
5 of the effective date of this amendatory Act of the 97th
6 General Assembly, and without obtaining any approvals from the
7 Commission or any other agency other than as set forth in this
8 Section, regardless of whether any such approval would
9 otherwise be required, a participating utility other than a
10 combination utility shall pay \$10,000,000 per year for 5 years
11 and a participating utility that is a combination utility shall
12 pay \$1,000,000 per year for 10 years to the energy low-income
13 and support program, which is intended to fund customer
14 assistance programs with the primary purpose being avoidance of
15 imminent disconnection. Such programs may include:

16 (1) a residential hardship program that may partner
17 with community-based organizations, including senior
18 citizen organizations, and provides grants to low-income
19 residential customers, including low-income senior
20 citizens, who demonstrate a hardship;

21 (2) a program that provides grants and other bill
22 payment concessions to disabled veterans who demonstrate a
23 hardship and members of the armed services or reserve
24 forces of the United States or members of the Illinois
25 National Guard who are on active duty pursuant to an
26 executive order of the President of the United States, an

1 act of the Congress of the United States, or an order of
2 the Governor and who demonstrate a hardship;

3 (3) a budget assistance program that provides tools and
4 education to low-income senior citizens to assist them with
5 obtaining information regarding energy usage and effective
6 means of managing energy costs;

7 (4) a non-residential special hardship program that
8 provides grants to non-residential customers such as small
9 businesses and non-profit organizations that demonstrate a
10 hardship, including those providing services to senior
11 citizen and low-income customers; and

12 (5) a performance-based assistance program that
13 provides grants to encourage residential customers to make
14 on-time payments by matching a portion of the customer's
15 payments or providing credits towards arrearages.

16 The payments made by a participating utility pursuant to
17 this subsection (b-10) shall not be a recoverable expense. A
18 participating utility may elect to fund either new or existing
19 customer assistance programs, including, but not limited to,
20 those that are administered by the utility.

21 Programs that use funds that are provided by a
22 participating utility to reduce utility bills may be
23 implemented through tariffs that are filed with and reviewed by
24 the Commission. If a utility elects to file tariffs with the
25 Commission to implement all or a portion of the programs, those
26 tariffs shall, regardless of the date actually filed, be deemed

1 accepted and approved, and shall become effective on the
2 effective date of this amendatory Act of the 97th General
3 Assembly. The participating utilities whose customers benefit
4 from the funds that are disbursed as contemplated in this
5 Section shall file annual reports documenting the disbursement
6 of those funds with the Commission. The Commission has the
7 authority to audit disbursement of the funds to ensure they
8 were disbursed consistently with this Section.

9 If the Commission finds that a participating utility is no
10 longer eligible to update the performance-based formula rate
11 tariff pursuant to subsection (d) of this Section, or the
12 performance-based formula rate is otherwise terminated, then
13 the participating utility's voluntary commitments and
14 obligations under this subsection (b-10) shall immediately
15 terminate.

16 (c) A participating utility may elect to recover its
17 delivery services costs through a performance-based formula
18 rate approved by the Commission, which shall specify the cost
19 components that form the basis of the rate charged to customers
20 with sufficient specificity to operate in a standardized manner
21 and be updated annually with transparent information that
22 reflects the utility's actual costs to be recovered during the
23 applicable rate year, which is the period beginning with the
24 first billing day of January and extending through the last
25 billing day of the following December. In the event the utility
26 recovers a portion of its costs through automatic adjustment

1 clause tariffs on the effective date of this amendatory Act of
2 the 97th General Assembly, the utility may elect to continue to
3 recover these costs through such tariffs, but then these costs
4 shall not be recovered through the performance-based formula
5 rate. In the event the participating utility, prior to the
6 effective date of this amendatory Act of the 97th General
7 Assembly, filed electric delivery services tariffs with the
8 Commission pursuant to Section 9-201 of this Act that are
9 related to the recovery of its electric delivery services costs
10 that are still pending on the effective date of this amendatory
11 Act of the 97th General Assembly, the participating utility
12 shall, at the time it files its performance-based formula rate
13 tariff with the Commission, also file a notice of withdrawal
14 with the Commission to withdraw the electric delivery services
15 tariffs previously filed pursuant to Section 9-201 of this Act.
16 Upon receipt of such notice, the Commission shall dismiss with
17 prejudice any docket that had been initiated to investigate the
18 electric delivery services tariffs filed pursuant to Section
19 9-201 of this Act, and such tariffs and the record related
20 thereto shall not be the subject of any further hearing,
21 investigation, or proceeding of any kind related to rates for
22 electric delivery services.

23 The performance-based formula rate shall be implemented
24 through a tariff filed with the Commission consistent with the
25 provisions of this subsection (c) that shall be applicable to
26 all delivery services customers. The Commission shall initiate

1 and conduct an investigation of the tariff in a manner
2 consistent with the provisions of this subsection (c) and the
3 provisions of Article IX of this Act to the extent they do not
4 conflict with this subsection (c). Except in the case where the
5 Commission finds, after notice and hearing, that a
6 participating utility is not satisfying its investment amount
7 commitments under subsection (b) of this Section, the
8 performance-based formula rate shall remain in effect at the
9 discretion of the utility. The performance-based formula rate
10 approved by the Commission shall do the following:

11 (1) Provide for the recovery of the utility's actual
12 costs of delivery services that are prudently incurred and
13 reasonable in amount consistent with Commission practice
14 and law. The sole fact that a cost differs from that
15 incurred in a prior calendar year or that an investment is
16 different from that made in a prior calendar year shall not
17 imply the imprudence or unreasonableness of that cost or
18 investment.

19 (2) Reflect the utility's actual capital structure for
20 the applicable calendar year, excluding goodwill, subject
21 to a determination of prudence and reasonableness
22 consistent with Commission practice and law.

23 (3) Include a cost of equity, which shall be calculated
24 as the sum of the following:

25 (A) the average for the applicable calendar year of
26 the monthly average yields of 30-year U.S. Treasury

1 bonds published by the Board of Governors of the
2 Federal Reserve System in its weekly H.15 Statistical
3 Release or successor publication; and

4 (B) 580 ~~600~~ basis points.

5 At such time as the Board of Governors of the Federal
6 Reserve System ceases to include the monthly average yields
7 of 30-year U.S. Treasury bonds in its weekly H.15
8 Statistical Release or successor publication, the monthly
9 average yields of the U.S. Treasury bonds then having the
10 longest duration published by the Board of Governors in its
11 weekly H.15 Statistical Release or successor publication
12 shall instead be used for purposes of this paragraph (3).

13 (4) Permit and set forth protocols, subject to a
14 determination of prudence and reasonableness consistent
15 with Commission practice and law, for the following:

16 (A) recovery of incentive compensation expense
17 that is based on the achievement of operational
18 metrics, including metrics related to budget controls,
19 outage duration and frequency, safety, customer
20 service, efficiency and productivity, and
21 environmental compliance. Incentive compensation
22 expense that is based on net income or an affiliate's
23 earnings per share shall not be recoverable under the
24 performance-based formula rate;

25 (B) recovery of pension and other post-employment
26 benefits expense, provided that such costs are

1 supported by an actuarial study;

2 (C) recovery of severance costs, provided that if
3 the amount is over \$3,700,000 for a participating
4 utility that is a combination utility or \$10,000,000
5 for a participating utility that serves more than 3
6 million retail customers, then the full amount shall be
7 amortized consistent with subparagraph (F) of this
8 paragraph (4);

9 (D) investment return on pension assets net of
10 deferred tax benefits equal to the utility's long-term
11 debt cost of capital as of the end of the applicable
12 calendar year;

13 (E) recovery of the expenses related to the
14 Commission proceeding under this subsection (c) to
15 approve this performance-based formula rate and
16 initial rates or to subsequent proceedings related to
17 the formula, provided that the recovery shall be
18 amortized over a 3-year period; recovery of expenses
19 related to the annual Commission proceedings under
20 subsection (d) of this Section to review the inputs to
21 the performance-based formula rate shall be expensed
22 and recovered through the performance-based formula
23 rate;

24 (F) amortization over a 5-year period of the full
25 amount of each charge or credit that exceeds \$3,700,000
26 for a participating utility that is a combination

1 utility or \$10,000,000 for a participating utility
2 that serves more than 3 million retail customers in the
3 applicable calendar year and that relates to a
4 workforce reduction program's severance costs, changes
5 in accounting rules, changes in law, compliance with
6 any Commission-initiated audit, or a single storm or
7 other similar expense, provided that any unamortized
8 balance shall be reflected in rate base. For purposes
9 of this subparagraph (F), changes in law includes any
10 enactment, repeal, or amendment in a law, ordinance,
11 rule, regulation, interpretation, permit, license,
12 consent, or order, including those relating to taxes,
13 accounting, or to environmental matters, or in the
14 interpretation or application thereof by any
15 governmental authority occurring after the effective
16 date of this amendatory Act of the 97th General
17 Assembly;

18 (G) recovery of existing regulatory assets over
19 the periods previously authorized by the Commission;

20 (H) historical weather normalized billing
21 determinants; and

22 (I) allocation methods for common costs.

23 (5) Provide that if the participating utility's earned
24 rate of return on common equity related to the provision of
25 delivery services for the prior rate year (calculated using
26 costs and capital structure approved by the Commission as

1 provided in subparagraph (2) of this subsection (c),
2 consistent with this Section, in accordance with
3 Commission rules and orders, including, but not limited to,
4 adjustments for goodwill, and after any Commission-ordered
5 disallowances and taxes) is more than 50 basis points
6 higher than the rate of return on common equity calculated
7 pursuant to paragraph (3) of this subsection (c) (after
8 adjusting for any penalties to the rate of return on common
9 equity applied pursuant to the performance metrics
10 provision of subsection (f) of this Section), then the
11 participating utility shall apply a credit through the
12 performance-based formula rate that reflects an amount
13 equal to the value of that portion of the earned rate of
14 return on common equity that is more than 50 basis points
15 higher than the rate of return on common equity calculated
16 pursuant to paragraph (3) of this subsection (c) (after
17 adjusting for any penalties to the rate of return on common
18 equity applied pursuant to the performance metrics
19 provision of subsection (f) of this Section) for the prior
20 rate year, adjusted for taxes. If the participating
21 utility's earned rate of return on common equity related to
22 the provision of delivery services for the prior rate year
23 (calculated using costs and capital structure approved by
24 the Commission as provided in subparagraph (2) of this
25 subsection (c), consistent with this Section, in
26 accordance with Commission rules and orders, including,

1 but not limited to, adjustments for goodwill, and after any
2 Commission-ordered disallowances and taxes) is more than
3 50 basis points less than the return on common equity
4 calculated pursuant to paragraph (3) of this subsection (c)
5 (after adjusting for any penalties to the rate of return on
6 common equity applied pursuant to the performance metrics
7 provision of subsection (f) of this Section), then the
8 participating utility shall apply a charge through the
9 performance-based formula rate that reflects an amount
10 equal to the value of that portion of the earned rate of
11 return on common equity that is more than 50 basis points
12 less than the rate of return on common equity calculated
13 pursuant to paragraph (3) of this subsection (c) (after
14 adjusting for any penalties to the rate of return on common
15 equity applied pursuant to the performance metrics
16 provision of subsection (f) of this Section) for the prior
17 rate year, adjusted for taxes.

18 (6) Provide for an annual reconciliation, with
19 interest as described in subsection (d) of this Section, of
20 the revenue requirement reflected in rates for each
21 calendar year, beginning with the calendar year in which
22 the utility files its performance-based formula rate
23 tariff pursuant to subsection (c) of this Section, with
24 what the revenue requirement would have been had the actual
25 cost information for the applicable calendar year been
26 available at the filing date.

1 The utility shall file, together with its tariff, final
2 data based on its most recently filed FERC Form 1, plus
3 projected plant additions and correspondingly updated
4 depreciation reserve and expense for the calendar year in which
5 the tariff and data are filed, that shall populate the
6 performance-based formula rate and set the initial delivery
7 services rates under the formula. For purposes of this Section,
8 "FERC Form 1" means the Annual Report of Major Electric
9 Utilities, Licensees and Others that electric utilities are
10 required to file with the Federal Energy Regulatory Commission
11 under the Federal Power Act, Sections 3, 4(a), 304 and 209,
12 modified as necessary to be consistent with 83 Ill. Admin. Code
13 Part 415 as of May 1, 2011. Nothing in this Section is intended
14 to allow costs that are not otherwise recoverable to be
15 recoverable by virtue of inclusion in FERC Form 1.

16 After the utility files its proposed performance-based
17 formula rate structure and protocols and initial rates, the
18 Commission shall initiate a docket to review the filing. The
19 Commission shall enter an order approving, or approving as
20 modified, the performance-based formula rate, including the
21 initial rates, as just and reasonable within 270 days after the
22 date on which the tariff was filed, or, if the tariff is filed
23 within 14 days after the effective date of this amendatory Act
24 of the 97th General Assembly, then by May 31, 2012. Such review
25 shall be based on the same evidentiary standards, including,
26 but not limited to, those concerning the prudence and

1 reasonableness of the costs incurred by the utility, the
2 Commission applies in a hearing to review a filing for a
3 general increase in rates under Article IX of this Act. The
4 initial rates shall take effect within 30 days after the
5 Commission's order approving the performance-based formula
6 rate tariff.

7 Until such time as the Commission approves a different rate
8 design and cost allocation pursuant to subsection (e) of this
9 Section, rate design and cost allocation across customer
10 classes shall be consistent with the Commission's most recent
11 order regarding the participating utility's request for a
12 general increase in its delivery services rates.

13 Subsequent changes to the performance-based formula rate
14 structure or protocols shall be made as set forth in Section
15 9-201 of this Act, but nothing in this subsection (c) is
16 intended to limit the Commission's authority under Article IX
17 and other provisions of this Act to initiate an investigation
18 of a participating utility's performance-based formula rate
19 tariff, provided that any such changes shall be consistent with
20 paragraphs (1) through (6) of this subsection (c). Any change
21 ordered by the Commission shall be made at the same time new
22 rates take effect following the Commission's next order
23 pursuant to subsection (d) of this Section, provided that the
24 new rates take effect no less than 30 days after the date on
25 which the Commission issues an order adopting the change.

26 A participating utility that files a tariff pursuant to

1 this subsection (c) must submit a one-time \$200,000 filing fee
2 at the time the Chief Clerk of the Commission accepts the
3 filing, which shall be a recoverable expense.

4 In the event the performance-based formula rate is
5 terminated, the then current rates shall remain in effect until
6 such time as new rates are set pursuant to Article IX of this
7 Act, subject to retroactive rate adjustment, with interest, to
8 reconcile rates charged with actual costs. At such time that
9 the performance-based formula rate is terminated, the
10 participating utility's voluntary commitments and obligations
11 under subsection (b) of this Section shall immediately
12 terminate, except for the utility's obligation to pay an amount
13 already owed to the fund for training grants pursuant to a
14 Commission order issued under subsection (b) of this Section.

15 (d) Subsequent to the Commission's issuance of an order
16 approving the utility's performance-based formula rate
17 structure and protocols, and initial rates under subsection (c)
18 of this Section, the utility shall file, on or before May 1 of
19 each year, with the Chief Clerk of the Commission its updated
20 cost inputs to the performance-based formula rate for the
21 applicable rate year and the corresponding new charges. Each
22 such filing shall conform to the following requirements and
23 include the following information:

24 (1) The inputs to the performance-based formula rate
25 for the applicable rate year shall be based on final
26 historical data reflected in the utility's most recently

1 filed annual FERC Form 1 plus projected plant additions and
2 correspondingly updated depreciation reserve and expense
3 for the calendar year in which the inputs are filed. The
4 filing shall also include a reconciliation of the revenue
5 requirement that was in effect for the prior rate year (as
6 set by the cost inputs for the prior rate year) with the
7 actual revenue requirement for the prior rate year (as
8 reflected in the applicable FERC Form 1 that reports the
9 actual costs for the prior rate year). Any over-collection
10 or under-collection indicated by such reconciliation shall
11 be reflected as a credit against, or recovered as an
12 additional charge to, respectively, with interest, the
13 charges for the applicable rate year. Provided, however,
14 that the first such reconciliation shall be for the
15 calendar year in which the utility files its
16 performance-based formula rate tariff pursuant to
17 subsection (c) of this Section and shall reconcile (i) the
18 revenue requirement or requirements established by the
19 rate order or orders in effect from time to time during
20 such calendar year (weighted, as applicable) with (ii) the
21 revenue requirement for that calendar year calculated
22 pursuant to the performance-based formula rate using (A)
23 actual costs for that year as reflected in the applicable
24 FERC Form 1, and (B) for the first such reconciliation
25 only, the cost of equity, which shall be calculated as the
26 sum of 590 basis points plus the average for the applicable

1 calendar year of the monthly average yields of 30-year U.S.
2 Treasury bonds published by the Board of Governors of the
3 Federal Reserve System in its weekly H.15 Statistical
4 Release or successor publication ~~approved by the~~
5 ~~Commission in such order or orders in effect during that~~
6 ~~year~~ (weighted, as applicable). The first such
7 reconciliation is not intended to provide for the recovery
8 of costs previously excluded from rates based on a prior
9 Commission order finding of imprudence or
10 unreasonableness. Each reconciliation shall be certified
11 by the participating utility in the same manner that FERC
12 Form 1 is certified. The filing shall also include the
13 charge or credit, if any, resulting from the calculation
14 required by paragraph (6) of subsection (c) of this
15 Section.

16 Notwithstanding anything that may be to the contrary,
17 the intent of the reconciliation is to ultimately reconcile
18 the revenue requirement reflected in rates for each
19 calendar year, beginning with the calendar year in which
20 the utility files its performance-based formula rate
21 tariff pursuant to subsection (c) of this Section, with
22 what the revenue requirement would have been had the actual
23 cost information for the applicable calendar year been
24 available at the filing date.

25 (2) The new charges shall take effect beginning on the
26 first billing day of the following January billing period

1 and remain in effect through the last billing day of the
2 next December billing period regardless of whether the
3 Commission enters upon a hearing pursuant to this
4 subsection (d).

5 (3) The filing shall include relevant and necessary
6 data and documentation for the applicable rate year that is
7 consistent with the Commission's rules applicable to a
8 filing for a general increase in rates or any rules adopted
9 by the Commission to implement this Section. Normalization
10 adjustments shall not be required. Notwithstanding any
11 other provision of this Section or Act or any rule or other
12 requirement adopted by the Commission, a participating
13 utility that is a combination utility with more than one
14 rate zone shall not be required to file a separate set of
15 such data and documentation for each rate zone and may
16 combine such data and documentation into a single set of
17 schedules.

18 Within 45 days after the utility files its annual update of
19 cost inputs to the performance-based formula rate, the
20 Commission shall have the authority, either upon complaint or
21 its own initiative, but with reasonable notice, to enter upon a
22 hearing concerning the prudence and reasonableness of the costs
23 incurred by the utility to be recovered during the applicable
24 rate year that are reflected in the inputs to the
25 performance-based formula rate derived from the utility's FERC
26 Form 1. During the course of the hearing, each objection shall

1 be stated with particularity and evidence provided in support
2 thereof, after which the utility shall have the opportunity to
3 rebut the evidence. Discovery shall be allowed consistent with
4 the Commission's Rules of Practice, which Rules shall be
5 enforced by the Commission or the assigned hearing examiner.
6 The Commission shall apply the same evidentiary standards,
7 including, but not limited to, those concerning the prudence
8 and reasonableness of the costs incurred by the utility, in the
9 hearing as it would apply in a hearing to review a filing for a
10 general increase in rates under Article IX of this Act. The
11 Commission shall not, however, have the authority in a
12 proceeding under this subsection (d) to consider or order any
13 changes to the structure or protocols of the performance-based
14 formula rate approved pursuant to subsection (c) of this
15 Section. In a proceeding under this subsection (d), the
16 Commission shall enter its order no later than the earlier of
17 240 days after the utility's filing of its annual update of
18 cost inputs to the performance-based formula rate or December
19 31. The Commission's determinations of the prudence and
20 reasonableness of the costs incurred for the applicable
21 calendar year shall be final upon entry of the Commission's
22 order and shall not be subject to reopening, reexamination, or
23 collateral attack in any other Commission proceeding, case,
24 docket, order, rule or regulation, provided, however, that
25 nothing in this subsection (d) shall prohibit a party from
26 petitioning the Commission to rehear or appeal to the courts

1 the order pursuant to the provisions of this Act.

2 In the event the Commission does not, either upon complaint
3 or its own initiative, enter upon a hearing within 45 days
4 after the utility files the annual update of cost inputs to its
5 performance-based formula rate, then the costs incurred for the
6 applicable calendar year shall be deemed prudent and
7 reasonable, and the filed charges shall not be subject to
8 reopening, reexamination, or collateral attack in any other
9 proceeding, case, docket, order, rule, or regulation.

10 A participating utility's first filing of the updated cost
11 inputs, and any Commission investigation of such inputs
12 pursuant to this subsection (d) shall proceed notwithstanding
13 the fact that the Commission's investigation under subsection
14 (c) of this Section is still pending and notwithstanding any
15 other law, order, rule, or Commission practice to the contrary.

16 (e) Nothing in subsections (c) or (d) of this Section shall
17 prohibit the Commission from investigating, or a participating
18 utility from filing, revenue-neutral tariff changes related to
19 rate design of a performance-based formula rate that has been
20 placed into effect for the utility. Following approval of a
21 participating utility's performance-based formula rate tariff
22 pursuant to subsection (c) of this Section, the utility shall
23 make a filing with the Commission within one year after the
24 effective date of the performance-based formula rate tariff
25 that proposes changes to the tariff to incorporate the findings
26 of any final rate design orders of the Commission applicable to

1 the participating utility and entered subsequent to the
2 Commission's approval of the tariff. The Commission shall,
3 after notice and hearing, enter its order approving, or
4 approving with modification, the proposed changes to the
5 performance-based formula rate tariff within 240 days after the
6 utility's filing. Following such approval, the utility shall
7 make a filing with the Commission during each subsequent 3-year
8 period that either proposes revenue-neutral tariff changes or
9 re-files the existing tariffs without change, which shall
10 present the Commission with an opportunity to suspend the
11 tariffs and consider revenue-neutral tariff changes related to
12 rate design.

13 (f) Within 30 days after the filing of a tariff pursuant to
14 subsection (c) of this Section, each participating utility
15 shall develop and file with the Commission multi-year metrics
16 designed to achieve, ratably (i.e., in equal segments) over a
17 10-year period, improvement over baseline performance values
18 as follows:

19 (1) Twenty percent improvement in the System Average
20 Interruption Frequency Index, using a baseline of the
21 average of the data from 2001 through 2010.

22 (2) Fifteen percent improvement in the system Customer
23 Average Interruption Duration Index, using a baseline of
24 the average of the data from 2001 through 2010.

25 (3) For a participating utility other than a
26 combination utility, 20% improvement in the System Average

1 Interruption Frequency Index for its Southern Region,
2 using a baseline of the average of the data from 2001
3 through 2010. For purposes of this paragraph (3) ~~paragraph~~
4 ~~(C)~~, Southern Region shall have the meaning set forth in
5 the participating utility's most recent report filed
6 pursuant to Section 16-125 of this Act.

7 (3.5) For a participating utility other than a
8 combination utility, 20% improvement in the System Average
9 Interruption Frequency Index for its Northeastern Region,
10 using a baseline of the average of the data from 2001
11 through 2010. For purposes of this paragraph (3.5),
12 Northeastern Region shall have the meaning set forth in the
13 participating utility's most recent report filed pursuant
14 to Section 16-125 of this Act.

15 (4) Seventy-five percent improvement in the total
16 number of customers who exceed the service reliability
17 targets as set forth in subparagraphs (A) through (C) of
18 paragraph (4) of subsection (b) of 83 Ill. Admin. Code Part
19 411.140 as of May 1, 2011, using 2010 as the baseline year.

20 (5) Reduction in issuance of estimated electric bills:
21 90% improvement for a participating utility other than a
22 combination utility, and 56% improvement for a
23 participating utility that is a combination utility, using
24 a baseline of the average number of estimated bills for the
25 years 2008 through 2010.

26 (6) Consumption on inactive meters: 90% improvement

1 for a participating utility other than a combination
2 utility, and 56% improvement for a participating utility
3 that is a combination utility, using a baseline of the
4 average unbilled kilowatthours for the years 2009 and 2010.

5 (7) Unaccounted for energy: 50% improvement for a
6 participating utility other than a combination utility
7 using a baseline of the non-technical line loss unaccounted
8 for energy kilowatthours for the year 2009.

9 (8) Uncollectible expense: reduce uncollectible
10 expense by at least \$30,000,000 for a participating utility
11 other than a combination utility and by at least \$3,500,000
12 for a participating utility that is a combination utility,
13 using a baseline of the average uncollectible expense for
14 the years 2008 through 2010.

15 (9) Opportunities for minority-owned and female-owned
16 business enterprises: design a performance metric
17 regarding the creation of opportunities for minority-owned
18 and female-owned business enterprises consistent with
19 State and federal law using a base performance value of the
20 percentage of the participating utility's capital
21 expenditures that were paid to minority-owned and
22 female-owned business enterprises in 2010.

23 The definitions set forth in 83 Ill. Admin. Code Part
24 411.20 as of May 1, 2011 shall be used for purposes of
25 calculating performance under paragraphs (1) through (3.5) ~~(3)~~
26 of this subsection (f), provided, however, that the

1 participating utility may exclude up to 9 extreme weather event
2 days from such calculation for each year, and provided further
3 that the participating utility shall exclude 9 extreme weather
4 event days when calculating each year of the baseline period to
5 the extent that there are 9 such days in a given year of the
6 baseline period. For purposes of this Section, an extreme
7 weather event day is a 24-hour calendar day (beginning at 12:00
8 a.m. and ending at 11:59 p.m.) during which any weather event
9 (e.g., storm, tornado) caused interruptions for 10,000 or more
10 of the participating utility's customers for 3 hours or more.
11 If there are more than 9 extreme weather event days in a year,
12 then the utility may choose no more than 9 extreme weather
13 event days to exclude, provided that the same extreme weather
14 event days are excluded from each of the calculations performed
15 under paragraphs (1) through (3.5) ~~(3)~~ of this subsection (f).

16 The metrics shall include incremental performance goals
17 for each year of the 10-year period, which shall be designed to
18 demonstrate that the utility is on track to achieve the
19 performance goal in each category at the end of the 10-year
20 period. The utility shall elect when the 10-year period shall
21 commence for the metrics set forth in subparagraphs (1) through
22 (4) and (9) of this subsection (f), provided that it begins no
23 later than 14 months following the date on which the utility
24 begins investing pursuant to subsection (b) of this Section,
25 and when the 10-year period shall commence for the metrics set
26 forth in subparagraphs (5) through (8) of this subsection (f),

1 provided that it begins no later than 14 months following the
2 date on which the Commission enters its order approving the
3 utility's Advanced Metering Infrastructure Deployment Plan
4 pursuant to subsection (c) of Section 16-108.6 of this Act.

5 The metrics and performance goals set forth in
6 subparagraphs (5) through (8) of this subsection (f) are based
7 on the assumptions that the participating utility may fully
8 implement the technology described in subsection (b) of this
9 Section, including utilizing the full functionality of such
10 technology and that there is no requirement for personal
11 on-site notification. If the utility is unable to meet the
12 metrics and performance goals set forth in subparagraphs (5)
13 through (8) of this subsection (f) for such reasons, and the
14 Commission so finds after notice and hearing, then the utility
15 shall be excused from compliance, but only to the limited
16 extent achievement of the affected metrics and performance
17 goals was hindered by the less than full implementation.

18 (f-5) The financial penalties applicable to the metrics
19 described in subparagraphs (1) through (8) of subsection (f) of
20 this Section, as applicable, shall be applied through an
21 adjustment to the participating utility's return on equity of
22 no more than a total of 30 basis points in each of the first 3
23 years, of no more than a total of 34 basis points in each of the
24 3 years thereafter, and of no more than a total of 38 basis
25 points in each of the 4 years thereafter, as follows:

26 (1) With respect to each of the incremental annual

1 performance goals established pursuant to paragraph (1) of
2 subsection (f) of this Section,

3 (A) for each year that a participating utility
4 other than a combination utility does not achieve the
5 annual goal, the participating utility's return on
6 equity shall be reduced as follows: during years 1
7 through 3, by 5 basis points; during years 4 through 6,
8 by 6 basis points; and during years 7 through 10, by 7
9 basis points; ~~for such unachieved goal for the~~
10 ~~following 12 month period,~~ and

11 (B) for each year that a participating utility that
12 is a combination utility does not achieve the annual
13 goal, the participating utility's return on equity
14 shall be reduced as follows: during years 1 through 3,
15 by 10 basis points; during years 4 through 6, by 12
16 basis points; and during years 7 through 10, by 14
17 basis points ~~for each such unachieved goal for the~~
18 ~~following 12 month period.~~

19 (2) With respect to each of the incremental annual
20 performance goals established pursuant to paragraph
21 ~~subparagraphs (2), (3), and (4)~~ of subsection (f) of this
22 Section, ~~as applicable,~~ for each year that the
23 participating utility does not achieve each such goal, the
24 participating utility's return on equity shall be reduced
25 as follows: during years 1 through 3, by 5 basis points;
26 during years 4 through 6, by 6 basis points; and during

1 years 7 through 10, by 7 basis points ~~for each such~~
2 ~~unachieved goal for the following 12-month period.~~

3 (3) With respect to each of the incremental annual
4 performance goals established pursuant to paragraphs (3)
5 and (3.5) of subsection (f) of this Section, for each year
6 that a participating utility other than a combination
7 utility does not achieve both such goals, the participating
8 utility's return on equity shall be reduced as follows:
9 during years 1 through 3, by 5 basis points; during years 4
10 through 6, by 6 basis points; and during years 7 through
11 10, by 7 basis points.

12 (4) With respect to each of the incremental annual
13 performance goals established pursuant to paragraph (4) of
14 subsection (f) of this Section, for each year that the
15 participating utility does not achieve each such goal, the
16 participating utility's return on equity shall be reduced
17 as follows: during years 1 through 3, by 5 basis points;
18 during years 4 through 6, by 6 basis points; and during
19 years 7 through 10, by 7 basis points.

20 (5) With respect to each of the incremental annual
21 performance goals established pursuant to subparagraph (5)
22 of subsection (f) of this Section, for each year that the
23 participating utility does not achieve at least 95% of each
24 such goal, the participating utility's return on equity
25 shall be reduced by 5 basis points for each such unachieved
26 goal ~~for the following 12-month period.~~

1 (6) ~~(3)~~ With respect to each of the incremental annual
2 performance goals established pursuant to paragraphs (6),
3 (7), and (8) of subsection (f) of this Section, as
4 applicable, which together measure non-operational
5 customer savings and benefits relating to the
6 implementation of the Advanced Metering Infrastructure
7 Deployment Plan, as defined in Section 16-108.6 of this
8 Act, the performance under each such goal shall be
9 calculated in terms of the percentage of the goal achieved.
10 The percentage of goal achieved for each of the goals shall
11 be aggregated, and an average percentage value calculated,
12 for each year of the 10-year period. If the utility does
13 not achieve an average percentage value in a given year of
14 at least 95%, the participating utility's return on equity
15 shall be reduced by 5 basis points ~~for the following~~
16 ~~12-month period.~~

17 The financial penalties shall be applied as described in
18 this subsection (f-5) for the 12-month period in which the
19 deficiency occurred through a separate tariff mechanism, which
20 shall be filed by the utility together with its metrics. In the
21 event the formula rate tariff established pursuant to
22 subsection (c) of this Section terminates, the utility's
23 obligations under subsection (f) of this Section and this
24 subsection (f-5) shall also terminate, provided, however, that
25 the tariff mechanism established pursuant to subsection (f) of
26 this Section and this subsection (f-5) shall remain in effect

1 until any penalties due and owing at the time of such
2 termination are applied.

3 The Commission shall, after notice and hearing, enter an
4 order within 120 days after the metrics are filed approving, or
5 approving with modification, a participating utility's tariff
6 or mechanism to satisfy the metrics set forth in subsection (f)
7 of this Section. On June 1 of each subsequent year, each
8 participating utility shall file a report with the Commission
9 that includes, among other things, a description of how the
10 participating utility performed under each metric and an
11 identification of any extraordinary events that adversely
12 impacted the utility's performance. Whenever a participating
13 utility does not satisfy the metrics required pursuant to
14 subsection (f) of this Section, the Commission shall, after
15 notice and hearing, enter an order approving financial
16 penalties in accordance with this subsection (f-5). The
17 Commission-approved financial penalties shall be applied
18 beginning with the next rate year. Nothing in this Section
19 shall authorize the Commission to reduce or otherwise obviate
20 the imposition of financial penalties for failing to achieve
21 one or more of the metrics established pursuant to subparagraph
22 (1) through (4) of subsection (f) of this Section.

23 (g) On or before July 31, 2014, each participating utility
24 shall file a report with the Commission that sets forth the
25 average annual increase in the average amount paid per
26 kilowatthour for residential eligible retail customers,

1 exclusive of the effects of energy efficiency programs,
2 comparing the 12-month period ending May 31, 2012; the 12-month
3 period ending May 31, 2013; and the 12-month period ending May
4 31, 2014. For a participating utility that is a combination
5 utility with more than one rate zone, the weighted average
6 aggregate increase shall be provided. The report shall be filed
7 together with a statement from an independent auditor attesting
8 to the accuracy of the report. The cost of the independent
9 auditor shall be borne by the participating utility and shall
10 not be a recoverable expense.

11 In the event that the average annual increase exceeds 2.5%
12 as calculated pursuant to this subsection (g), then Sections
13 16-108.5, 16-108.6, 16-108.7, and 16-108.8 of this Act, other
14 than this subsection, shall be inoperative as they relate to
15 the utility and its service area as of the date of the report
16 due to be submitted pursuant to this subsection and the utility
17 shall no longer be eligible to annually update the
18 performance-based formula rate tariff pursuant to subsection
19 (d) of this Section. In such event, the then current rates
20 shall remain in effect until such time as new rates are set
21 pursuant to Article IX of this Act, subject to retroactive
22 adjustment, with interest, to reconcile rates charged with
23 actual costs, and the participating utility's voluntary
24 commitments and obligations under subsection (b) of this
25 Section shall immediately terminate, except for the utility's
26 obligation to pay an amount already owed to the fund for

1 training grants pursuant to a Commission order issued under
2 subsection (b) of this Section.

3 In the event that the average annual increase is 2.5% or
4 less as calculated pursuant to this subsection (g), then the
5 performance-based formula rate shall remain in effect as set
6 forth in this Section.

7 For purposes of this Section, the amount per kilowatthour
8 means the total amount paid for electric service expressed on a
9 per kilowatthour basis, and the total amount paid for electric
10 service includes without limitation amounts paid for supply,
11 transmission, distribution, surcharges, and add-on taxes
12 exclusive of any increases in taxes or new taxes imposed after
13 the effective date of this amendatory Act of the 97th General
14 Assembly. For purposes of this Section, "eligible retail
15 customers" shall have the meaning set forth in Section 16-111.5
16 of this Act.

17 The fact that this Section becomes inoperative as set forth
18 in this subsection shall not be construed to mean that the
19 Commission may reexamine or otherwise reopen prudence or
20 reasonableness determinations already made.

21 (h) Sections 16-108.5, 16-108.6, 16-108.7, and 16-108.8 of
22 this Act, other than this subsection, are inoperative after
23 December 31, 2017 for every participating utility, after which
24 time a participating utility shall no longer be eligible to
25 annually update the performance-based formula rate tariff
26 pursuant to subsection (d) of this Section. At such time, the

1 then current rates shall remain in effect until such time as
2 new rates are set pursuant to Article IX of this Act, subject
3 to retroactive adjustment, with interest, to reconcile rates
4 charged with actual costs.

5 By December 31, 2017, the Commission shall prepare and file
6 with the General Assembly a report on the infrastructure
7 program and the performance-based formula rate. The report
8 shall include the change in the average amount per kilowatthour
9 paid by residential customers between June 1, 2011 and May 31,
10 2017. If the change in the total average rate paid exceeds 2.5%
11 compounded annually, the Commission shall include in the report
12 an analysis that shows the portion of the change due to the
13 delivery services component and the portion of the change due
14 to the supply component of the rate. The report shall include
15 separate sections for each participating utility.

16 In the event Sections 16-108.5, 16-108.6, 16-108.7, and
17 16-108.8 of this Act do not become inoperative after December
18 31, 2017, then these Sections are inoperative after December
19 31, 2022 for every participating utility, after which time a
20 participating utility shall no longer be eligible to annually
21 update the performance-based formula rate tariff pursuant to
22 subsection (d) of this Section. At such time, the then current
23 rates shall remain in effect until such time as new rates are
24 set pursuant to Article IX of this Act, subject to retroactive
25 adjustment, with interest, to reconcile rates charged with
26 actual costs.

1 The fact that this Section becomes inoperative as set forth
2 in this subsection shall not be construed to mean that the
3 Commission may reexamine or otherwise reopen prudence or
4 reasonableness determinations already made.

5 (i) While a participating utility may use, develop, and
6 maintain broadband systems and the delivery of broadband
7 services, voice-over-internet-protocol services,
8 telecommunications services, and cable and video programming
9 services for use in providing delivery services and Smart Grid
10 functionality or application to its retail customers,
11 including, but not limited to, the installation,
12 implementation and maintenance of Smart Grid electric system
13 upgrades as defined in Section 16-108.6 of this Act, a
14 participating utility is prohibited from offering to its retail
15 customers broadband services or the delivery of broadband
16 services, voice-over-internet-protocol services,
17 telecommunications services, or cable or video programming
18 services, unless they are part of a service directly related to
19 delivery services or Smart Grid functionality or applications
20 as defined in Section 16-108.6 of this Act, and from recovering
21 the costs of such offerings from retail customers.

22 (j) Nothing in this Section is intended to legislatively
23 overturn the opinion issued in Commonwealth Edison Co. v. Ill.
24 Commerce Comm'n, Nos. 2-08-0959, 2-08-1037, 2-08-1137,
25 1-08-3008, 1-08-3030, 1-08-3054, 1-08-3313 cons. (Ill. App.
26 Ct. 2d Dist. Sept. 30, 2010). This amendatory Act of the 97th

1 General Assembly shall not be construed as creating a contract
2 between the General Assembly and the participating utility, and
3 shall not establish a property right in the participating
4 utility.

5 (Source: 09700SB1652enr.)

6 (220 ILCS 5/16-108.6)

7 Sec. 16-108.6. Provisions relating to Smart Grid Advanced
8 Metering Infrastructure Deployment Plan.

9 (a) For purposes of this Section and Sections 16-108.7 and
10 16-108.8 of this Act:

11 "Advanced Metering Infrastructure" or "AMI" means the
12 communications hardware and software and associated system
13 software that enables Smart Grid functions by creating a
14 network between advanced meters and utility business systems
15 and allowing collection and distribution of information to
16 customers and other parties in addition to providing
17 information to the utility itself.

18 "Cost-beneficial" means a determination that the benefits
19 of a participating utility's Smart Grid AMI Deployment Plan
20 exceed the costs of the Smart Grid AMI Deployment Plan as
21 initially filed with the Commission or as subsequently modified
22 by the Commission. This standard is met if the present value of
23 the total benefits of the Smart Grid AMI Deployment Plan
24 exceeds the present value of the total costs of the Smart Grid
25 AMI Deployment Plan. The total cost shall include all utility

1 costs reasonably associated with the Smart Grid AMI Deployment
2 Plan. The total benefits shall include the sum of avoided
3 electricity costs, including avoided utility operational
4 costs, avoided consumer power, capacity, and energy costs, and
5 avoided societal costs associated with the production and
6 consumption of electricity, as well as other societal benefits,
7 including the greater integration of renewable and distributed
8 power resources, reductions in the emissions of harmful
9 pollutants and associated avoided health-related costs, other
10 benefits associated with energy efficiency measures,
11 demand-response activities, and the enabling of greater
12 penetration of alternative fuel vehicles.

13 "Participating utility" has the meaning set forth in
14 Section 16-108.5 of this Act.

15 "Smart Grid" means investments and policies that together
16 promote one or more of the following goals:

17 (1) Increased use of digital information and controls
18 technology to improve reliability, security, and
19 efficiency of the electric grid.

20 (2) Dynamic optimization of grid operations and
21 resources, with full cyber security.

22 (3) Deployment and integration of distributed
23 resources and generation, including renewable resources.

24 (4) Development and incorporation of demand-response,
25 demand-side resources, and energy efficiency resources.

26 (5) Deployment of "smart" technologies (real-time,

1 automated, interactive technologies that optimize the
2 physical operation of appliances and consumer devices) for
3 metering, communications concerning grid operations and
4 status, and distribution automation.

5 (6) Integration of "smart" appliances and consumer
6 devices.

7 (7) Deployment and integration of advanced electricity
8 storage and peak-shaving technologies, including plug-in
9 electric and hybrid electric vehicles, thermal-storage air
10 conditioning and renewable energy generation.

11 (8) Provision to consumers of timely information and
12 control options.

13 (9) Development of open access standards for
14 communication and interoperability of appliances and
15 equipment connected to the electric grid, including the
16 infrastructure serving the grid.

17 (10) Identification and lowering of unreasonable or
18 unnecessary barriers to adoption of Smart Grid
19 technologies, practices, services, and business models
20 that support energy efficiency, demand-response, and
21 distributed generation.

22 "Smart Grid Advisory Council" means the group of
23 stakeholders formed pursuant to subsection (b) of this Section
24 for the purposes of advising and working with participating
25 utilities on the development and implementation of a Smart Grid
26 Advanced Metering Infrastructure Deployment Plan.

1 "Smart Grid electric system upgrades" means any of the
2 following:

3 (1) metering devices, sensors, control devices, and
4 other devices integrated with and attached to an electric
5 utility system that are capable of engaging in Smart Grid
6 functions;

7 (2) other monitoring and communications devices that
8 enable Smart Grid functions, including, but not limited to,
9 distribution automation;

10 (3) software that enables devices or computers to
11 engage in Smart Grid functions;

12 (4) associated cyber secure data communication
13 network, including enhancements to cyber-security
14 technologies and measures;

15 (5) substation micro-processor relay upgrades;

16 (6) devices that allow electric or hybrid-electric
17 vehicles to engage in Smart Grid functions; or

18 (7) devices that enable individual consumers to
19 incorporate distributed and micro-generation.

20 "Smart Grid electric system upgrades" does not include
21 expenditures for: (1) electricity generation, transmission, or
22 distribution infrastructure or equipment that does not
23 directly relate to or support installing, implementing or
24 enabling Smart Grid functions; (2) physical interconnection of
25 generators or other devices to the grid except those that are
26 directly related to enabling Smart Grid functions; or (3)

1 ongoing or routine operation, billing, customer relations,
2 security, and maintenance.

3 "Smart Grid functions" means:

4 (1) the ability to develop, store, send, and receive
5 digital information concerning or enabling grid
6 operations, electricity use, costs, prices, time of use,
7 nature of use, storage, or other information relevant to
8 device, grid, or utility operations, to or from or by means
9 of the electric utility system through one or a combination
10 of devices and technologies;

11 (2) the ability to develop, store, send, and receive
12 digital information concerning electricity use, costs,
13 prices, time of use, nature of use, storage, or other
14 information relevant to device, grid, or utility
15 operations to or from a computer or other control device;

16 (3) the ability to measure or monitor electricity use
17 as a function of time of day, power quality characteristics
18 such as voltage level, current, cycles per second, or
19 source or type of generation and to store, synthesize, or
20 report that information by digital means;

21 (4) the ability to sense and localize disruptions or
22 changes in power flows on the grid and communicate such
23 information instantaneously and automatically for purposes
24 of enabling automatic protective responses to sustain
25 reliability and security of grid operations;

26 (5) the ability to detect, prevent, communicate with

1 regard to, respond to, or recover from system security
2 threats, including cyber-security threats and terrorism,
3 using digital information, media, and devices;

4 (6) the ability of any device or machine to respond to
5 signals, measurements, or communications automatically or
6 in a manner programmed by its owner or operator without
7 independent human intervention;

8 (7) the ability to use digital information to operate
9 functionalities on the electric utility grid that were
10 previously electro-mechanical or manual;

11 (8) the ability to use digital controls to manage and
12 modify electricity demand, enable congestion management,
13 assist in voltage control, provide operating reserves, and
14 provide frequency regulation; or

15 (9) the ability to integrate electric plug-in
16 vehicles, distributed generation, and storage in a safe and
17 cost-effective manner on the electric grid.

18 (b) Within 30 days after the effective date of this
19 amendatory Act of the 97th General Assembly, the Smart Grid
20 Advisory Council shall be established, which shall consist of 9
21 ~~7~~ total voting members with each member possessing either
22 technical, business or consumer expertise in Smart Grid issues, 5
23 ~~of whom shall be appointed by and each having been the single~~
24 ~~appointment of one of the following:~~ the Governor, one of whom
25 shall be appointed by the Speaker of the House, one of whom
26 shall be appointed by the Minority Leader of the House, one of

1 whom shall be appointed by the President of the Senate, and one
2 of whom shall be appointed by the Minority Leader of the
3 Senate. Of the Governor's 5 appointments: (i) at least one must
4 represent a non-profit membership organization whose mission
5 is to cultivate innovation and technology-based economic
6 development in Illinois by fostering public-private
7 partnerships to develop and execute research and development
8 projects, advocating for funding for research and development
9 initiatives, and collaborating with public and private
10 partners to attract and retain research and development
11 resources and talent in Illinois; (ii) at least one must
12 represent a non-profit public body corporate and politic
13 created by law that has a duty to represent and protect
14 residential utility consumers in Illinois; (iii) at least one
15 must represent a membership organization that represents the
16 interests of individuals and companies that own, operate,
17 manage, and service commercial buildings in a municipality with
18 a population of 1,000,000 or more inhabitants; and (iv) at
19 least one must represent an alternative retail electric
20 supplier that has obtained a certificate of service authority
21 pursuant to Section 16-115 of this Act and that is not an
22 affiliate of a participating utility prior to one year after
23 the effective date of this amendatory Act of the 97th General
24 Assembly, the Illinois Science and Technology Coalition, and
25 the Citizens Utility Board.

26 The Governor shall designate one of the members of the

1 Council to serve as chairman, and that person shall serve as
2 the chairman at the pleasure of the Governor. The members shall
3 not be compensated for serving on the Smart Grid Advisory
4 Council. The Smart Grid Advisory Council shall have the
5 following duties:

6 (1) Serve as an advisor to participating utilities
7 subject to this Section and in the manner described in this
8 Section, and the recommendations provided by the Council,
9 although non-binding, shall be considered by the
10 utilities.

11 (2) Serve as trustees of the trust or foundation
12 established pursuant to Section 16-108.7 of this Act with
13 the duties enumerated thereunder.

14 (c) After consultation with the Smart Grid Advisory
15 Council, each participating utility shall file a Smart Grid
16 Advanced Metering Infrastructure Deployment Plan ("AMI Plan")
17 with the Commission within 180 days after the effective date of
18 this amendatory Act of the 97th General Assembly or by November
19 1, 2011, whichever is later, or in the case of a combination
20 utility as defined in Section 16-108.5, by April 1, 2012,
21 provided that a participating utility shall not file its plan
22 until the evaluation report on the Pilot Program described in
23 this subsection (c) is issued. The AMI Plan shall provide for
24 investment over a 10-year period that is sufficient to
25 implement the AMI Plan across its entire service territory in a
26 manner that is consistent with subsection (b) of Section

1 16-108.5 of this Act. The AMI Plan shall contain:

2 (1) the participating utility's Smart Grid AMI vision
3 statement that is consistent with the goal of developing a
4 cost-beneficial Smart Grid;

5 (2) a statement of Smart Grid AMI strategy that
6 includes a description of how the utility evaluates and
7 prioritizes technology choices to create customer value,
8 including a plan to enhance and enable customers' ability
9 to take advantage of Smart Grid functions beginning at the
10 time an account has billed successfully on the AMI network;

11 (3) a deployment schedule and plan that includes
12 deployment of AMI to all customers for a participating
13 utility other than a combination utility, and to 62% of all
14 customers for a participating utility that is a combination
15 utility;

16 (4) annual milestones and metrics for the purposes of
17 measuring the success of the AMI Plan in enabling Smart
18 Grid functions; and enhancing consumer benefits from Smart
19 Grid AMI; and

20 (5) a plan for the consumer education to be implemented
21 by the participating utility.

22 The AMI Plan shall be fully consistent with the standards
23 of the National Institute of Standard and Technology (NIST) for
24 Smart Grid interoperability that are in effect at the time the
25 participating utility files its AMI Plan, shall include open
26 standards and internet protocol to the maximum extent possible

1 consistent with cyber security, and shall maximize, to the
2 extent possible, a flexible smart meter platform that can
3 accept remote device upgrades and contain sufficient internal
4 memory capacity for additional storage capabilities, functions
5 and services without the need for physical access to the meter.

6 The AMI Plan shall secure the privacy of personal
7 information and establish the right of consumers to consent to
8 the disclosure of personal energy information to third parties
9 through electronic, web-based, and other means in accordance
10 with State and federal law and regulations regarding consumer
11 privacy and protection of consumer data.

12 After notice and hearing, the Commission shall, within 60
13 days of the filing of an AMI Plan, issue its order approving,
14 or approving with modification, the AMI Plan if the Commission
15 finds that the AMI Plan contains the information required in
16 paragraphs (1) through (5) of this subsection (c) and further
17 finds that the implementation of the AMI Plan will be
18 cost-beneficial consistent with the principles established
19 through the Illinois Smart Grid Collaborative, giving weight to
20 the results of any Commission-approved pilot designed to
21 examine the benefits and costs of AMI deployment. A
22 participating utility's decision to invest pursuant to an AMI
23 Plan approved by the Commission shall not be subject to
24 prudence reviews in subsequent Commission proceedings. Nothing
25 in this subsection (c) is intended to limit the Commission's
26 ability to review the reasonableness of the costs incurred

1 under the AMI Plan. A participating utility shall be allowed to
2 recover the reasonable costs it incurs in implementing a
3 Commission-approved AMI Plan, including the costs of retired
4 meters, and may recover such costs through its tariffs,
5 including the performance-based formula rate tariff approved
6 pursuant to subsection (c) of Section 16-108.5 of this Act.

7 (d) The AMI Plan shall secure the privacy of the customer's
8 personal information. "Personal information" for this purpose
9 consists of the customer's name, address, telephone number, and
10 other personally identifying information, as well as
11 information about the customer's electric usage. Electric
12 utilities, their contractors or agents, and any third party who
13 comes into possession of such personal information by virtue of
14 working on Smart Grid technology shall not disclose such
15 personal information to be used in mailing lists or to be used
16 for other commercial purposes not reasonably related to the
17 conduct of the utility's business. Electric utilities shall
18 comply with the consumer privacy requirements of the Personal
19 Information Protection Act. In the event a participating
20 utility receives revenues from the sale of information obtained
21 through Smart Grid technology that is not personal information,
22 the participating utility shall use such revenues to offset the
23 revenue requirement.

24 (e) On April 1 of each year beginning in 2013 and after
25 consultation with the Smart Grid Advisory Council, each
26 participating utility shall submit a report regarding the

1 progress it has made toward completing implementation of its
2 AMI Plan. This report shall:

3 (1) describe the AMI investments made during the prior
4 12 months and the AMI investments planned to be made in the
5 following 12 months;

6 (2) provide sufficient detail to determine the
7 utility's progress in meeting the metrics and milestones
8 identified by the utility in its AMI Plan; and

9 (3) identify any updates to the AMI Plan.

10 Within 21 days after the utility files its annual report,
11 the Commission shall have authority, either upon complaint or
12 its own initiative, but with reasonable notice, to enter upon
13 an investigation regarding the utility's progress in
14 implementing the AMI Plan as described in paragraph (1) of this
15 subsection (e). If the Commission finds, after notice and
16 hearing, that the participating utility's progress in
17 implementing the AMI Plan is materially deficient for the given
18 plan year, then the Commission shall issue an order requiring
19 the participating utility to devise a corrective action plan,
20 subject to Commission approval and oversight, to bring
21 implementation back on schedule consistent with the AMI Plan.
22 The Commission's order must be entered within 90 days after the
23 utility files its annual report. If the Commission does not
24 initiate an investigation within 21 days after the utility
25 files its annual report, then the filing shall be deemed
26 accepted by the Commission. The utility shall not be required

1 to suspend implementation of its AMI Plan during any Commission
2 investigation.

3 The participating utility's annual report regarding AMI
4 Plan year 10 shall contain a statement verifying that the
5 implementation of its AMI Plan is complete, provided, however,
6 that if the utility is subject to a corrective action plan that
7 extends the implementation period beyond 10 years, the utility
8 shall include the verification statement in its final annual
9 report. Following the date of a Commission order approving the
10 final annual report or the date on which the final report is
11 deemed accepted by the Commission, the utility's annual
12 reporting obligations under this subsection (d) shall
13 terminate, provided, however, that the utility shall have a
14 continuing obligation to provide information, upon request, to
15 the Commission and Smart Grid Advisory Council regarding the
16 AMI Plan.

17 (f) Each participating utility shall pay a pro rata share,
18 based on number of customers, of \$5,000,000 per year to the
19 trust or foundation established pursuant to Section 16-108.7 of
20 this Act for each plan year of the AMI Plan, which shall be
21 used for purposes of providing customer education regarding
22 smart meters and related consumer-facing technologies and
23 services and 70% of which shall be a recoverable expense;
24 provided that other reasonable amounts expended by the utility
25 for such consumer education shall not be subject to the 70%
26 limitation of this subsection.

1 (g) Within 60 days after the Commission approves a
2 participating utility's AMI Plan pursuant to subsection (c) of
3 this Section, the participating utility, after consultation
4 with the Smart Grid Advisory Council, shall file a proposed
5 tariff with the Commission that offers an opt-in market-based
6 peak time rebate program to all residential retail customers
7 with smart meters that is designed to provide, in a
8 competitively neutral manner, rebates to those residential
9 retail customers that curtail their use of electricity during
10 specific periods that are identified as peak usage periods. The
11 total amount of rebates shall be the amount of compensation the
12 utility obtains through markets or programs at the applicable
13 regional transmission organization. The utility shall make all
14 reasonable attempts to secure funding for the peak time rebate
15 program through markets or programs at the applicable regional
16 transmission organization. The rules and procedures for
17 consumers to opt-in to the peak time rebate program shall
18 include electronic sign-up, be designed to maximize
19 participation, and be included on the utility's website. The
20 Commission shall monitor the performance of programs
21 established pursuant to this subsection (g) and shall order the
22 termination or modification of a program if it determines that
23 the program is not, after a reasonable period of time for
24 development of at least 4 years, resulting in net benefits to
25 the residential customers of the participating utility.

26 (h) If Section 16-108.5 of this Act becomes inoperative

1 with respect to one or more participating utilities as set
2 forth in subsection (g) or (h) of that Section, then Sections
3 16-108.5, 16-108.6, 16-108.7, and 16-108.8 of this Act shall
4 become inoperative as to each affected utility and its service
5 area on the same date as Section 16-108.5 becomes inoperative.

6 (Source: 09700SB1652enr.)

7 (220 ILCS 5/16-108.7)

8 Sec. 16-108.7. Illinois Science and Energy Innovation
9 Trust.

10 (a) Within 90 days of the effective date of this amendatory
11 Act of the 97th General Assembly, the members of the Smart Grid
12 Advisory Council established pursuant to Section 16-108.6 of
13 this Act, or a majority of the members thereof, shall cause to
14 be established an Illinois science and energy innovation trust
15 or foundation for the purposes of providing financial and
16 technical support and assistance to entities, public or
17 private, within the State of Illinois including, but not
18 limited to, units of State and local government, educational
19 and research institutions, corporations, and charitable,
20 educational, environmental and community organizations, for
21 programs and projects that support, encourage or utilize
22 innovative technologies or other methods of modernizing the
23 State's electric grid that will benefit the public by promoting
24 economic development in Illinois. Such activities shall be
25 supported through grants, loans, contracts, or other programs

1 designed to assist and further benefit technological advances
2 in the area of electric grid modernization and operation. The
3 trust or foundation shall also be eligible for receipt of other
4 energy and environmental grant opportunities, from public or
5 private sources. The trust or foundation shall not be a
6 governmental entity.

7 (b) Funds received by the trust or foundation pursuant to
8 subsection (f) of Section 16-108.6 of this Act shall be used
9 solely for the purpose of providing consumer education
10 regarding smart meters and related consumer-facing
11 technologies and services and the peak time rebate program
12 described in subsection (g) of Section 16-108.6 of this Act.
13 Thirty percent of such funds received from each participating
14 utility shall be used by the trust or foundation for purposes
15 of providing such education to each participating utility's
16 low-income retail customers, including low-income senior
17 citizens.

18 The trust or foundation shall use all funds received
19 pursuant to subsection (f) of Section 16-108.6 of this Act in a
20 manner that reflects the unique needs and characteristics of
21 each participating utility's service territory and in
22 proportion to each participating utility's payment.

23 (c) Such trust or foundation shall be governed by a
24 declaration of trust or articles of incorporation and bylaws
25 which shall, at a minimum, provide the following:

26 (1) There shall initially be 9 ~~7~~ trustees of the trust

1 or foundation, which shall consist of the members of the
2 Smart Grid Advisory Council established pursuant to
3 Section 16-108.6 of this Act. Subsequently, the
4 participating utilities shall appoint one trustee and the
5 Clean Energy Trust shall appoint one non-voting trustee who
6 shall provide expertise regarding early stage investment
7 in Smart Grid projects.

8 (2) All trustees shall be entitled to reimbursement for
9 reasonable expenses incurred on behalf of the trust in the
10 performance of their duties as trustees. All such
11 reimbursements shall be paid out of the trust.

12 (3) Trustees shall be appointed within 60 days after
13 the creation of the trust or foundation and shall serve for
14 a term of 5 years commencing upon the date of their
15 respective appointments, until their respective successors
16 are appointed and qualified.

17 (4) A vacancy in the office of trustee shall be filled
18 by the person holding the office responsible for appointing
19 the trustee whose death or resignation creates the vacancy,
20 and a trustee appointed to fill a vacancy shall serve the
21 remainder of the term of the trustee whose resignation or
22 death created the vacancy.

23 (5) The trust or foundation shall have an indefinite
24 term and shall terminate at such time as no trust assets
25 remain.

26 (6) The allocation and disbursement of funds for the

1 various purposes for which the trust or foundation is
2 established shall be determined by the trustees in
3 accordance with the declaration of trust or the articles of
4 incorporation and bylaws.

5 (7) The trust or foundation shall be authorized to
6 employ an executive director and other employees, or
7 contract management of the trust or foundation in its
8 entirety to an outside organization found suitable by the
9 trustees, to enter into leases, contracts and other
10 obligations on behalf of the trust or foundation, and to
11 incur expenses that the trustees deem necessary or
12 appropriate for the fulfillment of the purposes for which
13 the trust or foundation is established, provided, however,
14 that salaries and administrative expenses incurred on
15 behalf of the trust or foundation shall not exceed 3% of
16 the trust's principal value, or \$750,000, whichever is
17 greater, in any given year. The trustees shall not be
18 compensated by the trust or foundation.

19 (8) The trustees may create and appoint advisory boards
20 or committees to assist them with the administration of the
21 trust or foundation, and to advise and make recommendations
22 to them regarding the contribution and disbursement of the
23 trust or foundation funds.

24 (9) All funds dispersed by the trust or foundation for
25 programs and projects to meet the objectives of the trust
26 or foundation as enumerated in this Section shall be

1 subject to a peer-review process as determined by the
2 trustees. This process shall be designed to determine, in
3 an objective and unbiased manner, those programs and
4 projects that best fit the objectives of the trust or
5 foundation. In each fiscal year the trustees shall
6 determine, based solely on the information provided
7 through the peer-review process, a budget for programs and
8 projects for that fiscal year.

9 (10) The trustees shall administer a Smart Grid
10 education fund from which it shall make grants to qualified
11 not-for-profit organizations for the purpose of educating
12 customers with regard to smart meters and related
13 consumer-facing technologies and services. In making such
14 grants the trust or foundation shall strongly encourage
15 grantees to coordinate to the extent practicable and
16 consider recommendations from the participating utilities
17 regarding the development and implementation of customer
18 education plans.

19 (11) One of the objectives of the trust or foundation
20 is to remain self-funding. In order to meet this objective,
21 the trustees may sign agreements with those entities
22 receiving funding that provide for license fees,
23 royalties, or other payments to the trust or foundation
24 from such entities that receive support for their product
25 development from the trust or foundation. Such payments,
26 however, shall be contingent on the commercialization of

1 such products, services, or technologies enabled by the
2 funding provided by the trust or foundation.

3 (d) The trustees shall notify each participating utility as
4 defined in Section 16-108.5 of this Act of the formation of the
5 trust or foundation. Within 90 days after receipt of the
6 notification, each participating utility that is not a
7 combination utility as defined in Section 16-108.5 of this Act
8 shall contribute \$15,000,000 to the trust or foundation, and
9 each participating utility that is a combination utility, as
10 defined in Section 16-108.5 of this Act, shall contribute
11 \$7,500,000 to the trust or foundation established pursuant to
12 this Section. Such contributions shall not be a recoverable
13 expense.

14 (e) If Section 16-108.5 of this Act becomes inoperative
15 with respect to one or more participating utilities as set
16 forth in subsection (g) or (h) of that Section, then Sections
17 16-108.5, 16-108.6, 16-108.7, and 16-108.8 of this Act shall
18 become inoperative as to each affected utility and its service
19 area on the same date as Section 16-108.5 becomes inoperative.

20 (Source: 09700SB1652enr.)

21 (220 ILCS 5/16-128)

22 Sec. 16-128. Provisions related to utility employees
23 ~~during the mandatory transition period.~~

24 (a) The General Assembly finds:

25 (1) The reliability and safety of the electric system

1 has depended and depends on a workforce of skilled and
2 dedicated employees, equipped with technical training and
3 experience.

4 (2) The integrity and reliability of the system also
5 requires the industry's commitment to invest in regular
6 inspection and maintenance, to assure that it can withstand
7 the demands of heavy service requirements and emergency
8 situations.

9 (3) It is in the State's interest to protect the
10 interests of utility employees who have and continue to
11 dedicate themselves to assuring reliable service to the
12 citizens of this State, and who might otherwise be
13 economically displaced in a restructured industry.

14 The General Assembly further finds that it is necessary to
15 assure that employees of electric utilities and employees of
16 contractors or subcontractors performing work on behalf of an
17 electric utility operating in the deregulated industry have the
18 requisite skills, knowledge, training, experience, and
19 competence to provide reliable and safe electrical service
20 under this Act.

21 The General Assembly also finds that it is necessary to
22 assure that employees of alternative retail electric suppliers
23 and employees of contractors or subcontractors performing work
24 on behalf of an alternative retail electric supplier operating
25 in the deregulated industry have the requisite skills,
26 knowledge, training, experience, and competence to provide

1 reliable and safe electrical service under this Act.

2 To ensure that these findings and prerequisites for
3 reliable and safe electrical service continue to prevail, each
4 alternative retail electric supplier, electric utility, and
5 contractors and subcontractors performing work on behalf of an
6 electric utility or alternative retail electric supplier must
7 demonstrate the competence of their respective employees to
8 work on the distribution system.

9 The knowledge, skill, training, experience, and competence
10 levels to be demonstrated shall be consistent with those
11 required of or by the electric utilities in this State as of
12 January 1, 2007, with respect to their employees and employees
13 of contractors or subcontractors performing work on their
14 behalf. Nothing in this Section shall prohibit an electric
15 utility from establishing knowledge, skill, training,
16 experience, and competence levels greater than those required
17 as of January 1, 2007.

18 An adequate demonstration of requisite knowledge, skill,
19 training, experience, and competence shall include, at a
20 minimum, completion or current participation and ultimate
21 completion by the employee of an accredited or otherwise
22 recognized apprenticeship program for the particular craft,
23 trade or skill, or specified and several years of employment
24 performing a particular work function that is utilized by an
25 electric utility.

26 Notwithstanding any law, tariff, Commission rule, order,

1 or decision to the contrary, the Commission shall have an
2 affirmative statutory obligation to ensure that an electric
3 utility is employing employees, contractors, and
4 subcontractors with employees who meet the requirements of
5 subsection (a) of this Section when installing, constructing,
6 operating, and maintaining generation, transmission, or
7 distribution facilities and equipment within this State
8 pursuant to any provision in this Act or any Commission order,
9 rule, or decision.

10 For purposes of this Section, "distribution facilities and
11 equipment" means any and all of the facilities and equipment,
12 including, but not limited to, substations, distribution
13 feeder circuits, switches, meters, protective equipment,
14 primary circuits, distribution transformers, line extensions
15 and service extensions both above or below ground, conduit,
16 risers, elbows, transformer pads, junction boxes, manholes,
17 pedestals, conductors, and all associated fittings that
18 connect the transmission or distribution system to either the
19 weatherhead on the retail customer's building or other
20 structure for above ground service or to the terminals on the
21 meter base of the retail customer's building or other structure
22 for below ground service.

23 To implement this requirement for alternative retail
24 electric suppliers, the Commission, in determining that an
25 applicant meets the standards for certification as an
26 alternative retail electric supplier, shall require the

1 applicant to demonstrate (i) that the applicant is licensed to
2 do business, and bonded, in the State of Illinois; and (ii)
3 that the employees of the applicant that will be installing,
4 operating, and maintaining generation, transmission, or
5 distribution facilities within this State, or any entity with
6 which the applicant has contracted to perform those functions
7 within this State, have the requisite knowledge, skills,
8 training, experience, and competence to perform those
9 functions in a safe and responsible manner in order to provide
10 safe and reliable service, in accordance with the criteria
11 stated above.

12 (b) The General Assembly finds, based on experience in
13 other industries that have undergone similar transitions, that
14 the introduction of competition into the State's electric
15 utility industry may result in workforce reductions by electric
16 utilities which may adversely affect persons who have been
17 employed by this State's electric utilities in functions
18 important to the public convenience and welfare. The General
19 Assembly further finds that the impacts on employees and their
20 communities of any necessary reductions in the utility
21 workforce directly caused by this restructuring of the electric
22 industry shall be mitigated to the extent practicable through
23 such means as offers of voluntary severance, retraining, early
24 retirement, outplacement and related benefits. Therefore,
25 before any such reduction in the workforce during the
26 transition period, an electric utility shall present to its

1 employees or their representatives a workforce reduction plan
2 outlining the means by which the electric utility intends to
3 mitigate the impact of such workforce reduction on its
4 employees.

5 (c) In the event of a sale, purchase, or any other transfer
6 of ownership during the mandatory transition period of one or
7 more Illinois divisions or business units, and/or generating
8 stations or generating units, of an electric utility, the
9 electric utility's contract and/or agreements with the
10 acquiring entity or persons shall require that the entity or
11 persons hire a sufficient number of non-supervisory employees
12 to operate and maintain the station, division or unit by
13 initially making offers of employment to the non-supervisory
14 workforce of the electric utility's division, business unit,
15 generating station and/or generating unit at no less than the
16 wage rates, and substantially equivalent fringe benefits and
17 terms and conditions of employment that are in effect at the
18 time of transfer of ownership of said division, business unit,
19 generating station, and/or generating units; and said wage
20 rates and substantially equivalent fringe benefits and terms
21 and conditions of employment shall continue for at least 30
22 months from the time of said transfer of ownership unless the
23 parties mutually agree to different terms and conditions of
24 employment within that 30-month period. The utility shall offer
25 a transition plan to those employees who are not offered jobs
26 by the acquiring entity because that entity has a need for

1 fewer workers. If there is litigation concerning the sale, or
2 other transfer of ownership of the electric utility's
3 divisions, business units, generating station, or generating
4 units, the 30-month period will begin on the date the acquiring
5 entity or persons take control or management of the divisions,
6 business units, generating station or generating units of the
7 electric utility.

8 (d) If a utility transfers ownership during the mandatory
9 transition period of one or more Illinois divisions, business
10 units, generating stations or generating units of an electric
11 utility to a majority-owned subsidiary, that subsidiary shall
12 continue to employ the utility's employees who were employed by
13 the utility at such division, business unit or generating
14 station at the time of the transfer under the same terms and
15 conditions of employment as those employees enjoyed at the time
16 of the transfer. If ownership of the subsidiary is subsequently
17 sold or transferred to a third party during the transition
18 period, the transition provisions outlined in subsection (c)
19 shall apply.

20 (e) The plant transfer provisions set forth above shall not
21 apply to any generating station which was the subject of a
22 sales agreement entered into before January 1, 1997.

23 (Source: P.A. 90-561, eff. 12-16-97; 09700SB1652enr.)

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.