



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB4236

by Rep. Reginald Phillips

#### SYNOPSIS AS INTRODUCED:

20 ILCS 3855/1-75

Amends the Illinois Power Agency Act. Provides that the Illinois Power Agency and Illinois Commerce Commission shall include sourcing agreements covering power produced by clean coal and other facilities in each annual power procurement plan. Provides that utilities and alternative retail electric suppliers shall enter into sourcing agreements as part of the annual power procurement process. Provides that the Agency and Commission shall establish competitive bidding procedures for sourcing terms. Sets the requirements of the sourcing agreements. Effective June 1, 2018.

LRB100 15343 RJF 30309 b

1 AN ACT concerning regulation.

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 Section 1-75 as follows:

6 (20 ILCS 3855/1-75)

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

10 (a) The Planning and Procurement Bureau shall each year,  
11 beginning in 2008, develop procurement plans and conduct  
12 competitive procurement processes in accordance with the  
13 requirements of Section 16-111.5 of the Public Utilities Act  
14 for the eligible retail customers of electric utilities that on  
15 December 31, 2005 provided electric service to at least 100,000  
16 customers in Illinois. Beginning with the delivery year  
17 commencing on June 1, 2017, the Planning and Procurement Bureau  
18 shall develop plans and processes for the procurement of zero  
19 emission credits from zero emission facilities in accordance  
20 with the requirements of subsection (d-5) of this Section. The  
21 Planning and Procurement Bureau shall also develop procurement  
22 plans and conduct competitive procurement processes in  
23 accordance with the requirements of Section 16-111.5 of the

1 Public Utilities Act for the eligible retail customers of small  
2 multi-jurisdictional electric utilities that (i) on December  
3 31, 2005 served less than 100,000 customers in Illinois and  
4 (ii) request a procurement plan for their Illinois  
5 jurisdictional load. This Section shall not apply to a small  
6 multi-jurisdictional utility until such time as a small  
7 multi-jurisdictional utility requests the Agency to prepare a  
8 procurement plan for their Illinois jurisdictional load. For  
9 the purposes of this Section, the term "eligible retail  
10 customers" has the same definition as found in Section  
11 16-111.5(a) of the Public Utilities Act.

12 Beginning with the plan or plans to be implemented in the  
13 2017 delivery year, the Agency shall no longer include the  
14 procurement of renewable energy resources in the annual  
15 procurement plans required by this subsection (a), except as  
16 provided in subsection (q) of Section 16-111.5 of the Public  
17 Utilities Act, and shall instead develop a long-term renewable  
18 resources procurement plan in accordance with subsection (c) of  
19 this Section and Section 16-111.5 of the Public Utilities Act.

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

26 (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, mathematics,  
4 engineering, risk management, or a related area of  
5 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 transmission  
11 organizations;

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

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

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

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

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

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

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

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

9 (E) expertise in credit and contract protocols;

10 (F) adequate resources to perform and fulfill the  
11 required functions and responsibilities; and

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

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

1 shall, within 5 business days, notify the Agency in writing  
2 if they object to any experts or expert consulting firms on  
3 the lists. Objections shall be based on:

4 (A) failure to satisfy qualification criteria;

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

6 (C) evidence of inappropriate bias for or against  
7 potential bidders or the affected utilities.

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

18 (4) The Agency shall issue requests for proposals to  
19 the qualified experts or expert consulting firms to develop  
20 a procurement plan for the affected utilities and to serve  
21 as procurement administrator.

22 (5) The Agency shall select an expert or expert  
23 consulting firm to develop procurement plans based on the  
24 proposals submitted and shall award contracts of up to 5  
25 years to those selected.

26 (6) The Agency shall select an expert or expert

1 consulting firm, with approval of the Commission, to serve  
2 as procurement administrator based on the proposals  
3 submitted. If the Commission rejects, within 5 days, the  
4 Agency's selection, the Agency shall submit another  
5 recommendation within 3 days based on the proposals  
6 submitted. The Agency shall award a 5-year contract to the  
7 expert or expert consulting firm so selected with  
8 Commission approval.

9 (b) The experts or expert consulting firms retained by the  
10 Agency shall, as appropriate, prepare procurement plans, and  
11 conduct a competitive procurement process as prescribed in  
12 Section 16-111.5 of the Public Utilities Act, to ensure  
13 adequate, reliable, affordable, efficient, and environmentally  
14 sustainable electric service at the lowest total cost over  
15 time, taking into account any benefits of price stability, for  
16 eligible retail customers of electric utilities that on  
17 December 31, 2005 provided electric service to at least 100,000  
18 customers in the State of Illinois, and for eligible Illinois  
19 retail customers of small multi-jurisdictional electric  
20 utilities that (i) on December 31, 2005 served less than  
21 100,000 customers in Illinois and (ii) request a procurement  
22 plan for their Illinois jurisdictional load.

23 (c) Renewable portfolio standard.

24 (1) (A) The Agency shall develop a long-term renewable  
25 resources procurement plan that shall include procurement  
26 programs and competitive procurement events necessary to

1 meet the goals set forth in this subsection (c). The  
2 initial long-term renewable resources procurement plan  
3 shall be released for comment no later than 160 days after  
4 June 1, 2017 (the effective date of Public Act 99-906) ~~this~~  
5 ~~amendatory Act of the 99th General Assembly~~. The Agency  
6 shall review, and may revise on an expedited basis, the  
7 long-term renewable resources procurement plan at least  
8 every 2 years, which shall be conducted in conjunction with  
9 the procurement plan under Section 16-111.5 of the Public  
10 Utilities Act to the extent practicable to minimize  
11 administrative expense. The long-term renewable resources  
12 procurement plans shall be subject to review and approval  
13 by the Commission under Section 16-111.5 of the Public  
14 Utilities Act.

15 (B) Subject to subparagraph (F) of this paragraph (1),  
16 the long-term renewable resources procurement plan shall  
17 include the goals for procurement of renewable energy  
18 credits to meet at least the following overall percentages:  
19 13% by the 2017 delivery year; increasing by at least 1.5%  
20 each delivery year thereafter to at least 25% by the 2025  
21 delivery year; and continuing at no less than 25% for each  
22 delivery year thereafter. In the event of a conflict  
23 between these goals and the new wind and new photovoltaic  
24 procurement requirements described in items (i) through  
25 (iii) of subparagraph (C) of this paragraph (1), the  
26 long-term plan shall prioritize compliance with the new



1 wind and new photovoltaic procurement requirements  
2 described in items (i) through (iii) of subparagraph (C) of  
3 this paragraph (1) over the annual percentage targets  
4 described in this subparagraph (B).

5 For the delivery year beginning June 1, 2017, the  
6 procurement plan shall include cost-effective renewable  
7 energy resources equal to at least 13% of each utility's  
8 load for eligible retail customers and 13% of the  
9 applicable portion of each utility's load for retail  
10 customers who are not eligible retail customers, which  
11 applicable portion shall equal 50% of the utility's load  
12 for retail customers who are not eligible retail customers  
13 on February 28, 2017.

14 For the delivery year beginning June 1, 2018, the  
15 procurement plan shall include cost-effective renewable  
16 energy resources equal to at least 14.5% of each utility's  
17 load for eligible retail customers and 14.5% of the  
18 applicable portion of each utility's load for retail  
19 customers who are not eligible retail customers, which  
20 applicable portion shall equal 75% of the utility's load  
21 for retail customers who are not eligible retail customers  
22 on February 28, 2017.

23 For the delivery year beginning June 1, 2019, and for  
24 each year thereafter, the procurement plans shall include  
25 cost-effective renewable energy resources equal to a  
26 minimum percentage of each utility's load for all retail

1 customers as follows: 16% by June 1, 2019; increasing by  
2 1.5% each year thereafter to 25% by June 1, 2025; and 25%  
3 by June 1, 2026 and each year thereafter.

4 For each delivery year, the Agency shall first  
5 recognize each utility's obligations for that delivery  
6 year under existing contracts. Any renewable energy  
7 credits under existing contracts, including renewable  
8 energy credits as part of renewable energy resources, shall  
9 be used to meet the goals set forth in this subsection (c)  
10 for the delivery year.

11 (C) Of the renewable energy credits procured under this  
12 subsection (c), at least 75% shall come from wind and  
13 photovoltaic projects. The long-term renewable resources  
14 procurement plan described in subparagraph (A) of this  
15 paragraph (1) shall include the procurement of renewable  
16 energy credits in amounts equal to at least the following:

17 (i) By the end of the 2020 delivery year:

18 At least 2,000,000 renewable energy credits  
19 for each delivery year shall come from new wind  
20 projects; and

21 At least 2,000,000 renewable energy credits  
22 for each delivery year shall come from new  
23 photovoltaic projects; of that amount, to the  
24 extent possible, the Agency shall procure: at  
25 least 50% from solar photovoltaic projects using  
26 the program outlined in subparagraph (K) of this

1 paragraph (1) from distributed renewable energy  
2 generation devices or community renewable  
3 generation projects; at least 40% from  
4 utility-scale solar projects; at least 2% from  
5 brownfield site photovoltaic projects that are not  
6 community renewable generation projects; and the  
7 remainder shall be determined through the  
8 long-term planning process described in  
9 subparagraph (A) of this paragraph (1).

10 (ii) By the end of the 2025 delivery year:

11 At least 3,000,000 renewable energy credits  
12 for each delivery year shall come from new wind  
13 projects; and

14 At least 3,000,000 renewable energy credits  
15 for each delivery year shall come from new  
16 photovoltaic projects; of that amount, to the  
17 extent possible, the Agency shall procure: at  
18 least 50% from solar photovoltaic projects using  
19 the program outlined in subparagraph (K) of this  
20 paragraph (1) from distributed renewable energy  
21 devices or community renewable generation  
22 projects; at least 40% from utility-scale solar  
23 projects; at least 2% from brownfield site  
24 photovoltaic projects that are not community  
25 renewable generation projects; and the remainder  
26 shall be determined through the long-term planning

1 process described in subparagraph (A) of this  
2 paragraph (1).

3 (iii) By the end of the 2030 delivery year:

4 At least 4,000,000 renewable energy credits  
5 for each delivery year shall come from new wind  
6 projects; and

7 At least 4,000,000 renewable energy credits  
8 for each delivery year shall come from new  
9 photovoltaic projects; of that amount, to the  
10 extent possible, the Agency shall procure: at  
11 least 50% from solar photovoltaic projects using  
12 the program outlined in subparagraph (K) of this  
13 paragraph (1) from distributed renewable energy  
14 devices or community renewable generation  
15 projects; at least 40% from utility-scale solar  
16 projects; at least 2% from brownfield site  
17 photovoltaic projects that are not community  
18 renewable generation projects; and the remainder  
19 shall be determined through the long-term planning  
20 process described in subparagraph (A) of this  
21 paragraph (1).

22 For purposes of this Section:

23 "New wind projects" means wind renewable  
24 energy facilities that are energized after June 1,  
25 2017 for the delivery year commencing June 1, 2017  
26 or within 3 years after the date the Commission

1 approves contracts for subsequent delivery years.

2 "New photovoltaic projects" means photovoltaic  
3 renewable energy facilities that are energized  
4 after June 1, 2017. Photovoltaic projects  
5 developed under Section 1-56 of this Act shall not  
6 apply towards the new photovoltaic project  
7 requirements in this subparagraph (C).

8 (D) Renewable energy credits shall be cost effective.  
9 For purposes of this subsection (c), "cost effective" means  
10 that the costs of procuring renewable energy resources do  
11 not cause the limit stated in subparagraph (E) of this  
12 paragraph (1) to be exceeded and, for renewable energy  
13 credits procured through a competitive procurement event,  
14 do not exceed benchmarks based on market prices for like  
15 products in the region. For purposes of this subsection  
16 (c), "like products" means contracts for renewable energy  
17 credits from the same or substantially similar technology,  
18 same or substantially similar vintage (new or existing),  
19 the same or substantially similar quantity, and the same or  
20 substantially similar contract length and structure.  
21 Benchmarks shall be developed by the procurement  
22 administrator, in consultation with the Commission staff,  
23 Agency staff, and the procurement monitor and shall be  
24 subject to Commission review and approval. If price  
25 benchmarks for like products in the region are not  
26 available, the procurement administrator shall establish

1 price benchmarks based on publicly available data on  
2 regional technology costs and expected current and future  
3 regional energy prices. The benchmarks in this Section  
4 shall not be used to curtail or otherwise reduce  
5 contractual obligations entered into by or through the  
6 Agency prior to June 1, 2017 (the effective date of Public  
7 Act 99-906) ~~this amendatory Act of the 99th General~~  
8 ~~Assembly.~~

9 (E) For purposes of this subsection (c), the required  
10 procurement of cost-effective renewable energy resources  
11 for a particular year commencing prior to June 1, 2017  
12 shall be measured as a percentage of the actual amount of  
13 electricity (megawatt-hours) supplied by the electric  
14 utility to eligible retail customers in the delivery year  
15 ending immediately prior to the procurement, and, for  
16 delivery years commencing on and after June 1, 2017, the  
17 required procurement of cost-effective renewable energy  
18 resources for a particular year shall be measured as a  
19 percentage of the actual amount of electricity  
20 (megawatt-hours) delivered by the electric utility in the  
21 delivery year ending immediately prior to the procurement,  
22 to all retail customers in its service territory. 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 purposes  
26 of this subsection (c), the total amount paid for electric

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

4 Notwithstanding the requirements of this subsection  
5 (c), the total of renewable energy resources procured under  
6 the procurement plan for any single year shall be subject  
7 to the limitations of this subparagraph (E). Such  
8 procurement shall be reduced for all retail customers based  
9 on the amount necessary to limit the annual estimated  
10 average net increase due to the costs of these resources  
11 included in the amounts paid by eligible retail customers  
12 in connection with electric service to no more than the  
13 greater of 2.015% of the amount paid per kilowatthour by  
14 those customers during the year ending May 31, 2007 or the  
15 incremental amount per kilowatthour paid for these  
16 resources in 2011. To arrive at a maximum dollar amount of  
17 renewable energy resources to be procured for the  
18 particular delivery year, the resulting per kilowatthour  
19 amount shall be applied to the actual amount of  
20 kilowatthours of electricity delivered, or applicable  
21 portion of such amount as specified in paragraph (1) of  
22 this subsection (c), as applicable, by the electric utility  
23 in the delivery year immediately prior to the procurement  
24 to all retail customers in its service territory. The  
25 calculations required by this subparagraph (E) shall be  
26 made only once for each delivery year at the time that the

1 renewable energy resources are procured. Once the  
2 determination as to the amount of renewable energy  
3 resources to procure is made based on the calculations set  
4 forth in this subparagraph (E) and the contracts procuring  
5 those amounts are executed, no subsequent rate impact  
6 determinations shall be made and no adjustments to those  
7 contract amounts shall be allowed. All costs incurred under  
8 such contracts shall be fully recoverable by the electric  
9 utility as provided in this Section.

10 (F) If the limitation on the amount of renewable energy  
11 resources procured in subparagraph (E) of this paragraph  
12 (1) prevents the Agency from meeting all of the goals in  
13 this subsection (c), the Agency's long-term plan shall  
14 prioritize compliance with the requirements of this  
15 subsection (c) regarding renewable energy credits in the  
16 following order:

17 (i) renewable energy credits under existing  
18 contractual obligations;

19 (i-5) funding for the Illinois Solar for All  
20 Program, as described in subparagraph (O) of this  
21 paragraph (1);

22 (ii) renewable energy credits necessary to comply  
23 with the new wind and new photovoltaic procurement  
24 requirements described in items (i) through (iii) of  
25 subparagraph (C) of this paragraph (1); and

26 (iii) renewable energy credits necessary to meet



1 the remaining requirements of this subsection (c).

2 (G) The following provisions shall apply to the  
3 Agency's procurement of renewable energy credits under  
4 this subsection (c):

5 (i) Notwithstanding whether a long-term renewable  
6 resources procurement plan has been approved, the  
7 Agency shall conduct an initial forward procurement  
8 for renewable energy credits from new utility-scale  
9 wind projects within 160 days after June 1, 2017 (the  
10 effective date of Public Act 99-906) ~~this amendatory~~  
11 ~~Act of the 99th General Assembly~~. For the purposes of  
12 this initial forward procurement, the Agency shall  
13 solicit 15-year contracts for delivery of 1,000,000  
14 renewable energy credits delivered annually from new  
15 utility-scale wind projects to begin delivery on June  
16 1, 2019, if available, but not later than June 1, 2021.  
17 Payments to suppliers of renewable energy credits  
18 shall commence upon delivery. Renewable energy credits  
19 procured under this initial procurement shall be  
20 included in the Agency's long-term plan and shall apply  
21 to all renewable energy goals in this subsection (c).

22 (ii) Notwithstanding whether a long-term renewable  
23 resources procurement plan has been approved, the  
24 Agency shall conduct an initial forward procurement  
25 for renewable energy credits from new utility-scale  
26 solar projects and brownfield site photovoltaic

1 projects within one year after June 1, 2017 (the  
2 effective date of Public Act 99-906) ~~this amendatory~~  
3 ~~Act of the 99th General Assembly~~. For the purposes of  
4 this initial forward procurement, the Agency shall  
5 solicit 15-year contracts for delivery of 1,000,000  
6 renewable energy credits delivered annually from new  
7 utility-scale solar projects and brownfield site  
8 photovoltaic projects to begin delivery on June 1,  
9 2019, if available, but not later than June 1, 2021.  
10 The Agency may structure this initial procurement in  
11 one or more discrete procurement events. Payments to  
12 suppliers of renewable energy credits shall commence  
13 upon delivery. Renewable energy credits procured under  
14 this initial procurement shall be included in the  
15 Agency's long-term plan and shall apply to all  
16 renewable energy goals in this subsection (c).

17 (iii) Subsequent forward procurements for  
18 utility-scale wind projects shall solicit at least  
19 1,000,000 renewable energy credits delivered annually  
20 per procurement event and shall be planned, scheduled,  
21 and designed such that the cumulative amount of  
22 renewable energy credits delivered from all new wind  
23 projects in each delivery year shall not exceed the  
24 Agency's projection of the cumulative amount of  
25 renewable energy credits that will be delivered from  
26 all new photovoltaic projects, including utility-scale

1 and distributed photovoltaic devices, in the same  
2 delivery year at the time scheduled for wind contract  
3 delivery.

4 (iv) If, at any time after the time set for  
5 delivery of renewable energy credits pursuant to the  
6 initial procurements in items (i) and (ii) of this  
7 subparagraph (G), the cumulative amount of renewable  
8 energy credits projected to be delivered from all new  
9 wind projects in a given delivery year exceeds the  
10 cumulative amount of renewable energy credits  
11 projected to be delivered from all new photovoltaic  
12 projects in that delivery year by 200,000 or more  
13 renewable energy credits, then the Agency shall within  
14 60 days adjust the procurement programs in the  
15 long-term renewable resources procurement plan to  
16 ensure that the projected cumulative amount of  
17 renewable energy credits to be delivered from all new  
18 wind projects does not exceed the projected cumulative  
19 amount of renewable energy credits to be delivered from  
20 all new photovoltaic projects by 200,000 or more  
21 renewable energy credits, provided that nothing in  
22 this Section shall preclude the projected cumulative  
23 amount of renewable energy credits to be delivered from  
24 all new photovoltaic projects from exceeding the  
25 projected cumulative amount of renewable energy  
26 credits to be delivered from all new wind projects in

1 each delivery year and provided further that nothing in  
2 this item (iv) shall require the curtailment of an  
3 executed contract. The Agency shall update, on a  
4 quarterly basis, its projection of the renewable  
5 energy credits to be delivered from all projects in  
6 each delivery year. Notwithstanding anything to the  
7 contrary, the Agency may adjust the timing of  
8 procurement events conducted under this subparagraph  
9 (G). The long-term renewable resources procurement  
10 plan shall set forth the process by which the  
11 adjustments may be made.

12 (v) All procurements under this subparagraph (G)  
13 shall comply with the geographic requirements in  
14 subparagraph (I) of this paragraph (1) and shall follow  
15 the procurement processes and procedures described in  
16 this Section and Section 16-111.5 of the Public  
17 Utilities Act to the extent practicable, and these  
18 processes and procedures may be expedited to  
19 accommodate the schedule established by this  
20 subparagraph (G).

21 (H) The procurement of renewable energy resources for a  
22 given delivery year shall be reduced as described in this  
23 subparagraph (H) if an alternative ~~alternate~~ retail  
24 electric supplier meets the requirements described in this  
25 subparagraph (H).

26 (i) Within 45 days after June 1, 2017 (the

1 effective date of Public Act 99-906) ~~this amendatory~~  
2 ~~Act of the 99th General Assembly~~, an alternative retail  
3 electric supplier or its successor shall submit an  
4 informational filing to the Illinois Commerce  
5 Commission certifying that, as of December 31, 2015,  
6 the alternative retail electric supplier owned one or  
7 more electric generating facilities that generates  
8 renewable energy resources as defined in Section 1-10  
9 of this Act, provided that such facilities are not  
10 powered by wind or photovoltaics, and the facilities  
11 generate one renewable energy credit for each  
12 megawatthour of energy produced from the facility.

13 The informational filing shall identify each  
14 facility that was eligible to satisfy the alternative  
15 retail electric supplier's obligations under Section  
16 16-115D of the Public Utilities Act as described in  
17 this item (i).

18 (ii) For a given delivery year, the alternative  
19 retail electric supplier may elect to supply its retail  
20 customers with renewable energy credits from the  
21 facility or facilities described in item (i) of this  
22 subparagraph (H) that continue to be owned by the  
23 alternative retail electric supplier.

24 (iii) The alternative retail electric supplier  
25 shall notify the Agency and the applicable utility, no  
26 later than February 28 of the year preceding the

1 applicable delivery year or 15 days after June 1, 2017  
2 (the effective date of Public Act 99-906) ~~this~~  
3 ~~amendatory Act of the 99th General Assembly~~, whichever  
4 is later, of its election under item (ii) of this  
5 subparagraph (H) to supply renewable energy credits to  
6 retail customers of the utility. Such election shall  
7 identify the amount of renewable energy credits to be  
8 supplied by the alternative retail electric supplier  
9 to the utility's retail customers and the source of the  
10 renewable energy credits identified in the  
11 informational filing as described in item (i) of this  
12 subparagraph (H), subject to the following  
13 limitations:

14 For the delivery year beginning June 1, 2018,  
15 the maximum amount of renewable energy credits to  
16 be supplied by an alternative retail electric  
17 supplier under this subparagraph (H) shall be 68%  
18 multiplied by 25% multiplied by 14.5% multiplied  
19 by the amount of metered electricity  
20 (megawatt-hours) delivered by the alternative  
21 retail electric supplier to Illinois retail  
22 customers during the delivery year ending May 31,  
23 2016.

24 For delivery years beginning June 1, 2019 and  
25 each year thereafter, the maximum amount of  
26 renewable energy credits to be supplied by an

1 alternative retail electric supplier under this  
2 subparagraph (H) shall be 68% multiplied by 50%  
3 multiplied by 16% multiplied by the amount of  
4 metered electricity (megawatt-hours) delivered by  
5 the alternative retail electric supplier to  
6 Illinois retail customers during the delivery year  
7 ending May 31, 2016, provided that the 16% value  
8 shall increase by 1.5% each delivery year  
9 thereafter to 25% by the delivery year beginning  
10 June 1, 2025, and thereafter the 25% value shall  
11 apply to each delivery year.

12 For each delivery year, the total amount of  
13 renewable energy credits supplied by all alternative  
14 retail electric suppliers under this subparagraph (H)  
15 shall not exceed 9% of the Illinois target renewable  
16 energy credit quantity. The Illinois target renewable  
17 energy credit quantity for the delivery year beginning  
18 June 1, 2018 is 14.5% multiplied by the total amount of  
19 metered electricity (megawatt-hours) delivered in the  
20 delivery year immediately preceding that delivery  
21 year, provided that the 14.5% shall increase by 1.5%  
22 each delivery year thereafter to 25% by the delivery  
23 year beginning June 1, 2025, and thereafter the 25%  
24 value shall apply to each delivery year.

25 If the requirements set forth in items (i) through  
26 (iii) of this subparagraph (H) are met, the charges

1 that would otherwise be applicable to the retail  
2 customers of the alternative retail electric supplier  
3 under paragraph (6) of this subsection (c) for the  
4 applicable delivery year shall be reduced by the ratio  
5 of the quantity of renewable energy credits supplied by  
6 the alternative retail electric supplier compared to  
7 that supplier's target renewable energy credit  
8 quantity. The supplier's target renewable energy  
9 credit quantity for the delivery year beginning June 1,  
10 2018 is 14.5% multiplied by the total amount of metered  
11 electricity (megawatt-hours) delivered by the  
12 alternative retail supplier in that delivery year,  
13 provided that the 14.5% shall increase by 1.5% each  
14 delivery year thereafter to 25% by the delivery year  
15 beginning June 1, 2025, and thereafter the 25% value  
16 shall apply to each delivery year.

17 On or before April 1 of each year, the Agency shall  
18 annually publish a report on its website that  
19 identifies the aggregate amount of renewable energy  
20 credits supplied by alternative retail electric  
21 suppliers under this subparagraph (H).

22 (I) The Agency shall design its long-term renewable  
23 energy procurement plan to maximize the State's interest in  
24 the health, safety, and welfare of its residents, including  
25 but not limited to minimizing sulfur dioxide, nitrogen  
26 oxide, particulate matter and other pollution that



1 adversely affects public health in this State, increasing  
2 fuel and resource diversity in this State, enhancing the  
3 reliability and resiliency of the electricity distribution  
4 system in this State, meeting goals to limit carbon dioxide  
5 emissions under federal or State law, and contributing to a  
6 cleaner and healthier environment for the citizens of this  
7 State. In order to further these legislative purposes,  
8 renewable energy credits shall be eligible to be counted  
9 toward the renewable energy requirements of this  
10 subsection (c) if they are generated from facilities  
11 located in this State. The Agency may qualify renewable  
12 energy credits from facilities located in states adjacent  
13 to Illinois if the generator demonstrates and the Agency  
14 determines that the operation of such facility or  
15 facilities will help promote the State's interest in the  
16 health, safety, and welfare of its residents based on the  
17 public interest criteria described above. To ensure that  
18 the public interest criteria are applied to the procurement  
19 and given full effect, the Agency's long-term procurement  
20 plan shall describe in detail how each public interest  
21 factor shall be considered and weighted for facilities  
22 located in states adjacent to Illinois.

23 (J) In order to promote the competitive development of  
24 renewable energy resources in furtherance of the State's  
25 interest in the health, safety, and welfare of its  
26 residents, renewable energy credits shall not be eligible

1 to be counted toward the renewable energy requirements of  
2 this subsection (c) if they are sourced from a generating  
3 unit whose costs were being recovered through rates  
4 regulated by this State or any other state or states on or  
5 after January 1, 2017. Each contract executed to purchase  
6 renewable energy credits under this subsection (c) shall  
7 provide for the contract's termination if the costs of the  
8 generating unit supplying the renewable energy credits  
9 subsequently begin to be recovered through rates regulated  
10 by this State or any other state or states; and each  
11 contract shall further provide that, in that event, the  
12 supplier of the credits must return 110% of all payments  
13 received under the contract. Amounts returned under the  
14 requirements of this subparagraph (J) shall be retained by  
15 the utility and all of these amounts shall be used for the  
16 procurement of additional renewable energy credits from  
17 new wind or new photovoltaic resources as defined in this  
18 subsection (c). The long-term plan shall provide that these  
19 renewable energy credits shall be procured in the next  
20 procurement event.

21 Notwithstanding the limitations of this subparagraph  
22 (J), renewable energy credits sourced from generating  
23 units that are constructed, purchased, owned, or leased by  
24 an electric utility as part of an approved project,  
25 program, or pilot under Section 1-56 of this Act shall be  
26 eligible to be counted toward the renewable energy

1 requirements of this subsection (c), regardless of how the  
2 costs of these units are recovered.

3 (K) The long-term renewable resources procurement plan  
4 developed by the Agency in accordance with subparagraph (A)  
5 of this paragraph (1) shall include an Adjustable Block  
6 program for the procurement of renewable energy credits  
7 from new photovoltaic projects that are distributed  
8 renewable energy generation devices or new photovoltaic  
9 community renewable generation projects. The Adjustable  
10 Block program shall be designed to provide a transparent  
11 schedule of prices and quantities to enable the  
12 photovoltaic market to scale up and for renewable energy  
13 credit prices to adjust at a predictable rate over time.  
14 The prices set by the Adjustable Block program can be  
15 reflected as a set value or as the product of a formula.

16 The Adjustable Block program shall include for each  
17 category of eligible projects: a schedule of standard block  
18 purchase prices to be offered; a series of steps, with  
19 associated nameplate capacity and purchase prices that  
20 adjust from step to step; and automatic opening of the next  
21 step as soon as the nameplate capacity and available  
22 purchase prices for an open step are fully committed or  
23 reserved. Only projects energized on or after June 1, 2017  
24 shall be eligible for the Adjustable Block program. For  
25 each block group the Agency shall determine the number of  
26 blocks, the amount of generation capacity in each block,

1 and the purchase price for each block, provided that the  
2 purchase price provided and the total amount of generation  
3 in all blocks for all block groups shall be sufficient to  
4 meet the goals in this subsection (c). The Agency may  
5 periodically review its prior decisions establishing the  
6 number of blocks, the amount of generation capacity in each  
7 block, and the purchase price for each block, and may  
8 propose, on an expedited basis, changes to these previously  
9 set values, including but not limited to redistributing  
10 these amounts and the available funds as necessary and  
11 appropriate, subject to Commission approval as part of the  
12 periodic plan revision process described in Section  
13 16-111.5 of the Public Utilities Act. The Agency may define  
14 different block sizes, purchase prices, or other distinct  
15 terms and conditions for projects located in different  
16 utility service territories if the Agency deems it  
17 necessary to meet the goals in this subsection (c).

18 The Adjustable Block program shall include at least the  
19 following block groups in at least the following amounts,  
20 which may be adjusted upon review by the Agency and  
21 approval by the Commission as described in this  
22 subparagraph (K):

23 (i) At least 25% from distributed renewable energy  
24 generation devices with a nameplate capacity of no more  
25 than 10 kilowatts.

26 (ii) At least 25% from distributed renewable

1 energy generation devices with a nameplate capacity of  
2 more than 10 kilowatts and no more than 2,000  
3 kilowatts. The Agency may create sub-categories within  
4 this category to account for the differences between  
5 projects for small commercial customers, large  
6 commercial customers, and public or non-profit  
7 customers.

8 (iii) At least 25% from photovoltaic community  
9 renewable generation projects.

10 (iv) The remaining 25% shall be allocated as  
11 specified by the Agency in the long-term renewable  
12 resources procurement plan.

13 The Adjustable Block program shall be designed to  
14 ensure that renewable energy credits are procured from  
15 photovoltaic distributed renewable energy generation  
16 devices and new photovoltaic community renewable energy  
17 generation projects in diverse locations and are not  
18 concentrated in a few geographic areas.

19 (L) The procurement of photovoltaic renewable energy  
20 credits under items (i) through (iv) of subparagraph (K) of  
21 this paragraph (1) shall be subject to the following  
22 contract and payment terms:

23 (i) The Agency shall procure contracts of at least  
24 15 years in length.

25 (ii) For those renewable energy credits that  
26 qualify and are procured under item (i) of subparagraph

1 (K) of this paragraph (1), the renewable energy credit  
2 purchase price shall be paid in full by the contracting  
3 utilities at the time that the facility producing the  
4 renewable energy credits is interconnected at the  
5 distribution system level of the utility and  
6 energized. The electric utility shall receive and  
7 retire all renewable energy credits generated by the  
8 project for the first 15 years of operation.

9 (iii) For those renewable energy credits that  
10 qualify and are procured under item (ii) and (iii) of  
11 subparagraph (K) of this paragraph (1) and any  
12 additional categories of distributed generation  
13 included in the long-term renewable resources  
14 procurement plan and approved by the Commission, 20  
15 percent of the renewable energy credit purchase price  
16 shall be paid by the contracting utilities at the time  
17 that the facility producing the renewable energy  
18 credits is interconnected at the distribution system  
19 level of the utility and energized. The remaining  
20 portion shall be paid ratably over the subsequent  
21 4-year period. The electric utility shall receive and  
22 retire all renewable energy credits generated by the  
23 project for the first 15 years of operation.

24 (iv) Each contract shall include provisions to  
25 ensure the delivery of the renewable energy credits for  
26 the full term of the contract.

1           (v) The utility shall be the counterparty to the  
2 contracts executed under this subparagraph (L) that  
3 are approved by the Commission under the process  
4 described in Section 16-111.5 of the Public Utilities  
5 Act. No contract shall be executed for an amount that  
6 is less than one renewable energy credit per year.

7           (vi) If, at any time, approved applications for the  
8 Adjustable Block program exceed funds collected by the  
9 electric utility or would cause the Agency to exceed  
10 the limitation described in subparagraph (E) of this  
11 paragraph (1) on the amount of renewable energy  
12 resources that may be procured, then the Agency shall  
13 consider future uncommitted funds to be reserved for  
14 these contracts on a first-come, first-served basis,  
15 with the delivery of renewable energy credits required  
16 beginning at the time that the reserved funds become  
17 available.

18           (vii) Nothing in this Section shall require the  
19 utility to advance any payment or pay any amounts that  
20 exceed the actual amount of revenues collected by the  
21 utility under paragraph (6) of this subsection (c) and  
22 subsection (k) of Section 16-108 of the Public  
23 Utilities Act, and contracts executed under this  
24 Section shall expressly incorporate this limitation.

25           (M) The Agency shall be authorized to retain one or  
26 more experts or expert consulting firms to develop,

1 administer, implement, operate, and evaluate the  
2 Adjustable Block program described in subparagraph (K) of  
3 this paragraph (1), and the Agency shall retain the  
4 consultant or consultants in the same manner, to the extent  
5 practicable, as the Agency retains others to administer  
6 provisions of this Act, including, but not limited to, the  
7 procurement administrator. The selection of experts and  
8 expert consulting firms and the procurement process  
9 described in this subparagraph (M) are exempt from the  
10 requirements of Section 20-10 of the Illinois Procurement  
11 Code, under Section 20-10 of that Code. The Agency shall  
12 strive to minimize administrative expenses in the  
13 implementation of the Adjustable Block program.

14 The Agency and its consultant or consultants shall  
15 monitor block activity, share program activity with  
16 stakeholders and conduct regularly scheduled meetings to  
17 discuss program activity and market conditions. If  
18 necessary, the Agency may make prospective administrative  
19 adjustments to the Adjustable Block program design, such as  
20 redistributing available funds or making adjustments to  
21 purchase prices as necessary to achieve the goals of this  
22 subsection (c). Program modifications to any price,  
23 capacity block, or other program element that do not  
24 deviate from the Commission's approved value by more than  
25 25% shall take effect immediately and are not subject to  
26 Commission review and approval. Program modifications to



1 any price, capacity block, or other program element that  
2 deviate more than 25% from the Commission's approved value  
3 must be approved by the Commission as a long-term plan  
4 amendment under Section 16-111.5 of the Public Utilities  
5 Act. The Agency shall consider stakeholder feedback when  
6 making adjustments to the Adjustable Block design and shall  
7 notify stakeholders in advance of any planned changes.

8 (N) The long-term renewable resources procurement plan  
9 required by this subsection (c) shall include a community  
10 renewable generation program. The Agency shall establish  
11 the terms, conditions, and program requirements for  
12 community renewable generation projects with a goal to  
13 expand renewable energy generating facility access to a  
14 broader group of energy consumers, to ensure robust  
15 participation opportunities for residential and small  
16 commercial customers and those who cannot install  
17 renewable energy on their own properties. Any plan approved  
18 by the Commission shall allow subscriptions to community  
19 renewable generation projects to be portable and  
20 transferable. For purposes of this subparagraph (N),  
21 "portable" means that subscriptions may be retained by the  
22 subscriber even if the subscriber relocates or changes its  
23 address within the same utility service territory; and  
24 "transferable" means that a subscriber may assign or sell  
25 subscriptions to another person within the same utility  
26 service territory.

1           Electric utilities shall provide a monetary credit to a  
2           subscriber's subsequent bill for service for the  
3           proportional output of a community renewable generation  
4           project attributable to that subscriber as specified in  
5           Section 16-107.5 of the Public Utilities Act.

6           The Agency shall purchase renewable energy credits  
7           from subscribed shares of photovoltaic community renewable  
8           generation projects through the Adjustable Block program  
9           described in subparagraph (K) of this paragraph (1) or  
10          through the Illinois Solar for All Program described in  
11          Section 1-56 of this Act. The electric utility shall  
12          purchase any unsubscribed energy from community renewable  
13          generation projects that are Qualifying Facilities ("QF")  
14          under the electric utility's tariff for purchasing the  
15          output from QFs under Public Utilities Regulatory Policies  
16          Act of 1978.

17          The owners of and any subscribers to a community  
18          renewable generation project shall not be considered  
19          public utilities or alternative retail electricity  
20          suppliers under the Public Utilities Act solely as a result  
21          of their interest in or subscription to a community  
22          renewable generation project and shall not be required to  
23          become an alternative retail electric supplier by  
24          participating in a community renewable generation project  
25          with a public utility.

26          (O) For the delivery year beginning June 1, 2018, the

1 long-term renewable resources procurement plan required by  
2 this subsection (c) shall provide for the Agency to procure  
3 contracts to continue offering the Illinois Solar for All  
4 Program described in subsection (b) of Section 1-56 of this  
5 Act, and the contracts approved by the Commission shall be  
6 executed by the utilities that are subject to this  
7 subsection (c). The long-term renewable resources  
8 procurement plan shall allocate 5% of the funds available  
9 under the plan for the applicable delivery year, or  
10 \$10,000,000 per delivery year, whichever is greater, to  
11 fund the programs, and the plan shall determine the amount  
12 of funding to be apportioned to the programs identified in  
13 subsection (b) of Section 1-56 of this Act; provided that  
14 for the delivery years beginning June 1, 2017, June 1,  
15 2021, and June 1, 2025, the long-term renewable resources  
16 procurement plan shall allocate 10% of the funds available  
17 under the plan for the applicable delivery year, or  
18 \$20,000,000 per delivery year, whichever is greater, and  
19 \$10,000,000 of such funds in such year shall be used by an  
20 electric utility that serves more than 3,000,000 retail  
21 customers in the State to implement a Commission-approved  
22 plan under Section 16-108.12 of the Public Utilities Act.  
23 In making the determinations required under this  
24 subparagraph (O), the Commission shall consider the  
25 experience and performance under the programs and any  
26 evaluation reports. The Commission shall also provide for

1 an independent evaluation of those programs on a periodic  
2 basis that are funded under this subparagraph (O).

3 (2) (Blank).

4 (3) (Blank).

5 (4) The electric utility shall retire all renewable  
6 energy credits used to comply with the standard.

7 (5) Beginning with the 2010 delivery year and ending  
8 June 1, 2017, an electric utility subject to this  
9 subsection (c) shall apply the lesser of the maximum  
10 alternative compliance payment rate or the most recent  
11 estimated alternative compliance payment rate for its  
12 service territory for the corresponding compliance period,  
13 established pursuant to subsection (d) of Section 16-115D  
14 of the Public Utilities Act to its retail customers that  
15 take service pursuant to the electric utility's hourly  
16 pricing tariff or tariffs. The electric utility shall  
17 retain all amounts collected as a result of the application  
18 of the alternative compliance payment rate or rates to such  
19 customers, and, beginning in 2011, the utility shall  
20 include in the information provided under item (1) of  
21 subsection (d) of Section 16-111.5 of the Public Utilities  
22 Act the amounts collected under the alternative compliance  
23 payment rate or rates for the prior year ending May 31.  
24 Notwithstanding any limitation on the procurement of  
25 renewable energy resources imposed by item (2) of this  
26 subsection (c), the Agency shall increase its spending on

1 the purchase of renewable energy resources to be procured  
2 by the electric utility for the next plan year by an amount  
3 equal to the amounts collected by the utility under the  
4 alternative compliance payment rate or rates in the prior  
5 year ending May 31.

6 (6) The electric utility shall be entitled to recover  
7 all of its costs associated with the procurement of  
8 renewable energy credits under plans approved under this  
9 Section and Section 16-111.5 of the Public Utilities Act.  
10 These costs shall include associated reasonable expenses  
11 for implementing the procurement programs, including, but  
12 not limited to, the costs of administering and evaluating  
13 the Adjustable Block program, through an automatic  
14 adjustment clause tariff in accordance with subsection (k)  
15 of Section 16-108 of the Public Utilities Act.

16 (7) Renewable energy credits procured from new  
17 photovoltaic projects or new distributed renewable energy  
18 generation devices under this Section after June 1, 2017  
19 (the effective date of Public Act 99-906) ~~this amendatory~~  
20 ~~Act of the 99th General Assembly~~ must be procured from  
21 devices installed by a qualified person in compliance with  
22 the requirements of Section 16-128A of the Public Utilities  
23 Act and any rules or regulations adopted thereunder.

24 In meeting the renewable energy requirements of this  
25 subsection (c), to the extent feasible and consistent with  
26 State and federal law, the renewable energy credit

1 procurements, Adjustable Block solar program, and  
2 community renewable generation program shall provide  
3 employment opportunities for all segments of the  
4 population and workforce, including minority-owned and  
5 female-owned business enterprises, and shall not,  
6 consistent with State and federal law, discriminate based  
7 on race or socioeconomic status.

8 (d) Clean coal portfolio standard.

9 (1) The procurement plans shall include electricity  
10 generated using clean coal. Each utility shall enter into  
11 one or more sourcing agreements with the initial clean coal  
12 facility, as provided in paragraph (3) of this subsection  
13 (d), covering electricity generated by the initial clean  
14 coal facility representing at least 5% of each utility's  
15 total supply to serve the load of eligible retail customers  
16 in 2015 and each year thereafter, as described in paragraph  
17 (3) of this subsection (d), subject to the limits specified  
18 in paragraph (2) of this subsection (d). It is the goal of  
19 the State that by January 1, 2025, 25% of the electricity  
20 used in the State shall be generated by cost-effective  
21 clean coal facilities. For purposes of this subsection (d),  
22 "cost-effective" means that the expenditures pursuant to  
23 such sourcing agreements do not cause the limit stated in  
24 paragraph (2) of this subsection (d) to be exceeded and do  
25 not exceed cost-based benchmarks, which shall be developed  
26 to assess all expenditures pursuant to such sourcing

1 agreements covering electricity generated by clean coal  
2 facilities, other than the initial clean coal facility, by  
3 the procurement administrator, in consultation with the  
4 Commission staff, Agency staff, and the procurement  
5 monitor and shall be subject to Commission review and  
6 approval.

7 A utility party to a sourcing agreement shall  
8 immediately retire any emission credits that it receives in  
9 connection with the electricity covered by such agreement.

10 Utilities shall maintain adequate records documenting  
11 the purchases under the sourcing agreement to comply with  
12 this subsection (d) and shall file an accounting with the  
13 load forecast that must be filed with the Agency by July 15  
14 of each year, in accordance with subsection (d) of Section  
15 16-111.5 of the Public Utilities Act.

16 A utility shall be deemed to have complied with the  
17 clean coal portfolio standard specified in this subsection  
18 (d) if the utility enters into a sourcing agreement as  
19 required by this subsection (d).

20 (2) For purposes of this subsection (d), the required  
21 execution of sourcing agreements with the initial clean  
22 coal facility for a particular year shall be measured as a  
23 percentage of the actual amount of electricity  
24 (megawatt-hours) supplied by the electric utility to  
25 eligible retail customers in the planning year ending  
26 immediately prior to the agreement's execution. For

1 purposes of this subsection (d), the amount paid per  
2 kilowatthour means the total amount paid for electric  
3 service expressed on a per kilowatthour basis. For purposes  
4 of this subsection (d), the total amount paid for electric  
5 service includes without limitation amounts paid for  
6 supply, transmission, distribution, surcharges and add-on  
7 taxes.

8 Notwithstanding the requirements of this subsection  
9 (d), the total amount paid under sourcing agreements with  
10 clean coal facilities pursuant to the procurement plan for  
11 any given year shall be reduced by an amount necessary to  
12 limit the annual estimated average net increase due to the  
13 costs of these resources included in the amounts paid by  
14 eligible retail customers in connection with electric  
15 service to:

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

19 (B) in 2011, the greater of an additional 0.5% of  
20 the amount paid per kilowatthour by those customers  
21 during the year ending May 31, 2010 or 1% of the amount  
22 paid per kilowatthour by those customers during the  
23 year ending May 31, 2009;

24 (C) in 2012, the greater of an additional 0.5% of  
25 the amount paid per kilowatthour by those customers  
26 during the year ending May 31, 2011 or 1.5% of the



1 amount paid per kilowatthour by those customers during  
2 the year ending May 31, 2009;

3 (D) in 2013, the greater of an additional 0.5% of  
4 the amount paid per kilowatthour by those customers  
5 during the year ending May 31, 2012 or 2% of the amount  
6 paid per kilowatthour by those customers during the  
7 year ending May 31, 2009; and

8 (E) thereafter, the total amount paid under  
9 sourcing agreements with clean coal facilities  
10 pursuant to the procurement plan for any single year  
11 shall be reduced by an amount necessary to limit the  
12 estimated average net increase due to the cost of these  
13 resources included in the amounts paid by eligible  
14 retail customers in connection with electric service  
15 to no more than the greater of (i) 2.015% of the amount  
16 paid per kilowatthour by those customers during the  
17 year ending May 31, 2009 or (ii) the incremental amount  
18 per kilowatthour paid for these resources in 2013.  
19 These requirements may be altered only as provided by  
20 statute.

21 No later than June 30, 2015, the Commission shall  
22 review the limitation on the total amount paid under  
23 sourcing agreements, if any, with clean coal facilities  
24 pursuant to this subsection (d) and report to the General  
25 Assembly its findings as to whether that limitation unduly  
26 constrains the amount of electricity generated by

1 cost-effective clean coal facilities that is covered by  
2 sourcing agreements.

3 (3) Initial clean coal facility. In order to promote  
4 development of clean coal facilities in Illinois, each  
5 electric utility subject to this Section shall execute a  
6 sourcing agreement to source electricity from a proposed  
7 clean coal facility in Illinois (the "initial clean coal  
8 facility") that will have a nameplate capacity of at least  
9 500 MW when commercial operation commences, that has a  
10 final Clean Air Act permit on June 1, 2009 (the effective  
11 date of Public Act 95-1027) ~~this amendatory Act of the 95th~~  
12 ~~General Assembly~~, and that will meet the definition of  
13 clean coal facility in Section 1-10 of this Act when  
14 commercial operation commences. The sourcing agreements  
15 with this initial clean coal facility shall be subject to  
16 both approval of the initial clean coal facility by the  
17 General Assembly and satisfaction of the requirements of  
18 paragraph (4) of this subsection (d) and shall be executed  
19 within 90 days after any such approval by the General  
20 Assembly. The Agency and the Commission shall have  
21 authority to inspect all books and records associated with  
22 the initial clean coal facility during the term of such a  
23 sourcing agreement. A utility's sourcing agreement for  
24 electricity produced by the initial clean coal facility  
25 shall include:

26 (A) a formula contractual price (the "contract

1 price") approved pursuant to paragraph (4) of this  
2 subsection (d), which shall:

3 (i) be determined using a cost of service  
4 methodology employing either a level or deferred  
5 capital recovery component, based on a capital  
6 structure consisting of 45% equity and 55% debt,  
7 and a return on equity as may be approved by the  
8 Federal Energy Regulatory Commission, which in any  
9 case may not exceed the lower of 11.5% or the rate  
10 of return approved by the General Assembly  
11 pursuant to paragraph (4) of this subsection (d);  
12 and

13 (ii) provide that all miscellaneous net  
14 revenue, including but not limited to net revenue  
15 from the sale of emission allowances, if any,  
16 substitute natural gas, if any, grants or other  
17 support provided by the State of Illinois or the  
18 United States Government, firm transmission  
19 rights, if any, by-products produced by the  
20 facility, energy or capacity derived from the  
21 facility and not covered by a sourcing agreement  
22 pursuant to paragraph (3) of this subsection (d) or  
23 item (5) of subsection (d) of Section 16-115 of the  
24 Public Utilities Act, whether generated from the  
25 synthesis gas derived from coal, from SNG, or from  
26 natural gas, shall be credited against the revenue

1 requirement for this initial clean coal facility;

2 (B) power purchase provisions, which shall:

3 (i) provide that the utility party to such  
4 sourcing agreement shall pay the contract price  
5 for electricity delivered under such sourcing  
6 agreement;

7 (ii) require delivery of electricity to the  
8 regional transmission organization market of the  
9 utility that is party to such sourcing agreement;

10 (iii) require the utility party to such  
11 sourcing agreement to buy from the initial clean  
12 coal facility in each hour an amount of energy  
13 equal to all clean coal energy made available from  
14 the initial clean coal facility during such hour  
15 times a fraction, the numerator of which is such  
16 utility's retail market sales of electricity  
17 (expressed in kilowatthours sold) in the State  
18 during the prior calendar month and the  
19 denominator of which is the total retail market  
20 sales of electricity (expressed in kilowatthours  
21 sold) in the State by utilities during such prior  
22 month and the sales of electricity (expressed in  
23 kilowatthours sold) in the State by alternative  
24 retail electric suppliers during such prior month  
25 that are subject to the requirements of this  
26 subsection (d) and paragraph (5) of subsection (d)

1 of Section 16-115 of the Public Utilities Act,  
2 provided that the amount purchased by the utility  
3 in any year will be limited by paragraph (2) of  
4 this subsection (d); and

5 (iv) be considered pre-existing contracts in  
6 such utility's procurement plans for eligible  
7 retail customers;

8 (C) contract for differences provisions, which  
9 shall:

10 (i) require the utility party to such sourcing  
11 agreement to contract with the initial clean coal  
12 facility in each hour with respect to an amount of  
13 energy equal to all clean coal energy made  
14 available from the initial clean coal facility  
15 during such hour times a fraction, the numerator of  
16 which is such utility's retail market sales of  
17 electricity (expressed in kilowatthours sold) in  
18 the utility's service territory in the State  
19 during the prior calendar month and the  
20 denominator of which is the total retail market  
21 sales of electricity (expressed in kilowatthours  
22 sold) in the State by utilities during such prior  
23 month and the sales of electricity (expressed in  
24 kilowatthours sold) in the State by alternative  
25 retail electric suppliers during such prior month  
26 that are subject to the requirements of this

1 subsection (d) and paragraph (5) of subsection (d)  
2 of Section 16-115 of the Public Utilities Act,  
3 provided that the amount paid by the utility in any  
4 year will be limited by paragraph (2) of this  
5 subsection (d);

6 (ii) provide that the utility's payment  
7 obligation in respect of the quantity of  
8 electricity determined pursuant to the preceding  
9 clause (i) shall be limited to an amount equal to  
10 (1) the difference between the contract price  
11 determined pursuant to subparagraph (A) of  
12 paragraph (3) of this subsection (d) and the  
13 day-ahead price for electricity delivered to the  
14 regional transmission organization market of the  
15 utility that is party to such sourcing agreement  
16 (or any successor delivery point at which such  
17 utility's supply obligations are financially  
18 settled on an hourly basis) (the "reference  
19 price") on the day preceding the day on which the  
20 electricity is delivered to the initial clean coal  
21 facility busbar, multiplied by (2) the quantity of  
22 electricity determined pursuant to the preceding  
23 clause (i); and

24 (iii) not require the utility to take physical  
25 delivery of the electricity produced by the  
26 facility;

1 (D) general provisions, which shall:

2 (i) specify a term of no more than 30 years,  
3 commencing on the commercial operation date of the  
4 facility;

5 (ii) provide that utilities shall maintain  
6 adequate records documenting purchases under the  
7 sourcing agreements entered into to comply with  
8 this subsection (d) and shall file an accounting  
9 with the load forecast that must be filed with the  
10 Agency by July 15 of each year, in accordance with  
11 subsection (d) of Section 16-111.5 of the Public  
12 Utilities Act;

13 (iii) provide that all costs associated with  
14 the initial clean coal facility will be  
15 periodically reported to the Federal Energy  
16 Regulatory Commission and to purchasers in  
17 accordance with applicable laws governing  
18 cost-based wholesale power contracts;

19 (iv) permit the Illinois Power Agency to  
20 assume ownership of the initial clean coal  
21 facility, without monetary consideration and  
22 otherwise on reasonable terms acceptable to the  
23 Agency, if the Agency so requests no less than 3  
24 years prior to the end of the stated contract term;

25 (v) require the owner of the initial clean coal  
26 facility to provide documentation to the

1 Commission each year, starting in the facility's  
2 first year of commercial operation, accurately  
3 reporting the quantity of carbon emissions from  
4 the facility that have been captured and  
5 sequestered and report any quantities of carbon  
6 released from the site or sites at which carbon  
7 emissions were sequestered in prior years, based  
8 on continuous monitoring of such sites. If, in any  
9 year after the first year of commercial operation,  
10 the owner of the facility fails to demonstrate that  
11 the initial clean coal facility captured and  
12 sequestered at least 50% of the total carbon  
13 emissions that the facility would otherwise emit  
14 or that sequestration of emissions from prior  
15 years has failed, resulting in the release of  
16 carbon dioxide into the atmosphere, the owner of  
17 the facility must offset excess emissions. Any  
18 such carbon offsets must be permanent, additional,  
19 verifiable, real, located within the State of  
20 Illinois, and legally and practicably enforceable.  
21 The cost of such offsets for the facility that are  
22 not recoverable shall not exceed \$15 million in any  
23 given year. No costs of any such purchases of  
24 carbon offsets may be recovered from a utility or  
25 its customers. All carbon offsets purchased for  
26 this purpose and any carbon emission credits



1 associated with sequestration of carbon from the  
2 facility must be permanently retired. The initial  
3 clean coal facility shall not forfeit its  
4 designation as a clean coal facility if the  
5 facility fails to fully comply with the applicable  
6 carbon sequestration requirements in any given  
7 year, provided the requisite offsets are  
8 purchased. However, the Attorney General, on  
9 behalf of the People of the State of Illinois, may  
10 specifically enforce the facility's sequestration  
11 requirement and the other terms of this contract  
12 provision. Compliance with the sequestration  
13 requirements and offset purchase requirements  
14 specified in paragraph (3) of this subsection (d)  
15 shall be reviewed annually by an independent  
16 expert retained by the owner of the initial clean  
17 coal facility, with the advance written approval  
18 of the Attorney General. The Commission may, in the  
19 course of the review specified in item (vii),  
20 reduce the allowable return on equity for the  
21 facility if the facility wilfully fails to comply  
22 with the carbon capture and sequestration  
23 requirements set forth in this item (v);

24 (vi) include limits on, and accordingly  
25 provide for modification of, the amount the  
26 utility is required to source under the sourcing

1 agreement consistent with paragraph (2) of this  
2 subsection (d);

3 (vii) require Commission review: (1) to  
4 determine the justness, reasonableness, and  
5 prudence of the inputs to the formula referenced in  
6 subparagraphs (A)(i) through (A)(iii) of paragraph  
7 (3) of this subsection (d), prior to an adjustment  
8 in those inputs including, without limitation, the  
9 capital structure and return on equity, fuel  
10 costs, and other operations and maintenance costs  
11 and (2) to approve the costs to be passed through  
12 to customers under the sourcing agreement by which  
13 the utility satisfies its statutory obligations.  
14 Commission review shall occur no less than every 3  
15 years, regardless of whether any adjustments have  
16 been proposed, and shall be completed within 9  
17 months;

18 (viii) limit the utility's obligation to such  
19 amount as the utility is allowed to recover through  
20 tariffs filed with the Commission, provided that  
21 neither the clean coal facility nor the utility  
22 waives any right to assert federal pre-emption or  
23 any other argument in response to a purported  
24 disallowance of recovery costs;

25 (ix) limit the utility's or alternative retail  
26 electric supplier's obligation to incur any

1 liability until such time as the facility is in  
2 commercial operation and generating power and  
3 energy and such power and energy is being delivered  
4 to the facility busbar;

5 (x) provide that the owner or owners of the  
6 initial clean coal facility, which is the  
7 counterparty to such sourcing agreement, shall  
8 have the right from time to time to elect whether  
9 the obligations of the utility party thereto shall  
10 be governed by the power purchase provisions or the  
11 contract for differences provisions;

12 (xi) append documentation showing that the  
13 formula rate and contract, insofar as they relate  
14 to the power purchase provisions, have been  
15 approved by the Federal Energy Regulatory  
16 Commission pursuant to Section 205 of the Federal  
17 Power Act;

18 (xii) provide that any changes to the terms of  
19 the contract, insofar as such changes relate to the  
20 power purchase provisions, are subject to review  
21 under the public interest standard applied by the  
22 Federal Energy Regulatory Commission pursuant to  
23 Sections 205 and 206 of the Federal Power Act; and

24 (xiii) conform with customary lender  
25 requirements in power purchase agreements used as  
26 the basis for financing non-utility generators.

1           (4) Effective date of sourcing agreements with the  
2           initial clean coal facility.

3           Any proposed sourcing agreement with the initial clean  
4           coal facility shall not become effective unless the  
5           following reports are prepared and submitted and  
6           authorizations and approvals obtained:

7                   (i) Facility cost report. The owner of the initial  
8           clean coal facility shall submit to the Commission, the  
9           Agency, and the General Assembly a front-end  
10          engineering and design study, a facility cost report,  
11          method of financing (including but not limited to  
12          structure and associated costs), and an operating and  
13          maintenance cost quote for the facility (collectively  
14          "facility cost report"), which shall be prepared in  
15          accordance with the requirements of this paragraph (4)  
16          of subsection (d) of this Section, and shall provide  
17          the Commission and the Agency access to the work  
18          papers, relied upon documents, and any other backup  
19          documentation related to the facility cost report.

20                  (ii) Commission report. Within 6 months following  
21          receipt of the facility cost report, the Commission, in  
22          consultation with the Agency, shall submit a report to  
23          the General Assembly setting forth its analysis of the  
24          facility cost report. Such report shall include, but  
25          not be limited to, a comparison of the costs associated  
26          with electricity generated by the initial clean coal

1 facility to the costs associated with electricity  
2 generated by other types of generation facilities, an  
3 analysis of the rate impacts on residential and small  
4 business customers over the life of the sourcing  
5 agreements, and an analysis of the likelihood that the  
6 initial clean coal facility will commence commercial  
7 operation by and be delivering power to the facility's  
8 busbar by 2016. To assist in the preparation of its  
9 report, the Commission, in consultation with the  
10 Agency, may hire one or more experts or consultants,  
11 the costs of which shall be paid for by the owner of  
12 the initial clean coal facility. The Commission and  
13 Agency may begin the process of selecting such experts  
14 or consultants prior to receipt of the facility cost  
15 report.

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

1           (iv) Commission review. If the General Assembly  
2           enacts authorizing legislation pursuant to  
3           subparagraph (iii) approving a sourcing agreement, the  
4           Commission shall, within 90 days of such enactment,  
5           complete a review of such sourcing agreement. During  
6           such time period, the Commission shall implement any  
7           directive of the General Assembly, resolve any  
8           disputes between the parties to the sourcing agreement  
9           concerning the terms of such agreement, approve the  
10          form of such agreement, and issue an order finding that  
11          the sourcing agreement is prudent and reasonable.

12          The facility cost report shall be prepared as follows:

13               (A) The facility cost report shall be prepared by  
14               duly licensed engineering and construction firms  
15               detailing the estimated capital costs payable to one or  
16               more contractors or suppliers for the engineering,  
17               procurement and construction of the components  
18               comprising the initial clean coal facility and the  
19               estimated costs of operation and maintenance of the  
20               facility. The facility cost report shall include:

21                       (i) an estimate of the capital cost of the core  
22                       plant based on one or more front end engineering  
23                       and design studies for the gasification island and  
24                       related facilities. The core plant shall include  
25                       all civil, structural, mechanical, electrical,  
26                       control, and safety systems.

1           (ii) an estimate of the capital cost of the  
2           balance of the plant, including any capital costs  
3           associated with sequestration of carbon dioxide  
4           emissions and all interconnects and interfaces  
5           required to operate the facility, such as  
6           transmission of electricity, construction or  
7           backfeed power supply, pipelines to transport  
8           substitute natural gas or carbon dioxide, potable  
9           water supply, natural gas supply, water supply,  
10          water discharge, landfill, access roads, and coal  
11          delivery.

12          The quoted construction costs shall be expressed  
13          in nominal dollars as of the date that the quote is  
14          prepared and shall include capitalized financing costs  
15          during construction, taxes, insurance, and other  
16          owner's costs, and an assumed escalation in materials  
17          and labor beyond the date as of which the construction  
18          cost quote is expressed.

19          (B) The front end engineering and design study for  
20          the gasification island and the cost study for the  
21          balance of plant shall include sufficient design work  
22          to permit quantification of major categories of  
23          materials, commodities and labor hours, and receipt of  
24          quotes from vendors of major equipment required to  
25          construct and operate the clean coal facility.

26          (C) The facility cost report shall also include an

1 operating and maintenance cost quote that will provide  
2 the estimated cost of delivered fuel, personnel,  
3 maintenance contracts, chemicals, catalysts,  
4 consumables, spares, and other fixed and variable  
5 operations and maintenance costs. The delivered fuel  
6 cost estimate will be provided by a recognized third  
7 party expert or experts in the fuel and transportation  
8 industries. The balance of the operating and  
9 maintenance cost quote, excluding delivered fuel  
10 costs, will be developed based on the inputs provided  
11 by duly licensed engineering and construction firms  
12 performing the construction cost quote, potential  
13 vendors under long-term service agreements and plant  
14 operating agreements, or recognized third party plant  
15 operator or operators.

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

24 (D) The facility cost report shall also include an  
25 analysis of the initial clean coal facility's ability  
26 to deliver power and energy into the applicable



1 regional transmission organization markets and an  
2 analysis of the expected capacity factor for the  
3 initial clean coal facility.

4 (E) Amounts paid to third parties unrelated to the  
5 owner or owners of the initial clean coal facility to  
6 prepare the core plant construction cost quote,  
7 including the front end engineering and design study,  
8 and the operating and maintenance cost quote will be  
9 reimbursed through Coal Development Bonds.

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

1 established on a cost of service basis. In the case of  
2 sourcing agreements that are contracts for differences,  
3 the contract price from which the reference price is  
4 subtracted shall be established on a cost of service basis.  
5 The Agency and the Commission may approve any such utility  
6 sourcing agreements that do not exceed cost-based  
7 benchmarks developed by the procurement administrator, in  
8 consultation with the Commission staff, Agency staff and  
9 the procurement monitor, subject to Commission review and  
10 approval. The Commission shall have authority to inspect  
11 all books and records associated with these clean coal  
12 facilities during the term of any such contract.

13 (5.5) In order to promote the development of clean coal  
14 power generation, and in furtherance of the State's goal of  
15 having at least 25% of the State's electricity generated by  
16 cost-effective clean coal facilities by January 1, 2025 as  
17 provided in paragraph (1) of this subsection (d), the  
18 Agency and Commission shall include sourcing agreements  
19 covering power produced by (i) clean coal facilities, as  
20 defined in Section 1-10 of this Act; and (ii) facilities  
21 specified in paragraphs (3) and (5) of this subsection (d),  
22 in each annual power procurement plan.

23 The Agency and Commission shall require utilities and  
24 alternative retail electric suppliers to enter into such  
25 sourcing agreements as part of the annual power procurement  
26 process.

1           The Agency and Commission shall establish a  
2           competitive procedure to solicit and receive proposed  
3           sourcing terms from producers of clean coal power  
4           interested in selection for sourcing agreements. The  
5           competitive procedure shall include a method of selection  
6           for inclusion in those agreements.

7           These sourcing agreements shall be subject to the  
8           limits contained in items (A) through (E) of paragraph (2)  
9           of this subsection (d), the benchmarks as set forth by  
10           paragraph (1) of this subsection (d), and the requirements  
11           for sourcing agreements contained in paragraph (3) of this  
12           subsection (d). As part of the annual procurement planning  
13           process, the owners of clean coal facilities may offer  
14           proposals to the Agency sourcing agreements with utilities  
15           and alternate retail electric suppliers required to comply  
16           with this subsection (d), as well as item (5) of subsection  
17           (d) of Section 16-115 of the Public Utilities Act, covering  
18           electricity generated by such facilities. In the case of  
19           sourcing agreements that are power purchase agreements,  
20           the contract price for electricity sales shall be  
21           established on a cost-of-service basis. In the case of  
22           sourcing agreements that are contracts for differences,  
23           the contract price from which the reference price is  
24           subtracted shall be established on a cost-of-service  
25           basis. The sourcing agreements shall be included under and  
26           governed by provisions of the Public Utilities Act.

1           (6) Costs incurred under this subsection (d) or  
2 pursuant to a contract entered into under this subsection  
3 (d) shall be deemed prudently incurred and reasonable in  
4 amount and the electric utility shall be entitled to full  
5 cost recovery pursuant to the tariffs filed with the  
6 Commission.

7           (d-5) Zero emission standard.

8           (1) Beginning with the delivery year commencing on June  
9 1, 2017, the Agency shall, for electric utilities that  
10 serve at least 100,000 retail customers in this State,  
11 procure contracts with zero emission facilities that are  
12 reasonably capable of generating cost-effective zero  
13 emission credits in an amount approximately equal to 16% of  
14 the actual amount of electricity delivered by each electric  
15 utility to retail customers in the State during calendar  
16 year 2014. For an electric utility serving fewer than  
17 100,000 retail customers in this State that requested,  
18 under Section 16-111.5 of the Public Utilities Act, that  
19 the Agency procure power and energy for all or a portion of  
20 the utility's Illinois load for the delivery year  
21 commencing June 1, 2016, the Agency shall procure contracts  
22 with zero emission facilities that are reasonably capable  
23 of generating cost-effective zero emission credits in an  
24 amount approximately equal to 16% of the portion of power  
25 and energy to be procured by the Agency for the utility.  
26 The duration of the contracts procured under this

1 subsection (d-5) shall be for a term of 10 years ending May  
2 31, 2027. The quantity of zero emission credits to be  
3 procured under the contracts shall be all of the zero  
4 emission credits generated by the zero emission facility in  
5 each delivery year; however, if the zero emission facility  
6 is owned by more than one entity, then the quantity of zero  
7 emission credits to be procured under the contracts shall  
8 be the amount of zero emission credits that are generated  
9 from the portion of the zero emission facility that is  
10 owned by the winning supplier.

11 The 16% value identified in this paragraph (1) is the  
12 average of the percentage targets in subparagraph (B) of  
13 paragraph (1) of subsection (c) of Section 1-75 of this Act  
14 for the 5 delivery years beginning June 1, 2017.

15 The procurement process shall be subject to the  
16 following provisions:

17 (A) Those zero emission facilities that intend to  
18 participate in the procurement shall submit to the  
19 Agency the following eligibility information for each  
20 zero emission facility on or before the date  
21 established by the Agency:

22 (i) the in-service date and remaining useful  
23 life of the zero emission facility;

24 (ii) the amount of power generated annually  
25 for each of the years 2005 through 2015, and the  
26 projected zero emission credits to be generated

1 over the remaining useful life of the zero emission  
2 facility, which shall be used to determine the  
3 capability of each facility;

4 (iii) the annual zero emission facility cost  
5 projections, expressed on a per megawatthour  
6 basis, over the next 6 delivery years, which shall  
7 include the following: operation and maintenance  
8 expenses; fully allocated overhead costs, which  
9 shall be allocated using the methodology developed  
10 by the Institute for Nuclear Power Operations;  
11 fuel expenditures; non-fuel capital expenditures;  
12 spent fuel expenditures; a return on working  
13 capital; the cost of operational and market risks  
14 that could be avoided by ceasing operation; and any  
15 other costs necessary for continued operations,  
16 provided that "necessary" means, for purposes of  
17 this item (iii), that the costs could reasonably be  
18 avoided only by ceasing operations of the zero  
19 emission facility; and

20 (iv) a commitment to continue operating, for  
21 the duration of the contract or contracts executed  
22 under the procurement held under this subsection  
23 (d-5), the zero emission facility that produces  
24 the zero emission credits to be procured in the  
25 procurement.

26 The information described in item (iii) of this

1           subparagraph (A) may be submitted on a confidential basis  
2           and shall be treated and maintained by the Agency, the  
3           procurement administrator, and the Commission as  
4           confidential and proprietary and exempt from disclosure  
5           under subparagraphs (a) and (g) of paragraph (1) of Section  
6           7 of the Freedom of Information Act. The Office of Attorney  
7           General shall have access to, and maintain the  
8           confidentiality of, such information pursuant to Section  
9           6.5 of the Attorney General Act.

10           (B) The price for each zero emission credit  
11           procured under this subsection (d-5) for each delivery  
12           year shall be in an amount that equals the Social Cost  
13           of Carbon, expressed on a price per megawatthour basis.  
14           However, to ensure that the procurement remains  
15           affordable to retail customers in this State if  
16           electricity prices increase, the price in an  
17           applicable delivery year shall be reduced below the  
18           Social Cost of Carbon by the amount ("Price  
19           Adjustment") by which the market price index for the  
20           applicable delivery year exceeds the baseline market  
21           price index for the consecutive 12-month period ending  
22           May 31, 2016. If the Price Adjustment is greater than  
23           or equal to the Social Cost of Carbon in an applicable  
24           delivery year, then no payments shall be due in that  
25           delivery year. The components of this calculation are  
26           defined as follows:

1           (i) Social Cost of Carbon: The Social Cost of  
2 Carbon is \$16.50 per megawatthour, which is based  
3 on the U.S. Interagency Working Group on Social  
4 Cost of Carbon's price in the August 2016 Technical  
5 Update using a 3% discount rate, adjusted for  
6 inflation for each year of the program. Beginning  
7 with the delivery year commencing June 1, 2023, the  
8 price per megawatthour shall increase by \$1 per  
9 megawatthour, and continue to increase by an  
10 additional \$1 per megawatthour each delivery year  
11 thereafter.

12           (ii) Baseline market price index: The baseline  
13 market price index for the consecutive 12-month  
14 period ending May 31, 2016 is \$31.40 per  
15 megawatthour, which is based on the sum of (aa) the  
16 average day-ahead energy price across all hours of  
17 such 12-month period at the PJM Interconnection  
18 LLC Northern Illinois Hub, (bb) 50% multiplied by  
19 the Base Residual Auction, or its successor,  
20 capacity price for the rest of the RTO zone group  
21 determined by PJM Interconnection LLC, divided by  
22 24 hours per day, and (cc) 50% multiplied by the  
23 Planning Resource Auction, or its successor,  
24 capacity price for Zone 4 determined by the  
25 Midcontinent Independent System Operator, Inc.,  
26 divided by 24 hours per day.



1           (iii) Market price index: The market price  
2 index for a delivery year shall be the sum of  
3 projected energy prices and projected capacity  
4 prices determined as follows:

5           (aa) Projected energy prices: the  
6 projected energy prices for the applicable  
7 delivery year shall be calculated once for the  
8 year using the forward market price for the PJM  
9 Interconnection, LLC Northern Illinois Hub.  
10 The forward market price shall be calculated as  
11 follows: the energy forward prices for each  
12 month of the applicable delivery year averaged  
13 for each trade date during the calendar year  
14 immediately preceding that delivery year to  
15 produce a single energy forward price for the  
16 delivery year. The forward market price  
17 calculation shall use data published by the  
18 Intercontinental Exchange, or its successor.

19           (bb) Projected capacity prices:

20           (I) For the delivery years commencing  
21 June 1, 2017, June 1, 2018, and June 1,  
22 2019, the projected capacity price shall  
23 be equal to the sum of (1) 50% multiplied  
24 by the Base Residual Auction, or its  
25 successor, price for the rest of the RTO  
26 zone group as determined by PJM

1 Interconnection LLC, divided by 24 hours  
2 per day and, (2) 50% multiplied by the  
3 resource auction price determined in the  
4 resource auction administered by the  
5 Midcontinent Independent System Operator,  
6 Inc., in which the largest percentage of  
7 load cleared for Local Resource Zone 4,  
8 divided by 24 hours per day, and where such  
9 price is determined by the Midcontinent  
10 Independent System Operator, Inc.

11 (II) For the delivery year commencing  
12 June 1, 2020, and each year thereafter, the  
13 projected capacity price shall be equal to  
14 the sum of (1) 50% multiplied by the Base  
15 Residual Auction, or its successor, price  
16 for the ComEd zone as determined by PJM  
17 Interconnection LLC, divided by 24 hours  
18 per day, and (2) 50% multiplied by the  
19 resource auction price determined in the  
20 resource auction administered by the  
21 Midcontinent Independent System Operator,  
22 Inc., in which the largest percentage of  
23 load cleared for Local Resource Zone 4,  
24 divided by 24 hours per day, and where such  
25 price is determined by the Midcontinent  
26 Independent System Operator, Inc.

1 For purposes of this subsection (d-5):

2 "Rest of the RTO" and "ComEd Zone" shall have  
3 the meaning ascribed to them by PJM  
4 Interconnection, LLC.

5 "RTO" means regional transmission  
6 organization.

7 (C) No later than 45 days after June 1, 2017 (the  
8 effective date of Public Act 99-906) ~~this amendatory~~  
9 ~~Act of the 99th General Assembly~~, the Agency shall  
10 publish its proposed zero emission standard  
11 procurement plan. The plan shall be consistent with the  
12 provisions of this paragraph (1) and shall provide that  
13 winning bids shall be selected based on public interest  
14 criteria that include, but are not limited to,  
15 minimizing carbon dioxide emissions that result from  
16 electricity consumed in Illinois and minimizing sulfur  
17 dioxide, nitrogen oxide, and particulate matter  
18 emissions that adversely affect the citizens of this  
19 State. In particular, the selection of winning bids  
20 shall take into account the incremental environmental  
21 benefits resulting from the procurement, such as any  
22 existing environmental benefits that are preserved by  
23 the procurements held under Public Act 99-906 ~~this~~  
24 ~~amendatory Act of the 99th General Assembly~~ and would  
25 cease to exist if the procurements were not held,  
26 including the preservation of zero emission

1 facilities. The plan shall also describe in detail how  
2 each public interest factor shall be considered and  
3 weighted in the bid selection process to ensure that  
4 the public interest criteria are applied to the  
5 procurement and given full effect.

6 For purposes of developing the plan, the Agency  
7 shall consider any reports issued by a State agency,  
8 board, or commission under House Resolution 1146 of the  
9 98th General Assembly and paragraph (4) of subsection  
10 (d) of Section 1-75 of this Act, as well as publicly  
11 available analyses and studies performed by or for  
12 regional transmission organizations that serve the  
13 State and their independent market monitors.

14 Upon publishing of the zero emission standard  
15 procurement plan, copies of the plan shall be posted  
16 and made publicly available on the Agency's website.  
17 All interested parties shall have 10 days following the  
18 date of posting to provide comment to the Agency on the  
19 plan. All comments shall be posted to the Agency's  
20 website. Following the end of the comment period, but  
21 no more than 60 days later than June 1, 2017 (the  
22 effective date of Public Act 99-906) ~~this amendatory~~  
23 ~~Act of the 99th General Assembly~~, the Agency shall  
24 revise the plan as necessary based on the comments  
25 received and file its zero emission standard  
26 procurement plan with the Commission.

1           If the Commission determines that the plan will  
2 result in the procurement of cost-effective zero  
3 emission credits, then the Commission shall, after  
4 notice and hearing, but no later than 45 days after the  
5 Agency filed the plan, approve the plan or approve with  
6 modification. For purposes of this subsection (d-5),  
7 "cost effective" means the projected costs of  
8 procuring zero emission credits from zero emission  
9 facilities do not cause the limit stated in paragraph  
10 (2) of this subsection to be exceeded.

11           (C-5) As part of the Commission's review and  
12 acceptance or rejection of the procurement results,  
13 the Commission shall, in its public notice of  
14 successful bidders:

15           (i) identify how the winning bids satisfy the  
16 public interest criteria described in subparagraph  
17 (C) of this paragraph (1) of minimizing carbon  
18 dioxide emissions that result from electricity  
19 consumed in Illinois and minimizing sulfur  
20 dioxide, nitrogen oxide, and particulate matter  
21 emissions that adversely affect the citizens of  
22 this State;

23           (ii) specifically address how the selection of  
24 winning bids takes into account the incremental  
25 environmental benefits resulting from the  
26 procurement, including any existing environmental

1 benefits that are preserved by the procurements  
2 held under Public Act 99-906 ~~this amendatory Act of~~  
3 ~~the 99th General Assembly~~ and would have ceased to  
4 exist if the procurements had not been held, such  
5 as the preservation of zero emission facilities;

6 (iii) quantify the environmental benefit of  
7 preserving the resources identified in item (ii)  
8 of this subparagraph (C-5), including the  
9 following:

10 (aa) the value of avoided greenhouse gas  
11 emissions measured as the product of the zero  
12 emission facilities' output over the contract  
13 term multiplied by the U.S. Environmental  
14 Protection Agency eGrid subregion carbon  
15 dioxide emission rate and the U.S. Interagency  
16 Working Group on Social Cost of Carbon's price  
17 in the August 2016 Technical Update using a 3%  
18 discount rate, adjusted for inflation for each  
19 delivery year; and

20 (bb) the costs of replacement with other  
21 zero carbon dioxide resources, including wind  
22 and photovoltaic, based upon the simple  
23 average of the following:

24 (I) the price, or if there is more than  
25 one price, the average of the prices, paid  
26 for renewable energy credits from new

1 utility-scale wind projects in the  
2 procurement events specified in item (i)  
3 of subparagraph (G) of paragraph (1) of  
4 subsection (c) of Section 1-75 of this Act;  
5 and

6 (II) the price, or if there is more  
7 than one price, the average of the prices,  
8 paid for renewable energy credits from new  
9 utility-scale solar projects and  
10 brownfield site photovoltaic projects in  
11 the procurement events specified in item  
12 (ii) of subparagraph (G) of paragraph (1)  
13 of subsection (c) of Section 1-75 of this  
14 Act and, after January 1, 2015, renewable  
15 energy credits from photovoltaic  
16 distributed generation projects in  
17 procurement events held under subsection  
18 (c) of Section 1-75 of this Act.

19 Each utility shall enter into binding contractual  
20 arrangements with the winning suppliers.

21 The procurement described in this subsection  
22 (d-5), including, but not limited to, the execution of  
23 all contracts procured, shall be completed no later  
24 than May 10, 2017. Based on the effective date of  
25 Public Act 99-906 ~~this amendatory Act of the 99th~~  
26 ~~General Assembly~~, the Agency and Commission may, as

1 appropriate, modify the various dates and timelines  
2 under this subparagraph and subparagraphs (C) and (D)  
3 of this paragraph (1). The procurement and plan  
4 approval processes required by this subsection (d-5)  
5 shall be conducted in conjunction with the procurement  
6 and plan approval processes required by subsection (c)  
7 of this Section and Section 16-111.5 of the Public  
8 Utilities Act, to the extent practicable.  
9 Notwithstanding whether a procurement event is  
10 conducted under Section 16-111.5 of the Public  
11 Utilities Act, the Agency shall immediately initiate a  
12 procurement process on June 1, 2017 (the effective date  
13 of Public Act 99-906) ~~this amendatory Act of the 99th~~  
14 ~~General Assembly.~~

15 (D) Following the procurement event described in  
16 this paragraph (1) and consistent with subparagraph  
17 (B) of this paragraph (1), the Agency shall calculate  
18 the payments to be made under each contract for the  
19 next delivery year based on the market price index for  
20 that delivery year. The Agency shall publish the  
21 payment calculations no later than May 25, 2017 and  
22 every May 25 thereafter.

23 (E) Notwithstanding the requirements of this  
24 subsection (d-5), the contracts executed under this  
25 subsection (d-5) shall provide that the zero emission  
26 facility may, as applicable, suspend or terminate



1 performance under the contracts in the following  
2 instances:

3 (i) A zero emission facility shall be excused  
4 from its performance under the contract for any  
5 cause beyond the control of the resource,  
6 including, but not restricted to, acts of God,  
7 flood, drought, earthquake, storm, fire,  
8 lightning, epidemic, war, riot, civil disturbance  
9 or disobedience, labor dispute, labor or material  
10 shortage, sabotage, acts of public enemy,  
11 explosions, orders, regulations or restrictions  
12 imposed by governmental, military, or lawfully  
13 established civilian authorities, which, in any of  
14 the foregoing cases, by exercise of commercially  
15 reasonable efforts the zero emission facility  
16 could not reasonably have been expected to avoid,  
17 and which, by the exercise of commercially  
18 reasonable efforts, it has been unable to  
19 overcome. In such event, the zero emission  
20 facility shall be excused from performance for the  
21 duration of the event, including, but not limited  
22 to, delivery of zero emission credits, and no  
23 payment shall be due to the zero emission facility  
24 during the duration of the event.

25 (ii) A zero emission facility shall be  
26 permitted to terminate the contract if legislation

1 is enacted into law by the General Assembly that  
2 imposes or authorizes a new tax, special  
3 assessment, or fee on the generation of  
4 electricity, the ownership or leasehold of a  
5 generating unit, or the privilege or occupation of  
6 such generation, ownership, or leasehold of  
7 generation units by a zero emission facility.  
8 However, the provisions of this item (ii) do not  
9 apply to any generally applicable tax, special  
10 assessment or fee, or requirements imposed by  
11 federal law.

12 (iii) A zero emission facility shall be  
13 permitted to terminate the contract in the event  
14 that the resource requires capital expenditures in  
15 excess of \$40,000,000 that were neither known nor  
16 reasonably foreseeable at the time it executed the  
17 contract and that a prudent owner or operator of  
18 such resource would not undertake.

19 (iv) A zero emission facility shall be  
20 permitted to terminate the contract in the event  
21 the Nuclear Regulatory Commission terminates the  
22 resource's license.

23 (F) If the zero emission facility elects to  
24 terminate a contract under this subparagraph (E, of  
25 this paragraph (1), then the Commission shall reopen  
26 the docket in which the Commission approved the zero

1 emission standard procurement plan under subparagraph  
2 (C) of this paragraph (1) and, after notice and  
3 hearing, enter an order acknowledging the contract  
4 termination election if such termination is consistent  
5 with the provisions of this subsection (d-5).

6 (2) For purposes of this subsection (d-5), the amount  
7 paid per kilowatthour means the total amount paid for  
8 electric service expressed on a per kilowatthour basis. For  
9 purposes of this subsection (d-5), the total amount paid  
10 for electric service includes, without limitation, amounts  
11 paid for supply, transmission, distribution, surcharges,  
12 and add-on taxes.

13 Notwithstanding the requirements of this subsection  
14 (d-5), the contracts executed under this subsection (d-5)  
15 shall provide that the total of zero emission credits  
16 procured under a procurement plan shall be subject to the  
17 limitations of this paragraph (2). For each delivery year,  
18 the contractual volume receiving payments in such year  
19 shall be reduced for all retail customers based on the  
20 amount necessary to limit the net increase that delivery  
21 year to the costs of those credits included in the amounts  
22 paid by eligible retail customers in connection with  
23 electric service to no more than 1.65% of the amount paid  
24 per kilowatthour by eligible retail customers during the  
25 year ending May 31, 2009. The result of this computation  
26 shall apply to and reduce the procurement for all retail

1 customers, and all those customers shall pay the same  
2 single, uniform cents per kilowatthour charge under  
3 subsection (k) of Section 16-108 of the Public Utilities  
4 Act. To arrive at a maximum dollar amount of zero emission  
5 credits to be paid for the particular delivery year, the  
6 resulting per kilowatthour amount shall be applied to the  
7 actual amount of kilowatthours of electricity delivered by  
8 the electric utility in the delivery year immediately prior  
9 to the procurement, to all retail customers in its service  
10 territory. Unpaid contractual volume for any delivery year  
11 shall be paid in any subsequent delivery year in which such  
12 payments can be made without exceeding the amount specified  
13 in this paragraph (2). The calculations required by this  
14 paragraph (2) shall be made only once for each procurement  
15 plan year. Once the determination as to the amount of zero  
16 emission credits to be paid is made based on the  
17 calculations set forth in this paragraph (2), no subsequent  
18 rate impact determinations shall be made and no adjustments  
19 to those contract amounts shall be allowed. All costs  
20 incurred under those contracts and in implementing this  
21 subsection (d-5) shall be recovered by the electric utility  
22 as provided in this Section.

23 No later than June 30, 2019, the Commission shall  
24 review the limitation on the amount of zero emission  
25 credits procured under this subsection (d-5) and report to  
26 the General Assembly its findings as to whether that

1 limitation unduly constrains the procurement of  
2 cost-effective zero emission credits.

3 (3) Six years after the execution of a contract under  
4 this subsection (d-5), the Agency shall determine whether  
5 the actual zero emission credit payments received by the  
6 supplier over the 6-year period exceed the Average ZEC  
7 Payment. In addition, at the end of the term of a contract  
8 executed under this subsection (d-5), or at the time, if  
9 any, a zero emission facility's contract is terminated  
10 under subparagraph (E) of paragraph (1) of this subsection  
11 (d-5), then the Agency shall determine whether the actual  
12 zero emission credit payments received by the supplier over  
13 the term of the contract exceed the Average ZEC Payment,  
14 after taking into account any amounts previously credited  
15 back to the utility under this paragraph (3). If the Agency  
16 determines that the actual zero emission credit payments  
17 received by the supplier over the relevant period exceed  
18 the Average ZEC Payment, then the supplier shall credit the  
19 difference back to the utility. The amount of the credit  
20 shall be remitted to the applicable electric utility no  
21 later than 120 days after the Agency's determination, which  
22 the utility shall reflect as a credit on its retail  
23 customer bills as soon as practicable; however, the credit  
24 remitted to the utility shall not exceed the total amount  
25 of payments received by the facility under its contract.

26 For purposes of this Section, the Average ZEC Payment

1 shall be calculated by multiplying the quantity of zero  
2 emission credits delivered under the contract times the  
3 average contract price. The average contract price shall be  
4 determined by subtracting the amount calculated under  
5 subparagraph (B) of this paragraph (3) from the amount  
6 calculated under subparagraph (A) of this paragraph (3), as  
7 follows:

8 (A) The average of the Social Cost of Carbon, as  
9 defined in subparagraph (B) of paragraph (1) of this  
10 subsection (d-5), during the term of the contract.

11 (B) The average of the market price indices, as  
12 defined in subparagraph (B) of paragraph (1) of this  
13 subsection (d-5), during the term of the contract,  
14 minus the baseline market price index, as defined in  
15 subparagraph (B) of paragraph (1) of this subsection  
16 (d-5).

17 If the subtraction yields a negative number, then the  
18 Average ZEC Payment shall be zero.

19 (4) Cost-effective zero emission credits procured from  
20 zero emission facilities shall satisfy the applicable  
21 definitions set forth in Section 1-10 of this Act.

22 (5) The electric utility shall retire all zero emission  
23 credits used to comply with the requirements of this  
24 subsection (d-5).

25 (6) Electric utilities shall be entitled to recover all  
26 of the costs associated with the procurement of zero

1 emission credits through an automatic adjustment clause  
2 tariff in accordance with subsection (k) and (m) of Section  
3 16-108 of the Public Utilities Act, and the contracts  
4 executed under this subsection (d-5) shall provide that the  
5 utilities' payment obligations under such contracts shall  
6 be reduced if an adjustment is required under subsection  
7 (m) of Section 16-108 of the Public Utilities Act.

8 (7) This subsection (d-5) shall become inoperative on  
9 January 1, 2028.

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

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

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

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

23 (i) A renewable energy credit, carbon emission credit, or  
24 zero emission credit can only be used once to comply with a  
25 single portfolio or other standard as set forth in subsection  
26 (c), subsection (d), or subsection (d-5) of this Section,

1       respectively. A renewable energy credit, carbon emission  
2       credit, or zero emission credit cannot be used to satisfy the  
3       requirements of more than one standard. If more than one type  
4       of credit is issued for the same megawatt hour of energy, only  
5       one credit can be used to satisfy the requirements of a single  
6       standard. After such use, the credit must be retired together  
7       with any other credits issued for the same megawatt hour of  
8       energy.

9       (Source: P.A. 98-463, eff. 8-16-13; 99-536, eff. 7-8-16;  
10      99-906, eff. 6-1-17; revised 9-25-17.)

11           Section 99. Effective date. This Act takes effect June 1,  
12      2018.