



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB1943

by Rep. Ann Williams

SYNOPSIS AS INTRODUCED:

20 ILCS 3855/1-10
20 ILCS 3855/1-56
20 ILCS 3855/1-75

Amends the Illinois Power Agency Act. Defines "distributed renewable energy generation device". In provisions concerning the Agency's procurement of renewable energy resources and in provisions concerning renewable portfolio standards, provides that at least the following percentages shall come from distributed renewable energy generation devices: 0.5% by June 1, 2013, 0.75% by June 1, 2014, and 1% by June 1, 2015 and thereafter. Further provides that half of the renewable energy resources procured from distributed renewable energy generation shall come from devices of less than 25 kilowatts in nameplate capacity and the other half from distributed renewable energy generation devices of greater than or equal to 25 kilowatts and less than or equal to 2,000 kilowatts in nameplate capacity. Provides that renewable energy resources procured from distributed generation devices may also count towards the required percentages for wind and solar photovoltaics. Provides that procurement of renewable energy resources from distributed renewable energy generation devices shall be done on an annual basis through multi-year contracts of no less than 5 years. Provides that the Agency shall take certain actions, if in any given year, funds are insufficient to cover the costs of complying with the target procurement of renewable energy resources in the required proportionate amounts. Makes other changes.

LRB097 08923 ASK 49055 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

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, 1-56, and 1-75 as follows:

6 (20 ILCS 3855/1-10)

7 Sec. 1-10. Definitions.

8 "Agency" means the Illinois Power Agency.

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

17 "Authority" means the Illinois Finance Authority.

18 "Clean coal facility" means an electric generating
19 facility that uses primarily coal as a feedstock and that
20 captures and sequesters carbon emissions at the following
21 levels: at least 50% of the total carbon emissions that the
22 facility would otherwise emit if, at the time construction
23 commences, the facility is scheduled to commence operation

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

19 "Clean coal SNG facility" means a facility that uses a
20 gasification process to produce substitute natural gas, that
21 sequesters at least 90% of the total carbon emissions that the
22 facility would otherwise emit and that uses petroleum coke or
23 coal as a feedstock, with all such coal having a high
24 bituminous rank and greater than 1.7 pounds of sulfur per
25 million btu content.

26 "Commission" means the Illinois Commerce Commission.

1 "Costs incurred in connection with the development and
2 construction of a facility" means:

3 (1) the cost of acquisition of all real property and
4 improvements in connection therewith and equipment and
5 other property, rights, and easements acquired that are
6 deemed necessary for the operation and maintenance of the
7 facility;

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

10 (3) all origination, commitment, utilization,
11 facility, placement, underwriting, syndication, credit
12 enhancement, and rating agency fees;

13 (4) engineering, design, procurement, consulting,
14 legal, accounting, title insurance, survey, appraisal,
15 escrow, trustee, collateral agency, interest rate hedging,
16 interest rate swap, capitalized interest and other
17 financing costs, and other expenses for professional
18 services; and

19 (5) the costs of plans, specifications, site study and
20 investigation, installation, surveys, other Agency costs
21 and estimates of costs, and other expenses necessary or
22 incidental to determining the feasibility of any project,
23 together with such other expenses as may be necessary or
24 incidental to the financing, insuring, acquisition, and
25 construction of a specific project and placing that project
26 in operation.

1 "Department" means the Department of Commerce and Economic
2 Opportunity.

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

4 "Demand-response" means measures that decrease peak
5 electricity demand or shift demand from peak to off-peak
6 periods.

7 "Distributed renewable energy generation device" means a
8 device that is:

9 (1) powered by wind, solar thermal energy,
10 photovoltaic cells and panels, biodiesel, crops and
11 untreated and unadulterated organic waste biomass, tree
12 waste, and hydropower that does not involve new
13 construction or significant expansion of hydropower dams;

14 (2) interconnected at the distribution system level of
15 either an electric utility as defined in this Section, an
16 alternative retail electric supplier as defined in Section
17 16-102 of the Public Utilities Act, a municipal utility as
18 defined in Section 3-105 of the Public Utilities Act, or a
19 rural electric cooperative as defined in Section 3-119 of
20 the Public Utilities Act; and

21 (3) located on the customer side of the customer's
22 electric meter and is generally used to offset that
23 customer's electricity load.

24 "Energy efficiency" means measures that reduce the amount
25 of electricity or natural gas required to achieve a given end
26 use.

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

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

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

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

14 "Municipality" means a city, village, or incorporated
15 town.

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

21 "Project" means the planning, bidding, and construction of
22 a facility.

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

25 "Real property" means any interest in land together with
26 all structures, fixtures, and improvements thereon, including

1 lands under water and riparian rights, any easements,
2 covenants, licenses, leases, rights-of-way, uses, and other
3 interests, together with any liens, judgments, mortgages, or
4 other claims or security interests related to real property.

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

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

23 "Revenue bond" means any bond, note, or other evidence of
24 indebtedness issued by the Authority, the principal and
25 interest of which is payable solely from revenues or income
26 derived from any project or activity of the Agency.

1 "Sequester" means permanent storage of carbon dioxide by
2 injecting it into a saline aquifer, a depleted gas reservoir,
3 or an oil reservoir, directly or through an enhanced oil
4 recovery process that may involve intermediate storage in a
5 salt dome.

6 "Servicing agreement" means (i) in the case of an electric
7 utility, an agreement between the owner of a clean coal
8 facility and such electric utility, which agreement shall have
9 terms and conditions meeting the requirements of paragraph (3)
10 of subsection (d) of Section 1-75, and (ii) in the case of an
11 alternative retail electric supplier, an agreement between the
12 owner of a clean coal facility and such alternative retail
13 electric supplier, which agreement shall have terms and
14 conditions meeting the requirements of Section 16-115(d) (5) of
15 the Public Utilities Act.

16 "Substitute natural gas" or "SNG" means a gas manufactured
17 by gasification of hydrocarbon feedstock, which is
18 substantially interchangeable in use and distribution with
19 conventional natural gas.

20 "Total resource cost test" or "TRC test" means a standard
21 that is met if, for an investment in energy efficiency or
22 demand-response measures, the benefit-cost ratio is greater
23 than one. The benefit-cost ratio is the ratio of the net
24 present value of the total benefits of the program to the net
25 present value of the total costs as calculated over the
26 lifetime of the measures. A total resource cost test compares

1 the sum of avoided electric utility costs, representing the
2 benefits that accrue to the system and the participant in the
3 delivery of those efficiency measures, as well as other
4 quantifiable societal benefits, including avoided natural gas
5 utility costs, to the sum of all incremental costs of end-use
6 measures that are implemented due to the program (including
7 both utility and participant contributions), plus costs to
8 administer, deliver, and evaluate each demand-side program, to
9 quantify the net savings obtained by substituting the
10 demand-side program for supply resources. In calculating
11 avoided costs of power and energy that an electric utility
12 would otherwise have had to acquire, reasonable estimates shall
13 be included of financial costs likely to be imposed by future
14 regulations and legislation on emissions of greenhouse gases.
15 (Source: P.A. 95-481, eff. 8-28-07; 95-913, eff. 1-1-09;
16 95-1027, eff. 6-1-09; 96-33, eff. 7-10-09; 96-159, eff.
17 8-10-09; 96-784, eff. 8-28-09; 96-1000, eff. 7-2-10.)

18 (20 ILCS 3855/1-56)

19 Sec. 1-56. Illinois Power Agency Renewable Energy
20 Resources Fund.

21 (a) The Illinois Power Agency Renewable Energy Resources
22 Fund is created as a special fund in the State treasury.

23 (b) The Illinois Power Agency Renewable Energy Resources
24 Fund shall be administered by the Agency to procure renewable
25 energy resources. Prior to June 1, 2011, resources procured

1 pursuant to this Section shall be procured from facilities
2 located in Illinois, provided the resources are available from
3 those facilities. If resources are not available in Illinois,
4 then they shall be procured in states that adjoin Illinois. If
5 resources are not available in Illinois or in states that
6 adjoin Illinois, then they may be purchased elsewhere.
7 Beginning June 1, 2011, resources procured pursuant to this
8 Section shall be procured from facilities located in Illinois
9 or states that adjoin Illinois. If resources are not available
10 in Illinois or in states that adjoin Illinois, then they may be
11 procured elsewhere. To the extent available, at least 75% of
12 these renewable energy resources shall come from wind
13 generation. Of the renewable energy resources procured
14 pursuant to this Section at least the following specified
15 percentages shall come from photovoltaics on the following
16 schedule: 0.5% by June 1, 2012; 1.5% by June 1, 2013; 3% by
17 June 1, 2014; and 6% by June 1, 2015 and thereafter. Of the
18 renewable energy resources procured pursuant to this Section at
19 least the following percentages shall come from distributed
20 renewable energy generation devices: 0.5% by June 1, 2013,
21 0.75% by June 1, 2014, and 1% by June 1, 2015 and thereafter.
22 Half of the renewable energy resources procured from
23 distributed renewable energy generation shall come from
24 devices of less than 25 kilowatts in nameplate capacity, and
25 half from distributed renewable energy generation devices of
26 greater than or equal to 25 kilowatts and less than or equal to

1 2,000 kilowatts in nameplate capacity. Renewable energy
2 resources procured from distributed generation devices may
3 also count towards the required percentages for wind and solar
4 photovoltaics. Procurement of renewable energy resources from
5 distributed renewable energy generation devices shall be done
6 on an annual basis through multi-year contracts of no less than
7 5 years.

8 (c) The Agency shall procure renewable energy resources at
9 least once each year in conjunction with a procurement event
10 for electric utilities required to comply with Section 1-75 of
11 the Act and shall, whenever possible, enter into long-term
12 contracts on an annual basis for a portion of the incremental
13 requirement for the given procurement year.

14 (d) The price paid to procure renewable energy credits
15 using monies from the Illinois Power Agency Renewable Energy
16 Resources Fund shall not exceed the winning bid prices paid for
17 like resources procured for electric utilities required to
18 comply with Section 1-75 of this Act.

19 (e) All renewable energy credits procured using monies from
20 the Illinois Power Agency Renewable Energy Resources Fund shall
21 be permanently retired.

22 (f) The procurement process described in this Section is
23 exempt from the requirements of the Illinois Procurement Code,
24 pursuant to Section 20-10 of that Code.

25 (g) All disbursements from the Illinois Power Agency
26 Renewable Energy Resources Fund shall be made only upon

1 warrants of the Comptroller drawn upon the Treasurer as
2 custodian of the Fund upon vouchers signed by the Director or
3 by the person or persons designated by the Director for that
4 purpose. The Comptroller is authorized to draw the warrant upon
5 vouchers so signed. The Treasurer shall accept all warrants so
6 signed and shall be released from liability for all payments
7 made on those warrants. If in any given year, funds as defined
8 in this Section are insufficient to cover the costs of
9 complying with the target procurement of renewable energy
10 resources in the proportionate amounts as defined in subsection
11 (b) of this Section, then the Agency shall first honor the
12 long-term contractual agreements for renewable energy
13 resources in order of seniority and shall then procure
14 additional renewable energy resources in proportion to the
15 percentages listed in subsection (b) of this Section until the
16 funds are exhausted. If funds are insufficient to meet all of
17 the previously executed long-term contractual agreements, then
18 the Agency shall honor the oldest contracts to meet percentages
19 listed in subsection (b) of this Section as closely as
20 possible.

21 (h) The Illinois Power Agency Renewable Energy Resources
22 Fund shall not be subject to sweeps, administrative charges, or
23 chargebacks, including, but not limited to, those authorized
24 under Section 8h of the State Finance Act, that would in any
25 way result in the transfer of any funds from this Fund to any
26 other fund of this State or in having any such funds utilized

1 for any purpose other than the express purposes set forth in
2 this Section.

3 (Source: P.A. 96-159, eff. 8-10-09; 96-1000, eff. 7-2-10;
4 96-1437, eff. 8-17-10.)

5 (20 ILCS 3855/1-75)

6 Sec. 1-75. Planning and Procurement Bureau. The Planning
7 and Procurement Bureau has the following duties and
8 responsibilities:

9 (a) The Planning and Procurement Bureau shall each
10 year, beginning in 2008, develop procurement plans and
11 conduct competitive procurement processes in accordance
12 with the requirements of Section 16-111.5 of the Public
13 Utilities Act for the eligible retail customers of electric
14 utilities that on December 31, 2005 provided electric
15 service to at least 100,000 customers in Illinois. For the
16 purposes of this Section, the term "eligible retail
17 customers" has the same definition as found in Section
18 16-111.5(a) of the Public Utilities Act.

19 (1) The Agency shall each year, beginning in 2008,
20 as needed, issue a request for qualifications for
21 experts or expert consulting firms to develop the
22 procurement plans in accordance with Section 16-111.5
23 of the Public Utilities Act. In order to qualify an
24 expert or expert consulting firm must have:

25 (A) direct previous experience assembling

1 large-scale power supply plans or portfolios for
2 end-use customers;

3 (B) an advanced degree in economics,
4 mathematics, engineering, risk management, or a
5 related area of study;

6 (C) 10 years of experience in the electricity
7 sector, including managing supply risk;

8 (D) expertise in wholesale electricity market
9 rules, including those established by the Federal
10 Energy Regulatory Commission and regional
11 transmission organizations;

12 (E) expertise in credit protocols and
13 familiarity with contract protocols;

14 (F) adequate resources to perform and fulfill
15 the required functions and responsibilities; and

16 (G) the absence of a conflict of interest and
17 inappropriate bias for or against potential
18 bidders or the affected electric utilities.

19 (2) The Agency shall each year, as needed, issue a
20 request for qualifications for a procurement
21 administrator to conduct the competitive procurement
22 processes in accordance with Section 16-111.5 of the
23 Public Utilities Act. In order to qualify an expert or
24 expert consulting firm must have:

25 (A) direct previous experience administering a
26 large-scale competitive procurement process;

1 (B) an advanced degree in economics,
2 mathematics, engineering, or a related area of
3 study;

4 (C) 10 years of experience in the electricity
5 sector, including risk management experience;

6 (D) expertise in wholesale electricity market
7 rules, including those established by the Federal
8 Energy Regulatory Commission and regional
9 transmission organizations;

10 (E) expertise in credit and contract
11 protocols;

12 (F) adequate resources to perform and fulfill
13 the required functions and responsibilities; and

14 (G) the absence of a conflict of interest and
15 inappropriate bias for or against potential
16 bidders or the affected electric utilities.

17 (3) The Agency shall provide affected utilities
18 and other interested parties with the lists of
19 qualified experts or expert consulting firms
20 identified through the request for qualifications
21 processes that are under consideration to develop the
22 procurement plans and to serve as the procurement
23 administrator. The Agency shall also provide each
24 qualified expert's or expert consulting firm's
25 response to the request for qualifications. All
26 information provided under this subparagraph shall

1 also be provided to the Commission. The Agency may
2 provide by rule for fees associated with supplying the
3 information to utilities and other interested parties.
4 These parties shall, within 5 business days, notify the
5 Agency in writing if they object to any experts or
6 expert consulting firms on the lists. Objections shall
7 be based on:

8 (A) failure to satisfy qualification criteria;

9 (B) identification of a conflict of interest;

10 or

11 (C) evidence of inappropriate bias for or
12 against potential bidders or the affected
13 utilities.

14 The Agency shall remove experts or expert
15 consulting firms from the lists within 10 days if there
16 is a reasonable basis for an objection and provide the
17 updated lists to the affected utilities and other
18 interested parties. If the Agency fails to remove an
19 expert or expert consulting firm from a list, an
20 objecting party may seek review by the Commission
21 within 5 days thereafter by filing a petition, and the
22 Commission shall render a ruling on the petition within
23 10 days. There is no right of appeal of the
24 Commission's ruling.

25 (4) The Agency shall issue requests for proposals
26 to the qualified experts or expert consulting firms to

1 develop a procurement plan for the affected utilities
2 and to serve as procurement administrator.

3 (5) The Agency shall select an expert or expert
4 consulting firm to develop procurement plans based on
5 the proposals submitted and shall award one-year
6 contracts to those selected with an option for the
7 Agency for a one-year renewal.

8 (6) The Agency shall select an expert or expert
9 consulting firm, with approval of the Commission, to
10 serve as procurement administrator based on the
11 proposals submitted. If the Commission rejects, within
12 5 days, the Agency's selection, the Agency shall submit
13 another recommendation within 3 days based on the
14 proposals submitted. The Agency shall award a one-year
15 contract to the expert or expert consulting firm so
16 selected with Commission approval with an option for
17 the Agency for a one-year renewal.

18 (b) The experts or expert consulting firms retained by
19 the Agency shall, as appropriate, prepare procurement
20 plans, and conduct a competitive procurement process as
21 prescribed in Section 16-111.5 of the Public Utilities Act,
22 to ensure adequate, reliable, affordable, efficient, and
23 environmentally sustainable electric service at the lowest
24 total cost over time, taking into account any benefits of
25 price stability, for eligible retail customers of electric
26 utilities that on December 31, 2005 provided electric

1 service to at least 100,000 customers in the State of
2 Illinois.

3 (c) Renewable portfolio standard.

4 (1) The procurement plans shall include
5 cost-effective renewable energy resources. A minimum
6 percentage of each utility's total supply to serve the
7 load of eligible retail customers, as defined in
8 Section 16-111.5(a) of the Public Utilities Act,
9 procured for each of the following years shall be
10 generated from cost-effective renewable energy
11 resources: at least 2% by June 1, 2008; at least 4% by
12 June 1, 2009; at least 5% by June 1, 2010; at least 6%
13 by June 1, 2011; at least 7% by June 1, 2012; at least
14 8% by June 1, 2013; at least 9% by June 1, 2014; at
15 least 10% by June 1, 2015; and increasing by at least
16 1.5% each year thereafter to at least 25% by June 1,
17 2025. To the extent that it is available, at least 75%
18 of the renewable energy resources used to meet these
19 standards shall come from wind generation and,
20 beginning on June 1, 2011, at least the following
21 percentages of the renewable energy resources used to
22 meet these standards shall come from photovoltaics on
23 the following schedule: 0.5% by June 1, 2012, 1.5% by
24 June 1, 2013; 3% by June 1, 2014; and 6% by June 1,
25 2015 and thereafter. Of the renewable energy resources
26 procured pursuant to this Section at least the

1 following percentages shall come from distributed
2 renewable energy generation devices: 0.5% by June 1,
3 2013, 0.75% by June 1, 2014, and 1% by June 1, 2015 and
4 thereafter. Half of the renewable energy resources
5 procured from distributed renewable energy generation
6 shall come from devices of less than 25 kilowatts in
7 nameplate capacity and the other half from distributed
8 renewable energy generation devices of greater than or
9 equal to 25 kilowatts and less than or equal to 2,000
10 kilowatts in nameplate capacity. Renewable energy
11 resources procured from distributed generation devices
12 may also count towards the required percentages for
13 wind and solar photovoltaics. Procurement of renewable
14 energy resources from distributed renewable energy
15 generation devices shall be done on an annual basis
16 through multi-year contracts of no less than 5 years.
17 For purposes of this subsection (c), "cost-effective"
18 means that the costs of procuring renewable energy
19 resources do not cause the limit stated in paragraph
20 (2) of this subsection (c) to be exceeded and do not
21 exceed benchmarks based on market prices for renewable
22 energy resources in the region, which shall be
23 developed by the procurement administrator, in
24 consultation with the Commission staff, Agency staff,
25 and the procurement monitor and shall be subject to
26 Commission review and approval. If the total of

1 renewable energy resources procured pursuant to the
2 procurement plan for any single year needs to be
3 reduced by an amount necessary to not surpass the
4 limits on annual estimated average net increase paid by
5 eligible retail customers as outlined in paragraph (2)
6 of this subsection (c), then the Agency shall first
7 honor long-term contractual agreements for renewable
8 energy resources in order of seniority and shall then
9 procure additional renewable energy resources in
10 proportion to the percentages listed in this paragraph
11 (1) until funds are exhausted. If funds are
12 insufficient to meet all of the previously executed
13 long-term contractual agreements, then the Agency
14 shall honor the oldest contracts to meet percentages
15 listed in this paragraph (1) as closely as possible.

16 (2) For purposes of this subsection (c), the
17 required procurement of cost-effective renewable
18 energy resources for a particular year shall be
19 measured as a percentage of the actual amount of
20 electricity (megawatt-hours) supplied by the electric
21 utility to eligible retail customers in the planning
22 year ending immediately prior to the procurement. For
23 purposes of this subsection (c), the amount paid per
24 kilowatthour means the total amount paid for electric
25 service expressed on a per kilowatthour basis. For
26 purposes of this subsection (c), the total amount paid

1 for electric service includes without limitation
2 amounts paid for supply, transmission, distribution,
3 surcharges, and add-on taxes.

4 Notwithstanding the requirements of this
5 subsection (c), the total of renewable energy
6 resources procured pursuant to the procurement plan
7 for any single year shall be reduced by an amount
8 necessary to limit the annual estimated average net
9 increase due to the costs of these resources included
10 in the amounts paid by eligible retail customers in
11 connection with electric service to:

12 (A) in 2008, no more than 0.5% of the amount
13 paid per kilowatthour by those customers during
14 the year ending May 31, 2007;

15 (B) in 2009, the greater of an additional 0.5%
16 of the amount paid per kilowatthour by those
17 customers during the year ending May 31, 2008 or 1%
18 of the amount paid per kilowatthour by those
19 customers during the year ending May 31, 2007;

20 (C) in 2010, the greater of an additional 0.5%
21 of the amount paid per kilowatthour by those
22 customers during the year ending May 31, 2009 or
23 1.5% of the amount paid per kilowatthour by those
24 customers during the year ending May 31, 2007;

25 (D) in 2011, the greater of an additional 0.5%
26 of the amount paid per kilowatthour by those

1 customers during the year ending May 31, 2010 or 2%
2 of the amount paid per kilowatthour by those
3 customers during the year ending May 31, 2007; and

4 (E) thereafter, the amount of renewable energy
5 resources procured pursuant to the procurement
6 plan for any single year shall be reduced by an
7 amount necessary to limit the estimated average
8 net increase due to the cost of these resources
9 included in the amounts paid by eligible retail
10 customers in connection with electric service to
11 no more than the greater of 2.015% of the amount
12 paid per kilowatthour by those customers during
13 the year ending May 31, 2007 or the incremental
14 amount per kilowatthour paid for these resources
15 in 2011.

16 No later than June 30, 2011, the Commission shall
17 review the limitation on the amount of renewable energy
18 resources procured pursuant to this subsection (c) and
19 report to the General Assembly its findings as to
20 whether that limitation unduly constrains the
21 procurement of cost-effective renewable energy
22 resources.

23 (3) Through June 1, 2011, renewable energy
24 resources shall be counted for the purpose of meeting
25 the renewable energy standards set forth in paragraph
26 (1) of this subsection (c) only if they are generated

1 from facilities located in the State, provided that
2 cost-effective renewable energy resources are
3 available from those facilities. If those
4 cost-effective resources are not available in
5 Illinois, they shall be procured in states that adjoin
6 Illinois and may be counted towards compliance. If
7 those cost-effective resources are not available in
8 Illinois or in states that adjoin Illinois, they shall
9 be purchased elsewhere and shall be counted towards
10 compliance. After June 1, 2011, cost-effective
11 renewable energy resources located in Illinois and in
12 states that adjoin Illinois may be counted towards
13 compliance with the standards set forth in paragraph
14 (1) of this subsection (c). If those cost-effective
15 resources are not available in Illinois or in states
16 that adjoin Illinois, they shall be purchased
17 elsewhere and shall be counted towards compliance.

18 (4) The electric utility shall retire all
19 renewable energy credits used to comply with the
20 standard.

21 (5) Beginning with the year commencing June 1,
22 2010, an electric utility subject to this subsection
23 (c) shall apply the lesser of the maximum alternative
24 compliance payment rate or the most recent estimated
25 alternative compliance payment rate for its service
26 territory for the corresponding compliance period,

1 established pursuant to subsection (d) of Section
2 16-115D of the Public Utilities Act to its retail
3 customers that take service pursuant to the electric
4 utility's hourly pricing tariff or tariffs. The
5 electric utility shall retain all amounts collected as
6 a result of the application of the alternative
7 compliance payment rate or rates to such customers,
8 and, beginning in 2011, the utility shall include in
9 the information provided under item (1) of subsection
10 (d) of Section 16-111.5 of the Public Utilities Act the
11 amounts collected under the alternative compliance
12 payment rate or rates for the prior year ending May 31.
13 Notwithstanding any limitation on the procurement of
14 renewable energy resources imposed by item (2) of this
15 subsection (c), the Agency shall increase its spending
16 on the purchase of renewable energy resources to be
17 procured by the electric utility for the next plan year
18 by an amount equal to the amounts collected by the
19 utility under the alternative compliance payment rate
20 or rates in the prior year ending May 31.

21 (d) Clean coal portfolio standard.

22 (1) The procurement plans shall include electricity
23 generated using clean coal. Each utility shall enter into
24 one or more sourcing agreements with the initial clean coal
25 facility, as provided in paragraph (3) of this subsection
26 (d), covering electricity generated by the initial clean

1 coal facility representing at least 5% of each utility's
2 total supply to serve the load of eligible retail customers
3 in 2015 and each year thereafter, as described in paragraph
4 (3) of this subsection (d), subject to the limits specified
5 in paragraph (2) of this subsection (d). It is the goal of
6 the State that by January 1, 2025, 25% of the electricity
7 used in the State shall be generated by cost-effective
8 clean coal facilities. For purposes of this subsection (d),
9 "cost-effective" means that the expenditures pursuant to
10 such sourcing agreements do not cause the limit stated in
11 paragraph (2) of this subsection (d) to be exceeded and do
12 not exceed cost-based benchmarks, which shall be developed
13 to assess all expenditures pursuant to such sourcing
14 agreements covering electricity generated by clean coal
15 facilities, other than the initial clean coal facility, by
16 the procurement administrator, in consultation with the
17 Commission staff, Agency staff, and the procurement
18 monitor and shall be subject to Commission review and
19 approval.

20 (A) A utility party to a sourcing agreement shall
21 immediately retire any emission credits that it
22 receives in connection with the electricity covered by
23 such agreement.

24 (B) Utilities shall maintain adequate records
25 documenting the purchases under the sourcing agreement
26 to comply with this subsection (d) and shall file an

1 accounting with the load forecast that must be filed
2 with the Agency by July 15 of each year, in accordance
3 with subsection (d) of Section 16-111.5 of the Public
4 Utilities Act.

5 (C) A utility shall be deemed to have complied with
6 the clean coal portfolio standard specified in this
7 subsection (d) if the utility enters into a sourcing
8 agreement as required by this subsection (d).

9 (2) For purposes of this subsection (d), the required
10 execution of sourcing agreements with the initial clean
11 coal facility for a particular year shall be measured as a
12 percentage of the actual amount of electricity
13 (megawatt-hours) supplied by the electric utility to
14 eligible retail customers in the planning year ending
15 immediately prior to the agreement's execution. For
16 purposes of this subsection (d), the amount paid per
17 kilowatthour means the total amount paid for electric
18 service expressed on a per kilowatthour basis. For purposes
19 of this subsection (d), the total amount paid for electric
20 service includes without limitation amounts paid for
21 supply, transmission, distribution, surcharges and add-on
22 taxes.

23 Notwithstanding the requirements of this subsection
24 (d), the total amount paid under sourcing agreements with
25 clean coal facilities pursuant to the procurement plan for
26 any given year shall be reduced by an amount necessary to

1 limit the annual estimated average net increase due to the
2 costs of these resources included in the amounts paid by
3 eligible retail customers in connection with electric
4 service to:

5 (A) in 2010, no more than 0.5% of the amount
6 paid per kilowatthour by those customers during
7 the year ending May 31, 2009;

8 (B) in 2011, the greater of an additional 0.5%
9 of the amount paid per kilowatthour by those
10 customers during the year ending May 31, 2010 or 1%
11 of the amount paid per kilowatthour by those
12 customers during the year ending May 31, 2009;

13 (C) in 2012, the greater of an additional 0.5%
14 of the amount paid per kilowatthour by those
15 customers during the year ending May 31, 2011 or
16 1.5% of the amount paid per kilowatthour by those
17 customers during the year ending May 31, 2009;

18 (D) in 2013, the greater of an additional 0.5%
19 of the amount paid per kilowatthour by those
20 customers during the year ending May 31, 2012 or 2%
21 of the amount paid per kilowatthour by those
22 customers during the year ending May 31, 2009; and

23 (E) thereafter, the total amount paid under
24 sourcing agreements with clean coal facilities
25 pursuant to the procurement plan for any single
26 year shall be reduced by an amount necessary to

1 limit the estimated average net increase due to the
2 cost of these resources included in the amounts
3 paid by eligible retail customers in connection
4 with electric service to no more than the greater
5 of (i) 2.015% of the amount paid per kilowatthour
6 by those customers during the year ending May 31,
7 2009 or (ii) the incremental amount per
8 kilowatthour paid for these resources in 2013.
9 These requirements may be altered only as provided
10 by statute. No later than June 30, 2015, the
11 Commission shall review the limitation on the
12 total amount paid under sourcing agreements, if
13 any, with clean coal facilities pursuant to this
14 subsection (d) and report to the General Assembly
15 its findings as to whether that limitation unduly
16 constrains the amount of electricity generated by
17 cost-effective clean coal facilities that is
18 covered by sourcing agreements.

19 (3) Initial clean coal facility. In order to promote
20 development of clean coal facilities in Illinois, each
21 electric utility subject to this Section shall execute a
22 sourcing agreement to source electricity from a proposed
23 clean coal facility in Illinois (the "initial clean coal
24 facility") that will have a nameplate capacity of at least
25 500 MW when commercial operation commences, that has a
26 final Clean Air Act permit on the effective date of this

1 amendatory Act of the 95th General Assembly, and that will
2 meet the definition of clean coal facility in Section 1-10
3 of this Act when commercial operation commences. The
4 sourcing agreements with this initial clean coal facility
5 shall be subject to both approval of the initial clean coal
6 facility by the General Assembly and satisfaction of the
7 requirements of paragraph (4) of this subsection (d) and
8 shall be executed within 90 days after any such approval by
9 the General Assembly. The Agency and the Commission shall
10 have authority to inspect all books and records associated
11 with the initial clean coal facility during the term of
12 such a sourcing agreement. A utility's sourcing agreement
13 for electricity produced by the initial clean coal facility
14 shall include:

15 (A) a formula contractual price (the "contract
16 price") approved pursuant to paragraph (4) of this
17 subsection (d), which shall:

18 (i) be determined using a cost of service
19 methodology employing either a level or deferred
20 capital recovery component, based on a capital
21 structure consisting of 45% equity and 55% debt,
22 and a return on equity as may be approved by the
23 Federal Energy Regulatory Commission, which in any
24 case may not exceed the lower of 11.5% or the rate
25 of return approved by the General Assembly
26 pursuant to paragraph (4) of this subsection (d);

1 and

2 (ii) provide that all miscellaneous net
3 revenue, including but not limited to net revenue
4 from the sale of emission allowances, if any,
5 substitute natural gas, if any, grants or other
6 support provided by the State of Illinois or the
7 United States Government, firm transmission
8 rights, if any, by-products produced by the
9 facility, energy or capacity derived from the
10 facility and not covered by a sourcing agreement
11 pursuant to paragraph (3) of this subsection (d) or
12 item (5) of subsection (d) of Section 16-115 of the
13 Public Utilities Act, whether generated from the
14 synthesis gas derived from coal, from SNG, or from
15 natural gas, shall be credited against the revenue
16 requirement for this initial clean coal facility;

17 (B) power purchase provisions, which shall:

18 (i) provide that the utility party to such
19 sourcing agreement shall pay the contract price
20 for electricity delivered under such sourcing
21 agreement;

22 (ii) require delivery of electricity to the
23 regional transmission organization market of the
24 utility that is party to such sourcing agreement;

25 (iii) require the utility party to such
26 sourcing agreement to buy from the initial clean

1 coal facility in each hour an amount of energy
2 equal to all clean coal energy made available from
3 the initial clean coal facility during such hour
4 times a fraction, the numerator of which is such
5 utility's retail market sales of electricity
6 (expressed in kilowatthours sold) in the State
7 during the prior calendar month and the
8 denominator of which is the total retail market
9 sales of electricity (expressed in kilowatthours
10 sold) in the State by utilities during such prior
11 month and the sales of electricity (expressed in
12 kilowatthours sold) in the State by alternative
13 retail electric suppliers during such prior month
14 that are subject to the requirements of this
15 subsection (d) and paragraph (5) of subsection (d)
16 of Section 16-115 of the Public Utilities Act,
17 provided that the amount purchased by the utility
18 in any year will be limited by paragraph (2) of
19 this subsection (d); and

20 (iv) be considered pre-existing contracts in
21 such utility's procurement plans for eligible
22 retail customers;

23 (C) contract for differences provisions, which
24 shall:

25 (i) require the utility party to such sourcing
26 agreement to contract with the initial clean coal

1 facility in each hour with respect to an amount of
2 energy equal to all clean coal energy made
3 available from the initial clean coal facility
4 during such hour times a fraction, the numerator of
5 which is such utility's retail market sales of
6 electricity (expressed in kilowatthours sold) in
7 the utility's service territory in the State
8 during the prior calendar month and the
9 denominator of which is the total retail market
10 sales of electricity (expressed in kilowatthours
11 sold) in the State by utilities during such prior
12 month and the sales of electricity (expressed in
13 kilowatthours sold) in the State by alternative
14 retail electric suppliers during such prior month
15 that are subject to the requirements of this
16 subsection (d) and paragraph (5) of subsection (d)
17 of Section 16-115 of the Public Utilities Act,
18 provided that the amount paid by the utility in any
19 year will be limited by paragraph (2) of this
20 subsection (d);

21 (ii) provide that the utility's payment
22 obligation in respect of the quantity of
23 electricity determined pursuant to the preceding
24 clause (i) shall be limited to an amount equal to
25 (1) the difference between the contract price
26 determined pursuant to subparagraph (A) of

1 paragraph (3) of this subsection (d) and the
2 day-ahead price for electricity delivered to the
3 regional transmission organization market of the
4 utility that is party to such sourcing agreement
5 (or any successor delivery point at which such
6 utility's supply obligations are financially
7 settled on an hourly basis) (the "reference
8 price") on the day preceding the day on which the
9 electricity is delivered to the initial clean coal
10 facility busbar, multiplied by (2) the quantity of
11 electricity determined pursuant to the preceding
12 clause (i); and

13 (iii) not require the utility to take physical
14 delivery of the electricity produced by the
15 facility;

16 (D) general provisions, which shall:

17 (i) specify a term of no more than 30 years,
18 commencing on the commercial operation date of the
19 facility;

20 (ii) provide that utilities shall maintain
21 adequate records documenting purchases under the
22 sourcing agreements entered into to comply with
23 this subsection (d) and shall file an accounting
24 with the load forecast that must be filed with the
25 Agency by July 15 of each year, in accordance with
26 subsection (d) of Section 16-111.5 of the Public

1 Utilities Act.

2 (iii) provide that all costs associated with
3 the initial clean coal facility will be
4 periodically reported to the Federal Energy
5 Regulatory Commission and to purchasers in
6 accordance with applicable laws governing
7 cost-based wholesale power contracts;

8 (iv) permit the Illinois Power Agency to
9 assume ownership of the initial clean coal
10 facility, without monetary consideration and
11 otherwise on reasonable terms acceptable to the
12 Agency, if the Agency so requests no less than 3
13 years prior to the end of the stated contract term;

14 (v) require the owner of the initial clean coal
15 facility to provide documentation to the
16 Commission each year, starting in the facility's
17 first year of commercial operation, accurately
18 reporting the quantity of carbon emissions from
19 the facility that have been captured and
20 sequestered and report any quantities of carbon
21 released from the site or sites at which carbon
22 emissions were sequestered in prior years, based
23 on continuous monitoring of such sites. If, in any
24 year after the first year of commercial operation,
25 the owner of the facility fails to demonstrate that
26 the initial clean coal facility captured and

1 sequestered at least 50% of the total carbon
2 emissions that the facility would otherwise emit
3 or that sequestration of emissions from prior
4 years has failed, resulting in the release of
5 carbon dioxide into the atmosphere, the owner of
6 the facility must offset excess emissions. Any
7 such carbon offsets must be permanent, additional,
8 verifiable, real, located within the State of
9 Illinois, and legally and practicably enforceable.
10 The cost of such offsets for the facility that are
11 not recoverable shall not exceed \$15 million in any
12 given year. No costs of any such purchases of
13 carbon offsets may be recovered from a utility or
14 its customers. All carbon offsets purchased for
15 this purpose and any carbon emission credits
16 associated with sequestration of carbon from the
17 facility must be permanently retired. The initial
18 clean coal facility shall not forfeit its
19 designation as a clean coal facility if the
20 facility fails to fully comply with the applicable
21 carbon sequestration requirements in any given
22 year, provided the requisite offsets are
23 purchased. However, the Attorney General, on
24 behalf of the People of the State of Illinois, may
25 specifically enforce the facility's sequestration
26 requirement and the other terms of this contract

1 provision. Compliance with the sequestration
2 requirements and offset purchase requirements
3 specified in paragraph (3) of this subsection (d)
4 shall be reviewed annually by an independent
5 expert retained by the owner of the initial clean
6 coal facility, with the advance written approval
7 of the Attorney General. The Commission may, in the
8 course of the review specified in item (vii),
9 reduce the allowable return on equity for the
10 facility if the facility wilfully fails to comply
11 with the carbon capture and sequestration
12 requirements set forth in this item (v);

13 (vi) include limits on, and accordingly
14 provide for modification of, the amount the
15 utility is required to source under the sourcing
16 agreement consistent with paragraph (2) of this
17 subsection (d);

18 (vii) require Commission review: (1) to
19 determine the justness, reasonableness, and
20 prudence of the inputs to the formula referenced in
21 subparagraphs (A) (i) through (A) (iii) of paragraph
22 (3) of this subsection (d), prior to an adjustment
23 in those inputs including, without limitation, the
24 capital structure and return on equity, fuel
25 costs, and other operations and maintenance costs
26 and (2) to approve the costs to be passed through

1 to customers under the sourcing agreement by which
2 the utility satisfies its statutory obligations.
3 Commission review shall occur no less than every 3
4 years, regardless of whether any adjustments have
5 been proposed, and shall be completed within 9
6 months;

7 (viii) limit the utility's obligation to such
8 amount as the utility is allowed to recover through
9 tariffs filed with the Commission, provided that
10 neither the clean coal facility nor the utility
11 waives any right to assert federal pre-emption or
12 any other argument in response to a purported
13 disallowance of recovery costs;

14 (ix) limit the utility's or alternative retail
15 electric supplier's obligation to incur any
16 liability until such time as the facility is in
17 commercial operation and generating power and
18 energy and such power and energy is being delivered
19 to the facility busbar;

20 (x) provide that the owner or owners of the
21 initial clean coal facility, which is the
22 counterparty to such sourcing agreement, shall
23 have the right from time to time to elect whether
24 the obligations of the utility party thereto shall
25 be governed by the power purchase provisions or the
26 contract for differences provisions;

1 (xi) append documentation showing that the
2 formula rate and contract, insofar as they relate
3 to the power purchase provisions, have been
4 approved by the Federal Energy Regulatory
5 Commission pursuant to Section 205 of the Federal
6 Power Act;

7 (xii) provide that any changes to the terms of
8 the contract, insofar as such changes relate to the
9 power purchase provisions, are subject to review
10 under the public interest standard applied by the
11 Federal Energy Regulatory Commission pursuant to
12 Sections 205 and 206 of the Federal Power Act; and

13 (xiii) conform with customary lender
14 requirements in power purchase agreements used as
15 the basis for financing non-utility generators.

16 (4) Effective date of sourcing agreements with the
17 initial clean coal facility. Any proposed sourcing
18 agreement with the initial clean coal facility shall not
19 become effective unless the following reports are prepared
20 and submitted and authorizations and approvals obtained:

21 (i) Facility cost report. The owner of the
22 initial clean coal facility shall submit to the
23 Commission, the Agency, and the General Assembly a
24 front-end engineering and design study, a facility
25 cost report, method of financing (including but
26 not limited to structure and associated costs),

1 and an operating and maintenance cost quote for the
2 facility (collectively "facility cost report"),
3 which shall be prepared in accordance with the
4 requirements of this paragraph (4) of subsection
5 (d) of this Section, and shall provide the
6 Commission and the Agency access to the work
7 papers, relied upon documents, and any other
8 backup documentation related to the facility cost
9 report.

10 (ii) Commission report. Within 6 months
11 following receipt of the facility cost report, the
12 Commission, in consultation with the Agency, shall
13 submit a report to the General Assembly setting
14 forth its analysis of the facility cost report.
15 Such report shall include, but not be limited to, a
16 comparison of the costs associated with
17 electricity generated by the initial clean coal
18 facility to the costs associated with electricity
19 generated by other types of generation facilities,
20 an analysis of the rate impacts on residential and
21 small business customers over the life of the
22 sourcing agreements, and an analysis of the
23 likelihood that the initial clean coal facility
24 will commence commercial operation by and be
25 delivering power to the facility's busbar by 2016.
26 To assist in the preparation of its report, the

1 Commission, in consultation with the Agency, may
2 hire one or more experts or consultants, the costs
3 of which shall be paid for by the owner of the
4 initial clean coal facility. The Commission and
5 Agency may begin the process of selecting such
6 experts or consultants prior to receipt of the
7 facility cost report.

8 (iii) General Assembly approval. The proposed
9 sourcing agreements shall not take effect unless,
10 based on the facility cost report and the
11 Commission's report, the General Assembly enacts
12 authorizing legislation approving (A) the
13 projected price, stated in cents per kilowatthour,
14 to be charged for electricity generated by the
15 initial clean coal facility, (B) the projected
16 impact on residential and small business
17 customers' bills over the life of the sourcing
18 agreements, and (C) the maximum allowable return
19 on equity for the project; and

20 (iv) Commission review. If the General
21 Assembly enacts authorizing legislation pursuant
22 to subparagraph (iii) approving a sourcing
23 agreement, the Commission shall, within 90 days of
24 such enactment, complete a review of such sourcing
25 agreement. During such time period, the Commission
26 shall implement any directive of the General

1 Assembly, resolve any disputes between the parties
2 to the sourcing agreement concerning the terms of
3 such agreement, approve the form of such
4 agreement, and issue an order finding that the
5 sourcing agreement is prudent and reasonable.

6 The facility cost report shall be prepared as follows:

7 (A) The facility cost report shall be prepared by
8 duly licensed engineering and construction firms
9 detailing the estimated capital costs payable to one or
10 more contractors or suppliers for the engineering,
11 procurement and construction of the components
12 comprising the initial clean coal facility and the
13 estimated costs of operation and maintenance of the
14 facility. The facility cost report shall include:

15 (i) an estimate of the capital cost of the core
16 plant based on one or more front end engineering
17 and design studies for the gasification island and
18 related facilities. The core plant shall include
19 all civil, structural, mechanical, electrical,
20 control, and safety systems.

21 (ii) an estimate of the capital cost of the
22 balance of the plant, including any capital costs
23 associated with sequestration of carbon dioxide
24 emissions and all interconnects and interfaces
25 required to operate the facility, such as
26 transmission of electricity, construction or

1 backfeed power supply, pipelines to transport
2 substitute natural gas or carbon dioxide, potable
3 water supply, natural gas supply, water supply,
4 water discharge, landfill, access roads, and coal
5 delivery.

6 The quoted construction costs shall be expressed
7 in nominal dollars as of the date that the quote is
8 prepared and shall include (1) capitalized financing
9 costs during construction, (2) taxes, insurance, and
10 other owner's costs, and (3) an assumed escalation in
11 materials and labor beyond the date as of which the
12 construction cost quote is expressed.

13 (B) The front end engineering and design study for
14 the gasification island and the cost study for the
15 balance of plant shall include sufficient design work
16 to permit quantification of major categories of
17 materials, commodities and labor hours, and receipt of
18 quotes from vendors of major equipment required to
19 construct and operate the clean coal facility.

20 (C) The facility cost report shall also include an
21 operating and maintenance cost quote that will provide
22 the estimated cost of delivered fuel, personnel,
23 maintenance contracts, chemicals, catalysts,
24 consumables, spares, and other fixed and variable
25 operations and maintenance costs.

26 (a) The delivered fuel cost estimate will be

1 provided by a recognized third party expert or
2 experts in the fuel and transportation industries.

3 (b) The balance of the operating and
4 maintenance cost quote, excluding delivered fuel
5 costs will be developed based on the inputs
6 provided by duly licensed engineering and
7 construction firms performing the construction
8 cost quote, potential vendors under long-term
9 service agreements and plant operating agreements,
10 or recognized third party plant operator or
11 operators.

12 The operating and maintenance cost quote
13 (including the cost of the front end engineering
14 and design study) shall be expressed in nominal
15 dollars as of the date that the quote is prepared
16 and shall include (1) taxes, insurance, and other
17 owner's costs, and (2) an assumed escalation in
18 materials and labor beyond the date as of which the
19 operating and maintenance cost quote is expressed.

20 (D) The facility cost report shall also include (i)
21 an analysis of the initial clean coal facility's
22 ability to deliver power and energy into the applicable
23 regional transmission organization markets and (ii) an
24 analysis of the expected capacity factor for the
25 initial clean coal facility.

26 (E) Amounts paid to third parties unrelated to the

1 owner or owners of the initial clean coal facility to
2 prepare the core plant construction cost quote,
3 including the front end engineering and design study,
4 and the operating and maintenance cost quote will be
5 reimbursed through Coal Development Bonds.

6 (5) Re-powering and retrofitting coal-fired power
7 plants previously owned by Illinois utilities to qualify as
8 clean coal facilities. During the 2009 procurement
9 planning process and thereafter, the Agency and the
10 Commission shall consider sourcing agreements covering
11 electricity generated by power plants that were previously
12 owned by Illinois utilities and that have been or will be
13 converted into clean coal facilities, as defined by Section
14 1-10 of this Act. Pursuant to such procurement planning
15 process, the owners of such facilities may propose to the
16 Agency sourcing agreements with utilities and alternative
17 retail electric suppliers required to comply with
18 subsection (d) of this Section and item (5) of subsection
19 (d) of Section 16-115 of the Public Utilities Act, covering
20 electricity generated by such facilities. In the case of
21 sourcing agreements that are power purchase agreements,
22 the contract price for electricity sales shall be
23 established on a cost of service basis. In the case of
24 sourcing agreements that are contracts for differences,
25 the contract price from which the reference price is
26 subtracted shall be established on a cost of service basis.

1 The Agency and the Commission may approve any such utility
2 sourcing agreements that do not exceed cost-based
3 benchmarks developed by the procurement administrator, in
4 consultation with the Commission staff, Agency staff and
5 the procurement monitor, subject to Commission review and
6 approval. The Commission shall have authority to inspect
7 all books and records associated with these clean coal
8 facilities during the term of any such contract.

9 (6) Costs incurred under this subsection (d) or
10 pursuant to a contract entered into under this subsection
11 (d) shall be deemed prudently incurred and reasonable in
12 amount and the electric utility shall be entitled to full
13 cost recovery pursuant to the tariffs filed with the
14 Commission.

15 (e) The draft procurement plans are subject to public
16 comment, as required by Section 16-111.5 of the Public
17 Utilities Act.

18 (f) The Agency shall submit the final procurement plan
19 to the Commission. The Agency shall revise a procurement
20 plan if the Commission determines that it does not meet the
21 standards set forth in Section 16-111.5 of the Public
22 Utilities Act.

23 (g) The Agency shall assess fees to each affected
24 utility to recover the costs incurred in preparation of the
25 annual procurement plan for the utility.

26 (h) The Agency shall assess fees to each bidder to

1 recover the costs incurred in connection with a competitive
2 procurement process.

3 (Source: P.A. 95-481, eff. 8-28-07; 95-1027, eff. 6-1-09;
4 96-159, eff. 8-10-09; 96-1437, eff. 8-17-10.)