



Sen. David Koehler

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1 AMENDMENT TO SENATE BILL 135

2 AMENDMENT NO. _____. Amend Senate Bill 135, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 1. This Act may be referred to as the Competitive
6 Clean Energy Act.

7 Section 3. Findings. The General Assembly finds the
8 following:

9 (1) The State of Illinois seeks to be a national leader
10 in promoting electricity generation that emits zero
11 greenhouse gas emissions, consistent with targets set
12 under the Paris Climate Agreement. The State of Illinois
13 has joined 22 states and the territory of Puerto Rico in
14 the U.S. Climate Alliance and should pursue immediate
15 action on policies that will grow out the clean energy
16 sector while minimizing consumer impacts.

1 (2) The policy of the State of Illinois should be to
2 adopt electricity sector carbon emission targets aimed at
3 eliminating all carbon emission from our energy supply by
4 2050, while encouraging job growth and private sector
5 innovation.

6 (3) The uniform American experience is that
7 competitive markets drive innovation in the electricity
8 sector and that competitive retail electric markets have
9 delivered extraordinary benefits for residential,
10 commercial, and industrial consumers, including tens of
11 billions of dollars in savings as a result of customer
12 choice. Illinois seeks to use these same market principles
13 in its quest to eliminate carbon emissions from its
14 electricity sector. Market-based emissions trading
15 programs have also been able to quickly and efficiently
16 reduce the emission of harmful air pollutants. The United
17 States Environmental Protection Agency's creation of
18 marketable sulfur dioxide and nitrogen oxide emissions
19 credits has been an enormously successful tool for
20 combating acid rain and ground-level ozone.

21 (4) The State of Illinois has determined that, going
22 forward, every increment of clean electricity has the same
23 value to fighting climate change. Therefore, it is the
24 policy of the State to embrace a technologically inclusive
25 approach to decarbonizing its electricity sector, wherever
26 possible.

1 (5) Market solutions incentivize potential developers,
2 innovators, and entrepreneurs to invest in zero carbon
3 resources, and should be embraced. It is the policy of the
4 State of Illinois to continue to promote the development of
5 a competitive clean energy market, with procurement
6 targets, that allows all projects and ideas to compete
7 against one another on a level playing field to deliver the
8 highest value clean energy solutions at the lowest cost to
9 consumers.

10 (6) The lowest cost path to decarbonization is best
11 identified by providing opportunities for innovation and
12 broad competition among all clean energy resource types.
13 Achieving this State's clean energy goals while protecting
14 consumers and jobs will require harnessing the power of the
15 competitive marketplace to find the fastest, lowest cost,
16 and most effective decarbonization solutions. Illinois
17 energy policy should continue to empower those who choose
18 to pursue competitive energy market opportunities and
19 promote the development of the competitive market to
20 leverage market benefits and enhance consumer access,
21 while lowering electric bills.

22 (7) The Illinois clean energy market of the future
23 should be structured to compensate existing carbon-free
24 resources for their environmental attributes, as well as
25 allow project financing for, and support the development
26 of, new clean energy resources.

1 (8) It is in the public interest to accelerate the
2 procurement of clean energy resources when prices warrant.
3 It is also in the public interest to allow individual
4 consumers, municipalities, and other entities to exceed
5 the portion of carbon-free energy supply mandated by the
6 State through voluntary participation in a clean energy
7 market.

8 (9) Although technology-specific subsidies can drive
9 clean energy investment, they come at a substantial cost to
10 consumers. Limiting competition between clean energy
11 resources improperly shifts technology, market, and
12 operational risks away from generators and onto taxpayers
13 and consumers. Issuing additional direct subsidies to
14 specific resources or technologies is an impediment to
15 identifying and benefiting from the lowest cost
16 decarbonization solutions and imposes needless costs on
17 electricity consumers in Illinois. Instead, Illinois'
18 policy is to procure the lowest cost environmental
19 attributes from the full range of available carbon-free
20 resources on a fair and competitive basis.

21 (10) While the State of Illinois acknowledges the value
22 of existing contractual obligations with clean energy
23 resources, the lack of integration between Illinois'
24 renewable portfolio standard, clean coal portfolio
25 standard, zero emissions standard, and energy efficiency
26 portfolio standards causes inefficiencies and hinders

1 cost-effective progress towards Illinois' energy goals.
2 Those programs should be consolidated into a single Clean
3 Attributes Portfolio Standard.

4 Section 5. The Public Utilities Act is amended by changing
5 Section 16-111.5 and by adding Sections 3-127, 3-128, 3-129,
6 3-130, and 3-131 as follows:

7 (220 ILCS 5/3-127 new)

8 Sec. 3-127. Clean coal resource. "Clean coal resource"
9 means an electric generating facility that uses primarily coal
10 as a feedstock and that captures and sequesters carbon dioxide
11 emissions or reduces carbon dioxide emissions through enhanced
12 operating efficiency, unit retirement, or fuel source
13 conversion. Clean coal resources that reduce carbon dioxide
14 emissions through enhanced operating efficiency, unit
15 retirement, or fuel source conversion must show evidence of
16 verified reductions in carbon dioxide emissions by comparing
17 annual emissions against a baseline of the carbon dioxide
18 emissions for the effected generating units reported. The
19 baseline shall be calendar year 2015. Reductions of carbon
20 dioxide emissions must be verified by a third party that is a
21 professional engineer licensed by the State of Illinois.

22 (220 ILCS 5/3-128 new)

23 Sec. 3-128. Clean energy attribute credit. "Clean energy

1 attribute credit" means a credit that represents the
2 environmental attributes of one megawatt hour of energy
3 reduction or generation produced from a clean energy resource.

4 (220 ILCS 5/3-129 new)

5 Sec. 3-129. Clean energy resource. "Clean energy resource"
6 means any resource consistent with the definitions of renewable
7 energy resources, clean coal resources, clean coal facility,
8 zero emissions resources, demand-response resources, and
9 energy efficiency resources, as defined in this Act or the
10 Illinois Power Agency Act, and any other resources as
11 identified by the Illinois Power Agency as cost effectively
12 reducing carbon emissions in this State.

13 (220 ILCS 5/3-130 new)

14 Sec. 3-130. New clean energy resource. "New clean energy
15 resource" means a clean energy resource that has not begun
16 operation at the time it contracts to sell clean energy
17 attribute credits at a clean energy attribute credit
18 procurement event.

19 (220 ILCS 5/3-131 new)

20 Sec. 3-131. Social cost of carbon. "Social cost of carbon"
21 means the cost of \$16.50 per megawatt hour, which is based on
22 the federal Interagency Working Group on Social Cost of
23 Carbon's price in the August 2016 technical update using a 3%

1 discount rate, adjusted for inflation for each year of the
2 program. Beginning with the delivery year commencing June 1,
3 2020, the price per megawatt hour shall increase by \$1 per
4 megawatt hour and continue to increase by an additional \$1 per
5 megawatt hour each delivery year thereafter.

6 (220 ILCS 5/16-111.5)

7 Sec. 16-111.5. Provisions relating to procurement.

8 (a) An electric utility that on December 31, 2005 served at
9 least 100,000 customers in Illinois shall procure power and
10 energy for its eligible retail customers in accordance with the
11 applicable provisions set forth in Section 1-75 of the Illinois
12 Power Agency Act and this Section. Beginning with the delivery
13 year commencing on June 1, 2017, such electric utility shall
14 also procure zero emission credits from zero emission
15 facilities in accordance with the applicable provisions set
16 forth in Section 1-75 of the Illinois Power Agency Act, and,
17 for years beginning on or after June 1, 2017, the utility shall
18 procure renewable energy resources in accordance with the
19 applicable provisions set forth in Section 1-75 of the Illinois
20 Power Agency Act and this Section. A small multi-jurisdictional
21 electric utility that on December 31, 2005 served less than
22 100,000 customers in Illinois may elect to procure power and
23 energy for all or a portion of its eligible Illinois retail
24 customers in accordance with the applicable provisions set
25 forth in this Section and Section 1-75 of the Illinois Power

1 Agency Act. This Section shall not apply to a small
2 multi-jurisdictional utility until such time as a small
3 multi-jurisdictional utility requests the Illinois Power
4 Agency to prepare a procurement plan for its eligible retail
5 customers. "Eligible retail customers" for the purposes of this
6 Section means those retail customers that purchase power and
7 energy from the electric utility under fixed-price bundled
8 service tariffs, other than those retail customers whose
9 service is declared or deemed competitive under Section 16-113
10 and those other customer groups specified in this Section,
11 including self-generating customers, customers electing hourly
12 pricing, or those customers who are otherwise ineligible for
13 fixed-price bundled tariff service. For those customers that
14 are excluded from the procurement plan's electric supply
15 service requirements, and the utility shall procure any supply
16 requirements, including capacity, ancillary services, and
17 hourly priced energy, in the applicable markets as needed to
18 serve those customers, provided that the utility may include in
19 its procurement plan load requirements for the load that is
20 associated with those retail customers whose service has been
21 declared or deemed competitive pursuant to Section 16-113 of
22 this Act to the extent that those customers are purchasing
23 power and energy during one of the transition periods
24 identified in subsection (b) of Section 16-113 of this Act.

25 (b) A procurement plan shall be prepared for each electric
26 utility consistent with the applicable requirements of the

1 Illinois Power Agency Act and this Section. For purposes of
2 this Section, Illinois electric utilities that are affiliated
3 by virtue of a common parent company are considered to be a
4 single electric utility. Small multi-jurisdictional utilities
5 may request a procurement plan for a portion of or all of its
6 Illinois load. Each procurement plan shall analyze the
7 projected balance of supply and demand for those retail
8 customers to be included in the plan's electric supply service
9 requirements over a 5-year period, with the first planning year
10 beginning on June 1 of the year following the year in which the
11 plan is filed. The plan shall specifically identify the
12 wholesale products to be procured following plan approval, and
13 shall follow all the requirements set forth in the Public
14 Utilities Act and all applicable State and federal laws,
15 statutes, rules, or regulations, as well as Commission orders.
16 Nothing in this Section precludes consideration of contracts
17 longer than 5 years and related forecast data. Unless specified
18 otherwise in this Section, in the procurement plan or in the
19 implementing tariff, any procurement occurring in accordance
20 with this plan shall be competitively bid through a request for
21 proposals process. Approval and implementation of the
22 procurement plan shall be subject to review and approval by the
23 Commission according to the provisions set forth in this
24 Section. A procurement plan shall include each of the following
25 components:

26 (1) Hourly load analysis. This analysis shall include:

1 (i) multi-year historical analysis of hourly
2 loads;

3 (ii) switching trends and competitive retail
4 market analysis;

5 (iii) known or projected changes to future loads;
6 and

7 (iv) growth forecasts by customer class.

8 (2) Analysis of the impact of any demand side and
9 renewable energy initiatives. This analysis shall include:

10 (i) the impact of demand response programs and
11 energy efficiency programs, both current and
12 projected; for small multi-jurisdictional utilities,
13 the impact of demand response and energy efficiency
14 programs approved pursuant to Section 8-408 of this
15 Act, both current and projected; and

16 (ii) supply side needs that are projected to be
17 offset by purchases of renewable energy resources, if
18 any.

19 (3) A plan for meeting the expected load requirements
20 that will not be met through preexisting contracts. This
21 plan shall include:

22 (i) definitions of the different Illinois retail
23 customer classes for which supply is being purchased;

24 (ii) the proposed mix of demand-response products
25 for which contracts will be executed during the next
26 year. For small multi-jurisdictional electric

1 utilities that on December 31, 2005 served fewer than
2 100,000 customers in Illinois, these shall be defined
3 as demand-response products offered in an energy
4 efficiency plan approved pursuant to Section 8-408 of
5 this Act. The cost-effective demand-response measures
6 shall be procured whenever the cost is lower than
7 procuring comparable capacity products, provided that
8 such products shall:

9 (A) be procured by a demand-response provider
10 from those retail customers included in the plan's
11 electric supply service requirements;

12 (B) at least satisfy the demand-response
13 requirements of the regional transmission
14 organization market in which the utility's service
15 territory is located, including, but not limited
16 to, any applicable capacity or dispatch
17 requirements;

18 (C) provide for customers' participation in
19 the stream of benefits produced by the
20 demand-response products;

21 (D) provide for reimbursement by the
22 demand-response provider of the utility for any
23 costs incurred as a result of the failure of the
24 supplier of such products to perform its
25 obligations thereunder; and

26 (E) meet the same credit requirements as apply

1 to suppliers of capacity, in the applicable
2 regional transmission organization market;

3 (iii) monthly forecasted system supply
4 requirements, including expected minimum, maximum, and
5 average values for the planning period;

6 (iv) the proposed mix and selection of standard
7 wholesale products for which contracts will be
8 executed during the next year, separately or in
9 combination, to meet that portion of its load
10 requirements not met through pre-existing contracts,
11 including but not limited to monthly 5 x 16 peak period
12 block energy, monthly off-peak wrap energy, monthly 7 x
13 24 energy, annual 5 x 16 energy, annual off-peak wrap
14 energy, annual 7 x 24 energy, monthly capacity, annual
15 capacity, peak load capacity obligations, capacity
16 purchase plan, and ancillary services;

17 (v) proposed term structures for each wholesale
18 product type included in the proposed procurement plan
19 portfolio of products; and

20 (vi) an assessment of the price risk, load
21 uncertainty, and other factors that are associated
22 with the proposed procurement plan; this assessment,
23 to the extent possible, shall include an analysis of
24 the following factors: contract terms, time frames for
25 securing products or services, fuel costs, weather
26 patterns, transmission costs, market conditions, and

1 the governmental regulatory environment; the proposed
2 procurement plan shall also identify alternatives for
3 those portfolio measures that are identified as having
4 significant price risk.

5 (4) Proposed procedures for balancing loads. The
6 procurement plan shall include, for load requirements
7 included in the procurement plan, the process for (i)
8 hourly balancing of supply and demand and (ii) the criteria
9 for portfolio re-balancing in the event of significant
10 shifts in load.

11 (5) Long-Term Renewable Resources Procurement Plan.
12 The Agency shall prepare a long-term renewable resources
13 procurement plan for the procurement of renewable energy
14 credits under Sections 1-56 and 1-75 of the Illinois Power
15 Agency Act for delivery beginning in the 2017 delivery
16 year.

17 (i) The initial long-term renewable resources
18 procurement plan and all subsequent revisions shall be
19 subject to review and approval by the Commission. For
20 the purposes of this Section, "delivery year" has the
21 same meaning as in Section 1-10 of the Illinois Power
22 Agency Act. For purposes of this Section, "Agency"
23 shall mean the Illinois Power Agency.

24 (ii) The long-term renewable resources planning
25 process shall be conducted as follows:

26 (A) Electric utilities shall provide a range

1 of load forecasts to the Illinois Power Agency
2 within 45 days of the Agency's request for
3 forecasts, which request shall specify the length
4 and conditions for the forecasts including, but
5 not limited to, the quantity of distributed
6 generation expected to be interconnected for each
7 year.

8 (B) The Agency shall publish for comment the
9 initial long-term renewable resources procurement
10 plan no later than 120 days after the effective
11 date of this amendatory Act of the 99th General
12 Assembly and shall review, and may revise, the plan
13 at least every 2 years thereafter. To the extent
14 practicable, the Agency shall review and propose
15 any revisions to the long-term renewable energy
16 resources procurement plan in conjunction with the
17 Agency's other planning and approval processes
18 conducted under this Section. The initial
19 long-term renewable resources procurement plan
20 shall:

21 (aa) Identify the procurement programs and
22 competitive procurement events consistent with
23 the applicable requirements of the Illinois
24 Power Agency Act and shall be designed to
25 achieve the goals set forth in subsection (c)
26 of Section 1-75 of that Act.

1 (bb) Include a schedule for procurements
2 for renewable energy credits from
3 utility-scale wind projects, utility-scale
4 solar projects, and brownfield site
5 photovoltaic projects consistent with
6 subparagraph (G) of paragraph (1) of
7 subsection (c) of Section 1-75 of the Illinois
8 Power Agency Act.

9 (cc) Identify the process whereby the
10 Agency will submit to the Commission for review
11 and approval the proposed contracts to
12 implement the programs required by such plan.

13 Copies of the initial long-term renewable
14 resources procurement plan and all subsequent
15 revisions shall be posted and made publicly
16 available on the Agency's and Commission's
17 websites, and copies shall also be provided to each
18 affected electric utility. An affected utility and
19 other interested parties shall have 45 days
20 following the date of posting to provide comment to
21 the Agency on the initial long-term renewable
22 resources procurement plan and all subsequent
23 revisions. All comments submitted to the Agency
24 shall be specific, supported by data or other
25 detailed analyses, and, if objecting to all or a
26 portion of the procurement plan, accompanied by

1 specific alternative wording or proposals. All
2 comments shall be posted on the Agency's and
3 Commission's websites. During this 45-day comment
4 period, the Agency shall hold at least one public
5 hearing within each utility's service area that is
6 subject to the requirements of this paragraph (5)
7 for the purpose of receiving public comment.
8 Within 21 days following the end of the 45-day
9 review period, the Agency may revise the long-term
10 renewable resources procurement plan based on the
11 comments received and shall file the plan with the
12 Commission for review and approval.

13 (C) Within 14 days after the filing of the
14 initial long-term renewable resources procurement
15 plan or any subsequent revisions, any person
16 objecting to the plan may file an objection with
17 the Commission. Within 21 days after the filing of
18 the plan, the Commission shall determine whether a
19 hearing is necessary. The Commission shall enter
20 its order confirming or modifying the initial
21 long-term renewable resources procurement plan or
22 any subsequent revisions within 120 days after the
23 filing of the plan by the Illinois Power Agency.

24 (D) The Commission shall approve the initial
25 long-term renewable resources procurement plan and
26 any subsequent revisions, including expressly the

1 forecast used in the plan and taking into account
2 that funding will be limited to the amount of
3 revenues actually collected by the utilities, if
4 the Commission determines that the plan will
5 reasonably and prudently accomplish the
6 requirements of Section 1-56 and subsection (c) of
7 Section 1-75 of the Illinois Power Agency Act. The
8 Commission shall also approve the process for the
9 submission, review, and approval of the proposed
10 contracts to procure renewable energy credits or
11 implement the programs authorized by the
12 Commission pursuant to a long-term renewable
13 resources procurement plan approved under this
14 Section.

15 (iii) The Agency or third parties contracted by the
16 Agency shall implement all programs authorized by the
17 Commission in an approved long-term renewable
18 resources procurement plan without further review and
19 approval by the Commission. Third parties shall not
20 begin implementing any programs or receive any payment
21 under this Section until the Commission has approved
22 the contract or contracts under the process authorized
23 by the Commission in item (D) of subparagraph (ii) of
24 paragraph (5) of this subsection (b) and the third
25 party and the Agency or utility, as applicable, have
26 executed the contract. For those renewable energy

1 credits subject to procurement through a competitive
2 bid process under the plan or under the initial forward
3 procurements for wind and solar resources described in
4 subparagraph (G) of paragraph (1) of subsection (c) of
5 Section 1-75 of the Illinois Power Agency Act, the
6 Agency shall follow the procurement process specified
7 in the provisions relating to electricity procurement
8 in subsections (e) through (i) of this Section.

9 (iv) An electric utility shall recover its costs
10 associated with the procurement of renewable energy
11 credits under this Section through an automatic
12 adjustment clause tariff under subsection (k) of
13 Section 16-108 of this Act. A utility shall not be
14 required to advance any payment or pay any amounts
15 under this Section that exceed the actual amount of
16 revenues collected by the utility under paragraph (6)
17 of subsection (c) of Section 1-75 of the Illinois Power
18 Agency Act and subsection (k) of Section 16-108 of this
19 Act, and contracts executed under this Section shall
20 expressly incorporate this limitation.

21 (v) For the public interest, safety, and welfare,
22 the Agency and the Commission may adopt rules to carry
23 out the provisions of this Section on an emergency
24 basis immediately following the effective date of this
25 amendatory Act of the 99th General Assembly.

26 (vi) On or before July 1 of each year, the

1 Commission shall hold an informal hearing for the
2 purpose of receiving comments on the prior year's
3 procurement process and any recommendations for
4 change.

5 (b-5) (1) Notwithstanding any other provision of this Act
6 or the Illinois Power Agency Act to the contrary, the Illinois
7 Power Agency shall, for each electric utility that serves at
8 least 100,000 retail customers in this State, procure contracts
9 for clean energy attribute credits for all of the utility's
10 retail customers located in this State in accordance with this
11 subsection (b-5). Clean energy attribute credits procured
12 under this subsection (b-5) shall not include clean energy
13 attribute credits for customers served by a utility with fewer
14 than 100,000 retail customers, a municipal utility, or an
15 electric cooperative, unless and until the utility with fewer
16 than 100,000 retail customers, the municipal utility, or the
17 electric cooperative voluntarily submits a written request to
18 be included in the procurement process to the Agency, in which
19 case, the Agency shall use its best efforts to accommodate the
20 request, treating the voluntary participant as if it were an
21 electric utility that serves at least 100,000 retail customers
22 in this State for purposes of the procurement.

23 (i) Each utility shall timely submit a clean energy
24 attribute credit plan on an annual basis to the Agency. The
25 utility's clean energy attribute credit plan shall
26 identify the projected volumes of total energy consumption

1 by utility customers for the following 10 delivery years
2 and shall report the number and type of clean energy
3 attribute credits it has secured through contracts for each
4 of the forward 10 delivery years. The utility's clean
5 energy attribute credit plan shall also identify the
6 minimum volume of additional clean energy attribute
7 credits that must be procured to comply with this Act in
8 each of the following 10 delivery years.

9 (ii) Any person may submit to the Agency a bid to
10 purchase clean energy attribute credits at least 90 days
11 prior to any procurement event. The purchase bids shall be
12 effectuated by the Agency.

13 For purposes of this subsection (b-5), "Agency", "zero
14 emission credit", "zero emission facility", "renewable energy
15 credit", and "renewable energy source" have the meanings set
16 forth in the Illinois Power Agency Act.

17 (2) The Agency shall conduct clean energy attribute credit
18 procurement events to procure clean energy attribute credits to
19 satisfy the obligations of this subsection (b-5). This
20 obligation shall commence with the procurement for the delivery
21 year beginning June 1, 2020 and terminate with the delivery
22 year commencing June 1, 2050.

23 The Agency shall conduct one clean energy attribute credit
24 procurement event annually until its obligations under this Act
25 expire. The clean energy attribute credit procurements will
26 secure volumes of clean energy attribute credits from clean

1 energy resources through contracts of one year duration that
2 commence in the delivery year that occurs 3 years after the
3 procurement event. Any owner of a new clean energy resource
4 that secures a contract to sell clean energy attribute credits
5 through a clean energy attribute credit procurement event may
6 elect to extend the term of the contract for up to a total of 7
7 years at its sole discretion in order to secure project
8 financing for the new clean energy resource.

9 Prior to the delivery year commencing on June 1, 2023, the
10 Agency shall conduct initial clean energy attribute credit
11 procurement events approximately every 6 months to secure clean
12 energy attribute credits for delivery in the delivery years
13 commencing on June 1, 2020, June 1, 2021, and June 1, 2022, and
14 each subsequent delivery year beginning June 1 until the full
15 3-year forward period is achieved. Contracts resulting from the
16 initial clean energy attribute credit procurement events will
17 be consistent with the terms set forth in this paragraph (2).

18 Owners of clean energy resources are eligible to
19 participate in the clean energy attribute credit procurement
20 events conducted by the Agency pursuant to this subsection
21 (b-5) provided that the clean energy resource meets all
22 applicable requirements established by the Agency, which are to
23 be confirmed by the Illinois Commerce Commission. After the
24 effective date of this amendatory Act of the 101st General
25 Assembly, the Agency shall no longer have separate procurement
26 events for renewable energy credits, zero emissions credits,

1 demand response, or volumes of energy efficiency for energy
2 generated or reduced after June 1, 2020. All renewable energy
3 credits, zero emissions credits, demand response, and volumes
4 of energy efficiency for energy generated or reduced after June
5 1, 2020 previously procured shall be converted into their
6 equivalent clean energy attribute credits by the Agency and
7 considered as applicable against the annual goals set forth in
8 paragraph (3) of this subsection (b-5).

9 The owner of any clean energy resource that participates in
10 a clean energy attribute credit procurement event conducted
11 under this subsection (b-5) must commit to pay any fees
12 assessed by the Agency to recover the Agency's costs of
13 conducting the procurement events and any related activities.

14 Clean energy attribute credits may be procured from any
15 party that owns a clean energy resource located in this State,
16 including, but not limited to, municipal utilities, electric
17 cooperatives, competitive retailers, consumers, aggregators,
18 and independent power producers. The results of each clean
19 energy attribute credit procurement event shall be subject to
20 approval by the Commission. Upon Commission approval of the
21 results of a procurement event, each utility shall enter into
22 binding contractual agreements with the winning suppliers.

23 (3) The annual target procurement of clean energy attribute
24 credits shall: (A) be subject to the cost cap set forth in item
25 (ii) of paragraph (5) of this subsection (b-5); (B) be equal to
26 a percentage of the total electricity consumption reported for

1 each electric utility that serves at least 100,000 retail
2 customers in this State; and (C) increase linearly between June
3 1, 2020 and May 31, 2051 so that by the delivery year beginning
4 June 1, 2050 the Agency will procure clean energy attribute
5 credits in an amount equal to 100% of the total electricity
6 consumption of each electric utility that serves at least
7 100,000 retail customers in this State.

8 The target volume of clean energy attribute credits to be
9 procured under this Act for a utility that serves at least
10 100,000 retail customers in the State shall be 80% of total
11 annual consumption for the delivery year beginning June 1, 2020
12 and increase each year thereafter.

13 All clean energy attribute credits shall be cleared in a
14 competitive auction format such that the lowest price clean
15 energy attribute credits are procured first and at a uniform
16 price, regardless of the technology or age of the clean energy
17 resource that generates the clean energy attribute credit.

18 In addition to the target procurement, the Agency shall
19 procure additional clean energy attribute credits at each
20 procurement event based on a demand curve for clean energy
21 attribute credits developed by the Agency and approved by the
22 Commission that would result in a higher amount of clean energy
23 attribute credits being procured as prices decrease.

24 The Agency shall also procure clean energy attribute
25 credits for any person that submits a qualifying bid to
26 purchase at least 90 days prior to any procurement event. A

1 qualifying purchase bid is a bid to purchase the specified
2 number of clean energy attribute credits for a price greater
3 than the clearing price in that auction for which there is a
4 corresponding qualified seller.

5 (4) Notwithstanding any provision of this subsection
6 (b-5), if determined to be in the public interest, the Agency
7 may, at the Agency's direction or at the direction of the
8 Commission, satisfy the requirements of this subsection (b-5)
9 by procuring clean energy attribute credits volumes under any
10 of the following acquisition alternatives:

11 (i) procure clean energy attribute credits in a
12 combined auction with other states;

13 (ii) procure clean energy attribute credits in a
14 combined auction with any inter-regional, independent
15 entity; or

16 (iii) procure clean energy attribute credits within
17 another centralized auction with a substantially similar
18 auction design determined by the Agency or the Commission
19 to be acceptable under this subsection (b-5).

20 (5) Customer protections.

21 (i) Prices awarded for clean energy attribute credits
22 to satisfy the requirements of paragraph (3) of this
23 subsection (b-5) shall be subject to a price cap, which
24 shall be equal to 1.5 times the social cost of carbon.

25 (ii) The cost to consumers of procuring clean energy
26 attribute credits shall not exceed the sum of the existing

1 cost caps for energy efficiency and demand response, the
2 renewable portfolio standard, the clean coal portfolio
3 standard, and the zero emissions standard.

4 (iii) As part of its annual procurement process, the
5 Agency shall review the cost cap established under item
6 (ii) of this paragraph (5) to determine if it is
7 insufficient to fund the goals of this subsection (b-5). If
8 the Agency determines that the cost cap is likely to
9 prevent the complete funding of the goals in this Section,
10 the Agency shall propose an alternative cost cap, which the
11 Commission shall review and approve to take effect the
12 following delivery year if the Commission finds that the
13 alternative cost cap is a necessary and cost-effective way
14 to achieve the requirements of this subsection (b-5).

15 (iv) Clean energy attribute credits shall be cost
16 effective as a result of following the procedures set forth
17 in this subsection (b-5).

18 (6) Electric utilities subject to the requirements of this
19 subsection (b-5) shall forecast the clean energy attribute
20 credit volume requirements to be covered by the procurement. No
21 later than 45 days after the effective date of this amendatory
22 Act of the 101st General Assembly, each utility shall publish
23 its clean energy attribute credit procurement plan for the
24 delivery year commencing June 1, 2020. The plan shall be
25 consistent with the provisions of this subsection (b-5).

26 Upon publishing of the clean energy attribute credit

1 procurement plans, copies of the plans shall be posted and made
2 publicly available on the Agency's website. All interested
3 parties shall have 10 days following the date of posting to
4 provide comment on the plans. All comments shall be posted to
5 the Agency's website. Following the end of the comment period,
6 but no more than 60 days after the effective date of this
7 amendatory Act of the 101st General Assembly, the Agency shall
8 revise the plans as necessary based on the comments received,
9 and file each clean energy attribute credit procurement plan
10 with the Commission with a projected schedule for the clean
11 energy attribute credit procurement event.

12 If the Commission determines that the plans will result in
13 the procurement of clean energy attribute credits consistent
14 with the requirements of this subsection (b-5), then the
15 Commission shall, after notice and hearing, but no later than
16 45 days after the Agency filed the plan, approve the plans or
17 approve the plans with modification. Those clean energy
18 attribute credit procurement plans applicable to delivery
19 years commencing after June 1, 2020, shall be published, filed,
20 and approved consistent with the timelines and dates set forth
21 in subsection (d).

22 (7) Notwithstanding anything to the contrary, the Agency
23 and the Commission shall have the authority to take all steps
24 necessary to implement this subsection (b-5) consistent with
25 applicable federal tariffs, and as those tariffs may be
26 changed, replaced, or superseded from time to time.

1 (8) In order to ensure that Illinois meets its long-term
2 carbon-free energy goals, the quantity of clean energy
3 attribute credits procured shall be total utility electricity
4 multiplied by a linearly increasing goal to 100% by 2050. The
5 total procured shall be no less than the sum of nuclear
6 generation in service on January 1, 2019 and the renewable
7 portfolio standard in effect on the effective date of this
8 amendatory Act of the 101st General Assembly.

9 (9) The Agency and Commission shall design, develop, and
10 implement the clean energy attribute credit program in a way
11 that promotes the development of the competitive retail
12 electric market in this State.

13 (10) Notwithstanding anything to the contrary, nothing in
14 this subsection (b-5) shall alter any person's rights or
15 obligations under contracts executed prior to the effective
16 date of this amendatory Act of the 101st General Assembly for
17 the purchase or sale of credits under Illinois' renewable
18 portfolio standard, clean coal portfolio standard, zero
19 emissions standard, or energy efficiency portfolio standard
20 programs, and the quantities procured under such contracts
21 shall be subtracted from the minimum quantity of clean energy
22 attribute credits to be procured on behalf of that utility's
23 customers.

24 (c) The procurement process set forth in Section 1-75 of
25 the Illinois Power Agency Act and subsection (e) of this
26 Section shall be administered by a procurement administrator

1 and monitored by a procurement monitor.

2 (1) The procurement administrator shall:

3 (i) design the final procurement process in
4 accordance with Section 1-75 of the Illinois Power
5 Agency Act and subsection (e) of this Section following
6 Commission approval of the procurement plan;

7 (ii) develop benchmarks in accordance with
8 subsection (e)(3) to be used to evaluate bids; these
9 benchmarks shall be submitted to the Commission for
10 review and approval on a confidential basis prior to
11 the procurement event;

12 (iii) serve as the interface between the electric
13 utility and suppliers;

14 (iv) manage the bidder pre-qualification and
15 registration process;

16 (v) obtain the electric utilities' agreement to
17 the final form of all supply contracts and credit
18 collateral agreements;

19 (vi) administer the request for proposals process;

20 (vii) have the discretion to negotiate to
21 determine whether bidders are willing to lower the
22 price of bids that meet the benchmarks approved by the
23 Commission; any post-bid negotiations with bidders
24 shall be limited to price only and shall be completed
25 within 24 hours after opening the sealed bids and shall
26 be conducted in a fair and unbiased manner; in

1 conducting the negotiations, there shall be no
2 disclosure of any information derived from proposals
3 submitted by competing bidders; if information is
4 disclosed to any bidder, it shall be provided to all
5 competing bidders;

6 (viii) maintain confidentiality of supplier and
7 bidding information in a manner consistent with all
8 applicable laws, rules, regulations, and tariffs;

9 (ix) submit a confidential report to the
10 Commission recommending acceptance or rejection of
11 bids;

12 (x) notify the utility of contract counterparties
13 and contract specifics; and

14 (xi) administer related contingency procurement
15 events.

16 (2) The procurement monitor, who shall be retained by
17 the Commission, shall:

18 (i) monitor interactions among the procurement
19 administrator, suppliers, and utility;

20 (ii) monitor and report to the Commission on the
21 progress of the procurement process;

22 (iii) provide an independent confidential report
23 to the Commission regarding the results of the
24 procurement event;

25 (iv) assess compliance with the procurement plans
26 approved by the Commission for each utility that on

1 December 31, 2005 provided electric service to at least
2 100,000 customers in Illinois and for each small
3 multi-jurisdictional utility that on December 31, 2005
4 served less than 100,000 customers in Illinois;

5 (v) preserve the confidentiality of supplier and
6 bidding information in a manner consistent with all
7 applicable laws, rules, regulations, and tariffs;

8 (vi) provide expert advice to the Commission and
9 consult with the procurement administrator regarding
10 issues related to procurement process design, rules,
11 protocols, and policy-related matters; and

12 (vii) consult with the procurement administrator
13 regarding the development and use of benchmark
14 criteria, standard form contracts, credit policies,
15 and bid documents.

16 (d) Except as provided in subsection (j), the planning
17 process shall be conducted as follows:

18 (1) Beginning in 2008, each Illinois utility procuring
19 power pursuant to this Section shall annually provide a
20 range of load forecasts to the Illinois Power Agency by
21 July 15 of each year, or such other date as may be required
22 by the Commission or Agency. The load forecasts shall cover
23 the 5-year procurement planning period for the next
24 procurement plan and shall include hourly data
25 representing a high-load, low-load, and expected-load
26 scenario for the load of those retail customers included in

1 the plan's electric supply service requirements. The
2 utility shall provide supporting data and assumptions for
3 each of the scenarios.

4 (2) Beginning in 2008, the Illinois Power Agency shall
5 prepare a procurement plan by August 15th of each year, or
6 such other date as may be required by the Commission. The
7 procurement plan shall identify the portfolio of
8 demand-response and power and energy products to be
9 procured. Cost-effective demand-response measures shall be
10 procured as set forth in item (iii) of subsection (b) of
11 this Section. Copies of the procurement plan shall be
12 posted and made publicly available on the Agency's and
13 Commission's websites, and copies shall also be provided to
14 each affected electric utility. An affected utility shall
15 have 30 days following the date of posting to provide
16 comment to the Agency on the procurement plan. Other
17 interested entities also may comment on the procurement
18 plan. All comments submitted to the Agency shall be
19 specific, supported by data or other detailed analyses,
20 and, if objecting to all or a portion of the procurement
21 plan, accompanied by specific alternative wording or
22 proposals. All comments shall be posted on the Agency's and
23 Commission's websites. During this 30-day comment period,
24 the Agency shall hold at least one public hearing within
25 each utility's service area for the purpose of receiving
26 public comment on the procurement plan. Within 14 days

1 following the end of the 30-day review period, the Agency
2 shall revise the procurement plan as necessary based on the
3 comments received and file the procurement plan with the
4 Commission and post the procurement plan on the websites.

5 (3) Within 5 days after the filing of the procurement
6 plan, any person objecting to the procurement plan shall
7 file an objection with the Commission. Within 10 days after
8 the filing, the Commission shall determine whether a
9 hearing is necessary. The Commission shall enter its order
10 confirming or modifying the procurement plan within 90 days
11 after the filing of the procurement plan by the Illinois
12 Power Agency.

13 (4) The Commission shall approve the procurement plan,
14 including expressly the forecast used in the procurement
15 plan, if the Commission determines that it will ensure
16 adequate, reliable, affordable, efficient, and
17 environmentally sustainable electric service at the lowest
18 total cost over time, taking into account any benefits of
19 price stability.

20 (e) The procurement process shall include each of the
21 following components:

22 (1) Solicitation, pre-qualification, and registration
23 of bidders. The procurement administrator shall
24 disseminate information to potential bidders to promote a
25 procurement event, notify potential bidders that the
26 procurement administrator may enter into a post-bid price

1 negotiation with bidders that meet the applicable
2 benchmarks, provide supply requirements, and otherwise
3 explain the competitive procurement process. In addition
4 to such other publication as the procurement administrator
5 determines is appropriate, this information shall be
6 posted on the Illinois Power Agency's and the Commission's
7 websites. The procurement administrator shall also
8 administer the prequalification process, including
9 evaluation of credit worthiness, compliance with
10 procurement rules, and agreement to the standard form
11 contract developed pursuant to paragraph (2) of this
12 subsection (e). The procurement administrator shall then
13 identify and register bidders to participate in the
14 procurement event.

15 (2) Standard contract forms and credit terms and
16 instruments. The procurement administrator, in
17 consultation with the utilities, the Commission, and other
18 interested parties and subject to Commission oversight,
19 shall develop and provide standard contract forms for the
20 supplier contracts that meet generally accepted industry
21 practices. Standard credit terms and instruments that meet
22 generally accepted industry practices shall be similarly
23 developed. The procurement administrator shall make
24 available to the Commission all written comments it
25 receives on the contract forms, credit terms, or
26 instruments. If the procurement administrator cannot reach

1 agreement with the applicable electric utility as to the
2 contract terms and conditions, the procurement
3 administrator must notify the Commission of any disputed
4 terms and the Commission shall resolve the dispute. The
5 terms of the contracts shall not be subject to negotiation
6 by winning bidders, and the bidders must agree to the terms
7 of the contract in advance so that winning bids are
8 selected solely on the basis of price.

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

1 (4) Request for proposals competitive procurement
2 process. The procurement administrator shall design and
3 issue a request for proposals to supply electricity in
4 accordance with each utility's procurement plan, as
5 approved by the Commission. The request for proposals shall
6 set forth a procedure for sealed, binding commitment
7 bidding with pay-as-bid settlement, and provision for
8 selection of bids on the basis of price.

9 (5) A plan for implementing contingencies in the event
10 of supplier default or failure of the procurement process
11 to fully meet the expected load requirement due to
12 insufficient supplier participation, Commission rejection
13 of results, or any other cause.

14 (i) Event of supplier default: In the event of
15 supplier default, the utility shall review the
16 contract of the defaulting supplier to determine if the
17 amount of supply is 200 megawatts or greater, and if
18 there are more than 60 days remaining of the contract
19 term. If both of these conditions are met, and the
20 default results in termination of the contract, the
21 utility shall immediately notify the Illinois Power
22 Agency that a request for proposals must be issued to
23 procure replacement power, and the procurement
24 administrator shall run an additional procurement
25 event. If the contracted supply of the defaulting
26 supplier is less than 200 megawatts or there are less

1 than 60 days remaining of the contract term, the
2 utility shall procure power and energy from the
3 applicable regional transmission organization market,
4 including ancillary services, capacity, and day-ahead
5 or real time energy, or both, for the duration of the
6 contract term to replace the contracted supply;
7 provided, however, that if a needed product is not
8 available through the regional transmission
9 organization market it shall be purchased from the
10 wholesale market.

11 (ii) Failure of the procurement process to fully
12 meet the expected load requirement: If the procurement
13 process fails to fully meet the expected load
14 requirement due to insufficient supplier participation
15 or due to a Commission rejection of the procurement
16 results, the procurement administrator, the
17 procurement monitor, and the Commission staff shall
18 meet within 10 days to analyze potential causes of low
19 supplier interest or causes for the Commission
20 decision. If changes are identified that would likely
21 result in increased supplier participation, or that
22 would address concerns causing the Commission to
23 reject the results of the prior procurement event, the
24 procurement administrator may implement those changes
25 and rerun the request for proposals process according
26 to a schedule determined by those parties and

1 consistent with Section 1-75 of the Illinois Power
2 Agency Act and this subsection. In any event, a new
3 request for proposals process shall be implemented by
4 the procurement administrator within 90 days after the
5 determination that the procurement process has failed
6 to fully meet the expected load requirement.

7 (iii) In all cases where there is insufficient
8 supply provided under contracts awarded through the
9 procurement process to fully meet the electric
10 utility's load requirement, the utility shall meet the
11 load requirement by procuring power and energy from the
12 applicable regional transmission organization market,
13 including ancillary services, capacity, and day-ahead
14 or real time energy, or both; provided, however, that
15 if a needed product is not available through the
16 regional transmission organization market it shall be
17 purchased from the wholesale market.

18 (6) The procurement process described in this
19 subsection is exempt from the requirements of the Illinois
20 Procurement Code, pursuant to Section 20-10 of that Code.

21 (f) Within 2 business days after opening the sealed bids,
22 the procurement administrator shall submit a confidential
23 report to the Commission. The report shall contain the results
24 of the bidding for each of the products along with the
25 procurement administrator's recommendation for the acceptance
26 and rejection of bids based on the price benchmark criteria and

1 other factors observed in the process. The procurement monitor
2 also shall submit a confidential report to the Commission
3 within 2 business days after opening the sealed bids. The
4 report shall contain the procurement monitor's assessment of
5 bidder behavior in the process as well as an assessment of the
6 procurement administrator's compliance with the procurement
7 process and rules. The Commission shall review the confidential
8 reports submitted by the procurement administrator and
9 procurement monitor, and shall accept or reject the
10 recommendations of the procurement administrator within 2
11 business days after receipt of the reports.

12 (g) Within 3 business days after the Commission decision
13 approving the results of a procurement event, the utility shall
14 enter into binding contractual arrangements with the winning
15 suppliers using the standard form contracts; except that the
16 utility shall not be required either directly or indirectly to
17 execute the contracts if a tariff that is consistent with
18 subsection (1) of this Section has not been approved and placed
19 into effect for that utility.

20 (h) The names of the successful bidders and the load
21 weighted average of the winning bid prices for each contract
22 type and for each contract term shall be made available to the
23 public at the time of Commission approval of a procurement
24 event. The Commission, the procurement monitor, the
25 procurement administrator, the Illinois Power Agency, and all
26 participants in the procurement process shall maintain the

1 confidentiality of all other supplier and bidding information
2 in a manner consistent with all applicable laws, rules,
3 regulations, and tariffs. Confidential information, including
4 the confidential reports submitted by the procurement
5 administrator and procurement monitor pursuant to subsection
6 (f) of this Section, shall not be made publicly available and
7 shall not be discoverable by any party in any proceeding,
8 absent a compelling demonstration of need, nor shall those
9 reports be admissible in any proceeding other than one for law
10 enforcement purposes.

11 (i) Within 2 business days after a Commission decision
12 approving the results of a procurement event or such other date
13 as may be required by the Commission from time to time, the
14 utility shall file for informational purposes with the
15 Commission its actual or estimated retail supply charges, as
16 applicable, by customer supply group reflecting the costs
17 associated with the procurement and computed in accordance with
18 the tariffs filed pursuant to subsection (l) of this Section
19 and approved by the Commission.

20 (j) Within 60 days following August 28, 2007 (the effective
21 date of Public Act 95-481), each electric utility that on
22 December 31, 2005 provided electric service to at least 100,000
23 customers in Illinois shall prepare and file with the
24 Commission an initial procurement plan, which shall conform in
25 all material respects to the requirements of the procurement
26 plan set forth in subsection (b); provided, however, that the

1 Illinois Power Agency Act shall not apply to the initial
2 procurement plan prepared pursuant to this subsection. The
3 initial procurement plan shall identify the portfolio of power
4 and energy products to be procured and delivered for the period
5 June 2008 through May 2009, and shall identify the proposed
6 procurement administrator, who shall have the same experience
7 and expertise as is required of a procurement administrator
8 hired pursuant to Section 1-75 of the Illinois Power Agency
9 Act. Copies of the procurement plan shall be posted and made
10 publicly available on the Commission's website. The initial
11 procurement plan may include contracts for renewable resources
12 that extend beyond May 2009.

13 (i) Within 14 days following filing of the initial
14 procurement plan, any person may file a detailed objection
15 with the Commission contesting the procurement plan
16 submitted by the electric utility. All objections to the
17 electric utility's plan shall be specific, supported by
18 data or other detailed analyses. The electric utility may
19 file a response to any objections to its procurement plan
20 within 7 days after the date objections are due to be
21 filed. Within 7 days after the date the utility's response
22 is due, the Commission shall determine whether a hearing is
23 necessary. If it determines that a hearing is necessary, it
24 shall require the hearing to be completed and issue an
25 order on the procurement plan within 60 days after the
26 filing of the procurement plan by the electric utility.

1 (ii) The order shall approve or modify the procurement
2 plan, approve an independent procurement administrator,
3 and approve or modify the electric utility's tariffs that
4 are proposed with the initial procurement plan. The
5 Commission shall approve the procurement plan if the
6 Commission determines that it will ensure adequate,
7 reliable, affordable, efficient, and environmentally
8 sustainable electric service at the lowest total cost over
9 time, taking into account any benefits of price stability.

10 (k) (Blank).

11 (k-5) (Blank).

12 (l) An electric utility shall recover its costs incurred
13 under this Section, including, but not limited to, the costs of
14 procuring power and energy demand-response resources under
15 this Section. The utility shall file with the initial
16 procurement plan its proposed tariffs through which its costs
17 of procuring power that are incurred pursuant to a
18 Commission-approved procurement plan and those other costs
19 identified in this subsection (l), will be recovered. The
20 tariffs shall include a formula rate or charge designed to pass
21 through both the costs incurred by the utility in procuring a
22 supply of electric power and energy for the applicable customer
23 classes with no mark-up or return on the price paid by the
24 utility for that supply, plus any just and reasonable costs
25 that the utility incurs in arranging and providing for the
26 supply of electric power and energy. The formula rate or charge

1 shall also contain provisions that ensure that its application
2 does not result in over or under recovery due to changes in
3 customer usage and demand patterns, and that provide for the
4 correction, on at least an annual basis, of any accounting
5 errors that may occur. A utility shall recover through the
6 tariff all reasonable costs incurred to implement or comply
7 with any procurement plan that is developed and put into effect
8 pursuant to Section 1-75 of the Illinois Power Agency Act and
9 this Section, including any fees assessed by the Illinois Power
10 Agency, costs associated with load balancing, and contingency
11 plan costs. The electric utility shall also recover its full
12 costs of procuring electric supply for which it contracted
13 before the effective date of this Section in conjunction with
14 the provision of full requirements service under fixed-price
15 bundled service tariffs subsequent to December 31, 2006. All
16 such costs shall be deemed to have been prudently incurred. The
17 pass-through tariffs that are filed and approved pursuant to
18 this Section shall not be subject to review under, or in any
19 way limited by, Section 16-111(i) of this Act. All of the costs
20 incurred by the electric utility associated with the purchase
21 of zero emission credits in accordance with subsection (d-5) of
22 Section 1-75 of the Illinois Power Agency Act and, beginning
23 June 1, 2017, all of the costs incurred by the electric utility
24 associated with the purchase of renewable energy resources in
25 accordance with Sections 1-56 and 1-75 of the Illinois Power
26 Agency Act, shall be recovered through the electric utility's

1 tariffed charges applicable to all of its retail customers, as
2 specified in subsection (k) of Section 16-108 of this Act, and
3 shall not be recovered through the electric utility's tariffed
4 charges for electric power and energy supply to its eligible
5 retail customers.

6 (m) The Commission has the authority to adopt rules to
7 carry out the provisions of this Section. For the public
8 interest, safety, and welfare, the Commission also has
9 authority to adopt rules to carry out the provisions of this
10 Section on an emergency basis immediately following August 28,
11 2007 (the effective date of Public Act 95-481).

12 (n) Notwithstanding any other provision of this Act, any
13 affiliated electric utilities that submit a single procurement
14 plan covering their combined needs may procure for those
15 combined needs in conjunction with that plan, and may enter
16 jointly into power supply contracts, purchases, and other
17 procurement arrangements, and allocate capacity and energy and
18 cost responsibility therefor among themselves in proportion to
19 their requirements.

20 (o) On or before June 1 of each year, the Commission shall
21 hold an informal hearing for the purpose of receiving comments
22 on the prior year's procurement process and any recommendations
23 for change.

24 (p) An electric utility subject to this Section may propose
25 to invest, lease, own, or operate an electric generation
26 facility as part of its procurement plan, provided the utility

1 demonstrates that such facility is the least-cost option to
2 provide electric service to those retail customers included in
3 the plan's electric supply service requirements. If the
4 facility is shown to be the least-cost option and is included
5 in a procurement plan prepared in accordance with Section 1-75
6 of the Illinois Power Agency Act and this Section, then the
7 electric utility shall make a filing pursuant to Section 8-406
8 of this Act, and may request of the Commission any statutory
9 relief required thereunder. If the Commission grants all of the
10 necessary approvals for the proposed facility, such supply
11 shall thereafter be considered as a pre-existing contract under
12 subsection (b) of this Section. The Commission shall in any
13 order approving a proposal under this subsection specify how
14 the utility will recover the prudently incurred costs of
15 investing in, leasing, owning, or operating such generation
16 facility through just and reasonable rates charged to those
17 retail customers included in the plan's electric supply service
18 requirements. Cost recovery for facilities included in the
19 utility's procurement plan pursuant to this subsection shall
20 not be subject to review under or in any way limited by the
21 provisions of Section 16-111(i) of this Act. Nothing in this
22 Section is intended to prohibit a utility from filing for a
23 fuel adjustment clause as is otherwise permitted under Section
24 9-220 of this Act.

25 (q) If the Illinois Power Agency filed with the Commission,
26 under Section 16-111.5 of this Act, its proposed procurement

1 plan for the period commencing June 1, 2017, and the Commission
2 has not yet entered its final order approving the plan on or
3 before the effective date of this amendatory Act of the 99th
4 General Assembly, then the Illinois Power Agency shall file a
5 notice of withdrawal with the Commission, after the effective
6 date of this amendatory Act of the 99th General Assembly, to
7 withdraw the proposed procurement of renewable energy
8 resources to be approved under the plan, other than the
9 procurement of renewable energy credits from distributed
10 renewable energy generation devices using funds previously
11 collected from electric utilities' retail customers that take
12 service pursuant to electric utilities' hourly pricing tariff
13 or tariffs and, for an electric utility that serves less than
14 100,000 retail customers in the State, other than the
15 procurement of renewable energy credits from distributed
16 renewable energy generation devices. Upon receipt of the
17 notice, the Commission shall enter an order that approves the
18 withdrawal of the proposed procurement of renewable energy
19 resources from the plan. The initially proposed procurement of
20 renewable energy resources shall not be approved or be the
21 subject of any further hearing, investigation, proceeding, or
22 order of any kind.

23 This amendatory Act of the 99th General Assembly preempts
24 and supersedes any order entered by the Commission that
25 approved the Illinois Power Agency's procurement plan for the
26 period commencing June 1, 2017, to the extent it is

1 inconsistent with the provisions of this amendatory Act of the
2 99th General Assembly. To the extent any previously entered
3 order approved the procurement of renewable energy resources,
4 the portion of that order approving the procurement shall be
5 void, other than the procurement of renewable energy credits
6 from distributed renewable energy generation devices using
7 funds previously collected from electric utilities' retail
8 customers that take service under electric utilities' hourly
9 pricing tariff or tariffs and, for an electric utility that
10 serves less than 100,000 retail customers in the State, other
11 than the procurement of renewable energy credits for
12 distributed renewable energy generation devices.
13 (Source: P.A. 99-906, eff. 6-1-17.)".