

1 AN ACT concerning utilities.

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

4 Section 5. The Illinois Power Agency Act is amended by
5 changing Sections 1-10 and 1-20 and by adding Sections 1-77 and
6 1-78 as follows:

7 (20 ILCS 3855/1-10)

8 Sec. 1-10. Definitions.

9 "Agency" means the Illinois Power Agency.

10 "Agency loan agreement" means any agreement pursuant to
11 which the Illinois Finance Authority agrees to loan the
12 proceeds of revenue bonds issued with respect to a project to
13 the Agency upon terms providing for loan repayment installments
14 at least sufficient to pay when due all principal of, interest
15 and premium, if any, on those revenue bonds, and providing for
16 maintenance, insurance, and other matters in respect of the
17 project.

18 "Authority" means the Illinois Finance Authority.

19 "Clean coal facility" means an electric generating
20 facility that uses primarily coal as a feedstock and that
21 captures and sequesters carbon dioxide emissions at the
22 following levels: at least 50% of the total carbon dioxide
23 emissions that the facility would otherwise emit if, at the

1 time construction commences, the facility is scheduled to
2 commence operation before 2016, at least 70% of the total
3 carbon dioxide emissions that the facility would otherwise emit
4 if, at the time construction commences, the facility is
5 scheduled to commence operation during 2016 or 2017, and at
6 least 90% of the total carbon dioxide emissions that the
7 facility would otherwise emit if, at the time construction
8 commences, the facility is scheduled to commence operation
9 after 2017. The power block of the clean coal facility shall
10 not exceed allowable emission rates for sulfur dioxide,
11 nitrogen oxides, carbon monoxide, particulates and mercury for
12 a natural gas-fired combined-cycle facility the same size as
13 and in the same location as the clean coal facility at the time
14 the clean coal facility obtains an approved air permit. All
15 coal used by a clean coal facility shall have high volatile
16 bituminous rank and greater than 1.7 pounds of sulfur per
17 million btu content, unless the clean coal facility does not
18 use gasification technology and was operating as a conventional
19 coal-fired electric generating facility on June 1, 2009 (the
20 effective date of Public Act 95-1027).

21 "Clean coal SNG brownfield facility" means a facility that
22 (1) has commenced construction by July 1, 2015 on an urban
23 brownfield site in a municipality with at least 1,000,000
24 residents; (2) uses a gasification process to produce
25 substitute natural gas; (3) uses coal as at least 50% of the
26 total feedstock over the term of any sourcing agreement with a

1 utility and the remainder of the feedstock may be either
2 petroleum coke or coal, with all such coal having a high
3 bituminous rank and greater than 1.7 pounds of sulfur per
4 million Btu content unless the facility reasonably determines
5 that it is necessary to use additional petroleum coke to
6 deliver additional consumer savings, in which case the facility
7 shall use coal for at least 35% of the total feedstock over the
8 term of any sourcing agreement; and (4) captures and sequesters
9 at least 85% of the total carbon dioxide emissions that the
10 facility would otherwise emit.

11 "Clean coal SNG facility" means a facility that uses a
12 gasification process to produce substitute natural gas, that
13 sequesters at least 90% of the total carbon dioxide emissions
14 that the facility would otherwise emit and that uses petroleum
15 coke or coal as a feedstock, with all such coal having a high
16 bituminous rank and greater than 1.7 pounds of sulfur per
17 million btu content; provided, however, a clean coal SNG
18 brownfield facility shall not be a clean coal SNG facility.

19 "Commission" means the Illinois Commerce Commission.

20 "Costs incurred in connection with the development and
21 construction of a facility" means:

22 (1) the cost of acquisition of all real property, and
23 fixtures, and improvements in connection therewith and
24 equipment, personal property, and other property, rights,
25 and easements acquired that are deemed necessary for the
26 operation and maintenance of the facility;

1 (2) financing costs with respect to bonds, notes, and
2 other evidences of indebtedness of the Agency;

3 (3) all origination, commitment, utilization,
4 facility, placement, underwriting, syndication, credit
5 enhancement, and rating agency fees;

6 (4) engineering, design, procurement, consulting,
7 legal, accounting, title insurance, survey, appraisal,
8 escrow, trustee, collateral agency, interest rate hedging,
9 interest rate swap, capitalized interest, contingency, as
10 required by lenders, and other financing costs, and other
11 expenses for professional services; and

12 (5) the costs of plans, specifications, site study and
13 investigation, installation, surveys, other Agency costs
14 and estimates of costs, and other expenses necessary or
15 incidental to determining the feasibility of any project,
16 together with such other expenses as may be necessary or
17 incidental to the financing, insuring, acquisition, and
18 construction of a specific project and starting up,
19 commissioning, and placing that project in operation.

20 "Department" means the Department of Commerce and Economic
21 Opportunity.

22 "Director" means the Director of the Illinois Power Agency.

23 "Demand-response" means measures that decrease peak
24 electricity demand or shift demand from peak to off-peak
25 periods.

26 "Energy efficiency" means measures that reduce the amount

1 of electricity or natural gas required to achieve a given end
2 use.

3 "Electric utility" has the same definition as found in
4 Section 16-102 of the Public Utilities Act.

5 "Facility" means an electric generating unit or a
6 co-generating unit that produces electricity along with
7 related equipment necessary to connect the facility to an
8 electric transmission or distribution system.

9 "Governmental aggregator" means one or more units of local
10 government that individually or collectively procure
11 electricity to serve residential retail electrical loads
12 located within its or their jurisdiction.

13 "Local government" means a unit of local government as
14 defined in Article VII of Section 1 of the Illinois
15 Constitution.

16 "Municipality" means a city, village, or incorporated
17 town.

18 "Person" means any natural person, firm, partnership,
19 corporation, either domestic or foreign, company, association,
20 limited liability company, joint stock company, or association
21 and includes any trustee, receiver, assignee, or personal
22 representative thereof.

23 "Project" means the planning, bidding, and construction of
24 a facility.

25 "Public utility" has the same definition as found in
26 Section 3-105 of the Public Utilities Act.

1 "Real property" means any interest in land together with
2 all structures, fixtures, and improvements thereon, including
3 lands under water and riparian rights, any easements,
4 covenants, licenses, leases, rights-of-way, uses, and other
5 interests, together with any liens, judgments, mortgages, or
6 other claims or security interests related to real property.

7 "Renewable energy credit" means a tradable credit that
8 represents the environmental attributes of a certain amount of
9 energy produced from a renewable energy resource.

10 "Renewable energy resources" includes energy and its
11 associated renewable energy credit or renewable energy credits
12 from wind, solar thermal energy, photovoltaic cells and panels,
13 biodiesel, crops and untreated and unadulterated organic waste
14 biomass, tree waste, hydropower that does not involve new
15 construction or significant expansion of hydropower dams, and
16 other alternative sources of environmentally preferable
17 energy. For purposes of this Act, landfill gas produced in the
18 State is considered a renewable energy resource. "Renewable
19 energy resources" does not include the incineration or burning
20 of tires, garbage, general household, institutional, and
21 commercial waste, industrial lunchroom or office waste,
22 landscape waste other than tree waste, railroad crossties,
23 utility poles, or construction or demolition debris, other than
24 untreated and unadulterated waste wood.

25 "Revenue bond" means any bond, note, or other evidence of
26 indebtedness issued by the Authority, the principal and

1 interest of which is payable solely from revenues or income
2 derived from any project or activity of the Agency.

3 "Sequester" means permanent storage of carbon dioxide by
4 injecting it into a saline aquifer, a depleted gas reservoir,
5 or an oil reservoir, directly or through an enhanced oil
6 recovery process that may involve intermediate storage,
7 regardless of whether these activities are conducted by a clean
8 coal facility, clean coal SNG facility, clean coal SNG
9 brownfield facility, or a party with which a clean coal
10 facility, clean coal SNG facility, or clean coal SNG brownfield
11 facility has contracted for such purposes ~~in a salt dome.~~

12 "Sourcing ~~Serviceing~~ agreement" means (i) in the case of an
13 electric utility, an agreement between the owner of a clean
14 coal facility and such electric utility, which agreement shall
15 have terms and conditions meeting the requirements of paragraph
16 (3) of subsection (d) of Section 1-75, ~~and~~ (ii) in the case of
17 an alternative retail electric supplier, an agreement between
18 the owner of a clean coal facility and such alternative retail
19 electric supplier, which agreement shall have terms and
20 conditions meeting the requirements of Section 16-115(d) (5) of
21 the Public Utilities Act, and (iii) in case of a gas utility,
22 an agreement between the owner of a clean coal SNG brownfield
23 facility and the gas utility, which agreement shall have the
24 terms and conditions meeting the requirements of subsection
25 (h-1) of Section 9-220 of the Public Utilities Act.

26 "Substitute natural gas" or "SNG" means a gas manufactured

1 by gasification of hydrocarbon feedstock, which is
2 substantially interchangeable in use and distribution with
3 conventional natural gas.

4 "Total resource cost test" or "TRC test" means a standard
5 that is met if, for an investment in energy efficiency or
6 demand-response measures, the benefit-cost ratio is greater
7 than one. The benefit-cost ratio is the ratio of the net
8 present value of the total benefits of the program to the net
9 present value of the total costs as calculated over the
10 lifetime of the measures. A total resource cost test compares
11 the sum of avoided electric utility costs, representing the
12 benefits that accrue to the system and the participant in the
13 delivery of those efficiency measures, as well as other
14 quantifiable societal benefits, including avoided natural gas
15 utility costs, to the sum of all incremental costs of end-use
16 measures that are implemented due to the program (including
17 both utility and participant contributions), plus costs to
18 administer, deliver, and evaluate each demand-side program, to
19 quantify the net savings obtained by substituting the
20 demand-side program for supply resources. In calculating
21 avoided costs of power and energy that an electric utility
22 would otherwise have had to acquire, reasonable estimates shall
23 be included of financial costs likely to be imposed by future
24 regulations and legislation on emissions of greenhouse gases.
25 (Source: P.A. 95-481, eff. 8-28-07; 95-913, eff. 1-1-09;
26 95-1027, eff. 6-1-09; 96-33, eff. 7-10-09; 96-159, eff.

1 8-10-09; 96-784, eff. 8-28-09; 96-1000, eff. 7-2-10.)

2 (20 ILCS 3855/1-20)

3 Sec. 1-20. General powers of the Agency.

4 (a) The Agency is authorized to do each of the following:

5 (1) Develop electricity procurement plans to ensure
6 adequate, reliable, affordable, efficient, and
7 environmentally sustainable electric service at the lowest
8 total cost over time, taking into account any benefits of
9 price stability, for electric utilities that on December
10 31, 2005 provided electric service to at least 100,000
11 customers in Illinois. The procurement plans shall be
12 updated on an annual basis and shall include electricity
13 generated from renewable resources sufficient to achieve
14 the standards specified in this Act.

15 (2) Conduct competitive procurement processes to
16 procure the supply resources identified in the procurement
17 plan, pursuant to Section 16-111.5 of the Public Utilities
18 Act.

19 (3) Develop electric generation and co-generation
20 facilities that use indigenous coal or renewable
21 resources, or both, financed with bonds issued by the
22 Illinois Finance Authority.

23 (4) Supply electricity from the Agency's facilities at
24 cost to one or more of the following: municipal electric
25 systems, governmental aggregators, or rural electric

1 cooperatives in Illinois.

2 (b) Except as otherwise limited by this Act, the Agency has
3 all of the powers necessary or convenient to carry out the
4 purposes and provisions of this Act, including without
5 limitation, each of the following:

6 (1) To have a corporate seal, and to alter that seal at
7 pleasure, and to use it by causing it or a facsimile to be
8 affixed or impressed or reproduced in any other manner.

9 (2) To use the services of the Illinois Finance
10 Authority necessary to carry out the Agency's purposes.

11 (3) To negotiate and enter into loan agreements and
12 other agreements with the Illinois Finance Authority.

13 (4) To obtain and employ personnel and hire consultants
14 that are necessary to fulfill the Agency's purposes, and to
15 make expenditures for that purpose within the
16 appropriations for that purpose.

17 (5) To purchase, receive, take by grant, gift, devise,
18 bequest, or otherwise, lease, or otherwise acquire, own,
19 hold, improve, employ, use, and otherwise deal in and with,
20 real or personal property whether tangible or intangible,
21 or any interest therein, within the State.

22 (6) To acquire real or personal property, whether
23 tangible or intangible, including without limitation
24 property rights, interests in property, franchises,
25 obligations, contracts, and debt and equity securities,
26 and to do so by the exercise of the power of eminent domain

1 in accordance with Section 1-21; except that any real
2 property acquired by the exercise of the power of eminent
3 domain must be located within the State.

4 (7) To sell, convey, lease, exchange, transfer,
5 abandon, or otherwise dispose of, or mortgage, pledge, or
6 create a security interest in, any of its assets,
7 properties, or any interest therein, wherever situated.

8 (8) To purchase, take, receive, subscribe for, or
9 otherwise acquire, hold, make a tender offer for, vote,
10 employ, sell, lend, lease, exchange, transfer, or
11 otherwise dispose of, mortgage, pledge, or grant a security
12 interest in, use, and otherwise deal in and with, bonds and
13 other obligations, shares, or other securities (or
14 interests therein) issued by others, whether engaged in a
15 similar or different business or activity.

16 (9) To make and execute agreements, contracts, and
17 other instruments necessary or convenient in the exercise
18 of the powers and functions of the Agency under this Act,
19 including contracts with any person, local government,
20 State agency, or other entity; and all State agencies and
21 all local governments are authorized to enter into and do
22 all things necessary to perform any such agreement,
23 contract, or other instrument with the Agency. No such
24 agreement, contract, or other instrument shall exceed 40
25 years.

26 (10) To lend money, invest and reinvest its funds in

1 accordance with the Public Funds Investment Act, and take
2 and hold real and personal property as security for the
3 payment of funds loaned or invested.

4 (11) To borrow money at such rate or rates of interest
5 as the Agency may determine, issue its notes, bonds, or
6 other obligations to evidence that indebtedness, and
7 secure any of its obligations by mortgage or pledge of its
8 real or personal property, machinery, equipment,
9 structures, fixtures, inventories, revenues, grants, and
10 other funds as provided or any interest therein, wherever
11 situated.

12 (12) To enter into agreements with the Illinois Finance
13 Authority to issue bonds whether or not the income
14 therefrom is exempt from federal taxation.

15 (13) To procure insurance against any loss in
16 connection with its properties or operations in such amount
17 or amounts and from such insurers, including the federal
18 government, as it may deem necessary or desirable, and to
19 pay any premiums therefor.

20 (14) To negotiate and enter into agreements with
21 trustees or receivers appointed by United States
22 bankruptcy courts or federal district courts or in other
23 proceedings involving adjustment of debts and authorize
24 proceedings involving adjustment of debts and authorize
25 legal counsel for the Agency to appear in any such
26 proceedings.

1 (15) To file a petition under Chapter 9 of Title 11 of
2 the United States Bankruptcy Code or take other similar
3 action for the adjustment of its debts.

4 (16) To enter into management agreements for the
5 operation of any of the property or facilities owned by the
6 Agency.

7 (17) To enter into an agreement to transfer and to
8 transfer any land, facilities, fixtures, or equipment of
9 the Agency to one or more municipal electric systems,
10 governmental aggregators, or rural electric agencies or
11 cooperatives, for such consideration and upon such terms as
12 the Agency may determine to be in the best interest of the
13 citizens of Illinois.

14 (18) To enter upon any lands and within any building
15 whenever in its judgment it may be necessary for the
16 purpose of making surveys and examinations to accomplish
17 any purpose authorized by this Act.

18 (19) To maintain an office or offices at such place or
19 places in the State as it may determine.

20 (20) To request information, and to make any inquiry,
21 investigation, survey, or study that the Agency may deem
22 necessary to enable it effectively to carry out the
23 provisions of this Act.

24 (21) To accept and expend appropriations.

25 (22) To engage in any activity or operation that is
26 incidental to and in furtherance of efficient operation to

1 accomplish the Agency's purposes.

2 (23) To adopt, revise, amend, and repeal rules with
3 respect to its operations, properties, and facilities as
4 may be necessary or convenient to carry out the purposes of
5 this Act, subject to the provisions of the Illinois
6 Administrative Procedure Act and Sections 1-22 and 1-35 of
7 this Act.

8 (24) To establish and collect charges and fees as
9 described in this Act.

10 (25) To conduct competitive gasification feedstock
11 procurement processes to procure the feedstocks for the
12 clean coal SNG brownfield facility in accordance with the
13 requirements of Section 1-78 of this Act ~~To manage~~
14 ~~procurement of substitute natural gas from a facility that~~
15 ~~meets the criteria specified in subsection (a) of Section~~
16 ~~1-58 of this Act, on terms and conditions that may be~~
17 ~~approved by the Agency pursuant to subsection (d) of~~
18 ~~Section 1-58 of this Act, to support the operations of~~
19 ~~State agencies and local governments that agree to such~~
20 ~~terms and conditions. This procurement process is not~~
21 ~~subject to the Procurement Code.~~

22 (26) To review, revise, and approve sourcing
23 agreements and mediate and resolve disputes between gas
24 utilities and the clean coal SNG brownfield facility
25 pursuant to subsection (h-1) of Section 9-220 of the Public
26 Utilities Act.

1 (Source: P.A. 95-481, eff. 8-28-07; 96-784, eff. 8-28-09;
2 96-1000, eff. 7-2-10.)

3 (20 ILCS 3855/1-77 new)

4 Sec. 1-77. The Planning and Procurement Bureau; feedstock
5 procurement administrator; qualified expert or expert
6 consulting firm.

7 (a) The Planning and Procurement Bureau shall at least
8 every 5 years beginning in 2015 develop feedstock procurement
9 plans and conduct competitive feedstock procurement processes
10 in accordance with the requirements of Section 1-78 of this
11 Act.

12 (1) The Agency shall at least every 5 years beginning
13 in 2015 issue a request for qualifications for experts or
14 expert consulting firms to develop the feedstock
15 procurement plans in accordance with Section 1-78 of this
16 Act. In order to qualify, an expert or expert consulting
17 firm must have:

18 (A) direct previous experience assembling large
19 scale feedstock supply plans or portfolios for
20 industrial customers;

21 (B) an advanced degree in economics, mathematics,
22 engineering, risk management, or a related area of
23 study;

24 (C) ten years of experience in the energy sector,
25 including managing supply risk;

1 (D) expertise in wholesale feedstock markets,
2 which may be particularized to the specific type of
3 feedstock to be purchased in that procurement event;

4 (E) expertise in credit protocols and familiarity
5 with contract protocols;

6 (F) adequate resources to perform and fulfill the
7 required functions and responsibilities; and

8 (G) the absence of a conflict of interest and
9 inappropriate bias for or against potential bidders or
10 the affected clean coal SNG brownfield facility.

11 (2) The Agency shall at least every 5 years beginning
12 in 2015 issue a request for qualifications for a feedstock
13 procurement administrator to conduct the competitive
14 feedstock procurement processes in accordance with Section
15 1-78 of this Act. In order to qualify, an expert or expert
16 consulting firm must have:

17 (A) direct previous experience administering a
18 large scale competitive feedstock procurement process;

19 (B) an advanced degree in economics, mathematics,
20 engineering, or a related area of study;

21 (C) ten years of experience in the energy sector,
22 including risk management experience;

23 (D) expertise in wholesale feedstock market rules,
24 which may be particularized to the specific type of
25 feedstock to be purchased in that procurement event;

26 (E) expertise in credit and contract protocols;

1 (F) adequate resources to perform and fulfill the
2 required functions and responsibilities; and

3 (G) the absence of a conflict of interest and
4 inappropriate bias for or against potential bidders or
5 the affected clean coal SNG brownfield facility.

6 (3) The Agency shall provide the clean coal SNG
7 brownfield facility and other interested parties with the
8 lists of qualified experts or expert consulting firms
9 identified through the request for qualifications
10 processes that are under consideration to develop the
11 feedstock procurement plans and to serve as the feedstock
12 procurement administrator. The Agency shall also provide
13 the clean coal SNG brownfield facility and other interested
14 parties with each qualified expert's or expert consulting
15 firm's response to the request for qualifications. All
16 information provided under this subparagraph (3) shall
17 also be provided to the Commission. The Agency may provide
18 by rule for fees associated with supplying the information
19 to the clean coal SNG brownfield facility and other
20 interested parties. The clean coal SNG brownfield facility
21 and other interested parties must, within 5 business days
22 after receiving the lists and information, notify the
23 Agency in writing if they object to any experts or expert
24 consulting firms on the lists. Objections shall be based
25 on:

26 (A) failure to satisfy qualification criteria;

1 (B) identification of a conflict of interest; or

2 (C) evidence of inappropriate bias for or against
3 potential bidders or the clean coal SNG brownfield
4 facility.

5 The Agency shall remove an expert or expert consulting
6 firm from the list within 10 days if there is a reasonable
7 basis for an objection and provide the updated list to the
8 clean coal SNG brownfield facility and other interested
9 parties. If the Agency fails to remove an expert or expert
10 consulting firm from a list, then an objecting party may
11 seek review by the Commission within 5 days thereafter by
12 filing a petition, and the Commission shall render a ruling
13 on the petition within 10 days after the filing. There is
14 no right of appeal of the Commission's ruling.

15 (4) The Agency shall, as needed, issue requests for
16 proposals to the qualified experts or expert consulting
17 firms to develop a feedstock procurement plan for the clean
18 coal SNG brownfield facility and to serve as feedstock
19 procurement administrator.

20 (5) The Agency shall select an expert or expert
21 consulting firm to develop feedstock procurement plans
22 based on the proposals submitted and shall award one-year
23 contracts to those selected with an option for the Agency
24 for a one-year renewal.

25 (6) The Agency shall select, with the approval of the
26 Commission, an expert or expert consulting firm to serve as

1 feedstock procurement administrator based on the proposals
2 submitted. If the Commission rejects the Agency's
3 selection within 5 days after being notified of the
4 Agency's selection, then the Agency shall submit another
5 recommendation within 3 days after the Commission's
6 rejection based on the proposals submitted. The Agency
7 shall award at least a one-year contract to the expert or
8 expert consulting firm selected with the Commission's
9 approval with an option for the Agency for renewal for a
10 term equal to the term of the contract.

11 (b) The experts or expert consulting firms retained by the
12 Agency shall, as appropriate, prepare feedstock procurement
13 plans and conduct a competitive feedstock procurement process
14 as prescribed in Section 1-78 of this Act to ensure adequate,
15 reliable, affordable feedstocks, taking into account any
16 benefits of price stability, for the clean coal SNG brownfield
17 facility.

18 (c) The draft procurement plans are subject to public
19 comment pursuant to Section 1-78 of this Act.

20 (d) The Agency shall assess fees to each bidder to recover
21 the costs incurred in connection with the competitive
22 procurement process.

23 (20 ILCS 3855/1-78 new)

24 Sec. 1-78. Feedstock procurement plan; feedstock
25 procurement process.

1 (a) A feedstock procurement plan shall at least every 5
2 years beginning in 2015 be prepared for the clean coal SNG
3 brownfield facility based on the clean coal SNG brownfield
4 facility's projection of feedstock usage and ratios, and
5 consistent with the applicable requirements of the Public
6 Utilities Act and this Act. The plan shall specifically
7 identify the wholesale feedstock products to be procured
8 following plan approval and shall follow all the requirements
9 set forth in this Act, the Public Utilities Act, and all
10 applicable State and federal laws, statutes, rules, or
11 regulations, as well as Commission orders. Nothing in this
12 Section precludes consideration of contracts longer than 5
13 years and related forecast data. Any feedstock procurement
14 occurring in accordance with this plan shall be competitively
15 bid through a request for proposals process. Approval and
16 implementation of the feedstock procurement plan shall be
17 subject to review and approval by the Commission according to
18 the provisions set forth in this Section. A feedstock
19 procurement plan shall include each of the following
20 components:

21 (1) Daily load analysis. This analysis shall include:

22 (A) multi-year historical analysis of hourly
23 loads; and

24 (B) known or projected changes to future loads.

25 (2) Determination of the fuel specifications required
26 for the clean coal SNG brownfield facility, including:

1 (A) coal and petroleum coke mix, as set by the
2 clean coal SNG brownfield facility with coal
3 comprising at least 50% of the total feedstock over the
4 term of any sourcing agreement unless the facility
5 reasonably determines that it is necessary to use
6 additional petroleum coke to deliver additional
7 consumer savings, in which case the facility shall use
8 coal for at least 35% of the total feedstock over the
9 term of any sourcing agreement;

10 (B) volume of each feedstock required;

11 (C) quality standards of each feedstock;

12 (D) delivery requirements, including cost
13 implications; and

14 (E) technical specifications of the clean coal SNG
15 brownfield facility for its feedstocks.

16 (b) The feedstock procurement process shall be
17 administered by a feedstock procurement administrator and
18 monitored by a feedstock procurement monitor.

19 (1) The feedstock procurement administrator shall:

20 (A) design the final feedstock procurement process
21 in accordance with subsection (d) of this Section
22 following Commission approval of the feedstock
23 procurement plan;

24 (B) develop feedstock benchmarks in accordance
25 with subsection (d)(3) to be used to evaluate bids;
26 these benchmarks shall be submitted to the Commission

1 for review and approval on a confidential basis prior
2 to the feedstock procurement event;

3 (C) serve as the interface between the clean coal
4 SNG brownfield facility and coal and petroleum coke
5 suppliers;

6 (D) manage the bidder prequalification and
7 registration process;

8 (E) obtain the facility's agreement to the final
9 form of all supply contracts and credit collateral
10 agreements;

11 (F) administer the request for feedstock proposals
12 process;

13 (G) have the discretion to negotiate to determine
14 whether bidders are willing to lower the price of bids
15 that meet the benchmarks approved by the Commission;
16 any post-bid negotiations with bidders shall be
17 limited to price only and shall be completed within 24
18 hours after opening the sealed bids and shall be
19 conducted in a fair and unbiased manner; in conducting
20 the negotiations, there shall be no disclosure of any
21 information derived from proposals submitted by
22 competing bidders; if information is disclosed to any
23 bidder, it shall be provided to all competing bidders;

24 (H) maintain confidentiality of supplier and
25 bidding information in a manner consistent with all
26 applicable laws, rules, regulations, and tariffs;

1 (I) submit a confidential report to the Commission
2 recommending acceptance or rejection of bids;

3 (J) notify the facility of contract counterparties
4 and contract specifics; and

5 (K) administer related contingency feedstock
6 procurement events.

7 (2) The feedstock procurement monitor, who shall be
8 retained by the Commission, shall:

9 (A) monitor interactions among the feedstock
10 procurement administrator, suppliers, and the
11 facility;

12 (B) monitor and report to the Commission on the
13 progress of the feedstock procurement process;

14 (C) provide an independent, confidential report to
15 the Commission regarding the results of the feedstock
16 procurement event;

17 (D) preserve the confidentiality of supplier and
18 bidding information in a manner consistent with all
19 applicable laws, rules, regulations, and tariffs;

20 (E) provide expert advice to the Commission and
21 consult with the feedstock procurement administrator
22 regarding issues related to feedstock procurement
23 process design, rules, protocols, and policy-related
24 matters;

25 (F) consult with the feedstock procurement
26 administrator regarding the development and use of

1 benchmark criteria, standard form contracts, credit
2 policies, and bid documents; and

3 (G) assess compliance with the procurement plans
4 approved by the Commission.

5 (c) The feedstock planning process shall be conducted as
6 follows:

7 (1) Beginning in 2015, the clean coal SNG brownfield
8 facility shall annually provide a range of feedstock
9 requirement forecasts to the Agency by May 15 of each year,
10 or such other date as may be required by the Commission or
11 Agency. The feedstock requirement forecasts shall cover
12 the 5-year feedstock procurement planning period for the
13 next feedstock procurement plan, or such other longer
14 period that the Agency or the Commission may require and
15 shall include daily data representing a high-load,
16 low-load, and expected-load scenario for the load of the
17 utilities required to enter into sourcing agreements with
18 the clean coal SNG brownfield facility. The utility shall
19 provide supporting data and assumptions for each of the
20 scenarios.

21 (2) Beginning in 2015, the Agency shall at least every
22 5 years prepare a feedstock procurement plan by June 15, or
23 such other date as may be required by the Commission. The
24 clean coal SNG brownfield facility also may submit a
25 feedstock procurement plan. Each feedstock procurement
26 plan shall identify the portfolio of feedstocks to be

1 procured. Copies of each feedstock procurement plan shall
2 be posted and made publicly available on the Agency's and
3 Commission's websites, and copies of the Agency's
4 feedstock procurement plan shall also be provided to the
5 clean coal SNG brownfield facility. The clean coal SNG
6 brownfield facility shall have 30 days following the date
7 of posting to provide comment to the Agency on the
8 feedstock procurement plan. Other interested entities also
9 may comment on each feedstock procurement plan. All
10 comments submitted to the Agency shall be specific,
11 supported by data or other detailed analyses, and, if
12 objecting to all or a portion of the feedstock procurement
13 plan, accompanied by specific alternative wording or
14 proposals. All comments shall be posted on the Agency's and
15 Commission's websites. During this 30-day comment period,
16 the Agency shall hold at least one public hearing for the
17 purpose of receiving public comment on the procurement
18 plan. Within 14 days following the end of the 30-day
19 comment period, the clean coal SNG brownfield facility may
20 revise its feedstock procurement plan, if any, and the
21 Agency shall revise the feedstock procurement plan as
22 necessary based on the comments received, and each shall
23 file its feedstock procurement plan with the Commission,
24 and post the feedstock procurement plan on the websites.

25 (3) Within 5 days after the filing of a feedstock
26 procurement plan, any person objecting to the feedstock

1 procurement plan shall file an objection with the
2 Commission. Within 10 days after the filing, the Commission
3 shall determine whether a hearing is necessary. The
4 Commission shall enter its order confirming or modifying a
5 feedstock procurement plan within 90 days after the filing
6 of the feedstock procurement plan by the Agency.

7 (4) The Commission shall approve a feedstock
8 procurement plan, including expressly the forecast used in
9 the feedstock procurement plan, if the Commission
10 determines that it will ensure adequate, reliable, and
11 affordable feedstocks to the clean coal SNG brownfield
12 facility at the lowest total cost over time, taking into
13 account any benefits of price stability.

14 (d) The feedstock procurement process shall include each of
15 the following components:

16 (1) Solicitation, prequalification, and registration
17 of bidders. The feedstock procurement administrator shall
18 disseminate information to potential bidders to promote a
19 feedstock procurement event, notify potential bidders that
20 the feedstock procurement administrator may enter into a
21 post-bid price negotiation with bidders that meet the
22 applicable benchmarks, provide supply requirements, and
23 otherwise explain the competitive feedstock procurement
24 process. In addition to such other publication as the
25 feedstock procurement administrator determines is
26 appropriate, this information shall be posted on the

1 Agency's and the Commission's websites. The feedstock
2 procurement administrator shall also administer the
3 prequalification process, including evaluation of
4 creditworthiness, compliance with feedstock procurement
5 rules, and agreement to the standard form contract
6 developed pursuant to paragraph (2) of this subsection (d).
7 The feedstock procurement administrator shall then
8 identify and register bidders to participate in the
9 feedstock procurement event.

10 (2) Standard contract forms and credit terms and
11 instruments. The feedstock procurement administrator, in
12 consultation with the clean coal SNG brownfield facility,
13 gas utilities, the Commission, and other interested
14 parties and subject to Commission oversight, shall develop
15 and provide standard contract forms for the supplier
16 contracts that meet generally accepted industry practices.
17 Standard credit terms and instruments that meet generally
18 accepted industry practices shall be similarly developed.
19 The feedstock procurement administrator shall make
20 available to the Commission all written comments it
21 receives on the contract forms, credit terms, or
22 instruments. If the feedstock procurement administrator
23 cannot reach agreement with the applicable clean coal SNG
24 brownfield facility as to the contract terms and
25 conditions, then the feedstock procurement administrator
26 must notify the Commission of any disputed terms and the

1 Commission shall resolve the dispute. The terms of the
2 contracts shall not be subject to negotiation by winning
3 bidders and the bidders must agree to the terms of the
4 contract in advance so that winning bids are selected
5 solely on the basis of price.

6 (3) Establishment of a market-based price benchmark.
7 As part of the development of the feedstock procurement
8 process, the feedstock procurement administrator, in
9 consultation with the Commission staff, Agency staff, and
10 the feedstock procurement monitor, shall establish
11 benchmarks for evaluating the final prices in the contracts
12 for each of the feedstocks that will be procured through
13 the feedstock procurement process. The benchmarks shall be
14 based on price data for similar feedstocks for the same
15 delivery period and same delivery hub or other delivery
16 hubs after adjusting for that difference. The price
17 benchmarks may also be adjusted to take into account
18 differences between the information reflected in the
19 underlying data sources and the specific feedstocks and
20 gasification feedstock procurement process being used to
21 procure for the clean coal SNG brownfield facility. The
22 benchmarks shall be confidential but shall be provided to,
23 and shall be subject to, the Commission's review and
24 approval prior to a feedstock procurement event.

25 (4) Request for proposals. The feedstock procurement
26 administrator shall design and issue a request for

1 proposals to supply coal or petroleum coke in accordance
2 with the clean coal SNG brownfield facility's usage plan,
3 as approved by the Commission. The request for proposals
4 shall set forth a procedure for sealed, binding commitment
5 bidding with pay-as-bid settlement, and provision for
6 selection of bids on the basis of price.

7 (5) A plan for implementing contingencies in the event
8 of supplier default or failure of the feedstock procurement
9 process to fully meet the expected feedstock requirement
10 due to insufficient supplier participation, Commission
11 rejection of results, or any other cause. The plan must be
12 specific to the clean coal SNG brownfield facility's
13 feedstock specifications and requirements.

14 The feedstock procurement process described in this
15 subsection (d) is exempt from the requirements of the Illinois
16 Procurement Code, pursuant to Section 20-10 of that Code.

17 (e) Within 2 business days after opening the sealed bids,
18 the feedstock procurement administrator shall submit a
19 confidential report to the Commission. The report shall contain
20 the results of the bidding for each of the feedstock types
21 along with the feedstock procurement administrator's
22 recommendation for the acceptance and rejection of bids based
23 on the price benchmark criteria and other factors observed in
24 the process. The feedstock procurement monitor also shall
25 submit a confidential report to the Commission within 2
26 business days after opening the sealed bids. The report shall

1 contain the feedstock procurement monitor's assessment of
2 bidder behavior in the process, as well as an assessment of the
3 feedstock procurement administrator's compliance with the
4 feedstock procurement process and rules. The Commission shall
5 review the confidential reports submitted by the feedstock
6 procurement administrator and feedstock procurement monitor
7 and shall accept or reject the recommendations of the feedstock
8 procurement administrator within 2 business days after receipt
9 of the reports.

10 (f) Within 3 business days after the Commission decision
11 approving the results of a feedstock procurement event, the
12 clean coal SNG brownfield facility shall enter into binding
13 contractual arrangements with the winning suppliers using
14 standard form contracts.

15 (g) The names of the successful bidders and the amount of
16 feedstock to be delivered for each contract type and for each
17 contract term shall be made available to the public at the time
18 of Commission approval of a feedstock procurement event. The
19 Commission, the procurement monitor, the feedstock procurement
20 administrator, the Agency, and all participants in the
21 feedstock procurement process shall maintain the
22 confidentiality of all other supplier and bidding information
23 in a manner consistent with all applicable laws, rules,
24 regulations, and tariffs. Confidential information, including
25 the confidential reports submitted by the feedstock
26 procurement administrator and feedstock procurement monitor

1 pursuant to subsection (e) of this Section, shall not be
2 publicly available or discoverable by any party in any
3 proceeding absent a compelling demonstration of need. The
4 reports shall not be admissible in any proceeding other than
5 one for law enforcement purposes.

6 (h) Within 2 business days after a Commission decision
7 approving the results of a feedstock procurement event or such
8 other date as may be required by the Commission from time to
9 time, the clean coal SNG brownfield facility shall file for
10 informational purposes with the Commission its actual or
11 estimated feedstock costs by utility customer reflecting the
12 costs associated with the feedstock procurement.

13 (i) The clean coal SNG brownfield facility shall pay for
14 reasonable costs incurred by the Agency in administering the
15 feedstock procurement events, which costs shall be included in
16 the actual delivered fuel costs of the clean coal SNG
17 brownfield facility. The Agency shall determine the amount owed
18 for each feedstock procurement event, and the clean coal SNG
19 brownfield facility shall pay that amount to the Agency within
20 30 days after being informed by the Agency of the amount owed.
21 Those funds shall be deposited into the Illinois Power Agency
22 Operations Fund, pursuant to Section 1-55 of this Act, to be
23 used to reimburse expenses related to the feedstock
24 procurement.

25 (j) The Commission has the authority to adopt rules to
26 carry out the provisions of this Section. For the public

1 interest, safety, and welfare, the Commission also has the
2 authority to adopt rules to carry out the provisions of this
3 Section on an emergency basis.

4 (k) On or before April 1 of each year, the Commission may
5 hold an informal hearing for the purpose of receiving comments
6 on the prior year's feedstock procurement process and any
7 recommendations for change.

8 Section 7. The Illinois Procurement Code is amended by
9 changing Sections 1-10 and 20-10 as follows:

10 (30 ILCS 500/1-10)

11 Sec. 1-10. Application.

12 (a) This Code applies only to procurements for which
13 contractors were first solicited on or after July 1, 1998. This
14 Code shall not be construed to affect or impair any contract,
15 or any provision of a contract, entered into based on a
16 solicitation prior to the implementation date of this Code as
17 described in Article 99, including but not limited to any
18 covenant entered into with respect to any revenue bonds or
19 similar instruments. All procurements for which contracts are
20 solicited between the effective date of Articles 50 and 99 and
21 July 1, 1998 shall be substantially in accordance with this
22 Code and its intent.

23 (b) This Code shall apply regardless of the source of the
24 funds with which the contracts are paid, including federal

1 assistance moneys. This Code shall not apply to:

2 (1) Contracts between the State and its political
3 subdivisions or other governments, or between State
4 governmental bodies except as specifically provided in
5 this Code.

6 (2) Grants, except for the filing requirements of
7 Section 20-80.

8 (3) Purchase of care.

9 (4) Hiring of an individual as employee and not as an
10 independent contractor, whether pursuant to an employment
11 code or policy or by contract directly with that
12 individual.

13 (5) Collective bargaining contracts.

14 (6) Purchase of real estate, except that notice of this
15 type of contract with a value of more than \$25,000 must be
16 published in the Procurement Bulletin within 7 days after
17 the deed is recorded in the county of jurisdiction. The
18 notice shall identify the real estate purchased, the names
19 of all parties to the contract, the value of the contract,
20 and the effective date of the contract.

21 (7) Contracts necessary to prepare for anticipated
22 litigation, enforcement actions, or investigations,
23 provided that the chief legal counsel to the Governor shall
24 give his or her prior approval when the procuring agency is
25 one subject to the jurisdiction of the Governor, and
26 provided that the chief legal counsel of any other

1 procuring entity subject to this Code shall give his or her
2 prior approval when the procuring entity is not one subject
3 to the jurisdiction of the Governor.

4 (8) Contracts for services to Northern Illinois
5 University by a person, acting as an independent
6 contractor, who is qualified by education, experience, and
7 technical ability and is selected by negotiation for the
8 purpose of providing non-credit educational service
9 activities or products by means of specialized programs
10 offered by the university.

11 (9) Procurement expenditures by the Illinois
12 Conservation Foundation when only private funds are used.

13 (10) Procurement expenditures by the Illinois Health
14 Information Exchange Authority involving private funds
15 from the Health Information Exchange Fund. "Private funds"
16 means gifts, donations, and private grants.

17 (c) This Code does not apply to the electric power
18 procurement process provided for under Section 1-75 of the
19 Illinois Power Agency Act and Section 16-111.5 of the Public
20 Utilities Act.

21 (d) Except for Section 20-160 and Article 50 of this Code,
22 and as expressly required by Section 9.1 of the Illinois
23 Lottery Law, the provisions of this Code do not apply to the
24 procurement process provided for under Section 9.1 of the
25 Illinois Lottery Law.

26 (e) This Code does not apply to the process used by the

1 Capital Development Board to retain a person or entity to
2 assist the Capital Development Board with its duties related to
3 the determination of costs of a clean coal SNG brownfield
4 facility, as defined by Section 1-10 of the Illinois Power
5 Agency Act, as required in subsection (h-3) of Section 9-220 of
6 the Public Utilities Act, including calculating the range of
7 capital costs, the range of operating and maintenance costs, or
8 the sequestration costs or monitoring the construction of clean
9 coal SNG brownfield facility for the full duration of
10 construction.

11 (f) This Code does not apply to the process used by the
12 Illinois Power Agency to retain a mediator to mediate sourcing
13 agreement disputes between gas utilities and the clean coal SNG
14 brownfield facility, as defined in Section 1-10 of the Illinois
15 Power Agency Act, as required under subsection (h-1) of Section
16 9-220 of the Public Utilities Act.

17 (Source: P.A. 95-481, eff. 8-28-07; 95-615, eff. 9-11-07;
18 95-876, eff. 8-21-08; 96-840, eff. 12-23-09; 96-1331, eff.
19 7-27-10.)

20 (30 ILCS 500/20-10)

21 (Text of Section from P.A. 96-159 and 96-588)

22 Sec. 20-10. Competitive sealed bidding; reverse auction.

23 (a) Conditions for use. All contracts shall be awarded by
24 competitive sealed bidding except as otherwise provided in
25 Section 20-5.

1 (b) Invitation for bids. An invitation for bids shall be
2 issued and shall include a purchase description and the
3 material contractual terms and conditions applicable to the
4 procurement.

5 (c) Public notice. Public notice of the invitation for bids
6 shall be published in the Illinois Procurement Bulletin at
7 least 14 days before the date set in the invitation for the
8 opening of bids.

9 (d) Bid opening. Bids shall be opened publicly in the
10 presence of one or more witnesses at the time and place
11 designated in the invitation for bids. The name of each bidder,
12 the amount of each bid, and other relevant information as may
13 be specified by rule shall be recorded. After the award of the
14 contract, the winning bid and the record of each unsuccessful
15 bid shall be open to public inspection.

16 (e) Bid acceptance and bid evaluation. Bids shall be
17 unconditionally accepted without alteration or correction,
18 except as authorized in this Code. Bids shall be evaluated
19 based on the requirements set forth in the invitation for bids,
20 which may include criteria to determine acceptability such as
21 inspection, testing, quality, workmanship, delivery, and
22 suitability for a particular purpose. Those criteria that will
23 affect the bid price and be considered in evaluation for award,
24 such as discounts, transportation costs, and total or life
25 cycle costs, shall be objectively measurable. The invitation
26 for bids shall set forth the evaluation criteria to be used.

1 (f) Correction or withdrawal of bids. Correction or
2 withdrawal of inadvertently erroneous bids before or after
3 award, or cancellation of awards of contracts based on bid
4 mistakes, shall be permitted in accordance with rules. After
5 bid opening, no changes in bid prices or other provisions of
6 bids prejudicial to the interest of the State or fair
7 competition shall be permitted. All decisions to permit the
8 correction or withdrawal of bids based on bid mistakes shall be
9 supported by written determination made by a State purchasing
10 officer.

11 (g) Award. The contract shall be awarded with reasonable
12 promptness by written notice to the lowest responsible and
13 responsive bidder whose bid meets the requirements and criteria
14 set forth in the invitation for bids, except when a State
15 purchasing officer determines it is not in the best interest of
16 the State and by written explanation determines another bidder
17 shall receive the award. The explanation shall appear in the
18 appropriate volume of the Illinois Procurement Bulletin.

19 (h) Multi-step sealed bidding. When it is considered
20 impracticable to initially prepare a purchase description to
21 support an award based on price, an invitation for bids may be
22 issued requesting the submission of unpriced offers to be
23 followed by an invitation for bids limited to those bidders
24 whose offers have been qualified under the criteria set forth
25 in the first solicitation.

26 (i) Alternative procedures. Notwithstanding any other

1 provision of this Act to the contrary, the Director of the
2 Illinois Power Agency may create alternative bidding
3 procedures to be used in procuring professional services under
4 subsection (a) of Section 1-75 and subsection (d) of Section
5 1-78 ~~1-75(a)~~ of the Illinois Power Agency Act and Section
6 16-111.5(c) of the Public Utilities Act and to procure
7 renewable energy resources under Section 1-56 of the Illinois
8 Power Agency Act. These alternative procedures shall be set
9 forth together with the other criteria contained in the
10 invitation for bids, and shall appear in the appropriate volume
11 of the Illinois Procurement Bulletin.

12 (j) Reverse auction. Notwithstanding any other provision
13 of this Section and in accordance with rules adopted by the
14 Director of Central Management Services as chief procurement
15 officer, a State purchasing officer under that chief
16 procurement officer's jurisdiction may procure supplies or
17 services through a competitive electronic auction bidding
18 process after the purchasing officer explains in writing to the
19 chief procurement officer his or her determination that the use
20 of such a process will be in the best interest of the State.
21 The chief procurement officer shall publish that determination
22 in his or her next volume of the Illinois Procurement Bulletin.

23 An invitation for bids shall be issued and shall include
24 (i) a procurement description, (ii) all contractual terms,
25 whenever practical, and (iii) conditions applicable to the
26 procurement, including a notice that bids will be received in

1 an electronic auction manner.

2 Public notice of the invitation for bids shall be given in
3 the same manner as provided in subsection (c).

4 Bids shall be accepted electronically at the time and in
5 the manner designated in the invitation for bids. During the
6 auction, a bidder's price shall be disclosed to other bidders.
7 Bidders shall have the opportunity to reduce their bid prices
8 during the auction. At the conclusion of the auction, the
9 record of the bid prices received and the name of each bidder
10 shall be open to public inspection.

11 After the auction period has terminated, withdrawal of bids
12 shall be permitted as provided in subsection (f).

13 The contract shall be awarded within 60 days after the
14 auction by written notice to the lowest responsible bidder, or
15 all bids shall be rejected except as otherwise provided in this
16 Code. Extensions of the date for the award may be made by
17 mutual written consent of the State purchasing officer and the
18 lowest responsible bidder.

19 This subsection does not apply to (i) procurements of
20 professional and artistic services, including but not limited
21 to telecommunications services, communications services,
22 Internet services, and information services, and (ii)
23 contracts for construction projects.

24 (Source: P.A. 95-481, eff. 8-28-07; 96-159, eff. 8-10-09;
25 96-588, eff. 8-18-09; revised 10-5-10.)

1 (Text of Section from P.A. 96-159 and 96-795)

2 Sec. 20-10. Competitive sealed bidding; reverse auction.

3 (a) Conditions for use. All contracts shall be awarded by
4 competitive sealed bidding except as otherwise provided in
5 Section 20-5.

6 (b) Invitation for bids. An invitation for bids shall be
7 issued and shall include a purchase description and the
8 material contractual terms and conditions applicable to the
9 procurement.

10 (c) Public notice. Public notice of the invitation for bids
11 shall be published in the Illinois Procurement Bulletin at
12 least 14 days before the date set in the invitation for the
13 opening of bids.

14 (d) Bid opening. Bids shall be opened publicly in the
15 presence of one or more witnesses at the time and place
16 designated in the invitation for bids. The name of each bidder,
17 the amount of each bid, and other relevant information as may
18 be specified by rule shall be recorded. After the award of the
19 contract, the winning bid and the record of each unsuccessful
20 bid shall be open to public inspection.

21 (e) Bid acceptance and bid evaluation. Bids shall be
22 unconditionally accepted without alteration or correction,
23 except as authorized in this Code. Bids shall be evaluated
24 based on the requirements set forth in the invitation for bids,
25 which may include criteria to determine acceptability such as
26 inspection, testing, quality, workmanship, delivery, and

1 suitability for a particular purpose. Those criteria that will
2 affect the bid price and be considered in evaluation for award,
3 such as discounts, transportation costs, and total or life
4 cycle costs, shall be objectively measurable. The invitation
5 for bids shall set forth the evaluation criteria to be used.

6 (f) Correction or withdrawal of bids. Correction or
7 withdrawal of inadvertently erroneous bids before or after
8 award, or cancellation of awards of contracts based on bid
9 mistakes, shall be permitted in accordance with rules. After
10 bid opening, no changes in bid prices or other provisions of
11 bids prejudicial to the interest of the State or fair
12 competition shall be permitted. All decisions to permit the
13 correction or withdrawal of bids based on bid mistakes shall be
14 supported by written determination made by a State purchasing
15 officer.

16 (g) Award. The contract shall be awarded with reasonable
17 promptness by written notice to the lowest responsible and
18 responsive bidder whose bid meets the requirements and criteria
19 set forth in the invitation for bids, except when a State
20 purchasing officer determines it is not in the best interest of
21 the State and by written explanation determines another bidder
22 shall receive the award. The explanation shall appear in the
23 appropriate volume of the Illinois Procurement Bulletin. The
24 written explanation must include:

25 (1) a description of the agency's needs;

26 (2) a determination that the anticipated cost will be

1 fair and reasonable;

2 (3) a listing of all responsible and responsive
3 bidders; and

4 (4) the name of the bidder selected, pricing, and the
5 reasons for selecting that bidder.

6 Each chief procurement officer may adopt guidelines to
7 implement the requirements of this subsection (g).

8 The written explanation shall be filed with the Legislative
9 Audit Commission and the Procurement Policy Board and be made
10 available for inspection by the public within 30 days after the
11 agency's decision to award the contract.

12 (h) Multi-step sealed bidding. When it is considered
13 impracticable to initially prepare a purchase description to
14 support an award based on price, an invitation for bids may be
15 issued requesting the submission of unpriced offers to be
16 followed by an invitation for bids limited to those bidders
17 whose offers have been qualified under the criteria set forth
18 in the first solicitation.

19 (i) Alternative procedures. Notwithstanding any other
20 provision of this Act to the contrary, the Director of the
21 Illinois Power Agency may create alternative bidding
22 procedures to be used in procuring professional services under
23 subsection (a) of Section 1-75 and subsection (d) of Section
24 1-78 ~~1-75(a)~~ of the Illinois Power Agency Act and Section
25 16-111.5(c) of the Public Utilities Act and to procure
26 renewable energy resources under Section 1-56 of the Illinois

1 Power Agency Act. These alternative procedures shall be set
2 forth together with the other criteria contained in the
3 invitation for bids, and shall appear in the appropriate volume
4 of the Illinois Procurement Bulletin.

5 (j) Reverse auction. Notwithstanding any other provision
6 of this Section and in accordance with rules adopted by the
7 chief procurement officer, that chief procurement officer may
8 procure supplies or services through a competitive electronic
9 auction bidding process after the chief procurement officer
10 determines that the use of such a process will be in the best
11 interest of the State. The chief procurement officer shall
12 publish that determination in his or her next volume of the
13 Illinois Procurement Bulletin.

14 An invitation for bids shall be issued and shall include
15 (i) a procurement description, (ii) all contractual terms,
16 whenever practical, and (iii) conditions applicable to the
17 procurement, including a notice that bids will be received in
18 an electronic auction manner.

19 Public notice of the invitation for bids shall be given in
20 the same manner as provided in subsection (c).

21 Bids shall be accepted electronically at the time and in
22 the manner designated in the invitation for bids. During the
23 auction, a bidder's price shall be disclosed to other bidders.
24 Bidders shall have the opportunity to reduce their bid prices
25 during the auction. At the conclusion of the auction, the
26 record of the bid prices received and the name of each bidder

1 shall be open to public inspection.

2 After the auction period has terminated, withdrawal of bids
3 shall be permitted as provided in subsection (f).

4 The contract shall be awarded within 60 days after the
5 auction by written notice to the lowest responsible bidder, or
6 all bids shall be rejected except as otherwise provided in this
7 Code. Extensions of the date for the award may be made by
8 mutual written consent of the State purchasing officer and the
9 lowest responsible bidder.

10 This subsection does not apply to (i) procurements of
11 professional and artistic services, (ii) telecommunications
12 services, communication services, and information services,
13 and (iii) contracts for construction projects.

14 (Source: P.A. 95-481, eff. 8-28-07; 96-159, eff. 8-10-09;
15 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for the
16 effective date of changes made by P.A. 96-795); revised
17 10-5-10.)

18 Section 10. The Public Utilities Act is amended by changing
19 Sections 3-101 and 9-220 and by adding Section 3-123 as
20 follows:

21 (220 ILCS 5/3-101) (from Ch. 111 2/3, par. 3-101)

22 Sec. 3-101. Definitions. Unless otherwise specified, the
23 terms set forth in Sections 3-102 through 3-123 ~~3-121~~ are used
24 in this Act as therein defined.

1 (Source: P.A. 84-617; 84-1118.)

2 (220 ILCS 5/3-123 new)

3 Sec. 3-123. Clean coal SNG brownfield facility; sequester;
4 SNG facility; sourcing agreement; substitute natural gas or
5 SNG. As used in this Act:

6 "Clean coal SNG brownfield facility" shall have the same
7 meaning as provided in Section 1-10 of the Illinois Power
8 Agency Act.

9 "Sequester" shall have the same meaning as provided in
10 Section 1-10 of the Illinois Power Agency Act.

11 "SNG facility" means a facility that produces substitute
12 natural gas from feedstock that includes coal through a
13 gasification process, including a clean coal facility, the
14 clean coal SNG brownfield facility, and the facility described
15 in subsection (h) of Section 9-220 of this Act.

16 "Sourcing agreement" means an agreement between the owner
17 of a clean coal SNG brownfield facility and the gas utility
18 that has the terms and conditions meeting the requirements of
19 subsection (h-1) of Section 9-220 of this Act.

20 "Substitute natural gas" or "SNG" shall have the same
21 meaning as provided in Section 1-10 of the Illinois Power
22 Agency Act.

23 (220 ILCS 5/9-220) (from Ch. 111 2/3, par. 9-220)

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

1 (a) Notwithstanding the provisions of Section 9-201, the
2 Commission may authorize the increase or decrease of rates and
3 charges based upon changes in the cost of fuel used in the
4 generation or production of electric power, changes in the cost
5 of purchased power, or changes in the cost of purchased gas
6 through the application of fuel adjustment clauses or purchased
7 gas adjustment clauses. The Commission may also authorize the
8 increase or decrease of rates and charges based upon
9 expenditures or revenues resulting from the purchase or sale of
10 emission allowances created under the federal Clean Air Act
11 Amendments of 1990, through such fuel adjustment clauses, as a
12 cost of fuel. For the purposes of this paragraph, cost of fuel
13 used in the generation or production of electric power shall
14 include the amount of any fees paid by the utility for the
15 implementation and operation of a process for the
16 desulfurization of the flue gas when burning high sulfur coal
17 at any location within the State of Illinois irrespective of
18 the attainment status designation of such location; but shall
19 not include transportation costs of coal (i) except to the
20 extent that for contracts entered into on and after the
21 effective date of this amendatory Act of 1997, the cost of the
22 coal, including transportation costs, constitutes the lowest
23 cost for adequate and reliable fuel supply reasonably available
24 to the public utility in comparison to the cost, including
25 transportation costs, of other adequate and reliable sources of
26 fuel supply reasonably available to the public utility, or (ii)

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

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

6 (b) A public utility providing electric service, other than
7 a public utility described in subsections (e) or (f) of this
8 Section, may at any time during the mandatory transition period
9 file with the Commission proposed tariff sheets that eliminate
10 the public utility's fuel adjustment clause and adjust the
11 public utility's base rate tariffs by the amount necessary for
12 the base fuel component of the base rates to recover the public
13 utility's average fuel and power supply costs per kilowatt-hour
14 for the 2 most recent years for which the Commission has issued
15 final orders in annual proceedings pursuant to subsection (a),
16 where the average fuel and power supply costs per kilowatt-hour
17 shall be calculated as the sum of the public utility's prudent
18 and allowable fuel and power supply costs as found by the
19 Commission in the 2 proceedings divided by the public utility's
20 actual jurisdictional kilowatt-hour sales for those 2 years.
21 Notwithstanding any contrary or inconsistent provisions in
22 Section 9-201 of this Act, in subsection (a) of this Section or
23 in any rules or regulations promulgated by the Commission
24 pursuant to subsection (g) of this Section, the Commission
25 shall review and shall by order approve, or approve as
26 modified, the proposed tariff sheets within 60 days after the

1 date of the public utility's filing. The Commission may modify
2 the public utility's proposed tariff sheets only to the extent
3 the Commission finds necessary to achieve conformance to the
4 requirements of this subsection (b). During the 5 years
5 following the date of the Commission's order, but in any event
6 no earlier than January 1, 2007, a public utility whose fuel
7 adjustment clause has been eliminated pursuant to this
8 subsection shall not file proposed tariff sheets seeking, or
9 otherwise petition the Commission for, reinstatement of a fuel
10 adjustment clause.

11 (c) Notwithstanding any contrary or inconsistent
12 provisions in Section 9-201 of this Act, in subsection (a) of
13 this Section or in any rules or regulations promulgated by the
14 Commission pursuant to subsection (g) of this Section, a public
15 utility providing electric service, other than a public utility
16 described in subsection (e) or (f) of this Section, may at any
17 time during the mandatory transition period file with the
18 Commission proposed tariff sheets that establish the rate per
19 kilowatt-hour to be applied pursuant to the public utility's
20 fuel adjustment clause at the average value for such rate
21 during the preceding 24 months, provided that such average rate
22 results in a credit to customers' bills, without making any
23 revisions to the public utility's base rate tariffs. The
24 proposed tariff sheets shall establish the fuel adjustment rate
25 for a specific time period of at least 3 years but not more
26 than 5 years, provided that the terms and conditions for any

1 reinstatement earlier than 5 years shall be set forth in the
2 proposed tariff sheets and subject to modification or approval
3 by the Commission. The Commission shall review and shall by
4 order approve the proposed tariff sheets if it finds that the
5 requirements of this subsection are met. The Commission shall
6 not conduct the annual hearings specified in the last 3
7 sentences of subsection (a) of this Section for the utility for
8 the period that the factor established pursuant to this
9 subsection is in effect.

10 (d) A public utility providing electric service, or a
11 public utility providing gas service may file with the
12 Commission proposed tariff sheets that eliminate the public
13 utility's fuel or purchased gas adjustment clause and adjust
14 the public utility's base rate tariffs to provide for recovery
15 of power supply costs or gas supply costs that would have been
16 recovered through such clause; provided, that the provisions of
17 this subsection (d) shall not be available to a public utility
18 described in subsections (e) or (f) of this Section to
19 eliminate its fuel adjustment clause. Notwithstanding any
20 contrary or inconsistent provisions in Section 9-201 of this
21 Act, in subsection (a) of this Section, or in any rules or
22 regulations promulgated by the Commission pursuant to
23 subsection (g) of this Section, the Commission shall review and
24 shall by order approve, or approve as modified in the
25 Commission's order, the proposed tariff sheets within 240 days
26 after the date of the public utility's filing. The Commission's

1 order shall approve rates and charges that the Commission,
2 based on information in the public utility's filing or on the
3 record if a hearing is held by the Commission, finds will
4 recover the reasonable, prudent and necessary jurisdictional
5 power supply costs or gas supply costs incurred or to be
6 incurred by the public utility during a 12 month period found
7 by the Commission to be appropriate for these purposes,
8 provided, that such period shall be either (i) a 12 month
9 historical period occurring during the 15 months ending on the
10 date of the public utility's filing, or (ii) a 12 month future
11 period ending no later than 15 months following the date of the
12 public utility's filing. The public utility shall include with
13 its tariff filing information showing both (1) its actual
14 jurisdictional power supply costs or gas supply costs for a 12
15 month historical period conforming to (i) above and (2) its
16 projected jurisdictional power supply costs or gas supply costs
17 for a future 12 month period conforming to (ii) above. If the
18 Commission's order requires modifications in the tariff sheets
19 filed by the public utility, the public utility shall have 7
20 days following the date of the order to notify the Commission
21 whether the public utility will implement the modified tariffs
22 or elect to continue its fuel or purchased gas adjustment
23 clause in force as though no order had been entered. The
24 Commission's order shall provide for any reconciliation of
25 power supply costs or gas supply costs, as the case may be, and
26 associated revenues through the date that the public utility's

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

12 (e) Notwithstanding any contrary or inconsistent
13 provisions in Section 9-201 of this Act, in subsection (a) of
14 this Section, or in any rules promulgated by the Commission
15 pursuant to subsection (g) of this Section, a public utility
16 providing electric service to more than 1,000,000 customers in
17 this State may, within the first 6 months after the effective
18 date of this amendatory Act of 1997, file with the Commission
19 proposed tariff sheets that eliminate, effective January 1,
20 1997, the public utility's fuel adjustment clause without
21 adjusting its base rates, and such tariff sheets shall be
22 effective upon filing. To the extent the application of the
23 fuel adjustment clause had resulted in net charges to customers
24 after January 1, 1997, the utility shall also file a tariff
25 sheet that provides for a refund stated on a per kilowatt-hour
26 basis of such charges over a period not to exceed 6 months;

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

17 (f) Notwithstanding any contrary or inconsistent
18 provisions in Section 9-201 of this Act, in subsection (a) of
19 this Section, or in any rules or regulations promulgated by the
20 Commission pursuant to subsection (g) of this Section, a public
21 utility providing electric service to more than 500,000
22 customers but fewer than 1,000,000 customers in this State may,
23 within the first 6 months after the effective date of this
24 amendatory Act of 1997, file with the Commission proposed
25 tariff sheets that eliminate, effective January 1, 1997, the
26 public utility's fuel adjustment clause and adjust its base

1 rates by the amount necessary for the base fuel component of
2 the base rates to recover 91% of the public utility's average
3 fuel and power supply costs for the 2 most recent years for
4 which the Commission, as of January 1, 1997, has issued final
5 orders in annual proceedings pursuant to subsection (a), where
6 the average fuel and power supply costs per kilowatt-hour shall
7 be calculated as the sum of the public utility's prudent and
8 allowable fuel and power supply costs as found by the
9 Commission in the 2 proceedings divided by the public utility's
10 actual jurisdictional kilowatt-hour sales for those 2 years,
11 provided, that such tariff sheets shall be effective upon
12 filing. To the extent the application of the fuel adjustment
13 clause had resulted in net charges to customers after January
14 1, 1997, the utility shall also file a tariff sheet that
15 provides for a refund stated on a per kilowatt-hour basis of
16 such charges over a period not to exceed 6 months. Provided
17 however, that such refund shall not include the proportional
18 amounts of taxes paid under the Use Tax Act, Service Use Tax
19 Act, Service Occupation Tax Act, and Retailers' Occupation Tax
20 Act on fuel used in generation. The Commission shall issue an
21 order within 45 days after the date of the public utility's
22 filing approving or approving as modified such tariff sheet. If
23 the fuel adjustment clause is eliminated pursuant to this
24 subsection, the Commission shall not conduct the annual
25 hearings specified in the last 3 sentences of subsection (a) of
26 this Section for the utility for any period after December 31,

1 1996 and prior to any reinstatement of such clause. A public
2 utility whose fuel adjustment clause has been eliminated
3 pursuant to this subsection shall not file a proposed tariff
4 sheet seeking, or otherwise petition the Commission for,
5 reinstatement of the fuel adjustment clause prior to January 1,
6 2007.

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

9 (h) Any Illinois gas utility may enter into a contract on
10 or before March 31, 2011 for up to 10 years of supply with any
11 company for the purchase of substitute natural gas (SNG)
12 produced from coal through the gasification process if the
13 company has commenced construction of a coal gasification
14 facility by July 1, 2012 in Jefferson County and commencement
15 of construction shall mean that material physical site work has
16 occurred, such as site clearing and excavation, water runoff
17 prevention, water retention reservoir preparation, or
18 foundation development. The contract shall contain the
19 following provisions: (i) the only coal to be used in the
20 gasification process has high volatile bituminous rank and
21 greater than 1.7 pounds of sulfur per million Btu content; (ii)
22 at the time the contract term commences, the price per million
23 Btu may not exceed \$7.95 in 2008 dollars, adjusted annually
24 based on the change in the Annual Consumer Price Index for All
25 Urban Consumers for the Midwest Region as published in April by
26 the United States Department of Labor, Bureau of Labor

1 Statistics (or a suitable Consumer Price Index calculation if
2 this Consumer Price Index is not available) for the previous
3 calendar year; provided that the price per million Btu shall
4 not exceed \$9.95 at any time during the contract; (iii) the
5 utility's aggregate long-term supply contracts for the
6 purchase of SNG does not exceed 25% of the annual system supply
7 requirements of the utility as of 2008 and the quantity of SNG
8 supplied to a utility may not exceed 16 million MMBtus; and
9 (iv) contract costs pursuant to subsection (h-10) of this
10 Section shall not include any lobbying expenses, charitable
11 contributions, advertising, organizational memberships, or
12 marketing expenses per year.

13 (h-1) Any Illinois gas utility may enter into a sourcing
14 agreement for up to 30 years of supply with the clean coal SNG
15 brownfield facility if the clean coal SNG brownfield facility
16 has commenced construction. Any gas utility that is providing
17 service to more than 150,000 customers on the effective date of
18 this amendatory Act of the 97th General Assembly shall either
19 elect to file biennial rate proceedings before the Commission
20 in the years 2012, 2014, and 2016 or enter into a sourcing
21 agreement or sourcing agreements with a clean coal SNG
22 brownfield facility with an initial term of 30 years for either
23 (i) a percentage of 43,500,000,000 cubic feet per year, such
24 that the utilities entering into sourcing agreements with the
25 clean coal SNG brownfield facility purchase 100%, allocated by
26 total therms sold to ultimate customers by each gas utility in

1 2008 or (ii) such lesser amount as may be available from the
2 clean coal SNG brownfield facility; provided that no utility
3 shall be required to purchase more than 42% of the projected
4 annual output of the clean coal SNG brownfield facility, with
5 the remainder of such utility's obligation to be divided
6 proportionately between the other utilities, and provided that
7 the Illinois Power Agency shall further adjust the allocation
8 only as required to take into account adverse consolidation,
9 derivative, or lease impacts to the balance sheet or income
10 statement of any gas utility.

11 A gas utility electing to file biennial rate proceedings
12 before the Commission must file a notice of its election with
13 the Commission within 60 days after the effective date of this
14 amendatory Act of the 97th General Assembly or its right to
15 make the election is irrevocably waived. A gas utility electing
16 to file biennial rate proceedings shall make such filings no
17 later than August 1 of the years 2012, 2014, and 2016,
18 consistent with all requirements of 83 Ill. Adm. Code 255 and
19 285 as though the gas utility were filing for an increase in
20 its rates, without regard to whether such filing would produce
21 an increase, a decrease, or no change in the gas utility's
22 rates, and notwithstanding any other provisions of this Act,
23 the Commission shall fully review the gas utility's filing and
24 shall issue its order in accordance with the provisions of
25 Section 9-201 of this Act, regardless of whether the Commission
26 has approved a formula rate for the gas utility.

1 Within 15 days after the effective date of this amendatory
2 Act of the 97th General Assembly, the owner of the clean coal
3 SNG brownfield facility shall submit to the Illinois Power
4 Agency and each gas utility that is providing service to more
5 than 150,000 customers on the effective date of this amendatory
6 Act of the 97th General Assembly a copy of a draft sourcing
7 agreement. Within 45 days after receipt of the draft sourcing
8 agreement, each such gas utility shall provide the Illinois
9 Power Agency and the owner of a clean coal SNG brownfield
10 facility with its comments and recommended revisions to the
11 draft sourcing agreement. Within 15 days after the receipt of
12 the gas utility's comments and recommended revisions, the owner
13 of the clean coal SNG brownfield facility shall submit its
14 responsive comments and a further revised draft of the sourcing
15 agreement to the Illinois Power Agency. The Illinois Power
16 Agency shall review the draft sourcing agreement and comments.

17 If the parties to the sourcing agreement do not agree on
18 the terms therein, then the Illinois Power Agency shall retain
19 an independent mediator to mediate the dispute between the
20 parties. If the parties are in agreement on the terms of the
21 sourcing agreement, the Illinois Power Agency shall approve the
22 final draft sourcing agreement. If after mediation the parties
23 have failed to come to agreement, then the Illinois Power
24 Agency shall revise the draft sourcing agreement as necessary
25 to confirm that the final draft sourcing agreement contains
26 only terms that are reasonable and equitable. The Illinois

1 Power Agency shall adopt and make public a policy detailing the
2 process for retaining a mediator under this subsection (h-1).
3 Any mediator retained to assist with mediating disputes between
4 the parties regarding the sourcing agreement shall be retained
5 no later than 60 days after the effective date of this
6 amendatory Act of the 97th General Assembly.

7 Upon approval of a final draft agreement, the Illinois
8 Power Agency shall submit the final draft agreement to the
9 Capital Development Board and the Commission no later than 90
10 days after the effective date of this amendatory Act of the
11 97th General Assembly. The gas utility and the clean coal SNG
12 brownfield facility shall pay a reasonable fee as required by
13 the Illinois Power Agency for its services under this
14 subsection (h-1) and shall pay the mediator's reasonable fees,
15 if any. The Illinois Power Agency shall adopt and make public a
16 policy detailing the process for retaining a mediator under
17 this Section.

18 The sourcing agreement between a gas utility and the clean
19 coal SNG brownfield facility shall contain the following
20 provisions:

21 (1) Any and all coal used in the gasification process
22 must be coal that has high volatile bituminous rank and
23 greater than 1.7 pounds of sulfur per million Btu content.

24 (2) Coal and petroleum coke are feedstocks for the
25 gasification process, with coal comprising at least 50% of
26 the total feedstock over the term of the sourcing agreement

1 unless the facility reasonably determines that it is
2 necessary to use additional petroleum coke to deliver net
3 consumer savings, in which case the facility shall use coal
4 for at least 35% of the total feedstock over the term of
5 any sourcing agreement and with the feedstocks to be
6 procured in accordance with requirements of Section 1-78 of
7 the Illinois Power Agency Act.

8 (3) The sourcing agreement has an initial term that
9 once entered into terminates no more than 30 years after
10 the commencement of the commercial production of SNG at the
11 clean coal SNG brownfield facility.

12 (4) The clean coal SNG brownfield facility guarantees a
13 minimum of \$100,000,000 in consumer savings to customers of
14 the utilities that have entered into sourcing agreements
15 with the clean coal SNG brownfield facility, calculated in
16 real 2010 dollars at the conclusion of the term of the
17 sourcing agreement by comparing the delivered SNG price to
18 the Chicago City-gate price on a weighted daily basis for
19 each day over the entire term of the sourcing agreement, to
20 be provided in accordance with subsection (h-2) of this
21 Section.

22 (5) Prior to the clean coal SNG brownfield facility
23 issuing a notice to proceed to construction, the clean coal
24 SNG brownfield facility shall establish a consumer
25 protection reserve account for the benefit of the customers
26 of the utilities that have entered into sourcing agreements

1 with the clean coal SNG brownfield facility pursuant to
2 this subsection (h-1), with cash principal in the amount of
3 \$150,000,000. This cash principal shall only be
4 recoverable through the consumer protection reserve
5 account and not as a cost to be recovered in the delivered
6 SNG price pursuant to subsection (h-3) of this Section. The
7 consumer protection reserve account shall be maintained
8 and administered by an independent trustee that is mutually
9 agreed upon by the clean coal SNG brownfield facility, the
10 utilities, and the Commission in an interest-bearing
11 account in accordance with subsection (h-2) of this
12 Section.

13 "Consumer protection reserve account principal maximum
14 amount" shall mean the maximum amount of principal to be
15 maintained in the consumer protection reserve account.
16 During the first 2 years of operation of the facility,
17 there shall be no consumer protection reserve account
18 maximum amount. After the first 2 years of operation of the
19 facility, the consumer protection reserve account maximum
20 amount shall be \$150,000,000. After 5 years of operation,
21 and every 5 years thereafter, the trustee shall calculate
22 the 5-year average balance of the consumer protection
23 reserve account. If the trustee determines that during the
24 prior 5 years the consumer protection reserve account has
25 had an average account balance of less than \$75,000,000,
26 then the consumer protection reserve account principal

1 maximum amount shall be increased by \$5,000,000. If the
2 trustee determines that during the prior 5 years the
3 consumer protection reserve account has had an average
4 account balance of more than \$75,000,000, then the consumer
5 protection reserve account principal maximum amount shall
6 be decreased by \$5,000,000.

7 (6) The clean coal SNG brownfield facility shall
8 identify and sell economically viable by-products produced
9 by the facility.

10 (7) Fifty percent of all additional net revenue,
11 defined as miscellaneous net revenue from products
12 produced by the facility and delivered during the month
13 after cost allowance for costs associated with additional
14 net revenue that are not otherwise recoverable pursuant to
15 subsection (h-3) of this Section, including net revenue
16 from sales of substitute natural gas derived from the
17 facility above the nameplate capacity of the facility and
18 other by-products produced by the facility, shall be
19 credited to the consumer protection reserve account
20 pursuant to subsection (h-2) of this Section.

21 (8) The delivered SNG price per million btu to be paid
22 monthly by the utility to the clean coal SNG brownfield
23 facility, which shall be based only upon the following: (A)
24 a capital recovery charge, operations and maintenance
25 costs, and sequestration costs, only to the extent approved
26 by the Commission pursuant to paragraphs (1), (2), and (3)

1 of subsection (h-3) of this Section; (B) the actual
2 delivered and processed fuel costs pursuant to paragraph
3 (4) of subsection (h-3) of this Section; (C) actual costs
4 of SNG transportation pursuant to paragraph (6) of
5 subsection (h-3) of this Section; (D) certain taxes and
6 fees imposed by the federal government, the State, or any
7 unit of local government as provided in paragraph (6) of
8 subsection (h-3) of this Section; and (E) the credit, if
9 any, from the consumer protection reserve account pursuant
10 to subsection (h-2) of this Section. The delivered SNG
11 price per million Btu shall proportionately reflect these
12 elements over the term of the sourcing agreement.

13 (9) A formula to translate the recoverable costs and
14 charges under subsection (h-3) of this Section into the
15 delivered SNG price per million btu.

16 (10) Title to the SNG shall pass at a mutually
17 agreeable point in Illinois, and may provide that, rather
18 than the utility taking title to the SNG, a mutually agreed
19 upon third-party gas marketer pursuant to a contract
20 approved by the Illinois Power Agency or its designee may
21 take title to the SNG pursuant to an agreement between the
22 utility, the owner of the clean coal SNG brownfield
23 facility, and the third-party gas marketer.

24 (11) A utility may exit the sourcing agreement without
25 penalty if the clean coal SNG brownfield facility does not
26 commence construction by July 1, 2015.

1 (12) A utility is responsible to pay only the
2 Commission determined unit price cost of SNG that is
3 purchased by the utility. Nothing in the sourcing agreement
4 will obligate a utility to invest capital in a clean coal
5 SNG brownfield facility.

6 (13) The quality of SNG must, at a minimum, be
7 equivalent to the quality required for interstate pipeline
8 gas before a utility is required to accept and pay for SNG
9 gas.

10 (14) Nothing in the sourcing agreement will require a
11 utility to construct any facilities to accept delivery of
12 SNG. Provided, however, if a utility is required by law or
13 otherwise elects to connect the clean coal SNG brownfield
14 facility to an interstate pipeline, then the utility shall
15 be entitled to recover pursuant to its tariffs all just and
16 reasonable costs that are prudently incurred. Any costs
17 incurred by the utility to receive, deliver, manage, or
18 otherwise accommodate purchases under the SNG sourcing
19 agreement will be fully recoverable through a utility's
20 purchased gas adjustment clause rider mechanism in
21 conjunction with a SNG brownfield facility rider
22 mechanism. The SNG brownfield facility rider mechanism (A)
23 shall be applicable to all customers who receive
24 transportation service from the utility, (B) shall be
25 designed to have an equal percent impact on the
26 transportation services rates of each class of the

1 utility's customers, and (C) shall accurately reflect the
2 net consumer savings, if any, and above-market costs, if
3 any, associated with the utility receiving, delivering,
4 managing, or otherwise accommodating purchases under the
5 SNG sourcing agreement.

6 (15) Remedies for the clean coal SNG brownfield
7 facility's failure to deliver a designated amount for a
8 designated period.

9 (16) The clean coal SNG brownfield facility shall make
10 a good faith effort to ensure that an amount equal to not
11 less than 15% of the value of its prime construction
12 contract for the facility shall be established as a goal to
13 be awarded to minority owned businesses, female owned
14 businesses, and businesses owned by a person with a
15 disability; provided that at least 75% of the amount of
16 such total goal shall be for minority owned businesses.
17 "Minority owned business", "female owned business", and
18 "business owned by a person with a disability" shall have
19 the meanings ascribed to them in Section 2 of the Business
20 Enterprise for Minorities, Females and Persons with
21 Disabilities Act.

22 (17) Prior to the clean coal SNG brownfield facility
23 issuing a notice to proceed to construction, the clean coal
24 SNG brownfield facility shall file with the Commission a
25 certificate from an independent engineer that the clean
26 coal SNG brownfield facility has (A) obtained all

1 applicable State and federal environmental permits
2 required for construction; (B) obtained approval from the
3 Commission of a carbon capture and sequestration plan; and
4 (C) obtained all necessary permits required for
5 construction for the transportation and sequestration of
6 carbon dioxide as set forth in the Commission-approved
7 carbon capture and sequestration plan.

8 (h-2) Consumer protection reserve account. The clean coal
9 SNG brownfield facility shall guarantee a minimum of
10 \$100,000,000 in consumer savings to customers of the utilities
11 that have entered into sourcing agreements with the clean coal
12 SNG brownfield facility, calculated in real 2010 dollars at the
13 conclusion of the term of the sourcing agreement by comparing
14 the delivered SNG price to the Chicago City-gate price on a
15 weighted daily basis for each day over the entire term of the
16 sourcing agreement. Prior to the clean coal SNG brownfield
17 facility issuing a notice to proceed to construction, the clean
18 coal SNG brownfield facility shall establish a consumer
19 protection reserve account for the benefit of the retail
20 customers of the utilities that have entered into sourcing
21 agreements with the clean coal SNG brownfield facility pursuant
22 to subsection (h-1), with cash principal in the amount of
23 \$150,000,000. Such cash principal shall only be recovered
24 through the consumer protection reserve account and not as a
25 cost to be recovered in the delivered SNG price pursuant to
26 subsection (h-3) of this Section. The consumer protection

1 reserve account shall be maintained and administered by an
2 independent trustee that is mutually agreed upon by the clean
3 coal SNG brownfield facility, the utilities, and the Commission
4 in an interest-bearing account in accordance with the
5 following:

6 (1) The clean coal SNG brownfield facility monthly
7 shall calculate (A) the difference between the monthly
8 delivered SNG price and the Chicago City-gate price, by
9 comparing the delivered SNG price, which shall include the
10 cost of transportation to the delivery point, if any, to
11 the Chicago City-gate price on a weighted daily basis for
12 each day of the prior month based upon a mutually agreed
13 upon published index and (B) the overage amount, if any, by
14 calculating the annualized incremental additional cost, if
15 any, of the delivered SNG in excess of 2.015% of the
16 average annual inflation-adjusted amounts paid by all gas
17 distribution customers in connection with natural gas
18 service during the 5 years ending May 31, 2010.

19 (2) During the first 2 years of operation of the
20 facility:

21 (A) to the extent there is an overage amount, the
22 consumer protection reserve account shall be used to
23 provide a credit to reduce the SNG price by an amount
24 equal to the overage amount; and

25 (B) to the extent the monthly delivered SNG price
26 is less than or equal to the Chicago City-gate price,

1 the utility shall credit the difference between the
2 monthly delivered SNG price and the monthly Chicago
3 City-gate price, if any, to the consumer protection
4 reserve account. Such credit issued pursuant to this
5 paragraph (B) shall be deemed prudent and reasonable
6 and not subject to a Commission prudence review;

7 (3) After 2 years of operation of the facility, and
8 monthly, on an on-going basis, thereafter:

9 (A) to the extent that the monthly delivered SNG
10 price is less than or equal to the Chicago City-gate
11 price, calculated using the weighted average of the
12 daily Chicago City-gate price on a daily basis over the
13 entire month, the utility shall credit the difference,
14 if any, to the consumer protection reserve account.
15 Such credit issued pursuant to this subparagraph (A)
16 shall be deemed prudent and reasonable and not subject
17 to a Commission prudence review;

18 (B) any amounts in the consumer protection reserve
19 account in excess of the consumer protection reserve
20 account principal maximum amount shall be distributed
21 as follows: (i) if retail customers have not realized
22 net consumer savings, calculated by comparing the
23 delivered SNG price to the weighted average of the
24 daily Chicago City-gate price on a daily basis over the
25 entire term of the sourcing agreement to date, then 50%
26 of any amounts in the consumer protection reserve

1 account in excess of the consumer protection reserve
2 account principal maximum shall be distributed to the
3 clean coal SNG brownfield facility, with the remaining
4 50% of any such additional amounts being credited to
5 retail customers, and (ii) if retail customers have
6 realized net consumer savings, then 100% of any amounts
7 in the consumer protection reserve account in excess of
8 the consumer protection reserve account principal
9 maximum shall be distributed to the clean coal SNG
10 brownfield facility; provided, however, that under no
11 circumstances shall the total cumulative amount
12 distributed to the clean coal SNG brownfield facility
13 under this subparagraph (B) exceed \$150,000,000;

14 (C) to the extent there is an overage amount, after
15 distributing the amounts pursuant to subparagraph (B)
16 of this paragraph (3), if any, the consumer protection
17 reserve account shall be used to provide a credit to
18 reduce the SNG price by an amount equal to the overage
19 amount;

20 (D) if retail customers have realized net consumer
21 savings, calculated by comparing the delivered SNG
22 price to the weighted average of the daily Chicago
23 City-gate price on a daily basis over the entire term
24 of the sourcing agreement to date, then after
25 distributing the amounts pursuant to subparagraphs (B)
26 and (C) of this paragraph (3), 50% of any additional

1 amounts in the consumer protection reserve account in
2 excess of the consumer protection reserve account
3 principal maximum shall be distributed to the clean
4 coal SNG brownfield facility, with the remaining 50% of
5 any such additional amounts being credited to retail
6 customers; provided, however, that if retail customers
7 have not realized such net consumer savings, no such
8 distribution shall be made to the clean coal SNG
9 brownfield facility, and 100% of such additional
10 amounts shall be credited to the retail customers to
11 the extent the consumer protection reserve account
12 exceeds the consumer protection reserve account
13 principal maximum amount.

14 (4) Fifty percent of all additional net revenue,
15 defined as miscellaneous net revenue after cost allowance
16 for costs associated with additional net revenue that are
17 not otherwise recoverable pursuant to subsection (h-3) of
18 this Section, including net revenue from sales of
19 substitute natural gas derived from the facility above the
20 nameplate capacity of the facility and other by-products
21 produced by the facility, shall be credited to the consumer
22 protection reserve account.

23 (5) At the conclusion of the term of the sourcing
24 agreement, to the extent retail customers have not saved
25 the minimum of \$100,000,000 in consumer savings as
26 guaranteed in this subsection (h-2), amounts in the

1 consumer protection reserve account shall be credited to
2 retail customers to the extent the retail customers have
3 saved the minimum of \$100,000,000; 50% of any additional
4 amounts in the consumer protection reserve account shall be
5 distributed to the company, and the remaining 50% shall be
6 distributed to retail customers.

7 (6) If, at the conclusion of the term of the sourcing
8 agreement, the customers have not saved the minimum
9 \$100,000,000 in savings as guaranteed in this subsection
10 (h-2) and the consumer protection reserve account has been
11 depleted, then the clean coal SNG brownfield facility shall
12 be liable for any remaining amount owed to the retail
13 customers to the extent that the customers are provided
14 with the \$100,000,000 in savings as guaranteed in this
15 subsection (h-2). The retail customers shall have first
16 priority in recovering that debt above any creditors,
17 except the original senior secured lender to the extent
18 that the original senior secured lender has any senior
19 secured debt outstanding, including any clean coal SNG
20 brownfield facility parent companies or affiliates.

21 (7) The clean coal SNG brownfield facility, the
22 utilities, and the trustee shall work together to take
23 commercially reasonable steps to minimize the tax impact of
24 these transactions, while preserving the consumer
25 benefits.

26 (8) The clean coal SNG brownfield facility shall each

1 month, starting in the facility's first year of commercial
2 operation, file with the Commission, in such form as the
3 Commission shall require, a report as to the consumer
4 protection reserve account. The monthly report must
5 contain the following information:

6 (A) the extent the monthly delivered SNG price is
7 greater than, less than, or equal to the Chicago
8 City-gate price;

9 (B) the amount credited or debited to the consumer
10 protection reserve account during the month;

11 (C) the amounts credited to consumers and
12 distributed to the clean coal SNG brownfield facility
13 during the month;

14 (D) the total amount of the consumer protection
15 reserve account at the beginning and end of the month;

16 (E) the total amount of consumer savings to date;

17 (F) a confidential summary of the inputs used to
18 calculate the additional net revenue; and

19 (G) any other additional information the
20 Commission shall require.

21 When any report is erroneous or defective or appears to
22 the Commission to be erroneous or defective, the Commission
23 may notify the clean coal SNG brownfield facility to amend
24 the report within 30 days, and, before or after the
25 termination of the 30-day period, the Commission may
26 examine the trustee of the consumer protection reserve

1 account or the officers, agents, employees, books,
2 records, or accounts of the clean coal SNG brownfield
3 facility and correct such items in the report as upon such
4 examination the Commission may find defective or
5 erroneous. All reports shall be under oath.

6 All reports made to the Commission by the clean coal
7 SNG brownfield facility and the contents of the reports
8 shall be open to public inspection and shall be deemed a
9 public record under the Freedom of Information Act. Such
10 reports shall be preserved in the office of the Commission.
11 The Commission shall publish an annual summary of the
12 reports prior to February 1 of the following year. The
13 annual summary shall be made available to the public on the
14 Commission's website and shall be submitted to the General
15 Assembly.

16 Any facility that fails to file a report required under
17 this paragraph (8) to the Commission within the time
18 specified or to make specific answer to any question
19 propounded by the Commission within 30 days from the time
20 it is lawfully required to do so, or within such further
21 time not to exceed 90 days as may in its discretion be
22 allowed by the Commission, shall pay a penalty of \$500 to
23 the Commission for each day it is in default.

24 Any person who willfully makes any false report to the
25 Commission or to any member, officer, or employee thereof,
26 any person who willfully in a report withholds or fails to

1 provide material information to which the Commission is
2 entitled under this paragraph (8) and which information is
3 either required to be filed by statute, rule, regulation,
4 order, or decision of the Commission or has been requested
5 by the Commission, and any person who willfully aids or
6 abets such person shall be guilty of a Class A misdemeanor.
7 (h-3) Recoverable costs and revenue by the clean coal SNG
8 brownfield facility.

9 (1) A capital recovery charge approved by the
10 Commission shall be recoverable by the clean coal SNG
11 brownfield facility under a sourcing agreement. The
12 capital recovery charge shall be comprised of capital costs
13 and a reasonable rate of return. "Capital costs" means
14 costs to be incurred in connection with the construction
15 and development of a facility, as defined in Section 1-10
16 of the Illinois Power Agency Act, and such other costs as
17 the Capital Development Board deems appropriate to be
18 recovered in the capital recovery charge.

19 (A) Capital costs. The Capital Development Board
20 shall calculate a range of capital costs that it
21 believes would be reasonable for the clean coal SNG
22 brownfield facility to recover under the sourcing
23 agreement. In making this determination, the Capital
24 Development Board shall review the facility cost
25 report, if any, of the clean coal SNG brownfield
26 facility, adjusting the results based on the change in

1 the Annual Consumer Price Index for All Urban Consumers
2 for the Midwest Region as published in April by the
3 United States Department of Labor, Bureau of Labor
4 Statistics, the final draft of the sourcing agreement,
5 and the rate of return approved by the Commission. In
6 addition, the Capital Development Board may consult as
7 much as it deems necessary with the clean coal SNG
8 brownfield facility and conduct whatever research and
9 investigation it deems necessary.

10 The Capital Development Board shall retain an
11 engineering expert to assist in determining both the
12 range of capital costs and the range of operations and
13 maintenance costs that it believes would be reasonable
14 for the clean coal SNG brownfield facility to recover
15 under the sourcing agreement. Provided, however, that
16 such expert shall: (i) not have been involved in the
17 clean coal SNG brownfield facility's facility cost
18 report, if any, (ii) not own or control any direct or
19 indirect interest in the initial clean coal facility,
20 and (iii) have no contractual relationship with the
21 clean coal SNG brownfield facility. In order to qualify
22 as an independent expert, a person or company must
23 have:

24 (i) direct previous experience conducting
25 front-end engineering and design studies for
26 large-scale energy facilities and administering

1 large-scale energy operations and maintenance
2 contracts, which may be particularized to the
3 specific type of financing associated with the
4 clean coal SNG brownfield facility;

5 (ii) an advanced degree in economics,
6 mathematics, engineering, or a related area of
7 study;

8 (iii) ten years of experience in the energy
9 sector, including construction and risk management
10 experience;

11 (iv) expertise in assisting companies with
12 obtaining financing for large-scale energy
13 projects, which may be particularized to the
14 specific type of financing associated with the
15 clean coal SNG brownfield facility;

16 (v) expertise in operations and maintenance
17 which may be particularized to the specific type of
18 operations and maintenance associated with the
19 clean coal SNG brownfield facility;

20 (vi) expertise in credit and contract
21 protocols;

22 (vii) adequate resources to perform and
23 fulfill the required functions and
24 responsibilities; and

25 (viii) the absence of a conflict of interest
26 and inappropriate bias for or against an affected

1 gas utility or the clean coal SNG brownfield
2 facility.

3 The clean coal SNG brownfield facility and the
4 Illinois Power Agency shall cooperate with the Capital
5 Development Board in any investigation it deems
6 necessary. The Capital Development Board shall make
7 its final determination of the range of capital costs
8 confidentially and shall submit that range to the
9 Commission in a confidential filing within 120 days
10 after the effective date of this amendatory Act of the
11 97th General Assembly. The clean coal SNG brownfield
12 facility shall submit to the Commission its estimate of
13 the capital costs to be recovered under the sourcing
14 agreement. Only after the clean coal SNG brownfield
15 facility has submitted this estimate shall the
16 Commission publicly announce the range of capital
17 costs submitted by the Capital Development Board.

18 In the event that the estimate submitted by the
19 clean coal SNG brownfield facility is within or below
20 the range submitted by the Capital Development Board,
21 the clean coal SNG brownfield facility's estimate
22 shall be approved by the Commission as the amount of
23 capital costs to be recovered under the sourcing
24 agreement. In the event that the estimate submitted by
25 the clean coal SNG brownfield facility is above the
26 range submitted by the Capital Development Board, the

1 amount of capital costs at the lowest end of the range
2 submitted by the Capital Development Board shall be
3 approved by the Commission as the amount of capital
4 costs to be recovered under the sourcing agreement.
5 Within 15 days after the Capital Development Board has
6 submitted its range and the clean coal SNG brownfield
7 facility has submitted its estimate, the Commission
8 shall approve the capital costs for the clean coal SNG
9 brownfield facility.

10 The Capital Development Board shall monitor the
11 construction of the clean coal SNG brownfield facility
12 for the full duration of construction to assess
13 potential cost overruns. The Capital Development
14 Board, in its discretion, may retain an expert to
15 facilitate such monitoring. The clean coal SNG
16 brownfield facility shall pay a reasonable fee as
17 required by the Capital Development Board for the
18 Capital Development Board's services under this
19 subsection (h-3) to be deposited into the Capital
20 Development Board Revolving Fund, and such fee shall
21 not be passed through to a utility or its customers. If
22 an expert is retained by the Capital Development Board
23 for monitoring of construction, then the clean coal SNG
24 brownfield facility must pay for the expert's
25 reasonable fees and such costs shall not be passed
26 through to a utility or its customers.

1 (B) Rate of Return. No later than 30 days after the
2 date on which the Illinois Power Agency submits a final
3 draft sourcing agreement, the Commission shall hold a
4 public hearing to determine the rate of return to be
5 recovered under the sourcing agreement. Rate of return
6 shall be comprised of the clean coal SNG brownfield
7 facility's actual cost of debt, including
8 mortgage-style amortization, and a reasonable return
9 on equity. The Commission shall post notice of the
10 hearing on its website no later than 10 days prior to
11 the date of the hearing. The Commission shall provide
12 the public and all interested parties, including the
13 gas utilities, the Attorney General, and the Illinois
14 Power Agency, an opportunity to be heard.

15 In determining the return on equity, the
16 Commission shall select a commercially reasonable
17 return on equity taking into account the return on
18 equity being received by developers of similar
19 facilities in or outside of Illinois, the need to
20 balance an incentive for clean-coal technology with
21 the need to protect ratepayers from high gas prices,
22 the risks being borne by the clean coal SNG brownfield
23 facility in the final draft sourcing agreement, and any
24 other information that the Commission may deem
25 relevant. The Commission may establish a return on
26 equity that varies with the amount of savings, if any,

1 to customers during the term of the sourcing agreement,
2 comparing the delivered SNG price to a daily weighted
3 average price of natural gas, based upon an index. The
4 Illinois Power Agency shall recommend a return on
5 equity to the Commission using the same criteria.
6 Within 60 days after receiving the final draft sourcing
7 agreement from the Illinois Power Agency, the
8 Commission shall approve the rate of return for the
9 clean coal brownfield facility. Within 30 days after
10 obtaining debt financing for the clean coal SNG
11 brownfield facility, the clean coal SNG brownfield
12 facility shall file a notice with the Commission
13 identifying the actual cost of debt.

14 (2) Operations and maintenance costs approved by the
15 Commission shall be recoverable by the clean coal SNG
16 brownfield facility under the sourcing agreement. The
17 operations and maintenance costs mean costs that have been
18 incurred for the administration, supervision, operation,
19 maintenance, preservation, and protection of the clean
20 coal SNG brownfield facility's physical plant.

21 The Capital Development Board shall calculate a range
22 of operations and maintenance costs that it believes would
23 be reasonable for the clean coal SNG brownfield facility to
24 recover under the sourcing agreement, incorporating an
25 inflation index or combination of inflation indices to most
26 accurately reflect the actual costs of operating the clean

1 coal SNG brownfield facility. In making this
2 determination, the Capital Development Board shall review
3 the facility cost report, if any, of the clean coal SNG
4 brownfield facility, adjusting the results for inflation
5 based on the change in the Annual Consumer Price Index for
6 All Urban Consumers for the Midwest Region as published in
7 April by the United States Department of Labor, Bureau of
8 Labor Statistics, the final draft of the sourcing
9 agreement, and the rate of return approved by the
10 Commission. In addition, the Capital Development Board may
11 consult as much as it deems necessary with the clean coal
12 SNG brownfield facility and conduct whatever research and
13 investigation it deems necessary. As set forth in
14 subparagraph (A) of paragraph (1) of this subsection (h-3),
15 the Capital Development Board shall retain an independent
16 engineering expert to assist in determining both the range
17 of operations and maintenance costs that it believes would
18 be reasonable for the clean coal SNG brownfield facility to
19 recover under the sourcing agreement. The clean coal SNG
20 brownfield facility and the Illinois Power Agency shall
21 cooperate with the Capital Development Board in any
22 investigation it deems necessary. The Capital Development
23 Board shall make its final determination of the range of
24 operations and maintenance costs confidentially and shall
25 submit that range to the Commission in a confidential
26 filing within 120 days after the effective date of this

1 amendatory Act of the 97th General Assembly.

2 The clean coal SNG brownfield facility shall submit to
3 the Commission its estimate of the operations and
4 maintenance costs to be recovered under the sourcing
5 agreement. Only after the clean coal SNG brownfield
6 facility has submitted this estimate shall the Commission
7 publicly announce the range of operations and maintenance
8 costs submitted by the Capital Development Board. In the
9 event that the estimate submitted by the clean coal SNG
10 brownfield facility is within or below the range submitted
11 by the Capital Development Board, the clean coal SNG
12 brownfield facility's estimate shall be approved by the
13 Commission as the amount of operations and maintenance
14 costs to be recovered under the sourcing agreement. In the
15 event that the estimate submitted by the clean coal SNG
16 brownfield facility is above the range submitted by the
17 Capital Development Board, the amount of operations and
18 maintenance costs at the lowest end of the range submitted
19 by the Capital Development Board shall be approved by the
20 Commission as the amount of operations and maintenance
21 costs to be recovered under the sourcing agreement. Within
22 15 days after the Capital Development Board has submitted
23 its range and the clean coal SNG brownfield facility has
24 submitted its estimate, the Commission shall approve the
25 operations and maintenance costs for the clean coal SNG
26 brownfield facility.

1 The clean coal SNG brownfield facility shall pay for
2 the independent engineering expert's reasonable fees and
3 such costs shall not be passed through to a utility or its
4 customers. The clean coal SNG brownfield facility shall pay
5 a reasonable fee as required by the Capital Development
6 Board for the Capital Development Board's services under
7 this subsection (h-3) to be deposited into the Capital
8 Development Board Revolving Fund, and such fee shall not be
9 passed through to a utility or its customers.

10 (3) Sequestration costs approved by the Commission
11 shall be recoverable by the clean coal SNG brownfield
12 facility. "Sequestration costs" means costs to be incurred
13 by the clean coal SNG brownfield facility in accordance
14 with its Commission-approved carbon capture and
15 sequestration plan to:

16 (A) capture carbon dioxide;

17 (B) build, operate, and maintain a sequestration
18 site in which carbon dioxide may be injected;

19 (C) build, operate, and maintain a carbon dioxide
20 pipeline; and

21 (D) transport the carbon dioxide to the
22 sequestration site or a pipeline.

23 The Commission shall assess the prudence of the
24 sequestration costs for the clean coal SNG brownfield
25 facility before construction commences at the
26 sequestration site or pipeline. Any revenues the clean coal

1 SNG brownfield facility receives as a result of the
2 capture, transportation, or sequestration of carbon
3 dioxide shall be first credited against all sequestration
4 costs, with the positive balance, if any, treated as
5 additional net revenue.

6 The Commission may, in its discretion, retain an expert
7 to assist in its review of sequestration costs. The clean
8 coal SNG brownfield facility shall pay for the expert's
9 reasonable fees if an expert is retained by the Commission,
10 and such costs shall not be passed through to a utility or
11 its customers. Once made, the Commission's determination
12 of the amount of recoverable sequestration costs shall not
13 be increased unless the clean coal SNG brownfield facility
14 can show by clear and convincing evidence that (i) the
15 costs were not reasonably foreseeable; (ii) the costs were
16 due to circumstances beyond the clean coal SNG brownfield
17 facility's control; and (iii) the clean coal SNG brownfield
18 facility took all reasonable steps to mitigate the costs.
19 If the Commission determines that sequestration costs may
20 be increased, the Commission shall provide for notice and a
21 public hearing for approval of the increased sequestration
22 costs.

23 (4) Actual delivered and processed fuel costs shall be
24 set by the Illinois Power Agency through a SNG feedstock
25 procurement, pursuant to Sections 1-20, 1-77, and 1-78 of
26 the Illinois Power Agency Act, to be performed at least

1 every 5 years and purchased by the clean coal SNG
2 brownfield facility pursuant to feedstock procurement
3 contracts developed by the Illinois Power Agency, with coal
4 comprising at least 50% of the total feedstock over the
5 term of the sourcing agreement and petroleum coke
6 comprising the remainder of the SNG feedstock. If the
7 Commission fails to approve a feedstock procurement plan or
8 fails to approve the results of a feedstock procurement
9 event, then the fuel shall be purchased by the company
10 month-by-month on the spot market and those actual
11 delivered and processed fuel costs shall be recoverable
12 under the sourcing agreement. If a supplier defaults under
13 the terms of a procurement contract, then the Illinois
14 Power Agency shall immediately initiate a feedstock
15 procurement process to obtain a replacement supply, and,
16 prior to the conclusion of that process, fuel shall be
17 purchased by the company month-by-month on the spot market
18 and those actual delivered and processed fuel costs shall
19 be recoverable under the sourcing agreement.

20 (5) Taxes and fees imposed by the federal government,
21 the State, or any unit of local government applicable to
22 the clean coal SNG brownfield facility, excluding income
23 tax, shall be recoverable by the clean coal SNG brownfield
24 facility under the sourcing agreement to the extent such
25 taxes and fees were not applicable to the facility on the
26 date of this amendatory Act of the 97th General Assembly.

1 (6) The actual transportation costs, in accordance
2 with the applicable utility's tariffs, and third-party
3 marketer costs incurred by the company, if any, associated
4 with transporting the SNG from the clean coal SNG
5 brownfield facility to the Chicago City-gate to sell such
6 SNG into the natural gas markets shall be recoverable under
7 the sourcing agreement.

8 (7) Unless otherwise provided, within 30 days after a
9 decision of the Commission on recoverable costs under this
10 Section, any interested party to the Commission's decision
11 may apply for a rehearing with respect to the decision. The
12 Commission shall receive and consider the application for
13 rehearing and shall grant or deny the application in whole
14 or in part within 20 days after the date of the receipt of
15 the application by the Commission. If no rehearing is
16 applied for within the required 30 days or an application
17 for rehearing is denied, then the Commission decision shall
18 be final. If an application for rehearing is granted, then
19 the Commission shall hold a rehearing within 30 days after
20 granting the application. The decision of the Commission
21 upon rehearing shall be final.

22 Any person affected by a decision of the Commission
23 under this subsection (h-3) may have the decision reviewed
24 only under and in accordance with the Administrative Review
25 Law. Unless otherwise provided, the provisions of the
26 Administrative Review Law, all amendments and

1 modifications to that Law, and the rules adopted pursuant
2 to that Law shall apply to and govern all proceedings for
3 the judicial review of final administrative decisions of
4 the Commission under this subsection (h-3). The term
5 "administrative decision" is defined as in Section 3-101 of
6 the Code of Civil Procedure.

7 (8) The Capital Development Board shall adopt and make
8 public a policy detailing the process for retaining experts
9 under this Section. Any experts retained to assist with
10 calculating the range of capital costs or operations and
11 maintenance costs shall be retained no later than 45 days
12 after the effective date of this amendatory Act of the 97th
13 General Assembly.

14 (h-4) No later than 90 days after the Illinois Power Agency
15 submits the final draft sourcing agreement pursuant to
16 subsection (h-1), the Commission shall approve a sourcing
17 agreement containing the capital costs, rate of return, and
18 operations and maintenance costs. Once the sourcing agreement
19 is approved, then the gas utility subject to that sourcing
20 agreement shall have 45 days after the date of the Commission's
21 approval to enter into the sourcing agreement.

22 (h-5) The Attorney General, on behalf of the people of the
23 State of Illinois, may specifically enforce the requirements of
24 this subsection (h-5). All contracts under subsection (h) of
25 this Act and all sourcing agreements under subsection (h-1) of
26 this Act, regardless of duration, shall require the owner of

1 any facility supplying SNG under the contract or sourcing
2 agreement to provide documentation to the Commission each year,
3 starting in the facility's first year of commercial operation,
4 accurately reporting the quantity of carbon dioxide emissions
5 from the facility that have been captured and sequestered and
6 reporting any quantities of carbon dioxide released from the
7 site or sites at which carbon dioxide emissions were
8 sequestered in prior years, based on continuous monitoring of
9 those sites. If, in any year, the owner of the facility
10 described in subsection (h) of this Act fails to demonstrate
11 that the ~~SNG~~ facility captured and sequestered at least 90% of
12 the total carbon dioxide emissions that the facility would
13 otherwise emit or that sequestration of emissions from prior
14 years has failed, resulting in the release of carbon dioxide
15 into the atmosphere, then the owner of the facility must offset
16 excess emissions. Any such carbon dioxide offsets must be
17 permanent, additional, verifiable, real, located within the
18 State of Illinois, and legally and practicably enforceable;
19 provided that the owner of the facility described in subsection
20 (h) of this Act shall not be obligated to acquire carbon
21 dioxide emission offsets to the extent that the cost of
22 acquiring such offsets would exceed \$40 million in any given
23 year. No costs of any purchases of carbon offsets may be
24 recovered from a utility or its customers. All carbon offsets
25 purchased for this purpose must be permanently retired.

26 If, in any year, the owner of a clean coal SNG brownfield

1 facility fails to demonstrate that the clean coal SNG
2 brownfield facility captured and sequestered at least 85% of
3 the total carbon dioxide emissions that the facility would
4 otherwise emit, then the owner of the clean coal SNG brownfield
5 facility must pay a penalty of \$20 per ton of excess carbon
6 emissions up to \$20,000,000, which shall be deposited into the
7 Energy Efficiency Trust Fund and distributed pursuant to
8 subsection (b) of Section 6-6 of the Renewable Energy, Energy
9 Efficiency, and Coal Resources Development Law of 1997.
10 Provided, however, to the extent that the owner of the clean
11 coal SNG brownfield facility can demonstrate that the failure
12 was as a result of acts of God (including fire, flood,
13 earthquake, tornado, lightning, hurricane, or other natural
14 disaster); any amendment, modification, or abrogation of any
15 applicable law or regulation that would prevent performance;
16 war; invasion; act of foreign enemies; hostilities (regardless
17 of whether war is declared); civil war; rebellion; revolution;
18 insurrection; military or usurped power or confiscation;
19 terrorist activities; civil disturbances; riots;
20 nationalization; sabotage; blockage; or embargo, the owner of
21 the clean coal SNG brownfield facility shall not be subject to
22 a penalty if and only if (i) it promptly provides notice of its
23 failure to the Commission; (ii) as soon as practicable and
24 consistent with any order or direction from the Commission, it
25 submits to the Commission proposed modifications to its carbon
26 capture and sequestration plan; and (iii) it carries out its

1 proposed modifications in the manner and time directed by the
2 Commission. If the Commission finds that the facility has not
3 satisfied each of these requirements, then the facility shall
4 be subject to the penalty. If the owner of a clean coal SNG
5 brownfield facility demonstrates that the clean coal SNG
6 brownfield facility captured and sequestered more than 85% of
7 the total carbon emissions that the facility would otherwise
8 emit, the owner of the clean coal SNG brownfield facility may
9 credit such additional amounts to reduce the amount of any
10 future penalty to be paid. The penalty resulting from the
11 failure to capture and sequester at least the minimum amount of
12 carbon dioxide shall not be passed on to a utility or its
13 customers.

14 In addition to any penalty for the clean coal SNG
15 brownfield facility's failure to capture and sequester at least
16 its minimum sequestration requirement, the Attorney General,
17 on behalf of the People of the State of Illinois, shall bring
18 an action for specific performance of this subsection (h-5).
19 Such action may be filed in any circuit court in Illinois. By
20 entering into a sourcing agreement pursuant to subsection (h-1)
21 of this Section, the clean coal SNG brownfield facility agrees
22 to waive any objections to venue or to the jurisdiction of the
23 court with regard to the Attorney General's action for specific
24 performance under this subsection (h-5).

25 In addition, carbon dioxide emission credits equivalent to
26 50% of the amount of credits associated with the required

1 sequestration of carbon dioxide from the facility must be
2 permanently retired. Compliance with the sequestration
3 requirements and the offset purchase requirements specified in
4 this subsection (h-5) for the facility described in subsection
5 (h) of this Act shall be assessed annually by an independent
6 expert retained by the owner of the ~~SNG~~ facility described in
7 subsection (h) of this Act, with the advance written approval
8 of the Attorney General. Compliance with the sequestration
9 requirements and penalty requirements specified in this
10 subsection (h-5) for the clean coal SNG brownfield facility
11 shall be assessed annually by the Commission, which may in its
12 discretion retain an expert to facilitate its assessment. If an
13 expert is retained by the Commission, then the clean coal SNG
14 brownfield facility shall pay for the expert's reasonable fees,
15 and such costs shall not be passed through to a utility or its
16 customers. A SNG facility operating pursuant to this subsection
17 (h-5) shall not forfeit its designation as a clean coal SNG
18 facility or a clean coal SNG brownfield facility if the
19 facility fails to fully comply with the applicable carbon
20 sequestration requirements in any given year, provided the
21 requisite offsets are purchased or requisite penalties are
22 paid.

23 Responsibility for compliance with the sequestration
24 requirements specified in this subsection (h-5) for the clean
25 coal SNG brownfield facility shall reside solely with the clean
26 coal SNG brownfield facility regardless of whether the facility

1 has contracted with another party to capture, transport, or
2 sequester carbon dioxide.

3 (h-7) Sequestration permitting, oversight, and
4 investigations.

5 (1) No clean coal facility or clean coal SNG brownfield
6 facility may transport or sequester carbon dioxide unless
7 the Commission approves the method of carbon dioxide
8 transportation or sequestration. Such approval shall be
9 required regardless of whether the facility has contracted
10 with another to transport or sequester the carbon dioxide.
11 Nothing in this subsection (h-7) shall release the owner or
12 operator of a carbon dioxide sequestration site or carbon
13 dioxide pipeline from any other permitting requirements
14 under applicable State and federal laws, statutes, rules,
15 or regulations.

16 (2) The Commission shall review carbon dioxide
17 transportation and sequestration methods proposed by a
18 clean coal facility or a clean coal SNG brownfield facility
19 and shall approve those methods it deems reasonable and
20 cost-effective. For purposes of this review,
21 "cost-effective" means a commercially reasonable price for
22 similar carbon dioxide transportation or sequestration
23 techniques. In determining whether sequestration is
24 reasonable and cost-effective, the Commission may consult
25 with the Illinois State Geological Survey and retain third
26 parties to assist in its determination, provided that such

1 third parties shall not own or control any direct or
2 indirect interest in the facility that is proposing the
3 carbon dioxide transportation or the carbon dioxide
4 sequestration method and shall have no contractual
5 relationship with that facility. If a third party is
6 retained by the Commission, then the facility proposing the
7 carbon dioxide transportation or sequestration method
8 shall pay for the expert's reasonable fees, and these costs
9 shall not be passed through to a utility or its customers.

10 No later than 6 months prior to the date upon which the
11 owner intends to commence construction of a clean coal
12 facility or the clean coal SNG brownfield facility, the
13 owner of the facility shall file with the Commission a
14 carbon dioxide transportation or sequestration plan. The
15 Commission shall hold a public hearing within 30 days after
16 receipt of the facility's carbon dioxide transportation or
17 sequestration plan. The Commission shall post notice of the
18 review on its website upon submission of a carbon dioxide
19 transportation or sequestration method and shall accept
20 written public comments. The Commission shall take the
21 comments into account when making its decision.

22 The Commission may not approve a carbon dioxide
23 sequestration method if the owner or operator of the
24 sequestration site has not received (i) an Underground
25 Injection Control permit from the Illinois Environmental
26 Protection Agency pursuant to the Environmental Protection

1 Act; (ii) an Underground Injection Control permit from the
2 Illinois Department of Natural Resources pursuant to the
3 Illinois Oil and Gas Act; or (iii) a permit similar to
4 items (i) or (ii) from the state in which the sequestration
5 site is located if the sequestration will take place
6 outside of Illinois. The Commission shall approve or deny
7 the carbon dioxide transportation or sequestration method
8 within 90 days after the receipt of all required
9 information.

10 (3) At least annually, the Illinois Environmental
11 Protection Agency shall inspect all carbon dioxide
12 sequestration sites in Illinois. The Illinois
13 Environmental Protection Agency may, as often as deemed
14 necessary, monitor and conduct investigations of those
15 sites. The owner or operator of the sequestration site must
16 cooperate with the Illinois Environmental Protection
17 Agency investigations of carbon dioxide sequestration
18 sites.

19 If the Illinois Environmental Protection Agency
20 determines at any time a site creates conditions that
21 warrant the issuance of a seal order under Section 34 of
22 the Environmental Protection Act, then the Illinois
23 Environmental Protection Agency shall seal the site
24 pursuant to the Environmental Protection Act. If the
25 Illinois Environmental Protection Agency determines at any
26 time a carbon dioxide sequestration site creates

1 conditions that warrant the institution of a civil action
2 for an injunction under Section 43 of the Environmental
3 Protection Act, then the Illinois Environmental Protection
4 Agency shall request the State's Attorney or the Attorney
5 General institute such action. The Illinois Environmental
6 Protection Agency shall provide notice of any such actions
7 as soon as possible on its website. The SNG facility shall
8 incur all reasonable costs associated with any such
9 inspection or monitoring of the sequestration sites, and
10 these costs shall not be recoverable from utilities or
11 their customers.

12 (4) At least annually, the Commission shall inspect all
13 carbon dioxide pipelines in Illinois that transport carbon
14 dioxide to ensure the safety and feasibility of those
15 pipelines. The Commission may, as often as deemed
16 necessary, monitor and conduct investigations of those
17 pipelines. The owner or operator of the pipeline must
18 cooperate with the Commission investigations of the carbon
19 dioxide pipelines.

20 In circumstances whereby a carbon dioxide pipeline
21 creates a substantial danger to the environment or to the
22 public health of persons or to the welfare of persons where
23 such danger is to the livelihood of such persons, the
24 State's Attorney or Attorney General, upon the request of
25 the Commission or on his or her own motion, may institute a
26 civil action for an immediate injunction to halt any

1 discharge or other activity causing or contributing to the
2 danger or to require such other action as may be necessary.
3 The court may issue an ex parte order and shall schedule a
4 hearing on the matter not later than 3 working days after
5 the date of injunction. The Commission shall provide notice
6 of any such actions as soon as possible on its website. The
7 SNG facility shall incur all reasonable costs associated
8 with any such inspection or monitoring of the sequestration
9 sites, and these costs shall not be recoverable from a
10 utility or its customers.

11 (h-9) The clean coal SNG brownfield facility shall have the
12 right to recover prudently incurred increased costs or reduced
13 revenue resulting from any new or amendatory legislation or
14 other action. The State of Illinois pledges that the State will
15 not enact any law or take any action to:

16 (1) break, or repeal the authority for, sourcing
17 agreements approved by the Commission and entered into
18 between public utilities and the clean coal SNG brownfield
19 facility;

20 (2) deny public utilities full cost recovery for their
21 costs incurred under those sourcing agreements; or

22 (3) deny the clean coal SNG brownfield facility full
23 cost and revenue recovery as provided under those sourcing
24 agreements that are recoverable pursuant to subsection
25 (h-3) of this Section.

26 These pledges are for the benefit of the parties to those

1 sourcing agreements and the issuers and holders of bonds or
2 other obligations issued or incurred to finance or refinance
3 the clean coal SNG brownfield facility. The clean coal SNG
4 brownfield facility is authorized to include and refer to these
5 pledges in any financing agreement into which it may enter in
6 regard to those sourcing agreements.

7 The State of Illinois retains and reserves all other rights
8 to enact new or amendatory legislation or take any other
9 action, without impairment of the right of the clean coal SNG
10 brownfield facility to recover prudently incurred increased
11 costs or reduced revenue resulting from the new or amendatory
12 legislation or other action, including, but not limited to,
13 such legislation or other action that would (i) directly or
14 indirectly raise the costs the clean coal SNG brownfield
15 facility must incur; (ii) directly or indirectly place
16 additional restrictions, regulations, or requirements on the
17 clean coal SNG brownfield facility; (iii) prohibit
18 sequestration in general or prohibit a specific sequestration
19 method or project; or (iv) increase minimum sequestration
20 requirements for the clean coal SNG brownfield facility to the
21 extent technically feasible. The clean coal SNG brownfield
22 facility shall have the right to recover prudently incurred
23 increased costs or reduced revenue resulting from the new or
24 amendatory legislation or other action as described in this
25 subsection (h-9).

26 (h-10) Contract costs for SNG incurred by an Illinois gas

1 utility are reasonable and prudent and recoverable through the
2 purchased gas adjustment clause and are not subject to review
3 or disallowance by the Commission. Contract costs are costs
4 incurred by the utility under the terms of a contract that
5 incorporates the terms stated in subsection (h) of this Section
6 as confirmed in writing by the Illinois Power Agency as set
7 forth in subsection (h-20) of this Section, which confirmation
8 shall be deemed conclusive, or as a consequence of or condition
9 to its performance under the contract, including (i) amounts
10 paid for SNG under the SNG contract and (ii) costs of
11 transportation and storage services of SNG purchased from
12 interstate pipelines under federally approved tariffs. Any
13 contract, the terms of which have been confirmed in writing by
14 the Illinois Power Agency as set forth in subsection (h-20) of
15 this Section and the performance of the parties under such
16 contract cannot be grounds for challenging prudence or cost
17 recovery by the utility through the purchased gas adjustment
18 clause, and in such cases, the Commission is directed not to
19 consider, and has no authority to consider, any attempted
20 challenges.

21 The contracts entered into by Illinois gas utilities
22 pursuant to subsection (h) of this Section shall provide that
23 the utility retains the right to terminate the contract without
24 further obligation or liability to any party if the contract
25 has been impaired as a result of any legislative,
26 administrative, judicial, or other governmental action that is

1 taken that eliminates all or part of the prudence protection of
2 this subsection (h-10) or denies the recoverability of all or
3 part of the contract costs through the purchased gas adjustment
4 clause. Should any Illinois gas utility exercise its right
5 under this subsection (h-10) to terminate the contract, all
6 contract costs incurred prior to termination are and will be
7 deemed reasonable, prudent, and recoverable as and when
8 incurred and not subject to review or disallowance by the
9 Commission. Any order, issued by the State requiring or
10 authorizing the discontinuation of the merchant function,
11 defined as the purchase and sale of natural gas by an Illinois
12 gas utility for the ultimate consumer in its service territory
13 shall include provisions necessary to prevent the impairment of
14 the value of any contract hereunder over its full term.

15 (h-11) All costs incurred by an Illinois gas utility in
16 procuring SNG from a clean coal SNG brownfield facility
17 pursuant to subsection (h-1) or a third-party marketer pursuant
18 to subsection (h-1) are reasonable and prudent and recoverable
19 through the purchased gas adjustment clause in conjunction with
20 a SNG brownfield facility rider mechanism and are not subject
21 to review or disallowance by the Commission; provided that if a
22 utility is required by law or otherwise elects to connect the
23 clean coal SNG brownfield facility to an interstate pipeline,
24 then the utility shall be entitled to recover pursuant to its
25 tariffs all just and reasonable costs that are prudently
26 incurred. Sourcing agreement costs are costs incurred by the

1 utility under the terms of a sourcing agreement that
2 incorporates the terms stated in subsection (h-1) of this
3 Section as approved by the Commission as set forth in
4 subsection (h-4) of this Section, which approval shall be
5 deemed conclusive, or as a consequence of or condition to its
6 performance under the contract, including (i) amounts paid for
7 SNG under the SNG contract and (ii) costs of transportation and
8 storage services of SNG purchased from interstate pipelines
9 under federally approved tariffs. Any sourcing agreement, the
10 terms of which have been approved by the Commission as set
11 forth in subsection (h-4) of this Section, and the performance
12 of the parties under the sourcing agreement cannot be grounds
13 for challenging prudence or cost recovery by the utility, and
14 in these cases, the Commission is directed not to consider, and
15 has no authority to consider, any attempted challenges.

16 (h-15) With respect to each contract entered into by the
17 company with an Illinois utility in accordance with the terms
18 stated in subsection (h) of this Section, within 60 days
19 following the completion of purchases of SNG, the Illinois
20 Power Agency shall conduct an analysis to determine (i) the
21 average contract SNG cost, which shall be calculated as the
22 total amount paid to a company for SNG over the contract term,
23 plus the cost to the utility of the required transportation and
24 storage services of SNG, divided by the total number of MMBtus
25 of SNG actually purchased under the utility contract; (ii) the
26 average natural gas purchase cost, which shall be calculated as

1 the total annual supply costs paid for natural gas (excluding
2 SNG) purchased by such utility over the contract term, plus the
3 costs of transportation and storage services of such natural
4 gas (excluding such costs for SNG), divided by the total number
5 of MMBtus of natural gas (excluding SNG) actually purchased by
6 the utility during the contract term; (iii) the cost
7 differential, which shall be the difference between the average
8 contract SNG cost and the average natural gas purchase cost;
9 and (iv) the revenue share target, which shall be the cost
10 differential multiplied by the total amount of SNG purchased
11 under such utility contract. If the average contract SNG cost
12 is equal to or less than the average natural gas purchase cost,
13 then the company shall have no further obligation to the
14 utility. If the average contract SNG cost for such SNG contract
15 is greater than the average natural gas purchase cost for such
16 utility, then the company shall market the daily production of
17 SNG and distribute on a monthly basis 5% of amounts collected
18 with respect to such future sales to the utilities in
19 proportion to each utility's SNG purchases from the company
20 during the term of the SNG contract to be used to reduce the
21 utility's natural gas costs through the purchased gas
22 adjustment clause; such payments to the utility shall continue
23 until such time as the sum of such payments equals the revenue
24 share target of that utility. The company or utilities shall
25 have no obligation to repay the revenue share target except as
26 provided for in this subsection (h-15).

1 (h-20) The General Assembly authorizes the Illinois
2 Finance Authority to issue bonds to the maximum extent
3 permitted to finance coal gasification facilities described in
4 this Section, which constitute both "industrial projects"
5 under Article 801 of the Illinois Finance Authority Act and
6 "clean coal and energy projects" under Sections 825-65 through
7 825-75 of the Illinois Finance Authority Act. The General
8 Assembly further authorizes the Illinois Power Agency to become
9 party to agreements and take such actions as necessary to
10 enable the Illinois Power Agency or its designate to (i) review
11 and confirm in writing that the terms stated in subsection (h)
12 of this Section are incorporated in the SNG contract, and (ii)
13 conduct an analysis pursuant to subsection (h-15) of this
14 Section. Administrative costs incurred by the Illinois Finance
15 Authority and Illinois Power Agency in performance of this
16 subsection (h-20) shall be subject to reimbursement by the
17 company on terms as the Illinois Finance Authority, the
18 Illinois Power Agency, and the company may agree. The utility
19 and its customers shall have no obligation to reimburse the
20 company, the Illinois Finance Authority, or the Illinois Power
21 Agency for any such costs.

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

25 (Source: P.A. 95-1027, eff. 6-1-09; 96-1364, eff. 7-28-10.)

1 Section 15. The Illinois Gas Pipeline Safety Act is amended
2 by changing Sections 2.02, 2.03, 2.04, and 3 as follows:

3 (220 ILCS 20/2.02) (from Ch. 111 2/3, par. 552.2)

4 Sec. 2.02. "Gas" means natural gas, flammable gas or gas
5 which is toxic or corrosive. "Gas" also means carbon dioxide in
6 any physical form, whenever transported by pipeline for the
7 purpose of sequestration.

8 (Source: P.A. 76-1588.)

9 (220 ILCS 20/2.03) (from Ch. 111 2/3, par. 552.3)

10 Sec. 2.03. "Transportation of gas" means the gathering,
11 transmission, or distribution of gas by pipeline or its
12 storage, within this State and not subject to the jurisdiction
13 of the Federal Energy Regulatory Commission under the Natural
14 Gas Act, except that it includes the transmission of gas
15 through pipeline facilities within this State that transport
16 gas from an interstate gas pipeline to a direct sales customer
17 within this State purchasing gas for its own consumption.
18 "Transportation of gas" also includes the conveyance of gas
19 from a gas main through the primary fuel line to the outside
20 wall of residential premises. If the gas meter is placed within
21 3 feet of the structure, the utility's responsibility shall end
22 at the outlet side of the meter. "Transportation of gas" also
23 includes the conveyance of carbon dioxide in any physical form
24 for the purpose of sequestration.

1 (Source: P.A. 87-1092; 88-314.)

2 (220 ILCS 20/2.04) (from Ch. 111 2/3, par. 552.4)

3 Sec. 2.04. "Pipeline facilities" includes new and existing
4 pipe rights-of-way and any equipment, facility, or building
5 used in the transportation of gas or the treatment of gas
6 during the course of transportation and includes facilities
7 within this State that transport gas from an interstate gas
8 pipeline to a direct sales customer within this State
9 purchasing gas for its own consumption, but "rights-of-way" as
10 used in this Act does not authorize the Commission to
11 prescribe, under this Act, the location or routing of any
12 pipeline facility. "Pipeline facilities" also includes new and
13 existing pipes and lines and any other equipment, facility, or
14 structure, except customer-owned branch lines connected to the
15 primary fuel lines, used to convey gas from a gas main to the
16 outside wall of residential premises, and any person who
17 provides gas service directly to its residential customer
18 through these facilities shall be deemed to operate such
19 pipeline facilities for purposes of this Act irrespective of
20 the ownership of the facilities or the location of the
21 facilities with respect to the meter, except that a person who
22 provides gas service to a "master meter system", as that term
23 is defined at 49 C.F.R. Section 191.3, shall not be deemed to
24 operate any facilities downstream of the master meter.
25 "Pipeline facilities" also includes new and existing pipe

1 rights-of-way and any equipment, facility, or building used in
2 the transportation of carbon dioxide in any physical form for
3 the purpose of sequestration.

4 (Source: P.A. 87-1092; 88-314.)

5 (220 ILCS 20/3) (from Ch. 111 2/3, par. 553)

6 Sec. 3. (a) As soon as practicable, but not later than 3
7 months after the effective date of this Act, the Commission
8 shall adopt rules establishing minimum safety standards for the
9 transportation of gas and for pipeline facilities. Such rules
10 shall be at least as inclusive, as stringent, and compatible
11 with, the minimum safety standards adopted by the Secretary of
12 Transportation under the Federal Act. Thereafter, the
13 Commission shall maintain such rules so that the rules are at
14 least as inclusive, as stringent, and compatible with, the
15 minimum standards from time to time in effect under the Federal
16 Act. The Commission shall also adopt rules establishing minimum
17 safety standards for the transportation of carbon dioxide in
18 any physical form for the purpose of sequestration and for
19 pipeline facilities used for that function.

20 (b) Standards established under this Act may apply to the
21 design, installation, inspection, testing, construction,
22 extension, operation, replacement, and maintenance of pipeline
23 facilities. Standards affecting the design, installation,
24 construction, initial inspection and initial testing are not
25 applicable to pipeline facilities in existence on the date such

1 standards are adopted. Whenever the Commission finds a
2 particular facility to be hazardous to life or property, it may
3 require the person operating such facility to take the steps
4 necessary to remove the hazard.

5 (c) Standards established by the Commission under this Act
6 shall, subject to paragraphs (a) and (b) of this Section 3, be
7 practicable and designed to meet the need for pipeline safety.
8 In prescribing such standards, the Commission shall consider:
9 similar standards established in other states; relevant
10 available pipeline safety data; whether such standards are
11 appropriate for the particular type of pipeline
12 transportation; the reasonableness of any proposed standards;
13 and the extent to which such standards will contribute to
14 public safety.

15 Rules adopted under this Act are subject to "The Illinois
16 Administrative Procedure Act", approved September 22, 1975, as
17 amended.

18 (Source: P.A. 83-333.)

19 Section 20. The Illinois Environmental Protection Act is
20 amended by adding Section 13.7 as follows:

21 (415 ILCS 5/13.7 new)

22 Sec. 13.7. Carbon dioxide sequestration sites.

23 (a) For purposes of this Section, the term "carbon dioxide
24 sequestration site" means a site or facility for which the

1 Agency has issued a permit for the underground injection of
2 carbon dioxide.

3 (b) The Agency shall inspect carbon dioxide sequestration
4 sites for compliance with this Act, rules adopted under this
5 Act, and permits issued by the Agency.

6 (c) If the Agency issues a seal order under Section 34 of
7 this Act in relation to a carbon dioxide sequestration site, or
8 if a civil action for an injunction to halt activity at a
9 carbon dioxide sequestration site is initiated under Section 43
10 of this Act at the request of the Agency, then the Agency shall
11 post notice of such action on its website.

12 (d) Persons seeking a permit or permit modification for the
13 underground injection of carbon dioxide shall be liable to the
14 Agency for all reasonable and documented costs incurred by the
15 Agency that are associated with review and issuance of the
16 permit, including, but not limited to, costs associated with
17 public hearings and the review of permit applications. Once a
18 permit is issued, the permittee shall be liable to the Agency
19 for all reasonable and documented costs incurred by the Agency
20 that are associated with inspections and other oversight of the
21 carbon dioxide sequestration site. Persons liable for costs
22 under this subsection (d) must pay the costs upon invoicing, or
23 other request or demand for payment, by the Agency. Costs for
24 which a person is liable under this subsection (d) are in
25 addition to any other fees, penalties, or other relief provided
26 under this Act or any other law.

1 Moneys collected under this subsection (d) shall be
2 deposited into the Environmental Protection Permit and
3 Inspection Fund established under Section 22.8 of this Act. The
4 Agency may adopt rules relating to the collection of costs due
5 under this subsection (d).

6 (e) The Agency shall not issue a permit or permit
7 modification for the underground injection of carbon dioxide
8 unless all costs for which the permittee is liable under
9 subsection (d) of this Section have been paid.

10 (f) No person shall fail or refuse to pay costs for which
11 the person is liable under subsection (d) of this Section.

12 Section 85. Rulemaking. The Illinois Environmental
13 Protection Agency, the Illinois Commerce Commission, the
14 Capital Development Board, and the Illinois Department of
15 Natural Resources shall have rulemaking authority to implement
16 the provisions of this amendatory Act of the 97th General
17 Assembly.

18 Section 90. Inseverability. The provisions of this Act are
19 mutually dependent and inseverable. If any provision is held
20 invalid, then this entire Act, including all new and amendatory
21 provisions, is invalid.

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.